

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 existing building containing 3 flats, erect replacement building with 3 flats and detached dwelling to north of site with associated works and alter pedestrian accesses (revised scheme).

LOCATION: Fosse House, Fosse Andre, St. Peter Port.

APPLICANT: Mr V Wiltshire

I refer to the application referred to below received as valid on 06/02/2024 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 10/04/2024

Drawing Nos: ArcTech Freelance Architecture: VW-22-1106-02 & -03.

Application Ref: FULL/2024/0243

Property Ref: A102280000

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. Notwithstanding the submission of a sunlight and daylight survey the proposed detached two-storey dwelling, by virtue of its height, bulk and relationship with the existing adjoining dwelling, would result in an unacceptable degree of overshadowing and loss of sunlight to the garden area to the south of the adjoining dwelling detrimental to the residential amenities enjoyed by the occupiers thereof. The scheme is therefore contrary to Policy GP8 d. and Policy GP9 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/2024/0243
Property Ref: A102280000
Valid date: 06/02/2024
Location: Fosse House Fosse Andre St. Peter Port Guernsey GY1 2DX
Proposal: Demolish existing building containing 3 flats, erect replacement building with 3 flats and detached dwelling to north of site with associated works and alter pedestrian accesses (revised scheme).
Applicant: Mr V Wiltshire

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. Notwithstanding the submission of a sunlight and daylight survey the proposed detached two-storey dwelling, by virtue of its height, bulk and relationship with the existing adjoining dwelling, would result in an unacceptable degree of overshadowing and loss of sunlight to the garden area to the south of the adjoining dwelling detrimental to the residential amenities enjoyed by the occupiers thereof. The scheme is therefore contrary to Policy GP8 d. and Policy GP9 of the Island Development Plan.

OFFICER'S REPORT

Site Description:

Fosse House is a two-storey traditional building with pitched roof and dormers. The building has been extended to the rear and is currently divided into flats. The garden serving the site is situated to the north and is staggered so that it sits behind the neighbouring property. The site does not benefit from off-road parking and is situated close to the junction of Fosse Andre, La Couture, Collings Road and Rozel Road.

Ayzac (formerly Tryfan) is a detached dwelling to the east of the site where permission has been granted and work has commenced on the construction of an extension to its west, adjacent to the east site boundary. Residential properties are situated to the southwest, west, north and east of the site whilst to the south is an area of Important Open Land.

The site is located in the Main Centre Outer Area and a Conservation Area. Fosse House is a pre-1900 building.

Relevant History:

Pre-application advice was sought in relation to the erection of a dwelling to the rear of the site.

FULL/2023/0972 - Demolish existing building containing 3 flats, erect replacement building with 3 flats and detached dwelling to north of site with associated store, bike and bin store, landscaping and alter pedestrian accesses – refused:

The proposed detached dwelling, by virtue of its height, bulk and relationship with the existing adjoining dwelling, would result in an unacceptable degree of overshadowing and loss of sunlight to the garden area to the south of the adjoining dwelling detrimental to the residential amenities enjoyed by the occupiers thereof. The scheme is therefore contrary to Policy GP8 d. and Policy GP9 of the Island Development Plan.

Existing Use(s):

3 x flats

The survey drawings show the building split into five flats but the application indicates that it is currently in use as three flats. The application submission states that in 2001 the site was a single dwelling but by 2009 it officially contained three flats and any other flats are unauthorised. It sets out that a Certificate of Lawful Use could be submitted but indicates that a Building Control application would be required and may not be granted which would be costly and could impact on capacity of finance, insurance and sale/lease.

Brief Description of Development:

The application relates to the demolition of the existing building and the erection of a replacement building on the road frontage that is three storeys in height with a hipped slate roof situated behind a rendered parapet and external wall. The building incorporates a subservient two-storey mono-pitched roof extension to the rear to provide stair access to the upper floors. This building contains two, one-bedroom flats and one, two-bedroom flat (there appears to be a drawing error as bedroom 2, also labelled dining room, on the ground floor is indicated as serving unit 2 which is situated at first floor level).

A detached, two-storey dwelling is proposed to be situated to the rear of the site which has been designed with a rendered exterior, slate roof and PVCu windows and doors. This is a two-bedroom unit with amenity space to the front, side and rear. The dwelling is served by pedestrian access only being situated to the rear of the proposed replacement, Fosse House.

The application has been accompanied by a written statement, sunlight and daylight survey and Site Waste Management Plan.

