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THE LAND PLANNING AND DEVELOPMENT (GUERNSEY) LAW, 2005

AND SECTION 19 OF THE LAND PLANNING AND DEVELOPMENT (GENERAL PROVISIONS) ORDINANCE, 2007

NOTIFICATION OF REFUSAL OF PLANNING PERMISSION

PROPOSALS: Erect a double garage/workshop/garden store with dower unit above.

LOCATION: Holly Lodge, Rue Frairies, St. Andrew.

APPLICANT: Mr J Williams-Smith

I refer to the application referred to below received as valid on 03/10/2012 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 05/11/2012

Drawing Nos: A7 Design 11-418-02, 03

Application Ref: FULL/2012/3075

Property Ref: K005410000

The Department has decided to refuse your application under the provisions of section 16 of the Land Planning and Development (Guernsey) Law, 2005 for the following reasons:-

1. Policy RH5 of the Rural Area Plan deals with the creation of dower units. It generally supports the alteration or extension of houses, including the conversion of outbuildings, to create dower units provided they are subsidiary to and dependent upon the main dwelling and of appropriate design. It makes reference to the use of existing outbuildings as dower units, but indicates that they must be "well related to the principal dwelling in terms of siting within the curtilage, proximity to and ease of access from the dwelling." The Department has published a Guidance Note which is intended to clarify the policy. This indicates that, as the basic principle of a dower unit is to share accommodation in the house, any proposal which requires occupants to walk any more than a few metres in the dark, rain and cold to the main house is unlikely to be regarded as well related.

The present proposal relates to the creation of a new outbuilding rather than its conversion. It would not be well related to the existing dwelling.

The Guidance Note also indicates that any proposal which provides all the facilities for self-contained day to day existence is unlikely to be regarded as a dower unit. The studio would have independent access, a shower room and a potential kitchen. The proposal would conflict with this part of the Note.

The proposal does not meet the requirements of Policy RH5 and the associated Guidance Note and would conflict with the objective of the policy to accommodate close family members as part of an extended household.

2. Two of the roof lights on the western side of the new building serve the proposed studio. These provide the potential for overlooking of the rear garden and towards windows to the adjoining house. As such, the development would result in a loss of amenity for the occupiers of this adjoining house.

OTHER REMARKS:-

Right of appeal against planning decisions

Your attention is drawn to the provisions of Section 68(1) of the Land Planning and Development (Guernsey) Law 2005, which provides a right of appeal, against a decision to refuse an application for planning permission or outline planning permission to the Planning Tribunal on the merits. An appeal to the Planning Tribunal under section 68 of the Law against this decision must be made before the expiry of the period of six months beginning with the date on which the Department made this decision.

Copy of representations made

In reaching this decision the Department took into account any written representations arising from consultations made under Section 11(1) of the Land Planning and Development (General Provisions) Ordinance, 2007 ('the Ordinance'). A copy of any representations made to the Department under section 11 will be included with this decision in accordance with section 19 of the Ordinance.

A J ROWLES
Director of Planning Control Services

ENVIRONMENT
A STATES OF GUERNSEY GOVERNMENT DEPARTMENT

PLANNING APPLICATION REPORT

Application No: FULL/2012/3075
Property Ref: K005410000
Valid date: 03/10/2012
Location: Holly Lodge Rue Frairies St. Andrew Guernsey GY6 8XU
Proposal: Erect a double garage/workshop/garden store with dower unit above.
Applicant: Mr J Williams-Smith

RECOMMENDATION - Refusal

REASONS FOR REFUSAL

1. Policy RH5 of the Rural Area Plan deals with the creation of dower units. It generally supports the alteration or extension of houses, including the conversion of outbuildings, to create dower units provided they are subsidiary to and dependent upon the main dwelling and of appropriate design. It makes reference to the use of existing outbuildings as dower units, but indicates that they must be "well related to the principal dwelling in terms of siting within the curtilage, proximity to and ease of access from the dwelling." The Department has published a Guidance Note which is intended to clarify the policy. This indicates that, as the basic principle of a dower unit is to share accommodation in the house, any proposal which requires occupants to walk any more than a few metres in the dark, rain and cold to the main house is unlikely to be regarded as well related.

The present proposal relates to the creation of a new outbuilding rather than its conversion. It would not be well related to the existing dwelling.

The Guidance Note also indicates that any proposal which provides all the facilities for self-contained day to day existence is unlikely to be regarded as a dower unit. The studio would have independent access, a shower room and a potential kitchen. The proposal would conflict with this part of the Note.

The proposal does not meet the requirements of Policy RH5 and the associated Guidance Note and would conflict with the objective of the policy to accommodate close family members as part of an extended household.

2. Two of the roof lights on the western side of the new building serve the proposed studio. These provide the potential for overlooking of the rear garden and towards windows to the adjoining house. As such, the development would result in a loss of amenity for the occupiers of this adjoining house.

OFFICER'S REPORT

Site Description:

Holly Lodge is a detached dwelling with an access and drive on its western side. The adjoining dwelling abuts the drive. There is a parking area at the end of the drive, separated from the adjoining dwelling by a 2 metre high wall, with a patio to the east. The garden is to the rear (south).

The application site is located in a conservation area.

