

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 building to create dwelling and associated works.

LOCATION: Les Trois Quartiers, Route De Cobo, Castel.

APPLICANT: Mr P Payne

I refer to the application referred to below received as valid on 24/08/2023 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 18/10/2023

Drawing Nos: PF+A Ltd: 7096-06/B1A & /B2.

Application Ref: FULL/2023/1340

Property Ref: D013720000

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 has not demonstrated, to the satisfaction of the Authority, that the existing domestic outbuilding currently recognised as a poolhouse to serve the existing swimming pool at Les Trois Quartiers is no longer required or capable of being used for its current or last known purpose, as a domestic outbuilding serving the site. The scheme therefore fails to comply with Policy GP16(A) criterion a. of the Island Development Plan.

OTHER REMARKS:-

Right of appeal against planning decisions

Your attention is drawn to the provisions of Section 68(1) of the Land Planning and Development (Guernsey) Law 2005, which provides a right of appeal, against a decision to refuse an application for planning permission or outline planning

permission to the Planning Tribunal on the merits. An appeal to the Planning Tribunal under section 68 of the Law against this decision must be made before the expiry of the period of six months beginning with the date on which the Authority made this decision.

Copy of representations made

In reaching this decision the Development & Planning Authority took into account any written consultations made under Section 11(1) of the Land Planning and Development (General Provisions) Ordinance, 2007 ('the Ordinance'). A copy of any consultation responses made to the Authority under section 11 will be included with this decision in accordance with section 19 of the Ordinance.

A J ROWLES

Director of Planning
Planning Service



PLANNING APPLICATION REPORT

Application No: FULL/2023/1340
Property Ref: D013720000
Valid date: 24/08/2023
Location: Les Trois Quartiers Route De Cobo Castel Guernsey GY5 7UP
Proposal: Convert, extend and alter building to create dwelling and associated works.
Applicant: Mr P Payne

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The application has not demonstrated, to the satisfaction of the Authority, that the existing domestic outbuilding currently recognised as a poolhouse to serve the existing swimming pool at Les Trois Quartiers is no longer required or capable of being used for its current or last known purpose, as a domestic outbuilding serving the site. The scheme therefore fails to comply with Policy GP16(A) criterion a. of the Island Development Plan.

OFFICER'S REPORT

Site Description:

Les Trois Quartiers is a detached dwelling situated on a sloping site to the east of Route De Cobo. It is a one and a half-storey building which has been extended. Vehicular access serving the dwelling is located to the south of the property and a second access which falls within the domestic garden of the site is situated to the north of the dwelling and the track running east to the one and a half-storey cottage element of the building also falls within the recognised garden of Les Trois Quartiers. The pool house is situated to the east of the main building, adjacent to the parking/turning area that serves the property.

Land to the north of the site is open and undeveloped agricultural land and an area of open land is situated to the east of the pool and pool house.

The site is located Outside of the Centres and within an Agriculture Priority Area.

Relevant History:

Pre-application advice was sought in this case – highlighting that the floor area of the pool house is less than 30sqm and so insufficient to meet the Building Regulations for the formation of a unit of residential accommodation where OC1 indicates that the

accommodation must be capable of meeting the current Building Regulations without extension and as a result this scheme would be likely to be tantamount to the creation of a new unit of residential accommodation. The advice did indicate that if the extension were constructed prior to a proposal to convert the building from a pool house to a dwelling then issues associated with OC1/GP16(A) would fall away. Potential issues were highlighted regarding the redundancy issue given that the pool house could be put to an alternative ancillary domestic use for the enjoyment of the existing dwellinghouse or either dwelling approved. The need for an application to address the condition of the building, such as a structural survey, was also highlighted.

FULL/2022/2135 - Demolish dwelling, erect 2 dwellings with associated parking and landscaping and create two new vehicular accesses (Revised Scheme) – granted

FULL/2018/2912 - Sub-divide the existing dwelling into two residential units (units A & B) and extend pool house for use in connection with dwelling B with associated car parking and landscaping. Create new vehicular access, infill existing access and erect field gate – granted 07/03/2019

Prior to approval however, the application was deferred in order for the applicant's agent to address concerns raised regarding the conversion of the pool house to a dwelling and compliance with Policy OC1 and GP16(A) of the Island Development Plan. The pool house as a separate unit of residential accommodation was omitted from the scheme.

