

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 two dwellings to north of site (Protected Building and Trees)

LOCATION: The Manor, Brock Road, St. Peter Port.

APPLICANT: Manor House Ltd

I refer to the application referred to below received as valid on 06/09/2021 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 02/03/2022

Drawing Nos: DRP Architecture: 2010 - SK-02A, 03A & 04

Application Ref: FULL/2021/1745

Property Ref: A205290000

The Development & Planning Authority 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. By virtue of their siting and design, the proposed dwellings would have a moderate adverse effect on the setting of the protected building which would not be outweighed by the benefits of the development and/or its contribution to the vitality of a Main Centre. The proposal is contrary to Policy GP5.

2. Works are proposed within the root protection area of protected trees. However, no information has been submitted regarding the potential impact of the development on the protected trees, such as the impact of damage during construction or as a result of canopies being reduced to accommodate the development, and no measures are proposed to manage or reduce the impact of the construction phase of the development on the trees. In addition, the size and location of trees T7 and T10 raises concerns about the potential for post development pressure to cut back or fell the trees which would diminish the overall contribution the trees make to the character and appearance of the Conservation Area. It has not been demonstrated that the development would not adversely affect the health and vitality of the protected trees, particularly trees T7 and T10. The proposal fails to accord with Section 42 of the Law and Policy GP4.

3. The orientation, distance and relationship between the proposed dwellings and the neighbouring property to the west would create a sense that the neighbouring property would be overlooked and has the potential to create intervisibility issues with the existing gable window. This would have a significant adverse effect on the amenities of neighbouring residents, contrary to Policy GP8.

4. With regards to sustainable design, the information submitted is not sufficient to demonstrate that the proposal complies with Policy GP9 with particular regard to how the proposal has been located and orientated to minimise the use of energy and resources, the form of construction, the use of renewable energy technologies and the proposed building materials.

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 Authority made this decision.

Copy of representations made

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

A J ROWLES

Director of Planning
Planning Service

Application No: FULL/2021/1745
Property Ref: A205290000
Valid date: 06/09/2021
Location: The Manor Brock Road St. Peter Port Guernsey GY1 1RB
Proposal: Erect two dwellings to north of site (Protected Building and Trees)
Applicant: Manor House Ltd

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. By virtue of their siting and design, the proposed dwellings would have a moderate adverse effect on the setting of the protected building which would not be outweighed by the benefits of the development and/or its contribution to the vitality of a Main Centre. The proposal is contrary to Policy GP5.
 2. Works are proposed within the root protection area of protected trees. However, no information has been submitted regarding the potential impact of the development on the protected trees, such as the impact of damage during construction or as a result of canopies being reduced to accommodate the development, and no measures are proposed to manage or reduce the impact of the construction phase of the development on the trees. In addition, the size and location of trees T7 and T10 raises concerns about the potential for post development pressure to cut back or fell the trees which would diminish the overall contribution the trees make to the character and appearance of the Conservation Area. It has not been demonstrated that the development would not adversely affect the health and vitality of the protected trees, particularly trees T7 and T10. The proposal fails to accord with Section 42 of the Law and Policy GP4.
 3. The orientation, distance and relationship between the proposed dwellings and the neighbouring property to the west would create a sense that the neighbouring property would be overlooked and has the potential to create intervisibility issues with the existing gable window. This would have a significant adverse effect on the amenities of neighbouring residents, contrary to Policy GP8.
 4. With regards to sustainable design, the information submitted is not sufficient to demonstrate that the proposal complies with Policy GP9 with particular regard to how the proposal has been located and orientated to minimise the use of energy and resources, the form of construction, the use of renewable energy technologies and the proposed building materials.
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OFFICER'S REPORT

Site Description:

The site comprises of a large Edwardian Villa that sits within relatively large garden grounds and forms a corner plot to the south-west of the junction between Brock Road and Elm Grove. The building has been converted into flats and the whole of the building is a protected building. The roadside boundary to the east comprises of a low granite wall with hedging, the north boundary comprises of a high granite wall and both boundaries are lined on the inside of the site by mature trees. All of the trees on the site are the subject of a Tree Protection Order. The site is in the St Peter Port Conservation Area and Main Centre Outer Area.

Relevant History:

22/01/2021 - PREA/2020/2446 – Pre-application advice regarding construction of new dwellings.

Existing Use(s):

Residential use class 2 - Flats

Brief Description of Development:

Planning permission is requested to erect 2, three bedroom dwellings to the north of the existing building. The dwellings are proposed to be a modern two storey pitched roof design and finished with a mix of rendered and composite timber clad walls, uPVC windows and a slate roof.

