

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: Demolish existing building containing 3 flats, erect replacement building with 3 flats and detached dwelling to north of site with associated store, bike and bin store, landscaping and alter pedestrian accesses.

LOCATION: Fosse House, Fosse Andre, St. Peter Port.

APPLICANT: Mr V Wiltshire

I refer to the application referred to below received as valid on 24/05/2023 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 23/08/2023

Drawing Nos: ArcTech Freelance Architecture: VW-22-1106-02 & -03.

Application Ref: FULL/2023/0972

Property Ref: A102280000

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 proposed detached dwelling, by virtue of its height, bulk and relationship with the existing adjoining dwelling, would result in an unacceptable degree of overshadowing and loss of sunlight to the garden area to the south of the adjoining dwelling detrimental to the residential amenities enjoyed by the occupiers thereof. The scheme is therefore contrary to Policy GP8 d. and Policy GP9 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/2023/0972
Property Ref: A102280000
Valid date: 24/05/2023
Location: Fosse House Fosse Andre St. Peter Port Guernsey GY1 2DX
Proposal: Demolish existing building containing 3 flats, erect replacement building with 3 flats and detached dwelling to north of site with associated store, bike and bin store, landscaping and alter pedestrian accesses.
Applicant: Mr V Wiltshire

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The proposed detached dwelling, by virtue of its height, bulk and relationship with the existing adjoining dwelling, would result in an unacceptable degree of overshadowing and loss of sunlight to the garden area to the south of the adjoining dwelling detrimental to the residential amenities enjoyed by the occupiers thereof. The scheme is therefore contrary to Policy GP8 d. and Policy GP9 of the Island Development Plan.

OFFICER'S REPORT

Site Description:

Fosse House is a two-storey traditional building with pitched roof and dormers. The building has been extended to the rear and is currently divided into flats. The garden serving the site is situated to the north and is staggered so that it sits behind the neighbouring property. The site does not benefit from off-road parking and is situated close to the junction of Fosse Andre, La Couture, Collings Road and Rozel Road.

Ayzac is a detached dwelling to the east of the site where permission has been granted and work has commenced on the construction of an extension to its west, adjacent to the east site boundary. Residential properties are situated to the southwest, west, north and east of the site whilst to the south is an area of Important Open Land. The site is located in the Main Centre Outer Area and a Conservation Area. Fosse House is a pre-1900 building.

Relevant History:

Pre-application advice was sought in relation to the erection of a dwelling to the rear of the site.

Existing Use(s):

3 x flats

The survey drawings show the building split into five flats but the application indicates that it is currently in use as three flats. The application submission states that in 2001 the site was a single dwelling but by 2009 it officially contained three flats and any other flats are unauthorised. It sets out that a Certificate of Lawful Use could be submitted but indicates that a Building Control application would be required and may not be granted which would be costly and could impact on capacity of finance, insurance and sale/lease.

Brief Description of Development:

The application relates to the demolition of the existing building and the erection of a replacement building on the road frontage that is three storeys in height with a hipped slate roof situated behind a rendered, parapet and external wall. The building incorporates a subservient two-storey mono-pitched roof extension to the rear to provide stair access to the upper floors. This building contains two, one-bedroom flats and one, two-bedroom flat (there appears to be a drawing error as bedroom 2, also labelled dining room, on the ground floor is indicated as serving unit 2 which is situated at first floor level).

A detached, two-storey dwelling is proposed to be situated to the rear of the site which has been designed with a rendered exterior, slate roof and PVCu windows and doors. This is a two-bedroom unit with amenity space to the front, side and rear. The dwelling is served by pedestrian access only being situated to the rear of the proposed replacement, Fosse House.

The application has been accompanied by a written statement and Site Waste Management Plan.

The application was deferred in relation to the number of units within the existing building in order to enable the application to be considered against the correct, relevant policies in the IDP and whether GP12: Protection of Housing Stock would be relevant in this case but having regard to the submission and the condition/capability of units being capable of upgrading.

Further information was provided setting out that in August 2009 flat 5 was purchased and in September 2021 the remainder of the property was also purchased by the applicant on the assumption that this formed another four flats which, it was understood had existed from around July 2009. Since 2021 the building has been rented as 5 flats and there are five Cadastre numbers. Attention is also drawn to an email from the Planning Service referring to a planning permission for the conversion of the original dwelling to three flats and that no further flats have been granted planning permission.

The revised information reiterates the perceived issue of a Certificate of Lawful Use application given the comments of the Planning Service regarding the grant of permission for only three units and that a number of units would be substandard.

The submission as amended does however set out that upgrading the property would not be viable given its condition and the expense of Building Control requirements so it has been concluded to be more cost effective to demolish and rebuild Fosse House.

