

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: Subdivide building to create 2 units, demolish lean-to to west (side) elevation of dwelling 1, erection of bin store to north elevation of Unit A, resurface hard surfaced area, alteration to fenestration, replace dormers to south elevation. (Protected Building).

LOCATION: Le Tertre, Rue Du Tertre, Vale.

APPLICANT: Mr J J Mitchell

I refer to the application referred to below received as valid on 13/06/2022 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 15/09/2022

Drawing Nos: A7 Design Ltd: 15-731-P5/PD/01, /02, /03, /04, /05, /06, /07, /08, /09 & /10.

Application Ref: FULL/2022/1261

Property Ref: C01139A000

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, if permitted, would result in the loss of the ground floor limestone floor, ground floor timber suspended floor and first floor alcove in bedroom 3 which are important elements of the special architectural and historic interest of the Protected Building. These proposed works would have an unacceptable detrimental impact on the special interest of the Protected Building contrary to Policy GP5 of the Island Development Plan.

2. The application as submitted does not provide sufficient information regarding upgrades to the building in relation to fire safety, new thermal linings, the concealing of first floor timber structures, the partial loss of the ground floor fireplace and adjacent ceiling, removal of ceiling to accommodate a staircase, the replacement of window 44 and the impact of replacement ground floors on existing partitions. As a result these aspects of the development cannot be fully assessed with regard to the

reasons for the alterations and their potential impact on the special interest of the Protected Building and the scheme is therefore contrary to Policy GP5 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/2022/1261
Property Ref: C01139A000
Valid date: 13/06/2022
Location: Le Tertre Rue Du Tertre Vale Guernsey GY3 5QF
Proposal: Subdivide building to create 2 units, demolish lean-to to west (side) elevation of dwelling 1, erection of bin store to north elevation of Unit A, resurface hard surfaced area, alteration to fenestration, replace dormers to south elevation. (Protected Building).
Applicant: Mr J J Mitchell

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The proposed development, if permitted, would result in the loss of the ground floor limestone floor, ground floor timber suspended floor and first floor alcove in bedroom 3 which are important elements of the special architectural and historic interest of the Protected Building. These proposed works would have an unacceptable detrimental impact on the special interest of the Protected Building contrary to Policy GP5 of the Island Development Plan.
 2. The application as submitted does not provide sufficient information regarding upgrades to the building in relation to fire safety, new thermal linings, the concealing of first floor timber structures, the partial loss of the ground floor fireplace and adjacent ceiling, removal of ceiling to accommodate a staircase, the replacement of window 44 and the impact of replacement ground floors on existing partitions. As a result these aspects of the development cannot be fully assessed with regard to the reasons for the alterations and their potential impact on the special interest of the Protected Building and the scheme is therefore contrary to Policy GP5 of the Island Development Plan.
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OFFICER'S REPORT

Site Description:

Former fortified manor and farmhouse located in north-east corner with associated walled garden, granite barn located in north-west corner. The northern part of the site is relatively flat, while the southern part falls away steeply to the south.

The site is bounded to three sides by roads, with high granite walls along the north and east roadside boundaries and mature trees and a high boulder bank along the west. To

the south the site is bounded by a development for 51 sheltered houses. The site is accessed via a gateway in the south-west corner.

Within the walled garden there are two individually protected trees, a copper beech and sweet chestnut, and there is a further group of protected trees comprising sweet chestnut, Norway maple and sycamore along the western boundary.

The whole of the property, as outlined on the submitted plans, comprises domestic curtilage.

The site is located within a Main Centre Outer Area in the Island Development Plan and is a site of archaeological importance. The whole of the enclos, including the exterior and interior of the house, the arches, tourelle, fireplaces and panelling together with the pump, but excluding the courtyard, porches and the extension on the western gable of the house, is protected.

Relevant History:

FULL/2022/0858	Variation to previously approved plans to sub-divide dwelling to form two dwellings - replacement roof tiles, internal and fenestration alterations (Protected Building).	granted
FULL/2022/0664	Variation to previously approved plans to demolish existing barn and erect dwelling to west boundary - raise roof ridge height, increase floor area at ground floor and 1st floor area and alterations to fenestration.	Granted 29/06/2022
FULL/2021/0552	Demolish existing barn and erect dwelling to west boundary.	Granted 07/09/2021
FULL/2017/2103	Refurbishment of roofs, alterations to fenestration, re-build chimney and create habitable space in existing store (Protected Building).	Granted 22/11/2017

Existing Use(s):

Residential – Use Class 1

Brief Description of Development:

The application relates to the subdivision of the main house, Le Tertre into two units of residential accommodation. Dwelling A comprising a kitchen/dining, sitting room, snug, WC and sunlounge on the ground floor facing south onto a garden with three bedrooms and bathrooms on the first floor. A further two bedrooms and dressing/home office area is proposed within the roofspace at second floor level. Dwelling B would be housed in part of the building north of the main house and have an open plan living, dining,

kitchen on the first floor with stepped access down to the west onto the garden and with access to the communal parking area and one bedroom and bathroom on the ground floor. A storage mezzanine is proposed within the roofspace of this part of the building.

