

THE LAND PLANNING AND DEVELOPMENT (GUERNSEY) LAW, 2005
AND THE LAND PLANNING AND DEVELOPMENT (GENERAL PROVISIONS)
ORDINANCE, 2007

NOTIFICATION OF GRANT OF PLANNING PERMISSION

PROPOSALS: Erect 2 dwellings with associated landscaping and parking.

LOCATION: Site Off, Rue Des Monts, Delancey, St. Sampson.

APPLICANT: Octopus 1 Limited

This permission is granted under the terms of Sections 15 and 16 of the Land Planning and Development (Guernsey) Law, 2005 (the 'Law').

Date of Grant of Permission: 21/09/2023

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 23/09/2022 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Lovell Ozanne & Partners - AA27-10350-S1-13A, 14A, 15A, 16A, 18A & 19. Sexton-Green Ltd German Ivy Report. German Ivy Action Plan dated 13/04/2020.

Application Ref: FULL/2022/1906

Property Ref: B00575B000

Conditions and reasons:-

1.All development authorised by this permission must be carried out and must be completed in every detail in accordance with the written application, plans and drawings referred to above. No variations to such development amounting to development may be made without the permission of the Authority under the Law.

Reason - To ensure that it is clear that permission is only granted for the development to which the application relates.

2.The development hereby permitted shall be begun within 3 years from the date of grant of this permission.

Reason - This condition reflects section 18(1) of the Land Planning and Development (Guernsey) Law, 2005 which states that planning permission ceases to have effect unless development is commenced within 3 years of the date of grant (or such shorter period as may be specified in the permission).

3.The development hereby permitted and all the operations which constitute or are incidental to that development must be carried out in compliance with all such requirements of The Building (Guernsey) Regulations, 2012 as are applicable to them, and no operation to which such a requirement applies may be commenced or continued unless (i) plans relating to that operation have been approved by the Authority and (ii) it is commenced or, as the case may be, continued, in accordance with that requirement and any further requirements imposed by the Authority when approving those plans, for the purpose of securing that the building regulations are complied with.

Reason - Any planning permission granted under the Law is subject to this condition as stated in section 17(2) of the Land Planning and Development (Guernsey) Law, 2005.

4.No development shall begin until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Authority. Agreed details shall be carried out as approved unless otherwise agreed in writing by the Authority. At a minimum the following should be included:

- i.A scheme of how the contractors will liaise with local residents to ensure that residents are kept aware of site progress and how any complaints will be dealt with reviewed and recorded (including details of any considerate constructor or similar scheme)
- ii.A scheme of how the contractors will minimise complaints from neighbours regarding issues such as noise and dust management, vibration, site traffic and deliveries to and from the site
- iii. Details of hours of construction including all associated vehicular movements
- iv. Details of the construction compound and storage of materials on the site
- v. A plan showing construction traffic routes

The construction shall be carried out in accordance with the approved CEMP.

Reason - To manage construction activity in the interests of neighbour amenity and environmental considerations.

5.No development, including site works, shall begin on site until details of existing and proposed levels, including ground levels, finished floor levels, how any changes in levels to adjoining land are to be dealt with, and a number of sections across the site (these sections to extend to land and buildings adjoining the application site), have been submitted to and agreed in writing by the Authority. The development shall be carried out only in accordance with the details agreed under the terms of the above condition.

Reason - To make sure that the development is carried out in a way which is in character with its surroundings.

6.No development, excluding demolition and site works, shall begin until a scheme showing the provision to be made for the parking of cycles, under cover, accessible and secure, has been submitted to and agreed in writing by the Authority, and no part of the building or development hereby permitted shall be used or occupied until the agreed scheme has been fully implemented. The provision for cycles shall be retained at all times.

Reason - The submitted information does not include large scale details of the proposed cycle storage and access to that storage as proposed is likely to be impeded by the parking of vehicles in the adjacent spaces. This condition is required to encourage the use of bicycles as an alternative to the car.

7.No development, excluding demolition and site works, shall begin on site until precise details of the 'green roofs', including drawings showing the method of construction, details of the plant species to be used and a plan for their management and maintenance, have been submitted to and agreed in writing by the Authority. No occupation of the new dwellings shall begin until the 'green roofs' have been completed in accordance with the agreed details. The roofs shall then be maintained in accordance with the agreed management and maintenance plan.

Reason - To make sure that the completed development protects and enhances the biodiversity interest of the Area of Biodiversity Importance.

8.No development, excluding demolition and site works, shall begin on site until a landscaping scheme, to include those details specified below, has been submitted to and agreed in writing by the Authority:

- i) the treatment proposed for all ground surfaces, including a specification for the laying of all hard areas;
- ii) full details of tree and hedge planting, including planting schedules, noting the species, sizes, numbers and densities of plants; and
- iii) full details of the retaining structure along the north site boundary.

