

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: Demolish dwelling and erect 5 apartments with associated parking and landscaping.

LOCATION: Ana Capri, Havelet, St. Peter Port.

APPLICANT: Ana Capri Limited

I refer to the application referred to below received as valid on 02/02/2023 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 05/06/2023

Drawing Nos: DRP Architecture: 3139-DR-002, -101, -102, -103, -104, -105, -200, -201, -202, -203 & -300.

Application Ref: FULL/2023/0273

Property Ref: A407320000

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 proposed replacement building fails to make an equal or enhanced contribution to the character of the Conservation Area relative to the existing building at the site, and does not conserve or enhance the special character of that Conservation Area. The proposed development would be contrary to Policies GP4 (Conservation Areas), GP8 (Design) and GP9(b) (Sustainable Development) and would not meet the statutory duty in respect of Conservation Areas.
2. The proposed development would alter the composition of the building group along Havelet and would have an adverse effect on the setting and therefore the special interest of nearby protected buildings, contrary to Policies GP5 (Protected Buildings), GP8 (Design) and GP9b) (Sustainable Development) and would not meet the statutory duty in respect of protected buildings.
3. The proposed development does not achieve a good standard of architectural design which respects the character of the local built environment, contrary to Policy GP8a)&c) (Design).

4. The submitted application does not include sufficient information to demonstrate that the health and well-being of neighbours of the development by means of providing adequate daylight, sunlight and private/communal space has been considered, or that the development will not have unacceptable impacts on the amenities of neighbouring properties. The proposed development would be contrary to Policies GP8(d) (Design) and GP9(b) (Sustainable Development).

5. The submitted application does not include a Site Waste Management Plan, contrary to the requirements of Policies GP9 (Sustainable Development) and MC2 (Housing in Main Centres and Main Centre Outer Areas).

6. As the proposal does not meet all relevant policies of the Island Development Plan, the presumption in favour of residential development contained within Policy MC2 (Housing in Main Centres and Main Centre Outer Areas) is rebutted.

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/2023/0273
Property Ref: A407320000
Valid date: 02/02/2023
Location: Ana Capri Havelet St. Peter Port Guernsey GY1 1BB
Proposal: Demolish dwelling and erect 5 apartments with associated parking and landscaping.
Applicant: Ana Capri Limited

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The proposed replacement building fails to make an equal or enhanced contribution to the character of the Conservation Area relative to the existing building at the site, and does not conserve or enhance the special character of that Conservation Area. The proposed development would be contrary to Policies GP4 (Conservation Areas), GP8 (Design) and GP9(b) (Sustainable Development) and would not meet the statutory duty in respect of Conservation Areas.
2. The proposed development would alter the composition of the building group along Havelet and would have an adverse effect on the setting and therefore the special interest of nearby protected buildings, contrary to Policies GP5 (Protected Buildings), GP8 (Design) and GP9(b) (Sustainable Development) and would not meet the statutory duty in respect of protected buildings.
3. The proposed development does not achieve a good standard of architectural design which respects the character of the local built environment, contrary to Policy GP8a)&c) (Design).
4. The submitted application does not include sufficient information to demonstrate that the health and well-being of neighbours of the development by means of providing adequate daylight, sunlight and private/communal space has been considered, or that the development will not have unacceptable impacts on the amenities of neighbouring properties. The proposed development would be contrary to Policies GP8(d) (Design) and GP9(b) (Sustainable Development).
5. The submitted application does not include a Site Waste Management Plan, contrary to the requirements of Policies GP9 (Sustainable Development) and MC2 (Housing in Main Centres and Main Centre Outer Areas).
6. As the proposal does not meet all relevant policies of the Island Development Plan, the presumption in favour of residential development contained within Policy MC2 (Housing in Main Centres and Main Centre Outer Areas) is rebutted.

