

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: Variations to plans previously approved for Change of Use from House of Multiple Occupancy (Use Class 6) to 3 Residential Dwellings (Use Class 1). - Excavate, create raised terrace, alter steps, erect retaining walls, erect bike shed (Protected Trees) (Protected Building) (Revised Scheme)- part retrospective.

LOCATION: Chateau De La Montagne, La Charroterie, St. Peter Port.

APPLICANT: Mr Gilliland & Mr Smith

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: **23/04/2024**

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 04/03/2024 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: DRP Architecture - 3126 WD-01 E & WD-02,
Phil Collenette Tree Report dated 14th September 2022.

Application Ref: FULL/2024/0415

Property Ref: A405890000

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. Within 2 months of the grant of permission, a landscaping scheme to include proposed planting schedules, including the species, sizes, numbers and densities of plants proposed within the fixed planters shall be submitted to and agreed in writing by the Authority.

Reason - To ensure a satisfactory external appearance in the interests of visual amenity.

5. The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of the above condition, within the first planting season following this grant of permission or prior to first occupation, whichever is soonest. Any plants removed, dying, being severely damaged or becoming seriously diseased, within 5 years of planting shall be replaced in the following planting season by plants of a size and species similar to those originally required to be planted.

Reason - To ensure a satisfactory external appearance in the interests of visual amenity.

6. The dwellings hereby permitted shall not be used or occupied until the cycle storage shown on the approved plans has been fully implemented. The provision for cycles shall be retained at all times.

Reason - To encourage the use of bicycles as an alternative to the car.

7. The proposed fixed planters shown on the hereby approved plans, shall be installed prior to first occupation of any part of the development, and retained and maintained in perpetuity.

Reason: In the interests of neighbour and visual amenity.

8. Details of the application of a composted stable organic mulch (such as composted wood chip mulch) to a depth of 8-10cm of the root protection areas of onsite trees included within the area TPO, shall be submitted to and approved in writing within 2 months of the approval of the application. This shall keep clear of the stems and root buttresses. These measures shall be implemented in accordance with the approved details within 6 months following their approval.

Reason: To safeguard the nearby protected trees.

9. If within the first five years following the grant of consent, any protected on site tree is found to be dead/seriously damaged/defective, it shall be replaced with another tree of the same or another native species, in the same location, in the first available planting season following the removal of the tree, and in accordance with details to be approved by the Authority in writing. Any replants shall be using container grown stock, at least 1.2 metres in height. If, within a period of five years from the date of planting, a replacement tree is removed, uprooted, destroyed or dies, another tree of the same size and species shall be planted within the first planting season following the removal, uprooting, destruction or death of the tree it replaces.

Reason: to protect and enhance the group of TPO trees

Expiry Date: This permission will cease to have effect on 23/04/2027 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/2024/0415
Property Ref: A405890000
Valid date: 04/03/2024
Location: Chateau De La Montagne La Charroterie St. Peter Port
Guernsey GY1 1EJ
Proposal: Variations to plans previously approved for Change of Use
from House of Multiple Occupancy (Use Class 6) to 3
Residential Dwellings (Use Class 1). - Excavate, create raised
terrace, alter steps, erect retaining walls, erect bike shed
(Protected Trees) (Protected Building) (Revised Scheme)- part
retrospective.
Applicant: Mr Gilliland & Mr Smith

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. Within 2 months of the grant of permission, a landscaping scheme to include proposed planting schedules, including the species, sizes, numbers and densities of plants proposed within the fixed planters shall be submitted to and agreed in writing by the Authority.

Reason - To ensure a satisfactory external appearance in the interests of visual amenity.

5. The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of the above condition, within the first planting season following this grant of permission or prior to first occupation, whichever is soonest. Any plants removed, dying, being severely damaged or becoming seriously diseased, within 5 years of planting shall be replaced in the following planting season by plants of a size and species similar to those originally required to be planted.

Reason - To ensure a satisfactory external appearance in the interests of visual amenity.

6. The dwellings hereby permitted shall not be used or occupied until the cycle storage shown on the approved plans has been fully implemented. The provision for cycles shall be retained at all times.

Reason - To encourage the use of bicycles as an alternative to the car.

