

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 dwelling and garage and erect 6 dwellings and associated works, alterations to roadside boundary to alter vehicle accesses.

LOCATION: Demie Shard, Rue De La Mare, St. Sampson.

APPLICANT: Mr M Bougourd

I refer to the application referred to below received as valid on 13/07/2023 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 29/01/2024

Drawing Nos: MAT Ltd: 22-248-01A, 02, 03, 04, 05, 06, 07

Application Ref: FULL/2023/1185

Property Ref: B004480000

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 proposal will result in unacceptable harm to the amenity of the occupiers of the adjoining property due to the height and width of Units 3-5 and the resultant overbearing visual and physical impact on the neighbour directly to the north (No 12). The proximity of the units will also have a harmful impact on this neighbour's privacy due to the potential overlooking from the rear windows of Units 4 and 5 particularly. The height, width, proximity and orientation of Units 3-5 and Unit 6, are also considered likely to result in an unacceptable level of shading and overshadowing of the neighbouring gardens of No 12 to the north and Nova to the east. The proposal does not accord with the amenities objectives set out in IDP Annexe 1: Amenities, as it fails to respect privacy and prevent harmful levels of overlooking. This is contrary to Policy GP8a as the overlooking and overshadowing are indicative of poor design, and also GP9b as the proposal has an unacceptable impact on the amenity of neighbouring properties.

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/2023/1185
Property Ref: B004480000
Valid date: 13/07/2023
Location: Demie Shard Rue De La Mare St. Sampson Guernsey GY2 4PG
Proposal: Demolish dwelling and garage and erect 6 dwellings and associated works, alterations to roadside boundary to alter vehicle accesses.
Applicant: Mr M Bougourd

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The proposal will result in unacceptable harm to the amenity of the occupiers of the adjoining property due to the height and width of Units 3-5 and the resultant overbearing visual and physical impact on the neighbour directly to the north (No 12). The proximity of the units will also have a harmful impact on this neighbour's privacy due to the potential overlooking from the rear windows of Units 4 and 5 particularly. The height, width, proximity and orientation of Units 3-5 and Unit 6, are also considered likely to result in an unacceptable level of shading and overshadowing of the neighbouring gardens of No 12 to the north and Nova to the east. The proposal does not accord with the amenities objectives set out in IDP Annexe 1: Amenities, as it fails to respect privacy and prevent harmful levels of overlooking. This is contrary to Policy GP8a as the overlooking and overshadowing are indicative of poor design, and also GP9b as the proposal has an unacceptable impact on the amenity of neighbouring properties.

OFFICER'S REPORT

Site Description:

The site is currently occupied by a detached dwelling and garage, with a garden that extends to the rear and wraps around the neighbour to the east. Part of the site is residential curtilage for Demie Shard, and part of the site is agricultural, as a redundant glasshouse site.

The site is located within the Main Centre Inner Boundary, as designated by the Island Development Plan.

The garden area is very overgrown meaning that the swimming pool, glasshouse and outbuilding shown in the location plan were not visible at the time of the site visit.

Relevant History:

PREA/2021/1633 - Demolish existing dwelling, garage and greenhouse and erect 6 two-storey dwellings.

Existing Use(s):

01 - Residential Dwelling
28 – Agriculture

Brief Description of Development:

The application proposes the demolition of the existing dwelling, garage and other structures on site, and the erection of 6x new dwellings, along with associated works and alterations to the roadside boundary to alter vehicular access.

The proposal is for 3x two-bedroom, 1.5 storey dwellings and 3x three-bedroom, 2.5 storey dwellings. There is a new shared driveway which provides access to the rear of the site, and 2x parking spaces provided per dwelling, with a central bike and communal bin store to serve the dwellings.

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

MC2 – Housing in Main Centres and Main Centre Outer Areas
GP8 – Design
GP9 – Sustainable Development
GP15- Extension of Curtilage

Representations:

Thirty-one letters of representation have been received regarding the proposal. Thirty of the letters received are the same, and raise the points summarised below:

- Noise and dust pollution during construction
- Health concerns as a result of the noise and dust caused by construction
- Increased traffic and concerns for highway safety as a result
- Road and infrastructure damage caused by the additional construction traffic
- Potential need for utility upgrades to service the additional demand caused by 6 new dwellings, and the impact of shutdown/interruptions to services for local residents.
- Additional digging and trenchwork as a result of service/utility upgrades may result in danger to pedestrians and financial cost to residents for upkeep of road.
- Limited access to properties during construction and potential for the road to be blocked by construction vehicles and traffic which will inconvenience residents.
- Potential for lack of emergency access to properties as a result of construction traffic. Waste collections etc may also be impacted.
- Environmental impacts include loss of habitats and greenspace, with significant impacts on biodiversity, noise and air pollution.
- Change to residents' lifestyle as lane will not be peaceful or tranquil.

