

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: Fell 6 additional trees and undertake enabling cliff stabilisation work to west of site. (Protected Trees) (revised scheme).

LOCATION: Domaines Des Moulins (Former CI Tyres Site), La Charroterie, St. Peter Port.

APPLICANT: Guernsey Housing Association

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: 22/03/2024

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 20/02/2024 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Lovell Ozanne: S37-10673/S1-40B, -41A, -44 & S37-S10-10673-01A.
Frederick Sherrell Ltd: 5087/Figure S2.

Application Ref: FULL/2024/0341

Property Ref: A405870000 + A407770000

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.

4. The proposed work shall be undertaken outside of the bird breeding season.

Reason - In the interests of ecology and biodiversity.

5. Bat surveys shall be undertaken prior to tree works (surveys shall conform to the Bat Conservation Trust Guidelines).

Reason - In the interests of ecology and biodiversity.

6. Access for clearance works shall be from La Charroterie side.

Reason - In the interests of ecology and biodiversity.

Expiry Date: This permission will cease to have effect on 22/03/2027 unless development is commenced by that date.

ADVICE AND OTHER REMARKS:-

Your attention is drawn to The Animal Welfare (Guernsey) Ordinance, 2012 and the need to comply with its provisions. Measures will need to be taken (including consideration of the timing of the works) to ensure that any protected species present are not impacted by the works.

If access for vehicles or materials is required from Montville Drive and through the Area of Biodiversity Importance (ABI), this should only be done with prior written

approval of the States' Agriculture, Countryside and Land Management Services acting in its capacity as Manager of the ABI.

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/2024/0341
Property Ref: A405870000 + A407770000
Valid date: 20/02/2024
Location: Domaines Des Moulins (Former CI Tyres Site) La Charroterie
St. Peter Port Guernsey GY1 1EJ
Proposal: Fell 6 additional trees and undertake enabling cliff
stabilisation work to west of site. (Protected Trees) (revised
scheme).
Applicant: Guernsey Housing Association

RECOMMENDATION - Grant: Planning Permission with Conditions:

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.

4. The proposed work shall be undertaken outside of the bird breeding season.

Reason - In the interests of ecology and biodiversity.

5. Bat surveys shall be undertaken prior to tree works (surveys shall conform to the Bat Conservation Trust Guidelines).

Reason - In the interests of ecology and biodiversity.

6. Access for clearance works shall be from La Charroterie side.

Reason - In the interests of ecology and biodiversity.

INFORMATIVES

Your attention is drawn to The Animal Welfare (Guernsey) Ordinance, 2012 and the need to comply with its provisions. Measures will need to be taken (including consideration of the timing of the works) to ensure that any protected species present are not impacted by the works.

If access for vehicles or materials is required from Montville Drive and through the Area of Biodiversity Importance (ABI), this should only be done with prior written approval of the States' Agriculture, Countryside and Land Management Services acting in its capacity as Manager of the ABI.

OFFICER'S REPORT

Site Description:

The former C.I. Tyres site is on the southern side of La Charroterie, opposite La Charroterie Mills residential development. The site previously contained various single and two storey buildings and sheds most recently used for a tyre depot, with a granite wall and wooden gates to the roadside, but has subsequently been cleared pending redevelopment. The site is located within the Main Centre Inner Area and Town Conservation Area under the Island Development Plan.

To the south, the valley side rises steeply. The area to the south of the property is recognised as forming an area of Protected Trees and falls within an Area of Biodiversity Importance (ABI), Conservation Area and Main Centre Outer Area as designated in the Island Development Plan.

The Tree Protection Order (TPO) (PT78) was first registered on 25th July 2014 and then was confirmed without modifications. The description in the TPO entry is: "Area of semi-natural broad-leaved woodland including various species: Beech, Ash, Lime and Sycamore".

The ABI extends beyond the area of Protected Trees to link up with the woodland above and along Colborne Road.

Relevant History:

FULL/2023/2419 - Fell 5 trees and undertake enabling cliff stabilisation work. (Protected Trees). Granted 29/01/2024

FULL/2023/1986 - Erect six storey and ten storey building containing 57 flats and associated works including creation of vehicle and pedestrian access to La Charroterie, excavation and cliff stabilisation work, pedestrian access to Montville Drive and pedestrian bridge – Granted 19/03/2024

FULL/2022/2357 – Felling of trees (protected trees) (retrospective) at adjoining site Chateau De Montagne, La Charroterie – Granted 16/10/2023

Existing Use(s):

Site cleared awaiting approved redevelopment.

Brief Description of Development:

Fell 6 additional trees and undertake enabling cliff stabilisation work to west of site. (Protected Trees) (revised scheme).

The application includes an explanation as to why six additional trees are now proposed for removal beyond the five previously approved to be removed under application FULL/2023/2419 and an additional tree consultant's report relating to these revised proposals dated 9th February 2024.

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

MC1 – Important Open Land in Main Centres and Main Centre Outer Areas

GP1 – Landscape Character and Open Land

GP3 – Areas of Biodiversity Importance

GP4 – Conservation Areas

GP5 – Protected Buildings

Representations:

One letter of representation has been received objecting to this application on the following grounds:-

- Have the trees in question already been felled? I observed substantial tree felling and clearance work at the development site in the week of 4 March 2024 and there is now a prominent gaping hole in the woods above the site.

