

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: Erect 3 dwellings (revised scheme).

LOCATION: Car Park, Back Street, Lower Vauvert, St. Peter Port.

APPLICANT: Hawthorn Limited

I refer to the application referred to below received as valid on 14/04/2023 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 12/07/2023

Drawing Nos: Torode Architects - 6252 - 02

Application Ref: FULL/2023/0780

Property Ref: A302550000

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 site lies within a Conservation Area in which it is the duty of the Authority to pay special attention to the desirability of preserving or enhancing its character or appearance. The proposed development is not in sympathy with its setting and does not achieve a sufficiently high standard of design to complement the architectural character of the area. By virtue of its design with garages and lack of active frontage to the ground floor, the proposed development would not respect the local built environment and would detract from the special character of the Conservation Area contrary to Policies GP8a. and c., GP4 and GP9b. of the Island Development Plan.

2. The development as proposed does not represent a good standard of design.

By virtue of the restricted size and depth of the site and its relationship with adjoining properties the proposed development due to its height and relationship with the adjoining buildings, would result in an overbearing form of development.

The high screen enclosing the rear terrace areas associated with the development would severely restrict aspect and outlook from the rear windows and terrace areas.

The development proposed would result in residential accommodation below the recommended standards laid down in the Department for Communities and Local Government Technical housing standards - nationally described space standards which would be detrimental to the health and well-being that future occupiers could reasonably expect to enjoy.

The scheme is therefore contrary to Policy GP8a. and d. and GP9 b. of the Island Development Plan.

3. The design and layout of the development, given the constrained nature of the site, does not, and cannot, offer flexible and adaptable accommodation that is able to respond to people's needs over time and the stepped access only to primary living accommodation does not demonstrate accessibility to and within a building for people of all ages and abilities. The scheme is contrary to Policy GP8 a. d., f. and g. of the Island Development Plan.

4. The application has not been accompanied by sufficient information to demonstrate that the development represents a sustainable form of development designed to take into account the use of energy and resources, its impact on the environment with regard to location, orientation and appearance and its resilience to climate change and flooding. The scheme is therefore contrary to Policy GP9 a. of 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/2023/0780
Property Ref: A302550000
Valid date: 14/04/2023
Location: Car Park Back Street Lower Vauvert Lower Vauvert St. Peter Port
Guernsey GY1 1HS
Proposal: Erect 3 dwellings (revised scheme).
Applicant: Hawthorn Limited

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

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Development Plan.

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OFFICER'S REPORT

Site Description:

The site is a car park to the south of Back Street with built development surrounding it comprising of a mix of commercial and residential flats/houses. Back Street is a narrow street enclosed by buildings of 1, 2, and 3 storeys some with development in the roofspace. There is variety in scale and roof form but the palate of materials is limited as is the solid/void ratio of the façade with an active frontage (doors, windows etc) that fronts immediately onto and overlooks the street.

The application site is within the St Peter Port Conservation Area where the Old Town is the mediaeval core of St Peter Port with narrow winding streets and vennels that are enclosed by buildings that can be up to 6 storeys in height. Commercial and retail uses often provide active frontages to the streets and bring activity to those streets.

The site is located in the Main Centre and Conservation Area as designated in the Island Development Plan.

Relevant History:

FULL/2022/1479 - Erect 3 dwellings with associated carport parking – refused

Existing Use(s):

Car park originally set out for 16 vehicles however two spaces have been given over to railings and fire escape access associated with 15 and 17 Vauvert.

Brief Description of Development:

The application relates to the erection of a terrace of three dwellings fronting north onto Back Street. The dwellings are two and a half storeys in height with the uppermost floor within the roofspace and with closed garages on the ground floor (two spaces per property plus cycle storage provision). The first floor would provide an open plan living, kitchen and dining area plus WC for each property with an external terrace, enclosed by a 1.8m high timber screen, to the south whilst the second floor would provide two bedrooms and a bathroom per property.

