

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: Demolish pillars to widen vehicle access (Protected Building) (Revised Scheme).

LOCATION: Orange Tree Lodge, King's Mills Road, Castel.

APPLICANT: Mr J Brent & Ms N Falla

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: 20/02/2025

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 11/12/2024 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Strategic Planning & Property Ltd - 468_100(C), 468_095(C)

Application Ref: FULL/2024/1916

Property Ref: D003210000

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.Prior to the commencement of any further demolition as hereby approved, the existing wall shall be carefully recorded with photographs and measured drawings (at an appropriate scale agreed with the Authority), which shall be submitted to and agreed by the Authority.

Reason - To ensure the existing wall is documented appropriately, in the interests of recording the original fabric of the protected building (Policy GP5).

5.(a) Prior to the commencement of any further demolition as hereby approved, detailed plans at a large scale (1:10 or 1:20 or at an appropriate scale agreed with the Authority) to show the full extent of any demolition works to the pillars and roadside wall shall be submitted to and approved in writing by the Authority. The development shall be completed only in strict accordance with the approved details.

(b) Any part of the wall not shown to be demolished under the details pursuant to part (a) of this condition shall be appropriately protected for the duration of the works in a manner to be agreed in writing by the Authority.

Reason - To ensure that the extent of demolition of this protected feature is limited to only those areas required to be demolished and to ensure that the remainder of the wall is protected and left undisturbed for the duration of the works to avoid unnecessary harm to the protected building (Policy GP5), and Conservation Area (Policy GP4).

6.Prior to the commencement of any further demolition works on site, appropriate scaled drawings and specifications to show how the approved wall and pillars will be

built, on a like-for-like basis, to match the original walls, shall be submitted to and agreed by the Authority. Specifications shall include details of how the mortar and render mix will match the existing.

Reason - To ensure the approved works preserve the special interest of the protected building (Policy GP5), and in the interests of conserving the Conservation Area (Policy GP4).

7.The demolition of the wall and pillars shall be carried out by hand. The bricks shall be carefully stored on the site and re-used in the new sections of wall. At no time should any of these bricks be removed from the site.

Reason - The works shall be carried out by hand and not machinery to ensure that as many bricks shall be reused as possible to preserve the special interest of the protected building (Policy GP5), and in the interests of conserving the Conservation Area (Policy GP4).

8.Should any additional new bricks be required as part of the development, a finished sample of the new bricks (prior to their use), together with an existing salvaged brick from roadside wall, shall be submitted to and agreed in writing by the Authority. Only the agreed sample of brick shall be used in the development hereby approved.

Reason - It is important that, should the existing bricks be unusable for whatever reason, any new bricks must be agreed by the Authority, to ensure that the new bricks match the existing bricks as closely as possible. The samples are required to ensure that comparisons can be made by the Authority to ensure that any new brick matches the existing bricks as closely as possible to protect the special interest of this protected feature in accordance with Policy GP5 of the IDP, and in the interests of conserving the Conservation Area (Policy GP4).

9.The approved wall and pillars hereby approved, shall be rebuilt within 6 months from the date of this decision, in strict accordance with the agreed works set out in Conditions 5, 6, 7, and 8 (if required), unless the Authority agrees to an alternative timeframe in writing.

Reason - to ensure that the works are carried out within a reasonable timeframe given that part of the works have been carried out unlawfully and by accident in the interests of preserving the Protected Building (Policy GP5) and in the interests of conserving the Conservation Area (Policy GP4).

Expiry Date: This permission will cease to have effect on 20/02/2028 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/2024/1916
Property Ref: D003210000
Valid date: 11/12/2024
Location: Orange Tree Lodge King's Mills Road Castel Guernsey GY5 7JT
Proposal: Demolish pillars to widen vehicle access (Protected Building)
(Revised Scheme).

