

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: Erect detached 1.5 storey garage/studio, remove earthbank, hedging and erect fence, create vehicle access to south boundary. (Protected Building).

LOCATION: La Ruelle, La Ruelle Lane, St. Martin.

APPLICANT: Mr & Mrs A Parr

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: 28/07/2023

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 08/02/2023 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: PF+A Ltd: 5510-03/B1, /B2, /B3 & /B4.

Application Ref: FULL/2023/0326

Property Ref: J009320000

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.Prior to the construction of the garage hereby approved, including the foundations, the 1.5m high temporary fence shall be erected in accordance with the approved drawing (no. 5510-03B1). The trees shall be protected in the approved manner for the duration of building operations on the site.

Reason - The existing trees are considered important in mitigating the visual impact of the proposed garage when approaching the site in a west-to-east direction and therefore shall be properly protected while building works take place on the site.

5.Within 6 months of the new vehicular access being created or the approved garage being brought into use for the first time, whichever is the sooner, the roadside wall, where disturbed, shall be finished in granite to match as closely as possible to the existing wall in respect of the type, colour, texture, method of construction of the existing stone, in accordance with the approved details on drawing no. 5510-03 B4.

Reason - to ensure that the roadside wall is made good within a reasonable timeframe in the interests of visual amenity and to respect the landscape character.

6.Prior to the hereby approved garage being brought into use for the first time, full details of the proposed landscaping scheme to the front (south) of the site, including the tree and hedge species, height and spacing of plants when planted, shall be submitted to and agreed in writing by the Authority.

Reason - To ensure the landscaping measures to the front of the site are acceptable in order to assimilate the development into its surroundings, in the interests of visual amenity.

7.The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of the above condition, in the first planting season following proposed garage being brought into use for the first time. Any plants removed, dying, being severely damaged or becoming seriously diseased, within 5 years of planting shall be replaced in the following planting season by plants of a size and species similar to those originally required to be planted.

Reason - To ensure the landscaping measures are implemented within a reasonable timeframe, in the interests of visual amenity.

8.Within 28 days of the proposed garage being brought into use for the first time, the temporary 1.5m high chestnut pale fencing hereby approved shall be removed from the site in its entirety.

Reason - the 1.5m high fence has the potential to harm the character and appearance of the surrounding area and set an undesirable precedent for fencing near the road and therefore shall be removed within a reasonable timeframe.

9.Should the tree, with its Root Protection Area (RPA) sited within the footprint of the hereby approved garage (as shown on drawing no 5510-03B1), be severely affected and become diseased or die as a consequence of the development, it shall be replaced within the next planting season by a similar species of tree. Should the replacement tree be removed, die, become severely damaged or diseased, within 5 years of planting it shall be replaced in the following planting season by a similar species of tree.

Reason - the tree is likely to help mitigate the visual impact of the development. The condition is required in order to ensure that the existing tree is satisfactorily offset should it become diseased or die as a result of the development, in the interest of Section 38 of the Law, 2005 and Policy GP8.

10.The outbuilding hereby permitted shall only be used for domestic purposes and not for use in conjunction with a business.

Reason - To ensure the structure is only used for domestic purposes.

11.This decision permits the domestic outbuilding hereby approved to be used only for purposes incidental to the principal dwelling presently known as La Ruelle. It does not permit the creation of a separately occupied annex or an independent dwelling, or use of the building for any other purpose. This would require a separate grant of planning permission and involve different planning policy considerations.

Reason: To ensure that the building is used only for purposes incidental to the principal dwelling.

Expiry Date: This permission will cease to have effect on 27/07/2026 unless development is commenced by that date.

ADVICE AND OTHER REMARKS:-

For the avoidance of doubt in light of the agent's e-mail of 19th May 2023, the habitable accommodation provided at first floor level within the existing outbuilding/garage to the north-east of the application site, is to be used as habitable accommodation ancillary to the dwelling-house, and not in connection with visitor accommodation (such as Use Class 8 - non serviced visitor accommodation) as this may require a change of use.

