

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 1.5 storey garage/home office/dower unit to north west boundary.

LOCATION: St Vincent, Route De La Mare De Carteret, Castel.

APPLICANT: Mr & Mrs Pybus

I refer to the application referred to below received as valid on 20/12/2021 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 28/01/2022

Drawing Nos: DRP Architecture: 3070 SK-04 (2)A, 05 (2)A, 06 (2)A, 07 (2) and letter from applicants dated 20/01/2022

Application Ref: FULL/2021/2622

Property Ref: D01874B000

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. The proposed building, if permitted, would not represent ancillary living accommodation incidental to the enjoyment of the dwelling house, but would be tantamount to an independent unit of residential accommodation Outside of the Centres where such development is precluded by Policy OC1 of the Island Development Plan.
2. The proposed building, by virtue of its relationship with adjoining properties would result in an unacceptable degree of overlooking from the proposed first floor rooflights to the adjoining amenity space to the detriment of the amenities enjoyed by the occupiers of the existing properties. The proposal is therefore contrary to Policies GP8(d), 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/2021/2622
Property Ref: D01874B000
Valid date: 20/12/2021
Location: St Vincent Route De La Mare De Carteret Castel Guernsey GY5 7XD
Proposal: Erect 1.5 storey garage/home office/dower unit to north west boundary.
Applicant: Mr & Mrs Pybus

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The proposed building, if permitted, would not represent ancillary living accommodation incidental to the enjoyment of the dwelling house, but would be tantamount to an independent unit of residential accommodation Outside of the Centres where such development is precluded by Policy OC1 of the Island Development Plan.
 2. The proposed building, by virtue of its relationship with adjoining properties would result in an unacceptable degree of overlooking from the proposed first floor rooflights to the adjoining amenity space to the detriment of the amenities enjoyed by the occupiers of the existing properties. The proposal is therefore contrary to Policies GP8(d), GP9(b), and GP13(a) of the Island Development Plan.
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OFFICER'S REPORT

Site Description:

The application site comprises a detached bungalow, set well back from Route de la Mare de Carteret behind frontage development and located to the south of a large grassed field which has been approved to be used as domestic garden. Construction is underway for the erection of the replacement dwelling towards the north of this site. A shed and poly tunnel have been erected on the site to the south of the dwelling under construction.

The site is located Outside of the Centres and is the subject of no other designation under the Island Development Plan.

Relevant History:

FULL/2016/0015 - Convert existing outbuilding into separate unit of accommodation with associated car parking and landscaping - granted

FULL/2016/2842 - Change of use of agricultural land to domestic garden - granted
FULL/2018/2402 - Demolish existing dwelling and store and erect new dwelling and store. Erect gate to south of property - granted
FULL/2020/0690 - Demolish existing and erect replacement two-storey dwelling (revised scheme) - granted
FULL/2021/1421 – Erect one and a half storey tractor store to south site boundary – granted
FULL/2022/0035 – variations to previously approved plans to erect a one and a half storey tractor store to south site boundary install rooflights to west (front) elevation and install rooflights and garage doors to east (rear) elevation – under consideration

Existing Use(s):

01 dwellinghouse

Brief Description of Development:

The application relates to the erection of a one and a half storey timber clad building with a hipped, tiled roof in the northwest corner of the site, adjacent to the replacement dwelling at St Vincent.

The application shows a building to contain a garage, home office and garden store on the ground floor with an internal staircase leading to a two-bedroom unit of accommodation within the roofspace, including a kitchen, lounge and bathroom with storage cupboards off the landing. The application was deferred because this was considered tantamount to a new unit of residential accommodation Outside of the Centres where such proposals are precluded by Island Development Plan policies.

The applicant provided further information regarding the proposal describing the building as a multi-purpose domestic outbuilding, permitted by the Island Development Plan and having regard to the Dower Unit guidance. The applicant considers the dower to be relatively modest in size with accommodation set within the roofspace (approximately 70sqm) and indicating that a second bedroom (9.5sqm) would be for overnight visitors (a child). The size of the living accommodation would enable a family meal to be hosted. The application confirms that no separate utilities or garden are proposed and indicates that the relationship between the dwelling and outbuilding would be unattractive for occupation, by a third party.

