

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 storey pool room, extend raised terrace area and erect Braai outdoor kitchen and flue to south (rear) elevation.

LOCATION: Parkway, Guelles Lane, St. Peter Port.

APPLICANT: Pulse Mechanical Electrical

I refer to the application referred to below received as valid on 25/11/2021 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 29/03/2022

Drawing Nos: Naftel Associates: A210401 PD (--)650, 651A, 750A, 751A & 755

Application Ref: FULL/2021/2471

Property Ref: A102780000

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 the restricted size of the site and its relationship with adjoining properties, the proposed development would comprise a cramped and congested form of development which would, by virtue of its height and relationship with the adjoining dwelling, result in an unacceptable degree of overshadowing and the creation of a sense of enclosure; and a corresponding loss of outlook from the adjoining dwelling detrimental to the amenities enjoyed by the occupiers thereof. Furthermore, the development would result in the substantial loss of private amenity space associated with the existing dwelling, detrimental to the amenities enjoyed by the occupiers of that property. The proposal is therefore contrary to Policies GP8(a) and (d), GP9(b), GP13(a) and Annex I of the Island Development Plan.

2. The application has not been accompanied by sufficient, appropriate information relating to the proposed pool equipment to demonstrate that noise and vibration associated with this equipment would not have an unacceptable adverse impact on the amenities enjoyed by the occupiers of surrounding dwellings. The scheme is therefore contrary to Policies GP9(b) and GP13(a) of the Island Development Plan.

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



PLANNING APPLICATION REPORT

Application No: FULL/2021/2471
Property Ref: A102780000
Valid date: 25/11/2021
Location: Parkway Guelles Lane St. Peter Port Guernsey
Proposal: Erect two storey pool room, extend raised terrace area and erect Braai outdoor kitchen and flue to south (rear) elevation.
Applicant: Pulse Mechanical Electrical

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. By virtue of the restricted size of the site and its relationship with adjoining properties, the proposed development would comprise a cramped and congested form of development which would, by virtue of its height and relationship with the adjoining dwelling, result in an unacceptable degree of overshadowing and the creation of a sense of enclosure; and a corresponding loss of outlook from the adjoining dwelling detrimental to the amenities enjoyed by the occupiers thereof. Furthermore, the development would result in the substantial loss of private amenity space associated with the existing dwelling, detrimental to the amenities enjoyed by the occupiers of that property. The proposal is therefore contrary to Policies GP8(a) and (d), GP9(b), GP13(a) and Annex I of the Island Development Plan.

2. The application has not been accompanied by sufficient, appropriate information relating to the proposed pool equipment to demonstrate that noise and vibration associated with this equipment would not have an unacceptable adverse impact on the amenities enjoyed by the occupiers of surrounding dwellings. The scheme is therefore contrary to Policies GP9(b) and GP13(a) of the Island Development Plan.

OFFICER'S REPORT

Site Description:

Parkway is a detached two-storey dwelling, currently undergoing extension and alteration, situated to the south of Guelles Lane. The property is elevated above road level and bounded by residential properties to the east, south and west and commercial premises to the north.

The site is located within the St Peter Port Main Centre Outer Area in the Island Development Plan.

Relevant History:

FULL/2018/0288 - Remove existing steps and replace roadside boundary wall to create new vehicular access and excavate behind to form parking area – granted

FULL/2018/0541 - Extend dwelling at first floor level to create 2 storey building, including balcony on north elevation and alterations to fenestration – granted

FULL/2018/2268 - Remove fence and section of hedge and erect wall (side/west boundary), and remove hedge and erect wall (side/east boundary) – granted

FULL/2018/2407 - Variation to plans previously approved to extend dwelling at first floor level to create 2 storey building including balcony on north elevation and alterations to fenestration - Erect balcony on flat roof and change window to bi-fold doors – granted

FULL/2019/2101 - Erect garage with terrace above to north (roadside) elevation and extend roof terrace at first floor level to south (rear) elevation – refused

FULL/2021/2396 - Erect garage with raised terrace at first floor level to north boundary (Revised Scheme) – refused

