

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: Sub-divide dwelling to create 2 dwellings and associated works.

LOCATION: Aston Place, La Folie Lane, Vale.

APPLICANT: Mr A Dorey

I refer to the application referred to below received as valid on 01/07/2024 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 27/01/2025

Drawing Nos: PF+A Ltd - 7743-04 B1, B2, B3, B4 & B5.

Application Ref: FULL/2024/1121

Property Ref: C01219A000+C012190000

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. Policy OC1 (Housing Outside of the Centres) of the Island Development Plan provides the only policy gateway for the provision of new housing at this site and, as the extensions which form the proposed dwelling are not currently lawful the creation of a new dwelling at the site would be precluded.

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/2024/1121
Property Ref: C01219A000+C012190000
Valid date: 01/07/2024
Location: Aston Place La Folie Lane Vale Guernsey GY3 5SE
Proposal: Sub-divide dwelling to create 2 dwellings and associated works.
Applicant: Mr A Dorey

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. Policy OC1 (Housing Outside of the Centres) of the Island Development Plan provides the only policy gateway for the provision of new housing at this site and, as the extensions which form the proposed dwelling are not currently lawful the creation of a new dwelling at the site would be precluded.

OFFICER'S REPORT

Site Description:

The application site is occupied by a semi-detached, one and a half storey pitched roof dwelling which is situated to the north of La Folie Lane. The property is located Outside of the Centres as defined by the Island Development Plan.

Relevant History:

Approved Applications-

FULL/2024/0567- Erect 2x single storey extensions to north (rear) elevation and alter window to door to south (front) elevation.

FULL/2023/0917- Change of use of agricultural land to domestic garden (339 sq.m.), erect 1.5 storey extension to side, single storey extension and extend at 1st floor level to north (rear) elevation. Create agricultural vehicle access.

Existing Use(s):

01 Dwelling houses

Brief Description of Development:

Planning permission is requested to sub-divide the existing dwelling into two dwellings- a two-bedroom dwelling and a four-bedroom dwelling, and the subdivision of the plot to form two separate rear gardens. The dwellings will share the existing vehicle access.

No external alterations to the building are proposed but the subdivision would include the erection of fencing to separate the rear gardens of the dwellings.

Application FULL/2023/0917 approved the change of use of agricultural land to domestic garden, and the erection of extensions to the side and rear, along with a dedicated separate agricultural access. This application was implemented and the side extension constructed.

Application FULL/2024/0567 approved further extensions to the dwelling which have now been partially constructed.

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

Policy OC1: Housing Outside of the Centres

Policy GP8: Design

Policy GP9: Sustainable Development

Policy IP6: Transport Infrastructure and Support Facilities

Policy IP7: Private and Communal Car Parking

Policy IP9: Highway Safety, Accessibility and Capacity

Representations:

Three neighbour letters have been received; the concerns raised have been summarised:

- Obvious original intent to subdivide dwelling- conflict with Policy OC1
- Increase in traffic using road and impact on highway safety
- Increase housing density in quiet rural area
- Future development to the north would be contrary to Policy OC7
- Current development not complying with conditions placed, such as ends of the new access being completed within four weeks of being brought into use.

Consultations:

N/A

Summary of Issues:

Whether the existing building is lawful, and consequently if there is a policy gateway for the proposed development.

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 Spatial Policy of the Island Development Plan (IDP), expressed through Policy S1 (Spatial Policy), is to, *“concentrate the majority of new development in the Main Centres and the Main Centre Outer Areas to maintain the vitality of these areas...and to allow for development Outside of the Centres in identified specific circumstances, in accordance with the Strategic Land Use Plan (SLUP)”*.

The approach to development set out within the SLUP and the Spatial Policy of the IDP is reinforced through Policy S4 (Outside of the Centres) and the introduction to Part 3 of the IDP *Policies for Outside of the Centres* which, whilst acknowledging that the Plan makes provision for certain types of development Outside of the Centres, states that proposals for new housing will not generally be supported Outside of the Centres.

Policy OC1 (Housing Outside the Centres) reinforces this position, and allows for provision of new housing only in two specific circumstances; where this is achieved through the subdivision of an existing dwelling or through the conversion of an existing redundant building.

The current proposal is for the subdivision of the existing dwelling, creating an additional dwelling from the previously approved extensions. The principle of this subdivision therefore relies on the previously approved extensions being lawfully implemented.

Application FULL/2023/0917 included the following conditions:

4. The landscaping scheme shall be fully completed, in accordance with the details shown on Plan 7743-01 B5, by the end of the planting season following the grant of consent (by 31st March 2025). Any trees or plants removed, dying, being severely damaged or becoming seriously diseased, within 5 years of planting shall be replaced in the following planting season by trees or plants of a size and species similar to those originally required to be planted.

Reason: To help assimilate the development into its surroundings, in the interests of residential amenity and to provide biodiversity enhancements in line with the Strategy for Nature SPG.

5. Within four weeks of the revised and new accesses being brought into use, the ends of the new openings shall be finished off using materials and a method of construction which match the remainder of the front roadside boundary wall.

Reason - To secure the satisfactory appearance of the completed development.

6. Prior to first use/occupation of the extension hereby permitted, the existing glasshouses shall be demolished and all ancillary materials, works and structures shall be removed from the site.

Reason - To ensure the clearance of the glasshouses in accordance with Policy OC7.

These conditions have not been discharged to date, and the recent application site visit revealed that no landscaping had been undertaken, the front boundary wall had been removed in part and not replaced, and the glasshouse remains were still present on the land.

Although the condition relating to the boundary wall could be considered not to go to the heart of the permission, as a minor element of the overall development, the landscaping and removal of the glasshouses are a significant consideration and directly relate to policy requirements. These conditions enabled the development to proceed where it would otherwise have been necessary to refuse the application.

Allowing the subdivision of the dwelling where the original conditions have not been complied with would therefore not be acceptable, based on *The Island Development Committee v S. Lainé and L. Lainé [2003]*, where the Court of Appeal held that unauthorised (and therefore illegal) development was not a springboard by which further development might be authorised. In this case, as the building is not authorised, it cannot be considered as an extant structure for further development, namely for the conversion of the extensions to an alternative use, and could not be considered under that limb of Policy OC1.

In *The Island Development Committee v Portholme [2002]*, the Court of Appeal further held that “... if a plan allows for development only in certain identified circumstances, by necessary inference, development out with those circumstances is not to be allowed.”

Policy OC1 provides the only policy gateway for the provision of new housing at this site and, as set out above, the proposal would not meet either of the identified circumstances where that provision would be acceptable as the extensions which form the proposed dwelling are not currently lawful.

The creation of a new dwelling at the site would therefore be precluded under Policy OC1 and the only lawful decision that can be reached is that planning permission must be refused. No further consideration of the proposals is therefore necessary and consequently no assessment of the scheme has been made having regard to the other relevant planning policies, cited above.

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.

It is recommended that the application is refused.

Date: 24/01/2025