Relevant History:

2011/3859 17/01/12 Refusal to Erect a double garage/workshop/garden store with dower unit above

A meeting was held on 12 April 2012 to discuss the reasons for refusal and possible ways to overcome these.

Existing Use(s):

Residential.

Brief Description of Development:

The application seeks planning permission to erect a detached double garage, workshop and store with a studio above. This would measure 9 metres by 6.6 metres with a height to eaves of about 2.6 metres and a height to ridge of about 6.2 metres. The building would be sited 0.9 metre from the boundary.

The proposal incorporates two roof lights in the eastern roof plane and three in the west. There are two alternatives for the front (north) – one including a first floor window; the other a glazed gable.

The proposal is identical to that refused planning permission in January 2012.

The applicant has provided a statement to support the resubmission. This sets out the family background, the five options considered to address the family's accommodation needs and information setting out how the dower unit would be occupied. The applicant asks that any departure from planning policy be considered as minor.

Relevant Policies of any Plan, Subject Plan or Local Planning Brief:

Rural Area Plan
RH5 - Dower units
RH6 - Extensions and alterations to dwellings
RCE10 - Conservation Areas
The Department has published guidance on dower units.

Representations:

None.

Consultations:

None.

Summary of Issues:

The main issues in deciding this application are:
1. whether the proposed dower unit is appropriate;
2. the impact of the development on the character and appearance of the area, a conservation area; and
3. the impact of the development on the amenity of people living in the area,

taking into account the policies and guidance set out above.

Assessment against:

1 - Purposes of the law.

The objectives of the Law, as set out in Section 1(2), have been considered and this forms part of the assessment of policy issues set out in 2 below.

2 - Relevant policies of any Plan, Subject Plan or Local Planning Brief.

Policy RH5 makes reference to the use of existing outbuildings as a dower unit, but states that they must be "well related to the principal dwelling in terms of siting within the curtilage, proximity to and ease of access from the dwelling." The guidance note indicates that, as the basic principle of a dower unit is to share accommodation in the house, any proposal which requires occupants to walk any more than a few metres in the dark, rain and cold to the main house is unlikely to be regarded as well related. The present proposal does not meet this requirement of RH5.

The guidance note also indicates that any proposal which provides all the facilities for self-contained day to day existence is unlikely to be regarded as a dower unit. The studio would have independent access, a shower room and a potential kitchen. The proposal would conflict with this part of the guidance note.

The application site is located in a conservation area. There is a statutory duty to pay special attention to the desirability of preserving and enhancing the character and appearance of the area. This duty is reflected in Policy RCE10 of the Rural Area Plan.

The new building would be sited to the rear of the existing dwelling and views would be limited to those through the relatively narrow gap of the drive. Although the proposal may not enhance the character of the conservation area, it is likely to have a neutral visual impact and can therefore be considered to preserve that character. Both of the two options for the north elevation are considered acceptable in view of the limited public views.

Policy RH6 of the Rural Area Plan indicates that extensions or alterations to existing houses will normally be permitted. However, the supporting text to this policy refers to the need to consider any relevant planning considerations.

3 - General material considerations set out in the General Provisions Ordinance.

In addition to a consideration of policy issues, Section 13 of the Land Planning and Development (General Provisions) Ordinance 2007 identifies other material planning considerations. These include the appropriateness of the development in relation to its surroundings in terms of its design, layout, scale, siting and the materials to be used, as well as the likely effect on the character and amenity of the locality in question.

The greatest impact of the proposal on the amenities of adjoining dwellings would be in relation to the house to the west. Being to its east, any loss of sunlight would be limited, while the presence of the existing boundary wall would limit the loss of outlook to the house and garden. There is a first floor window in the gable to the adjoining house and there would be some loss of outlook from this window. However the position and height of the new building relative to this window are such that any such loss would not be significant, particularly as there are relatively open aspects to the south and west.

The position of the new building is such that a glazed gable on the northern side is unlikely to result in any significant degree of overlooking. However, there may be a real perception of overlooking. In view of its intended use as ancillary accommodation only, it is recommended that any permission relate only to the option of a window on the northern side.

Two of the roof lights on the western side serve the studio, the third is to a dressing/shower room. Although the applicant has indicated that the cill to these roof lights would be 1.5 metres above floor level, there would remain the potential for overlooking of the rear garden and towards windows to the adjoining house. As the

building is to be used only as ancillary accommodation, the need for the roof lights is not considered sufficient to over-ride the potential loss of privacy.

The larger roof lights on the eastern side also have potential for overlooking. However, in view of the distance to the eastern boundary and the existing building and boundary treatment on this side, this is not regarded as a significant issue.

The harm to the amenity of the neighbouring dwelling that would be caused by the proposed development by virtue of the potential for overlooking and the non-compliance with Policy RH5 and its objectives are sufficient to rebut the presumption contained in Policy RH6 of the Rural Area Plan that proposals for extensions and alterations to existing houses will normally be permitted. The additional supporting information does not provide sufficient justification to depart from the previous decision to refuse permission. The departure from policy is not considered to be minor.

It is consequently recommended that the application be refused for the same reasons as previously.

4 - Additional considerations (for protected trees, monuments, buildings and/or SSS's).

The proposal would have no impact on protected trees, buildings or sites.

Date: 05 November 2012