OFFICER'S REPORT

Site Description:

The property is located on the south-east side of Havelet, abutting that road, with levels reducing away from the roadside. The property comprises a single dwellinghouse, 2 storey at the roadside and 3½ storey within the site. Residential properties are located to the north and across the road to the north-west, and a hotel to the south. A parking area is provided adjacent to the south boundary, of sufficient size to provide a single standard parking space.

The property is located within a Conservation Area and Main Centre Inner Area in the Island Development Plan. The properties to the north, south and across the road to the north-west are protected.

Relevant History:

FULL/2016/0308 Extend and sub-divide dwelling to create two residential units, remove small section of railings to increase parking area, increase height of boundary wall on south elevation and carry out hard landscaping (Protected Building). Approved 07/06/16

PREA/2018/0105 Pre-application advice regarding demolition and construction of 3 apartments.

The building, together with the roadside railings, was first protected in 1974, and was transferred to the protected buildings list in 2009, with the introduction of the Land Planning and Development (Guernsey) Law, 2005. Under S33(1) of that Law, the Authority has a duty to maintain and keep up to date the protected buildings list and, as part of that duty, the Criteria for the Selection of Buildings for the Protected Buildings List (Conservation Advice Note 6) was published in May 2016. The building at this site was reviewed against the criteria set out in that document in 2022. The building was not found to meet the specified criteria and, consequently, was removed from the protected buildings list. The building is therefore no longer a protected building.

Existing Use(s):

Residential Use Class 1

Brief Description of Development:

Permission is sought to demolish the existing dwelling and erect 5 apartments, 2no 1 beds and 3no 2 beds. Parking for 4 vehicles would be provided along the roadside. The garden space to the rear of the site would be retained for the bottom apartment and each of the upper apartments would be served by a roof terrace. A bike and communal store would be provided within the building.

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

MC2	Housing in Main Centres
GP4	Conservation Areas
GP5	Protected Buildings
GP8	Design
GP9	Sustainable Development
IP6	Transport Infrastructure and Support Facilities
IP7	Private and Communal Car Parking
IP9	Highway Safety, Accessibility and Capacity

Representations:

11 letters of representation received from or on behalf of 7 persons and the adjacent Hotel raising the following points:

- The application description is too narrow, with no reference to the creation of parking;
- Section F of the application form should be “Yes” in respect of works to the shared gable with the adjoining protected building;
- The policies cited in the application material are not comprehensive, nor are the references to the Law or material considerations;
- There is no Statement of Significance, Waste Management Plan or sustainability appraisal;
- The existing building is a historic building that was previously listed, items of internal interest were highlighted under the previous application for conversion and any later additions are set away from the road, with the building adjacent to the road being original. The building should still be listed and preserved;
- The reason and method of de-listing is queried;
- The reason for original listing is believed to include the unusual shape and that the building forms an integral part of a row of buildings which were all protected;
- There is an ancient Yew Tree in the grounds and it is queried why this is not protected;
- The existing building does not detract from the character of the Conservation Area or setting of the nearby protected buildings to such an extent that demolition would automatically result in positive enhancement;
- The proposed building’s scale, depth of plan, flat roofed, tiered and slab-fronted/sided form, jarring palette of materials, orientation and position within the site, and the provision of roadside parking spaces resulting in the total loss of existing roadside enclosure would starkly contrast with and detract from the Conservation Area and nearby protected buildings;
- The proposals would represent overdevelopment of the site which contrasts with the predominantly traditional form, appearance and character of development in the immediate locality;

