

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 3 dwellings with associated carport parking.

LOCATION: Car Park, Back Street, Lower Vauvert, St. Peter Port.

APPLICANT: Hawthorn Limited

I refer to the application referred to below received as valid on 18/07/2022 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 24/10/2022

Drawing Nos: Torode Architects - 6252 - 01

Application Ref: FULL/2022/1479

Property Ref: A302550000

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 site lies within a Conservation Area in which it is the duty of the Authority to pay special attention to the desirability of preserving or enhancing its character or appearance. The proposed development is not in sympathy with its setting and does not achieve a sufficiently high standard of design to complement the architectural character of the area. By virtue of its design with open garages and lack of active frontage to the ground floor, the proposed development would not respect the local built environment and would detract from the special character of the Conservation Area contrary to Policies GP8a. and c., GP4 and GP9b. of the Island Development Plan.

2. The development as proposed does not represent a good standard of design.

By virtue of the restricted size and depth of the site and its relationship with adjoining properties the proposed development due to its height and relationship with the adjoining buildings, would result in an overbearing form of development.

Its proximity to and relationship with the adjoining properties would result in mutual overlooking and consequent loss of privacy to both the occupiers of the three

dwellings proposed and the occupiers of properties in Contree Mansell detrimental to the amenities that can reasonably be expected to be enjoyed by the occupiers thereof.

The development proposed would result in residential accommodation below the recommended standards laid down in the Department for Communities and Local Government Technical housing standards - nationally described space standards which would be detrimental to the health and well-being that future occupiers could reasonably expect to enjoy.

The scheme is therefore contrary to Policy GP8a. and d. and GP9 b. of the Island Development Plan.

3. The design and layout of the development, given the constrained nature of the site, does not, and cannot, offer flexible and adaptable accommodation that is able to respond to people's needs over time and the stepped access only to primary living accommodation does not demonstrate accessibility to and within a building for people of all ages and abilities. The scheme is contrary to Policy GP8 a. d., f. and g. of the Island Development Plan.

4. The application has not been accompanied by sufficient information to demonstrate that the development represents a sustainable form of development designed to take into account the use of energy and resources, its impact on the environment with regard to location, orientation and appearance and its resilience to climate change and flooding. The scheme is therefore contrary to Policy GP9 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/2022/1479
Property Ref: A302550000
Valid date: 18/07/2022
Location: Car Park Back Street Lower Vauvert St. Peter Port Guernsey
GY1 1HS
Proposal: Erect 3 dwellings with associated carport parking.
Applicant: Hawthorn Limited

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

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Its proximity to and relationship with the adjoining properties would result in mutual overlooking and consequent loss of privacy to both the occupiers of the three dwellings proposed and the occupiers of properties in Contree Mansell detrimental to the amenities that can reasonably be expected to be enjoyed by the occupiers thereof.

The development proposed would result in residential accommodation below the recommended standards laid down in the Department for Communities and Local Government Technical housing standards - nationally described space standards which would be detrimental to the health and well-being that future occupiers could reasonably expect to enjoy.

The scheme is therefore contrary to Policy GP8a. and d. and GP9 b. of the Island Development Plan.

3. The design and layout of the development, given the constrained nature of the site, does not, and cannot, offer flexible and adaptable accommodation that is able to respond

to people's needs over time and the stepped access only to primary living accommodation does not demonstrate accessibility to and within a building for people of all ages and abilities. The scheme is contrary to Policy GP8 a. d., f. and g. of the Island Development Plan.

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OFFICER'S REPORT

Site Description:

The site is a car park to the south of Back Street with built development surrounding it comprising of a mix of commercial and residential flats/houses. Back Street is a narrow street enclosed by buildings of 1, 2, and 3 storeys some with development in the roofspace. There is variety in scale and roof form but the palate of materials is limited as is the solid/void ratio of the façade with an active frontage (doors, windows etc) that fronts immediately onto and overlooks the street.

The application site is within the St Peter Port Conservation Area where the Old Town is the mediaeval core of St Peter Port with narrow winding streets and vennels that are enclosed by buildings that can be up to 6 storeys in height. Commercial and retail uses often provide active frontages to the streets and bring activity to those streets.

