

THE LAND PLANNING AND DEVELOPMENT (GUERNSEY) LAW, 2005
AND THE LAND PLANNING AND DEVELOPMENT (GENERAL PROVISIONS)
ORDINANCE, 2007

NOTIFICATION OF GRANT OF PLANNING PERMISSION

PROPOSALS: Convert outbuilding/dower unit to dwelling (Residential Use Class 1) (Retrospective).

LOCATION: The Lodge, Mont D'Aval House, Le Mont D'Aval, Castel.

APPLICANT: Ms K Le Page

This permission is granted under the terms of Sections 15 and 16 of the Land Planning and Development (Guernsey) Law, 2005 (the 'Law').

Date of Grant of Permission: 08/03/2024

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 17/11/2023 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Application Block Layout Plan; Floor plan

Application Ref: FULL/2023/1707

Property Ref: D009750000

Conditions and reasons:-

1.All development authorised by this permission must be carried out and must be completed in every detail in accordance with the written application, plans and drawings referred to above. No variations to such development amounting to development may be made without the permission of the Authority under the Law.

Reason - To ensure that it is clear that permission is only granted for the development to which the application relates.

2.The development hereby permitted shall be begun within 3 years from the date of grant of this permission.

Reason - This condition reflects section 18(1) of the Land Planning and Development (Guernsey) Law, 2005 which states that planning permission ceases to have effect

unless development is commenced within 3 years of the date of grant (or such shorter period as may be specified in the permission).

3. The development hereby permitted and all the operations which constitute or are incidental to that development must be carried out in compliance with all such requirements of The Building (Guernsey) Regulations, 2012 as are applicable to them, and no operation to which such a requirement applies may be commenced or continued unless (i) plans relating to that operation have been approved by the Authority and (ii) it is commenced or, as the case may be, continued, in accordance with that requirement and any further requirements imposed by the Authority when approving those plans, for the purpose of securing that the building regulations are complied with.

Reason - Any planning permission granted under the Law is subject to this condition as stated in section 17(2) of the Land Planning and Development (Guernsey) Law, 2005.

Expiry Date: This permission will cease to have effect on 08/03/2027 unless development is commenced by that date.

ADVICE AND OTHER REMARKS:-

Effect of planning permission:

Section 18 of the Land Planning and Development (Guernsey) Law, 2005 ('the Law') defines the effect of the planning permission hereby granted, namely:

- (1) Planning permission ceases to have effect unless the development permitted by it is commenced within a period of three years immediately following the date on which it is granted (or such shorter period as may be specified in the permission).
- (2) Planning permission enures for the benefit of the land concerned and of every person for the time being having an interest in it.
- (3) Any conditions subject to which planning permission is issued are enforceable in accordance with the provisions of Part V of the Law.
- (4) Planning permission for the erection of a building is only permission to use it for the purpose specified in the permission or, subject to any restriction so specified, for any other purpose for which it is designed.
- (5) Planning permission is only permission to carry out the development specified in it (subject to any conditions so specified), and does not imply the giving of any

other approval or consent required under this Law or any other enactment or under any rule of law.

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, on the merits against a decision to grant planning permission subject to conditions (except a building condition), to the Planning Tribunal, which is independent of the States of Guernsey. 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. The official Appeal Notice Forms are available on the States of Guernsey website at www.gov.gg/planningpanel and must be completed with all enclosures in multiples as requested and received within the six months deadline.

Copy of representations made:

In reaching this decision the 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 under section 11 will be included with this decision in accordance with section 19 of the Ordinance.

Other Remarks:

Please note that any work which abuts or affects the public highway requires prior approval by Traffic and Highway Services. Please contact Traffic & Highway Services (highways@gov.gg) for further advice. You must also ensure that any access/es to the development are constructed to meet the existing road/footway levels in accordance with their requirements.

This document is not a Building Licence and confers no approval under the Building Regulations.

A separate Building Control Licence may be required and it is the responsibility of the developer to ensure that ALL necessary consents are obtained and that any pre-commencement conditions are discharged prior to development being commenced.

A J ROWLES

Director of Planning
Planning Service



PLANNING APPLICATION REPORT

Application No: FULL/2023/1707
Property Ref: D009750000
Valid date: 17/11/2023
Location: The Lodge Mont D'Aval House Le Mont D'Aval Le Mont D'Aval
Castel Guernsey GY5 7UQ
Proposal: Convert outbuilding/dower unit to dwelling (Residential Use
Class 1) (Retrospective).

