

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: Remove section of wall to create vehicular access. (Protected Building).

LOCATION: Kalbar, 40A Mount Row, St. Peter Port.

APPLICANT: Mr A Le Page & Miss J Hartigan

I refer to the application referred to below received as valid on 23/08/2022 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: MAT Ltd: 22-238-02.

Application Ref: FULL/2022/1745

Property Ref: A30828A000

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 and within the curtilage of a Protected Building and it is the duty of the Authority to pay special attention to the desirability of preserving or enhancing the character and appearance of the Conservation Area and the setting of the Protected Building. The proposed development, if permitted, would result in the loss of an important feature which contributes to the special character and appearance of the Conservation Area and contributes to the setting and special interest of the Protected Building, 40 Mount Row. The scheme is therefore contrary to Policies GP4, GP5, GP8 c. and GP9 b. 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/2022/1745
Property Ref: A30828A000
Valid date: 23/08/2022
Location: Kalbar 40A Mount Row St. Peter Port Guernsey GY1 1NT
Proposal: Remove section of wall to create vehicular access. (Protected Building).
Applicant: Mr A Le Page & Miss J Hartigan

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The site lies within a Conservation Area and within the curtilage of a Protected Building and it is the duty of the Authority to pay special attention to the desirability of preserving or enhancing the character and appearance of the Conservation Area and the setting of the Protected Building. The proposed development, if permitted, would result in the loss of an important feature which contributes to the special character and appearance of the Conservation Area and contributes to the setting and special interest of the Protected Building, 40 Mount Row. The scheme is therefore contrary to Policies GP4, GP5, GP8 c. and GP9 b. of the Island Development Plan.

OFFICER'S REPORT

Site Description:

40 Mount Row is a two-storey, end of terrace property with pitched tiled roof, rendered exterior and siding sash windows. Sited adjacent to an access driveway serving Mount Lodge existing parking associated with the site is provided via this access. 40 Mount Row has been subdivided into two dwellings, one over two floors fronting Mount Row and the other over two floors to the rear of the building/site. The frontage of the site is enclosed by a painted granite boundary wall with central pedestrian gateway with an iron gate in situ.

The site is located in the Main Centre and Conservation Area as designated in the Island Development Plan. 40 Mount Row is a Protected Building. The protection relates to "the whole of the exterior of the house presently known as number 40 Mount Row".

Relevant History:

Pre-application advice was sought in this case in which concerns were raised regarding the impact of forming a vehicular access from Mount Row due to its impact on the Conservation Area and setting of the Protected Building but also identifying other

means of forming enclosing features which could help mitigate the potential impact of the development.

FULL/2016/2289 – Demolish 3.8m section of roadside wall and remove associated hedge to form a 4.65m wide vehicular access. (Protected Building) - refused

HAPP/1998/1616 - Extend and alter dwelling to create two dwellings, construct boundary wall and provide a parking area - granted

The approved scheme identified that two parking spaces should be provided at the rear of the property accessed from the side lane, one for each dwelling. The approved scheme did not involve parking accessed directly from Mount Row.

Existing Use(s):

01 dwellinghouse

Brief Description of Development:

The application relates to the removal of a 3.22m section of the roadside wall to the front of Kalbar, retaining the existing gate pillar, to form an off-road parking space. The scheme also proposes the erection of a section of wall to enclose and define the parking area, separating it from the pedestrian path and remainder of the front garden area of the property.

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

Island Development Plan policies:

GP4: Conservation Area

GP5: Protected Building

GP8: Design

GP13: Householder Development

IP7: Private and Communal Car Parking

IP9: Highway Safety, Accessibility and Capacity

Supplementary Planning Guidance: Parking Standards and Traffic Impact Assessment (December 2016)

Representations:

None.

Consultations:

None.

Summary of Issues:

The key issues in this case relate to the loss of a section of a distinctive boundary feature which is likely to be contemporary with the main building, and its potential impact on the character and appearance of the Conservation Area and the special interest and setting of the Protected Building.

Assessment against:

1 - Purposes of the law.