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

GP8: Design

GP9: Sustainable Development

IP6: Transport infrastructure and support facilities

IP7: Private and Communal Car Parking

Representations:

Seven letters of representation have been submitted in relation to this application and raising the following points:

Replacement building

- Support the renovation or rebuilding on the site of Fosse House provided it is undertaken in a manner sympathetic to the character of the area although the loss of an old Guernsey house is a shame
- The volume of building materials will be greater than that incorporated in the current house and the mass of the building will be visually bigger for people walking on Fosse Andre
- The proposal will see the demolition of an old house (c. 150 years old) and the replacement of a granite façade with a render one altering the character of the environment
- Is it necessary to demolish the existing building, could it not be renovated? This proposal has an environmental impact
- The application does not address the contribution the existing building makes to the character and appearance of the Conservation Area
- The building would not achieve a high standard of design
- The development of the rear of the site will remove access to shared open space for the benefit of the occupiers of the proposed flats who will benefit from no meaningful outside space
- Access to the rear house will impact on the amenities of the occupiers of the frontage flats with noise associated with comings and goings

Erection of detached dwelling

- Object to the erection of a detached dwelling on the site
 - It would not be a wise use of land nor a balance of the objectives of the principal aim of the IDP
 - Although there is a housing shortage there is no policy imperative to accept windfall housing developments that are otherwise unacceptable and contrary to policy
- The development would destroy green space harmful to the character and quality of the natural environment
 - neglect of the garden should not be a reason to allow development; it should be used as part of the sympathetic renovation/rebuilding of the existing house
 - The land represents an important gap offering relief from a busy and developed area (GP1)
 - there are trees, bushes and significant natural life in the garden that will be lost and have a detrimental impact on natural beauty and landscape quality (see also Section 42(A) of the Land Planning and Development (Guernsey) Law, 2005)
 - The scheme will not accord with Policy GP1
 - Consideration should be given to the density within the area of neighbouring properties which include sites with limited/no green space
- The dwelling would have a detrimental impact on outlook from adjoining properties
- It will be necessary to demolish the existing building in order to create access to build the detached property at the rear of the site
- The detached dwelling represents an overdevelopment of the site
- The development does not consider the health and well-being of neighbours
 - Overshadowing and loss of natural light
 - Overlooking and loss of privacy – there is already an element of overlooking between properties but this scheme would worsen the situation
 - Loss of outlook (trees replaced with a wall/the new dwelling)
- The dwelling will be overlooked by existing neighbouring properties
- It would not represent a high standard of design as required in a Conservation Area
- The proposed dwelling will be visible from Fosse Andre and La Couture Road
- It is not clear how emergency services will reach the property which is accessible via footpath only
 - This is contrary to IDP paragraph 19.18.1
 - Trees and bushes would escalate any fire propagation
 - It would be approximately 35-40m to the road which would impact the time to react for emergency services exacerbated by a door between the communal area of the frontage building from unit 4
 - Consideration must be given to emergency situations in the frontage building and the means of escape for the new dwelling
 - Emergency vehicles stopped in the road will impact the flow of traffic
- The detached dwelling would set a precedent for others to seek to maximise profit over greenspace with little regard for the character of an area and the enjoyment of surrounding properties

- Attention is drawn to the principal aim of the IDP, Policy MC2, allocated housing sites and higher density developments in appropriate locations and circumstances
- Delivery vehicles associated with the construction of the dwelling will exacerbate disruption to traffic on this Traffic Priority Route

Other matters

- Additional houses mean more demand for parking and there is none in Fosse Andre and La Couture Road – residents already struggle to find spaces
- The application drawings lack fine detail in terms of architectural detailing
- The application form/drawings are inaccurate in relation to the number of existing trees that exist on the site. The application form states that no trees will be removed which is incorrect
- The retention of an existing tree noted on the plans would be affected by the foundations of the proposed dwelling
- A TPO assessment of the trees at Fosse House should be undertaken in terms of their amenity value
- Comments made in the supporting letter that accompanies the submission are disputed
- Other sites where permission has been granted are different for reasons including vehicular access, low height of proposed dwelling and green roofs (e.g. Cofton Mews, Rue Saint Jacques)
- Consideration should be given to whether the application should be taken to an Open Planning Meeting
- Recommend conditions limiting the development to single-storey only and its height along with revised positioning of the dwelling for residential amenity reasons

Consultations:

None.

Summary of Issues:

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.

