

## Appeal Decision Notice

Planning Tribunal Hearing held on 13<sup>th</sup> November 2012 at Les Cotils Christian Centre, St. Peter Port, followed by a visit to the Appeal site

Members: Mr. Jonathan King (Presiding), Miss Julia White and Mr. John Weir

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**Appeal Site:** La Grande Rue Farm, La Grande Rue, St Saviours

**Property Reference:** E0090300000

**Planning Application Reference:** FULL/2012/1498

**Appeal Case Reference:** PAP/033/2012

- The Appeal is made under the provisions of Part VI Section 68 of the Land Planning and Development (Guernsey) Law, 2005.
- The Appeal is by Mrs. T Elderfield against the decision of the Environment Department made on 27<sup>th</sup> June 2012 under section 16 of the Law to refuse planning permission on an application for a proposed vehicular access.
- The appellant company was represented at the Hearing by Mr. P Falla. Mrs. Elderfield also contributed to the discussion.
- The Environment Department was represented by Mr. S Hartman and the case officer, Mr. L Seaborne.

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### Decision

1. The appeal is allowed and planning permission granted subject to the following conditions:
  - (a) Subject to the provisions of conditions (e) and (f) all development authorised by this permission must be carried out and must be completed in every detail in accordance with the written application, plans and drawings (Plan refs 6019-01/A1 & 6019-01/B/1) submitted with the application. No variations to such

development may be made without permission under the Law of the Environment Department in writing.

- (b) The development hereby permitted shall be begun within 3 years of the date of this decision.
- (c) The development hereby permitted and all the operations which constitute or are incidental to that development must be carried out in compliance with all such requirements of the Building Regulations 1992 (as amended) as are applicable to them, and no operation to which such a requirement applies may be commenced or continued unless (i) plans relating to that operation have been approved by the Environment Department in writing; and (ii) it is commenced or, as the case may be, continued in accordance with that requirement and any further requirements imposed by the Environment Department when approving those plans for the purpose of securing that the building regulations are complied with.
- (d) Stone removed from the wall to create the opening shall be used as part of the development in accordance with drawing No 6019-01/B/1. Any additional stone required shall match the colour of that in the existing wall. The appearance of the new and reconstructed elements of the wall shall match that of the existing wall in terms of the method of laying and the colour and methods of pointing.
- (e) Prior to the commencement of the vehicular use of the access hereby permitted, details of a scheme whereby the existing access shall be permanently stopped up in a manner that prevents its use by vehicles shall be submitted to and approved in writing by the Environment Department. The existing access shall be stopped up in accordance with the approved scheme before the new access is brought into use by vehicles.
- (f) Notwithstanding the design shown on the approved street elevation (Plan ref 6019-01/B/1), prior to the commencement of the vehicular use of the access hereby permitted, details of the design of the gates shall be submitted to and approved in writing by the Environment Department. The gates shall be installed in accordance with the approved design before the new access is brought into use by vehicles.

## **Main Issues**

2. From its assessment of the papers submitted by the appellant and the Department, and from what was given in evidence during the Hearing and seen and noted during the site visit, the Tribunal considers that the main issues in this case relating to the planning appeal are:

- (a) *The effect of the proposed development on the character and appearance of the*

*conservation area; and*

- (b) *Whether any benefits arising from the development would be sufficient to outweigh any harm found in relation to the first issue.*

## **Planning Policy**

3. The site lies in a Conservation Area. Section 38(1) of the 2005 Law states: “In the exercise, with respect to any buildings or other land in a conservation area, of [any functions] under this Law or any other enactment, special attention shall be paid to the desirability of preserving and enhancing the character and appearance of that area”. This requirement is broadly repeated in Policy RCE10 of the Rural Area Plan (RAP). The Decision Notice also references Policy RCE13 *Demolition of buildings and features*. At the Hearing it was acknowledged by all that the proposed development would inevitably involve some demolition, but that in itself this does not raise any additional planning considerations beyond those in Policy RCE10

## **The Tribunal’s Assessment of the Evidence and the Site Visit**

### *Introduction*

4. La Grande Rue Farm is a residential property situated on the northern side of La Grande Rue on a sharp bend in the road. At present, vehicular access is by means of a gated entrance situated between two frontage buildings. Visibility to the east is very good, but to the south-west, towards the bend, it is very limited. The proposed development is intended to address this issue.
5. Along the road frontage beyond the main complex of buildings that comprise the appeal property is a long granite boundary wall. All is above head height, but towards each end it rises further in a characteristic “scalloped” fashion. It is proposed to break open approximately the first ten metres at its western end, amounting to just under one-quarter of its length. A new vehicular access would then be inserted, on either side of which the wall would be rebuilt along a radius curve. The wall would be built up to the higher level along its full length other than either side of the entrance, where it would be scalloped down to the solid timber gates that would be set back from the kerb.

### *The Effect on the Conservation Area*

6. No formal description exists of the conservation area, nor has any character assessment been prepared. The Tribunal finds this regrettable, since it is only by reference to identified characteristics of the area that it is possible to assess the effect of proposed development on it in terms of the legal requirement and policy. However, at the Hearing there was broad agreement between the parties as to what it is about the area that gives it its particular character.