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 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,
- (e) the likely effect of the development on roads and other infrastructure, traffic and essential services.

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

2 - Relevant policies of any Plan, Subject Plan or Local Planning Brief.

Policies GP8 and GP13 of the Island Development Plan seek to support development that represents a high standard of design and which does not have a detrimental impact on the built environment/Conservation Area concerned nor result in harm to the amenities enjoyed by the occupiers of surrounding dwellings. Proposals must also meet the aims of Policy GP4 of the IDP and the statutory duties with regard to Conservation Areas.

Character and appearance of the Conservation Area

The walls and gate piers to the front of Kalbar are considered to be contemporary to the house and the front boundary wall does contribute to the character and appearance of the Conservation Area. The gap in the roadside wall that would result from the proposed vehicular access, with retaining wall adjacent to the parking space/front path set back from the proposed access and thereby less visible as a mitigating enclosing feature, would result in harm to the character and appearance of the Conservation Area contrary to Policies GP4, GP8 c. and GP9 b. of the IDP.

Setting of the Protected Building

It is likely that the existing granite wall and brick piers will have been constructed at the same time as the house given their design, materials and methods of construction. The walls are also considered to represent part of the overarching design of the site as they reflect the character of the building and contribute to its appearance and setting. The wall contributes to the special interest and character of the Protected Building.

40 Mount Row is a Protected Building and the front boundary wall contributes to the setting and special interest of the building. The removal of a section of the front boundary wall, formation of hardstanding to serve as off-road parking with proposed retaining wall adjacent to the path and set back from the road frontage would detract from the setting and special interest of the Protected Building contrary to Policy GP5 of the IDP.

Residential Amenity

The proposal will not have an unacceptable impact on the amenities enjoyed by the occupiers of any surrounding dwellings with regard to Policies GP8 and GP9 of the Island Development Plan.

Parking Provision in the Main Centre and Impact on Road Safety

Policies IP7 and IP9 relate to private car parking and highway safety, accessibility and capacity respectively. Policy IP7 of the Plan relates to the provision of off-road parking for developments with regard to the adopted Supplementary Planning Guidance: Parking Standards and Traffic Impact Assessment (December 2016). The guidance relates primarily to new developments but sets out that within the Main Centre general parking standards indicate that housing with less than three habitable rooms will be assessed on their own merits and three to four habitable rooms has a maximum provision for car parking spaces of 2 spaces per dwelling. The proposal, when considered in addition to the existing, detached, parking space associated with the property would not be contrary to Policy IP7 of the Plan.

Planning permission was granted in 1998 for the extension and subdivision of 40 Mount Row into two dwellings which included a parking area to the rear of the site with two off road parking spaces, one to serve each of the dwellings created. Each dwelling created was shown to be one bedroom only and one parking space per dwelling, in line with the SPG. In addition, Mount Row provides occupiers of the dwelling with the opportunity to use alternative modes of transport being a main road with bus links nearby.

Mount Row is a primary route into St Peter Port where consideration must be given to the impact of vehicles accessing the driveway on highway safety and the free flow of traffic. It is noted that there are other properties that benefit from off-road parking off Mount Row and where no onsite turning is available. There are cases where these pre-date the current Development Plan, are historic or do not benefit from the grant of planning permission. The creation of a single parking space as proposed, where vehicles would either need to reverse in or out of the space would generate some road safety concerns because of the volume and speed of traffic using Mount Row however would, on balance, be insufficient grounds on which to refuse permission and in this respect the scheme accords with Policy IP9 of the Plan.

Conclusions

The wall is considered to represent an important feature worthy of retention and the removal of a section of this wall would erode the character of the site, harmful to the character and appearance of the Conservation Area. The proposed loss of a section of front boundary wall would also be harmful to the setting of the Protected Building.

In view of the above it is recommended that planning permission is refused for the removal of a section of roadside wall in connection with the formation of off-road parking to serve 40 Mount Row.

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 or sites. The impact on the setting of the Protected Building is assessed above.

Date: 18 October 2022