The application is supported by a Tree Management Assessment report dated 13/08/2020 and a letter dated 02/08/2021 from the agent which sets out details of the history of the existing building and provides commentary on policies of the Island Development Plan.

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

Policy MC2: Housing in Main Centres and Main Centre Outer Areas

Policy GP4: Conservation Areas

Policy GP5: Protected Buildings

Policy GP8: Design

Policy GP9: Sustainable Development

Policy IP9: Highway Safety, Accessibility and Capacity

Representations:

One letter of objection was received, main points as follows:

- No issues were raised with the additional building but concerned about the access to the property.

- The siting of the existing access adjacent to traffic lights causes problems for pedestrians and confuses drivers resulting in road safety issues. The additional building will make it worse.
- It is recommended that should the plans be approved that the access to the site is moved either south along Brock Road or to the north boundary with Elm Grove. Alternatively the existing vehicular access could be removed and access could be via the service lane onto Rouge Huis Avenue.

Consultations:

Traffic Services, 03/02/2022 advises that:

“Further to our meeting and review of the plans in respect of the proposed new build at the Manor House, I would comment as follows from a THS perspective.

Although the new build is likely to be considered an intensification of the site from a planning perspective, the current unregulated parking at the site is heavily utilised by the tenants of the existing property, and as such, irrespective of the number of dwellings within the property boundary, unless areas of the garden were made into parking, the number of vehicle movements to and from the site is unlikely to materially change if this application is approved.

As discussed, I understand the risk to pedestrians cited within consultation responses that you have received, and whilst acknowledging that if a section of the foliage adjacent to the access was removed, the granite pillars form the significant obstruction to the sightlines. Ultimately, as an existing access that has been in use for many years, the experiential aspects of driver behaviour when egressing are the biggest factor in relation to the road safety risk at the site. On the basis of my previous comment regarding the number of vehicle movements not increasing under this application, my view is that the removal of foliage could actually encourage drivers to use less caution when egressing. Fundamentally, the geometry of the access in relation to the traffic signals and junction is not the cause of the road safety risk per se, it is the responsibility of the driver egressing to stop and check for pedestrian movements before crossing the footpath.

Therefore, to confirm my overall analysis of this application, I would raise no objections from a traffic management perspective, and the road safety risk at the access is not increased or changed under this application. THS would not object to this application on either grounds.

The above said, I believe it would be appropriate for the concerns raised in relation to pedestrian safety highlighted and my comments above to be conveyed to the applicant. If the applicant wishes to contact me directly, I will be happy to advise them and assist as necessary”.

Summary of Issues:

The main issues in deciding this application are:

1. The impact of the development on the setting of the protected building.

2. The impact of the development on the protected trees.
3. The design and impact of the development on the character and appearance of the Conservation Area.
4. The impact of the development on the amenity of people living in the area.
5. Whether the development would result in a satisfactory living environment for the occupiers of the new dwelling.
6. Road safety and traffic management issues.

Assessment against:

- 1 - Purposes of the law.**
- 2 - Relevant policies of any Plan, Subject Plan or Local Planning Brief.**
- 3 - General material considerations set out in the General Provisions Ordinance.**
- 4 - Additional considerations (for protected trees, monuments, buildings and/or SSS's).**

As set out in Policy MC2, the majority of the Island's housing supply is to be provided within and around the Main Centres. The site is located in a Main Centre Outer Area and does not form Important Open Land. Current evidence regarding private market housing suggests a need for homes of 1-3 bedrooms, with an emphasis on 2 and 3 bedrooms. The proposal broadly reflects current housing need and taking into account the layout and character of the site and surrounding area, the proposed mix and type of housing is considered to be appropriate in this case. As such Policy MC2 supports the development of the site for housing where it accords with all other relevant policies of the Island Development Plan.

The impact of the development on the setting of the protected building

The application is supported by a covering letter which provides a commentary regarding Policy GP5. This part of the letter provides a brief description of its historic development, describes its appearance and then explains the rationale behind the location of the dwellings. The agent's letter is useful, but does not provide sufficient detail to both describe the setting of the protected building and the degree to which (if any) its setting will be affected. Furthermore it does not set out why any effect will be outweighed by the 'benefits' as defined by Policy GP5.

The existing building is a large Edwardian Villa that sits within relatively large garden grounds, which contain a group of trees that are subject to a Tree Protection Order. Public views of the protected building from the adjacent streets are limited to glimpsed views over boundary walls and through the tree canopy/trunks. Views are also available of the building from within the garden grounds. The building fronts onto a front garden, which includes a driveway that gives access to two car parking areas to the east and north of the building.

A pair of semi-detached two storey dwellings are proposed to the north of the protected building, including development in the roofspace. This area of the site contributes to the setting of the protected building. However, it is not the most important part of the setting (the most important part would be the front garden) and it

has been eroded by car parking. It is therefore considered that the value of this part of the site to the setting of the protected building to be medium.

