

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: Install replacement windows (Protected Building).

LOCATION: Brianda, 51 Hauteville, St. Peter Port.

APPLICANT: Miss A Simon-Marin

I refer to the application referred to below received as valid on 29/03/2023 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 10/08/2023

Drawing Nos: Application Block Layout Plan, Photographs sheets (x4); Tims Window Services Ltd Specification

Application Ref: FULL/2023/0681

Property Ref: A406760000

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. Windows 1-6 and 9, located to the front elevation of the protected building, by virtue of their age, proportions, detailing and material, make a positive contribution to the special interest of the protected building and their removal, as proposed under this application, would have an adverse effect on that special interest, contrary to Policy GP5 (Protected Buildings) in the Island Development Plan.
2. Replacement of Windows 1-10 and 12-14 in PVCu, by virtue of the proportions, detailing and appearance of the replacement windows, would have an adverse effect on the special interest of the protected building, contrary to Policy GP5 (Protected Buildings) in the Island Development Plan.
3. The building is highly visible within the Conservation Area and replacement of the windows to the front elevation as proposed, by virtue of the proportions, detailing and appearance of the replacement windows, would fail to conserve the special character and architectural interest of the Conservation Area, contrary to Policy GP4 (Conservation Areas) in the Island Development Plan.

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/2023/0681
Property Ref: A406760000
Valid date: 29/03/2023
Location: Brianda 51 Hauteville St. Peter Port Guernsey GY1 1DJ
Proposal: Install replacement windows (Protected Building).
Applicant: Miss A Simon-Marin

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. Windows 1-6 and 9, located to the front elevation of the protected building, by virtue of their age, proportions, detailing and material, make a positive contribution to the special interest of the protected building and their removal, as proposed under this application, would have an adverse effect on that special interest, contrary to Policy GP5 (Protected Buildings) in the Island Development Plan.
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OFFICER'S REPORT

Site Description:

The application site is located on the north side of Hauteville, a road characterised by high density ribbon development and grand, often Georgian-style, houses. The dwelling at the application site comprises such a house, orientated to face the street, behind formal railings. The historic building is 3.5 storeys, with substantial 1970s extensions to the north-east and north-west.

The whole of the main 3.5 storey section of the building is protected. The listing however excludes the later additions to the north-east and north-west.

The property is located within the St Peter Port Main Centre Inner Area and Conservation Area in the Island Development Plan.

Relevant History:

Application site

Informal review of protected building status – building to be retained on protected building list. By email 09/08/2023

Attached property to south-west (Beaumont)

Full/2022/1568 - Install replacement captains dormer window to south-east (front) elevation. Approved 12/10/2022

Existing Use(s):

Residential Use Class 1

Brief Description of Development:

Permission is sought under this application to replace all timber windows with PVCu windows. This includes all windows to the front (south-east, numbered 1-10) and rear (north-west, numbered 12-14) elevations of the protected building, together with a first-floor window in the south-east elevation of the eastern extension (numbered 11) and the corner windows to the north-east of the rear extension (numbered 15 & 16). Permission is required for the replacement of all of the windows as the exemption for replacement windows set out within the Land Planning and Development (Exemptions) Ordinance, 2023 does not apply to protected buildings, or where a dwellinghouse was substantially constructed before 1900.

The replacement window details provided are not numbered however, comparing the details with the submitted photographs, it appears that Windows 1-10 would be sliding sash, Windows 12-14 would be top hung casement and Windows 11, 15 & 16 would be fixed pane and casement/tilt and turn.

Following deferral, a Chartered Surveyor's report has been provided, setting out a brief assessment of the existing windows, suggesting that many of the windows are of 1970s replica construction, and providing evidence in respect of the condition of the dormer windows (Window 10).

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

Island Development Plan policies:

- GP4 Conservation Areas
- GP5 Protected Buildings
- GP8 Design
- GP9 Sustainable Development
- GP13 Householder Development

Conservation Advice Note 11: Windows and Doors in Protected Buildings

Representations:

None received.

Consultations:

None undertaken.

Summary of Issues:

Impact of the replacement of windows on the special interest of the Protected Building;
Impact of the replacement of windows on the character of the Conservation Area.

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).**

Legal and policy context

The purposes of the Land Planning and Development (Guernsey) Law, 2005, are to protect and enhance, and to facilitate the sustainable development of, the physical environment of Guernsey.

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.

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'.

The purposes of the Law are reflected in the Island Development Plan, the principal aim of which is to help maintain and create a socially inclusive, healthy and economically strong Island, while balancing these objectives with the protection and enhancement of Guernsey's built and natural environment and the need to use land wisely. Relevant policies are set out above and will be addressed below in assessing the key issues.

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:

- (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.

Section 15 Part IV of The Land Planning and Development (General Provisions) Ordinance clarifies that the considerations referred to in paragraphs (b) and (c) of section 14 also apply to protected buildings.

Principle of replacing windows

Windows can form an integral part of the architectural composition of a building and can contribute to its special interest, whilst unsympathetic replacements can detract from what is special about a protected building. Conservation Advice Note 11 sets out the principles and process for consideration of replacement windows in a protected building, starting with an understanding of the importance of the windows to the special interest of the protected building.