- References to Mont Havelet Court are misleading, as that development did not replace a protected building and the road frontage is sympathetic;
- The road frontage has no relationship to the existing frontage or to the adjoining protected buildings;
- The increase in size will almost completely remove the only public viewpoint in Havelet looking down the valley to the castle, contrary to the comments made in the St Peter Port Conservation Area Appraisal, Part 2, Study of the Hillside Town which seeks to conserve view corridors and glimpsed views. An application was recently refused under FULL/2023/0053 on a similar basis;
- The application does not address the statutory duties in relation to protected buildings, or Policy GP5, and does not include any assessment of significance;
- The development would detract from the setting of adjacent protected buildings;
- The application does not demonstrate how the exposed gable of Villa Fallaise would be supported/made good and would retain a narrow gap between the properties which would be unserviceable;
- Parking provision will impact on the amenity of the proposed units;
- Terraces will suffer from overlooking from the one above;
- The proposal will result in considerably more traffic on a narrow road;
- Parking provision is inadequate for the number of units proposed and does not include turning;
- Cycle storage is accessible by steps only and does not comprise good accessible design;
- The difference in levels to the hotel site to the south would result in a disproportionately greater overbearing and overlooking impact on guests relaxing in the hotel grounds/swimming pool, likely to have a long-term harmful impact on the operation, contrary to the States 'Revive and Thrive' Strategy which should be given material weight;
- The proposal would result in overbearing, overshadowing and overlooking of the property to the north. The orientation of the building and terraces will result in overlooking, notwithstanding the inclusion of privacy screens;
- The proposal, particularly the roof form and colour, would appear incongruous when viewed from the higher properties to the west;
- Potential impacts of excavation and works on stability of surrounding structures;
- The drain for the property runs through the garden of the adjoining property and any additional connections would require permission of the owners of that property, which is unlikely to be forthcoming;
- Implementation would result in a lengthy and disruptive period of demolition and construction works, generating noise, dust and road closures to the detriment of the adjoining hotel and residential properties.

Consultations:

None.

Summary of Issues:

Principle of development;
Design and impact on the character of the Conservation Area;
Impact on the setting of nearby protected buildings;
Amenity of the proposed units;
Provision of access and parking;
Impact on neighbour amenity;
Sustainable development.

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).**

Principle of development

Policy MC2 (Housing in Main Centres and Main Centre Outer Areas) supports residential development where, as in this case, the proposal would result in a mix and type of units which addresses identified housing requirements in the Island. That policy however requires a proposal to comply with all other relevant policies of the Plan and provision of a Site Waste Management Plan. These elements are addressed below.

Impact on the character of the Conservation Area

The application site lies within the St Peter Port Conservation Area and forms part of the Hillside Town, as described with the St Peter Port Conservation Area Appraisal (SPP CAA). Policies GP4 (Conservation Areas), GP8 (Design) and GP9b (Sustainable Development) apply in relation to development within Conservation Areas, and the statutory duties of the Law must be met.

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'.

In addition to the above, 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 and are addressed in this and following sections of the report:

- (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,
- (e) the likely effect of the development on roads and other infrastructure, traffic and essential services,
- (i) the likely effect of the development on the reasonable enjoyment of neighbouring properties.

The application includes the demolition of the existing building at the site. Whilst the existing building is no longer protected, by virtue of its positioning relative to the roadside and adjacent properties, building form and proportions, it does form a feature within the Conservation Area. Policy GP4 only allows for the demolition of such buildings where the replacement building makes an equal or enhanced contribution to the character of the Conservation Area.

Part 2 of the CAA is a study of the Hillside Town, which includes assessment from a number of public views. The application site is visible in views to the Hillside Town from Castle Cornet and will be visible in many other views from the Harbour/Marinas. Within these views, the application site is seen in the context of domestic scale buildings with vertical proportions, high solid: void ratios and pitched roofs. At the distance of the harbours and marinas the site is perceived in a wider context of a group of buildings with some green landscape and private gardens. The individual architectural characteristics of the building can be seen. The application site is at the top of the third tier of the hillside town, above the modern redevelopment of the Havelet breweries and group of trees at Havelet, and below the modern development of flats at George Street.

Section 5 of the study provides a series of development guidelines. Paragraphs 5.11 and 5.12 (page 33) are relevant to this application, and comment as follows:

5.11. There are few empty sites that are available for development within the Hillside Town. However, buildings often go through an economic cycle which can result in their demolition and rebuild or major refurbishment. Some such buildings have been demolished and redeveloped in recent years (e.g. Havelet Brewery).

