

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: Remove tree (protected tree).

LOCATION: Apartment G, Clifton, St. Peter Port.

APPLICANT: Mr R Ashton

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: 18/04/2023

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 05/12/2022 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: CCD drawing no: 3738 SV01A

Application Ref: FULL/2022/2251

Property Ref: A20121C000&A30091G000

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. Prior to the removal of the protected tree, the subject of this application, full details of the replacement trees to the rear (east) of Clifton, including the species, height and diameter of the trees when planted, shall be submitted to and agreed in writing by the Authority.

Reason - To ensure the species, height and diameter of the replacement trees are appropriate in the interests of visual amenity and bio-diversity.

4. 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 removal of the existing tree, or in accordance with a programme previously agreed in writing by the Authority. Any plants removed, dying, being severely damaged or becoming seriously diseased, within 5 years of planting shall be replaced in the following planting season by plants of a size and species similar to those originally required to be planted.

Reason - In the interests of visual amenity and bio-diversity.

Expiry Date: This permission will cease to have effect on 17/04/2026 unless development is commenced by that date.

ADVICE AND OTHER REMARKS:-

In light of the comments received from ACLMS, it is advisable not to include Maidenhair as part of the replacement tree planting scheme as this species is not native to the British Isles. An alternative and more appropriate species should be integrated as part of the replacement tree planting scheme.

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/2022/2251
Property Ref: A20121C000&A30091G000
Valid date: 05/12/2022
Location: Apartment G Clifton St. Peter Port Guernsey GY1 1JZ
Proposal: Remove tree (protected tree).

Applicant: Mr R Ashton

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. Prior to the removal of the protected tree, the subject of this application, full details of the replacement trees to the rear (east) of Clifton, including the species, height and diameter of the trees when planted, shall be submitted to and agreed in writing by the Authority.

Reason - To ensure the species, height and diameter of the replacement trees are appropriate in the interests of visual amenity and bio-diversity.

4. 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 removal of the existing tree, or in accordance with a programme previously agreed in writing by the Authority. Any plants removed, dying, being severely damaged or becoming seriously diseased, within 5 years of planting shall be replaced in the following planting season by plants of a size and species similar to those originally required to be planted.

Reason - In the interests of visual amenity and bio-diversity.

INFORMATIVES

In light of the comments received from ACLMS, it is advisable not to include Maidenhair as part of the replacement tree planting scheme as this species is not native to the British Isles. An alternative and more appropriate species should be integrated as part of the replacement tree planting scheme.

OFFICER'S REPORT

Site Description:

The application site features a granite cobbled parking area associated with 'Clifton', which lies on the opposite side (west) of the road. The parking area features a mature Ash tree which is subject to a Tree Protection Order.

The tree is setback from Clifton by approximately 10m. The planter which surrounded the roots had collapsed and has since been removed as shown in the agent's supporting information dated 8th June 2022.

The site is situated within a Main Centre Inner Area and Conservation Area as defined in the Island Development Plan.

Relevant History:

None germane to this application.

Existing Use(s):

Residential

Brief Description of Development:

Planning permission is sought to remove a protected Ash tree. The application seeks permission to offset the loss of the existing tree by planting two replacement trees within the rear garden of Clifton. The agent has noted in their covering letter that the trees will be comprised of Hornbeam, whereas two trees are referenced in the arboriculturist report namely, Maidenhair or Silver Birch.

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

GP1 Landscape Character and Open Land

Representations:

The Authority has received representation from one party objecting to the proposal. Grounds for objection principally relate to the following issues:-

- Advertisement.
- Removal of protective casing around the base of the tree.
- Loss of a tree within the street scene.

Consultations:

Agriculture, Countryside and Land Management Services (ACLMS)

Comments:

"I support the request to remove the existing ash tree but not for the reasons cited in either the Collette report or the covering letter from CCD. In my opinion the current tree cannot be retained in the longer term, not so much because of the exposure of part of the woody root system – trees can, subject to their capacity, adapt over time – but because of the increasing impact of the root buttress on the surrounding infrastructure including the surrounding block paved surface and the adjacent granite wall, which appears to have a retaining function for the land behind. The secondary reason is the inevitable spread of ash dieback. Once infected the tree is unlikely to survive and the risk of infection is likely to be close to 100% over the next four to five years because spores, which spread the disease from one site to another are windborne.