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

Island Development Plan policies:

OC1: Housing Outside of the Centres

GP8: Design

GP9: Sustainable Development

GP13: Householder Development

IP7: Private and Communal Car Parking

Representations:

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

- There was one dwelling on the site but permissions have been given for a total of four dwellings on green land
- With an approved tractor store, why is another outbuilding required? More commercial machinery is being brought to the site suggesting a commercial use of the tractor store. This proposal also indicates a commercial use (office).
- The dwelling under construction is sufficient in size for relatives to reside independently, first floor accommodation for elderly relatives would be inappropriate and a garden would be reasonable for fresh air and peace
- The design and appearance of the building will have an effect on the locality, visible from the road and would not complement the design of local properties
- The dwelling will overlook properties resulting in a loss of privacy
- The dwelling will overshadow nearby properties cutting out light
- Trees and hedges have been removed, destroying habitat for birds and butterflies using the site. The original landscaping scheme has not been enhanced and does not offer equal or enhanced biodiversity measures – the wildlife pond will do little to attract birds, butterflies, insects and wildflowers that used to inhabit the site

Consultations:

None.

Summary of Issues:

The key issues in this case relate to the design and appearance of the outbuilding/dower and its likely effect on the character and appearance of the locality, the potential impact on residential amenity and its proposed/intended use.

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.

Principle of erecting a detached domestic outbuilding

The application is for a domestic outbuilding that is stated to be used as a garage, home office, garden store and ancillary living accommodation. It may however, be used for any other purpose which is incidental to the enjoyment of the dwelling. This may

include but is not limited to use as a games room, craft room, storage etc. The public consultation has raised concerns regarding the use of the accommodation however, this application must be assessed as submitted, on the basis that the building will be used for domestic purposes. Any other use (e.g. as a self-contained dwelling unconnected with St Vincent) would need to be the subject of a separate application considered against the policies in place at that time. The principle of constructing a domestic outbuilding containing a home office, garage, garden store and some ancillary living accommodation is therefore acceptable.

Design and appearance

The building has been designed taking into account the scale of development, predominantly residential, found in the locality. It would be situated in a large domestic garden and viewed in the context of existing two- and single-storey built development that surrounds it. Although taller than the main house the building would not appear as an intrusive form of development out of character with the local built environment particularly as the development would not be highly visible as the site does not occupy a road frontage.

The proposed building, with a timber clad exterior, represents a good standard of design that respects the character of the local built environment and which will not result in harm to any open landscape area in accordance with Policies GP8 and GP13 of the Island Development Plan.

Impact on residential amenity/health and well-being of occupiers

The siting and design of the building in relation to the site boundaries and having regard to its relationship with neighbouring properties, associated parking and gardens is such that it will not result in unacceptable overshadowing or loss of light.

Ground floor window openings (north and west elevations) are limited and can be screened by existing and exempt boundary treatments. First floor rooflights are proposed (north and west roofslopes) to be situated 1m above the finished first floor level which would have a detrimental impact on the privacy enjoyed by the occupiers of adjoining properties contrary to Policies GP8, GP9 and GP13 of the IDP.

The interrelationship between the ancillary outbuilding and main house is such that the potential for mutual overlooking is not unacceptable and meets the aims of Policies GP8, GP9 and GP13. Ordinarily, a bedroom (bedroom 2) served only by rooflights would be a cause of concern as this would not represent a good living environment for occupiers. The arrangement of internal space and light to the accommodation, in such cases, would fall to the personal preference of the applicant bearing in mind the accommodation could be put to a variety of uses.

Parking and landscaping

A landscaping scheme was approved in relation to the redevelopment of the site and this must be completed before the replacement dwelling is occupied. Although concerns

have been raised regarding landscaping, the siting of the building is such that it will not prevent existing boundary landscaping being retained/enhanced in accordance with the approved landscaping scheme. If acceptable in all other respects, additional boundary landscaping could be managed by condition.

The application submission does not include details regarding the extent of excavation proposed to form a pond to determine if this requires planning permission. To request this information when the scheme is unacceptable in other respects would represent unnecessary and abortive work. Nonetheless, the creation of a pond will not result in harm to the amenities of surrounding residents nor the character and appearance of the locality. The proposal would be supported by the Island Development Plan and enhance the living environment of occupiers of the development.

The existing vehicular access arrangements will not alter as a result of the proposed development and the level of off-road parking provision (proposed garage, approved garage and parking) is acceptable having regard to IP7 and the Supplementary Planning Guidance.

Dower accommodation

The SLUP acknowledges that there is an aging population on the Island and the need to meet housing requirements to enable people to remain in their own homes for as long as possible. An “additional living unit to be linked to, either physically or through association with, the main dwelling” is one way to manage this situation and dower units may be “acceptable in circumstances where a completely independent unit of accommodation would not”. They can take the form of extensions, conversion of existing or the construction of new outbuildings where they are well related to the principal dwelling. The IDP acknowledges that dowers may aim to offer a degree of independence for members of a shared household, but dower units must not become separated from the principal use of the dwelling as a single household.