5.12. Small-scale regeneration is more likely to produce 'background buildings' which sit comfortably into their context and, although having good architectural quality in themselves, are not designed to stand out in the street or the Hillside Town.

The application is supported by a photomontage of the development from Castle Cornet. Although the proposed development does not replicate the traditional form or

appearance of the existing building, it has a similar scale to adjacent buildings and it does have some characteristics of traditional buildings (e.g. vertical proportions and rendered walls). Furthermore, the development sits above the modern Havelet Brewery Development and below the modern flats at George Street. Given the above, the development will not have a negative effect on the character and appearance of the Hillside Town in the long views identified above.

The property however fronts on to Havelet to the west. Havelet is a very narrow, one way road that winds down the hill and the positioning of surrounding built form and boundary treatments, together with the topography of the area, limits views of the application site to a short stretch of road to the north, immediately adjacent to and to the south-west of the site. Views are not available across the Hotel grounds, from the road to the south. At its northern end the road is enclosed by two and three storey buildings that step down to follow the underlying topography and face onto the street. The buildings combine with occasional tall boundary walls to provide enclosure to the street, which forms the defining character of this part of the Conservation Area. The existing building on the site contributes to this character, positioned immediately on the roadside and reflecting the predominant architectural components found on the surrounding buildings. The building is fortuitously located at a focal point in the winding street when viewed from the north. It also forms the end of the terrace of buildings along the northern part of the road, after which the enclosure is briefly lost providing a fortuitous glimpsed view across the Havelet Valley (see SPP CAA for the importance of glimpsed views), before the enclosure is maintained by a tall boundary wall. The contrast between the enclosure of the street and the glimpsed view is part of the character of this part of the Conservation Area.

To a degree the proposed development will keep the enclosure and active frontage of the street. However, because the building is set back from the front building line (to create a space for car parking), it does not follow the established building line. Thus the enclosure and character of the street is eroded. Furthermore, the development will introduce car parking in front of the building, which is not a characteristic of this street. The glimpsed public view across the Havelet Valley is kept, but it will be reduced and partially obscured by the triangular structure that extends out of the building.

The architectural composition of the elevation that faces Havelet does not replicate the traditional, pitched roof, C19th buildings in this part of the Conservation Area. Whilst the Plan does not preclude contemporary approaches to redevelopment, it does require such development to achieve a particularly high standard of design within Conservation Areas (Policy GP8). In this case, whilst some of the building's composition could be argued to be drawn from the characteristics of the buildings in the street (such as the solid: void ratio and vertical proportions), overall its architectural composition does not respect the street-scene. Furthermore, whilst some of the materials/colour palette (such as render/white) replicate those of surrounding traditional buildings, brick is not a prevalent material in the Conservation Area (and where brick is used it is a red brick). Whilst the use of red oxide metal standing as a contrast/feature material could be successful, the architectural composition and use of blue brick would not conserve or enhance the character of the Conservation Area.

Overall, the proposed replacement dwelling, by virtue of its positioning on the site, architectural composition and materials, would not conserve or enhance the character of the Conservation Area when viewed from the adjoining road, and would not make an equal or enhanced contribution to that character when considered against the contribution of the existing building. The proposal would not therefore comply with the requirements of Policies GP4 (Conservation Areas), GP8 (Design) or GP9b (Sustainable Development) and the statutory duties of the Law would not be met.

Impact on the setting of nearby protected buildings

Villa Fallaise (PB936 A407310000) abutting the north side of the application site, Havelet Court (PB935 A407300000) located to the north of that building, Bel-Voir (PB934 A407290000) located to the north-west of Havelet Court and 5 Havelet (PB943 A407670000) located across the road to the west of the application site, are all protected buildings.