Housing stock

Although the property was purchased in 2009 containing 5 units of residential accommodation and the building was witnessed as being laid out as such at the time of the site visit associated with this application the applicant verbally indicated that the building had not been occupied as 5 units during the intervening years due to upgrade works being required. There is no planning application or permission for the building to be laid out as more than three units of residential accommodation and no evidence to

demonstrate on the balance of probabilities that it has been used as five flats for a continuous period of 10 years or more. The lawful recognised use of Fosse House is as three flats.

Principle of development

As the site is located in the Main Centre Outer Area the Island Development Plan supports new housing development in principle and the site would see an increase in residential accommodation (from three to four units). The completed development will comprise a mixture of one- and two-bedroom units and is not located within an area of Important Open Land, therefore criterion b. is addressed and c. is not relevant in this case. As the proposal relates to a multi-storey building to Fosse Andre and to introduce backland development by way of a further two-storey building the scheme would represent efficient and effective use of land in line with Policy GP8 criterion b. It should be noted however, that the objective to build at high densities must be balanced against, and will not override, the need to create acceptable living environments.

Green space

Although concerns have been raised regarding the loss of green space and impact on wildlife it is noted that the site is not covered by any particular designation (Area of Biodiversity Importance or Site of Special Significance) and nor is the garden recognised as Important Open Land through the Island Development Plan. The site is situated in an urban area where the size and scale of development along with plot sizes is varied. Although outlook from neighbouring properties would alter as a result of the development, reducing visual access to open space, the scheme would not result in the unacceptable loss of open and undeveloped land.

Impact on neighbour amenity

The detached dwelling is situated to the southwest of Tryfan in close proximity to the common boundary. The adjoining property currently has an area of hardstanding to the front of the recently constructed extension however, the approved scheme for the extension to Tryfan shows a terrace and lawned area to the south of the single-storey extension at this neighbouring property. As proposed, the two-storey pitched roof dwelling with gable adjacent to this common boundary would result in an unacceptable degree of overshadowing to this external amenity space that would be detrimental to the amenities that could reasonably be expected to be enjoyed by the occupiers of this neighbouring dwelling and their use of the private area to the front of their home which is screened by the existing two-storey house in a Clos of only two properties.

The overall height of the frontage building will not exceed that of the existing property at Fosse House although the eaves level will increase in order to facilitate the third-floor accommodation proposed. Given the tightknit arrangement of Fosse House and its attached neighbours an element of overshadowing currently exists to the courtyard areas of the two neighbouring properties west of the application site. The development will see aspects of the building moved further and closer to the west site boundary and the height of the rear element increase from approximately 5.5m to 8m. In this

particular case however, the impact on existing first floor windows at Couture Cottage and Magnolia House to the west will not significantly alter and would not warrant the refusal of permission.

The frontage building has only limited window openings in the rear/north elevation. These are situated at second floor level and one window serves a bathroom and can reasonably be required to be obscure glazed. The secondary windows to the east and west serving unit 3 and kitchen/living windows could also be required to be obscure glazed if necessary. The ground floor, east facing window is shown to face a blank flank elevation and will not impact on privacy to existing adjoining residents.

The detached dwelling (unit 4) is set 11.5m from the south site boundary in order to ensure that overlooking remains within acceptable limits. There are no first-floor windows to the east and west elevations in order to manage the potential for overlooking, ground floor windows and doors to all elevations can be screened by existing/exempt boundary treatments. The first-floor windows facing north serve a dressing area within the bedrooms and two en-suite bathroom windows. The bathroom windows can be required to be obscure glazed, as can the dressing area windows if necessary, given that outlook is provided via windows in the south elevation. Land to the north of the site forms part of the garden of the dwelling situated to the east of the site, Tryfan. There is a distance of 7.5m to the north site boundary, this part of the neighbour's garden is not to the immediate rear of Tryfan which is the part of a garden that is generally considered to be most private and is currently overlooked by the dwelling to the west, Algarve which itself has a garden approximately 7.7m deep.

The scheme has been designed to consider the potential for overlooking and loss of privacy to occur in this case.

Design, appearance and impact on the Conservation Area

Policy GP4 only supports proposals for the demolition of a building that contributes to the character, architectural or historic interest and appearance of the particular Conservation Area where the replacement building makes an equal or enhanced contribution to the character of that Conservation Area.

The existing building is granite fronted with a slate roof although the building has fallen into disrepair internally and the front door is in poor condition. The windows to the front elevation have been replaced with modern PVCu units which detract from the quality of the building and a slate clad, hipped roof dormer has been inserted which is not characteristic with the age and style of property. The application proposes the erection of a three-storey dwelling with rendered exterior, multi-pane sash windows, decorative door casing and hipped roof surrounded by a parapet wall. The detailed elements of this building that enhance its quality and finish can be managed by condition and overall the replacement building would make an equal contribution to the character of the Conservation Area.