The site is located in the Main Centre and Conservation Area as designated in the Island Development Plan.

Relevant History:

Pre-application advice was sought in this case however this was given in 2015 prior to the adoption of the Island Development Plan.

Existing Use(s):

Car park originally set out for 16 vehicles however two spaces have been given over to railings and fire escape access associated with 15 and 17 Vauvert.

Brief Description of Development:

The application relates to the erection of a terrace of three dwellings fronting north onto Back Street. The dwellings are two and a half storeys in height with the uppermost floor within the roofspace and with garaging/carports on the ground floor (two spaces per property). The first floor would provide an open plan living, kitchen and dining area

for each property with an external terrace to the south whilst the second floor would provide two bedrooms and a bathroom per property.

The dwellings are shown to have a render and vertical timber clad exterior, slate roof and glazed balustrade for the terrace. Solar panels are proposed to the south, west and east roofslopes.

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

GP4: Conservation Areas

GP5: Protected Buildings (setting)

GP8: Design

GP9: Sustainable Development

IP6: Transport infrastructure and support facilities

IP7: Private and Communal Car Parking

IP9: Highway Safety, Accessibility and Capacity

Parking Standards and Traffic Impact Assessment SPG

Representations:

Three letters of representation have been submitted raising the following points:

Residential amenity

- Loss of light
- Overlooking from the proposed windows and terraced areas to the surrounding properties

Design and impact on locality

- The design of the houses is too modern and would be out of keeping with other properties in the area which are Georgian and Victorian

Protected Buildings

- Many surrounding properties are Protected – all but one of the buildings that overlook the car park are listed and they pre-date the 1800s

Traffic and parking

- Back Street is narrow and with the existing and proposed building it will be very hard for people to turn into the drives of the new build and manoeuvre

Other matters

- The development would impact on maintenance and access issues for the other properties
- There has been no contact by the developer regarding the scheme which will breach access agreements in place.
- Construction works could result in damage to properties and boundaries
- The land has previously been subject to subsidence.
- The garden at 9/11 Contree Mansell is a fire escape access for flats and businesses

Consultations:

Traffic and Highway Services - an access should: -

- a) Enable a driver 2.4m from the edge of the carriageway to see a minimum of 20m in the direction of oncoming traffic (site access onto Back Street);
- b) Not have any obstructions or planting greater than 900mm high above the road surface within the visibility splays;
- c) Have sufficient width to enable cars and light vehicles to exit and enter the drive without crossing into the path of vehicles on the opposite side of the carriageway;
- d) Be square to the carriageway;
- e) Be sited at a distance not less than 20m from a junction.

The site adjoins a one-way Neighbourhood Road that is subject to a 6' 6" width restriction. Currently the site is used as a surface parking area with circa a dozen useable parking spaces.

The sightlines observed by drivers exiting the surface car park range between 3m at the eastern end and 20m at the western end (note – the parking area is open fronted so drivers exit along the entire northern boundary). The sightline is limited by the walls of the building located to the east of the site. The proposals would halve the level of onsite parking with drivers exiting in broadly the same positions across the frontage of the site.

The site is considered well located within the Main Centre for residents to take advantage of active travel choices and it is noted that the proposed level of parking does not appear to exceed the standard in the relevant Supplementary Planning Guidance.

THS has no data on the level of vehicular movements likely to be generated by the proposals in comparison to existing use but it is considered unlikely that the change would result in intensification of vehicle movements.

With the above in mind there is considered to be no traffic management or road safety grounds to oppose the application.

Summary of Issues:

None.

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.

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.

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. 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.

Principle of residential development

Policy MC2 of the Island Development Plan makes provision for new residential development and offers a gateway for residential development in this location. Two bedroom properties recognises the requirements of the Housing Needs Survey and the site could not readily offer a greater mix and type of properties than proposed. The scheme also offers multi-storey development in line with the aims of Policy GP8 b.