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 15 to Part IV of The Land Planning and Development (General Provisions) Ordinance, 2007, sets out additional material considerations that apply to protected buildings, referring back to the considerations set out under Section 14 in respect of protected monuments, of which the following is relevant:

- a) the desirability of preserving the special interest by reason of which the protected monument is listed,
- b) the opportunity that the development may afford to restore, enhance or improve the protected monument **or its setting** [emphasis added].

Policy GP8 states that, within areas of higher protection, such as, inter alia, where development relates to protected buildings or their settings, development will be expected to conserve the particular special interest of those buildings and refers further assessment to the relevant policy relating to protected buildings, namely Policy GP5. The policy text to Policy GP5 is not directly applicable in this case, where works are not proposed directly to a protected building, however the pre-facing text states that policy provides for appropriate development, and to manage change, of the historic environment in order to secure, as far as possible, the particular special interest of protected buildings whilst at the same time taking into consideration the requirement

to meet the social and economic aims of the States of Guernsey and the reasonable aspirations of property owners. Policy GP9b) states that proposals for new development will be supported where it has been demonstrated that, inter alia, the development will not have an adverse effect on the special interest of protected buildings.

In this case the protected buildings identified above are grouped on either side of Havelet, fronting onto that road. The relationship of each building to the road, and to the adjacent properties, forms an important part of the setting of each building and, as identified above, the street scene of Havelet.

As set out above, the proposed development would alter the relationship of the building at the application site with both the adjoining properties and the roadside, repositioning the building away from the established building line and removing the enclosure characteristic of this part of Havelet and forming an important part of the setting of the protected buildings. This negative effect on the setting of the protected buildings would be further compounded by the colour and material palette proposed for the elevation of the proposed replacement building facing the road. In conclusion, the proposed development would alter the composition of the building group along Havelet and consequently negatively affect the setting of the protected buildings.

Whilst the development would bring benefits (such as provision of additional housing), the housing is for private sale and equal or similar benefit would accrue if the site was developed with an alternative scheme which conserved the special interest of the protected buildings. The benefits of the development would not therefore outweigh the effect on the setting of the protected buildings to the north and west of the site. The proposed development would therefore be contrary to Policies GP8 and GP9b), would not be permissible under the pre-facing text to Policy GP5 and the statutory duty in respect of protected buildings cannot therefore be discharged.

Hotel De Havelet (PB938 A407340000) is located approximately 30 metres to the south-east of the application site. This is a grand building set within substantial grounds. The setting of that building has however already been affected by modern buildings/extensions, including those undertaken to the north of that building, between the protected building and the application site. Given the scale and appearance of the proposed building, its distance to the protected building and the extensions which have been undertaken to the protected building, the application would not negatively affect the setting of that building.

Design

Policy GP8 (Design) sets out a number of criteria which development will be expected to address to ensure that a scheme achieves high standards of design which respect the character of the environment, in addition to the requirements addressed above.

The proposed development is multi-storey, and achieves an effective and efficient use of land, within the limits of the character of the area and constraints imposed by surrounding development. The design of the proposed building itself, and its external

spaces, positively respond to the specific site, however, as set out above, the building has not been designed to respect its context and cannot therefore be considered to achieve a good standard of architectural design which respects the character of the local built environment.

Soft landscaping provision is limited to a small strip along the south-east boundary of the site. Taking into account the prevailing urban character of this area, and existing provision on site, provision of additional soft landscaping would not be essential to the acceptability of the development, however reinforcement of the south-east boundary could provide some mitigation of impacts on the adjacent hotel premises.

The proposed development would provide a layout which addresses Lifetime Homes criteria, and therefore is considered to demonstrate accessibility and adaptability of accommodation.

Whilst meeting the terms of Policy GP8 b), e), f) & g), the proposal would therefore fail to meet the requirements of Policy GP8 a) and c). Part d), in relation to the impacts on the health and well-being of the occupiers and neighbours of the development, is addressed below.

Amenity of the proposed units

The size of the proposed units exceeds the requirements of the Guernsey Technical Standards and meets or exceeds the best practice guidance set out within the DCLG Technical housing standards – nationally described space standards.

