

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: Excavate ground levels, erect retaining wall, alter and relocate ramps to external steps, create terraced area with external steps, balustrade and fence to north-west (side) elevation. Widen vehicle access and create pedestrian access to roadside, and install fence and gate to south-east boundary (Protected Building).

LOCATION: Moulin De Milieu, Rue A L'Eau, Castel.

APPLICANT: Mr P Leighton

I refer to the application referred to below received as valid on 10/10/2022 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 23/12/2022

Drawing Nos: Tyrrell Dowinton Associates 2230 01.01A; 03. 01A, 02A & 03A. Details of Featherboard Fencing Panels and Fencing Stakes & Posts date stamped 10th October 2022

Application Ref: FULL/2022/1908

Property Ref: D003110000

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 Development and Planning 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 widening of the vehicular access to 9.7m as proposed, 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, Moulin De Milieu. The works are therefore contrary to Policies GP4, GP5 (setting), GP8 c. and GP9 b. of the Island Development Plan.

2. The scheme as submitted has not been accompanied by a Statement of Significance or other document that addresses the special interest of the building and site nor the effects of the works on the setting of the Protected Building. Without this information it is not possible for a full assessment of the works to be undertaken and the scheme therefore fails to comply with the requirements of Policy GP5 of the Island Development Plan.

3. The site lies within a Conservation Area and within the curtilage of a Protected Building and it is the duty of the Development and Planning 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 erection of timber close boarded fencing to the south and north site boundaries would have an urbanising effect in this rural location and would detract from the special character and appearance of the Conservation Area and from the setting and special interest of the Protected Building, Moulin De Milieu. The works are therefore contrary to Policies GP4, GP5 (setting), 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/2022/1908
Property Ref: D003110000
Valid date: 10/10/2022
Location: Moulin De Milieu Rue A L'Eau Castel Guernsey GY5 7AL
Proposal: Excavate ground levels, erect retaining wall, alter and relocate ramps to external steps, create terraced area with external steps, balustrade and fence to north-west (side) elevation. Widen vehicle access and create pedestrian access to roadside, and install fence and gate to south-east boundary (Protected Building).
Applicant: Mr P Leighton

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 Development and Planning 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 widening of the vehicular access to 9.7m as proposed, 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, Moulin De Milieu. The works are therefore contrary to Policies GP4, GP5 (setting), GP8 c. and GP9 b. of the Island Development Plan.
 2. The scheme as submitted has not been accompanied by a Statement of Significance or other document that addresses the special interest of the building and site nor the effects of the works on the setting of the Protected Building. Without this information it is not possible for a full assessment of the works to be undertaken and the scheme therefore fails to comply with the requirements of Policy GP5 of the Island Development Plan.
 3. The site lies within a Conservation Area and within the curtilage of a Protected Building and it is the duty of the Development and Planning 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 erection of timber close boarded fencing to the south and north site boundaries would have an urbanising effect in this rural location and would detract from the special character and appearance of the Conservation Area and from the setting and special interest of the Protected Building, Moulin De Milieu. The works are therefore contrary to Policies GP4, GP5 (setting), GP8 c. and GP9 b. of the Island Development Plan.
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OFFICER'S REPORT

Site Description:

Moulin Du Milieu is a detached building situated to the west of Rue A L'Eau. Residential development and a pumping station are situated to the north of the site, whilst to the south is more sporadic residential development, with open and undeveloped land to the west. Various outbuildings and a greenhouse are situated to the rear of the building. The stone boundary walls and the position of the building near the roadside are features in the Conservation Area.

The site is located Outside of the Centres and within a Conservation Area, Archaeological Area and Agriculture Priority Area as designated in the Island Development Plan. The building is a Protected Building but the mill leat is not specifically listed on the notice.

Relevant History:

FULL/2021/0960 - Re-roof and install new fascia and guttering (protected building) - granted

FULL/2022/2164 - Erect single storey extension at ground floor level to south-east (side) elevation, single storey extension at 1st floor level to north-west (side) elevation, erect covered veranda to south-west (rear) elevation and internal alterations (Protected Building) – under consideration

Existing Use(s):

02 flats (given lack of internal connectivity and external access to each floor)

Brief Description of Development:

The application relates to excavation and demolition works to alter ground levels adjacent (southeast) to the main building and to remove existing access steps and to widen the vehicular access (to 9.75m) by demolishing a section of wall to either side of the existing access. A new retaining wall is proposed to enclose the parking area and secure it from the garden, the erection of steps from the parking area to the garden (perimeter steps) and pedestrian access in the roadside wall, steps and path for access to the adjoining National Trust land. A 1.5m high fence is proposed along the southeast boundary between the site and National Trust land and to the northwest boundary to the adjoining dwelling. To the northwest of the property, a wall is to be demolished and alterations are proposed to ground levels with external steps introduced and railings and existing cobbles lifted and re-laid following the completion of works. Alterations are also proposed to paths/ramps within the site, with some existing paths removed and new steps introduced to the southwest of the building.