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

Island Development Plan policies:

MC2: Housing in Main Centres and Main Centre Outer Areas

GP4: Conservation Areas

GP8: Design

GP9: Sustainable Development

IP6: Transport infrastructure and support facilities

IP7: Private and Communal Car Parking

Representations:

Three letters of representation have been submitted in relation to this application and raising the following points:

- The application is more or less identical to the previously refused scheme – there have been no changes in terms of scale, form and position and does not seek to reduce or mitigate adverse impact on neighbour amenity and there would be no reason for the Authority to reach a different conclusion
- The scale and position of the new dwelling is unacceptable
 - There will be a loss of diffuse daylight both externally and within the dining and living rooms of Ayrzac
- The new dwelling will have an adverse impact on residential amenity and the enjoyment of adjoining properties
 - Overbearing/oppressive
 - overshadowing
 - noise
- The submitted sun path analysis demonstrates shadowing will affect the adjoining property Yalta during the autumn, winter and spring
- The submission addresses only the winter and summer equinoxes which is not meaningful as it illustrates the extremes of least and greatest shadows cast by existing buildings
- The tree positions shown in this analysis do not match with those shown in other application drawings
 - BRE guidance “where the effect of a new building on existing buildings nearby is being analysed, it is usual to ignore the effect of existing trees. This is because daylight is at its scarcest and most valuable in winter when most trees will not be in leaf.”
- The sun path analysis has not been carried out in accordance with best practice and cannot be relied on (BS EN 17037 Daylight in buildings and BRE publication Site Layout planning for Daylight, CIBSE publication LG 10 Daylighting – a guide for designers and Sunlight, A Guide to Good Practice (2022))
- Loss of open space
- The objective to build at high densities must be balanced against and not override the creation of acceptable living environments
- Reference to 58a Hauteville and refusal of near identical applications in 2021 and 2023

Consultations:

Office of Environmental Health and Pollution Regulation – there are a number of issues of concern that I must raise. I have reviewed the document “Fosse House – Waste Management Plan” and I note there is an estimated 30 to 40 lorry trips to the site within a 2-month period as detailed in Section 7.5. I also note that Section 7.6 details “one-day loads” with a view to cause fewer roadside inconveniences. I would argue in some instances this maybe just as disruptive, if not more, to local residents. I also have concerns regarding the demolition itself, specifically issues regarding dust and noise. Considering all of these issue I am inclined to recommend a Construction Environmental Management Plan (CEMP) be applied to any permission granted by the Planning Authority.

Summary of Issues:

The key issues in this case related to the principle of redeveloping the frontage building for flats and introducing a separate, detached dwelling, to the rear of the site and the impact of both buildings on the character and appearance of the area and on residential amenity with regard to overshadowing and privacy.

2 - Relevant policies of any Plan, Subject Plan or Local Planning Brief.

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.

Housing stock

Although the property was purchased in 2009 containing five units of residential accommodation and the building was witnessed as being laid out as such at the time of the site visit associated with the 2023 application. There is no planning application or permission for the building to be laid out as more than three units of residential accommodation and no evidence to demonstrate on the balance of probabilities that it has been used as five flats for a continuous period of 10 years or more. The lawful recognised use of Fosse House is as three flats.

Principle of development

As the site is located in the Main Centre Outer Area the Island Development Plan supports new housing development in principle and the site would see an increase in residential accommodation (from three to four units). The completed development will comprise a mixture of one- and two-bedroom units and is not located within an area of Important Open Land, therefore criterion b. is addressed and c. is not relevant in this case. As the proposal relates to a multi-storey building to Fosse Andre and to introduce backland development by way of a further two-storey building the scheme would represent efficient and effective use of land in line with Policy GP8 criterion b. It should

be noted however, that the objective to build at high densities must be balanced against, and will not override, the need to create acceptable living environments.

Green space

The site is not covered by any particular designation (Area of Biodiversity Importance or Site of Special Significance) and nor is the garden recognised as Important Open Land through the Island Development Plan. The site is situated in an urban area where the size and scale of development along with plot sizes is varied. Although outlook from neighbouring properties would alter as a result of the development, reducing visual access to open space, the scheme would not result in the unacceptable loss of open and undeveloped land.

Impact on neighbour amenity

The detached dwelling is situated to the southwest of Ayrzac in close proximity to the common boundary. Since the previous application was considered the patio area to the front of Ayrzac has been completed. A letter of representation on behalf of this neighbouring occupier also includes photographs from windows considered to be affected by the proposed detached dwelling.

The revised application has been accompanied by a sunlight/daylight assessment (summer and winter equinox only) with the aim of addressing the previous refusal reason relating to an unacceptable degree of overshadowing to external amenity space at Ayrzac. Reference is made in the daylight/sunlight analysis to trees that exist on the site but that these are to be removed.