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/2023/0326
Property Ref: J009320000
Valid date: 08/02/2023
Location: La Ruelle La Ruelle Lane St. Martin Guernsey GY4 6QW
Proposal: Erect detached 1.5 storey garage/studio, remove earthbank, hedging and erect fence, create vehicle access to south boundary. (Protected Building).

Applicant: Mr & Mrs A Parr

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. Prior to the construction of the garage hereby approved, including the foundations, the 1.5m high temporary fence shall be erected in accordance with the approved drawing (no. 5510-03B1). The trees shall be protected in the approved manner for the duration of building operations on the site.

Reason - The existing trees are considered important in mitigating the visual impact of the proposed garage when approaching the site in a west-to-east direction and therefore shall be properly protected while building works take place on the site.

5. Within 6 months of the new vehicular access being created or the approved garage being brought into use for the first time, whichever is the sooner, the roadside wall, where disturbed, shall be finished in granite to match as closely as possible to the existing wall in respect of the type, colour, texture, method of construction of the existing stone, in accordance with the approved details on drawing no. 5510-03 B4.

Reason - to ensure that the roadside wall is made good within a reasonable timeframe in the interests of visual amenity and to respect the landscape character.

6. Prior to the hereby approved garage being brought into use for the first time, full details of the proposed landscaping scheme to the front (south) of the site, including the tree and hedge species, height and spacing of plants when planted, shall be submitted to and agreed in writing by the Authority.

Reason - To ensure the landscaping measures to the front of the site are acceptable in order to assimilate the development into its surroundings, in the interests of visual amenity.

7. The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of the above condition, in the first planting season following proposed garage being brought into use for the first time. Any plants removed, dying, being severely damaged or becoming seriously diseased, within 5 years of planting shall be replaced in the following planting season by plants of a size and species similar to those originally required to be planted.

Reason - To ensure the landscaping measures are implemented within a reasonable timeframe, in the interests of visual amenity.

8. Within 28 days of the proposed garage being brought into use for the first time, the temporary 1.5m high chestnut pale fencing hereby approved shall be removed from the site in its entirety.

Reason - the 1.5m high fence has the potential to harm the character and appearance of the surrounding area and set an undesirable precedent for fencing near the road and therefore shall be removed within a reasonable timeframe.

9. Should the tree, with its Root Protection Area (RPA) sited within the footprint of the hereby approved garage (as shown on drawing no 5510-03B1), be severely

affected and become diseased or die as a consequence of the development, it shall be replaced within the next planting season by a similar species of tree. Should the replacement tree be removed, die, become severely damaged or diseased, within 5 years of planting it shall be replaced in the following planting season by a similar species of tree.

Reason - the tree is likely to help mitigate the visual impact of the development. The condition is required in order to ensure that the existing tree is satisfactorily offset should it become diseased or die as a result of the development, in the interest of Section 38 of the Law, 2005 and Policy GP8.

10. The outbuilding hereby permitted shall only be used for domestic purposes and not for use in conjunction with a business.

Reason - To ensure the structure is only used for domestic purposes.

11. This decision permits the domestic outbuilding hereby approved to be used only for purposes incidental to the principal dwelling presently known as La Ruelle. It does not permit the creation of a separately occupied annex or an independent dwelling, or use of the building for any other purpose. This would require a separate grant of planning permission and involve different planning policy considerations.

Reason: To ensure that the building is used only for purposes incidental to the principal dwelling.

INFORMATIVES

For the avoidance of doubt in light of the agent's e-mail of 19th May 2023, the habitable accommodation provided at first floor level within the existing outbuilding/garage to the north-east of the application site, is to be used as habitable accommodation ancillary to the dwelling-house, and not in connection with visitor accommodation (such as Use Class 8 - non serviced visitor accommodation) as this may require a change of use.

OFFICER'S REPORT

Site Description:

The application site comprises a detached two storey dwelling-house, known as La Ruelle.