7. The proposed fixed planters shown on the hereby approved plans, shall be installed prior to first occupation of any part of the development, and retained and maintained in perpetuity.

Reason: In the interests of neighbour and visual amenity.

8. Details of the application of a composted stable organic mulch (such as composted wood chip mulch) to a depth of 8-10cm of the root protection areas of onsite trees included within the area TPO, shall be submitted to and approved in writing within 2 months of the approval of the application. This shall keep clear of the stems and root buttresses. These measures shall be implemented in accordance with the approved details within 6 months following their approval.

Reason: To safeguard the nearby protected trees.

9. If within the first five years following the grant of consent, any protected on site tree is found to be dead/seriously damaged/defective, it shall be replaced with

another tree of the same or another native species, in the same location, in the first available planting season following the removal of the tree, and in accordance with details to be approved by the Authority in writing. Any replants shall be using container grown stock, at least 1.2 metres in height. If, within a period of five years from the date of planting, a replacement tree is removed, uprooted, destroyed or dies, another tree of the same size and species shall be planted within the first planting season following the removal, uprooting, destruction or death of the tree it replaces.

Reason: to protect and enhance the group of TPO trees

OFFICER'S REPORT

The site comprises of a double width 3 storey building with a two-storey extension to the southwest. The building has limited parking to the southwest and garden area to the southeast. The rear of the site faces onto the cliff face. The property was granted permission in 2022 for the change of use to 3 residential dwellings including the introduction of dormers and extensions to the rear.

The application site is within the Main Centre and within a Conservation Area. The building is also Protected. There is an area Tree Protection Order to the rear of the site which covers the area of raised land to the south of the dwelling. This area immediately to the rear of the site is also designated as Important Open Land and Area of Biodiversity Importance, as designated in the Island Development Plan.

Relevant History:

FULL/2022/0946- Change of use from House of Multiple Occupancy (Use Class 6) to 3 Residential Dwellings (Use Class 1), erect extension to south-east (rear) elevation, rebuild dormer windows to south-east (rear) elevation, raise ridge height of extension to north-west (front) elevation, extend to south-east elevation (1.5 storey) and internal works (Protected Building). Approved 04/10/2022

FULL/2022/1769- Variation to previously approved plans for Change of Use from House of Multiple Occupancy (Use Class 6) to 3 residential dwellings (use class 1) - Erect single storey extension to rear of Unit 2. Approved 1/10/2022

FULL/2023/0699- Variation to previously approved plans for Change of Use from House of Multiple Occupancy to 3 residential dwellings (Protected Building) - extend at first and second floor levels to rear of unit 1. Refused 05/07/2023

FULL/2023/1341- Variation to previously approved plans for Change of Use from House of Multiple Occupancy to 3 residential dwellings (Protected Building) - demolish and rebuild and alter Unit 3. Approved 21/11/2023

FULL/2023/1414- Variation to previously approved plans for Change of Use from House of Multiple Occupancy to 3 residential (Protected Building)- extend at first and second floor levels to rear of unit 1 (revised scheme). Approved 17/11/2023

FULL/2023/0704- Variation to previously approved plans for Change of Use from House of Multiple Occupancy to 3 residential dwellings (Protected Building) - Excavate, create raised terrace, alter steps and erect retaining walls (Protected Trees). Refused 22/11/2023

Existing Use(s):

06 Residential –Premises of Multiple Occupancy

Brief Description of Development:

The application proposes a variation to the previous approval FULL/2022/0946 which approved the change of use of the building from HMO to 3 dwelling houses, along with other extensions and alterations to the property. The variation is also a revised scheme to the previously refused FULL/2023/0704 which retrospectively sought to introduce retaining walls and raised terrace areas to the rear gardens.

This was refused due to the impact on the protected trees as a result of the excavation of the land to the rear, which is likely to result in harm to and loss of some of the trees which are subject to the area Tree Protection Order, and contrary to Policy GP1, and to the harm to amenity of future occupants due to the significant overlooking from the raised terraces into the private amenity spaces and dwellings themselves. The height of the walls was also considered to be visually and physically overbearing, in conflict with Policy GP8, the Amenities Annex and general material considerations.

