

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 single storey garage to north-east of site, create pedestrian access to east boundary, create new driveway, turning circle and parking to rear (east) of building and undertake landscaping (Protected Building).

LOCATION: 16 Hauteville, St. Peter Port.

APPLICANT: Joyton Holdings Limited

I refer to the application referred to below received as valid on 20/05/2022 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 19/08/2022

Drawing Nos: Naftel Associates - A220103 10A, 11 & 20.

Application Ref: FULL/2022/0941

Property Ref: A406970000

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 development would have an adverse effect on the setting of the protected building which would not be outweighed by any economic, social or other benefits, and would not contribute to enhancing the vitality of a Main Centre. The proposal would be contrary to the requirements of Policy GP5 (Protected Buildings) and GP8 (Design) and would not meet the statutory duty in respect of protected buildings.

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/2022/0941
Property Ref: A406970000
Valid date: 20/05/2022
Location: 16 Hauteville St. Peter Port Guernsey GY1 1DF
Proposal: Erect single storey garage to north-east of site, create pedestrian access to east boundary, create new driveway, turning circle and parking to rear (east) of building and undertake landscaping (Protected Building).
Applicant: Joyton Holdings Limited

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The proposed development would have an adverse effect on the setting of the protected building which would not be outweighed by any economic, social or other benefits, and would not contribute to enhancing the vitality of a Main Centre. The proposal would be contrary to the requirements of Policy GP5 (Protected Buildings) and GP8 (Design) and would not meet the statutory duty in respect of protected buildings.

OFFICER'S REPORT**Site Description:**

The application property comprises a large, mid-terrace protected building, one of a pair of substantial historic houses, latterly subdivided to create a number of flats, having its principal elevation onto Hauteville to the south-west. A large garden slopes down to the rear of the building (east/north-east) towards and above the level of The Strand, enclosed by granite walls and previously largely laid to lawn. In the north-east corner of the garden, and accessed via The Strand, there was until relatively recently a double garage beneath a lean-to roof, with steps leading up to the garden. The garage and part of the roadside wall onto The Strand has been demolished, leaving an opening on to the site, and a compacted earth/gravel driveway has been formed to the rear of the building, where multiple vehicles were parked at the time of the site visit.

The whole of the building is protected, together with the roadside railings on to Hauteville. A protected tree was formerly located in the north-east corner of the site, however this has been removed as part of the works approved under FULL/2014/3390. The replacement trees required as a condition of that approval have not yet been planted.

The site is located within a Main Centre and Conservation Area under the Island Development Plan.

Relevant History:

FULL/2014/3390 Remove tree to rear of property (protected tree PT33). Approved 15/01/15, conditional upon planting of at least three Sweet Chestnut Trees in the vicinity of the removed Oak.

FULL/2016/1815 - Extend existing garage, install timber garage door and erect wall. Erect stair enclosure, summer house and greenhouse with excavation/regrading to form ponds and associated landscaping works to rear of property. (Revised). Approved 23-12-2016. Work has commenced on the implementation of this permission.

FULL/2020/1325 – Erect single storey flat roof garage and wall to south (roadside) boundary and erect outbuilding/sunroom. (Revision to scheme previously approved FULL/2016/1815). Approved 07/10/2020.

Existing Use(s):

Domestic garage and garden serving 4no. residential flats (Residential Use Class 2)

Brief Description of Development:

The approval granted under FULL/2016/1815 related to the construction of a new garage in the north-east corner of the site, with greenhouse above, the construction of a summerhouse on decking to the south-east corner, the erection of a pergola adjacent to the north boundary and the laying of paths.

The approval granted under FULL/2020/1325 related only to the construction of a new garage in the north-east corner of the site, with summerhouse above.

The current application seeks permission for an enlarged garage in the north-east corner of the site, with a through-way to provide access to the rear garden. The proposal includes the creation of a paved driveway from the garage to the rear of the main building, with a turning circle and two parking spaces provided adjacent to the building. A new pedestrian access would be formed on to The Strand at the rear of the garage. The plans include terracing across the garden, with low retaining walls to the new driveway and terraced levels, and the creation of a vegetable garden with raised beds.

The submitted plans also show a summerhouse and decking area in the south-east corner of the site, and a pergola against the north boundary, all of which was approved under FULL/2016/1815, albeit with a minor repositioning of the decking area. As works have commenced on the implementation of FULL/2016/1815, the permission for these elements remains extant and they will not be revisited as part of the current application.

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

GP4 – Conservation Areas
GP5 – Protected Buildings
GP7 – Archaeological Remains
GP8 – Design
GP9 – Sustainable Development
GP13 – Householder Development
IP7 – Private and Communal Car Parking
IP9 – Highway Safety, Accessibility and Capacity

Representations:

One letter of representation received, raising the following points:

- Impact on the protected building resulting from changing the garden to parking;
- Impact on the enjoyment of neighbouring property:
 - o Dust pollution;
 - o Car and noise pollution;
 - o High level landscaping will block views from adjacent properties.