The property comprises a protected building and is set within extensive grounds, located on the corner between La Ruelle and La Trelade Lane. The dwelling is located Outside of the Centres as designated in the Island Development Plan.

The property is served by a garage and outbuilding to the north-east corner of the site. The agent has noted in their e-mail of 19th May 2023 that *“the existing outbuilding comprises garaging and a swimming pool/jacuzzi at ground floor level with a games room and ancillary visitor accommodation/storage within the roofspace.”*

Relevant History:

PREA/2022/1443	Erect 1 1/2 storey detached garage and creation of new vehicular access	Pre-application enquiry
PREA/2021/1688	Alterations to outbuilding to form new dwelling	Pre-application enquiry

Existing Use(s):

Residential

Brief Description of Development:

Planning permission is sought to erect a detached 1.5 storey garage/studio, remove an earthbank and hedge, and create a vehicle access to the south boundary.

The application also seeks to erect a temporary 1.5m high timber fence during the site works in attempt to protect the adjacent trees which line the west boundary.

The application was deferred to seek further clarification over the rationale of the proposed development given the existing outbuilding/garage on site. Some concerns were also raised over the design of the proposal and its relationship in respect of the existing landscaping on site.

In response, the agent has set out in their e-mail of 19th May 2023 the justification for the application, the proposed siting of the garage and relationship to existing trees, access width and additional tree planting measures. The agent has also provided updated drawings to clarify the proposal.

The agent has noted that *“the proposed development would provide additional and more conveniently located garage space ... and first floor studio capable of being used as a home office, hobby room, gym etc as may be required.”*

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

GP5 Protected Buildings
GP8 Design
GP9 Sustainable development
GP13 Householder Development
IP9 Highway Safety, Accessibility and Capacity

Representations:

None.

Consultations:

None.

Summary of Issues:

- Whether the land to the west of the dwelling-house is within domestic curtilage.
- Whether the design of the proposed development is acceptable.
- The impact of the development on the character and appearance of the area.
- The impact on the setting of the protected building.
- The impact of the development on neighbour amenity.
- Whether the proposed vehicle access point is acceptable and would not negatively impact on highway safety.

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.

Whether the land to the west of the dwelling-house is within domestic curtilage:

Pre-application advice (PREA/2022/1443) was offered to the agent in 2022 which noted that a change of use of land would be needed in order to facilitate the proposed garage and vehicle access as it didn't appear that all of the land within the application site fell within domestic curtilage.

The agent's letter of 31st January 2023 which was submitted as part of this application argued that the land had been used as domestic curtilage for some time and therefore was lawful and negated the need to apply for a material change of use of the land.

Notwithstanding the above, and further to a review of a series of planning permissions, it is not consistent nor overwhelming that the parcel of land to the west of the dwelling is regarded as agricultural land, and therefore it is reasonable to conclude that the land should be considered as domestic curtilage.

Whether the design of the proposed development is acceptable and the impact of the development on the character and appearance of the area:

The proposed development takes the form of a 3-bay garage at ground floor level, and a 'studio' at first floor level, served by an external staircase to the north, and a dormer window facing towards the main dwelling. It is noted in the agent's letter of 31st January 2023, the intention of the applicant is to develop a new vehicular access, parking area and garage as these would be visible from the main living accommodation, more readily accessible, and better serve the existing dwelling as it is laid out and lived in today. The agent's e-mail of 19th May 2023 also notes that the relationship between the main house and the proposed garage would provide natural surveillance.

Although the siting of the garage means it is set closer to the road and the relationship to the built form to the north of La Ruelle is noted, the principle to position a garage between a dwelling's façade and the road is considered a reasonable aspiration of a property owner and is not uncommon.

With regards to the impact of the development on existing trees along the west boundary, it is a requirement under the Land Planning and Development (Guernsey) Law, 2005, when considering applications affecting trees, to secure so far as possible that the existing trees are protected and, where appropriate, that new trees are planted and protected. This consideration is also reflected in Policy GP8 (Design) under criterion 'c' and 'e'. In response, the agent has incorporated a temporary fence around the sensitive aspect of the proposed garage in attempt to limit the potential harm on the adjacent trees.

