

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: Erect fence to south and west boundary (Protected Building).

LOCATION: Hillview, Le Variouf, Forest.

APPLICANT: Mr T Curr & Miss E Ravenscroft

I refer to the application referred to below received as valid on 06/12/2023 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 03/01/2024

Drawing Nos: ArcTECH Freelance Architecture: ET-23-1146-03

Application Ref: FULL/2023/2425

Property Ref: H004720000

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 site lies within the Variouf Conservation Area and it is the duty of the Development & Planning Authority to pay special attention to the desirability of preserving or enhancing its character or appearance. The 1.8m high fencing proposed would not represent a high standard of design that would respect the character of the local built environment nor would it reinforce the local character and distinctiveness of this rural location where low stone walls, earthbanks and hedges as roadside boundaries are common. The erection of a 1.8m high fence would detract from the special character of the Conservation Area. The scheme is therefore contrary to Policies GP4, GP8 a., c. and e. and GP9 b. of the Island Development Plan.

2. The erection of a 1.8m high fence as proposed would also result in unacceptable harm to the setting of the Protected Building, Hill View, and the application has not been accompanied by robust justification that demonstrates, to the satisfaction of the Development & Planning Authority, that the harm caused to the setting of the Protected Building would be outweighed by the reasonable aspiration of the property owner. The scheme is therefore contrary to Policy GP5 and GP9 b. 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/2023/2425
Property Ref: H004720000
Valid date: 06/12/2023
Location: Hillview Le Variouf Forest Guernsey GY8 0BH
Proposal: Erect fence to south and west boundary (Protected Building).
Applicant: Mr T Curr & Miss E Ravenscroft

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The site lies within the Variouf Conservation Area and it is the duty of the Development & Planning Authority to pay special attention to the desirability of preserving or enhancing its character or appearance. The 1.8m high fencing proposed would not represent a high standard of design that would respect the character of the local built environment nor would it reinforce the local character and distinctiveness of this rural location where low stone walls, earthbanks and hedges as roadside boundaries are common. The erection of a 1.8m high fence would detract from the special character of the Conservation Area. The scheme is therefore contrary to Policies GP4, GP8 a., c. and e. and GP9 b. of the Island Development Plan.
 2. The erection of a 1.8m high fence as proposed would also result in unacceptable harm to the setting of the Protected Building, Hill View, and the application has not been accompanied by robust justification that demonstrates, to the satisfaction of the Development & Planning Authority, that the harm caused to the setting of the Protected Building would be outweighed by the reasonable aspiration of the property owner. The scheme is therefore contrary to Policy GP5 and GP9 b. of the Island Development Plan.
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OFFICER'S REPORT

Site Description:

Hill View is a detached one and a half-storey Protected dwelling with painted exterior and pitched roof dormers in the front roofslope. A flat roof extension is situated to the southwest of the dwelling (not protected) with parking to the front. The property occupies a corner plot on Rue au Variouf and Rue des Fenetres, within the Conservation Area. A solid timber fence has been erected along the side and rear of the flat roof extension, above the low granite roadside wall.

Relevant History:

FULL/2019/1584 - Demolish and rebuild south gable and install first floor windows. Replace roof covering and install replacement dormer windows to east (front). Partial demolition, rebuild and alterations to outbuilding to create habitable accommodation. Demolish extension and erect single storey extension to west (rear). Replace existing windows. Excavations to create external steps to erect shed (Protected Building) – refused

FULL/2020/0367 - Demolish and rebuild south (side) gable wall, replace roof covering and install dormer windows to east (front) elevation, demolish part of garage and erect 1st floor extension, erect single storey extension to west (rear) elevation. Internal alterations and excavate to create external steps (revised) (Protected Building) – granted

FULL/2023/0251 - Variations to previously approved plans to demolish and rebuild south (side) gable wall, replace roof covering and install dormer windows to east (front) elevation, demolish part of garage and erect first floor extension, erect single storey extension to west (rear) elevation. Internal alterations and excavate to create external steps (revised). - Demolish/rebuild and increase floor area to garage and ground floor, relocate rooflight, install rooflights to rear (Protected Building) (Retrospective) - granted

The timber fencing constructed on site has not been the subject of a planning application and nor is it part of the current application proposal therefore the application for a 'wicker' style fence is not considered to be retrospective.

