

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: Sub-divide existing dwelling to create 2 flats, enlarge dormer window to west (side) elevation, fenestration and internal alterations (Protected Building).

LOCATION: White Gables, 13 Back Street, St. Peter Port.

APPLICANT: Mr & Mrs W Merrien

I refer to the application referred to below received as valid on 03/05/2023 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 26/07/2023

Drawing Nos: Torode Architects - 6300 - 02

Application Ref: FULL/2023/0850

Property Ref: A302510000

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 application submission does not provide sufficient detail to establish the exact works required to the building as shown on the drawings and described in the Statement of Significance nor does it include any details of new external vents or extracts. As submitted therefore the Authority cannot be confident and satisfied that the proposed development would not result in the loss of important features from the Protected Building, White Gables, which is of architectural and historic interest. The scheme does not therefore, comply with the aims and requirements of Policy GP5: Protected Buildings of the Island Development Plan.

2. The conversion of the property, as proposed, by virtue of its layout and flat sizes would result in residential accommodation below the recommended standards laid down in the Building Regulations which would result in an unsatisfactory standard of living accommodation detrimental to the amenities which the occupiers of the proposed flats could reasonably expect to enjoy. The scheme is therefore contrary to Policy GP8 d. and Annex I 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/2023/0850
Property Ref: A302510000
Valid date: 03/05/2023
Location: White Gables 13 Back Street St. Peter Port Guernsey GY1 1HS
Proposal: Sub-divide existing dwelling to create 2 flats, enlarge dormer window to west (side) elevation, fenestration and internal alterations (Protected Building).
Applicant: Mr & Mrs W Merrien

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The application submission does not provide sufficient detail to establish the exact works required to the building as shown on the drawings and described in the Statement of Significance nor does it include any details of new external vents or extracts. As submitted therefore the Authority cannot be confident and satisfied that the proposed development would not result in the loss of important features from the Protected Building, White Gables, which is of architectural and historic interest. The scheme does not therefore, comply with the aims and requirements of Policy GP5: Protected Buildings of the Island Development Plan.
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OFFICER'S REPORT

Site Description:

White Gables is an end of terrace building with rendered front elevation fronting directly onto Back Street. The property has multi-pane sliding sash windows to the front and side/west elevations and the west elevation has a granite finish with rendered bands around the windows. The site is situated opposite an open car park.

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

Relevant History:

Pre-application advice was sought in this case.

Existing Use(s):

Property in multiple occupation

Brief Description of Development:

The application relates to the subdivision of the existing four storey building (including attic accommodation) to create two flats with the installation of a dormer to the west roofslope, alterations to fenestration and associated internal works.

The application proposes the formation of two, two-bedroom flats within the existing building.

The application has been accompanied by a Statement of Significance which indicates that a lot of internal fabric has been lost and that where it does remain the intention is to “retain and preserve as much as possible” but indicates that internal joinery and lintels would be replaced, as necessary. The statement also refers to the replacement of windows if deemed incapable of being repaired. Where replacements are intended the new units would be double glazed, designed to match the existing. Internal plaster is also indicated in the Statement of Significance as being removed and replaced.

The application was deferred to seek clarification regarding the content of the Statement of Significance and the effect of works on the fabric/special interest of the Protected Building. At the time of determination no additional information/revised plans had been provided.

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

Parking Standards and Traffic Impact Assessment SPG

Representations:

None.

Consultations:

None

Summary of Issues:

The key issues in this case relate to the impact of the subdivision on the special interest of the building, the effect of the development on the amenities of surrounding occupiers and the health and well-being and amenities 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 therefore there is scope to subdivide the existing dwelling. Two-bedroom properties recognises the requirements of the Housing Needs Survey and the scheme offers multi-storey development in line with the aims of Policy GP8 b.

Protected Building

The Statement of Significance that accompanies this application refers to replacement windows, replacement lintels, replacement internal joinery and plaster none of which are shown on the application drawing. Furthermore, the Statement of Significance does not seek to address what is special about the features to be affected by the works shown on the drawings or described only in the Statement.

Based on the information as originally submitted it is not possible to establish whether the works described in the Statement (windows, lintels and joinery) would cause harm to the special interest of the Protected Building therefore the scheme as submitted does not satisfactorily address the requirements of Policy GP5.