The dwellings are shown to have a granite and vertical timber clad front elevation whilst the garage level, side and rear elevations would have a render exterior. A slate roof is proposed with solar panels indicated to the south, west and east roofslopes.

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

Island Development Plan policies:

MC2: Housing in Main Centres and Main Centre Outer Areas

GP4: Conservation Areas

GP5: Protected Buildings (setting)

GP8: Design

GP9: Sustainable Development

IP6: Transport infrastructure and support facilities

IP7: Private and Communal Car Parking

IP9: Highway Safety, Accessibility and Capacity

Parking Standards and Traffic Impact Assessment SPG

Representations:

Three letters of representation have been submitted objecting to the current application and raising the following points:

- Impacts on the character and appearance of the Conservation Area and overdevelopment of the site
- Impacts on protected buildings through masking external features and potential impacts on structural integrity
- Impacts on residential amenity through loss of privacy, overlooking, loss of light and noise, resulting in poor living environments
- Highways/Parking/Car Usage – there is already serious congestion in the area, the width of Back Street is very narrow and it is questioned whether it will be possible to access the garages without mounting the pavement?
- Other non-material planning matters have also been raised

Consultations:

States Archaeologist - Three houses stood on this site until their demolition shortly after the Second World War. Their date of construction is not known, but they are shown on the town map of 1843, and one at least may be represented on the Duke of Richmond survey of 1787. Some of the other buildings in this block between Back Street and the Contrée Mansell were constructed in the early eighteenth century.

In view of the possible presence of archaeological evidence of these buildings beneath the carpark, I would like to recommend that a watching brief be carried out when the car park is removed and during any excavation work for the new development.

Traffic and Highway Services commented on the earlier application:

- a) Enable a driver 2.4m from the edge of the carriageway to see a minimum of 20m in the direction of oncoming traffic (site access onto Back Street);
- b) Not have any obstructions or planting greater than 900mm high above the road surface within the visibility splays;
- c) Have sufficient width to enable cars and light vehicles to exit and enter the drive without crossing into the path of vehicles on the opposite side of the carriageway;
- d) Be square to the carriageway;
- e) Be sited at a distance not less than 20m from a junction.

The site adjoins a one-way Neighbourhood Road that is subject to a 6' 6" width restriction. Currently the site is used as a surface parking area with circa a dozen useable parking spaces.

The sightlines observed by drivers exiting the surface car park range between 3m at the eastern end and 20m at the western end (note – the parking area is open fronted so drivers exit along the entire northern boundary). The sightline is limited by the walls of the building located to the east of the site. The proposals would halve the level of onsite parking with drivers exiting in broadly the same positions across the frontage of the site.

The site is considered well located within the Main Centre for residents to take advantage of active travel choices and it is noted that the proposed level of parking does not appear to exceed the standard in the relevant Supplementary Planning Guidance.

THS has no data on the level of vehicular movements likely to be generated by the proposals in comparison to existing use but it is considered unlikely that the change would result in intensification of vehicle movements.

With the above in mind there is considered to be no traffic management or road safety grounds to oppose the application.

Summary of Issues:

The key issues in this case relate to the principle of residential development, the design and appearance of the development, its impact on the amenities of surrounding occupiers and the health, well-being and living environment of future occupiers of the development.

Assessment against:

1 - Purposes of the law.

The objectives set out in Section 1(2) of The Land Planning and Development (Guernsey) Law, 2005, 'the Law', have been considered and this report forms part of the assessment, with policy issues set out in Section 2 below.

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

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 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 clarifies that the considerations referred to in paragraphs (b) and (c) of section 14 also apply to protected buildings.

Principle of residential development

Policy MC2 of the Island Development Plan makes provision for new residential development and offers a gateway for residential development in this location. Two bedroom properties recognises the requirements of the Housing Needs Survey and the site could not readily offer a greater mix and type of properties than proposed. The scheme also offers multi-storey development in line with the aims of Policy GP8 b.