Although the planning policies in Planning Advice Note 1: Dower Units - A guide to development have been superseded by those in the Island Development Plan the main principles of the document remain relevant. As dower units are not considered as separate dwellings, the normal requirements regarding access, parking, garden space and level of residential amenity are not applied. A main issue when dealing with proposals for dower units is whether the accommodation to be provided is to remain ancillary or incidental to the occupation of the dwelling.

The Advice Note indicates that if a proposal provides all the facilities for self-contained day to day existence, contains excessive floorspace and/or contains more than one bedroom this would be unlikely to be regarded as a dower unit. The first-floor accommodation contains an open plan living, kitchen, dining room, two bedrooms, bathroom and storage. The accommodation with a head height of above 1.5m would be more than 45sqm which meets the Guernsey Building Control Technical Standards for a dwelling or flat occupied by three people. The second bedroom exceeds the minimum size for single person occupancy of a dwelling (7sqm as set out in the Building Control Technical Standards) as does the open plan space and bathroom accommodation (GTS

22 sqm). GTS for new residential accommodation do not apply to such proposals which should provide an opportunity to scale back the proposal. The application was deferred to enable the development to be reviewed and additional supporting information was provided in relation to the submitted scheme.

The Advice Note contains several points which may help establish whether a dower unit would be ancillary or incidental to the main dwelling. At St Vincent, matters relating to shared garden and parking, relationship and connection between the building and main house, relationship between the main house and dower and utilities/service provision have been addressed.

In many respects however, the scheme does not demonstrate that the proposal would represent ancillary living accommodation in line with the adopted advice.

The letter dated 16th December 2021 from the planning agent confirms the garden will be shared but does not refer to other shared facilities (e.g. kitchen, bathroom, washing machine, storage of goods, parking). The size of the proposed accommodation is such that there is no need for any shared facilities. Being in a detached building access is separate from the main house. Access would be via a private door and hallway, cut off and independent from any of the ground floor accommodation proposed. As ancillary accommodation it would not be unreasonable for access to be taken via a ground floor room as, with family, it would be unlikely to result in unacceptable conflict between uses/activities. The only shared facilities would be the parking and gardens on site. This demonstrates that the unit would not be incidental to the enjoyment of the main house but rather is tantamount to a self-contained dwelling.

Dower accommodation should provide an element of independence whilst providing an element of support for occupiers. The advice note sets out that a basic 'kitchenette' type facility would be acceptable where it clearly remains ancillary to the main dwelling (e.g. family meals to be shared in the main house and with breakfast and lunch prepared in the dower unit). Clarification regarding the proposed use and function was offered following the deferral of the application. This does not specify whether meals will be taken in the main house but outlines that the proposed space would be such that the occupiers could host family meals. The proposal with the kitchen and level of living space as shown are excessive for ancillary dower accommodation.

The letter from the applicant indicates that a second bedroom is provided to allow a child to sleep over. Whilst this is noted, the bedroom accommodation, in combination with the scale and nature of accommodation generally within the proposed building, would point to the proposal being tantamount to an independent dwelling.

The purpose of a dower is not for the occupiers to live independent from the main house but allow them to retain their independence by way of offering shared facilities and support as necessary. The application sets out that the purpose of the accommodation is to allow relatives to live independently, providing their own meals and care. The occupiers of the main house would be able to aid with care and support when required. Based on the information provided, the accommodation would be independent with very little in the way of shared facilities proposed and with no need,

at present, for support from the main house. The scheme, therefore, does not relate to the provision of ancillary and incidental living accommodation associated with the main house but is equivalent to a new unit of residential accommodation Outside of the Centres.

Based on the information provided, the proposed development would go beyond ancillary living accommodation that would be incidental to the enjoyment of the main house but would be tantamount to a self-contained dwelling which is precluded Outside of the Centres by Policy OC1 of the Island Development Plan.

Although the applicant has indicated that they would accept a planning condition in relation to occupancy, imposition of such a condition would not be sufficient to overcome the concerns outlined above.

Conclusion

In view of the above it is recommended planning permission is refused for the proposed development as the scheme would be tantamount to the creation of a new dwelling Outside of the Centres where such proposals are precluded by planning policy and due to design issues relating to the amenities of adjoining properties.

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: 28 January 2022