The closest part of the proposed dwellings is 3 metres from the protected building and is set back approximately 9 metres from its front building line. The proposed dwellings will obscure views of the west elevation of the protected building. Due to the scale of the proposed dwellings they will appear subservient to the protected building. The proposed dwellings are of a contemporary appearance which does not attempt to draw from the architectural style or elements of the Edwardian protected building. The proposed development will result in the loss of three protected trees, although they are relatively small trees. Drawing the above considerations together, it is concluded that the impact of the development on the setting of the protected building would be moderate.

Policy GP5 requires any harm to the setting of the protected building to be balanced against the social, economic or other benefits; or the contribution the development will make to the vitality of a Main Centre. As noted above, the submitted application has not attempted to explain how the development might achieve these benefits.

With regards to the social, economic or other benefits, providing two new dwellings will bring social and economic benefits. However, the benefits would be negligible to the overall need for housing on the Island, especially where there is currently an over-supply of land for housing in terms of the pipeline supply of permissions. Similarly there would be economic benefits of building two dwellings, but the same benefits could accrue by building dwellings on land that would not negatively affect the setting of a protected building. With regards to the vitality of a Main Centre, providing dwellings in a Main Centre will contribute to its vitality, but two dwellings in this location would provide negligible contribution.

It is therefore concluded that by virtue of their siting and design, the proposed dwellings would have a moderate adverse effect on the setting of the protected building which would not be outweighed by the benefits of the development and/or its contribution to the vitality of a Main Centre. The proposal is contrary to Policy GP5.

The impact of the development on the protected trees

All of the trees on the application site are subject to a Tree Protection Order. The application drawings shows development in close proximity to the protected trees, with 3 protected trees to be removed.

There is a statutory duty under Section 42 of The Land Planning and Development (Guernsey) Law, 2005, to secure as far as possible that existing trees are protected and to pay special attention to the desirability of protecting that tree or land, when exercising functions with respect to land or buildings in the vicinity of a protected tree.

The existing trees contribute to the setting of the protected building and make a significant positive contribution to the character and appearance of the Conservation Area.

The application is supported by a Tree Management Assessment report which provides an assessment of the current condition and health of 33 protected trees. However, no information has been submitted regarding the potential impact of the development on the protected trees, such as the impact of damage during construction or as a result of trees being removed or canopies being reduced to accommodate the development, and no measures are proposed to manage or reduce the impact of the construction phase of the development on the trees. In addition, the root protection areas are indicated as circles with the stem making the centre. However, as set out in section 10.1 of the Tree Management Assessment report, factors such as the property wall and hard surfacing areas could affect the positioning of the root protection areas, and percentage and direction offsets for the root protection areas are noted for a number of trees. These offset root protection areas do not appear to be indicated on the submitted drawings.

It is proposed to remove trees T3, T4 and T5. Due to their size and location, these trees are relatively less important than other trees along the boundary of the site and their contribution to public visual amenity is limited.

Tree T10 is not shown to be felled but due to the siting of the northern-most dwelling, works would be required within the root protection area of the tree. As set out in the submitted Tree Management Assessment report, T10 is a category A Beech tree. Tree T10 is sited along the roadside boundary and it currently makes a significant positive contribution to the character and appearance of the Conservation Area. Given the compacted substrate that would be found under the road it is likely that a higher proportion of the root system would be found within the garden area as compared to under the road. The root protection area for T10 does not appear to have been drawn to reflect the actual root protection area, including as set out in the submitted Tree Management Assessment report, and this would have repercussions on any part of the development that falls within the root protection area.

The agent advises that the proposed works would encroach slightly on the root protection area of T7 but that this will be less invasive than previous works to install the substation. However, no details have been provided about the previous works undertaken to install the substation and if these previous works have caused damage to the health and vitality of the tree, it is possible that the tree would now be more susceptible to damage caused by further works. As above for T10, the root protection area for T7 does not appear to have been drawn to reflect the actual root protection area as set out in the submitted Tree Management Assessment report.

It has not been demonstrated that the development would not adversely affect the health and vitality of the protected trees, particularly trees T7 and T10. The proposal fails to accord with Section 42 of the Law.

In addition to direct impacts on trees resulting from the construction of the development, the actual or potential risk of damage, the impact on living conditions and safety considerations associated with developments within close proximity to large mature trees also requires consideration. British Standard 5837:2012 recognises the potential effect of mature trees on residential amenity for example shading, apprehension to occupiers or users, leaf fall and the accumulation of honeydew causing

damage to surfaces and vehicles. Allowing a development underneath large trees will increase the pressure to lop, top or fell the trees from future occupiers of the dwellings.