Impact on local built environment and character and appearance of the Conservation Area

Paragraph 19.9.3 of the IDP states:

Whilst new development should acknowledge the surrounding built form, flexibility in the design of development will be allowed in order to ensure proposals also address issues of sustainable design, mitigation and adaptation to climate change and creating flexible and adaptable spaces within buildings as well as recognising the personal choice and aspirations of property owners. Development should respect the palate of traditional local materials without necessarily being bound by them, unless the special interest of a Conservation Area or protected building or protected monument would be adversely affected.

The proposed three storey development is of a scale that respects the character of Back Street where the narrow street is enclosed by buildings of one, two and three storeys. In this respect the scheme represents a high standard of design that respects the local built environment in line with Policies GP4 and GP8 a. and c. of the Plan.

Nonetheless, the scheme proposes the use of the ground floor as open garages to serve the development which will not provide an active frontage to reflect the character of the Conservation Area and does not represent a high standard of design. The use of tarmac around the building, to reflect the existing situation, would not enhance the development and would not represent good design in terms of appearance nor sustainable development. The scheme is therefore contrary to Policies GP8 a. and c., GP9 b. and GP4.

The scheme proposes a timber clad exterior which is also not typical in the Back Street although the colour indicated would be consistent in the street. The Plan indicates that

there is scope to introduce more variety in terms of materials used but only where this would not have a detrimental impact on the Conservation Area. If the scheme were acceptable in all other respects a condition could be imposed requiring details of the colour/finish of the cladding to be provided.

Residential Amenity

There are a number of commercial and residential building in close proximity to the application site which overlook each other and the application site.

The proposed building would be situated to the north of the residential properties in Contree Mansell and where external space appears to be set at a lower level than the car park. Although the development would not result in the loss of sunlight to the windows in the north elevation of these adjoining properties the development would have an adverse impact on the amenities enjoyed by the occupiers of these properties because the building would have an overbearing effect on the properties and would result in direct overlooking and loss of privacy to the windows in the rear of both 11 and 13 Contree Mansell. Whilst it is acknowledged that an element of mutual overlooking currently exists between terraced properties in this town centre location the proposed development introduces built development where none currently exists.

The scheme would therefore have an unacceptable impact on the amenities of neighbouring properties (GP8 d. and GP9 b.).

The development of this site would inevitably result in inter-visibility between windows and overshadowing of adjoining properties, nonetheless, the character of the area would not preclude the development of the site in some form.

Health and well-being of occupiers

Policy GP8 requires that the units created consider the health and well-being of the occupiers by providing adequate daylight, sunlight and private/communal open space, and directs proposals to be considered against Annex 1 of the Plan: Amenities.

New developments should be planned and built to support the health and well-being of occupants and users and maintain appropriate amenities for occupiers of neighbouring properties.

The Annex sets out that building at higher densities brings challenges with respect to ensuring reasonable amenities are provided. There must be a balance between the most effective and efficient use of land and the requirement to ensure that proposed living and working conditions are acceptable and that the higher density Main Centres, in particular, remain attractive places to live and work.

Whether the proposal would provide a good living environment for future occupiers

- Aspect/Outlook
- Daylight/Sunlight

The Annex seeks opportunities for occupiers of development to benefit from interesting or attractive outlook within the urban centre identified for example, as views over urban open spaces, public parks, landscape features or longer vistas over the townscape.

The Annex considers sunlight alongside daylight and their ability to enter a building will not, alone, be a determining factor when considering development proposals, providing that other amenity objectives are appropriately addressed. All new developments are encouraged to provide adequate levels of daylight and sunlight to all rooms, or at least principal rooms, gardens, balconies or communal external open spaces, these aspirations are qualified for sunlight by “where possible”. This reflects the constraints imposed by aspect relative to the movement of the sun, shading by existing development, and, in the case of converting existing buildings, their physical constraints.

The three townhouses proposed are all dual aspect which is satisfactory. The relationship of the terraces to the neighbouring properties south of the site would restrict outlook from and light to the terraces and would, if they did not serve primarily as access routes, impact the quality of the space proposed. On balance the outlook and aspect for the development accords with Policy GP8 d.