Existing Use(s):

01 dwellinghouse

Brief Description of Development:

The application relates to the erection of 1.8m high hazelwood 'wicker' style fencing to the west and south boundaries of the site, including above an existing granite wall.

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

Island Development Plan policies:

GP4: Conservation Area

GP5: Protected Building

GP8: Design

GP9: Sustainable Development

GP13: Householder Development

Representations:

None.

Consultations:

None.

Summary of Issues:

The key issues in this case relate to the impact of the proposed fencing on the character and appearance of the Conservation Area and on the setting of the Protected Building.

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 purposes of the Land Planning and Development (Guernsey) Law, 2005, are to protect and enhance, and to facilitate the sustainable development of, the physical environment of Guernsey.

Section 34 of the Law explains the general functions of authorities in respect of protected buildings. This states that:

It is the duty of any department of the States when exercising its functions under this Law –

- (a) to secure so far as possible that the special historic, architectural, traditional or other special characteristics of buildings listed on the protected buildings list ("protected buildings") are preserved, and
- (b) in particular, in exercising its functions with respect to a protected building or any other building or land in the vicinity of a protected building, to pay special attention to the desirability of preserving the protected building's special characteristics and setting.

Section 38 of the Law explains the general functions of authorities in respect of conservation areas. This states that:

In the exercise, with respect to any building or other land in a conservation area, of any powers under this Law or any other enactment, special attention shall be paid to the desirability of preserving and enhancing the character and appearance of that area.

In respect of these statutory duties, the word 'preserve' is taken in its ordinary meaning as set out in Chamber's dictionary, which is 'to keep safe from harm or loss'.

The purposes of the Law are reflected in the Island Development Plan, the principal aim of which is to help maintain and create a socially inclusive, healthy and economically strong Island, while balancing these objectives with the protection and enhancement of Guernsey's built and natural environment and the need to use land wisely. Relevant policies will be addressed below in assessing the key issues.

Section 13 to Part IV of The Land Planning and Development (General Provisions) Ordinance, 2007, sets out a number of general material considerations, the following of which are considered to be relevant in this instance:

- (b) the character and quality of the natural and built environment which is likely to be created by the development,
- (c) the appropriateness of the development in relation to its surroundings in terms of its design, layout, scale, siting and the materials to be used,
- (d) the likely effect of the development on the character and amenity of the locality in question,

Section 15 clarifies that the considerations referred to in paragraphs (b) and (c) of section 14 also apply to protected buildings.

The application site is within the Various Conservation Area. IDP Annex VII para VII.129 states : "... Gardens are generally enclosed by low stone walls. The visual access to front gardens and the use of earth banks and hedges as roadside boundaries forms part of the particular character of this area." Also Designating Conservation Areas (Environment Department, March 2015) states: "Positive Contributors... Gardens are generally enclosed by low stone walls. The visual access to front gardens and the use of earth banks and hedges as roadside boundaries forms part of the particular character of this area." (section 21.8, page 199).

Stone walls, earthbanks and hedgerows are an important part of the character and appearance of the Conservation Area. The application proposes to introduce a 'Hazelwood Wicker Style fence' to boundaries that would be visible in public views and the proposed boundary treatment is of a material that does not reflect or respect the character of the area. Its introduction would result in harm to the character and appearance of the Conservation Area contrary to Policies GP4 and GP9 of the IDP.

The application property is also a protected building and given that the proposed fencing is not characteristic in the area it would also harm the setting of the protected building. The IDP, through Policies GP5 and GP8 does allow for harm to the setting of a protected building where the reasonable aspiration of the property owner/benefits outweigh that harm. In this case no information has been presented that seeks to justify the works proposed and the harm that would be caused or why other options have been considered and discounted e.g. rebuilding the stone wall and providing a hedge. The scheme is therefore contrary to Policy GP5 of the IDP.

It is recommended permission is refused for the proposed fencing.

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. Where relevant these have been considered in the above assessment.

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: 03/01/2024