Existing Use(s):

Residential Use Class 5

Brief Description of Development:

The application relates to the erection of a two-storey outbuilding to the rear of the dwelling containing a swimming pool and plant room. Glazing is proposed at ground and first floor level to the west elevation to the north elevation facing the house and to the east elevation, adjacent to the proposed spa/hot tub to be situated in the building. The building will extend across the rear/south site boundary and on top of the east boundary wall with new external steps proposed along this boundary, along with a new 1.87m high obscure glazed privacy screen on top of the boundary wall that was the subject of a separate, retrospective, application. The previously approved first floor terrace is to be enlarged, to the west, above a proposed Braai external kitchen with associated chimney/flue.

Amenity space to serve the dwelling would remain to the west of the pool house and along the west boundary, to the side of the dwelling.

The application was amended due to concerns relating to the potential for perceived overlooking to the occupiers of the adjoining dwelling. Obscure glazing has been shown to be replaced by aluminium cladding along the east site boundary although it is noted that the submitted layout plan still shows glazing to the east boundary.

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

Island Development Plan policies:

GP8: Design

GP9: Sustainable Development

GP13: Householder Development

Representations:

One letter has been submitted objecting to the application and raising the following points:

- The pool room plans are not in keeping with the area
- Residential properties are close together and concerns exist regarding noise and nuisance from pool parties
- Concerns exist regarding the potential for overlooking and loss of privacy from the enlarged raised terrace
- The proposed kitchen area poses concerns regarding smoke and other elements
- This would represent another large and intrusive build in what was an unspoilt part of St Peter Port
- The development will result the devaluation of neighbouring properties
- The proposal represents an overdevelopment of the site
- The building work have been ongoing for a long time, with associated disruption, noise, lights on late at night – the site is a mess and the scaffolding has been up too long
- The Authority should undertake a thorough review of the proposals to ensure consideration has been given to the impact on neighbouring properties before any other development is permitted on the site

Consultations:

Office of Environmental Health and Pollution Regulation - There is insufficient information provided within the plans regarding the equipment that the applicant proposes to install in the pool plant room. OEHPR have concerns about the proximity between the proposed plant room and neighbouring residential properties and the impact that noise and vibration from plant room equipment may have on neighbouring residents.

The following information would be gratefully received:

- Details of plant equipment to be installed, including manufacturers' specifications.
- Distance from plant room to the closest noise sensitive property (this includes domestic outdoor areas).
- Evidence that the noise level the proposed extraction system would operate at would be at least 5 dB(A) below the lowest background noise level at any time (this is generally at night).

- Details of any proposed attenuation measures to reduce the level of the plant room equipment. It is noted that the plant room itself will provide a level of noise reduction, as such details of the sound reduction level offered by the construction materials would be welcomed.

OEHPR would urge the applicant to contact an acoustic consultant. Any measurements and assessment shall be made in accordance with British Standard 4142:2014. Please do not hesitate to contact me at the above address should you require any additional information regarding this matter.

Summary of Issues:

The key issues in this case relate to the level of development on this site, the design and appearance of the outbuilding and other alterations and their likely effect on the character and appearance of the locality and the potential impact on residential amenity with regard to sunlight and daylight and loss of privacy.

Assessment against:

1 - Purposes of the law.

The objectives set out in Section 1(2) of The Land Planning and Development (Guernsey) Law, 2005, 'the Law', have been considered and this report forms part of the assessment, with policy issues set out in Section 2 below.

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

Although the public consultation process has raised concerns relating to the design of the development, the site is in an urban area where plot sizes and properties are varied in their size and designs. As a domestic outbuilding the Island Development Plan offers flexibility for homeowners to exert personal choice in design matters. The building would be substantially screened from the Lane by the existing dwelling and proposed access steps and gates but also given the low roof structure proposed. The proposal will not have an unacceptable detrimental impact on the local built environment. The flat roof design and highly glazed appearance of the proposed pool house is considered to represent a good standard of design in accordance with Policies GP8 and GP13 of the Island Development Plan.