One letter of support received raising the following points:

- The proposal would retain significant open space;
- The proposal would tidy up and appropriately enclose the site and street;
- The proposal will discourage intruders;
- The design will follow the contours of the land;
- The proposal will reduce pressure on public parking in the area;
- The proposal would respect the existing road width.

Consultations:

None undertaken.

Summary of Issues:

Impact on the character of the Conservation Area;
Impact on the setting of the Protected Building;
Impact on neighbour amenity;
Impact on highway safety and parking provision;
Whether the proposals comprise sustainable development.

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).

Legal and policy context

The purposes of the Land Planning and Development (Guernsey) Law, 2005, are to protect and enhance, and to facilitate the sustainable development of, the physical environment of Guernsey.

Section 34 of the Law explains the general functions of authorities in respect of protected buildings. This states that:

It is the duty of any department of the States when exercising its functions under this Law –

(a) to secure so far as possible that the special historic, architectural, traditional or other special characteristics of buildings listed on the protected buildings list (“protected buildings”) are preserved, and

(b) in particular, in exercising its functions with respect to a protected building or any other building or land in the vicinity of a protected building, to pay special attention to the desirability of preserving the protected building’s special characteristics **and setting** [emphasis added].

Section 14 to Part IV of The Land Planning and Development (General Provisions) Ordinance, 2007, goes on to set out a number of additional material considerations that apply to both protected monuments and protected buildings, of which the following is relevant:

c) the opportunity that the development may afford to restore, enhance or improve the protected [building] **or its setting** [emphasis added].

Section 38 of the Law explains the general functions of authorities in respect of conservation areas. This states that:

In the exercise, with respect to any building or other land in a conservation area, of any powers under this Law or any other enactment, special attention shall be paid to the desirability of preserving and enhancing the character and appearance of that area.

In respect of these statutory duties, the word ‘preserve’ is taken in its ordinary meaning as set out in Chamber’s dictionary, which is ‘to keep safe from harm or loss’.

The purposes of the Law are reflected in the Island Development Plan, the principal aim of which is to help maintain and create a socially inclusive, healthy and economically strong Island, while balancing these objectives with the protection and enhancement of Guernsey’s built and natural environment and the need to use land wisely.

Policies GP4 and GP5 provide a framework for the proportionate management of change to the historic environment, relating to Conservation Areas and protected buildings, whilst Policy GP8 sets out a range of criteria for judging design quality.

Section 13 to Part IV of The Land Planning and Development (General Provisions) Ordinance, 2007, sets out a number of general material considerations, the following of which are considered to be relevant in this instance:

- (a) the likely effect of the development on the natural beauty and landscape quality of the locality in question,
- (b) the character and quality of the natural and built environment which is likely to be created by the development,
- (c) the appropriateness of the development in relation to its surroundings in terms of its design, layout, scale, siting and the materials to be used,
- (d) the likely effect of the development on the character and amenity of the locality in question,
- (e) the likely effect of the development on roads and other infrastructure, traffic and essential services,
- (i) the likely effect of the development on the reasonable enjoyment of neighbouring properties.

Design and impact on the character of the Conservation Area

The Strand is a narrow tarmacked street, characterised by a long, high and mostly continuous granite wall along the western side and similar high walls and buildings along the eastern side, combining to create a strong sense of enclosure. The road widens to the north-east of the application site, at the approach to the junction with Cliff Street, with the building on the opposite side of the road set back from the road frontage behind a parking area and the gable of the property to the north set back from the line of the boundary walls along The Strand.

The boundary wall at the application site makes an important contribution to the enclosure at the entrance to The Strand. That wall was previously shown to be retained in its entirety, however the section of wall adjacent to the proposed garage has been demolished/removed subsequent to the initial approval. The proposed garage would include the reinstatement of the wall, with access to the garage formed in the north-east corner, offset from the line of the wall. This arrangement would mirror that of the original garage at the site, now demolished, whilst the new garage frontage would be of a design and materials similar to those previously approved under FULL/2020/1325. The addition of a pedestrian door in the boundary wall as proposed, whilst forming a visible aperture in the otherwise solid enclosure provided by the wall, would be of limited extent and visual impact. The garden itself would be screened in short range views from The Strand and impacts on the character of the immediate locality would therefore be limited to the north-east elevation of the garage and introduction of a pedestrian door.

