

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: Demolish existing dwelling, erect replacement dwelling and create gated vehicle access.

LOCATION: Smugglers Notch, Icart Road, St. Martin.

APPLICANT: Dr V Schumann

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: 13/04/2023

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 10/11/2022 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Studio: 0034 / SK01, SK02, SK/03C & SK04.

Application Ref: FULL/2022/2053

Property Ref: J00897A000

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, including demolition and site works, shall begin until a Construction Environmental Management Plan, to include details set out in the consultation response dated 30/03/2023 from Agriculture Countryside and Land Management Services to mitigate the impact of the construction phase of the development on the adjoining Site of Special Significance, has been submitted to and approved in writing by the Authority. The works shall then be carried out in accordance with the agreed Construction Environmental Management Plan.

Reason - To minimise the effect of the construction phase of the development on the adjoining Site of Special Significance in the interests of biodiversity.

5.No occupation of the dwelling hereby permitted shall begin until precise details of the 'green roof', including drawings showing the method of construction, details of the plant species to be used and a plan for its management and maintenance, have been submitted to and agreed in writing by the Authority.

Reason - In the interests of visual amenity and to mitigate the impact of the development on biodiversity and the adjoining Site of Special Significance.

6.No occupation of the dwelling hereby permitted shall begin until the 'green roof' has been completed in accordance with the details agreed under the above condition. It shall thereafter be maintained in accordance with the management and maintenance plan agreed under the above condition.

Reason - In the interests of visual amenity and to mitigate the impact of the development on biodiversity and the adjoining Site of Special Significance.

7.No occupation of the dwelling hereby permitted shall begin until a landscaping scheme, to include those details specified below, has been submitted to and agreed in writing by the Authority:

- i) full details of tree and hedge planting;
- ii) planting schedules, noting the species, sizes, numbers and densities of plants;
- iii) all existing trees, hedges and other landscape features, indicating clearly those to be removed.

Reason - In the interests of visual amenity and to mitigate the impact of the development on biodiversity and the adjoining Site of Special Significance.

8.The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of the above condition, in the first planting season following the first occupation of the dwelling hereby permitted 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 - In the interests of visual amenity and to mitigate the impact of the development on biodiversity and the adjoining Site of Special Significance.

9.Lighting on the site shall be positioned or installed so that there is no illumination of the adjoining Site of Special Significance. Prior to the first occupation of the dwelling hereby permitted, details of a Lighting Assessment Report shall be submitted to and agreed in writing by the Authority to demonstrate that any lighting from the site will not illuminate the adjoining Site of Special Significance. The works shall then be completed in accordance with the agreed details.

Reason - To mitigate the impact of the development on biodiversity and the adjoining Site of Special Significance.

10.The development hereby permitted shall be carried out in accordance with the Site Waste Management Plan submitted as part of this application, and no part of the development shall be occupied or brought into use until there has been submitted to the Authority a report providing verification that the development has been carried out fully in accordance with the agreed Site Waste Management Plan. Where there has been any variation from the Site Waste Management Plan as originally submitted, the report shall highlight and detail the reasons for this.

Reason - To ensure that the development is managed to minimise waste during the demolition of any existing buildings or structures or during construction, that existing materials are reused, recycled or disposed of either on or off site, and that residual waste will be dealt with appropriately, in accordance with the aims and objectives of Policy GP9.

Expiry Date: This permission will cease to have effect on 12/04/2026 unless development is commenced by that date.

ADVICE AND OTHER REMARKS:-

For the avoidance of doubt, this permission only relates to works at Smuggler's Notch and as indicated by the area outlined in red on plan number 0034/SK01. No permission is sought nor conferred for any works outside of the area outlined in red on plan number 0034/SK01 which are to be dealt with under separate planning applications.

Your attention is drawn to The Animal Welfare (Guernsey) Ordinance, 2012 and the need to comply with its provisions. The building is located in an area where bats may be roosting or other wildlife may be nesting and measures may therefore need to be taken (including inspections prior to any building works or consideration of the timing of the works) to ensure that any protected species present are not impacted by the works. It is recommended that you contact La Société Guernesiale for advice or to arrange a site visit. La Société can be contacted on 07781 166924 or email info@societe.org.gg.

To limit the potential impact of light pollution on wildlife within the adjoining Site of Special Significance, it is recommended that external lighting is avoided or kept to a minimum and any lighting is positioned or installed so that it does not illuminate the adjoining Site of Special Significance.