The application is supported by a Chartered Surveyor's report which provides an opinion that all windows are 1970s replacements, replicating the original designs. The report does not however provide an assessment of the individual windows, with the exception of the dormer.

Following an on-site assessment, the individual windows are assessed below:

Windows 1-6 and Window 9 (front elevation of protected building) are likely to be original to the mid-19th century, and make an important contribution to the Georgian-style façade and the architectural integrity of the building, displaying a piano nobile (larger windows on the 1st floor to serve reception rooms and designed to impress). These windows make a positive contribution to the special interest of the protected building and, as part of the façade as a whole, the character and architectural interest of this part of the Conservation Area. Some localised areas of rot are evident but the

windows are capable of repair and should be retained to maintain the special interest of the building and the character of the Conservation Area.

Windows 7 and 8 (front elevation of protected building) are sympathetic 20th century replacements, single glazed and constructed of timber with proportions and profiles matching Window 9. Those windows make a neutral contribution to special interest and their replacement could be acceptable. Any replacement would however have to be like-for like (i.e. the material, configuration, method of opening should match the existing, with a small allowance for double glazing) to ensure the intrinsic appearance of the fine Georgian-style façade of the protected building is not compromised.

Window 10 (dormer window to front elevation of protected building) is an historic window, albeit a later addition, present by 1962. This does not mean that the window units of the dormer are not replacements, however, investigation on site suggests an earlier date. As set out in the Surveyor's Report, the dormer has however undergone numerous repairs and makes a neutral contribution to special interest and replacement could be acceptable.

Window 11 is part of the 1970s extension located east of the protected part of the building. This window is of timber and of fine proportions, however does not form part of the protected building listing and replacement of this window could be considered in principle.

Windows 12-14 (mis-located on the Application Block Layout Plan but actually in the rear elevation of the protected building) detract from the special interest of the building and replacement could be acceptable, subject to replacement with windows which conserve and enhance the special interest of the protected building.

Windows 15 & 16, located within the extension to the rear of the building, also do not form part of the protected building listing and replacement could be acceptable.

Details of replacement windows

In respect of Windows 7, 8, 10, 12, 13 & 14, whilst replacement could be acceptable in principle, the proposed replacements should be appropriate to the special interest of the building, in terms of the material, detailing and method of opening proposed. In this case, the proposal is to replace all of the windows in PVCu. The fine proportions of the timber windows form part of the special interest of those windows, and PVCu cannot reflect the proportions and detailing of those windows. Replacement with PVCu would therefore diminish the special interest of the protected building and would have a negative impact on the character and architectural interest of the Conservation Area.

Window 11 is prominently located on the front elevation of the building and, although not forming part of the protected building listing, is located immediately adjacent to the protected façade and is highly visible from within the Conservation Area. It would therefore be preferable if this window were replaced in timber, for the reasons set out above.

Windows 15 & 16 are screened from public view and replacement in PVCu as proposed would not have any adverse impact on the special interest of the protected building or the wider character of the Conservation Area.

Other matters

Beyond the limited evidence presented in the Surveyor's report, no evidence has been presented to demonstrate that the proposed works would result in economic, social or other benefits, such as sustainability enhancements, or that the works would comprise a reasonable aspiration of the property owner, which would outweigh the presumption against adversely affecting the special interest of the protected building.

Whilst it is noted that permission was granted in 2022 for the replacement of the windows within the existing dormer frame on the adjacent property to the south-west in PVCu, that building is not protected and the proposal was not subject to the same statutory duties or planning policies. There is no history of permission being sought or granted for the replacement of other windows on that property.

Conclusion

Windows 1-6 and 9, located to the front elevation of the protected building, by virtue of their age, proportions, detailing and material, make a positive contribution to the special interest of the protected building and their removal, as proposed under this application, would have an adverse effect on that special interest, contrary to Policy GP5 (Protected Buildings) in the Island Development Plan and would not meet the statutory duties in respect of protected buildings.

Replacement of Windows 1-10 and 12-14 in PVCu, by virtue of the proportions, detailing and appearance of the replacement windows, would have an adverse effect on that special interest, contrary to Policy GP5 (Protected Buildings) in the Island Development Plan and would not meet the statutory duties in respect of protected buildings.

The building is highly visible within the Conservation Area and replacement of the windows to the front elevation as proposed, by virtue of the proportions, detailing and appearance of the replacement windows, would fail to conserve the special character and architectural interest of the Conservation Area, contrary to Policy GP4 (Conservation Areas) in the Island Development Plan and would not meet the statutory duties in respect of Conservation Areas.

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

Limited repair to the existing windows could be undertaken under Class 5 of the Land Planning and Development (Exemptions) Ordinance, 2023 without planning permission. A revised application for the replacement of Windows 10, 11, 12, 13 & 14 in timber, and for Windows 15 & 16 in PVCu as currently proposed, would be likely to be acceptable.

Date: 09/08/2023