As part of the subdivision works a lean-to to the west elevation of the building would be demolished and replaced and porches in the eastern courtyard are to be removed. A bin store is proposed within the east courtyard area along with alterations to fenestration, replacement hardstanding, replacement dormers to the south elevation of the dwelling and internal alterations to the Protected Building.

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

Island Development Plan Policies:

- MC2: Housing in Main Centres and Main Centre Outer Areas
- GP5 Protected Buildings;
- GP8 Design;
- GP9 Sustainable development;
- IP6 Transport infrastructure and support facilities;
- IP7 Private and Communal Parking.

Representations:

None.

Consultations:

None.

Summary of Issues:

The key issues in this case relate to the principle of the proposed change of use, the effect of the works on the special interest of the Protected Building, impact on residential amenity and the health and well-being of future occupiers.

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 the proposed subdivision

Policy MC2 makes provision for additional housing units in this location and offers a gateway for the subdivision of an existing building to form two units of accommodation,

one providing one bedroom and the other a 5 bedroom dwelling which provides towards the mix of housing required within the IDP.

Although current housing requirements for the Island are generally for two and three bedroom properties this application relates to the subdivision of a substantial dwelling that would have 5+ bedrooms at present and not the erection of a new, 5 bedroom dwelling. This does not therefore, conflict with policy.

Impact on the Protected Building

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.

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. Relevant policies will be addressed below in assessing the key issues.

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:

- (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,

Section 15 clarifies that the considerations referred to in paragraphs (b) and (c) of section 14 also apply to protected buildings.

For the purpose of this report BS 7913:2012 has been used to assess the magnitude of impact of the development against the value of the special interest of the building.

The application has been accompanied by a Statement of Significance which is generally considered to accurately assess what is special about the building. The old fireplace/chimney hood and the archway in the east elevation of proposed dwelling B are however assessed as being of very high value and the overall interior of the ground floor of that part of the building (including limestone paving, timber ceiling with graffiti, furze oven and pork rack) as being high value. It is also acknowledged that various alterations to the roof and windows of dwelling B (one bedroom) have been granted planning permission (FULL/2017/2103).

Policy GP5 will be met where there is no adverse effect on the overall special interest of a protected building or the works are considered a reasonable aspiration of the property owner to outweigh the harm to the protected building.

Following assessment however, some of the proposed works as discussed below, would be harmful to what is special about the protected building contrary to the requirements of Policy GP5.

External alterations

Window 44 (dwelling A) makes a positive contribution to the special interest (medium value) and its replacement would have a major impact, the effect on overall special interest being moderate/large. No justification has been provided for the replacement of window 44.

Unit A

The submission sets out that internally the timber suspended ground floors would be replaced with concrete. The timber floors are considered to have a medium value and their replacement as proposed would have a major impact with the resultant impact on special interest being moderate/large. The submission does not include information relating to the existing partitions and how these would be affected by the proposed replacement floor and although an explanation of the replacement has been provided the financial and complexity reasons outlined do not outweigh the adverse effect of these proposals on the special interest.

The loss of the alcove to the south of the fireplace of bedroom 3, to accommodate the ensuite for bedroom 2, is not considered to respect the plan form of the building. It may be possible to accommodate the toilet without the loss of this alcove. However, given that the scheme is unacceptable in other respects it would have been unreasonable to request this amendment to the submitted plans.

The scheme includes the removal of sections of medium value ceilings to accommodate new staircases, this would have a moderate impact and effect on overall special interest. Whilst this represents a reasonable aspiration of the property owner, the

submission does not provide specific details regarding the works and as shown on the section drawings could result in the wholesale removal of floor structures.

Unit B

The proposals would affect the plan form through the insertion of partitions on the ground floor. These alterations are reversible and provide a bedroom and bathroom which are considered to represent a reasonable aspiration of the property owner. Notwithstanding this however, the scheme proposes the removal of a portion of the very high value fireplace and high value ceiling, including the pork rack and the submission does not include sufficient information to enable a full assessment of the proposal to be undertaken (no section drawings provided).

The covering of the high value limestone paved floor would be irreversible and would have a major impact and a resultant large/very large effect on overall special interest. This does not represent a reasonable aspiration of the property owner that would outweigh the harm caused.

The scheme would conceal high value timber first floor structures which includes graffiti. The notes included on the drawings are not specific and could, if approved, result in the wholesale loss of the floor structure.

Units A and B

The submitted plans do not show how the proposed thermal linings of the interior face of the external walls would be undertaken and based on the information provided it is not possible to fully assess the impact of the proposed works on the special interest of the Protected Building.

