

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 5 dwellings with associated landscaping and parking and alter/widen vehicle access.

LOCATION: Dove Cottage, Route De Cobo, Castel.

APPLICANT: Mr & Mrs J Nussbaumer

I refer to the application referred to below received as valid on 31/01/2022 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 22/06/2022

Drawing Nos: Jason Hobbs Architectural Services Ltd: 6219/A/1, /2 & /3.

Application Ref: FULL/2022/0018

Property Ref: D013890000

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 piecemeal development of the Development Framework site will not result in a comprehensive scheme for the whole of the site and will not make the most effective and efficient use of the land. Although an access is indicated to serve the land to the east, the proposed scheme turns its back on the neighbouring land parcel and the indicative layout of the potential dwellings raises privacy/intervisibility issues which would limit the development potential of the land to the east. As a result, the development as proposed would not enable the comprehensive development of the entire Development Framework site and would not make the most effective and efficient use of land. The proposal is contrary to Policy GP10 and the approved Development Framework for the site.

2. Current evidence regarding private market housing suggests a need for homes of 1 to 3 bedrooms, with an emphasis on 2 and 3 bedrooms. The inclusion of three, 4 bedroom dwellings is not reflective of the current Island requirements. No economic or social reasons have been provided to justify the proposed mix and type of dwellings and consequently the proposal is contrary to Policy LC2 part (b) and the approved Development Framework for the site.

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/2022/0018
Property Ref: D013890000
Valid date: 31/01/2022
Location: Dove Cottage Route De Cobo Castel Guernsey GY5 7HD
Proposal: Erect 5 dwellings with associated landscaping and parking and alter/widen vehicle access.
Applicant: Mr & Mrs J Nussbaumer

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The proposed piecemeal development of the Development Framework site will not result in a comprehensive scheme for the whole of the site and will not make the most effective and efficient use of the land. Although an access is indicated to serve the land to the east, the proposed scheme turns its back on the neighbouring land parcel and the indicative layout of the potential dwellings raises privacy/intervisibility issues which would limit the development potential of the land to the east. As a result, the development as proposed would not enable the comprehensive development of the entire Development Framework site and would not make the most effective and efficient use of land. The proposal is contrary to Policy GP10 and the approved Development Framework for the site.
 2. Current evidence regarding private market housing suggests a need for homes of 1 to 3 bedrooms, with an emphasis on 2 and 3 bedrooms. The inclusion of three, 4 bedroom dwellings is not reflective of the current Island requirements. No economic or social reasons have been provided to justify the proposed mix and type of dwellings and consequently the proposal is contrary to Policy LC2 part (b) and the approved Development Framework for the site.
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OFFICER'S REPORT

Site Description:

The application site comprises of a traditional detached cottage and its associated garden. The dwelling faces towards and is set back approximately 17 metres from the highway, Route de Cobo, and is set behind the building line of neighbouring properties fronting onto the highway. There is a vehicular access onto the highway within the front roadside boundary which also provides access to a public path, Bouverie Lane which connects Route de Cobo with Rue de Bouverie.

The site is located to the north of Route de Cobo and is within and at the southern edge of the Cobo Local Centre. The site is surrounded by residential properties. The majority of the application site (approximately 85%) is identified as being within a flood risk area, varying from a 1:10 year level of risk to a 1:250 year risk.

Relevant History:

Mar-Apr 2020 – PREA/2020/0284 – Pre-application advice regarding the residential development of the site.

August 2019 - Bouverie Lane Development Framework adopted as Supplementary Planning Guidance.

Existing Use(s):

Residential use class 1: dwelling house

Brief Description of Development:

Planning permission is requested to erect 5 dwellings, 3 with four bedrooms and 2 with three bedrooms. The dwellings would be erected to the north and east of the existing dwelling, which would be retained, with 3 of the dwellings arranged around the end of an L shaped access road and 2 of the dwellings fronting onto a separate access road running along the south boundary of the site and which would also provide access to the land to the east. The existing vehicular access would be widened to serve the proposed dwellings and the existing dwelling and a parking area would be created within the frontage of the existing dwelling.

The dwellings are proposed to be of a 1½ storey design with dormer windows to the front and rear and they would be finished with smooth rendered walls and slate roofs.

The application is supported by a letter from Strategic Planning & Property Ltd dated 01/12/2021 and a Waste Management Plan.