Reason - To make sure that a satisfactory landscaping scheme for the development is agreed, in order to help assimilate the development into its surroundings, to make sure that the land is managed to protect and enhance the biodiversity interest of the Area of Biodiversity Importance and to meet the requirements of Policy GP9.

9.No dwelling or building on the site shall be occupied until a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than domestic gardens, has been submitted to and agreed in writing by the Authority. The agreed landscape management plan shall then be fully implemented.

Reason - To make sure that the land is managed to protect and enhance the biodiversity interest of the Area of Biodiversity Importance.

10.The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of the above conditions, in the first planting season following the first occupation of any part of the development or completion of development whichever is the sooner, or in accordance with a programme previously agreed in writing by the Authority. Any trees or plants removed, dying, being severely damaged or becoming seriously diseased, within 5 years of planting shall be replaced in the following planting season by trees or plants of a size and species similar to those originally required to be planted.

Reason - To make sure that the appearance of the completed development is satisfactory and to help assimilate the development into its surroundings, to make sure that the land is managed to protect and enhance the biodiversity interest of the Area of Biodiversity Importance, and to meet the requirements of Policy GP9.

11.Bird and bat boxes shown on approved Dwg. No. AA27-10350-S1-15/A shall be installed before the first occupation of any part of the development hereby permitted and shall thereafter be retained and so maintained.

Reason - To make sure that the completed development protects and enhances the biodiversity interest of the Area of Biodiversity Importance.

12.No materials to be used on the exterior of the buildings shall be placed on the site until such time as samples of those materials have been submitted to the Authority. Only materials agreed in writing by the Authority shall be used in carrying out the development.

Reason - To secure the satisfactory appearance of the completed development.

13.Notwithstanding the submitted details, prior to installation of such screening, the applicant shall submit to and have agreed in writing by the Authority details of 1.8m tall obscure screening along the north side of the second floor balconies of both dwellings hereby approved. The obscure screening so agreed shall be installed prior to the first occupation of the development and shall thereafter be retained and so maintained.

Reason - To prevent overlooking, in the interests of neighbour amenity.

14.The new sections of walls and gate pillars hereby approved to the east and north boundaries of the site shall be constructed using materials and a method of construction which match the existing wall located along the east boundary of the site.

Reason - To secure the satisfactory appearance of the completed development.

15. Prior to installation, full details of the electric vehicle/bicycle charge points shall be submitted to and approved by the Authority. The approved charge points shall be installed and made operational prior any dwelling hereby approved being occupied.

Reason - In the interests of sustainable development, these features having been proposed to address the requirements of Island Development Plan Policy GP9.

16. This development shall be carried out in accordance with the mitigation strategy/programme and associated post-development works set out within the Sexton Green Ltd German Ivy Report dated 15.04.2020, and the German Ivy Action Plan dated 13/04/2020.

Reason - To make sure that the conservation value of the Area of Biodiversity Importance is enhanced and maintained.

17. The domestic curtilage associated with the proposed dwellings is the area coloured green and labelled as "Garden amenity space" on Drawing No AA27-10350-S1-14/A. The land located outside of that curtilage and labelled as "ABI designated land" shall not be used for domestic purposes at any time.

Reason - To define the permission for the avoidance of doubt.

18. Notwithstanding the provisions of the Land Planning and Development (Exemptions) Ordinance, 2023 (or any other Ordinance replacing or re-enacting that Ordinance), no gate, fence, wall or other means of enclosure and no hardsurfacing (other than any hereby expressly permitted) shall be erected, constructed, placed or laid on any part of the site.

Reason - In view of the sensitive nature of the site, the erection of such structures as 'exempt development' may have an adverse visual impact and/or impact on the Area of Biodiversity Importance. This condition is imposed to make sure that any proposals can be properly considered.

Expiry Date: This permission will cease to have effect on 20/09/2026 unless development is commenced by that date.

ADVICE AND OTHER REMARKS:-

For the avoidance of doubt, the removal of any hedging, once planted, would require a formal application for planning permission.

The application site is located within an area of potential archaeological importance and your attention is drawn to the provisions of the Island Development Plan, Annex VIII on Archaeological Assessment.

It is desirable that access be granted to the States Archaeologist, Culture & Heritage Service, and that you contact them to gain advice or make arrangements for archaeological recording during any earth moving on the site.

The Archaeology team can be contacted on 01481 220729 or 01481 220722 , or mobiles 07781 102219 or 07911 721210 .