- Uncertainty of plans - these show homes with two or three floors, but potential changes after construction would affect the peace and ambiance of the lane, natural light and ventilation for neighbours. Significant changes may lead to overdevelopment and further congestion, noise and strain on infrastructure.
- Neighbours are opposed to the development due to change in character as a result of 6 additional dwellings.

One additional letter of representation commented on the potential for some of the site to be agricultural and so the Strategy for Nature would apply. Disappointment is also expressed that the applicants have suggested artificial grass may be used.

Consultations:

None.

Summary of Issues:

The main concerns include:

- The principle of residential development
- The change of use of part of the site and impact on the character of the area
- Amenity and impact on neighbours
- Access and highway safety
- Other matters

Assessment against:

- 1 - Purposes of the law.**
- 2 - Relevant policies of any Plan, Subject Plan or Local Planning Brief.**
- 3 - General material considerations set out in the General Provisions Ordinance.**

Principle of Development:

The site is located within the Main Centre Inner Boundary, which means that new residential development is supported by Policy MC2, where the proposal is in accordance with all other relevant policies of the IDP and where a variety of dwellings of an appropriate mix and type is provided.

The States' Strategic Housing Indicator sets out the housing mix and type requirements expected for the period 2023-2027. This shows a clear additional requirement within the private market sector for two-bedroom properties, with a smaller requirement for additional one- and three-bedroom units.

The creation of two and three bedroomed dwellings would therefore meet an identified housing requirement in the Island. The units would however need to provide an appropriate standard of accommodation and meet the terms of all other relevant policies of the Island Development Plan.

The principle of residential development at this site is therefore acceptable, provided that the development accords with other relevant policies of the IDP, which is assessed in detail in the following sections of this report.

Impact on the character and appearance of the area and whether the design of the buildings are acceptable:

The proposal requires a change of use of part of the land for residential purposes, which means that Policy GP15 applies. This supports the change of use where it would not have an unacceptable detrimental impact on landscape character, it would not have an unacceptable impact on the biodiversity interest of an ABI, the land cannot contribute to the commercial agricultural use of an APA, and it is demonstrated that it would not involve an unacceptable loss of established boundary features that contribute positively to the character of an area and would not harm neighbour amenity.

The site is not within or adjacent to an ABI or APA, is fully enclosed by residential development, and no loss of established boundary features is proposed. The proposal is likely to be acceptable in relation to this policy, as long as it will not have a detrimental impact on neighbour amenity, which will be considered in detail below.

As part of an application for a change of use of agricultural land to residential, the Strategy for Nature applies and enhancements in biodiversity are required. The application includes mixed native shrubs and hedging to a number of boundaries, and this can be conditioned to be secured. The amount of native hedging proposed is considered sufficient to provide the required biodiversity enhancements, in accordance with Policy GP15 and the Strategy for Nature.

Policy GP8 requires all new development to achieve a high standard of design which respects and where appropriate enhances the character of the environment. Proposals for new development will be expected to:

- a) Achieve a good standard of architectural design, including the design of necessary infrastructure and facilities;
- b) Demonstrate the most effective and efficient use of land;
- c) Respect the character of the local built environment or the open landscape concerned;
- d) Consider the health and well-being of the occupiers and neighbours of the development by means of providing adequate daylight, sunlight and private/communal open space;
- e) Provide soft and hard landscaping where this reinforces local character and distinctiveness;
- f) Demonstrate accessibility to and within a building for people of all ages and abilities; and
- g) With regard to residential development, offers flexible and adaptable accommodation that is able to respond to people's needs over time.

The existing detached dwelling is of no particular architectural merit and does not make any significant contribution to the character or appearance of the surrounding area, which comprises a mixture of building types and design. Its demolition would not negatively impact on the character or appearance of the area.

The character of the area comprises a mixture of dwelling types, but is predominantly composed of detached and semi-detached properties set within a variety of plot sizes and widths. Higher density development is found immediately to the north west of the site, with lower density development to the south.

