
STATES OF JERSEY



STATES OF JERSEY COMPLAINTS BOARD: FINDINGS – COMPLAINT AGAINST A DECISION OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING No. 3 TEIGHMORE PARK, GROUVILLE

Presented to the States on 20th July 2009
by the Privileges and Procedures Committee

STATES GREFFE

REPORT**Foreword**

In accordance with Article 9(9) of the Administrative Decisions (Review) (Jersey) Law 1982 as amended, the Privileges and Procedures Committee presents the findings of the Complaints Board constituted under the above Law to consider a complaint against the Minister for Planning and Environment regarding No. 3 Teighmore Park, Grouville.

Connétable J. Gallichan of St. Mary,
Chairman, Privileges and Procedures Committee.

STATES OF JERSEY COMPLAINTS BOARD

25th June 2009

Findings of the Complaints Board constituted under the Administrative Decisions (Review) (Jersey) Law 1982 to consider a complaint by Mr. G.G. Green (represented by Miss J. Green) against the Minister for Planning and Environment regarding No. 3 Teighmore Park, Grouville

1. Present –

Board Members

Mr. N.P.E. Le Gresley, Chairman.
Miss C. Vibert
Mr. D.J. Watkins

Complainant

Miss J. Green

On behalf of the Minister

Mr. J. Gladwin, Senior Planner (Appeals)

States Greffe

Mr. P. Monamy, Senior Committee Clerk

The hearing was held in public at 9.30 a.m. on 25th June 2009.

2. Summary of the dispute

- 2.1 The Board was convened to hear a complaint of Mr. G.G. Green (represented by Miss J. Green, daughter) against a decision of the Minister for Planning and Environment to reject an application for the demolition of a garage and the construction of a single-storey extension to the east elevation of No. 3 Teighmore Park, Grouville to create one unit of residential accommodation.

3. Site Visit to ‘No. 3 Teighmore Park’

- 3.1 After the formal opening of the hearing at Grouville Parish Hall the parties went together to visit the site.
- 3.2 At ‘No. 3 Teighmore Park’ the Board was shown the proposed location of the extension and the surrounding area. The Board noted that the Complainant wished to construct an extension in the form of a one-bedroom flat to house his immediate family, or else to rent it out to provide an income. The Board also viewed adjacent properties on which various extension and/or rebuilding work had been undertaken.

4. Summary of the Complainant's case

- 4.1 The Board had received a full written summary of the Complainant's case before the hearing and had taken note of the submissions made on his behalf.
- 4.2 The Board noted that Mr. Green's neighbour had constructed an almost identical flat which faced onto his premises, to which he did not object at the time. Mr. Green – a chartered engineer – had subsequently taken a great deal of time and care in designing a similar extension for his side of the boundary. This he considered to be of superior quality especially in aesthetic terms, with appropriate landscaping having regard to the view from the neighbouring property. It was envisaged that the flat to be constructed would have its own small but sufficient landscaped area. In order to afford the prospective occupant/s of the flat privacy, a high quality white upvc fence with suitable landscaping was proposed. The design also incorporated increased off-road parking provision (minimum 4 parking spaces) to ensure that the narrow access road to the estate was not restricted. Mr. Green had provided the neighbours with a copy of the application and, following the erection of the required notice on-site, no objections had been notified to the Department. Mr. Green was aggrieved that it had taken over 6 months, during which time many telephone calls had been made to the Department, to arrange a brief visit to the site, and thereafter a further 2 months and additional telephone calls to secure the determination of the application, resulting in a refusal. As a result of work commitments abroad, Mr. Green had been unable to attend the hearing of his appeal (Request for Reconsideration) of the application in respect of which he had submitted a perspective view and photographs which demonstrated the inconsistency of the previous approvals relating to the neighbouring properties and the refusal of the application in respect of No. 3 Teighmore Park.
- 4.3 By letter dated 4th March 2009, Mr. Green had subsequently presented 2 additional photographs which he considered better illustrated his case. In summary, he made the following complaints –
- (a) his application had not been given adequate consideration and had ultimately been rushed through after persistent telephone calls and an 8 month wait for a small extension;
 - (b) his adjacent neighbour had had permission to build a similar extension with less garden area;
 - (c) his neighbour opposite had had permission to significantly extend his house, resulting in increased roof height, rotation through 90 degrees, and domination of the estate;
 - (d) both neighbours had car parking frontages, a situation which Mr. Green had been refused, contrary to the support of the Parish;
 - (e) the reasons for the refusal of the application were no longer relevant given the precedents already set;

- (f) permission could have been granted with the imposition of any relevant conditions.