Although the application submission highlights another nearby property, Magnolia House, no two sites are the same and each application must be considered on its own merits. The grant of planning permission on another site does not set a precedent for development proposals elsewhere.

The submission notes that there will be overshadowing in the early morning but that by approximately 9am this will pass and that overshadowing of the frontage area at the neighbouring property will occur in the late afternoon during the summer, but the submission notes that the high boundary wall will limit this later in the evening.

The additional information confirms that in the early part of the day the dwelling would not result in overshadowing to the adjoining property due to the path of the sun from east to west but also highlights that the patio area will be overshadowed by 4pm during the height of summer. Given that the sun will be lower in the sky at other times of year (spring and autumn) it is the case therefore, that the overshadowing would also occur either side of the summer equinox.

The submission argues that during the winter months the existing building would generate overshadowing of the adjoining property/garden area with the effect of the proposed dwelling casting little additional shading. It is acknowledged that with the sun sitting lower in the sky during the winter, longer shadows are likely to be cast however,

the frontage building will be situated well away from the adjoining dwelling to the northeast. The detached, two-storey dwelling will however, be in close proximity to the common boundary. The information provided does not alter the view that, as proposed, the two-storey pitched roof dwelling with gable adjacent to this common boundary would result in an unacceptable degree of overshadowing to the patio external amenity space which would be detrimental to the amenities of these adjoining occupiers and their use of the private area to the front of their home which is screened by the existing two-storey house in a Clos of only two properties.

The overall height of the frontage building will not exceed that of the existing property at Fosse House although the eaves level will increase in order to facilitate the third-floor accommodation proposed. Given the tightknit arrangement of Fosse House and its attached neighbours an element of overshadowing currently exists to the courtyard areas of the two neighbouring properties west of the application site. The development will see aspects of the building moved further and closer to the west site boundary and the height of the rear element increased from approximately 5.5m to 8m. In this particular case however, the impact on existing first floor windows at Couture Cottage and Magnolia House to the west will not significantly alter and would not warrant the refusal of permission.

The frontage building has only limited window openings in the rear/north elevation. These are situated at second floor level and one window serves a bathroom and can reasonably be required to be obscure glazed. The secondary windows to the east and west serving unit 3 and kitchen/living windows could also be required to be obscure glazed if necessary. The ground floor, east facing window is shown to face a blank flank elevation and will not impact on privacy to existing adjoining residents.

The detached dwelling (unit 4) is set 11.5m from the south site boundary in order to ensure that overlooking remains within acceptable limits. There are no first-floor windows to the east and west elevations in order to manage the potential for overlooking. Ground floor windows and doors to all elevations can be screened by existing/exempt boundary treatments. The first-floor windows facing north serve a dressing area within the bedrooms and two en-suite bathroom windows. The bathroom windows can be required to be obscure glazed, as can the dressing area windows if necessary, given that outlook is provided via windows in the south elevation. Land to the north of the site forms part of the garden of the dwelling situated to the east of the site, Ayrzac. There is a distance of 7.5m to the north site boundary, this part of the neighbour's garden is not to the immediate rear of Ayrzac which is the part of a garden that is generally considered to be most private and is currently overlooked by the dwelling to the west, Algarve which itself has a garden approximately 7.7m deep.

The scheme has been designed to consider and overcome the potential for overlooking and loss of privacy to occur.

Design, appearance and impact on the Conservation Area

Policy GP4 only supports proposals for the demolition of a building that contributes to the character, architectural or historic interest and appearance of the particular

Conservation Area where the replacement building makes an equal or enhanced contribution to the character of that Conservation Area.

The existing building is granite fronted with a slate roof although the building has fallen into disrepair internally and the front door is in poor condition. The windows to the front elevation have been replaced with modern PVCu units which detract from the quality of the building and a slate clad, hipped roof dormer has been inserted which is not characteristic with the age and style of property. The application proposes the erection of a three-storey dwelling with rendered exterior, multi-pane sash windows, decorative door casing and hipped roof surrounded by a parapet wall. The detailed elements of this building that enhance its quality and finish can be managed by condition and overall the replacement building would make an equal contribution to the character of the Conservation Area.

With regard to the detached dwelling this has been designed as a pitched roof dwelling with render exterior, sash windows and quoin details to the corners. This represents a good standard of design that will respect the character and appearance of the Conservation Area in accordance with Policy GP4. It also represents multi-storey development which demonstrates efficient and effective use of land.

Policy GP8 requires that the units created consider the health and well-being of the occupiers by means of providing adequate daylight, sunlight and private/communal open space, and directs proposals to be considered against Annex 1 of the Plan: Amenities.