Concerns have also been raised through the consultation process in relation to the potential for overlooking and loss of privacy to the east. A bungalow known as Amethyst is situated to the east of the site and a high boundary wall has been granted permission (see FULL/2018/2268). A revised design and height wall is proposed to form the east site boundary (FULL/2021/2186). A 1.8m high obscure glazed screen and east wall of the pool room was to be constructed along the east boundary to maintain privacy. Nonetheless, in order to afford the occupiers of Amethyst with an appropriate level of privacy and to reduce perceived overlooking from the raised terrace and spa/hot tub area it would be critical that a high level of opacity is provided by the screen. As originally submitted, the application proposed the introduction of glazing, albeit fixed

and obscure glazed, serving the spa area however, this represents an unneighbourly form of development that does not give adequate consideration to the health and well-being of occupiers of the adjoining dwelling.

Following the deferral of the application the scheme was amended and the glazing (windows and screens) to the east elevation of the proposed development omitted and replaced with solid aluminium panels to reflect the roof and other elements of the proposed pool house. The scheme as amended will not result in unacceptable overlooking or loss of privacy to the occupiers of neighbours to the east in accordance with Policies GP8, GP9 and GP13 of the IDP.

The site has substantial retaining walls around the south, east and west boundaries. The very shallow mono-pitch roof is such that the height of the building has been kept to a minimum. A single-storey outbuilding runs along the north boundary of the garden of the adjoining dwelling, Hazeldean, offering separation between the proposed building and the driveway and amenity space serving this neighbouring dwelling. The position of the building and proposed fenestration is such that the proposed building will not result in unacceptable overshadowing or loss of privacy to the occupiers of this neighbouring dwelling.

The application also proposes an enlarged first floor balcony/terrace which would offer access from the living accommodation at Parkway to the pool house. As part of the 2018 scheme to extend the dwelling, including a balcony to the north, concerns were raised regarding the potential for overlooking and loss of privacy to the occupiers of the dwelling to the east. A 1.8m high obscure glazed screen was proposed to enclose the rear first floor terrace (east and west edges of the terrace). The current scheme proposes a 1.8m high obscure glazed screen to the eastern edge of the enlarged terrace and a 1.1m high screen to the west. This terrace would now however, be set further from the west site boundary because the site has been enlarged. As proposed under application reference FULL/2021/2186 the boundary wall would be 4m high and given the height of the terrace and distance to the site boundary it would not be possible to obtain views into the garden of Earls Colne to the west from the terrace.

The 4m high boundary wall will also prevent overlooking from the pool to the garden of Earls Colne and limit the potential for views into the building from the first-floor windows of this neighbouring property.

Concerns exist regarding the level of development on site as a whole and that the erection of the pool house would represent an overdevelopment of the site. Although an objective of the IDP is to use land in an effective and efficient way to make the best use of the finite amount of land available this must be balanced with ensuring adequate living standards are maintained with regard to the occupiers of a dwelling and its neighbours. Whilst there are no rigid amenities standards or figures in the IDP this does not mean that poor or inadequate standards of amenities will be acceptable and each case must be considered on its own merits in relation to the policies in the IDP. There are specific objectives in Annex I relating to; internal space standards, privacy, aspect/outlook, external open space and daylight/sunlight.

The main dwelling is served by accommodation that meets the internal space standards and the proposed pool house would not raise concerns in this respect. The scheme, as amended, also seeks to preserve the privacy of the occupiers of the adjoining dwellings. Outlook from Parkway would be altered and affected by the proposed pool house given the limited depth of the site and the high, imposing retaining boundary walls. Whilst it may be argued that the reduced outlook that would be generated by the pool house development would be personal choice this does not represent a good standard of design when considering the health and well-being of future occupiers. Furthermore, the proposed development would result in an increase in the height of development in close proximity to the boundary with the adjoining dwelling, Amethyst. Whilst the flat roof design of the building would ordinarily reduce the scale, bulk and impact of a development given the elevated position of the proposed pool house the development would have a detrimental impact on outlook from and the amenities enjoyed by the occupiers of the adjoining dwelling thereby having a negative impact on health and well-being.