The variation now proposes the same excavation of part of the rear of the site, into the existing rock face, to allow for the introduction of an additional raised amenity area for Unit 1, alterations to the steps and erection of retaining walls (this part of the application is retrospective). The revisions to the previously refused scheme include the removal of the steps for Unit 2 to access the raised terrace and use of this space for a cycle store, along with the provision of a large planter within the raised terrace which was previously for Unit 2. Fixed planters are also proposed to the southern boundary of the gardens of Unit 1 and 2, adjacent to the retaining wall and raised terrace.

A timber bicycle store has also been added to the raised terrace area serving Unit 1.

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

GP1: Landscape Character
GP4: Conservation Areas
GP5: Protected Buildings
GP8: Design
GP9: Sustainable Development

Representations:

None

Consultations:

The Agriculture, Countryside and Land Management Service (ACLMS) were consulted on the impact of the previous proposal on the protected trees to the rear of the site. Their comments in relation to mitigations were as follows:

In terms of mitigation it would be helpful to apply planning conditions (is this now too late?) but options are limited given the nature of the site. It would usually involve applying suitable mulch and/or irrigation. Another option would be to simply monitor the site over time - say five years. Where trees are lost or their amenity is compromised, and this can reasonably be attributed to construction injury, then a condition could be applied requiring the planting and establishment of replacement trees which should leave open the option of planting on another site as a form of offset.

Summary of Issues:

- Impact on amenity
- Impact on the Protected Trees
- Impact on the Protected Building & Conservation Area
- Other considerations

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).**

The principle of the development is acceptable with the change of use of the buildings from HMO to three separate dwellings established by the FULL/2022/0946 application. The application is for a variation to the previously approved plans to introduce raised terraces to the rear of the previously approved dwellings. The works include the excavation of part of the cliff face to the south (rear) of the site, by approx. 4m to allow for the introduction of a raised terrace and new sets of steps to provide access.

Impact on amenity

Under the original consent the three units each had a small rear amenity space enclosed by fencing with an access gate to the communal parking area and the existing steps up the cliff face to the land above.

The revision now proposes an extended amenity area for Unit 1 only, accessed by new steps and introducing an approx. 3.3m by 12m raised terrace. The terrace is approx. 2.3m above the ground level amenity area for Unit 2. This terrace area is linked via two new sets of steps from the shared parking area, across the rear of the building and gardens and also provides the only access to Unit 1.

Retaining walls are proposed along the front of the newly excavated cliff face, to a maximum height of approx. 5.2m above the ground level amenity spaces. Walls are also proposed dividing the amenity area and accesses.

To overcome the previous concerns regarding the possibility of direct overlooking, the application has removed the amenity terrace for Unit 2 and replaced much of it with a large fixed planter approx. 1.5m by 7.5m, located to the edge of the terrace. Once landscaped, it is considered that this will prevent the closest and most harmful views as it physically prevents users standing close to the edge of the terrace and will also provide a natural screen to prevent overlooking. In addition, this introduction of planting will assist in softening and breaking up the visual appearance of the retaining walls. Similarly, the bicycle store for use by unit 1 adds additional screening to the terrace, preventing direct views into the private amenity spaces of Unit 2 and 3 from the north-eastern end of the terrace serving unit 1. The bike storage to Units 1 and 2 included on the revised plans is a betterment when considered against the original application which did not provide this.

As the proposed terrace area is now only proposed for use by Unit 1 with no ability to stand on the edge of the terrace due to the impediment created by the planter and bike store, it is considered that proposed terrace area will, on balance, be acceptable in terms of the privacy enjoyed by future occupants of all three units., subject to a condition to ensure that the planter and bike store are provided and retained in perpetuity.

In addition, the provision of planters within the amenity areas of Unit 1 and 2, adjacent to the retaining walls will provide adequate landscaping to soften the appearance of the walls and reduce the visual impact sufficiently to, on balance, overcome the previous concerns about the overbearing visual and physical impact.

The stepped access to Unit 1, replaces the previously approved largely level access except for two steps. This prevents Unit 1 from being accessible for people of all ages and abilities and limits the flexibility/adaptability of the accommodation, whilst not ideal, it is not considered sufficient a reason, in isolation, to warrant the refusal of the application. However, it should be noted that these access arrangements may, due to the distance to bins and stepped access, generate problems at the Building Regulations stage, although this is not a material planning consideration or a sufficient reason to refuse the application.