Applicant: Ms K Le Page

RECOMMENDATION - Grant: Planning Permission with Conditions:

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Reason - To ensure that it is clear that permission is only granted for the development to which the application relates.

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Reason - Any planning permission granted under the Law is subject to this condition as stated in section 17(2) of the Land Planning and Development (Guernsey) Law, 2005.

OFFICER'S REPORT

Site Description:

The application site comprises a two storey dwellinghouse, with detached ancillary dower unit positioned adjacent to the south-west boundary. Vehicular access is over a right of way along the south-west boundary, to a parking area to the rear (south) of the property.

The site forms part of the roadside residential development to the south of Mont D'Aval, although abutting a small field to the west, and is located to the north of a larger parcel of agricultural land.

The site is located Outside of the Centres within the Island Development Plan. The land to the south and the agricultural access along the west boundary form part of the Agriculture Priority Area designation.

Relevant History:

The building which forms the subject of this application was constructed before 1938, and pre-dates planning law.

On 30 September 2009, it was confirmed that the use of the building as a dower unit would not require planning permission as the existing domestic use would remain unchanged (FULL/2009/3331). Subsequently, permission was granted on 13 November 2009 to carry out alterations to the building (FULL/2009/3338). These works involved re-roofing the building, changing the previous asbestos cladding to natural slates, blocking in an existing door and replacing a garage door with a bay window.

Various applications have also been made to convert the building to a separate dwelling, as follows:

PAPP/2008/2340 Convert outbuilding to a unit of residential accommodation.
Refused 16/01/2009

FULL/2009/1635 Convert outbuilding to a unit of residential accommodation (reconsideration). Refused 16/01/2009

FULL/2009/3328 Alter outbuilding and convert to separate residential unit, erect fencing. Refused 30/11/2009

An appeal in respect of the last refusal was dismissed in June 2010 (ref PAP.015.10). The Tribunal concluded that the proposal involved the conversion of an existing

building and did not satisfy the requirements of Policy RCE14 of the Rural Area Plan (RAP).

Both the refusals and the decision notice from the Tribunal were considered under the former Rural Area Plan and cited the primary reason for refusal as Policy RCE14(c), which only allowed for conversion of buildings within specific areas, which included the application site, where the existing building made a positive contribution to the area. It was determined that, in the case of the application building, that the structure was not of architectural or historic interest and did not make a positive contribution to the character of the rural environment and the proposal could not therefore be supported. Subsequent to these decisions, the Island Development Plan has however been adopted and the policy framework for conversion no longer contains this requirement.

Existing Use(s):

Residential Use Class 1

Brief Description of Development:

Permission is sought, in retrospect, for a change of use of the dower unit located to the west of the site to an independent two bed dwellinghouse.

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 received.

Consultations:

None undertaken.

Summary of Issues:

Principle of conversion;
Capacity of the building for conversion;
Impact on the character of the area;
Amenity of the proposed unit;

Impact on amenity of adjoining residential properties;
Parking and cycle provision.

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.**
- 4 - Additional considerations (for protected trees, monuments, buildings and/or SSS's).**

Principle of conversion to independent residential accommodation

The authorised use of the building which forms the subject of this application is for purposes ancillary and incidental to the use of the main dwellinghouse known as Mont D'Aval House. It cannot legally be used or rented out separately to that dwellinghouse. The building is however currently being rented out as separate and independent accommodation. Whilst the applicant has stated that there is no intention to sell the building separately to the main dwellinghouse, there would be no means to control this under Planning Law and the accommodation is still occupied as an independent unit and this use, irrespective of ownership, would comprise the creation of a new dwellinghouse and requires a change of use under Planning Law. For a change of use to be acceptable, an application has to meet all of the policy requirements to be a separate and independent unit of accommodation.

The Spatial Policy of the Island Development Plan, expressed through Policy S1 (Spatial Policy), and reinforced through Policy S4 (Outside of the Centres) and the introduction to Part 3 of the Plan *Policies for Outside of the Centres* directs the majority of new development to within the Centres, and only allows for certain types of development Outside of the Centres.

Policy OC1 (Housing Outside of the Centres) notes that proposals for new housing will not generally be supported Outside of the Centres, however sets out potential exceptions to this direction, stating that the creation of new dwellings Outside of the Centres will only be supported where it is achieved through the subdivision of an existing dwelling or the conversion of an existing redundant building, and directs proposals for conversion of redundant buildings to be considered principally under Policy GP16(A) (Conversion of Redundant Buildings). As the building in question is not physically attached to the main dwellinghouse, the proposal cannot be considered a subdivision and can only be considered under the provisions of Policy GP16(A).