Trees T7 and T10 are not shown to be felled but due to the size and location of T7 within the modest back garden of the northern most dwelling and the spread of the canopies of both of these trees relative to the front and rear elevations of the northern most dwelling, there are concerns that the trees would considerably shade the northernmost dwelling, particularly its garden, as well as potentially causing apprehension to occupiers and issues with leaf fall. Post development pressure to cut back or fell the trees would reduce the visual amenity of the trees. If post development pressure increased to keep the trees cut back or to fell the trees, this would diminish the overall contribution the trees make to the character and appearance of the Conservation Area and to the setting of the protected building, contrary to Policies GP4 and GP5.

The design and impact of the development on the character and appearance of the Conservation Area

The existing protected building and its boundary walls as well as the existing trees contribute individually and collectively to the character and appearance of the Conservation Area. The boundary walls and trees help to screen the existing building from public views from outside the site.

The proposed dwellings will be visible from outside the site, but this will only be over the boundary walls and in glimpses between the trees. The agent proposes the planting of new trees to the north of the dwellings in the gap in the tree line although no details have been provided. The proposed dwellings themselves have a coherent architectural composition and design and the buildings are fit for purpose. The proposed dwellings in themselves will have a negligible effect on the character and appearance of the Conservation Area.

However, as discussed above, there are concerns about the impact of the development as it has not been demonstrated that development would not have an adverse effect on the health and vitality of the protected trees and there are concerns that there is the potential for post development pressure to keep the trees cut back or to fell the trees. The cutting back or felling of trees T7 and T10 would diminish the overall contribution the trees make to the character and appearance of the Conservation Area, contrary to Policy GP4.

The impact of the development on the amenity of people living in the area

The orientation, distance and relationship between the proposed dwellings and the neighbouring property to the west would create a sense that the neighbouring property would be overlooked and has the potential to create intervisibility issues with the existing gable window. This would have a significant adverse effect on the amenities of neighbouring residents, contrary to Policy GP9.

The proposed dwellings would be sited in close proximity to windows of flats in the north elevation of the existing building. Further information, including floor plans of the existing flats, would be required to fully assess the impact of the proposed dwellings on

the amenities of occupiers of the existing flats but as the proposal is not otherwise acceptable this has not been explored further at this stage.

Whether the development would result in a satisfactory living environment for the occupiers of the new dwelling

The health and well-being of the occupiers of the development requires consideration as set out in part (d) of Policy GP8 and explained in more detail in Annex I (Amenities). The objective to build at high densities is to be balanced with, but not override, the need to create acceptable living environments. Although there are no rigid standards for amenity provision, the factors to be considered include internal space provision, privacy, aspect/outlook, access to external open space and daylight/sunlight.

The combination of the layout and design of the dwellings provides a scheme with adequate daylight, sunlight, amenity space, aspect and outlook. The development would provide a satisfactory quality of residential environment for future occupiers, in accordance with Policy GP8.

Road safety and traffic management issues

Traffic Services advise that the existing unregulated parking at the site is heavily utilised by the tenants of the existing property and as the proposal does not increase the size of the parking area, the number of vehicle movements to and from the site is unlikely to materially change as a result of this application. Traffic Services conclude that they raise no objections from a traffic management perspective, and that the road safety risk at the access is not increased or changed under this application. Traffic Services do not object to the application on either grounds.

The proposed car parking provision is adequate for the existing and proposed dwellings and accords with the Parking Standards and Traffic Impact Assessment Supplementary Planning Guidance. There would be potential to provide secure covered storage for bicycles. Further details of the bicycle storage would be required but as the application is not otherwise acceptable this has not been explored further at this stage.

Other Matters

Policy GP9 is wide-ranging and includes requirements for sustainable design and construction with reference to the design, layout and orientation of buildings, flood risk and surface water run-off, renewable energy, the use of materials and the management of waste.

A letter from the agent includes a brief comment that *“the working drawings will specify thermal elements and other matters to comply as a minimum with building regulation standards but where appropriate and practical, will exceed these requirements so that all units will require minimum energy consumption”*. However, it does not set out how this would be achieved or what measures (if any) are proposed as being appropriate and practical to exceed minimum requirements. The information submitted is not sufficient to demonstrate that the proposal complies with Policy GP9 with particular regard to how the proposal has been located and orientated to minimise the use of energy and resources, the form of construction, the use of renewable energy technologies and the proposed building materials.

All material considerations as set out in the Land Planning and Development (Guernsey) Law, 2005 and the Land and Planning (General Provisions) Ordinance 2007 have been taken into account in the assessment of this application.

It is recommended that the application is refused.

Date: 28/02/2022