Residential Amenity

Frontage building

New developments should be planned and built to support the health and well-being of occupants and users and maintain appropriate amenities for those of neighbouring property. The Annex sets out that building at higher densities brings challenges with respect to ensuring reasonable amenities are provided. There must be a balance between the most effective and efficient use of land and the requirement to ensure that proposed living and working conditions are acceptable and that the higher density Main Centres, in particular, remain attractive places to live and work.

The frontage building comprises a mix of dual and single aspect units. Sunlight and daylight to the majority of the windows would be acceptable facing south, towards Fosse Andre and the open land beyond. Sunlight/daylight and outlook to the sole window serving unit 1 (ground floor bedroom 2/dining room) would be affected as a result of its proximity to the neighbouring dwelling. The ground floor apartment would concentrate primary living accommodation to the front, facing the street with a bedroom facing east, in close proximity to the neighbouring property. As a result, the aspect and outlook associated with unit 1 is considered satisfactory and whilst daylight may be somewhat unsatisfactory on balance this is considered acceptable. Units 2 and 3 would offer satisfactory outlook and daylight/sunlight to the living accommodation and bedrooms addressing the health and well-being of future occupiers.

The three proposed flats offer good internal space provision for future occupiers.

The principal elevation/fenestration is shown to be in the south/front elevation of the proposed building which would not be overlooked as land to the south is open and undeveloped. Privacy to the side/east window serving bedroom 2/dining room of unit 1 would be affected by occupiers/visitors to the three other units on the site passing close by it. This is a bedroom or dining room rather than principal living accommodation and as such the impact of other users of the site passing this one window would not warrant the refusal of the scheme.

Annex I states that the value of external open space becomes increasingly important in higher density development with all development having safe and convenient access to it.

The three units would have access to a small paved courtyard area with communal washing line but without opportunity for a seating area etc. Two of the units are one bedroom only and unlikely to be occupied by a family but unit 1 is two-bedroom and could therefore house a family. Nonetheless, consideration should be given to access to off-site facilities and the site is readily accessible by bus and only a short distance from Beau Sejour leisure centre, the skate park and play park at Cambridge Park.

The connectivity/access to public open space, external drying area plus provision for a tumble dryer, for unit 2 at least, leads to the conclusion that, on balance, access to external open space is satisfactory.

It is noted that all floors are currently served by a staircase only and which would not alter as a result of the development. This would likely preclude access for wheelchair users however, the development would be required to meet current Building Regulations and the communal staircase would offer access to the upper floors by ambulant disabled. The submission also makes reference to the option to install lifts and the space/layout of the buildings which represents an improvement over the existing situation in terms of manoeuvrability. The layout of the units proposed could also be adapted at a later date to meet the changing needs of occupiers (e.g. grab rails in WCs/bathrooms, installation of hoists provided bedroom and bathroom ceilings are constructed in an appropriate manner and careful and appropriate siting of service controls). Unit 1 is also on a single level offering accessible accommodation on this floor. On balance, the frontage building therefore addresses GP8 criteria f. and g.

Detached dwelling

This has been designed to address the health and well-being of future occupiers in accordance with Policy GP8 and Annex I including accessible and flexible accommodation.

Cycle parking provision

Cycle parking is shown to be provided for all units in accordance with IP6.

Refuse storage and other storage has been identified to serve the flats and there is ample space around unit 4 for the storage of refuse and other domestic items.

Other matters

The matter of emergency access to the site would ordinarily be addressed through the Building Regulations. It is noted that the distance of the rear property to the highway would be likely to exceed the maximum distance of a fire appliance and it would be reasonable therefore to require a sprinkler system to be installed in the proposed detached dwelling in order to manage and mitigate this potential issue. This alone however, may be insufficient given that access to the rear property is via an access with the side wall, boundary wall and upper floor accommodation of the frontage building enclosing the space. If the scheme were acceptable in all other respects consultation could be undertaken with Building Control and the Fire and Rescue Service.

Issues relating to unloading/loading from the site are also noted but would not alter from the existing situation at the site where there are multiple flats and the associated deliveries/moving of bulky items that residential properties generate. The car parking standards are maximums and there is no policy requirement for car parking to serve the development.

Conclusions

Whilst the principle of redeveloping the site and constructing a dwelling to the rear of the site is acceptable as submitted the proposed two-storey detached dwelling would have an unacceptable impact on the amenities enjoyed by the occupiers of the neighbouring dwelling to the east and it is recommended permission is refused for the scheme.

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: 10/04/2024