Effect of planning permission:

Section 18 of the Land Planning and Development (Guernsey) Law, 2005 ('the Law') defines the effect of the planning permission hereby granted, namely:

- (1) Planning permission ceases to have effect unless the development permitted by it is commenced within a period of three years immediately following the date on which it is granted (or such shorter period as may be specified in the permission).
- (2) Planning permission enures for the benefit of the land concerned and of every person for the time being having an interest in it.
- (3) Any conditions subject to which planning permission is issued are enforceable in accordance with the provisions of Part V of the Law.
- (4) Planning permission for the erection of a building is only permission to use it for the purpose specified in the permission or, subject to any restriction so specified, for any other purpose for which it is designed.
- (5) Planning permission is only permission to carry out the development specified in it (subject to any conditions so specified), and does not imply the giving of any other approval or consent required under this Law or any other enactment or under any rule of law.

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, on the merits against a decision to grant planning permission subject to conditions (except a building condition), to the Planning Tribunal, which is independent of the States of Guernsey. 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. The official Appeal Notice Forms are available on the States of Guernsey website at www.gov.gg/planningpanel and must be completed with all enclosures in multiples as requested and received within the six months deadline.

Copy of representations made:

In reaching this decision the 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 under section 11 will be included with this decision in accordance with section 19 of the Ordinance.

Other Remarks:

Please note that any work which abuts or affects the public highway requires prior approval by Traffic and Highway Services. Please contact Traffic & Highway Services (highways@gov.gg) for further advice. You must also ensure that any access/es to the development are constructed to meet the existing road/footway levels in accordance with their requirements.

This document is not a Building Licence and confers no approval under the Building Regulations.

A separate Building Control Licence may be required and it is the responsibility of the developer to ensure that ALL necessary consents are obtained and that any pre-commencement conditions are discharged prior to development being commenced.

A J ROWLES

Director of Planning
Planning Service



PLANNING APPLICATION REPORT

Application No: FULL/2022/1906
Property Ref: B00575B000
Valid date: 23/09/2022
Location: Site Off Rue Des Monts Delancey St. Sampson Guernsey
Proposal: Erect 2 dwellings with associated landscaping and parking.

Applicant: Octopus 1 Limited

RECOMMENDATION - Grant: Planning Permission with Conditions:

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Reason - To ensure that it is clear that permission is only granted for the development to which the application relates.

2. The development hereby permitted shall be begun within 3 years from the date of grant of this permission.

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- i. A scheme of how the contractors will liaise with local residents to ensure that residents are kept aware of site progress and how any complaints will be dealt with reviewed and recorded (including details of any considerate constructor or similar scheme)
- ii. A scheme of how the contractors will minimise complaints from neighbours regarding issues such as noise and dust management, vibration, site traffic and deliveries to and from the site
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The construction shall be carried out in accordance with the approved CEMP.

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5. No development, including site works, shall begin on site until details of existing and proposed levels, including ground levels, finished floor levels, how any changes in levels to adjoining land are to be dealt with, and a number of sections across the site (these sections to extend to land and buildings adjoining the application site), have been submitted to and agreed in writing by the Authority. The development shall be carried out only in accordance with the details agreed under the terms of the above condition.

Reason - To make sure that the development is carried out in a way which is in character with its surroundings.

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Reason - The submitted information does not include large scale details of the proposed cycle storage and access to that storage as proposed is likely to be impeded by the parking of vehicles in the adjacent spaces. This condition is required to encourage the use of bicycles as an alternative to the car.

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and maintenance, have been submitted to and agreed in writing by the Authority. No occupation of the new dwellings shall begin until the 'green roofs' have been completed in accordance with the agreed details. The roofs shall then be maintained in accordance with the agreed management and maintenance plan.

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Reason - To prevent overlooking, in the interests of neighbour amenity.

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Reason - In the interests of sustainable development, these features having been proposed to address the requirements of Island Development Plan Policy GP9.

16. This development shall be carried out in accordance with the mitigation strategy/programme and associated post-development works set out within the Sexton Green Ltd German Ivy Report dated 15.04.2020, and the German Ivy Action Plan dated 13/04/2020.

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Reason - To define the permission for the avoidance of doubt.

18. Notwithstanding the provisions of the Land Planning and Development (Exemptions) Ordinance, 2023 (or any other Ordinance replacing or re-enacting that Ordinance), no gate, fence, wall or other means of enclosure and no hardsurfacing (other than any hereby expressly permitted) shall be erected, constructed, placed or laid on any part of the site.

Reason - In view of the sensitive nature of the site, the erection of such structures as 'exempt development' may have an adverse visual impact and/or impact on the Area of Biodiversity Importance. This condition is imposed to make sure that any proposals can be properly considered.

INFORMATIVES

For the avoidance of doubt, the removal of any hedging, once planted, would require a formal application for planning permission.

The application site is located within an area of potential archaeological importance and your attention is drawn to the provisions of the Island Development Plan, Annex VIII on Archaeological Assessment.