With regard to the detached dwelling this has been designed as a pitched roof dwelling with render exterior, sash windows and quoin details to the corners. This represents a

good standard of design that will respect the character and appearance of the Conservation Area in accordance with Policy GP4. It also represents multi-storey development which demonstrates efficient and effective use of land.

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

Residential Amenity

Frontage building

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

- Aspect/Outlook
- Daylight/Sunlight

In this case, unit 1 would be dual aspect (windows front and side), unit 3 would be single aspect (to the front) and unit 3 would be dual aspect (front and rear with narrow side windows to east and west). Sunlight and daylight to the majority of the windows would be acceptable facing south, towards Fosse Andre and the open land beyond. Sunlight/daylight and outlook to the sole window serving unit 1 (ground floor bedroom 2/dining room) would however, be affected as a result of its proximity to the neighbouring dwelling. The ground floor apartment would concentrate primary living accommodation to the front, facing the street with a bedroom facing east, in close proximity to the neighbouring property. As a result, the aspect and outlook associated with unit 1 is considered satisfactory and whilst daylight may be somewhat unsatisfactory on balance this is considered acceptable. Units 2 and 3 would offer satisfactory outlook and daylight/sunlight to the living accommodation and bedrooms addressing the health and well-being of future occupiers.

- Privacy

The principal elevation/fenestration is shown to be in the south/front elevation of the proposed building which would not be overlooked as land to the south is open and undeveloped. Privacy to the side/east window serving bedroom 2/dining room of unit 1 would be affected by occupiers/visitors to the three other units on the site passing close by it. This is a bedroom or dining room rather than principal living accommodation and

as such the impact of other users of the site passing this one window would not warrant the refusal of the scheme.

- Access to external open space

The Annex states 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 three units would have access to a small paved courtyard area with communal washing line but without opportunity for a seating area etc. Two of the units are one bedroom only and unlikely to be occupied by a family but unit 1 is two-bedroom and could therefore house a family. Nonetheless, consideration should be given to access to off-site facilities for “*casual relaxation, interest and exercise*” (Planning Tribunal decision at 7 Berthelot Street). It is acknowledged that the site is readily accessible by bus and a short distance from Beau Sejour leisure centre, the skate park and play park at Cambridge Park along with the seafront providing good connectivity to beaches, cycle routes etc.

The connectivity/access to public open space, external drying area plus provision for a tumble dryer, for unit 2 at least, leads to the conclusion that, on balance, access to external open space is satisfactory.

- internal space provision

The three proposed flats offer good internal space provision for future occupiers.

- Accessibility and flexible accommodation

It is noted that all floors are currently served by a staircase only and which would not alter as a result of the development. This would likely preclude access for wheelchair users however, the development would be required to meet current Building Regulations and the communal staircase would offer access to the upper floors by ambulant disabled. The submission also makes reference to the option to install lifts and the space/layout of the buildings which represents an improvement over the existing situation in terms of manoeuvrability. The layout of the units proposed could also be adapted at a later date to meet the changing needs of occupiers (e.g. grab rails in WCs/bathrooms, installation of hoists provided bedroom and bathroom ceilings are constructed in an appropriate manner and careful and appropriate siting of service controls). Unit 1 is also on a single level offering accessible accommodation on this floor. On balance, the scheme therefore addresses GP8 criteria f. and g.

Detached dwelling

This has been designed to address the health and well-being of future occupiers in accordance with Policy GP8 and Annex I including accessible and flexible accommodation.

Cycle parking provision

Cycle parking is shown to be provided for all units in accordance with IP6.

Refuse storage and other storage has been identified to serve the flats and there is ample space around unit 4 for the storage of refuse and other domestic items.

Other matters

Concerns have been raised regarding emergency access to the site which would ordinarily be addressed through the Building Regulations. It is noted that the distance of the rear property to the highway would be likely to exceed the maximum distance of a fire appliance and it would be reasonable therefore to require a sprinkler system to be installed in the proposed detached dwelling in order to manage and mitigate this potential issue. Issues relating to unloading/loading from the site are also noted but would not alter from the existing situation at the site where there are multiple flats and the associated deliveries/moving of bulky items that residential properties generate. The car parking standards are maximums and there is no policy requirement for car parking to serve the development.

Conclusions

Whilst the principle of redeveloping the site and constructing a dwelling to the rear of the site is acceptable as submitted the proposed two-storey detached dwelling would have an unacceptable impact on the amenities enjoyed by the occupiers of the neighbouring dwelling to the east and it is recommended permission is refused for the scheme.

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: 23/08/2023