The application has not been accompanied by a proportionate Statement of Significance to address the potential impact of the development on the setting of the Protected Building.

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

Island Development Plan policies:

GP4: Conservation Areas

GP5: Protected Buildings

GP8: Design

GP9: Sustainable Development

GP13: Householder Development

IP9: Highway safety, Accessibility and Capacity

Representations:

None.

Consultations:

None.

Summary of Issues:

The key issues in this case relate to the impact of the works on the setting of the Protected Building, the character and appearance of the Conservation Area and wider open land and on residential amenity.

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** [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,

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

The application has not been accompanied by a Statement of Significance or other information that seeks to address the special interest of the site. Such information should address whether the leat would be removed or obscured which would be detrimental to the future understanding of the Protected Building and the particular significance of the raised platform to the north of the building in relation to the historic interest. With regard to the removal of fill adjacent to the house it is not known whether this is connected with the mill which may be important to retain and further study and investigation is likely to be necessary in regards to this element. The steps (to be demolished) appear to be simple concrete however, they may be a replacement of

something earlier and their contribution to the setting of the Protected Building has not been assessed through the submission. Without this information it is not possible to fully assess the proposals in relation to the harm, or otherwise, of the proposed changes and the cumulative effect of all the works on the setting of the Protected Building (and Conservation Area).

The building is considered to be significant both as a Protected Building and as the defining edge of the Conservation Area and its setting is important because this is a former water mill (including remnants of the mill leat). How the building fits into the surrounding landscape forms part of its character as a former mill, where the building is partially buried in the slope to allow water to be directed past it.

Without further information to address the scheme in relation to Policy GP5: Protected Buildings a full assessment of many of the proposals and their effect on the setting of the building cannot be undertaken. However, the proposed handrail is considered to represent a good standard of design in this location that reflects that found at the neighbouring property (GP4, GP5 and GP8). The concrete ramp, reforming ramp into steps and terrace (excluding fence) to the north of the dwelling are all considered to represent a reasonable aspiration when considering Policy GP5.

The roadside boundary wall contributes to the character and appearance of the Conservation Area and the setting of the Protected Building. The existing access is 4m wide and the scheme would see this widened significantly, to 9.75m. The assertion in the application is that the road is narrow however this did not appear to be the case when a visit was undertaken as part of the consideration of the application, where scaffolding associated with the building was placed in the road and this did not unacceptably impede the flow of two way traffic. Part of the character of the Conservation Area is formed by continuous stone walls and the significant enlargement of the vehicular access associated with this property would result in harm to the character and appearance of the area contrary to Policies GP4, GP8 and GP9 of the Island Development Plan. The parking area would also be enclosed by a retaining wall but with no areas of soft landscaping in order to mitigate the effects of the excavation, wide access and highly visible parking area.

There are existing steps that provide access to the National Trust land to the southeast of the site although the submission does not make clear whether there is a right of way across the site to National Trust land. At present the proposed steps would not lead into any clear pathways on the adjoining land. Whilst clarification could have been sought regarding rights of way etc. given that the scheme was unacceptable in other respects such requests would represent abortive works at this time.

The scheme proposes a 1.5m high timber fence between the application site and National Trust land and to the north site boundary. Given the elevated and sloping nature of the site the fence to the National Trust land would be visible when travelling along Rue A L'Eau. The fence to the north boundary would be visually dominant in a raised position between the buildings. The area has a rural character and the proposed domestic timber fence would have an urbanising effect on the rural character of the Conservation Area contrary to Policies GP4, GP8 and GP9 of the IDP.

As outlined above, the removal of fill adjacent to the building cannot be fully assessed as, although the onus is on the applicant/agent to address Policy GP5, this has not occurred in this instance. The vegetation that has grown in this area has helped the building to integrate with the surrounding landscape however, the removal of this material would not have a detrimental impact on the character and appearance of the Conservation Area (GP4, GP8 and GP9) subject to a sensitive landscaping scheme. Landscaping on the site is currently naturalistic however, aspects of this development would currently have an urbanising impact on the site and if the scheme were acceptable in all other respects a condition could be imposed to address landscaping in this cleared area in order to ensure that the landscaping does not have an urbanising effect on the rural character, impacting on the setting of the Protected Building and Conservation Area.

The submission itself does not address accessibility to the site for people of all ages and abilities however, it is acknowledged that this is a sloping site where significant works would be required to make it fully accessible for all which would be likely to have a detrimental impact on the setting of the building and on the character and appearance of the Conservation Area. A condition could be imposed on a permission requiring the new steps to be designed so as to be suitable for ambulant disabled in order to offer reasonable access to the site which would, on balance, address the requirements of Policy GP8.

Conclusion

Whilst it is reasonable to upgrade slippery paths with steps, etc., and improvements to the access are positively encouraged, it should be done in a way that understands and preserves what is special about the site. Currently there are a number of elements proposed which would urbanise the site and would differentiate it from its setting in a way that would be negative to the setting of the Protected Building and to the Conservation Area contrary to Policies GP4, GP5, GP8 and GP9 of the IDP.

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.

Date: 19 December 2022