The application site is located within an area of known 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/2022/2053
Property Ref: J00897A000
Valid date: 10/11/2022
Location: Smugglers Notch Icart Road St. Martin Guernsey GY4 6JG
Proposal: Demolish existing dwelling, erect replacement dwelling and create gated vehicle access.

Applicant: Dr V Schumann

RECOMMENDATION - Grant: Planning Permission with Conditions:

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, including demolition and site works, shall begin until a Construction Environmental Management Plan, to include details set out in the consultation response dated 30/03/2023 from Agriculture Countryside and Land Management Services to mitigate the impact of the construction phase of the development on the adjoining Site of Special Significance, has been submitted to and approved in writing by the Authority. The works shall then be carried out in accordance with the agreed Construction Environmental Management Plan.

Reason - To minimise the effect of the construction phase of the development on the adjoining Site of Special Significance in the interests of biodiversity.

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Reason - In the interests of visual amenity and to mitigate the impact of the development on biodiversity and the adjoining Site of Special Significance.

6. No occupation of the dwelling hereby permitted shall begin until the 'green roof' has been completed in accordance with the details agreed under the above condition. It shall thereafter be maintained in accordance with the management and maintenance plan agreed under the above condition.

Reason - In the interests of visual amenity and to mitigate the impact of the development on biodiversity and the adjoining Site of Special Significance.

7. No occupation of the dwelling hereby permitted shall begin until a landscaping scheme, to include those details specified below, has been submitted to and agreed in writing by the Authority:

- i) full details of tree and hedge planting;
- ii) planting schedules, noting the species, sizes, numbers and densities of plants;
- iii) all existing trees, hedges and other landscape features, indicating clearly those to be removed.

Reason - In the interests of visual amenity and to mitigate the impact of the development on biodiversity and the adjoining Site of Special Significance.

8. The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of the above condition, in the first planting season following the first occupation of the dwelling hereby permitted 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 - In the interests of visual amenity and to mitigate the impact of the development on biodiversity and the adjoining Site of Special Significance.

9. Lighting on the site shall be positioned or installed so that there is no illumination of the adjoining Site of Special Significance. Prior to the first occupation of the dwelling hereby permitted, details of a Lighting Assessment Report shall be submitted to and agreed in writing by the Authority to demonstrate that any lighting from the site will not illuminate the adjoining Site of Special Significance. The works shall then be completed in accordance with the agreed details.

Reason - To mitigate the impact of the development on biodiversity and the adjoining Site of Special Significance.

10. The development hereby permitted shall be carried out in accordance with the Site Waste Management Plan submitted as part of this application, and no part of the development shall be occupied or brought into use until there has been submitted to the Authority a report providing verification that the development has been carried out fully in accordance with the agreed Site Waste Management Plan. Where there has been any variation from the Site Waste Management Plan as originally submitted, the report shall highlight and detail the reasons for this.

Reason - To ensure that the development is managed to minimise waste during the demolition of any existing buildings or structures or during construction, that existing materials are reused, recycled or disposed of either on or off site, and that residual waste will be dealt with appropriately, in accordance with the aims and objectives of Policy GP9.

INFORMATIVES

For the avoidance of doubt, this permission only relates to works at Smuggler's Notch and as indicated by the area outlined in red on plan number 0034/SK01. No permission is sought nor conferred for any works outside of the area outlined in red on plan number 0034/SK01 which are to be dealt with under separate planning applications.

Your attention is drawn to The Animal Welfare (Guernsey) Ordinance, 2012 and the need to comply with its provisions. The building is located in an area where bats may be roosting or other wildlife may be nesting and measures may therefore need to be taken (including inspections prior to any building works or consideration of the timing of the works) to ensure that any protected species present are not impacted by the works. It is recommended that you contact La Société Guernesaise for advice or to arrange a site visit. La Société can be contacted on 07781 166924 or email info@societe.org.gg.

To limit the potential impact of light pollution on wildlife within the adjoining Site of Special Significance, it is recommended that external lighting is avoided or kept to a minimum and any lighting is positioned or installed so that it does not illuminate the

adjoining Site of Special Significance.

The application site is located within an area of known 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 site consists of a pitched roof bungalow accessed via a track from Icart Road. The track serves several, relatively isolated dwellings. The site is Outside of the Centres and the cliffs to the south of the site are designated as a Site of Special Significance. The entire site is in an area of potential archaeological interest.

Relevant History:

01/03/2019 – FULL/2018/2230 – Permission granted to raise ridge height to create first floor flat roof accommodation. Realign west boundary and create new shared vehicle access north-west of site.

