

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: Convert, extend and alter outbuilding to create dwelling, erect single storey garage to west boundary and associated works (Protected Building).

LOCATION: La Brigade Farm, La Brigade, St. Andrew.

APPLICANT: Mr & Mrs West

I refer to the application referred to below received as valid on 24/07/2023 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 22/11/2023

Drawing Nos: DRP Architecture - 3176-DR-001B, 002, 100B, 120, 130, 200A, 201A, 202, 203 & 401

Application Ref: FULL/2023/1174

Property Ref: K005570000

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 demonstrate that the buildings that are the subject of this planning application are of sound and substantial construction capable of conversion without rebuilding or extensive alteration. The Authority does not consider the buildings to be capable of conversion without extensive alteration or rebuilding. Furthermore, due to the substantial two-storey extension proposed, the proposed conversion scheme would incorporate more than a modest extension to the existing building which, in itself, represents a substantial alteration. The scheme would not accord with criteria c. and g. of Policy GP16(A) of the Island Development Plan.

2. The scale and proportions of the proposed extensions would overwhelm the protected barn and would adversely affect its setting contrary to Policy GP5 of the Island Development Plan and the extensions would not appropriately and proportionately preserve the special interest of the building contrary to Policy GP16(A) criterion d. 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/2023/1174
Property Ref: K005570000
Valid date: 24/07/2023
Location: La Brigade Farm La Brigade St. Andrew Guernsey GY6 8RQ
Proposal: Convert, extend and alter outbuilding to create dwelling, erect single storey garage to west boundary and associated works (Protected Building).
Applicant: Mr & Mrs West

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The application submission does not provide sufficient detail to demonstrate that the buildings that are the subject of this planning application are of sound and substantial construction capable of conversion without rebuilding or extensive alteration. The Authority does not consider the buildings to be capable of conversion without extensive alteration or rebuilding. Furthermore, due to the substantial two-storey extension proposed, the proposed conversion scheme would incorporate more than a modest extension to the existing building which, in itself, represents a substantial alteration. The scheme would not accord with criteria c. and g. of Policy GP16(A) of the Island Development Plan.

2. The scale and proportions of the proposed extensions would overwhelm the protected barn and would adversely affect its setting contrary to Policy GP5 of the Island Development Plan and the extensions would not appropriately and proportionately preserve the special interest of the building contrary to Policy GP16(A) criterion d. of the Island Development Plan.

OFFICER'S REPORT

Site Description:

The site is situated Outside of the Centres and within an Agriculture Priority Area (APA).

The whole of the exterior of the main building and barn together with the roof structure and machinery of the south part of the west wing are protected. The single storey east extension, the rest of the interior of the main house and barn, other outbuildings and the pigsties are not protected.

The domestic garden/curtilage has been defined as being the access driveway and all barns, outbuildings and other structures that form the cluster of built development on

the site. It does not include any open and undeveloped land to the north, east or south of the site.

Relevant History:

FULL/2022/0615 - Subdivide dwelling and change of use of self-catering units to create 5 dwellings, erect 1 storey extension to east elevation, demolish and rebuild chimneys, internal and fenestration alterations, demolish outbuilding B (Protected Building) - granted

Pre-application advice was sought in this case.

Existing Use(s):

01 dwellinghouse

Brief Description of Development:

The application relates to the change of use of an existing barn and shed and their extension and alteration to create a three-bedroom dwellinghouse at La Brigade Farm and for the erection of a single-storey detached garage for cars, bicycles and garden equipment adjacent to the west boundary.

A statement (contained within the covering letter) is provided to demonstrate an understanding of the age and former use of the building; setting out that there are outbuildings on the site which were associated with the original farm and which are now considered to be redundant. The buildings are believed to date from between 1787 and 1898 with possible uses including a packing shed (structure 1) for the glasshouse and a single-storey flat roof implements store (structure 2) when the farming use was active. The submission asserts that the buildings fall within domestic curtilage but in its current form the structure is unviable to use as storage ancillary to the dwellings. The submission makes no attempt to apportion value, impact, etc. to the proposals.

As originally submitted the application has not been accompanied by a Structural Survey.

The application was deferred to request further information relating to the condition of the building and to address the fact it is a Protected Building. This information was not forthcoming at the time the application was determined.

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

Island Development Plan policies:

OC1: Housing Outside of the Centres
GP16(A): Conversion of Redundant Buildings
GP8: Design
GP9: Sustainable Development

GP13: Householder Development
IP6: Transport infrastructure and support facilities
IP7: Private and Communal Car Parking
IP9: Highway Safety, Accessibility and Capacity

Representations:

La Societe Guernesiais – We would like to highlight that buildings of this type can be used by roosting bats, breeding Swallows and other wildlife. This likelihood can increase when the property is located within a variable landscape with habitats such as farmland or woodland nearby.