Taking into account the positioning of the fenestration serving the proposed units, each unit would generally achieve a good level of privacy, daylight and sunlight. However it is noted that the triangular structure to the south-east elevation may impact on light to and outlook from the windows over which it is to be constructed.

Persons accessing the Level 1 unit would have to pass adjacent to the windows serving the Level 2 unit, however the Level 1 unit provides single bedroom accommodation and the intensity of use is not considered to be likely to significantly impact on the amenity of the Level 2 unit. Furthermore there may be opportunities to mitigate any such impact, such as the introduction of features to direct the path of travel away from the windows of the Level 2 unit.

Windows facing onto the proposed parking area are limited in size, do not form the primary window serving habitable accommodation, and are elevated in the elevation. The provision of parking as proposed would not therefore adversely impact the amenity of the unit proposed at that level.

Each of the upper floor units is provided with external space in the form of a roof terrace, and would benefit from an outlook over the Town towards the sea. The Level 1 unit may not benefit from the same views as the upper level units, however would have access to a larger garden space, generous for the size of unit proposed. The space for each of the upper units would not be extensive and, with the exception of the top floor

unit, all of the terraces and the garden space for the lower unit would be overlooked by the terrace of the unit above. It is however recognised within the Island Development Plan (Annex I: Amenities) that a flat in Town is unlikely to provide the same extent of amenities as elsewhere, and that deficiencies in amenities provision in other areas, such as physical access to open space, can be compensated for by good standards of aspect and outlook. In this case therefore, the provision of external space, albeit compromised, is welcomed and any deficiencies are considered to be offset by the good outlook achieved from the primary living areas. Furthermore, were the application to be approved, overlooking of adjacent terraces could be mitigated to some extent through the positioning of the balustrade at each level, and the use of an obscure finish.

On balance, it is considered that, whilst the amenity of the proposed units may be compromised in some respects, the units would be provided with adequate daylight, sunlight and external space and the design has considered the health and well-being of the occupiers of the development, in accordance with Policy GP8(d) (Design).

Provision of access and parking

The application is for 2 no 1 bed apartments and 3 no 2 bed apartments. For housing of less than 3 habitable rooms, as is the case for the 1 bed apartments, the Parking Standards state that parking provision will be assessed on its merits. For housing of 3-4 habitable rooms, as is the case for the 2 bed apartments, the Standards set out a maximum provision of 2 spaces per unit. The submitted plans propose the provision of 4 vehicle spaces, falling well within the maximum parking standards. The site is well related to the main centre of St Peter Port and, in this context, the parking provision proposed is acceptable in respect of Policy IP7 (Private and Communal Car Parking).

In terms of road safety, the proposal would result in an increase in the number of units and number of parking spaces at the site. On balance, three additional vehicles using the road is not however considered a significant intensification. The width and configuration of the road, together with its one-way designation and the visibility from the proposed spaces, would limit any road safety concerns regarding manoeuvring on the road to enter the proposed spaces. The proposal is therefore considered acceptable in respect of Policy IP9 (Highway Safety, Accessibility and Capacity).

Cycle storage is identified within a communal store area within the building envelope and would be ample for the proposed number of units. This storage would be accessible only by the external steps, however the Design Statement notes that a wheel channel would be cast into the steps to facilitate use. Whilst this would not comprise an entirely accessible approach, taking into account the constraints of this site, it could be acceptable. Cycle parking for visitors is provided adjacent to the proposed parking area, however these would not be accessible were the parking in full use. On balance, the proposed cycle storage would meet the terms of Policy IP6 (Transport Infrastructure and Support Facilities).

Impact on neighbour amenity

Villa Fallaise to the north

The adjacent property to the north (Villa Fallaise) has a glazed element extending across the rear elevation and a raised decking area incorporating a pool located immediately to the rear. Aerial photographs from April 2019 and 2022 show that the existing building at the application site results in some overshadowing of the external amenity space of the adjacent property.