Conversion of the existing building

The proposal is addressed against the criteria of Policy GP16(A) below.

a. it is demonstrated that the building is no longer required or capable of being used for its current or last known purpose;

Expanding on this criterion, the preceding text states that, *“For an existing building to be converted to another use, the building must no longer be useful or reasonably capable of being used for its current or last known purpose and the proposal must represent an appropriate use of the building”* (Paragraph 19.17.4).

At the time of the previous refusals and appeal at this site, the works to upgrade the building for habitable use as a dower unit had not been completed. When assessing whether the building could be considered a redundant building as part of the appeal decision issued in 2010, the Appeals Tribunal commented as follows: *“The requirement of criterion (a) is that the applicant should clearly demonstrate that the building is no longer useful, or capable of being used for its current or last known viable purpose, or that more appropriate buildings are available to accommodate such use. This requirement has presumably been met to the Department’s satisfaction in that the former store, washroom and summer room are now being altered and converted into a dower unit with the Department’s explicit permission as to the physical alterations, and with its tacit agreement as to the nature of the intended use. Once this work has been completed, and the building is functioning as a new dower unit, brought up to modern constructional standards, then this criterion will clearly be more difficult to satisfy”*.

The building in question now comprises a dower unit, ancillary to the use of the existing dwelling at the site. The application letter states that the dower unit was occupied by a family member from September 2014 until March 2023, when they unfortunately passed away. The property owner has no other family members on Island that would have use for the dower unit. It is therefore accepted that the applicant no longer has a personal requirement for the building.

It must however be demonstrated that there is not an ongoing requirement for more general use in association with the site. The existing dwellinghouse at the site is a 4 bed property, and includes an office/nursery, 3 bathrooms, a lounge, kitchen, office/nursery, utility and laundry room. The existing dwellinghouse therefore provides a good level of accommodation and ancillary facilities, and it is accepted there is not a need for additional accommodation. The application building is not currently in use for, nor has it recently been used for, storage or garaging associated with the main dwelling and the adaptations which have been undertaken to the building would prevent the use of the building for garaging. There are other outbuildings at the site which provide external storage for the main dwelling. In light of the above it is therefore accepted that the building is no longer required for use in association with the dwellinghouse.

The building is clearly capable of ongoing use as a dower unit, given that the building is currently occupied and no alterations are proposed to enable the change of use to a dwellinghouse. However, taking into account the above comments in respect of the requirement of the building, it is concluded that the building can be considered redundant.

b. the conversion will result in the establishment of either residential, social and community, industrial, storage and distribution, convenience retail in coastal locations in accordance with Policy OC4, visitor accommodation or office use or provide facilities for outdoor formal recreation or informal leisure and recreation uses;

The proposed conversion is for residential use.

c. the existing building is of sound and substantial construction and is capable of conversion without extensive alteration or rebuilding;

No structural survey has been provided in support of the application. The pre-facing text to Policy GP16(A) however only states that such a survey would *usually* be required. In this case, the building has been upgraded since 2009, including re-roofing and new windows, and a site visit has confirmed that the building is of sound and substantial construction. It would not therefore be necessary to require a structural survey in this instance.

It is stated that no works are proposed to facilitate the conversion, and this is borne out by on site observations. The windows to the west elevation of the building are not accurately shown on the submitted floor plan, as there is only a single window to that elevation, divided internally by a separating wall between the bathrooms, however this does not represent a significant issue and can be noted on the plan. The applicant has confirmed there is no intention to alter this window.

d. the proposals would have no adverse impacts on the special interest of a protected building and that such interest is appropriately and proportionately preserved and, where possible, enhanced;

There are no protected buildings or features at the site, or in the immediately surrounding area.

e. the proposals would have no unacceptable impacts on the contribution a building of character makes to the character and appearance of the area;

The building is a simple structure, constructed for purposes ancillary to the main dwelling, and cannot be considered a building of character.