It is desirable that access be granted to the States Archaeologist, Culture & Heritage Service, and that you contact them to gain advice or make arrangements for archaeological recording during any earth moving on the site.

The Archaeology team can be contacted on 01481 220729 or 01481 220722 , or mobiles 07781 102219 or 07911 721210 .

OFFICER'S REPORT

Site Description:

The application site comprises the north east corner of an overgrown and irregularly-shaped parcel of land which is designated as an Area of Biodiversity Importance (ABI), and is located within a Main Centre Outer Area and adjacent to a Conservation Area under the Island Development Plan (IDP). The site itself has been cleared of all vegetation. Access to the site is provided from Rue des Monts to the east, and a

private drive (Waters Rocque) runs along the north boundary, separating the site from a residential property in that direction. Further residential properties are located across the open land to the south, set at a lower level than the application site.

Relevant History:

FULL/2021/0016 Erect dwelling, alter existing vehicular access and create new vehicular access (Revised Scheme – Dwelling relocated to rear of site). Approved 22/03/2022 – subject to a planning covenant preventing completion of the development approved under FULL/2017/0669 should the permission granted be implemented.

FULL/2020/0128 - Erect two dwellings. Refused 04-09-2020. Appeal (PAP-001-2021) withdrawn 06/10/2022.

FULL/2017/0669 - Erect a dwelling with associated landscaping and parking (to front of site). Approved 05-05-2017. Previously accepted that physical works sufficient to implement this permission have been carried out.

Existing Use(s):

Residential development site/Undeveloped land

Brief Description of Development:

This application proposes the erection of 2no 3-storey, 2/3-bedroom detached dwellings, one located at the front (east) and one at the rear (west) of the site. Each storey of the proposed buildings is to be angular and offset from the others, providing first and second floor terraces. The buildings would be finished in vertical timber strip cladding with a green roof to the third storey.

Vehicular access is to be provided through a new access created onto Waters Rocque to the north, serving 3no parking spaces stated to be small car electric vehicle spaces. A cycle space was initially shown to each side of the parking spaces. Works to the east boundary were unclear, with conflicting notes on the plans.

The eastern section of the north boundary is to be retained and planted with native hedging. The western section is to be removed, a “retaining structure” constructed and native hedge planting undertaken. The boundary to the ABI would be low post & wire fencing.

Garden spaces are to be restricted to the area immediately around the dwellings, and the notes on the plans initially implied these spaces would be entirely hard surfaced with permeable paving. The gardens would be enclosed by planting, with four gates initially proposed from the gardens into the southern part of the site.

The southern part of the site is to remain outside of the domestic curtilages of the proposed dwellings as a wildlife area forming part of the ABI within which the site is located, and is noted to be a permanent meadow of approx. 180sqm.

A covering letter has been submitted noting that the plans are broadly similar to those previously refused, however highlighting the following alterations/changes in context:

- Alterations to floor plans to 2-3 bed homes with commensurate amenity space and storage;
- ABI land has been increased to match or improve the originally approved scheme;
- Separation between domestic amenity spaces and designated ABI land has been better defined;
- Alterations to the parking area have been made to respond to EV technology and growing trend for smaller cars;
- The two approvals for dwellings show the location of the built form is now fixed provided the ABI land remains broadly the same and connect to the wider ABI;
- There is a housing crisis and a need for dwellings of this size;
- Planning covenants could be used to strengthen planning conditions which may be difficult to enforce;
- Mitigation proposals would enhance the biodiversity of the site, including native mix hedges, native trees, planted roofs, bat and bird boxes.

A Planning & Design Statement (dated September 2022) has been submitted in support of the application, together with the following documents:

- A letter from Strategic Planning & Property Ltd dated 12/12/2019;
- A statement from the Biodiversity Partnership in respect of green roofs dated 27/03/2020;
- A status report from the property owner to the DPA dated 13/04/2020;
- Sexton Green Germany Ivy report dated 15/04/2020;
- Environment Guernsey Ltd Ecological Assessment dated May 2020;
- GD Environmental Consultancy Ltd Biodiversity Summary dated December 2020;
- Sexton Green Landscape statement dated 20/09/2022;
- A Site Waste Management Plan.

An independent letter has also been received from Strategic Planning & Property Ltd dated 12/01/2023 expressing support for the application and purporting to reiterate the facts of the case.

Following deferral, confirmation has been received that LOP Drawing No AA27-10350-S1-13/Rev A supersedes all previous landscaping plans and the following amendments have been made to the scheme:

- Full elevations of the proposed buildings have been provided;
- Alterations are proposed to the boundary wall to the north-east of the site, reducing the width of the existing opening in the east boundary by extending the southern part of the wall and relocating the existing gate pillar and reconstructing the northern part of the wall, extending partially along the north boundary, and constructing a gate pillar (as per consent granted under FULL/2021/0016);
- Bicycle and bin stores are proposed to either side of the proposed parking area;
- The extent of surfacing within the curtilage of each dwelling has been clarified;
- The number of gateways from the domestic curtilages on to the adjacent ABI land has been reduced to one per dwelling;
- An additional door has been introduced to the west elevation of Unit 2, to provide access from the parking area;
- A site section has been provided demonstrating how the change in levels between the parking area and the adjacent lane/dwellings/ABI would be managed.