Any mechanical ventilation requiring external vents have not been included with this application and would require permission due to the potential impact of the works on the fabric and special interest of the Protected Building. Such vents may be required in order meet the Building Regulations.

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

Paragraph 19.9.3 of the IDP states:

Whilst new development should acknowledge the surrounding built form, flexibility in the design of development will be allowed in order to ensure proposals also address issues of sustainable design, mitigation and adaptation to climate change and creating flexible and adaptable spaces within buildings as well as recognising the personal choice and aspirations of property owners. Development should respect the palate of traditional local materials without necessarily being bound by them, unless the special interest of a Conservation Area or protected building or protected monument would be adversely affected.

External alterations associated with the proposed subdivision are limited to a new ground floor access door and the enlargement of the west facing dormer. These alterations represent a high standard of design that respects the local built environment in line with Policies GP4 and GP8 a. and c. of the Plan. The detail of the door and dormer can be managed by condition.

Residential Amenity

Given the existing residential use of the building its subdivision will not significantly alter the relationship of the building to adjoining residential neighbours in terms of overlooking or loss of privacy. The enlarged dormer is to serve a bathroom and can be required to be obscure glazed. The scheme would not result in harm to the amenities of neighbouring properties and accords with Policies GP8 d. and GP9 b.

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.

Whether the proposal would provide a good living environment for future occupiers

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.

The Annex considers sunlight alongside daylight noting that these alone will not 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 layout of accommodation, having regard to existing window openings, is such that outlook and aspect for the development would accord with Policy GP8 d.

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.

Although there is no defensible space to the front of the building to separate it from passers-by, the ground floor window has a relatively high sill level which helps alleviate the perception of overlooking and loss of privacy from people passing through Back Street. The scheme utilises existing window and door openings, in the main, and the accommodation does, overall, comply with Policy GP8 d. of the IDP in terms of privacy for future occupiers.

The value of external open space becomes increasingly important in higher density development with all development having safe and convenient access to it.

The site is located within walking distance of the sea front and other public open spaces within the town centre which contributes towards the external space provisions for the properties in line with the aims of Policy GP8 d.

In terms of unit 1 (ground and first floor) this would meet the internal space standards for a unit of accommodation occupied by two people as the second bedroom does not meet the internal space standards, for a bedroom, for Part G of the Building Regulations. Unit 2 (second and third floor) does not have a bedroom that meets the space standards for occupation by two people.

The scheme, as highlighted above, generates Building Control issues in terms of bedroom sizes and ventilation. As submitted, the background ventilation is insufficient for bedroom 1 of unit 2. Overall, therefore the application does not address the requirements of the Building Regulations and does not satisfactorily address Annex I or GP8 d. of the IDP.

The development seeks to make better use of an existing building which currently has constraints in terms of accessible accommodation. The development would remain accessible by ambulant disabled retaining the current situation. Taking into account the constraints of the site the scheme does address Policy GP8 f. and g.

Sustainable Development

Confirmation has been received that the proposed development has been designed to take into account matters of energy efficiency and current Building Regulations in accordance with Policy GP9.

Cycle storage

The development does not make provision for cycle storage although it is noted that a modest utility shed exists to the side of the building which could perhaps accommodate one or two cycles to help meet the aims of Policy IP6. It is also noted that the site is situated in a highly sustainable location, within easy access of services and public transport. The curtilage of the building does not project beyond the outer walls of the building therefore it would not be possible to provide new external cycle storage. To offer storage internally would also be a challenge given the protected status of the building. On balance therefore, Policy IP6 is considered to have been addressed in this instance.

Conclusions

The lack of information/clarity regarding the works to the Protected Building is such that the scheme cannot be fully assessed against Policy GP5 and the scheme may result in harm to the special interest of the Protected Building contrary to the aims of that policy. Furthermore, the scheme does not meet the current Building Regulations due to the layout of the accommodation and flat sizes, and as a result the scheme would not offer a satisfactory living environment for future occupiers of the proposed development contrary to Policy GP8 d. and Annex I of the IDP.

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 or sites.

Date: 26/07/2023