The requirements of Policy GP8 (Design) however go further than this criterion, and require a development to achieve a good standard of design which makes an efficient and effective use of land and respects the character of the local built

environment, whilst providing soft and hard landscaping where this reinforces local character and mitigates the impacts of the development. In this case, the subdivision of the site could be construed as an effective use of land and, as the application does not include any physical alterations, either to the building or the associated land, there would be no impacts on the character of the area and no requirement for mitigating landscaping.

f. the conversion and any ancillary development associated with it can be implemented without having any unacceptable adverse impacts on the character and openness of the landscape;

The change of use does not include any alterations to the building or associated land and would not therefore alter the contribution the building makes to the character of the surrounding area and would not give rise to any adverse impacts on the surrounding landscape. Whilst the proposal would result in an intensification of the use of the domestic curtilage, given the size and position of the land to be associated with the new dwelling and that this land is already enclosed, any impacts arising would be negligible.

g. the conversion would not require more than modest extension to the existing building for it to be achieved;

No extension is proposed as part of the scheme.

h. the proposal would have no unacceptable adverse impacts on the amenities and enjoyment of neighbouring properties and the surrounding area.

The proposed conversion is set away from other residential property, with the exception of the existing dwelling at the application site. The positioning and form of the building proposed for conversion, height and location of the boundary fencing and general relationship with the existing dwelling to the north is such that there will be no adverse impacts on the amenity of that dwelling. That dwelling would also retain ample parking and amenity space.

Residential amenity

The submitted floor plan is not to scale and it is not therefore possible to accurately calculate the floor area of the building. Measuring from the aerial photograph, the building footprint however appears to be approximately 70m², which would exceed the requirements of the Building Regulations for 4 person accommodation, were the building to have 2 no double bedrooms. According to the sizes specified on the submitted floor plans, neither bedroom would however be of sufficient size for two person occupation for the purpose of the Building Regulations, although they would both be of sufficient size for single person occupancy. There is however no requirement under either Planning Law or the Building Regulations for either bedroom to achieve standards for two person occupancy, and this matter would not

preclude the grant of planning permission were the submission be otherwise acceptable.

The living space within the proposed unit is single aspect, facing north-east towards the boundary fencing, at a distance of c1.5m. Outlook from and sunlight to this space would therefore be restricted.

The south-west elevation immediately abuts the shared agricultural track to the south-west, which could give rise to disturbance were windows located in that elevation. The only window in that elevation however serves bathrooms, and would therefore be less sensitive to any impacts.

External amenity space to be associated with the proposed unit is limited, comprising a strip of land c1.5m wide along the north-east of the building, enclosed by high fencing, and would be in shade for a large part of the day. The limitations on occupancy within the building are however noted, together with the close proximity to the high quality public open space at Saumarez Park. On balance therefore the amenity space is considered just adequate to serve the new dwelling.

In addition to the above, there are some concerns regarding potential overlooking of the proposed accommodation and amenity space by the main dwelling. On balance however, taking into account the relative orientation of the buildings, the position of the windows and the position and height of the intervening fencing, any overlooking would not be sufficient reason to justify refusal.

Sustainability, accessibility and adaptability

In terms of accessibility to and within the building and the provision of flexible accommodation, there is level access to the building, and all accommodation is provided at ground floor level.

As no works are proposed, the stipulations in respect of Policy GP9 would not be applicable.

Parking provision, cycle storage and highway safety

The application material refers to the provision of two parking spaces in association with the new dwelling. Measuring from the submitted plans, it however appears that the allocated parking area would fall slightly short of the size for two spaces, and would provide only a single parking space, located adjacent to the south-east gable of the proposed dwelling. This provision would however be adequate to serve that dwelling. The parking would be located on existing hardsurfacing.

No bicycle storage was shown as part of the scheme as initially submitted. Following deferral, details have been provided of potential bicycle storage located adjacent to the south-east gable of the dwelling. The applicant has however stated that they do not intend to install the storage, as the current tenant has no requirement for it and

it would reduce parking provision at the site. The reasoning provided is at odds with the ethos of the plan and the Parking Standards, however the latter document states *“Depending on the form of development, for example a single detached dwelling, it may only be necessary to demonstrate the ability to accommodate secure cycle storage which a future occupier could install as necessary”*. On the basis of the information provided, and the site visit, it is considered that there is scope to provide cycle storage on site, and the proposal would therefore accord with the Parking Standards and Policy IP6.

The proposed new dwelling would share the existing vehicular access and access track to the south-west of the site. Taking into account the low level of additional vehicular movements which might be associated with the new dwelling, the proposal would not raise any road safety concerns.

Conclusion

The proposal would accord with the purpose of the Law, material planning considerations and relevant planning policies and approval is recommended.

The floor plans provided are not to scale and, as noted above, are not completely accurate, however it is noted that the rooms are dimensioned. Whilst this does not represent a good standard of submission, given the retrospective nature of the application, the submitted plan is just adequate to allow for approval.

Date: 07/03/2024