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

Island Development Plan

MC2 – Housing in Main Centres and Main Centre Outer Areas

GP1 – Landscape Character and Open Land

GP3 – Areas of Biodiversity Importance

GP8 – Design

GP9 – Sustainable Development

GP15 – Creation and Extension of Curtilage

IP6 – Transport Infrastructure and Support Facilities

IP7 – Private and Communal Car Parking

IP9 – Highway Safety, Accessibility and Capacity

The States' Strategy for Nature (July 2020), which has been adopted as Supplementary Planning Guidance, has also been taken into account.

Representations:

4 letters of representation have been received, raising the following points:

- The development would result in the unnecessary loss of open and undeveloped land (GP1, GP8, GP15);
- The development is not in keeping with the character of the area, particularly when considering the adjacent Conservation Area (GP4, GP8);

- There is no consideration of the public realm (GP18);
- The height of the development should be designed to take into account the topography of the area, stepping down from the property to the north towards the lower properties to the south;
- The land is not big enough for two dwellings;
- Proposed and existing ground levels should be carefully considered;
- The size of the dwellings is excessive, in terms of number of storeys and the size of accommodation, particularly for the number of bedrooms proposed;
- The layout of the proposed buildings is clearly designed to allow redesign to accommodate more bedrooms which would not meet current housing requirements;
- Access to the dwellings should accord with Lifetime Home Standards, with accessible principal entrances;
- Amenity provision for the houses is poor;

- Overlooking of adjacent properties (GP8, GP9 & GP15);
- A post and wire treatment along the south boundary is not sufficient separation to the adjoining land, taking into account aspirations for a dwellinghouse on that land or potentially for inclusion within the curtilage of the property to the south;

- Loss of ABI land (GP3, GP8, GP15);
- Wildlife, habitats and biodiversity has been and will be destroyed;
- There is a large tree in the centre of the land to the south, which (as advised by a tree surgeon) should have a 15m RPZ;

- Additional traffic and noise;
- Already congestion from the School of Popular Music;
- The properties would infringe upon a private road, which does not have capacity for two further houses;
- The developer will not be able to use the existing entrance, as he does not own it, and construction vehicles will obstruct the lane;
- Sightlines are substandard from the access (IP9);
- Parking spaces should be designed in accordance with parking standards, with an appropriate clear zone and provision for turning (IP7);
- Parking provision should be commensurate with the size of dwelling (IP7).

Consultations:

States Archaeologist comments as follows:

As the field has not previously been developed and is 150m south of the destroyed prehistoric Menhir (Le Rocque Pointue), along with large stones identified on the 1898 Ordnance Survey map lying immediately to the west of the site, I would be grateful if you could place an informative notice on this development, should

planning permission be granted, to the effect that the developers are encouraged to contact the Assistant Archaeologist if they encounter anything of archaeological interest during the building works.

Summary of Issues:

- Principle of development within an ABI
- Design and impact on neighbouring amenity and landscape character
- Parking and access

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).**

This application follows a previous refusal for two dwellings at the site (ref FULL/2020/0128), and the proposed site layout and building design is fundamentally as previously proposed.

The previous application was refused for the following two reasons:

1. The proposed development, by virtue of its scale and the fact that works to eradicate invasive German Ivy have already commenced pursuant to an earlier permission, represents an unacceptable form of overdevelopment that would not protect or enhance the biodiversity interest of the wider Area of Biodiversity Interest of which the site forms part. The application is therefore contrary to the clear aims and objectives of Policy GP3.

2. The proposed development, by virtue of the layout, scale and nature of the accommodation proposed, does not meet the current identified housing need, and therefore is contrary to the clear aims and objectives of Policy MC2.

Prior to that refusal, permission had been granted for the erection of a single dwellinghouse to the east of the site. Subsequent to that refusal a further application has been approved for the erection of a single dwellinghouse to the west of the site, subject to a planning covenant to ensure that only one of the two approved dwellings could be constructed.