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

Policy LC2: Housing in Local Centres
Policy GP1: Landscape Character and Open Land
Policy GP8: Design
Policy GP9: Sustainable Development
Policy GP10: Comprehensive Development
Policy GP18: Public Realm and Public Art
Policy IP6: Transport infrastructure and support facilities
Policy IP7: Private and Communal Car Parking
Policy IP9: Highway Safety, Accessibility and Capacity

Representations:

Five representations were received in response to the application, the main points are as follows:

- An objection to the position of the proposed access road along the southern boundary which restricts access to and the development of the neighbouring land to the east and fails to maximise the land use for both sites.
- The road widths and turning spaces appear to be limited and not in accordance with good design standards.
- The applicant has no intention of granting a right of way to the neighbouring land to the east. It is requested that a condition is applied to any planning approval requiring the applicant to provide legal rights of access in order to develop the land to the east.
- The application amounts to the overdevelopment and infilling of the area. This site is not appropriate for new housing and the scale of the development is disproportionate to the plot of land.
- Objections on account of the adverse impacts on neighbouring residents including overlooking of neighbouring properties to the south and south-east and noise and disturbance associated with additional traffic.
- Road safety and traffic management concerns due to the intensity of use of the proposed access, the volume of traffic created and the proximity of the access to the coast road junction, a bus stop and its relationship with the pedestrian lane.
- Potential to cause flooding of neighbouring properties due to water run-off from the site.
- Loss of trees and the impact on birds and wildlife.
- The visual impact of the development.
- The application should be considered at an Open Planning Meeting.
- The Planning Service wrote the policy to allow the overdevelopment of Cobo and it is wrong that the Planning Service is able to judge an application against the document that it wrote. Where are the checks in the system?
- Recent developments are all virtually identical chalet bungalows which is turning Cobo into a rather grotty housing estate rather than a pretty village and Cobo is losing any green areas that remain.
- The quality of architecture in the application is very poor.

Consultations:

States Archaeologist, 13/04/2022

“Although there does not appear to have been any previous development on this site, there is no particular reason to expect any special archaeological interest, and thus other than the normal informative note asking the developer to contact me in the event of any archaeological discovery, I do not think it warrants any more detailed investigation”.

Traffic and Highway Services, 21/04/2022

“A site visit has been carried out to determine how the changes to the roadside boundary under this application would affect both road safety and traffic management in the area. Previous commentary from Traffic and Highway Services in respect of this

site, and in particular the access has highlighted the restrictions due to the single vehicle width access and the resultant sub-standard sightlines of a vehicle egressing.

Under this application, the plans supplied show the access would be widened at the carriageway, and the existing wall that forms the boundary of the front garden of Dove Cottage removed.

The effect of these two significant changes are essentially threefold:

1. The widening of the access at the carriageway enables a much wider visibility splay to a driver egressing. Whereas the existing sightlines are significantly sub-standard (in the order of 5-8m) in the direction of both oncoming and approaching vehicles, this application would result in the sightlines in both directions being very close to the recommended standards. As such the road safety concerns associated with the current access would be mitigated under this application.
2. The removal of the garden boundary wall (within the site) would enable vehicles to pass each other off the carriageway. The existing single vehicle track has resulted in a vehicle turning in, meeting a vehicle in the track, and then reversing back onto the carriageway. Coupled with the sub-standard sightlines, this manoeuvre results in a significant road safety concern at this site currently, and again Traffic and Highway Services considers that the changes under this application would mitigate this concern.
3. Similarly to point 2, there is a minor traffic management issue associated with the existing access whereby because vehicles cannot currently pass each other off the carriageway, a driver waiting on the carriageway for another vehicle to egress, before the driver can enter the site, does result in a minor traffic management issue. Albeit, that this is occurring away from the junction and unlikely to delay drivers for more than a few seconds, Traffic and Highway Services again considers that the changes under this application mitigate this slight concern.

Therefore, Traffic and Highway Services would support the application in its current form, due to the improvements to road safety at this location, and do not consider that the scale of development or likely use of the access will result in a traffic management concern”.

Summary of Issues:

The main issues in deciding this application are:

1. The principle of housing development on this site.
2. Whether the proposal constitutes comprehensive development.
3. Design and impact of the development on the appearance and character of the 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 dwellings.
6. Road safety and traffic management.

