

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: Felling of trees (protected trees) (retrospective).

LOCATION: Chateau De Montagne, La Charroterie, St. Peter Port.

APPLICANT: Mr C Gilliland

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: 16/10/2023

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 21/12/2022 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: DRP drawing no: 3126-DR-002.

Application Ref: FULL/2022/2357

Property Ref: A405890000

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 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.

Expiry Date: This permission will cease to have effect on 15/10/2026 unless development is commenced by that date.

ADVICE AND OTHER REMARKS:-

Please see attached a Block Plan of the extent of the Tree Protection Order (TPO) to the rear of your property as part of the determination of this application. Please note that should you wish to carry out any future works within the TPO area including, top, lop, fell, or crown reduction measures, this may require planning permission and it is strongly advised that you contact the Authority to seek informal advice prior to undertaking such works.

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/2022/2357
Property Ref: A405890000
Valid date: 21/12/2022
Location: Chateau De Montagne La Charroterie St. Peter Port
Guernsey GY1 1EJ
Proposal: Felling of trees (protected trees) (retrospective).
Applicant: Mr C Gilliland

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 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.

INFORMATIVES

Please see attached a Block Plan of the extent of the Tree Protection Order (TPO) to the rear of your property as part of the determination of this application. Please note that should you wish to carry out any future works within the TPO area including, top, lop, fell, or crown reduction measures, this may require planning permission and it is strongly advised that you contact the Authority to seek informal advice prior to undertaking such works.

OFFICER'S REPORT

Site Description:

The application site comprises a end of terrace, 3 storey property located to the south of La Charroterie. Towards the rear of the property lies a dense area of landscaping, elevated above the property on an escarpment.

The area to the south of the property is recognised as forming an area of Protected Trees and falls within an Area of Biodiversity Importance (ABI), Conservation Area and Main Centre Outer Area as designated in the Island Development Plan. The ABI extends beyond the area of Protected Trees to link up with the woodland above and along Colborne Road.

A Tree Protection Order (TPO) (PT78) had previously been placed on this site along with four other connected parcels of land (CAD ref A407970000, A407770000, A40783B000, A40589B000 & A405860000). The first registered date of the TPO was on 25th July 2014 and the TPO was confirmed without modifications.

The description in the TPO entry is: "Area of semi-natural broad-leaved woodland including various species: Beech, Ash, Lime and Sycamore".

Relevant History:

FULL/2023/1414	Variation to plans previously approved for Change of Use from House of Multiple Occupancy (Use Class 6) to 3 Residential Dwellings (Use Class 1). Erect extension to south-east (rear) elevation, rebuild dormer windows to south-east (rear) elevation, raise ridge height of extension to north-west (front) elevation, extend to south-east elevation (1.5 storey) and internal works (Protected Building) - extend at first and second floor levels to rear of unit 1 (revised scheme).	Pending
FULL/2023/1341	Variations to plans previously approved for Change of Use from House of Multiple Occupancy (Use Class 6) to 3 Residential Dwellings (Use Class 1). Erect extension to south-east (rear) elevation, rebuild dormer windows to south-east (rear) elevation, raise ridge height of extension to north-west (front) elevation, extend to south-east elevation (1.5 storey) and internal works (Protected Building) - demolish and rebuild and alter Unit 3.	Pending

FULL/2023/0704	Variations to plans previously approved for Change of Use from House of Multiple Occupancy (Use Class 6) to 3 Residential Dwellings (Use Class 1). Erect extension to south-east (rear) elevation, rebuild dormer windows to south-east (rear) elevation, raise ridge height of extension to north-west (front) elevation, extend to south-east elevation (1.5 storey) and internal works (Protected Building) - Excavate, create raised terrace, alter steps and erect retaining walls (Protected Trees).	Pending
FULL/2023/0699	Variation to plans previously approved for Change of Use from House of Multiple Occupancy (Use Class 6) to 3 Residential Dwellings (Use Class 1). Erect extension to south-east (rear) elevation, rebuild dormer windows to south-east (rear) elevation, raise ridge height of extension to north-west (front) elevation, extend to south-east elevation (1.5 storey) and internal works (Protected Building) - extend at first and second floor levels to rear of unit 1.	Refused
FULL/2022/1769	Variation to previously approved plans for Change of Use from House of Multiple Occupancy (Use Class 6) to 3 Residential Dwellings (Use Class 1). Erect extension to south-east (rear) elevation, rebuild dormer windows to south-east (rear) elevation, raise ridge height of extension to north-west (front) elevation, extend to south-east elevation (1.5 storey) and internal works (Protected Building) - Erect single storey extension to rear of Unit 2.	Granted
FULL/2022/0946	Change of use from House of Multiple Occupancy (Use Class 6) to 3 Residential Dwellings (Use Class 1), erect extension to south-east (rear) elevation, rebuild dormer windows to south-east (rear) elevation, raise ridge height of extension to north-west (front) elevation, extend to south-east elevation 1.5 storey, and internal works. (Protected Building).	Granted
FULL/2014/2792	Extend and alter and convert property into three residential units (protected building).	Granted

Existing Use(s):

Residential

Brief Description of Development:

Planning permission is sought to retrospectively fell a group of protected trees to the rear of the property.