If this application is considered further, we would recommend that the building, in particular the roofspace, be inspected for current or recent use by bats and other wildlife by a suitably qualified person prior to any building works. This would reduce the risk of disturbing or destroying animals which are legally protected under the Animal Welfare Ordinance 2012.

We would also recommend that the development proposals include adequate provision to support targeted species of birds and bats. La Societe would be able to assist with this aspect.

We would also highlight the environmental impact of light pollution on many types of wildlife such as birds, bats and insects. Such pollution can be particularly problematic when introduced into a landscape such as this one, where existing sources of artificial light are relatively sparse. This part of the island has recently been shown to support a number of bat species.

Informative notes are recommended in relation to the use of buildings by roosting bats and other wildlife and request that the site is inspected prior to any building works with appropriate measures taken including the timings of works and highlighting the issue of avoidable light pollution.

Consultations:

None.

Summary of Issues:

The key issues in this case relate the principle of the proposed development and whether the proposed extensions represent modest additions to the buildings.

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.

Policy OC1 of the Island Development Plan makes provision for the creation of new dwellings through the subdivision of an existing dwelling, which this is not, or the conversion of an existing redundant building. The submission indicates that the buildings are redundant and therefore Policy OC1 provides a gateway for the proposed development. Policy GP16(A) must then be considered and criterion b. is addressed as the scheme relates to the establishment of a unit of residential accommodation.

The submission indicates that in their current form the buildings could not be used for domestic storage and were empty at the time the application site visit was undertaken, and the site was vacant at the time. The submission does, however, propose to erect replacement garaging/storage to serve the proposed dwelling. As existing, the site does contain several outbuildings that could be used for storage. The approved scheme for the change of use of self-catering holiday accommodation to units of residential accommodation saw the application buildings excluded from the site and two existing sheds/structures to be demolished. An outbuilding labelled 'A' was indicated to be retained and planned to be the subject of a separate application (not yet submitted). At present however, it appears that outbuilding 'A' could be utilised for domestic storage associated with the site as existing and as approved. As such therefore, structures 1 and 2 that are the subject of this application can be concluded to be both no longer required or capable of being used for its current or last known purpose in accordance with criterion a. of GP16(A).

The scheme has not been accompanied by a Structural Report/Survey into the condition of the buildings nor does it address in any detail, the condition of the buildings and their capability to be converted without extensive alteration or rebuilding, having regard to the substantial first floor extension proposed above structure 2. The application does not set out that structural works are required but proposes a reduction in ground levels around the building and notes bulges to the walls and damage to structural timbers.

A visual inspection carried out at the time of the application site visit suggested that the condition of structure 2 is questionable particularly when considering the substantial first floor extension proposed above the existing structure and the use of an Acroprop on site. Regarding the two-storey barn (structure 1), the internal first floor joists showed signs of decay where they met the wall and first floor structures are, in places, held up by pillars of blocks. There was some evidence on site of the side wall (southwest) bowing. As a result it is possible that structural alterations, e.g. underpinning, replacement of the roof structure, replacement of lintels, could be required and a structural survey would confirm this.

In addition to the above, there is no information to demonstrate that the building (structure 2) could accommodate the additional loading associated with the proposed extension or how this would be managed or addressed so as not to undermine and

affect the retention of structure 2. The scheme has not therefore, satisfactorily demonstrated compliance with Policy GP16(A) criterion c. in terms of demonstrating that the buildings are capable of conversion without rebuilding. The erection of a substantial extension as indicated in this scheme would also represent an extensive alteration contrary to criterion c.

The value of elements of the building have been assessed against the magnitude of impact of the works to establish the effect of the development on the overall special interest using the matrix on page 16 of BS 7913:2013.

The whole of the exterior of structure 1, the barn, is Protected, and the submission touches only very briefly on the impact of the development on this Protected Building and the setting of the farm complex as a whole. The alterations to the existing barn structure associated with its conversion to a unit of living accommodation would not have an adverse impact on the special interest of the Protected Building. The application does however, propose a substantial extension to the east elevation of the building, obscuring much of the east elevation. The scale and proportions of the extensions would overwhelm the protected barn and would adversely affect its setting. There would be a moderate/large effect on the overall special interest of the setting of the Protected Building contrary to Policy GP5 and as a result the scheme does not comply with Policy GP16(A) criterion d. because the extension would not appropriately and proportionately preserve the special interest of the building.

In addition, floor plans suggest that the wall of the barn would be retained but the effect on the roof is unclear (portion removed/new roof built over and how the extension would be fixed to the barn). If the application were acceptable in all other respects the application could be deferred to address these queries.