Impact on local built environment and character and appearance of the Conservation Area

The proposed three storey development is of a scale that respects the character of Back Street where the narrow street is enclosed by buildings of one, two and three storeys. In this respect the scheme represents a high standard of design that respects the local built environment in line with Policies GP4 and GP8 a. and c. of the Plan.

Nonetheless, the revised scheme proposes the use of the ground floor as garages to serve the development which will not provide an active frontage such as other residential or commercial properties where access to the building is to the front in the street and where, in addition to a garage door, living/commercial accommodation is visible and active on the ground floor to reflect the character of the Conservation Area. As proposed, the scheme does not represent a high standard of design. The use of tarmac around the building, to reflect the existing situation, would not enhance the development and would not represent good design in terms of appearance nor sustainable development. The scheme is therefore contrary to Policies GP8 a. and c., GP9 b. and GP4.

This revised application retains an element of timber cladding to the front elevation which, as previously identified, is not typical in the Back Street although the colour indicated would be consistent in the street. Given the flexibility offered by the IDP in terms of the materials used there is scope for this feature subject to a condition relating to details of the colour/finish of the cladding.

Residential Amenity

There are a number of commercial and residential building in close proximity to the application site which overlook each other and the application site.

The proposed building would be situated to the north of the residential properties in Contree Mansell and where external space appears to be set at a lower level than the car park. Although the development would not result in the loss of sunlight to the windows in the north elevation of these adjoining properties the development would have an adverse impact on the amenities enjoyed by the occupiers of these properties because although the building has been reduced in depth from the earlier refused scheme, this is limited (approx. 0.4m), and the scheme would have an overbearing

effect on the properties which would not represent a good standard of design as required by Policy GP8.

The revised scheme introduces high screens to the first-floor balcony areas to prevent overlooking from the primary living accommodation. The second-floor bedroom windows (3 windows in total, one in each unit) would not result in an unacceptable degree of overlooking and loss of privacy to the windows in the rear of 11 and 13 Contree Mansell to warrant the refusal of permission.

Health and well-being of occupiers

Policy GP8 requires that the units created consider the health and well-being of the occupiers by providing adequate daylight, sunlight and private/communal open space, and directs proposals to be considered against Annex 1 of the Plan: Amenities.

New developments should be planned and built to support the health and well-being of occupants and users and maintain appropriate amenities for occupiers of neighbouring properties.

The Annex sets out that building at higher densities brings challenges with respect to ensuring reasonable amenities are provided. There must be a balance between the most effective and efficient use of land and the requirement to ensure that proposed living and working conditions are acceptable and that the higher density Main Centres, in particular, remain attractive places to live and work.

The Annex seeks opportunities for occupiers of development to benefit from interesting or attractive outlook within the urban centre identified for example, as views over urban open spaces, public parks, landscape features or longer vistas over the townscape.

It also considers sunlight alongside daylight noting that these will not, alone be a determining factor when considering development proposals, providing that other amenity objectives are appropriately addressed. All new developments are encouraged to provide adequate levels of daylight and sunlight to all rooms, or at least principal rooms, gardens, balconies or communal external open spaces, these aspirations are qualified for sunlight by "where possible". This reflects the constraints imposed by aspect relative to the movement of the sun, shading by existing development, and, in the case of converting existing buildings, their physical constraints.

The three townhouses proposed are all dual aspect which is satisfactory. The relationship of the terraces to the neighbouring properties south of the site and high screens now proposed would restrict outlook from and light to the terraces and would, if they did not serve primarily as access routes, impact the quality of the space proposed. Furthermore, the upper floor accommodation overhangs these terrace areas further reducing the quality of this space. With regard to the rear access/terrace areas outlook and aspect for the development would not accord with Policy GP8 d.

The Annex states that development will be expected to be designed with windows an adequate distance apart and / or suitably orientated to ensure that the level of privacy

that could reasonably be expected to be enjoyed by an occupier is not adversely affected and that the use of obscure glazing alone to achieve privacy will not, normally, be considered acceptable.