If so, this unlawful development needs an explanation and a retrospective planning application needs to be made.

- Notwithstanding the above, the application is for the removal of six protected trees for the purposes of enabling works on the development site and removing the potential risk that they may present to the development if parts of them or their entire structures were to fail mechanically. The application is therefore premature because the development has not yet been approved. In the event that the development is not approved then the trees will have been removed unnecessarily and under false pretences.
- My understanding is that the trees in question as well as the rest of Montville woods were made the subject of tree preservation orders in or around July 2014 and in so doing made for the first ever protected woodland in Guernsey. Evidently, the woods met the relevant criteria for having tree preservation orders bestowed on them and I am also aware that in part this was to protect the trees from the ravages of any development of the site when it was in different ownership.
- Nothing has changed in the last 10 years other than the site now being owned by the GHA, a company sponsored by the States of Guernsey. It is therefore wholly self-serving to permit trees originally made the subject of tree preservation orders in part to protect against the development of the site to be removed because the site now happens to be owned by the GHA and it suits the objectives of the States to remove them.
- The tree report dated 9 February 2024 opines that due to the high number of already established sycamores within Montville woods, their removal would not be notable. However, the trees would not have been made the subject of tree preservation orders in the first place if their individual removal was unimportant and would not be notable. Furthermore, this ignores the salami tactics at play because on 29 January 2024, in a clear rubber stamping exercise, permission was given to the applicant for another five protected trees to be removed under its application FULL/2023/2419. Therefore, in considering the current application, it is the impact of the aggregate number of eleven protected trees being removed that should be taken into account in assessing the overall gravity of the proposal on the woods rather than just six. The gaping hole referenced above clearly shows the detriment already occasioned to the woods and the amenity of the area.
- Taking into consideration the States guidance on protected trees and the relevant law, it is obvious that the application should be rejected. However, in the event that the application is granted then the officer's report should properly summarise the deliberations made and rationalise the decision to enable it to be fully scrutinised by the public.

Consultations:

States' Agriculture, Countryside and Land Management Services –

We are writing in response to a consultation letter dated 23 February 2024 relating to the application to fell 6 trees at Domaine des Moulins, formally the CI Tyres site. We note that this is in addition to the application to fell 5 trees and undertake cliff stabilisation works (FULL/2023/2419) which was recently granted permission by the Authority.

As per ACLMS' response to the earlier application, we would recommend:

- The felling works are undertaken outside of bird breeding season [from 1st March to 31st July].
- Bat surveys are undertaken prior to tree works (surveys should conform to the Bat Conservation Trust Guidelines).
- Access for clearance works should be from La Charroterie side. If access for vehicles or materials is required from Montville Drive and through the ABI, this should only be done with prior written approval of ACLMS (acting in its capacity as manager of the area).

We would be happy to discuss these matters further with yourself or the applicant as necessary.

Summary of Issues:

- Whether the felling of the trees is acceptable

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).**

All material considerations as set out in the Land Planning and Development (Guernsey) Law, 2005 and the Land Planning and Development (General Provisions) Ordinance, 2007 have been considered in the assessment of this application. Additional material considerations in relation to protected trees of the Land Planning and Development (General Provisions) Ordinance, 2007 and the statutory protection afforded to protected trees by the Land Planning and Development (Guernsey) Law, 2005, are considerations that have also been considered in the assessment of this application.

The application explains that since the approval in January 2024 of application FULL/2023/2419 to fell 5 trees and undertake enabling cliff stabilisation work in

connection with current proposals for redevelopment of the former CI Tyres site, further site investigation work has revealed a requirement to remove six additional trees to stabilise the proposed regraded cliff face behind Gwenwood, which adjoins the development site to the west.

Permission to erect a six storey and ten storey building containing 57 flats and associated works including creation of vehicle and pedestrian access to La Charroterie, excavation and cliff stabilisation work, pedestrian access to Montville Drive and pedestrian bridge was subsequently granted at an Open Planning Meeting held on 19/03/2024.

The tree consultant's report confirms that the additional group of trees to which this application relates have raised concerns regarding their future stability and potential risk that they present if parts of them or their entire structures were to mechanically fail. Such failure is considered likely in this case due to the site conditions and location of the trees in relation to the existing hillside terracing. It is proposed that the stumps be retained to develop new crowns which would then be coppiced on a cyclical basis every 5-10 years.

Whilst the removal of protected trees is to be regretted, in this case notwithstanding the representation received the proposal is considered to be justified by the explanation and expert consultant's report provided and will be mitigated in due course through landscaping associated with the approved redevelopment scheme with which the proposal is linked. This will include planting of appropriate indigenous species within the Area of Biodiversity Importance under the direction and approval of the States' Agriculture, Countryside and Land Management Services acting in its capacity as manager of the ABI.

ACLMS have been consulted on the application and raise no objection. They recommend as previously that:-

- The felling works are undertaken outside of bird breeding season [from 1st March to 31st July].
- Bat surveys are undertaken prior to tree works (surveys should conform to the Bat Conservation Trust Guidelines).
- Access for clearance works should be from La Charroterie side. If access for vehicles or materials is required from Montville Drive and through the ABI, this should only be done with prior written approval of ACLMS (acting in its capacity as manager of the area).

Subject to conditions and informatives, as appropriate, relating to these matters, the application as submitted accords with the purposes of the Law and material planning considerations and is recommended for approval.

Date: 22/03/2024