However, the footprint of the proposed garage extends into the Root Protection Area (RPA) of one of the trees along the west boundary. The agent has calculated that the extension into the RPA would only be 9%. Given the limited encroachment into the RPA, it is unlikely that the tree would be severely affected as a result of the proposed development. However, should the tree be significantly affected and become diseased or die because of the development, it is reasonable and necessary to ensure that full details of a replacement tree be submitted to and agreed in writing by the Authority in attempt to mitigate the visual appearance of the proposed building when viewed from the road.

It is also reasonable and necessary to attach a condition to ensure that the temporary fence is erected before the construction of the garage is commenced and is removed in its entirety once building works have ceased as the fence could cause harm to the character and appearance of the surrounding area.

Consequently, the design of the proposed outbuilding adopts a good standard of design for the purposes of Policy GP8 in terms of its scale, form, mass, materials, and detailing and would not cause undue harm to the character of the area or visual amenity with regards to its siting to justify refusal.

Whilst the size and footprint of the garage is noted, there would be a good relationship between both the main dwelling and proposed garage providing overlooking and intervisibility between both structures and the surrounding land. The development would provide a domestic outbuilding within the garden area of the main property.

Sufficient information has been submitted that has taken into account the criteria of Policy GP9 (Sustainable Development).

The impact on the setting of the protected building:

Due to the nature of the development and its distance and relationship to the main dwelling, the proposal will not adversely affect the setting of the protected building. The proposal complies with Policy GP5.

The impact of the development on neighbour amenity:

Careful consideration has been given to the effect of the development on the amenities of neighbouring residents. Although, when taking into account the distance, orientation and featureless fenestrated elevations to the west and south, and the position of the staircase to the north elevation, the proposal would not give rise to neighbour amenity concerns.

Whether the proposed vehicle access point is acceptable and would not negatively impact on highway safety:

The previous refusal for creating a retrospective vehicle access was determined under a former Development Plan. The Island Development Plan was enacted in 2016 and therefore a material change in circumstances exist due to the introduction of a new planning policy framework.

The creation of a second access is in principle supported under Policy, particularly in cases where the existing access is of a substandard design and leads to highway safety or traffic management issues.

In this case, the south boundary of the site which borders onto La Ruelle comprises of a mix of earth bank, hedges, and a stone wall, approximately 60m in length. Therefore, the creation of a secondary access that is approximately 6.5m wide, and tapers down to approx. 4m in width is considered reasonable in terms of balancing the impact on the landscape character, via the loss of the earth bank and wall, and the reasonable aspirations of the property owner (Policy GP13) to create a secondary access to serve a garage.

It would not be reasonable to require that the existing vehicle access be infilled to offset any harm to the landscape character or visual amenity caused by the proposed access when taking into account that the existing access is located on a separate road frontage, and that a large proportion of the south boundary would remain unchanged.

With regards to the impact on highway safety and traffic management, the site is located within a Neighbourhood Road which commonly experiences low traffic speeds and volumes.

It is noted on the drawings (no. 5510-03B1) that a replacement hedgerow/shrubs is to be planted behind the visibility splay to ensure that a 20m sightline will be achievable towards oncoming and approaching traffic. However, given that the drawings do not explicitly state or show that the existing hedgerow along the south boundary nearest the new vehicle access will be removed, some concerns are raised over whether the sightlines in both directions will be achievable. However, due to the nature and characteristics of this rural lane, the low traffic speeds and volumes are such that the degree of harm on highway safety would not be insurmountable to reasonably refuse planning permission, particularly when viewed in context with other accesses along La Ruelle and La Croute Lane.

Conclusion:

Based on the above, the application is considered compliant with the relevant Island Development Plan policies, accords with the purpose of the Law, and the requirements of the material considerations; it is therefore recommended that planning permission be granted, subject to conditions.

Date: 26/07/23