4.4 Miss Green emphasized the frustration which had been caused to the family from such a brief initial site visit by a single Planning Officer and then a lengthy delay, until finally being told that what appeared to be reasonable expectations – similar and, in some cases, less extensive to what had been permitted to neighbouring properties – were unacceptable. She contended that the separation of the proposed extension from the main house would allow the family to keep open a range of options to cover various eventualities as her parents became older and/or infirm. Miss Green also confirmed that the proposed upvc fence would be of high quality, would be maintenance-free and that its outline would be broken up by planting.

5. Summary of the Minister's case

5.1 The Board had received a full written summary of the Minister's case before the hearing and the written submissions were amplified by the Principal Planner (Appeals).

5.2 It was confirmed that Mr. Green had submitted his application on 29th May 2008 and that, following the normal consultation/advertisement procedure, it had been recommended for refusal. This recommendation was then reviewed and endorsed by the Assistant Director, Development Control, and a notice of refusal issued on 3rd December 2008. The applicant submitted a Request for Reconsideration, by letter dated 10th December 2008, and this had been considered by the Planning Applications Panel on 30th January 2009, when the recommendation of the officers to maintain refusal of the application had been upheld.

5.3 The grounds of refusal of the application had been that –

(a) “The proposed development by virtue of its size and scale and size of the application site would be an unacceptable over-development of the site, resulting in a scheme which is cramped and provides insufficient amenity space for both the occupants of the proposed development and the existing dwelling. Accordingly, the proposed development is contrary to Policies G2, G3 and H8 of the Adopted Island Plan 2002”; and

(b) “The proposed development by virtue of the formation of new car parking spaces directly adjacent to Teighmore Park and the erection of a new upvc fence behind the spaces directly facing Teighmore Park will result in a development that is visually intrusive in the street scene and detrimental to the character and appearance of the street scene. Accordingly, the proposed development is contrary to Policies G2, G3 and H8 of the Adopted Island Plan 2002.”

5.4 It was noted that the site, which was in the Built-Up Area, was located to the west of Teighmore Park, a cul-de-sac predominantly composing residential bungalows, with open countryside and the road of the property “Les Montils”

to the west. No. 3 Teighmore Park was located within a cluster of dwellings although the area was rural in character.

- 5.5 Having noted the main governing policy in respect of all applications for new development in the Built-Up Area (Policy H8), it was recognized that also relevant in this instance were Policy G2 (“General Development Considerations”), Policy G3 (“Quality of Design”) and Policy BE13 (“Frontage Parking”).
- 5.6 As a result of the normal consultation/advertisement procedure, comments had been received from the Transport and Technical Services Department (in respect of drainage: confirming that Teighmore Park was served by a private foul sewer system that connected to the public foul sewer system in La Chevre Rue to the north); and from the Parish of Grouville (confirming the Parish’s policy of not supporting the loss of garage parking, but indicating acceptance in this case of the adequacy of the alternative parking arrangements proposed and agreeing to give consent thereto).
- 5.7 In response to the complaint, the Department set out the planning history in respect of No. 4 Teighmore Park, from which it was noted that the extension had been approved expressly as an integrated family unit of accommodation (to be used for the daughter of the elderly couple who lived there). It was recognized that the extension – which replaced a large garage building – was physically linked to the existing bungalow and used the same garden and parking areas. Previous planning applications to create a separate unit of accommodation at No. 4 Teighmore Park had been refused, and only when the extension had been applied for as an integrated family unit of accommodation (together with some changes to the design) had the application been approved. Further, the approved plans for No. 4 showed a parking area with vehicle access to the south off La Rue Monsieur, which meant that landscaping could be provided to the rear of the site onto Teighmore Park. The Department recognized that this strip of landscaping had not been implemented and intended to give further consideration to pursuing enforcement action in order to rectify the breach of the conditions associated with the approved plans.
- 5.8 As regards the proposed white upvc fence, the Department had indicated that this type of fencing would not normally be acceptable to the frontage of a house as the fencing was generally of a poor quality appearance and would be in a prominent position in the street scene. It was noted that no alternatives had been put forward by the applicant (for example, timber fencing) and the Department was concerned at the loss of the existing hedge and the resultant proposed appearance of the fence and the large parking bays.
- 5.9 It was noted that the existing house had a single garage and one parking space in front of the garage: a total of 2 off-road parking spaces. The submitted plans showed 2 parking spaces for each house, but due to the size of the proposed parking areas it was doubted whether 4 parking spaces could be achieved – the likelihood being that only 2 spaces in total could be provided. Under current adopted parking standards, 4 parking spaces would normally be required for the 2 dwellings.

