

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 and erect replacement dwelling (Retrospective).

LOCATION: Qila, 48 York Way, Fort George, St. Peter Port.

APPLICANT: Sir John & Lady Jennings

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 15/02/2023 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: ArcTECH: JJ-21-1047-02I & 03I

Application Ref: FULL/2023/0301

Property Ref: A41110A048

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 cladding shall be brought to the site until such time as details of the type, texture and colour of the cladding material(s) to be used have been submitted to and agreed in writing by the Authority. The work shall be completed in accordance with the agreed details.

Reason - To secure the satisfactory appearance of the completed development.

5.Notwithstanding the details shown on the approved plans, details of the roofing material to be used in the development shall be submitted to the Authority before any such material is brought to the site. Only those materials agreed in writing by the Authority shall be used in carrying out the development.

Reason - To secure the satisfactory appearance of the completed development.

6.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 17/04/2026 unless development is commenced by that date.

ADVICE AND OTHER REMARKS:-

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/2023/0301
Property Ref: A41110A048
Valid date: 15/02/2023
Location: Qila 48 York Way Fort George Fort George St. Peter Port
Guernsey GY1 2SX
Proposal: Demolish existing dwelling and erect replacement dwelling
(Retrospective).

Applicant: Sir John & Lady Jennings

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 cladding shall be brought to the site until such time as details of the type, texture

and colour of the cladding material(s) to be used have been submitted to and agreed in writing by the Authority. The work shall be completed in accordance with the agreed details.

Reason - To secure the satisfactory appearance of the completed development.

5. Notwithstanding the details shown on the approved plans, details of the roofing material to be used in the development shall be submitted to the Authority before any such material is brought to the site. Only those materials agreed in writing by the Authority shall be used in carrying out the development.

Reason - To secure the satisfactory appearance of the completed development.

6. 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.

OFFICER'S REPORT

Site Description:

The site is situated to the east of York Way and to the west of Hautes Falaises on the Fort George estate. The site up until recently was occupied by a bungalow which has since been demolished and cleared from the site. Foundations up to damp proof course level and some of the walls above have been laid at the site.

The site is situated Outside of the Centres as designated in the Island Development Plan.

Relevant History:

FULL/2021/2554	Demolish existing conservatory and west elevation extension and erect single storey extensions to west, south and east elevations; alterations to fenestration and installation of flue.	Granted 07/02/2022
FULL/2010/1097	Demolish existing sun lounge and erect new sun lounge.	Granted 19/05/2010

Existing Use(s):

Residential – Use Class 1

Brief Description of Development:

Prior to the submission of this application, planning permission was granted subject to permission Ref: FULL/2021/2554 to demolish existing conservatory and west elevation extension and erect single storey extensions to west, south and east elevations; alterations to fenestration and installation of flue.

In implementing this permission, the applicant completed a large part of the demolition works and as claimed by the applicant's agent, it was at this stage that structural trial holes identified that the foundations and sub structure for the dwelling were insufficient to facilitate the approved extensions. Following advice from a structural engineer the remaining parts of the dwellinghouse were demolished.

Since demolition, works to lay the foundations, slabs and four courses of the blockwork walls for the replacement dwelling have been constructed at the site. However, no planning permissions have been granted to demolish the residential dwelling, nor was it included on the original permission noted above. The applicant's agent was informed of this and all works have since ceased on site pending the outcome of this application. Retrospective planning permission is therefore sought to demolish the exiting and to erect a replacement dwelling.

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

Island Development Plan Policies:

- OC1: Housing Outside of the Centres;
- GP1: Landscape Character and Open Land;
- GP8: Design;
- GP9: Sustainable development;
- GP12: Protection of Housing Stock;
- GP13: Householder Development;
- IP7 – Private and communal parking

Representations:

None

Consultations:

States Archaeologist, Culture and Heritage

By letter dated 03rd March 2023, stated the following:

"I understand that during the demolition of part of the existing house, the entrance – or at least some form of access – to a tunnel probably of Second World War date was exposed. Some video footage which I received by email a couple of weeks ago was apparently recorded in the tunnel. The video is difficult to interpret but shows the tunnel to be largely unlined. It is not clear how far it extends, although I would estimate that a stretch of at least 20 or 30m was recorded on the video. It seems very likely to form part of the poorly-understood tunnel complex at Prince's Lines, Fort George, discussed in Festung Guernsey's 'German Tunnels in Guernsey, Alderney and Sark' (2012, pp. 200-201).