J906

FULL/2022/2052 – Application pending to demolish existing dwelling and erect replacement dwelling including associated landscaping and creating gated vehicle access.

J897/B

FULL/2022/2014 – Application pending to demolish existing agricultural outbuilding, erect 2-storey agricultural outbuilding and hardstanding to west boundary. Change of use of agricultural land to domestic garden (89sqm) and create new vehicle access and track to north boundary for Chinook Cottage.

Existing Use(s):

Residential use class 1

Brief Description of Development:

Planning permission is requested to demolish existing dwelling and erect a replacement 2 bedroom dwelling and relocate and alter vehicular access. The replacement dwelling takes the form of a single storey flat roof dwelling finished with limestone cladding and a green roof.

The application is supported by a Planning and Design Statement.

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

GP1 - Landscape Character and Open Land
GP2 – Sites of Special Significance
GP7 – Archaeological Remains
GP8 - Design
GP9 - Sustainable Development
GP13 – Householder Development
Policy IP7 - Private and Communal Car Parking

Representations:

One letter of representation was received on behalf of La Société Guernesiaise which highlights that buildings of this type can be used by roosting bats particularly when a property is located within a variable landscape with habitats such as farmland or woodland nearby. La Société Guernesiaise recommend that the building is inspected for current or recent use by bats and other wildlife by a suitably qualified person prior to any building works to reduce the risk of disturbing or destroying animals which are protected under the Animal Welfare Ordinance 2012.

In addition La Société Guernesiaise highlight the environmental impact of light pollution on wildlife particularly when such pollution is introduced into a landscape such as this one where existing sources of artificial light are relatively sparse. La Société Guernesiaise recommend that an informative note to highlight the above and to encourage external lighting to be avoided or to be kept to a minimum is included in the decision notice.

Consultations:

Agriculture Countryside and Land Management Services, 30/03/2023

"We are writing in response to your consultation request dated 11 November 2022 which was forwarded to me on 27 January 2023 regarding the submitted application for proposed redevelopment of Smugglers Notch.

The site is adjacent to the Cliffs Site of Special Significance (SSS) and a small section of the development site (approximately 25m²) and lies within that designated site. The designated section of the development site is managed as domestic curtilage and appears to have been managed as such since its designation in 2016. Following

discussions with Planning Service, and as advised by yourself, we have therefore dismissed this as a 'drafting error' and have not considered the potential impacts of direct loss of that section of designated SSS land in these comments.

For the avoidance of doubt, this does not include the section of land designated as SSS to the south of the proposed development, which formally formed part of the same land parcel but is outside of the boundary of the development site as illustrated in drawing SK01 (Site Plan).

The proposed development has the potential to negatively impact the adjacent SSS through the following potential impacts which may be realised during the construction phase:

- Release of non-native species
- Noise pollution
- Dust pollution
- Light pollution

To mitigate against these impacts, we recommend the following precautions are adopted:

- No materials, including green waste, soil or any man-made materials should be allowed to enter the SSS. Screening and fencing should be used as necessary to achieve this.
- Construction should take place outside of the bird breeding season¹, or following checks by a suitably qualified ecologist and the implementation of nest exclusion zones (in consultation with the States Veterinary Officer to ensure compliance with the Animal Welfare Ordinance).
- Measures should be taken to reduce light and noise levels during construction at all times, in line with the appropriate industry standard.

In addition to the above, the completed development has the potential to cause light pollution to the adjacent SSS. Light pollution has the potential to significantly impact the special interest of the SSS due to negative impacts on species of conservation importance, such as bats and birds. In order to avoid an impact, no lighting should be positioned or installed where it will illuminate the SSS. This can be achieved through a combination of building design, landscaping, and a lighting scheme which complies with the Bat Conservation Trust guidance note². This scheme should include mitigations for both internal lighting (i.e. use of recessed lightings, low transmission glazing treatments) and external lighting (i.e. motion-sensors and low-output).

Due to the age, construction type, and proximity to important habitats, the built structures on site have the potential to support roosting bats and nesting birds. In

¹ Bird breeding season is March – July (inclusive)

² <https://cdn.bats.org.uk/uploads/pdf/Resources/ilp-guidance-note-8-bats-and-artificial-lighting-compressed.pdf?v=1542109349>

order to ensure compliance with the Animal Welfare Ordinance (2012), a ground level roost assessment should be undertaken of the existing built structures prior to any clearance or demolition works to ensure no bat roosts are present, or to identify what mitigation works may be required. If any clearance or demolition works are to take place within the bird breeding season, a breeding bird survey will also be required. Further information on these requirements can be obtained from the States Veterinary Officer.