Upgrades and alterations will be required to existing ceilings, floors, partitions and doors in order to meet current fire safety regulations however these have not been detailed as part of the application submission. Without this information it cannot be concluded that the subdivision of the building into two dwellings will not have an unacceptable adverse impact on the special interest of the Protected Building.

In view of the above the scheme does not fully comply with Policy GP5, and therefore GP9 of the Island Development Plan.

Works that accord with Policy GP5

Various aspects of the external works proposed represent the reasonable aspirations of the property owner and when balanced against the harm that would result from the works would meet the aims of Policy GP5, these include:

- Realignment of the stone steps to the northwest of dwelling A (subject to condition relating to the associated railings)
- Replacement of window 49 to provide a means of escape to the attic floor (subject to details)

- Re-opening a ground floor window to the north elevation (dwelling A)
- Replacement of the window to the north of the arch with a wall beneath
- Replacement dormers (subject to details)
- Rooflights
- Replacement chimney stacks
- Replacement lead cladding to parapets (subject to condition)
- Stripping off blue/black slates for reuse following thermal upgrade of the roof (following the omission of vague drawing notes regarding replacement slates)

Windows 31 and 43 and door 32 of Dwelling A have a neutral contribution on special interest and their replacement would be accepted as are the insertion of a new window into the opening (window 23) and a timber panel and window along with the alterations proposed to west facing windows (previously granted permission for replacement). Where new/replacement windows are proposed a condition should be imposed on any permission relating to the joinery and construction of the replacement and to confirm the position of the new timber panel and window unit to retain the integrity of the very high value chamfered arch.

The demolition of the porches, which are not protected, and the construction of a sun lounge to the west elevation along with the erection of a bin store in the east courtyard, fences and pathways would not have an adverse effect on the overall special interest of the setting of the complex. It would be reasonable to impose a condition relating to the retention in-situ of the courtyard pump.

The replacement of the dilapidated steel and timber lintels to the west elevation of the north lean-to with stone lintels and the replacement of concrete steps to the west of Dwelling B would have a positive effect on overall special interest.

With the exception of the alcove in bedroom 3 (see above) the alterations to partitions and doorways are considered to be sympathetic to the special interest of the Protected Building.

Repointing stonework using a lime based mortar is considered to represent exempt development under Class 3 of the Land Planning and Development (Exemptions) Ordinance.

Impact on character and appearance of the locality

The proposed external alterations and extensions proposed represent a high standard of design that respects the local built environment. The proposed hardstanding would reinforce the local character and in this respect the scheme meets the aims of Policy GP8 of the Plan.

Impact on residential amenity

The subdivision proposed with associated internal layout, extensions and alterations will not result in unacceptable harm to residential amenity with regard to loss of privacy in line with the aims of Policy GP8 and GP9 of the Plan.

Future living environment of occupiers

The proposed development considers the health and well-being of occupiers of the dwellings in relation to adequate sunlight and daylight to the accommodation and access to external open space. A condition should be imposed relating to the subdivision of the amenity space as indicated to offer private external space for occupiers.

Dwelling A, the larger of the two properties, could see the rooms put to different uses to meet the changing needs of occupiers. In both dwellings A and B, subject to permissions, alterations internally and extensions could be provided to offer more flexible and adaptable accommodation that can respond to the needs of occupiers over time.

As the proposal relates to the subdivision of an existing, Protected Building, there will be some challenges relating to access to and within the buildings for people of all ages and abilities. The accommodation would generally be accessible by ambulant disabled and on balance offers reasonable access given the constraints of the building.

In this respect the scheme meets the aims of Policy GP8 of the Plan.

Parking provision

One space is shown to be allocated to dwelling B however none of the spaces are clearly shown on the submitted block plan as serving dwelling A. A total of 6 spaces are proposed to serve all the dwellings on the site. The provision of up to 3 spaces for dwelling A would meet the maximum parking standards in line with Policy IP7. Clarification regarding this matter could have been sought if the scheme was acceptable in all other respects.

Although no sheds/outbuildings are proposed, there would be space within the garden areas (subject to a separate application) for the erection of outbuildings to serve as secure and covered cycle storage so that occupiers can travel by alternative modes of transport.

Sustainable Development

With regard to Policy GP9: Sustainable Development, it has been demonstrated that the proposed development will comply with Building (Guernsey) Regulations 2012 and therefore has taken into account the use of energy, resources and any adverse impact on the environment.

Conclusions

Whilst there is scope in principle for additional units of residential accommodation in this location the scheme submitted would not satisfactorily demonstrate that the subdivision proposed would not have an unacceptable adverse impact on the special interest of the Protected Building contrary to Policy GP5 of the IDP and Section 34 of the Law.

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: 14 September 2022