Access to external space can take various forms (garden, balcony, terrace, public parks/beaches etc.). Orientation, outlook and accessibility, for example, can greatly influence the quality of provision and the IDP expects external open space to be of high quality. Consideration must be given to the level and quality of external amenity space proposed to serve this substantial family home and a significant amount of built development has occurred on this site. The outbuilding would further reduce external amenity space associated with the dwelling and although the site has recently acquired land to the west, following the construction of the proposed two-storey pool house building the level of external amenity space would be severely curtailed and is not considered satisfactory to serve this dwelling.

The spa area will be served by ample natural light through the provision of a motorised sliding roof and glazing facing Parkway itself. Whilst the scheme has been designed to consider the level of sunlight/daylight serving the proposed pool house consideration must also be given to the “impact of the development on the level of daylight/sunlight entering an adjoining property and how this affects its amenities”. The modest garden to the south of Amethyst is currently affected by overshadowing from the high boundary walls and the situation would be worsened by the proposed extension, projecting 1.1m above the 4m high boundary wall detrimental to the amenities enjoyed by the occupiers of this dwelling.

Given the above, the erection of a two-storey pool house would represent an overdevelopment of the site detrimental to the health and well-being of occupiers and neighbours of the development due to a lack of suitable external amenity space and the impact on outlook from the neighbouring dwelling. The proposal overall does not represent a good standard of design. The scheme is therefore contrary to Policies GP8, GP9 and GP13 of the Island Development Plan and Annex I of the IDP.

The proposed pool house would be situated in the corner of the site and constructed off the existing boundary walls. Given the first-floor position of the pool and spa with pool related equipment below there is the potential for nuisance to arise in relation to noise and vibrations. The OEHPR were consulted on the application however, the information

contained within the application submission was insufficient to enable a full assessment to be carried out in relation to noise and vibration from the plant associated with the pool and spa. As a result it has not been possible to establish whether the scheme would have a detrimental impact on residential amenity contrary to Policies GP8, GP9 and GP13 of the IDP. Whilst the application could have been deferred to seek this additional information given that the application is considered unacceptable in other respects this would have been unreasonable because this would represent costly and abortive work.

Turning to the proposed Braai/flue the proposed development would not result in harm to the local built environment being situated to the rear of the property and substantially screened from public view, the enclosed nature of the site, given the height of the dwelling itself and high retaining boundary walls, and that no concerns have been raised by the OEHPR regarding this aspect of the development. The chimney/flue associated with the Braai will need to meet current Building Regulations to ensure the appropriate dispersal of smoke which will manage these concerns expressed through the consultation process.

Other Matters

Matters relating to a loss of view, devaluation of property and the time taken to complete the development are not matters that can be taken into account as part of the assessment of a planning application.

Although concerns have been raised regarding the potential for nuisance to arise from the pool (parties) and the use of the external kitchen there is no evidence to demonstrate that the use of residential amenity space would alter from the existing situation as a result of this development. Occupiers of any dwelling can host parties/BBQs etc. and this would remain the case in connection with Parkway.

Confirmation has been received that the proposed development has been designed to take into account matters of energy efficiency and current Building Regulations in accordance with Policy GP9.

Conclusion

The scheme does not accord with all relevant policies in the Island Development Plan and it is recommended that permission is refused due to overdevelopment of the site and a lack of information to demonstrate the pool equipment will not have a detrimental impact on residential amenity.

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

In addition to the consideration of policy issues, Section 13 of the Land Planning and Development (General Provisions) Ordinance, 2007 identifies other material planning considerations which could be relevant. These include; the appropriateness of the development in relation to its surroundings in terms of design, layout, scale, siting and materials; the likely effect on the character and amenity of the locality; any possible fall-

back position by way of extant planning permissions or exempt development; the likely effect on the reasonable enjoyment of neighbouring properties. These issues where relevant are considered above.

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

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

Date: 29 March 2022