Whilst removal and replacement is a viable option the justification and worthwhileness of doing so, compared to the marginal benefit which the tree provides, is questionable. My reasoning for this view is that the principal amenity derived from this particular tree is almost entirely visual. Public visibility is limited to a large extent by its location and surroundings and whilst the tree can be seen from Clifton it is a quiet road. The majority of visual amenity is more enjoyed by surrounding residents (rather than the public), some of whom may see the tree as something which gets in the way of their views out to the harbour and beyond, rather than regarded as making a positive environmental contribution.

Replacement planting. *An assessment of Clifton shows that alternative sites for trees are not available because of the density of the building layout and their juxtaposition to the road. In an ideal world a site behind (to the west) and above the existing tree would provide suitable area for a replacement, however it is assumed none of these areas are owned by the applicant. The proposal to replace with two trees in a different location (east of the existing tree and behind the applicants property), would not offer a like for like replacement as far as Clifton is concerned. However*

because the area as a whole is sloped and terraced any replacements planted in this area will likely make an equivalent contribution to amenity, in time. Give the highly urban character of the landscape the choice of tree should take into account its broader impact both positive and negative. The proposed site for replacement was not assessed to determine appropriate species but the suggestions made by the Collenette report (maidenhair tree & silver birch) and in the CCD letter (fastigiate hornbeam) would be acceptable, notwithstanding the earlier comments on suitability assessment which should take into account adjacent infrastructure & buildings”.

Summary of Issues:

- Whether the loss of the tree is acceptable?

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).**

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.

Additional material considerations in relation to protected trees of the Land Planning and Development (General Provisions) Ordinance, 2007 and the statutory protection afforded to protected trees by the Land Planning and Development (Guernsey) Law, 2005, are other considerations that have also been taken into account in the assessment of this application.

Under Section 38 of The Land Planning and Development (Guernsey) Law, 2005 the Authority has a duty to pay “*special attention to the desirability of preserving and enhancing the character and appearance*” of Conservation Areas. This duty is encapsulated in Policy GP4 (Conservation Areas) which states that “Proposals that would result in the demolition of a building, structure or feature in a Conservation Area that contributes to the character, architectural or historic interest and appearance of the particular Conservation Area will only be supported where any replacement building, feature, structure or vacant site makes an equal or enhanced contribution to the character of that Conservation Area.”

Comments received from ACLMS states that the tree cannot be supported over the long term due to the ‘*increasing impact of the root buttress on the surrounding infrastructure including the surrounding block paved surface and the adjacent granite wall, which appears to have a retaining function for the land behind*’. For this reason, and coupled with some of the justification provided, in particular the abnormal dense ‘*block*’ of roots... *which has reduced lateral root development which*

can potentially compromise its stability and uptake of soluble nutrients', leads to the conclusion that the tree is inappropriately sited and is unable to be retained in good physiological health without damage to the surrounding area. It is therefore reasonable in this instance to remove one tree and offset the loss by replacing the tree with two new specimens in an appropriate location, as indicated on the block plan submitted.

Whilst the loss of the protected tree does have some amenity value to the appearance of the Conservation Area, the level of amenity from this 'feature' is not considered to be so substantial to require a replacement tree in the same position. It is therefore considered acceptable to plant two replacement trees in appropriate locations that will in time have a similar contribution to the appearance of the Conservation Area, either along Clifton, or in wider public views within the Conservation Area. The application is therefore compliant with Policy GP4.

Whilst the planting of either Hornbeam as noted in the agent's covering letter, or the of Silver Birch would be suitable replacements, the incorporation of Maidenhair is not native to the British Isles as noted in the comments from ACLMS and therefore it is recommended that this species (Maidenhair) is not planted as part of the replacement tree planting scheme. A condition requiring full details of the replacement trees prior to the removal of the protected tree, and an informative to advise not to use Maidenhair should be attached to the decision.

Overall, the aspirations of the homeowner have been acknowledged and are considered reasonable in this instance. On this basis, a reasonable balance is struck between recognising the special characteristics of the protected tree and the aspirations of the householder in accordance with the provisions of Policy GP1 and GP13 and the Law.

Based on the above, the removal of a tree and the planting of two replacement trees is compliant with the relevant Island Development Plan policies, the Law, and material planning considerations; it is therefore recommended that planning permission be granted, subject to conditions.

Other matters

In light of the representation received a new site notice has been displayed in accordance with the Land and Planning (General Provisions) Ordinance 2007.

Date: 18/04/23