Principle of housing development (Reason for Refusal 2)

Policy MC2 states that proposals for new housing development in Main Centres and Main Centre Outer Areas will be supported where:

- a. they are in accordance with all other relevant policies of the Island Development Plan; and,*

- b. where they are able to accommodate a variety of dwellings they provide an appropriate mix and type of dwellings; and,*
- c. where the site is identified as Important Open Land, new housing is achieved only through the subdivision of existing dwellings or the conversion of existing buildings.*

Under the previous application, although presented as 3-bedroom houses, the size and layout of the proposed rooms (particularly the first floor “study/living” room) was such that the houses could only reasonably be assessed as 4-bedroom houses. The position in respect of housing requirements at that time was that there was no further requirement for that type of housing, and the application was therefore found to be contrary to the requirements of Policy MC2.

The position in respect of housing requirements remains unchanged at the present time, with an identified requirement for 1, 2 & 3 bed houses only, and a focus in particular on 2 & 3 bed. The layout of the proposed houses has however been amended subsequent to the previous submission, to propose 2 no 2 bed houses, with a bed/living area at second floor. Whilst it is noted that the first floor accommodation in particular is generous and could be subdivided in the future to create further bedrooms, Policy GP8 seeks provision of good quality and adaptable accommodation which can meet the changing needs of an occupier. Taking into account that the proposed layout clearly shows no more than 3 beds, that the dwellings would have to be constructed as such, and the policy requirements for adaptable and good quality living accommodation, it is accepted the houses proposed under this application would be consistent with current housing requirements.

In light of the above, and in particular the adaptability of the proposed accommodation, together with the limited number of dwellings proposed in this case, and the Plan objective and policy direction to make an efficient and effective use of land, it is not considered reasonable to require a mix of development in this case.

Principle of development within an ABI (Reason for Refusal 1)

The site is designated as part of an ABI within the Island Development Plan, and forms approximately 7% of the ABI designation. Subsequent to the previous refusal, a review of Areas of Biodiversity Importance has been published. The ABI of which the application site forms a part of is designated as No 37 Delancey Lane within that report and, whilst acknowledging the recent disturbance at the application site and identifying the threat posed by the approved development, the report recommends retention of the ABI designation without alterations. Notwithstanding the works which have been undertaken, and those which are approved at the site, it must therefore be concluded that the land retains value as part of the wider ABI site.

Policy GP3 is applicable to development within ABIs, and states that:

Development within an Area of Biodiversity Importance will be supported provided that:

- a. proposals demonstrate that the biodiversity interest of the site has been considered and taken into account as part of the design and development process; and,*
- b. the biodiversity interest of the area has been protected and, where possible, enhanced; or,*
- c. any negative impacts can be appropriately and proportionately mitigated in accordance with a scheme to be approved by the Authority.*

The preceding text to Policy GP3 states at para. 19.4.4 that:

Designation of an Area of Biodiversity Importance is not intended to prevent development that is capable of satisfying the tests in this policy and would otherwise be acceptable under the policies of the Island Development Plan. However, in recognition of the identified importance of the biodiversity of these sites, proposals for development within an Area of Biodiversity Importance will be carefully assessed in order to secure protection and positive enhancement of biodiversity through development, where possible, and to minimise any negative impacts. Where impacts cannot be avoided, appropriate mitigation will be sought.

An Ecological Assessment carried out by Environment Guernsey Limited in 2020 and submitted as part of both this application and the previous refusal, identifies invasive German Ivy at the site and concludes that the proposed development provides an opportunity to eradicate that Ivy from the site.

A similar justification was put forward in relation to the initial application for a single dwelling at the site, and formed the basis for allowing small-scale development on the land. Works to clear the ivy have already been undertaken in accordance with the previous permission granted and the reports submitted as part of the current application note that this work has been successful, although ongoing work will be required to ensure there is no resurgence. Given that the works have already been undertaken to clear the ivy, within the terms of previous permission, the eradication of ivy would not therefore, in itself, provide justification for a higher density of development at the site under the current application.

It is however acknowledged that, whilst proposing a higher density of development, the current application does not extend the area of land to be incorporated as curtilage and retains a similar area outside of the proposed curtilages as open land to form part of the ABI, approximately 2.5% of the wider ABI. The development would however reduce the 'garden areas' within the curtilage, and result in the division of those areas into small pockets surrounding the dwellings, likely to result in increased pressure both on the retained ABI land and on the finish of those areas themselves. Concerns were raised under the previous refusal regarding the extent and nature of the proposed amenity spaces associated with the new dwellings, comparative to the size of dwellings proposed. The size of amenity spaces, and associated potential to place pressure on the

adjacent ABI land, does remain a concern under the current application. It is however noted that the accommodation proposed within the dwellings has been amended under the current application and, on balance, the amenity space provided at ground level and on the upper floors, and taking into account the proximity to Delancey Park, would be adequate to serve the proposed dwellings. The reduction in access points from the domestic curtilages on to the ABI land, and the positioning of the retained access points, would further limit the likelihood of use of the ABI land as additional garden. No external storage is proposed, such as for equipment to maintain the garden areas or ABI land, however such requirement is unlikely to be significant and there would just be sufficient space to cater for this requirement within the curtilage.