7. The conservation area is small, enclosing mostly pre-1900 buildings and structures situated on both sides of a short length of La Grande Rue and a couple of side roads. It is linear and retains much of its rural character, deriving principally from the traditional design of the buildings and the granite roadside walls which together create a marked sense of enclosure along the fairly narrow highway. La Grande Rue Farm is typical and contributes to these characteristics. The boundary wall which would be pierced to create the proposed access runs for some distance along the northern road frontage from a point a little way along the front wall of a building as far as a douit, which it then follows north-westwards. Its exact history is not known, but at the site inspection it appeared to the Tribunal that the higher parts had been added, quite possibly when buildings behind them had been constructed. This is commonplace in Guernsey. The section alongside the douit continues at this greater height. There is no dispute between the parties that this is a fine wall which makes a positive contribution to the character of the conservation area. Its value is enhanced by its length and the fact that it is uninterrupted.
8. The Tribunal acknowledges that some care has been taken with the design of the proposed access. In particular, stone from the wall would be re-used and combined with other weathered stone in order to integrate the new with the old. Nonetheless, we agree with the Department that the new access would diminish the visual value of the wall and the contribution it makes to the character of the conservation area. It would be shortened; and the curved elements together with the gates would be somewhat residential in character, detracting from the agricultural feel of the property which otherwise has largely been retained.
9. On that basis we conclude that the proposed access would fail to preserve or enhance the character and appearance of the conservation area. The harm would not be substantial. Nonetheless, the proposed development would be contrary to Policy RCE10 and the objective of the legal duty.

#### *Balancing Benefits*

10. Set against the harm to the conservation area would be the significant improvement of visibility which the new access would provide for drivers emerging from the property on to La Grande Rue and for drivers approaching from the direction of the sharp bend to the west. At present, visibility in that direction is only in the region of 8 metres, compared to 33 metres which is the standard for this type of road, and which could be achieved in both directions from the proposed access.
11. The speed limit along the road is 35mph, but such is the sharpness of the bend that vehicles would seldom, if ever, be able to negotiate it at anything approaching that speed. At the site inspection, the Tribunal Members were able to see that vehicles slowed down considerably at the entry to the bend and generally took it in second gear at probably no more than half of the permitted speed. In that context, it is arguable that the full visibility is practically unnecessary. We also recognise that it is not appropriate to apply highway standards in an unthinking way: the consequences

of improving road safety must always be balanced against other considerations. In this case, against the desirability of preserving or enhancing the character or appearance of the conservation area.

12. No accident records have been presented to the Tribunal against which we can assess its safety record. However, we were presented with recent photographs of a traffic incident where a car negotiating the bend from the west appeared to have crossed into the path of an oncoming car. Whether this was caused by excessive speed, by adverse road conditions or an attempt to turn across the road into an access, we cannot tell. However, it does show that the bend does represent a hazard to motorists and that it suffers from poor visibility.
13. In practical terms, having successfully negotiated the bend, drivers of vehicles approaching La Grande Rue Farm may be presented with a vehicle entering or leaving the farm entrance at very slow speed owing to its restricted configuration. There would be very little time or distance in which to brake. And this would be in circumstances when a driver would tend to accelerate out of the bend: partly to regain normal road speed; and partly to gain momentum to climb the rise to the east. Visibility towards oncoming vehicles for drivers emerging from the farm entrance is equally poor. Notwithstanding the moderate speed of traffic, the Tribunal takes the view that the available visibility is significantly inadequate and likely to present a hazard to motorists. This is an important consideration which should be taken into account.
14. Other balancing benefits would be small. The raising of the height of part of the wall would result in an overall an increase in the area of stonework and is not opposed by the Department. But the effect on the character of the wall would be negligible. Though there might be some emphasis given to the sense of enclosure along the road, the overall effect would be broadly neutral.
15. There are some cracks within a number of joints in the wall in the vicinity of where the new access would be cut through. While some repair may be required at some time in the future, they do not presently appear to be serious. Even if some re-building of the wall might be necessary, this does not itself justify the proposed works. Nor does it represent a material benefit to set against the harm that has been identified.
16. On balance, the Tribunal takes the view that the significant contribution to road safety which the proposed access would bring outweighs the slight harm which would be caused to the character and appearance of the conservation area.

#### *Conditions*

17. The Department has put forward four conditions which it considers should be imposed in the event that the appeal is allowed. Three are “standard” conditions relating to the need for compliance with the approved plans; to the timescale for

commencement and to compliance with the building regulations. All are appropriate. The last requires the stone which would be removed from the wall to create the access to be re-used. Any additional stone required would also have to match in terms of colour and method of laying. The Tribunal agrees with the purpose of the condition, but has slightly modified the wording in the interests of precision and enforceability.

18. Two further conditions were discussed at the Hearing. The first is with respect to the need for the existing access to be closed off for vehicular use once the new access becomes available. This is necessary to ensure that the benefits of the latter are realised. The precise means of closing the access to vehicles is something which may be satisfactorily addressed by way of the submission of details. Second, in view of the criticism of the “residential” appearance of the gates shown on the submitted plan, it would also be appropriate to attach a condition requiring details of an alternative design to be submitted for approval, with a view to achieving something more in keeping with the context.

### **Overall Conclusions**

19. For the reasons given above, the Tribunal concludes that the proposed development is acceptable; the appeal may be allowed and permission granted, subject to the conditions discussed above.
20. The Tribunal has considered all other matters raised in the written submissions and during the Hearing. It has also considered all matters pointed out at the site visit and its own observations. However these do not affect its conclusion under the provisions of Part VI Section 69 of the Land Planning and Development (Guernsey) Law, 2005 that the Appeal is allowed.

**Jonathan G King BA(Hons) DipTP MRTPI**  
**Presiding Member**

**Date: 3<sup>rd</sup> December 2012**