It is unfortunate that this interesting piece of our Second World War history seems to have been hurriedly covered up before it could be properly recorded. While I understand that it would probably not be possible to retain access to the tunnel in the long term, there was ample opportunity for the developers to contact either my department or Festung Guernsey to allow more detailed recording to take place, before the rebuilding commenced.

It would be helpful if the applicants' architect and/or contractors could provide more information on what was uncovered: specifically the access point to the tunnel, which direction it ran, and any other points of interest that were noted during the brief period when it was accessible."

By letter dated 27th March 2023 stated the following:

"I have previously written to you (3 March 2023) concerning this planning application, and in particular the possibility that a German tunnel had been exposed during earlier work on the site. I have now been informed that this tunnel is almost certainly located elsewhere and not on this property. I would therefore be grateful if you would allow me to withdraw the comments in my previous letter, and to confirm that I do not wish to record any other archaeological concerns relating to this application.

Thank you for your attention"

Summary of Issues:

- Whether the principle of demolition and the construction of a replacement dwelling is acceptable in this location;
- Whether the design and appearance of the proposal is in-keeping with the surrounding area;
- The impact of the development on the amenity of people living in the area; and
- Parking and access issues.

Assessment against:

1 - Purposes of the law.

The objectives of the Law, as set out in Section 1(2), have been considered and this forms part of the assessment of policy issues as set out in 2 below.

2 - Relevant policies of any Plan, Subject Plan or Local Planning Brief.

Whether the principle of demolition and the construction of a replacement dwelling is acceptable in this location

As outlined in the brief description of development above, a residential dwelling was demolished at the site without first obtaining planning permission from the Authority.

Policy OC1 (Housing Outside of the Centres) of the IDP supports proposals for the creation of new residential dwellings Outside of the Centres, only where this is achieved through the subdivision of an existing dwelling or the conversion of an existing redundant building.

Policy GP12 (Protection of Housing Stock) only supports the loss of existing housing or a building designed for residential use but presently vacant, where certain criteria has been demonstrated. Unless meeting this very specific criteria, the loss of housing is not permitted.

In planning terms, once a building has been demolished, it is though it never existed and therefore the proposal represents a new dwelling Outside of the Centres which is precluded by planning policy OC1. An application of this type which would represent a new dwelling Outside of the Centres would normally be refused. However, in this particular case, until fairly recently a residential unit existed at the site. The residential unit that existed in the first instance was partially demolished in order to implement the approved works allowed under planning permission ref: FULL/2021/2554 (full details of the application are referred to in the planning history section of this report). In undertaking these works the applicant's agent has confirmed that early structural trial holes identified that the current foundations and sub-structure were insufficient to facilitate the approved works and following advice from an engineer the remaining parts of the dwellinghouse were demolished.

In this particular instance, the loss of the housing unit at this site would have failed to comply with the provisions of Policy GP12, and should an application for a replacement dwelling have come forward prior to demolition, the principle of the proposal would have been acceptable (subject to design, impact on neighbours etc.). Therefore, it is considered that a retrospective application for a replacement dwelling of equal size and proportions to that which would have resulted from the implementation of the previous approval (Ref: FULL/2021/2554) would not result in any planning gain, and would not represent the creation of a new dwelling Outside of the Centres. Given the unique circumstances of this particular case, it falls to be considered against Policy GP13 of the IDP.

Policy GP13 of the IDP supports the demolition of existing dwellings and the erection of a replacement on a one for one basis, within the residential curtilage provided that:

- a) There are no significant adverse effects on the amenities of neighbouring properties; and
- b) The design, scale, mass and form would not detract from the open character of open locations; and
- c) The do not adversely affect the special interest of a Conservation Area or Area of Biodiversity Importance or protected building or protected monument.