In terms of the wider Conservation Area, the spacious rear gardens to the rear of properties along Hauteville form part of a swathe of green, open space along the south

east slope of the valley side which descends from Hauteville towards Havelet Bay. Both individually and collectively, and in short and longer distance views, these gardens provide a visual contrast to the dense urban grain that surrounds them and form an important break in development within the Conservation Area. Whilst the proposed introduction of a driveway and parking area within the rear garden at the application site would reduce the green undeveloped area to the rear of the property, the garden at this property is not visible in short views from The Strand and long views are extremely limited (e.g. from Castle Cornet), and any impact in those views would be mitigated by the trees included within the proposed landscaping. Any impact on the wider character of the Conservation Area would therefore be negligible in this case.

The submitted plans provide some details of planting within the garden area. Whilst this planting is predominantly ornamental in nature, and therefore of small contribution to landscape character, it would not be inappropriate in the context of this property. It should however be noted that, prior to the commencement of work on site, a Protected Tree was located in the north-east corner of the site and the previous decisions were conditional upon the planting of replacement trees to offset the loss of that tree. If this application were recommended for approval, the decision should be conditional upon similar planting requirements.

Overall, the proposed development would have a negligible impact in views from outside of the site, and the character of the Conservation Area would be conserved. Subject to a condition in relation to the planting of replacement trees and appropriate reinstatement of the boundary wall, the proposal would therefore be acceptable under Policy GP4 and the relevant provisions of Policy GP8, and the statutory duties in respect of Conservation Areas would be discharged.

Impact on the setting of the protected building

The pre-facing text to Policy GP5 sets out an expectation that the applicant demonstrate an understanding of the special interest of the protected building. The covering letter submitted by the applicant includes a paragraph entitled "Statement of Significance", however this does not identify the special interest of the building, or what effect the development might have on the setting of the protected building.

A Statement of Significance was however submitted in support of the previous planning application (ref FULL/2020/1325). That statement recognised that No.16 Hauteville has considerable architectural and historic interest, derived from the historic origins of the building and its previous owners as well as its architectural style that follows Georgian design criteria, being a comparatively rare early neo-classical house in Guernsey. The statement identifies that part of this special interest relates to the extensive enclosed rear garden and the ability of the historic owner to stand on the balcony overlooking the harbour and beyond, which would have had the rear garden in the foreground.

The garden slopes away from the main house towards The Strand and, in addition to the cultural significance identified above, its open, undeveloped nature forms an important part of the setting of the protected building. The grandeur of this house and its garden would have been in stark contrast to the medieval pattern of development which

preceded it, with very little if any private garden space. The garden is therefore important both in views out of the house and views toward the house, albeit that the latter are limited.

Taking into account the above, and having regard to the assessment set out within BS7913: *Guide to the Conservation of Historic Buildings*, the value of the garden to the overall special interest of the protected building would be high.

As set out above, the setting of a protected building is considered under Policies GP5 and GP8, and forms a part of the statutory duty under the Law. Those policies require, inter alia, that a development have no adverse impact on the setting of a protected building, or where there would be an adverse impact, that that impact is outweighed by the benefits of the development.

As noted above, the application proposes a garage in a similar location to that previously existing and of a similar form to the extant approvals from 2016 and 2020, albeit the greater level of excavation would result in a more exposed south-west elevation. The garage would replace a pre-existing structure; be located at the lowest level of the garden, on to The Strand; be set away from the protected building; and would not encroach significantly into the garden area. On this basis, there would be limited adverse effect on the setting of the protected building.

The introduction of a 4m wide driveway leading from the garage to the rear of the dwelling, together with the provision of retaining walls and the creation of two parking spaces and a turning circle within 6m of the building would however represent a significant and unprecedented incursion into the open land to the rear of the protected building.

Using the methodology and matrix set out in BS7913: *Guide to the Conservation of Historic Buildings*, the proposed works to create the driveway, parking and turning area are found to have a moderate impact, and the resultant effect on the setting of the protected building would be moderate/large.

There are no identifiable social or economic benefits of the development. In considering a planning appeal in respect of the creation of access and parking at the adjacent site, No 18 Hauteville, in 2019 (ref PAP/013/2019), the Tribunal acknowledged the difficulty residents in this area may experience in seeking to park their vehicles close to their homes, however noted that, in the interests of sustainability, the Spatial Policy of the Island Development Plan concentrates development in the Main and Local Centres, thereby consolidating the majority of activity in the areas that have the best access to public transport and services, reducing the need to travel by car. This direction is reinforced by the more recently adopted Integrated Transport Strategy, which promotes active travel and alternatives to travelling by car. Strategic and policy direction within the Main Centres does not therefore promote additional car parking provision and, in view of the extant approvals for car parking provision at this site and the good access to services and facilities, the desire for additional car parking at the site would not generally outweigh the harm to the setting of the protected building.