Existing Use(s):

01 dwellinghouse
28 agriculture

Brief Description of Development:

The application proposes the change of use of the domestic pool house into a one-bedroom unit of accommodation incorporating a link, largely glazed extension to the front of the building. The extension proposed provides the connectivity to the different and principal accommodation within the original flat roof structure.

The accompanying letter from the planning agent sets out that the building has been unused for many years and is no longer part of the amenity of the main houses, subject to redevelopment. The application proposes a modest extension which was previously granted permission as part of the enhancement of the pool house (not as part of a change of use proposal).

The application has been accompanied by a Structural Engineer's Report which notes that the pool and pool house have been unused for a considerable period of time. The report notes that the foundations had not been exposed for inspection but that the steel frame was exposed in a number of locations. In conclusion the building was considered to be in sound condition with no evidence of structural movement and with

only localised repairs necessary to address a large crack and dry rot. To convert to a dwelling would require little/no structural alteration or rebuilding.

In terms of sustainable development the submission highlights thermal upgrading works through external insulation and re-rendering along with insulation between existing roof joists with insulated plasterboard to be used internally along with new windows and doors to existing openings. Solar panels are also indicated to be provided.

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

OC1: Housing Outside of the Centres
GP8: Design
GP9: Sustainable Development
GP16(A): Conversion of Redundant Buildings
IP6: Transport infrastructure and support facilities
IP7: Private and Communal Car Parking
IP9: Highway Safety, Accessibility and Capacity

Representations:

None.

Consultations:

Traffic and Highway Services – commented on the previous proposal for a new access to the south of the site. The approved scheme saw the replacement of the main access with an access approximately 15m to the South East with a 4.2m wide bell-mouth (access width at the pavement edge being 7m). THS were satisfied that the achievable visibility splay from the new access would enable sightlines of 33m in the direction of both oncoming and approaching vehicles and that the proposed field gate at the secondary access would not impact on the existing sightlines, or have a detrimental effect on traffic movements in the road, as vehicles enter or egress the field via a gated entrance.

Summary of Issues:

The key issues in this case relate to the principle of the proposed change of use from an ancillary domestic outbuilding to a dwelling and whether the proposed extension is acceptable in order to provide a unit of residential accommodation/whether it is a modest addition.

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 Spatial Policy of the Island Development Plan (IDP), expressed through Policy S1 (Spatial Policy), is to, “concentrate the majority of new development in the Main Centres and the Main Centre Outer Areas to maintain the vitality of these areas...and to allow for development Outside of the Centres in identified specific circumstances, in accordance with the Strategic Land Use Plan (SLUP)”.

The approach to development set out within the SLUP and the Spatial Policy of the IDP is reinforced through Policy S4 (Outside of the Centres) and the introduction to Part 3 of the IDP Policies for Outside of the Centres which, whilst acknowledging that the Plan makes provision for certain types of development Outside of the Centres, states that proposals for new housing will not generally be supported Outside of the Centres.

In exceptional circumstances, in relation to housing, the IDP does however recognise the potential opportunity to convert and reuse redundant buildings. The balance in terms of housing provision outside of the centres is however to protect the physical environment and to ensure that the spatial strategy of the Plan is not undermined. To this end, any proposal to create housing must comply with a series of rigorous tests, summarised in Policy OC1 (Housing Outside the Centres) and encapsulated in Policy GP16(A) (Conversion of redundant buildings) in the IDP.

Policy GP16(A) of the Island Development Plan requires an application submission to demonstrate to the satisfaction of the Authority that the building is no longer required or capable of being used for its current or last known purpose.

The submission sets out “In terms of redundancy or no longer required status, the 2019 Approval recognised the Outbuilding was redundant of its uses at that time and is further not required because the use of an external swimming pool has adverse environmental impacts for the purposes of Policy GP9 and hence its removal”.

Application reference, FULL/2018/2912, showed an extension to the pool house and garden area around the pool house being described as the upper garden of the proposed dwelling B at Les Trois Quartiers. The current application submission argues that the 2018 scheme included this building which “no longer had a use” whereas the officer report refers to bringing the building “back into use” in terms of its domestic function and associated with the existing swimming pool on site which was shown to be retained.