The application is accompanied by an arboriculturist report which describes stumps of five species of tree that have been cut, but not removed, which include ash, holly, elm, bay laurel and sycamore.

No indication is given in the arboricultural report as to how many trees were cut in total, although none of the trees were described as large or mature, and a significant proportion of the trees remain.

Emergency works were granted in respect of felling a Sycamore tree which was heavily leaning over a car park and toward a property, which could result in damage to property or life. It was proposed to leave the stump to reshoot, and on the clear justification provided, it was acceptable to enable this aspect of the proposal to be carried out under powers for emergency works.

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

GP1 Landscape Character and Open Land
GP4 Conservation Areas
GP5 Protected Buildings
GP13 Householder Development

Representations:

None.

Consultations:

Agriculture, Countryside and Land Management Services (ACLMS) comments:

Observations and conclusions

The area which has had trees felled forms part of an important woodland area and forms part of an ABI which extends up toward, and including, Montville Drive. The benefits of the wooded area include screening existing development, softening the impact of an urban area, moderating particulate air pollution, attenuating traffic noise as well as offering a semi-natural habitat to a range of flora and fauna.

It is difficult to make a full assessment of the visual impact of removing the trees, due to the absence of available photos taken before the trees were felled. Aerial photos taken in 1979, 1990, 2016 and 2019 (see below) indicate that woodland cover has been present for at least 25 years and the area has been relatively stable in terms of tree cover.

Photographs in the Collenette report show some of the felling and the photographs above, in this report, suggest that the woodland is now less dense than it was, when

viewed from the side. In terms of the impact on the woodland in general, this is likely to be limited in the medium term because many of the stumps have resprouted and within 5-10 years will have filled out the gaps created. Therefore the assertion, that it is not worthwhile replanting with new trees to compensate for loss, is supported because new trees would struggle to establish in the shade and would be quickly out competed by the re-growth of cut trees.

No clear justification for the cutting of trees has been offered other than “..improving the area which was overgrown and in desperate need of maintenance..” as cited in the DRP letter. Management requirements for natural and semi-natural woodland vary according to what is wanted from them, whether that be timber, wildlife, general amenity or a combination of these and other benefits. Generally, common drivers for the removal of trees include things like risk management, gaining more light, or regaining lost views. However the application gave no specific reason along these lines. From a woodland management perspective it could be inferred that trees were being removed from a site, described as “overgrown”, to gain better access to the woodland but it could also indicate an intention to make the area a garden which may represent a change of use which would be inconsistent with its current status as a semi-natural woodland. More legitimate reasons might include the removal or suppression of non-native species, in favour of native species or improving light penetration to support understorey native vegetation. None of these reasons were offered in the retrospective application.

Consequently, although the visual impact of removing the trees is relatively low and will be mitigated by future growth, the retrospective application, as it stands, does not contain sufficiently cogent reasons to justify approval.

Proposed felling of Sycamore

The proposal to fell the Sycamore, leaving a stump to reshoot, is based on a clear justification, that of mitigating an unacceptable risk ie failure of whole or part of a tree which is heavily leaning over a car park and toward a property, which could result in damage to property or harm.

Summary of Issues:

- Whether the felling of the trees 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.”

Similar statutory and IDP policy considerations are engaged in relation to preserving the special interest of Protected Buildings, including their settings, under Policy GP5 and the Law. Despite the felling of these trees, the proposal does not adversely affect the setting of the protected building.

As noted by ACLMS, orthophotographs indicate that woodland cover has been relatively stable for at least 25 years within the area in question.

The application was deferred to understand why these trees were felled for contextual purposes, although the applicant/agent has not responded to this specific request.

Despite the lack of justification provided as part of this application, the main question is whether the works undertaken are acceptable or not.

The Law seeks to protect trees as far as possible, therefore felling the trees is condemned given that no pre-application advice was sought prior to felling, nor was the submission of a formal application prior to felling, nor has any justification been provided as part of this retrospective application to understand the context for the application.

However as set out in ACLMS’ report, the visual impact of removing the trees is relatively low and will be mitigated by future growth given that the trees have been removed in their entirety. Appropriate mitigation measures have been considered, including additional tree planting, although as indicated in ACLMS’ report, the new planting would soon be outcompeted by the regrowth of the existing tree stumps

and therefore would nullify the effectiveness of this mitigation measure. This is explained below:

“In terms of the impact on the woodland in general, this is likely to be limited in the medium term because many of the stumps have resprouted and within 5-10 years will have filled out the gaps created. Therefore the assertion, that it is not worthwhile replanting with new trees to compensate for loss, is supported because new trees would struggle to establish in the shade and would be quickly out competed by the re-growth of cut trees.”

In light of the above consideration, the felling of the trees in the manner undertaken i.e. by retaining the tree stumps and allowing the trees to re-establish in the medium term, has not resulted in an unacceptable harm to the area of protected trees, ABI, Conservation Area or setting of the protected building.

An informative should be attached to the permission to outline the extent of the TPO and to contact the Authority prior to any future works within the TPO area.

On this basis, the proposal 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.

Date: 11/10/23