The relationship between the building and those to the south in Contree Mansell would result in overlooking and loss of privacy to the future occupiers of all units however, the introduction of 1.7m high timber screens would mitigate this potential for overlooking and in this respect the scheme would comply with Policy GP8 d. of the IDP.

It is also noted that the value of external open space becomes increasingly important in higher density development with all development having safe and convenient access to it.

The scheme does incorporate a small external terrace to the south of each dwelling which have been enlarged since the previous refusal but which still has the primary function of providing access to the townhouses. The terraces are not ideal as meaningful external amenity space for these two-bed dwellings given the site constraints, high screens and overhang of the second-floor accommodation as proposed; however, the site is located within walking distance of the sea front and other public open spaces within the town centre which could provide towards the external space provisions for the properties in line with the aims of Policy GP8 d.

Whilst the accommodation addresses the requirements of the Building Regulations the internal space provision for each of the three units proposed has been reduced since the earlier refused scheme and remains below the DCLG Space Standards adopted as an SPG and therefore contrary to Policy GP8 d. and the Annex.

The introduction of a multi-storey building on the site represents efficient and effective use of land and the scheme provides accommodation that will provide satisfactory daylight and sunlight having regard to the health and well-being of future occupiers. Each dwelling would be accessed by stairs from the ground floor garage however a platform lift has been shown to be provided for occupiers to access the first-floor level. This would be accessed by exiting the garage into Back Street and using the shared access to the east of the development to reach the lift. Once at first floor level there would be no further lift access to the upper floors. The scheme does address some of the Lifetime Homes Standards (e.g. hallway widths and door widths) but the layout does not offer flexible and adaptable accommodation that can respond to the needs of occupiers over time. The layout of the building would not lend itself to internal adaptation, nor could the properties be easily extended to adapt to future needs. As a result the scheme does not satisfactorily address Policy GP8 f. and g.

Sustainable Development

As originally submitted, the application provided a very brief one-line statement relating to sustainable construction, the use of highly insulated timber framework which would be energy efficient with the use of electric heating throughout supplemented by solar panels. This level of information has not substantially altered from the earlier refused scheme and is considered unsatisfactory for a development of this nature and scale.

The application drawings still refer to the use of tarmac around the building which, whilst it may not differ from the existing situation, does not consider the aims of Policy GP9 where enhancements could be made. For example, permeable paving could address surface water run-off from the site. Although the application drawings make reference to thermally efficient timber framed construction and photovoltaic solar panels this information alone does not satisfactorily demonstrate that the proposed development will comply with the Building (Guernsey) Regulations 2012 and that the design, method of construction and location of proposals have been considered from the outset in order to achieve a more sustainable development. The scheme therefore fails to comply with Policy GP9.

Whilst the application could have been deferred to seek further, more detailed information relating to matters such as building layout and orientation, the use of permeable paving and additional measures such as electric vehicle charging points within the carport/garages this would represent unreasonable and abortive work given that the scheme is unacceptable in other respects.

Setting of protected buildings

There are a number of Protected Buildings in close proximity to the site all of which have an urban setting, set within the densely packed urban block which form the streets, including Back Street. Historically, the site had buildings, demolished between 1938 – 63. In this case, given the urban setting, the effect on the setting of the Protected Buildings would be low and outweighed by the reasonable aspirations of the property owner and the benefits of the development in line with the aims of Policy GP5.

Highway Safety and parking provision

The level of off-road parking proposed does not exceed the maximum parking standards set out in the adopted SPG and accords with Policy IP7 of the Plan. There would be space within the garages to provide covered cycle storage in line with the aims of Policy IP6.

As outlined elsewhere the site is currently used for off-road parking for multiple vehicles which would be reduced as a result of the proposed development which would not be likely to result in significant changes in vehicle movements from the site and will not represent an unacceptable intensification in vehicle movements. The sightlines associated with the development will also not substantially alter from the existing situation and, in line with the advice provided by THS, the scheme accords with Policy IP9 of the Plan.

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: 12/07/2023