Impact on Trees subject to Tree Protection Order (TPO)

The land to the rear and elevated above the cliff is subject to an area TPO (PT78), and the excavation works to create the terraces and retaining wall have cut back

approx. 3-4m into the previously existing cliff face. ACLMS were consulted on this aspect of the application and have advised that tree roots are likely to have been damaged and the resultant stress will lead to strain on the tree's ability to function. As the works are retrospective, they have requested some works which will mitigate against any loss.

The trees make a positive contribution to the landscape character and local distinctiveness of the area. The loss of these trees would have an unacceptable impact on the landscape character and amenity of the locality. The recommended mitigation works, including suitable mulching/irrigation, monitoring, and potential replanting is considered sufficient to mitigate against this harm as the submitted tree report indicates that many of the felled tree stumps are regenerating which, in combination with the replanting condition, will ensure continuous green cover and stabilisation of the raised areas. This will be conditioned to secure the monitoring of the area and replanting of suitable trees, should it be required in the future.

The proposal therefore will not result in the unacceptable loss of any distinctive features that contribute to the wider landscape character of the area, and is acceptable in relation to Policy GP1 (Landscape Character and Open Land) of the Island Development Plan, general material considerations and 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.

These protected trees also contribute to the character and appearance of the Conservation Area and this assessment is undertaken below.

Impact on Protected Building and Conservation Area

The proposed excavation and works to the cliff face along with the erection of additional steps and retaining walls, is considered to have a slight harmful impact on the setting of the protected building. It is considered that this slight harm would be outweighed by the reasonable aspirations of the property owner, which ensures compliance with Policy GP5.

With respect to the assessment against Policy GP4, the site is situated within the southern part of the St Peter Port Conservation Area, as designated in the IDP. Located within La Charroterie Valley Character Area which leads down the valley from Guernsey's higher plateau to the south and west to the south part of the Old Town and Harbour, the area is characterised by cliff faces and sharp changes in levels providing enclosure and a contrast between the shaded built environment and hillside greenery. The site backs onto an area subject to a TPO providing dense tree cover which is an important edge-of-town informal space elevated above the busy valley. The Conservation Area Appraisal notes the contributions made by natural exposed rock faces, mature vegetation and trees, the strengths of the area including the contrast between the shaded valley bottom and wooded valley sides along with the harm to the character caused by the incremental felling of non-protected trees.

A tree planning condition will be used to ensure the mitigation of retrospective harm to the protected trees, and this therefore will prevent a harmful long-term impact on the trees and mature vegetation of the hillside greenery which contributes to the character of the Conservation Area. The proposal is therefore not considered to have a negative long-term impact on the Conservation Area.

Other considerations:

The proposed terrace and retaining wall require a large area of excavation cutting back approx. 4m into the existing cliff face to create the upper terrace area. The terrace areas appear to remain outside of the Important Open Land and Area of Biodiversity Importance and so the policy requirements for these areas of designation are not engaged.

The proposal results in high retaining walls being highly visible in the street scene due to the vacant site adjacent (former CI Tyres site). However, this, on balance is considered acceptable due to its set back from the road reducing the prominence and any redevelopment of the adjacent site is highly likely to screen the walls and terraces from external views, reducing the visual impact of the development further. Since the previous refusal, there is now an extant permission for new residential flats on this neighbouring site which would largely obscure any views of the terrace area and retaining walls. On this basis, despite having some recognised visual impact, it is not considered harmful enough to warrant the refusal of the application.

Summary:

In summary, the retrospective proposal is considered to have resulted in some harm to the roots of the protected trees however appropriate mitigation has been recommended which will be conditioned to prevent long term harm to the trees within the Area TPO.

In addition, due to the introduction of fixed planters, soft landscaping and new bicycle storage sheds, the proposal will no longer result in significant harm to the amenity as harmful overlooking will no longer be possible. The soft landscaping also assists in softening the appearance of the retaining walls, preventing a visually and physically overbearing impact. The retrospective proposal is acceptable in relation to Policy GP4, GP1, GP8, the Amenities Annexe and the general material considerations.

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.

Date: 22/04/2024