The replacement building proposed under this application extends beyond the existing rear building line of the building at the application site and would increase the bulk of built form beyond the building line of the adjacent property, although it is noted the upper levels (above Level 2) are set off the boundary. Levels 1 & 2, as shown on the submitted plans, would be located below the height of the existing boundary wall and would not therefore impact on the adjoining property in any way. On the basis of the information available, it appears likely that the proposed development would cause greater overshadowing (daylight and sunlight) of the rear amenity space, and potentially the glazed extension, of the adjoining property. There is however insufficient information to fully assess the extent of that impact and, were the application otherwise acceptable, a sunlight study would be required to show the shadows cast by the existing and proposed development at the following dates times: 21st December, 21st September/March and 21st June at 8 am, 12 noon and 4:00pm.

The application drawings show privacy screens to the north elevation of the terraces serving Levels 3, 4 & 5 to prevent overlooking of the amenity space of the adjacent property to the north. Taking into account the orientation and positioning of those terraces, it is likely that this would prevent overlooking from the Level 3 terrace, however oblique views may be possible of the decking area associated with the adjacent property from the Level 4 & 5 terraces. There is also a door from the communal stair accessing the roof at Level 3, adjoining the boundary, for maintenance purposes, however it is unclear what measures might be proposed/required, either for the safety of those accessing the roof or the protection of the privacy of the adjacent property.

The existing building is attached to the gable of Villa Fallaise. Following demolition of the existing building, the submitted information indicates that assessment of the party wall will be required to ascertain what works are required to that wall. This can be controlled by condition. The proposed replacement building is then to be set away from that wall, with a small gap retained between the buildings. Concerns are raised in the representations regarding the potential impacts on the fabric of the protected building, and the ability to undertake maintenance, arising from the narrow width of the intervening gap and it is agreed that this would benefit from further review. The potential for any damage to and protection of the protected building during the course of work would be the responsibility of the owner/developer.

Hotel De Havelet to the south

The buildings of the hotel are located approximately 11 metres from the boundary with the application site, with the conservatory housing the swimming pool and adjacent patio area facing the application site.

The existing building has 10 sliding sash and 2 dormer windows serving the upper three floors and located approximately 7 metres from the south boundary. The existing windows do look into the adjacent hotel and its grounds, however the set back from the boundary, differing levels and orientation of the elevation provides some limitation on the impact.

The proposed building would be located approximately 3 metres from the south-eastern boundary, and would incorporate a number of windows at the upper levels in the facing elevation and the upper level terraces would also provide views into the adjacent site. A sunlight study would be required to demonstrate that the proposal would not result in unacceptable overshadowing of the adjacent grounds. Whilst the triangular structure over the westernmost windows may serve to limit views into the hotel grounds from those windows, the remaining windows will be more intrusive than the existing situation and will affect the privacy and amenity of the adjacent hotel site.

No 5 Havelet to the west

The existing building at the application site and No 5 are both located immediately on the roadside, with facing elevations incorporating fenestration separated by only c3.2m. The set back of the building frontage proposed under this application and the design, positioning and purpose of the fenestration proposed in the roadside elevation would result in a reduced impact on No 5. The orientation and offset of the parking spaces should limit any impacts which might arise from the introduction of parking along the property frontage.

Taking into account the above, the application does not fully consider the health and well-being of neighbours of the development in respect of daylight, sunlight and privacy, and it is not demonstrated that there would not be adverse effects on the amenities of neighbouring properties. The proposal cannot therefore be found acceptable in respect of Policies GP8d) (Design) or GP9b) (Sustainable Development).

Sustainable Development

A separate Sustainability Appraisal has not been provided as part of the application, however the required information is embedded within the written submission.

The submitted information states that, whilst designed to maximise views to the east, the proposed building is designed to take advantage of the south elevation to provide natural daylight, and the building configuration has been considered to ensure the best use of that light. The proposal is also stated to include extended window reveals and frames to provide additional solar shading in summer and solar gain in winter.