The proposed parking spaces are stated to be for small car parking, on the grounds of sustainable travel. It is however noted that there is insufficient space to accommodate three standard car parking spaces, or accessible spaces, without further encroaching onto the amenity spaces serving the dwellings. The cramped nature of the parking area is further emphasised by the fact that cars parked in the spaces would block access to the proposed cycle and bin storage. It is however noted that, in this location, there is no requirement to provide three parking spaces and, if the proposed layout proves unpractical, use by fewer and/or larger vehicles, would not raise any policy concerns. Provision of accessible cycle storage can be controlled by condition.

The issues discussed above demonstrate that the level of development proposed is at the limits of the site capacity however, on balance, the amenity and parking provision is adequate to meet the terms of policy and are not therefore considered adequate grounds to warrant refusal of the application.

As under the previous applications, the proposals are accompanied by a landscaping plan and the Ecological Assessment notes that the undeveloped part of the application site could be enhanced with appropriate planting of native species trees, shrubs and hedging, and meadow grasses, as well as by additional planting and bird and bat boxes incorporated within the design of the proposed dwellings, to offset the impacts of the development.

The landscaping proposed under this application is similar to that proposed under the previous refusal, and the subsequent approval for a dwelling to the west of the site, and exceeds that approved under the initial application for a dwelling to the east of the site. The submitted scheme includes planting of 7 no trees of appropriate species, hedge planting along the north and south boundary of curtilage and provision of bird and bat boxes on the buildings. Meadow grass is to be maintained on the open land, with grassed areas within the domestic curtilages and green roofs to the buildings.

The supporting information refers to climbers and an “animal wall” however these are not shown on the proposed plans and are therefore assumed not to be proposed under the current application.

The incorporation of green roofs may bring some biodiversity benefits, however this depends entirely on their initial specification, ongoing health and future maintenance. Whilst it is difficult to ensure the ongoing health of these elements in perpetuity, and therefore their contribution to the overall biodiversity provision of the scheme must be

weighted accordingly, conditions can be applied to ensure the initial specification and maintenance programme are appropriate.

No details are provided of the retaining structure to the north boundary and large scale details, including a section through the boundary, should be required to ensure that the design is appropriate to sustain the growth of the planting along that boundary.

As noted above, given the limited size of the grassed areas within the curtilage, future occupants may prefer to hard surface these areas. To ensure this can be managed it is recommended that exemption rights for hard surfacing are removed by condition of any decision issued.

Details of the planting and maintenance of the grassed areas outside of curtilage would also be required, to ensure these are maintained in a manner appropriate to the adjoining ABI and that any seeding is undertaken using a local mix.

The submitted reports by specialists in the field all conclude that biodiversity enhancement is possible at the site, with the level of development and through the landscaping scheme proposed.

The application submission posits the potential to further offset the ecological impacts of the proposed development through the applicant leasing or donating a small area of agricultural land in their ownership to a local NGO in order for it to be managed solely for nature conservation purposes. The land parcel is located at Rue Des Hougues, St Saviours and is roughly 2000m² (0.5 acres or 0.2 ha) in size. It is approximately four times larger than the application site. The habitat is currently species-poor Improved Grassland. However, unlike Policy GP2 (in relation to Sites of Special Significance), there is no provision under Policy GP3 to consider the offsetting of adverse impacts, and this aspect of the proposed development has not been explored further.

On balance, and taking into account the comments of the specialist reports, it is considered that the development could achieve the same level of contribution to the Area of Biodiversity Importance as those previously approved and would therefore be acceptable under the provisions of Policy GP3, subject to the following:

- Clarification of the curtilage areas and the ABI land, as approved under the application. For information it should be noted that any hedge removal would require planning permission, and therefore further access on to the ABI land could not be created without the benefit of planning permission;
- The development is undertaken in accordance with the previously approved German Ivy mitigation strategy, resubmitted as part of the current application;
- Provision of a detailed landscape scheme (providing planting densities and meadow species mix and details of north boundary “retaining structure”), details for the laying of the “green roof”, a management plan & requirement for implementation of both elements;
- Installation of bird and bat boxes as proposed;
- Removal of exemption rights for fencing, gates, walls and hard surfacing.

Other planning considerations

As part of the assessment of the refused application, detailed consideration was given to issues relating to design, impacts on the neighbour amenity and on landscape character, the provision of parking and access, and sustainable development, and the proposal was found to meet the material considerations of the Law and the requirements of the relevant planning policies with respect to those issues, subject to certain controls. There has been no change in circumstance, policy framework or to the proposed plans subsequent to the consideration of the previous application which would alter the assessment in relation to those considerations. The key points identified within that report, and any other issues raised in respect of the current proposals, are however highlighted below.