Reference is made in the submission to the pool being infilled as part of the 2018 application which was granted permission in March 2019 however this was not shown on the approved plans. The submitted justification for the poolhouse being redundant is that there would be no pool for it to serve. The submission also makes reference to FULL/2022/2135 however the approved plans show the pool and poolhouse retained (not infilled) although not shown to fall within the garden area of either dwelling approved.

The 2018 permission has now lapsed however the frontage dwellings remain on the site and the 2022 permission to redevelop those dwellings has not been implemented. Although the pool itself may be considered inefficient/inappropriate in terms of sustainable development the former poolhouse is the largest and most substantial outbuilding currently on the site to serve as domestic storage or another use ancillary to the enjoyment of the dwellings on the site.

Whether the building is no longer required for its current or last known use requires a broader and more objective assessment than simply whether the building is no longer required at a specific point in time due to the particular personal circumstances of the current owners/occupiers. For example, both personal circumstances and ownership can change resulting in changing needs over time. A broader objective assessment is required to test the redundancy of a building in order to limit development Outside of the Centres to accord with the overall Spatial Strategy. This approach aligns with the conclusions of the Appeals Tribunal in respect of La Pomare Farm (ref PAP/010/2019), where the Tribunal concluded that, as a matter of principle, the demonstration of redundancy of a building relates not simply to the needs or wishes of the present owner of the property, but to redundancy of the building in its present or former use more generally.

The site has been visited by the Planning Service on multiple occasions between 2019 and 2023. During this timeframe the pool area and pool house have been fenced off, the building boarded and the pool green with algae and unmaintained for use. Aerial photographs appear to show it fall into a state of disuse between 2009 and 2013.

Although it could therefore be argued that the poolhouse is redundant given the current condition of the pool the fact remains that it is a domestic outbuilding that could be put to any number of associated domestic purposes. Its condition at present does not perhaps permit this but it has, over the last few years, been seen by the Service as being used for general storage purposes. It cannot be satisfactorily demonstrated therefore, that the building is redundant for any ancillary domestic purpose associated with Les Trois Quartier and does not therefore, meet the requirements of Policy GP16(A) in this regard.

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 conflict with GP16(A), the only lawful decision that can be reached is that planning permission be refused.

Other matters

For the reasons set out above, other matters that would ordinarily be relevant to the determination of this application have not been the subject of a full and detailed assessment. For completeness' sake however, those matters that would be relevant are set out below.

The scheme incorporates the erection of a single-storey flat roof extension (approximately 9.8 square metres) to the front/south of the building. The existing building has an internal floor area of approximately 28.25 square metres.

The existing building would exceed the floor area for a single person bedsit and although it would not meet the Guernsey Technical Standards for a 1-person dwelling. As extended, the proposed dwelling would have a floor area of 38 sqm and would meet the Building Regulations for a two-person dwelling. It would not however, meet the best practice guidance set out in the DCLG space standards.

The size and quality of the outdoor space would be good and there would be an attractive outlook from the building. Overall the proposed dwelling could provide an adequate living environment, in accordance with Policy GP8(d) and Annex I: Amenities.

The extensions and alterations to the existing pool house are considered to be in keeping with the existing building and represent a good standard of architectural design that respect the character of the local built environment. The building is set well away from the existing residential neighbour to the south and the frontage dwellings previously approved on the wider application site. Land to the north of the pool house is open and undeveloped agricultural land. The proposed works will not result in overshadowing or overlooking of neighbouring properties or the approved dwellings at the site frontage demonstrating consideration for the well-being of neighbours of the development.

The scheme will offer satisfactory living accommodation for future occupiers having regard to the requirement of Annex I and offers flexible and accessible accommodation in terms of Policy GP8.

The level of off-road parking is considered satisfactory having regard to Policy IP7 and the matter of the vehicular access, albeit with one additional dwelling using the access point, would not have a detrimental impact on highway safety in line with the aims of Policy IP9. Cycle storage is proposed in an existing shed, to be repositioned, which would address the requirements of Policy IP6 however, its position would be more visible and prominent on the site which would not represent good design for the purposes of Policy GP8. If the scheme were acceptable in all other respects however, this matter could have been dealt with by planning condition.

The level of hardstanding for parking has been limited and the scheme seeks to address the aims of Policy GP9: Sustainable Development. Sustainability measures can be managed by planning condition.

Exempt development such as additional hardstanding or outbuildings could also be controlled by condition if necessary in order to manage such development and its impact on the character of the wider area.

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: 18/10/2023