Dwellings generally front onto the road in this area, with traditional compositions. The proposed scheme includes a pair of 1.5 storey semi-detached dwellings to the main frontage, replacing the existing dwelling, along with three 2.5 storey terraced dwellings to the rear of the site and a detached 1.5 storey dwelling to the eastern edge of the site.

The design of the buildings is traditional, with granite finish to the front of the two dwellings facing Rue De La Mare, with render and slate used as the main materials and quoin features proposed to all dwellings. The building has been positioned to respect the building line of the properties on the northern side of Rue De La Mare, with parking within the front garden area which is similar to other dwellings nearby. It is considered therefore that the design of the proposal is in keeping with the visual appearance and character of the surrounding area and the immediate street scene.

The design of the dwellings with regard to the impact on neighbouring amenity has been considered in further detail in the next section below.

The buildings are designed to including level thresholds, relevant clear zones and circulation space, with provision of ground floor WC facilities and could be adaptable to changing needs over time. The internal space standards proposed are good, greatly exceeding the Guernsey Technical Standards, and all dwellings also exceed the UK's DCLG National Space Standards which are considered best practice.

Although objections have been received with regard to the increased density of development and impact on the character and on neighbours as a result, the site is situated in a sustainable urban location within a Main Centre Area where new housing development is encouraged by States-approved planning policy. Furthermore, the IDP recognises that there is a need to make the best and most efficient use of the land where appropriate. The proposal will make effective and efficient use of the site at an appropriate density in accordance with IDP Policy.

A new access into the rear of the site will be created with an entrance width of 6m, narrowing to 4.5m in width. The existing dwelling has no enclosure to the front boundary and the proposed development has open frontages and hard surfacing for car parking which is considered acceptable in this location.

The applicant's agent has provided confirmation that the design and specification of the dwellings proposed comply with all parts of the Guernsey Technical Standards 2012, specifically in terms of: thermal efficiency (insulation); drainage; water efficiency; materials to be used; waste storage and disposal; and the conservation of fuel and power. Solar panels and EV charge points are to be provided for each dwelling.

A Waste Management Plan (WMP) has also been submitted which includes confirmation of how waste associated with the development will be minimised, how existing materials are to be reused and how residual waste will be disposed of.

Sufficient evidence has been provided within the application to demonstrate that the proposal has been designed to take into account the use of energy and resources and to reduce any impact on the environment in accordance with Policy GP9 of the Island Development Plan.

Impact on neighbour amenity:

The application site is surrounded by residential properties. Units 1 and 2 are set along a similar building line to the neighbour to the west, with a side-to-side separation distance of 5.5m between the existing and proposed dwellings which is acceptable and unlikely to result in any harm to the neighbours as no side windows are proposed.

There is approx. 17m separation distance from the rear of Units 1 and 2 and the front of Units 3-5, which is, in this Main Centre location, considered sufficient to afford a reasonable level of privacy.

Unit 6 is a detached dwelling and occupies the eastern section of the site. The rear elevation is only 5m from the boundary of the site, with the side elevation of the neighbouring dwelling to the east, Nova, located approx. 9m from the boundary, giving a total separation distance of approx. 11m. The rear elevation of Unit 6 has been configured so that only rooflights face east, and these serve a bedroom and bathroom and have cill heights of approx. 1.7m which prevents harmful overlooking. Despite this, there is considered to be a harmful impact as a result of the proximity of the new dwelling to the garden and dwelling, Nova. There is also expected to be some overshadowing of the neighbour's garden as a result of the proximity of the new dwelling, its height and mass, as despite its orientation to the west of the neighbour harm is still expected as the area of garden to the immediate rear of Nova, and usually considered the most sensitive in terms of amenity, is already significantly overshadowed by the 1.5 storey dwelling directly to its south. The proposed development, in combination with the existing, would result in significant shading/overshadowing of the entire garden for the occupants of this neighbouring dwelling, and this will be particularly oppressive in winter months.

Units 3-5 are located approx. 6 -7m from the boundary with the neighbour to the rear. The units stretch 22m across which is almost the entire width of the boundary with this neighbour (No 12) and is therefore considered to result in an overbearing visual and physical impact due to the height, and proximity of the new dwellings. This is also likely to result in unacceptable levels of overshadowing of the future occupants' gardens and neighbour's private garden which runs the width of the rear boundary. The neighbour's entire front and rear sections of garden which abut the dwelling will be subject to unacceptable levels of overshadowing as a result of the height, width and proximity of Units 3-5, and this will be worse during the winter months.