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).**

The principle of housing development on this site

As set out in Policy LC2, the Island Development Plan is required to provide limited opportunities for housing development in Local Centres to enable community growth and to reinforce them as sustainable centres but requires that the scale of such development does not undermine the aims and objectives for the Main Centres. The site is located within the Cobo Local Centre and is not identified as Important Open Land. As such Policy LC2 supports proposals for housing where the scale is appropriate to the centre concerned; where able to accommodate a variety of dwellings the proposal provides an appropriate mix and type of dwellings; and the proposal accords with other relevant policies of the Island Development Plan.

A Development Framework was approved in August 2019 for the residential development of the site and it anticipated that there could be scope for approximately 5 to 7 dwellings on the site, with the actual number dependent on the details of the proposal and whether the existing dwelling is retained. As a result, in principle the residential development of the site is supported and the scale of the proposed development is appropriate to the Cobo Local Centre.

With regards to the mix and type of dwellings proposed, current evidence regarding private market housing suggests a need for homes of 1 to 3 bedrooms, with an emphasis on 2 and 3 bedrooms. The inclusion of three, 4 bedroom dwellings is not reflective of the current Island requirements. No economic or social reasons have been provided to justify the proposed mix and type of dwellings and consequently the proposal is contrary to Policy LC2 part (b) and the approved Development Framework for the site.

Whether the proposal constitutes comprehensive development

Policy GP10 sets out that it is vital that in considering proposals for development that the most effective and efficient use is made of the finite land resource available on the Island. The Policy goes on to state that:

“In considering proposals for development the Authority will take into account the need for individual proposals to conform to a comprehensive scheme for the whole site or area in order to make the most effective and efficient use of the land.

Proposals will not be supported where their implementation in isolation would compromise the most effective and efficient use of land”.

Section 8.2 of the approved Development Framework for this site states that *“any development proposal must involve a comprehensive scheme for the whole of the site to make the most effective and efficient use of the land. The density and form of development shall be designed to integrate well with the overall character of the surroundings”*.

The application involves approximately 80% of the Development Framework site area and does not include a neighbouring parcel of land to the east. An access road along the southern boundary is indicated to serve the land to the east and an indicative layout for 2 dwellings on the land to the east is shown. However, the proposed piecemeal development of the Development Framework site will not result in a comprehensive scheme for the whole of the site and will not make the most effective and efficient use of the land. Although an access is indicated to serve the land to the east, the proposed scheme turns its back on the neighbouring land parcel and the indicative layout of the potential dwellings raises privacy/intervisibility issues between themselves and units 3 and 5 and with the neighbouring dwelling Rose Cottage to the east, which would limit the development potential of the land to the east. As a result, the indicative layout of the potential dwellings would not be supported and the development as proposed would not enable the comprehensive development of the entire Development Framework site and would not make the most effective and efficient use of land. The proposal is contrary to Policy GP10 and the approved Development Framework for the site.

Having regard to the Guernsey Court of Appeal judgement in *The Island Development Committee –v- Portholme* [2002] (Civil 320), as the proposal fails to satisfy the requirements of Policies LC2 and GP10, then the proposal must be refused as no policy gateway applies and no further consideration of the proposals is necessary. However, the proposed residential development raises a number of issues and a summary is provided below.

- There are concerns about the overall design of the residential development and the health and well-being of the occupiers of the development and neighbouring residents. For example there are privacy/interrelationship issues between properties including unit 3 and the potential dwelling to the east and unit 1 and the existing dwelling Dove Cottage. In addition, there are concerns about the limited size and quality of the private gardens considering the size and nature of the dwellings, especially unit 3, and the level of privacy (Policy GP8).
- The removal of the bank and planting along the south boundary with Bouverie Lane and its replacement with a high timber fence would have an adverse effect on the character and appearance of the area and does not enhance the public realm (Policies GP8 and GP18).
- The extent and dominance of hard surfacing/roads would have an adverse effect on the character and appearance of the area including hard surfacing the entire frontage of Dove Cottage and the location of the access road along the south boundary (Policy GP8).
- The majority of the site is in a flood risk area and no information has been submitted to show how this has been taken into account (Policy GP9).

- The proposal do not achieve a good standard of architectural design, especially the large flat roof dormers to units 4 and 5 and the use of high timber fencing within the frontage of units 1, 2 and 3 (Policy GP8).
- The removal of a section of pavement and the lack of a continuous pavement across the access to the site does not enhance the public realm or encourage/support active travel (Policy IP6).
- The submitted biodiversity information does not appear to relate to this site, for example the use of short and long grasses and walkways.

Date: 17/06/2022