Whilst not forming part of the legal requirements to prevent impact on a SSS, we would also encourage the developer to implement a landscaping scheme which supports native biodiversity, including the use of native hedging and plants. Further guidance on this can be found in the guidance recently published by Planning Service³.

Please do not hesitate to contact us if you have any queries about this response and we would also be happy to discuss the points raised with the applicant or their representative”.

Summary of Issues:

The main issues in deciding this application are:

1. Design, scale and impact of the development on the open character and appearance of the area.
2. The impact of the development on the amenity of people living in the area.
3. The impact of the development on the adjacent Site of Special Significance

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).**

The existing dwelling is of no particular architectural merit. The replacement dwelling is a contemporary flat roof design and would be set below the ridge line of the existing dwelling. There is a mix of size and style of properties within the area and in principle a contemporary approach could be supported under Policies GP1, GP8 and GP13.

The replacement dwelling would be repositioned further south, closer to the cliffs, but the dwelling would be set partially below ground level and due to its single storey form, low profile and the topography of the surrounding land, the replacement dwelling is unlikely to form a prominent feature in public views from the cliff path. The relocation of the parking area and vehicular access to the north of

³ <https://www.gov.gg/biodiversity-guidance-published>

the dwelling and the installation of gates at the entrance to the site would have no adverse effects. The overall design and appearance of the replacement dwelling achieves a good standard of design and would have no significant adverse effects on the landscape character and openness of the area, in accordance with Policies GP1, GP8 and GP13.

Due to its single storey nature and the distance to neighbouring properties, the replacement dwelling is unlikely to have any significant adverse effects on the amenities of neighbouring residents.

The site is bounded to the south and south-west by a Site of Special Significance. The consultation response of the Agriculture Countryside and Land Management Services is set out in full above. A small section of the development site (approximately 25sqm) is situated within the Site of Special Significance but this section comprises of a raised patio, which is proposed to be removed as part of this application, and land managed as a domestic garden and it has a low biodiversity value. The proposal includes hedge planting along boundaries and a green roof which if planted with native species would partially mitigate the impact of the development on the Site of Special Significance, planting details can be requested by condition.

Agriculture Countryside and Land Management Services highlight potential areas of concern during the construction phase and recommend measures to mitigate the impact of the development on the adjacent Site of Special Significance including erecting screening/fencing, considering the timing of works or undertaking checks by ecologists prior to works and reducing light and noise levels. To address these concerns it is recommended that a Construction Environmental Management Plan is submitted setting out how the construction phase will mitigate these concerns, this can be dealt with by condition.

To address the comments raised by Agriculture Countryside and Land Management Services and on behalf of La Société Guernesiaise regarding the potential impact of light pollution on wildlife, it is recommended that lighting details are provided, this can be dealt with by condition.

To address the comments raised by Agriculture Countryside and Land Management Services and on behalf of La Société Guernesiaise, it is recommended that a note is attached to the decision notice to make the applicant aware of the potential issues with disturbing animals which are protected under the Animal Welfare Ordinance 2012.

Through the submission of a Construction Environmental Management Plan and lighting and landscaping details, the impact of the development on the adjoining Site of Special Significance can be mitigated, in accordance with Policy GP2.

The application is supported by a Planning and Design Statement which sets out how the development has been designed to take into account sustainable design principles. The agent advises that the intention is to construct a dwelling with high

levels of thermal performance to exceed Building Regulation standards, the orientation of the building and positioning of fenestration seeks to maximise daylight whilst the overhanging roof seeks to mitigate the risk of overheating, a combination of under floor heating and fabric first construction techniques will provide a vast improvement on the efficiency of the existing building and low energy lighting and appliances will be used. A Waste Management Plan has been submitted which sets out how construction waste is to be minimised. The overall layout and form of the development and the information submitted is sufficient to demonstrate that the development has been designed to take into account the use of energy and resources, in accordance with Policy GP9.

In terms of its accessibility and adaptability, the replacement dwelling is over a single level with a lift access to the driveway and has clearly taken accessibility for all into account from inception and will be able to accommodate change in the future.

All material considerations as set out in the Land Planning and Development (Guernsey) Law, 2005 and the Land and Planning (General Provisions) Ordinance 2007 have been taken into account in the assessment of this application.

It is recommended that the application is approved.

Date: 13/04/2023