- 5.10 In relation to No. 6 Teighmore Park, the Department outlined the approved application for the extension of that property to the side and rear, to raise the roof and a loft conversion. It was confirmed that, although the extensions had increased the size of that property, the Minister had considered that the proposal was in keeping with the street scene and that it would not cause any loss of residential amenity whilst at the same time providing suitable amenity and parking space. The details of various material differences between the cases in relation to Nos. 3 and 4 Teighmore Park which rendered them non-comparable were explained.
- 5.11 The conclusion of the Department was that the planning application in respect of No. 3 Teighmore Park had been recommended for refusal by a Planning Officer, endorsed by the Assistant Director, Development Control and had ultimately been refused. Following a Request for Reconsideration, the application had been considered again by the Minister for Planning and Environment who had decided to maintain refusal. It was contended that the application had been fully reviewed and that the decision reached was not unreasonable taking into account the approved Island Plan, representations received and all the circumstances of the case.
- 5.12 The Senior Planner (Appeals) emphasized that in considering an application the Minister was required to take into consideration not only the applicant site but also the neighbouring properties. Private amenity space was considered to be important and the present proposal for the creation of a separate dwelling in the garden of the main house would result in very little amenity for the new property. Of paramount concern was that the proposed 'extension' would be entirely separate from the main house – i.e. not linked other than by a 2.1 metre translucent roof (presumably to allow light to reach the front of the main house) – with no access into the existing dwelling. Further, there was concern that the proposal would not be properly integrated with the existing property, including the parking provision envisaged. It was emphasized that, to date, no approval had been given for any upvc fencing in the Island, with the Minister favouring timber fencing. The Senior Planner (Appeals) accepted on behalf of the Department that the length of time taken to initially process the application was unacceptable (due to a shortage of resources within the Department at the time), although this had subsequently been addressed, with 82 per cent of applications currently being dealt with within the Department's 13-week target. It was confirmed that the premises had only been visited once, on the initial site visit by the Planning Officer when photographs had been taken and discussions held with the applicant. In summary, the quite small plot at No. 3 Teighmore Park was considered to be too small to accommodate a separate dwelling. However, the Department felt that a new application for a 'Granny Flat' – where the extension would be attached to the main house and would have direct access into it – might be acceptable, subject to negotiation on points of detail and design. It was suggested, for example, that a 'kitchenette' in such an extension would be acceptable, whereas the fully appointed kitchen facilities presently proposed was not.

6. The Board's findings

- 6.1 Whereas the Department had considered that 2 separate units would not be appropriate for the relatively small site, given the lack of private amenity space that would result, the Board could see that the demolition of the garage, thus opening up the site in the manner proposed by the applicant, might bring significant improvement giving amenity areas for both units of accommodation. Furthermore, the Board considered that if the principle of having open parking were to be applied to the whole of what was a narrow private lane, with suitable landscaping the effect on its overall appearance could be beneficial.
- 6.2 The Board recognized that the proposed demolition of the garage would provide an access path to the main house and new dwelling, thus providing an opportunity for a small increase in amenity space. The design of the new dwelling being separate yet linked by a translucent roof was recognized as a means of allowing light through to the main house. The new parking arrangements proposed following the removal of a hedge, which was in any event in poor health, would provide increased parking and would be the catalyst for the general opening up of the site; however, the Board was concerned that the amenity area to the East of the existing house should remain open and not be fenced off or otherwise separated, so as to preserve a sense of space.
- 6.3 It did not appear to the Board that any of the constraints imposed by Policy H8 applied to the present application and it was considered that the proposals did not represent an unreasonable development of the site. The application also did not, in the opinion of the Board, appear to contravene Policy G2. The Board considered that the 'remoteness' of the small private avenue and the overall improved appearance would not result in a deleterious effect on the 'street scene.' The fact that the proposed development was close to a number of nearby neighbours, and yet there was an absence of any objection to the proposals, was not lost on the Board.
- 6.4 The Board noted the acceptance by the Department that the length of time taken to process Mr. Green's application had been unduly long but that this situation had since been addressed; however, the Board considered that insufficient thought had been given to the application by the Planning Department, with whatever consideration applied having been rushed.
- 6.5 In summary, the Board considered that the application should be reconsidered with a view to permitting the extension, subject to the following conditions –
- (a) Remove the proposed fence between the new extension's north elevation and the space created by removal of the old garage, thus allowing the occupant of the extension a greater use of garden space; and,
 - (b) Agree a suitable type of enclosure (if a upvc fence is disallowed) and landscaping between the extension's east elevation and the parking area.

Signed and dated by: Dated:
Mr. N. Le Gresley, Chairman

..... Dated:
Miss C. Vibert

..... Dated:
Mr. D.J. Watkins