The proposed dwellings were previously considered to achieve a good architectural standard of design which, whilst substantially greater than the previously approved development in terms of scale, were not considered of such visual impact in this context as to warrant refusal. Given the topography of the site and surrounding area, and the height of the proposed buildings, conditions have however been attached to previous decisions requiring details of existing and proposed site levels prior to the commencement of development. Whilst some site levels are shown under the current submission (Drawing Nos AA27-10350-S1-14/A & 19), and these appear to relate to the spot heights available to the Authority, these are limited and accurate existing levels have not been provided. It is therefore recommended that the condition requiring submission of levels is reiterated.

In respect of neighbour amenity, the previous assessment concluded that impacts on the property to the north would be within acceptable limits, subject to the provision of screening along the north side of the second floor terrace to protect the amenity of that property, a matter which could be controlled by condition on any permission issued.

Notwithstanding the comments made in the letters of representation, sufficient separation distance exists to the property to the south to prevent any significant impact on the amenity of that property. The impact of the proposed development on potential future development on adjacent land, for which no formal permission has been sought or granted, cannot however be taken into account in determining this application. Similarly, where that land does not form part of a recognised domestic curtilage, overlooking from the proposed development cannot be deemed to be harmful as it might be if that land was in domestic use e.g. as a garden. It has also been raised in the letters of representation that there is a large tree located on the adjacent land to the south of the application site, and it is contended that that tree should have a 15m Root Protection Zone. The tree is not protected, however the proposed development would be located approximately 15m from the tree at the closest point, and would not therefore be likely to have significant impacts on the ongoing health of that tree.

In respect of access to the site, the proposed access matches that previously approved under FULL/2021/0016. The inclusion of an additional dwelling at the site

would not raise any additional road safety concerns and the access would remain acceptable. The application shows the existing access being narrowed as part of the proposals, however the location of the eastern dwelling would prevent vehicular use of that access and there is no requirement to control the closure of the access, beyond ensuring the materials and method of construction match those of the existing wall.

In respect of parking provision and sustainable development, the current application provides the same number of spaces as previously proposed. The parking spaces proposed under the current application are however designated as small car spaces, stated to be part of the sustainable design of the site. Control of the use of those spaces by planning condition would not however be reasonable or necessary. As noted above, the extent of hard surfacing proposed would provide flexibility in respect of the number and size of vehicles which could use the parking area. Such use would however remain within the provisions of the Parking Standards and acceptable in this Main Centre context and there remain sufficient other contributions to sustainable design to fulfil the requirements of Policy GP9.

In terms of the accessibility of the buildings, limited information has been provided. It is however confirmed that there will be level access to the buildings and, following deferral, the plans have been amended to provide a door in the elevation to Unit 2 closest to the parking area, improving the accessibility of that building. There is WC provision at ground floor and good circulation space.

In respect of the issues outlined above, and to ensure an appropriate finish to the development, it is recommended that the following be controlled by condition:

- Provision of existing and proposed levels across the site, demonstrating no change to the ABI land and how the proposed dwellings would sit within the site;
- Provision of large scale elevations and subsequent implementation of secure, accessible and covered cycle storage;
- Provision of samples of the proposed building materials;
- Provision of details and implementation of screening to the north side of the proposed second floor terraces;
- Materials and method of laying of roadside wall;
- Implementation of sustainability features – vehicle charging points and permeable paving.

In this case, given the constraints of the site, particularly in respect of the ABI designation, the density of development proposed, and neighbour amenity and road safety issues, it is also recommended that a Construction Environmental Management Plan be required.

Other matters

The grant of planning permission cannot override separate legal ownership rights. Representations relating to the access track, boundary bank and trees on neighbouring land are noted, but would need to be resolved between the relevant parties independent of the planning process.

Planning covenant

The planning covenant relating to the most recent planning permission at the site, that for a single dwellinghouse to the east of the site under reference FULL/2021/0016, precludes the completion of the previous permission for a single dwellinghouse to the west of the site, approved under reference FULL/2017/0669. That covenant does not however preclude any development which might be approved under a future application, and would not therefore prejudice the implementation of any permission granted under this application.

The dwellinghouses proposed under the current application would be located at least partially on the footprint of each of the previously approved dwellings, and implementation of any permission granted under this application would therefore prevent implementation of either of the previous permissions granted at the site. There would therefore be no requirement to enter into a further planning covenant as a result of approval of the current application.

Conclusion

The issues in respect of this application are finely balanced, particularly in relation to the density of development at the site and potential impacts on the Area of Biodiversity Importance. In light of the above, it is however considered that the proposals address the previous reasons for refusal and meet the purpose of the Law, material planning considerations and relevant planning policies. Consequently it is recommended that the application be approved, subject to the conditions set out above.

Date: 18/09/2023