Energy and water efficiency are to be considered throughout the development, in accordance with the Guernsey Technical Standards and demolition materials will be recycled/reused where possible. The proposed materials are also stated to reduce the future need for maintenance.

Overall the submitted information is sufficient to demonstrate that the design takes into account the use of energy and resources and any adverse impact on the environment, in accordance with Policy GP9a) (Sustainable Development).

A Site Waste Management Plan has not however been submitted as part of the application, and the proposal does not therefore meet the requirements of Policy GP9 in that respect. Whilst a decision on the application could be deferred to seek submission of this information, given the fundamental issues raised above it is not considered reasonable to do so in this case.

Other matters

Matters raised in respect of the application description and completion of the application form are noted however, as the application is recommended for refusal, it is not considered in the public interest to require either re-advertisement or resubmission of the application form in this case.

An overview of the approach to the review and subsequent removal from the Protected Building list is set out under the Relevant History above.

The Yew Tree raised in representation is not identified, however it is assumed to be the plant at the front of the site, at the junction between the road and the building. This tree is of limited visibility within the surrounding area and does not make a significant contribution to public amenity, therefore it is not referred for consideration for a Tree Protection Order. There are no other trees of substance within the site area.

The provision of drainage and potential legal restrictions have been raised with the agent for the application. No response has been received, however it is noted that this is a third party matter and the grant of planning permission would not override any existing third party rights or privileges.

Any form of development, and particularly when located in a high density residential area, will give rise to a level of disturbance during the course of construction. Separate legislation falling within the remit of the Office for Environmental Health and Pollution Regulation is however designed to manage construction activities to minimise such impacts.

Conclusion

The existing building at this site, by virtue of its position relative to the established building line along the street, form, design and materials, contributes to the character and appearance of the Conservation Area. The proposed replacement building does not follow the established building line, resulting in a loss of enclosure to the street, and the architectural composition and materials proposed do not respect the surrounding development. In addition, the proposal would result in the unnecessary erosion of the glimpsed view of Havelet currently gained through the site. The proposed replacement building therefore fails to make an equal or enhanced contribution to, and does not conserve or enhance, the special character of the Conservation Area. Consequently, the

proposed development would be contrary to Policies GP4 (Conservation Areas), GP8 (Design) and GP9(b) (Sustainable Development) and would not meet the statutory duties in respect of Conservation Areas.

The proposed development would alter the composition of the building group along Havelet and consequently would negatively affect the setting of the protected buildings along that road, contrary to Policies GP8 and GP9b), and would not be permissible under the pre-facing text to Policy GP5. The statutory duty in respect of protected buildings cannot therefore be discharged.

As set out above, the building has not been designed to respect its context and cannot therefore be considered to achieve a good standard of architectural design which respects the character of the local built environment, contrary to Policy GP8a)&c) (Design).

The application does not include sufficient information to demonstrate that the health and well-being of neighbours of the development by means of providing adequate daylight, sunlight and private/communal space has been considered, or that the development will not have unacceptable impacts on the amenities of neighbouring properties, and does not therefore meet the terms of Policy GP8(d) (Design) or GP9(b) (Sustainable Development).

The submitted application does not include a Site Waste Management Plan, contrary to the requirements of Policies GP9 (Sustainable Development) and MC2 (Housing in Main Centres and Main Centre Outer Areas).

As the proposal does not meet all relevant policies of the Island Development Plan, the presumption in favour of residential development contained within Policy MC2 (Housing in Main Centres and Main Centre Outer Areas) is rebutted.

In light of the above it is recommended that the application be refused.

Whilst not forming part of the reasons for refusal, there are other elements of the proposed development which would merit further consideration were a revised scheme to be pursued, including:

- Relationship between shared spaces and windows into private spaces;
- Interfaces between private external amenity spaces;
- Accessibility of cycle provision.

Date: 05/06/2023