- Privacy

The Annex states that development will be expected to be designed with windows an adequate distance apart and / or suitably orientated to ensure that the level of privacy that could reasonably be expected to be enjoyed by an occupier is not adversely affected and that the use of obscure glazing alone to achieve privacy will not, normally, be considered acceptable.

The relationship between the building and those to the south in Contree Mansell would result in overlooking and loss of privacy to the future occupiers of all units, particularly the middle and eastern unit given the position of first floor windows at 11 Contree Mansell. The development would therefore fail to comply with Policy GP8 d. of the IDP.

- Access to external open space

The Annex states that the value of external open space becomes increasingly important in higher density development with all development having safe and convenient access to it.

Whilst the scheme does incorporate a small external terrace to the south of each dwelling these are primarily proposed for access to the townhouses not as usable external amenity space. The terraces are not ideal as meaningful external amenity space for these two-bed dwellings; however, the site is located within walking distance of the sea front and other public open spaces within the town centre which could provide towards the external space provisions for the properties in line with the aims of Policy GP8 d.

- Internal space provision

Whilst the accommodation addresses the requirements of the Building Regulations the internal space provision for each of the three units proposed is below the DCLG Space Standards adopted as an SPG and therefore contrary to Policy GP8 d. and the Annex.

- Accessibility and flexible accommodation

The introduction of a multi-storey building on the site represents efficient and effective use of land and the scheme provides accommodation that will provide satisfactory daylight and sunlight having regard to the health and well-being of future occupiers. As each dwelling would be accessed by stairs from the ground floor garage accessibility is limited and as proposed would not offer an ambulant disabled stair (i.e. rise between 150 – 170mm and the going at least 250mm with a maximum of 12 risers). The scheme does address some of the Lifetime Homes Standards (e.g. hallway widths and door widths) but the layout does not offer flexible and adaptable accommodation that can respond to the needs of occupiers over time. The layout of the building would not lend itself to internal adaptation, nor could the properties be easily extended to adapt to future needs. As a result the scheme does not satisfactorily address Policy GP8 f. and g.

Sustainable Development

As originally submitted, the application provided a very brief one-line statement relating to sustainable construction and development having regard to Policy GP9 along with the provision of solar panels. This level of information is considered unsatisfactory for a development of this nature and scale.

The application drawings refer to the use of tarmac around the building which, whilst it may not differ from the existing situation, does not consider the aims of Policy GP9 where enhancements could be made. For example, permeable paving could address surface water run-off from the site. Although the application drawings make reference to thermally efficient timber framed construction and photovoltaic solar panels this information alone does not satisfactorily demonstrate that the proposed development will comply with the Building (Guernsey) Regulations 2012 and that the design, method of construction and location of proposals have been considered from the outset in order to achieve a more sustainable development. The scheme therefore fails to comply with Policy GP9.

Whilst the application could have been deferred to seek further, more detailed information relating to matters such as building layout and orientation, the use of permeable paving and additional measures such as electric vehicle charging points within the carport/garages this would represent unreasonable and abortive work given that the scheme is unacceptable in other respects.

Setting of protected buildings

There are a number of Protected Buildings in close proximity to the site all of which have an urban setting, set within the densely packed urban block which form the

streets, including Back Street. Historically, the site had buildings, demolished between 1938 – 63. In this case, given the urban setting, the effect on the setting of the Protected Buildings would be low and outweighed by the reasonable aspirations of the property owner and the benefits of the development in line with the aims of Policy GP5.

Highway Safety and parking provision

The level of off-road parking proposed does not exceed the maximum parking standards set out in the adopted SPG and accords with Policy IP7 of the Plan. There would be space within the carports to provide covered cycle storage in line with the aims of Policy IP6.

As outlined elsewhere the site is currently used for off-road parking for multiple vehicles which would be reduced as a result of the proposed development which would not be likely to result in significant changes in vehicle movements from the site and will not represent an unacceptable intensification in vehicle movements. The sightlines associated with the development will also not substantially alter from the existing situation and, in line with the advice provided by THS, the scheme accords with Policy IP9 of the Plan.

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: 19 October 2022