The proposed rear gardens for Units 3-5 will also be subject to a significant level of overshadowing due to their orientation, and this will impact upon the quality of their amenity space. The units also have front gardens, but these form the open parking areas

and do not compensate for the poor-quality private spaces. This has to be balanced against the good provision of internal space and dual outlook, which means this is, on balance considered to be acceptable.

In addition, Units 3-5 have first and second floor bedroom windows to the rear elevation. The rear windows of Units 4 and 5 particularly allow direct views into the rear garden of the neighbour to the rear (No 12), at a minimum distance of 7m to the boundary and 10-11m to the most sensitive area of private amenity space located immediately to the rear of No 12. The proposal therefore allows direct overlooking of the neighbour's garden and private amenity area.

This proposed development is immediately to the south of the neighbouring dwelling and the width, height and resultant bulk of the proposal, and its solid composition only 6m from the shared boundary is considered likely to result in a loss of sunlight and daylight to the majority of the neighbouring property, for the majority of the day, particularly its rear garden and worsened in winter months. This was raised as a concern during the consideration of the pre-application request and the determination of the application and a shadow study requested to clearly demonstrate the impact of the development on neighbours. However, no survey was submitted, nor were the plans revised to reduce the heights of the units in response.

In addition, the rear gardens provided for units 3-5, given a depth of only 6-7m will be subject to a high level of overshadowing by the 2.5 storey dwellings, resulting in a poor quality of outdoor amenity space for future occupants of these dwellings.

Units 1-2 are 1.5 storey, and 7m in height, with rear gardens of approx. 6m. This reduction in height is expected, on balance, to prevent the overshadowing of the rear gardens to the same harmful degree as Units 3-5.

For the reasons considered above, it is considered that there would be a significant detrimental impact on privacy and amenity as a result of the proposal.

Whether the proposal would impact negatively on highway safety:

A new access into the site will be created with an entrance width of 6m, narrowing to 4.5m. The existing dwelling has no enclosure to the front boundary and the proposed development has open frontages and hard surfacing for car parking which would have limited effect on the character and appearance of the surrounding area.

The visibility splay for the proposed access for Units 3-6 relies on the removal of a section of neighbour's fence which is outside the application site. There is, therefore, no way of ensuring the removal of this fence via planning condition, to secure the necessary visibility splay.

The site is located in the Main Centre, and the parking provision indicated on the plans supplied will provide 12 spaces (2 spaces allocated for each dwelling). No visitor car parking spaces are proposed however from an active travel perspective, the site is well located for either pedestrian or cycle-based commuting to and from the Bridge, and bus stops for St Peter Port.

Communal cycle parking has been provided (although it is not covered) and each dwelling also has a small shed situated to the rear. It is considered therefore that cycle parking can be demonstrated for each dwelling, however the communal cycle parking indicated on the plan should provide covered storage.

For the above reasons it is considered that the parking provided is in accordance with the provisions of Supplementary Planning Guidance: Parking Standards and Traffic Impact Assessment (which are maximum standards) and therefore complies with Policy IP7 of the IDP.

Although the site's development will represent an intensification of use, it is not considered that the additional vehicle movements associated with a development of this scale will affect the flow of traffic through the area.

For these reasons it is considered that the proposal would not cause a detriment to highway safety.

Other considerations:

Associated impacts of development, including noise, dust pollution and health concerns as a result of construction works, along with future service/utility upgrades are considered to be short term in nature and cannot be given any significant weight in determination of this application.

Damage to roads and private properties is not a material planning consideration and so cannot be considered in the determination of the application.

Any potential issues with resident access during construction would fall under separate legislation or represent a private civil matter and cannot be controlled by planning condition.

Regarding future extensions or changes post construction, the IDP supports appropriate householder development and allows people to adapt their homes to create flexible spaces. Any future applications would be assessed on their own merits, and under the policies which are relevant at the time.

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; the effect of the proposed which the site could be put without further planning permission; 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 not impact on any Protected Buildings, trees, monuments or on any SSS's.

Conclusion:

As described within this report, the proposal would have an overbearing visual and physical impact on the neighbour directly to the north (No 12), due to the height, width and proximity of the units, which will also have a harmful impact on neighbouring amenity. There is also an unacceptable level of shading and overshadowing anticipated to neighbouring gardens of No 12 to the north and Nova to the east. The proposal is therefore contrary to Policy GP8a, GP9 and does not accord with the amenities objectives set out in IDP Annexe 1: Amenities. It is therefore recommended that planning permission is refused.

Date: 29/01/2024