In this case, the application covering letter notes personal circumstances of the applicant which make the steep slope and uneven ground of the existing rear access unsuitable to their needs. Policy IP9 requires the Authority, when considering proposals for development, to take into account the access requirements of people of all levels of mobility and health. The policy however continues to state that, where enhancements to access are considered, the Authority should seek to ensure, wherever possible, that they do not result in adverse impacts on the special interest of a protected building. A similar issue was considered by the Appeals Tribunal in respect of 1 Colborne Place (ref PAP/027/2012), where it was noted that planning permission runs with the land and does not enure for the benefit of the applicant or occupier of the property. Furthermore, that decision noted that the Guernsey Court of Appeal has held that it is only in exceptional or special cases that personal circumstances can be considered as a relevant factor, as an exception to the general rule that they are not to be taken into account. In this case, little information has been submitted to demonstrate that the case would be exceptional, and it is noted that there is good road access to the front of the property, albeit without parking provision. On the basis of the information provided, it has not been demonstrated that the proposal would comprise a reasonable aspiration of the property owner which would outweigh the long term harm to the setting of the protected building.

The proposal would not therefore comply with Policy GP5 or the relevant provisions of GP8, and the statutory duty in respect of protected buildings would not be met.

Impact on neighbouring amenity

The physical relationship between, and potential overlooking from, the application property's garden and adjacent land will remain largely unchanged, particularly with regards to properties on the opposite side of The Strand which stand barely 3m distant. Previous decisions have included a requirement for landscaping along the east boundary to protect neighbour amenity. Whilst retaining the development adjacent to that boundary, the submitted plans do not detail any supplementary planting along that boundary and the requirement for additional landscape details should be replicated under the current application. The landscaping details submitted do include the planting of unspecified trees adjacent to the north boundary, immediately to the rear of the building. These trees are not required to address any identified planning concerns, and are not a requirement for the grant of planning permission. It is noted that these trees would be close to the boundary with adjoining residential property, however the planting of these trees would not comprise development and cannot be controlled by the Authority. The application is therefore considered to accord with the relevant provisions of Policies GP8 and GP9.

Highway safety and parking provision

In considering the appeal at the adjacent site, the Tribunal also observed that The Strand was fundamentally unsuitable for motor traffic, principally owing to its narrowness and lack of footpaths and passing places, together with the difficulty of negotiating the junction with Cliff Street in a motor vehicle. The Tribunal therefore concluded that development which would give rise to additional traffic should not be

encouraged. In this case, there was an established garage in the location of that proposed under this application, and there are extant permissions for a four vehicle garage in the same location. The garage entrance is located further towards the northern end of The Strand than the property which formed the subject of the appeal, however the points raised in respect of manoeuvrability stand. The current proposal would however result in only two additional spaces relative to the previous approvals at the site, and would provide on site turning in respect of those two spaces. Whilst the turning could also be utilised by the vehicles parking within the garage, it is probable that those vehicles would continue to manoeuvre on the adjacent highway to access the garage, given the distance to the turning area. On balance, taking into account the low level of additional vehicular movements associated with the two new parking spaces, the provision of on site turning, the historic garage use and the precedent of the two extant planning permissions, it is considered that the proposal would not impact significantly on the public road network's ability to cope and the proposal would comply with Policy IP9.

For completeness, it is noted that the Parking Standards apply to new build development and to the change of use or extension of existing uses. Those Standards would not therefore apply in relation to this application and there is no limitation on parking provision in respect of Policy IP7.

Sustainable Development

A statement has been submitted in relation to Policy GP9, noting that the proposal will as far as possible satisfy the requirements of the Building Regulations. Whilst this information is scant, it is acknowledged that there is no supplementary planning guidance in relation to Policy GP9. The proposed paving is noted to be permeable, which would address potential drainage concerns.

As noted above, the requirement for such an expanse of hardsurfacing and the provision of additional parking spaces in a Main Centre location would however be contrary to the strategic direction of the States, translated through the Island Development Plan and Supplementary Planning Guidance, where more sustainable alternatives to travelling by car are promoted.

Other matters

The property is located within an Area of Archaeological Interest and an informative should be added to the decision in event of approval to bring this to the attention of the applicant and to request that any finds of interest are brought to the attention of the States' Archaeologist.

Conclusion

In light of the above, it is concluded that, subject to identified conditions, the proposed development would have no adverse impact on the character of the Conservation Area, the amenity of adjoining properties or road safety and would be in compliance with

Policies GP4, IP7, IP9 and the relevant provisions of Policies GP8 and GP9 in respect of these issues, and would meet the statutory duty in respect of Conservation Areas.

The proposed development would however have an adverse effect on the setting of the protected building which would not be outweighed by any economic, social or other benefits, and would not contribute to enhancing the vitality of a Main Centre. The proposal would therefore be contrary to the requirements of Policy GP5, the provisions of GP8 in respect of protected buildings, and would not meet the statutory duty in respect of protected buildings.

Consequently it is recommended that the application be refused.

Date: 18/08/2022