In the case of proposals involving demolition and replacement of existing buildings, although the building has already been demolished Policy GP13 requires consideration of the particular positive contribution that an existing building may be considered to make to the character of the area concerned.

The previous dwelling was of no particular architectural or historic interest. The replacement dwelling, has been designed to replicate the previous dwelling and is of the same size, design, layout and has the same window configuration as that which would have resulted should the application for the extensions and alterations have been fully implemented (ref: FULL/2021/2554). For these reasons the proposal complies with the provisions of Policy GP13 and the principle of demolition and the construction of a replacement dwelling is acceptable in this location.

Whether the design and appearance of the proposal is in-keeping with the surrounding area & the impact of the development on the amenity of people living in the area

In addition to the design requirements of Policy GP13, Policy GP8 requires new development to achieve a high standard of design which respects and where appropriate enhances the character of the environment.

The application site is not within a Conservation Area or close to any Protected Buildings. There is a variety of building forms and styles in the surrounding area. Paragraph 19.9.5 of the IDP which forms the preceding text to Policy GP8 states that: *'In other, less sensitive areas'* (not within Conservation Areas, Sites of Special Significance and Protected buildings), *'a good standard of design will be expected,*

however the Island Development Plan adopts a supportive position with regard to building design in these areas to enable the property owner to exert personal choice in design matters. This adopts the flexible and proportionate approach that underpins the Plan Objectives of the Island Development Plan.'

Furthermore, Policy GP13 clearly sets out that a comparison should not be made between the impacts of the existing dwelling compared with the impact of the new.

The dwelling as proposed on the application drawings would result in a dwelling of the same size and proportions as that which would have resulted from the implementation of the previous planning permission for various extensions to the dwelling (Ref: FULL/2021/2554).

The proposed replacement dwelling is therefore of an appropriate scale, mass and form so as not to detract from the openness of the surrounding area. The design is also in-keeping with the character and appearance of the surrounding area.

With regards to the materials to be used, the external render as specified is acceptable. However, no details of the external cladding have been provided and the roofing material on the drawing states "to match the existing", but there is no dwelling or roof to compare against. To ensure that the external cladding and roofing material is appropriate and in-keeping with the surrounding area it is recommended that conditions are included for these details to be provided prior to full construction.

The replacement dwelling will be of single storey construction and due to existing boundary screening at the site will not cause any significant impact on the amenities enjoyed by the occupiers of neighbouring properties with regard to sunlight, daylight or loss of privacy.

A supporting statement has been submitted confirming that the requirements of Policy GP9 regarding energy use and current Building Regulations have been considered which also includes a Site Waste Management Plan with a detailed account of how waste associated with the development will be disposed of.

Based on the contents of the Site Waste Management Plan it is considered that the waste at this site will be appropriately controlled and provided that the waste is disposed of in accordance with the Waste Management Plan the proposal satisfies the provisions of Policy GP9 & GP13 in this respect.

For the reasons contained within this report it is considered that the proposal accords with the above-mentioned Policies of the Island Development Plan.

Parking and access issues

The existing access arrangement onto York Way will not change as a result of the proposal. A driveway with a turning facility will be provided within the site, to enable

a car to access and exit the site forward facing. The applicant has demonstrated that there is sufficient parking to accommodate the required level of off road parking.

Based on the above the proposal would not negatively impact on highway safety.

3 - General material considerations set out in the General Provisions Ordinance.

In addition to the consideration of policy issues, Section 13 of the Land Planning and Development (General Provisions) Ordinance, 2007 identifies other material planning considerations which could be relevant. These include; the appropriateness of the development in relation to its surroundings in terms of design, layout, scale, siting and materials; the likely effect on the character and amenity of the locality; any possible fall-back position by way of extant planning permissions or exempt development; the likely effect on the reasonable enjoyment of neighbouring properties. These issues where relevant are considered above.

4 - Additional considerations (for protected trees, monuments, buildings and/or SSS's).

The proposal would have no adverse impact on protected trees, buildings or sites.

Date: 13/04/2023