The barn, structure 1, is a building of character, however the alterations to structure 1 seek to make use of existing window and door openings with limited alterations to the roof to accommodate rooflights. Although a substantial part of the barn would be obscured by the proposed extension overall, the proposals, with a subservient and somewhat contemporary style extension, would have no unacceptable impact on the contribution this building of character makes to the character and appearance of the area in accordance with Policy GP16(A) e.

The buildings are part of a cluster of development at the farm and the conversion and extensions would be viewed in the context of this existing built development. The conversion scheme would not therefore have an unacceptable adverse impact on the character and openness of the landscape in accordance with criterion f.

Policy GP16(A) criterion g. specifies that a conversion scheme should not require more than a modest extension to the existing building for the conversion to be achieved. Paragraph 19.17.8 of the Island Development Plan states *“proposals to convert an existing building may be accompanied by a modest extension provided that the extension is not of such scale that it forms a significant part of the new unit, in effect creating a new building contrary to this policy.”*

As designed and laid out, the proposed kitchen/family room would be housed in the link extension between barn/structure 1 and structure 2 and the first-floor extension above this and above structure 2 would house a bedroom suite, WC and study/4th bedroom (given its size and there being no way to reasonably control its use solely as a study). The ground floor extension would house primary accommodation necessary in order for the proposed conversion to function as a self-contained unit of residential accommodation and the provision of a kitchen of significant size and two further bedrooms and bathrooms would form a significant part of the new unit. The scheme does not therefore, comply with Policy GP16(A) criterion g.

It is also noted that the proposed scheme incorporates a large detached garage which could not readily be incorporated into the proposed dwelling. Criterion f) of Policy GP16(A) clearly recognises the potential for ancillary development associated with a proposed conversion, provided that there would be no unacceptable impact on the character and openness of the landscape. In respect of such development, Policy GP16(A) would have to be read as a whole, and, to accord with the direction of part g), any ancillary development would have to be proportionate and of a scale appropriate to the proposed conversion. The prefacing text to Policy GP16(A) (para. 19.17.8) states that, once it has been established that the conversion is acceptable in principle, ancillary structures relating to the new use will also be assessed against the relevant policies of the Island Development Plan, which, in this case, engages Policies GP8 (Design), GP9 (Sustainable Development) and GP13 (Householder Development).

As set out above, the principle of the proposed change of use to residential accommodation is acceptable in principle under the provisions of Policy GP16(A). The proposed garage, by virtue of its position on site and in relation to surrounding development, together with its form, design, limited scale and mass, would not have any adverse impact on the character or openness of the landscape. Considering the size and clear purpose of the garage relative to the overall scale of the conversion, it would represent a proportionate and ancillary structure. However, the garage is only acceptable as a structure ancillary to the conversion, and the construction of that garage should not therefore be commenced until the conversion of the existing building has been completed.

Criterion h. of Policy GP16(A) relates to residential amenity which is also the subject of Policy GP8. First floor fenestration facing towards the existing buildings at the farm (residential/self-catering/approved dwellings) in the existing barn (structure 1) is limited and the distance separation is sufficient to ensure that overlooking/mutual overlooking remains within acceptable limits. Large areas of glazing are proposed in the north elevation at ground and first floor level. Ground floor fenestration can be screened by boundary treatments (a matter that can be managed by condition). The first-floor accommodation serves a hallway and not habitable accommodation and this, combined with the distance to the other accommodation on the site, is considered sufficient to preserve the privacy and amenities of neighbouring occupiers.

A Plan objective of the IDP is to achieve and promote a broad range of housing development to ensure an appropriate amount, mix and type of housing. Analysis of the Guernsey housing market has been carried out and identifies additional requirement for

one-, two- and three-bedroom units. The scheme as proposed would introduce a four-bedroom unit of accommodation on the site contrary to Plan Objective 5 of the IDP.

Implications of *The Island Development Committee v Portholme* [2002]

In *The Island Development Committee v Portholme* [2002], the Court of Appeal held that “... if a plan allows for development only in certain identified circumstances, by necessary inference, development out with those circumstances is not to be allowed.”

Section 12(1) of The Land Planning and Development (General Provisions) Ordinance, 2007, is also clear that where the Authority has regard to any relevant Plan in determining an application for planning permission for development which would involve a departure from such a Plan then it must refuse the application (unless the applicant has requested that the application be considered as a minor departure), and it need not take into account any other matter to which it is required to have regard under the Law.

Given the identified conflicts with Policy GP16(A), the only lawful decision that can be reached is that planning permission be refused.

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: 21/11/2023