Applicant: Mr J Brent & Ms N Falla

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. Prior to the commencement of any further demolition as hereby approved, the existing wall shall be carefully recorded with photographs and measured drawings (at an appropriate scale agreed with the Authority), which shall be submitted to and agreed by the Authority.

Reason - To ensure the existing wall is documented appropriately, in the interests of recording the original fabric of the protected building (Policy GP5).

5. (a) Prior to the commencement of any further demolition as hereby approved, detailed plans at a large scale (1:10 or 1:20 or at an appropriate scale agreed with the Authority) to show the full extent of any demolition works to the pillars and roadside wall shall be submitted to and approved in writing by the Authority. The development shall be completed only in strict accordance with the approved details.

(b) Any part of the wall not shown to be demolished under the details pursuant to part (a) of this condition shall be appropriately protected for the duration of the works in a manner to be agreed in writing by the Authority.

Reason - To ensure that the extent of demolition of this protected feature is limited to only those areas required to be demolished and to ensure that the remainder of the wall is protected and left undisturbed for the duration of the works to avoid unnecessary harm to the protected building (Policy GP5), and Conservation Area (Policy GP4).

6. Prior to the commencement of any further demolition works on site, appropriate scaled drawings and specifications to show how the approved wall and pillars will be built, on a like-for-like basis, to match the original walls, shall be submitted to and agreed by the Authority. Specifications shall include details of how the mortar and render mix will match the existing.

Reason - To ensure the approved works preserve the special interest of the protected building (Policy GP5), and in the interests of conserving the Conservation Area (Policy GP4).

7. The demolition of the wall and pillars shall be carried out by hand. The bricks shall be carefully stored on the site and re-used in the new sections of wall. At no time should any of these bricks be removed from the site.

Reason - The works shall be carried out by hand and not machinery to ensure that as many bricks shall be reused as possible to preserve the special interest of the protected building (Policy GP5), and in the interests of conserving the Conservation Area (Policy GP4).

8. Should any additional new bricks be required as part of the development, a finished sample of the new bricks (prior to their use), together with an existing salvaged brick from roadside wall, shall be submitted to and agreed in writing by the Authority. Only the agreed sample of brick shall be used in the development hereby approved.

Reason - It is important that, should the existing bricks be unusable for whatever reason, any new bricks must be agreed by the Authority, to ensure that the new bricks match the existing bricks as closely as possible. The samples are required to ensure that comparisons can be made by the Authority to ensure that any new brick matches the existing bricks as closely as possible to protect the special interest of this protected feature in accordance with Policy GP5 of the IDP, and in the interests of conserving the Conservation Area (Policy GP4).

9. The approved wall and pillars hereby approved, shall be rebuilt within 6 months from the date of this decision, in strict accordance with the agreed works set out in Conditions 5, 6, 7, and 8 (if required), unless the Authority agrees to an alternative timeframe in writing.

Reason - to ensure that the works are carried out within a reasonable timeframe given that part of the works have been carried out unlawfully and by accident in the interests of preserving the Protected Building (Policy GP5) and in the interests of conserving the Conservation Area (Policy GP4).

OFFICER'S REPORT

Site Description:

The application site known as 'Orange Tree Lodge' comprises a detached 2.5 storey dwelling-house which is located to the north of King's Mills Road. The dwelling is protected and is situated within a Conservation Area, Agriculture Priority Area and is located Outside of the Centres as defined in the Island development Plan.

The roadside wall and gateposts, or otherwise referenced pillars, to the front of the site are also protected and form part of the special interest of the protected building.

Planning permission was granted in 2019 (FULL/2019/1388) to temporarily remove and reinstate/repair two brick gateposts, to the front of the dwelling. The gateposts were to be finished in a style and appearance to match the roadside wall. The application was approved subject to the following condition:

4. The proposed gateposts shall be reinstated to match as closely as possible to the existing gateposts in terms of their materials, form, profile and position, within 4 months of the existing gateposts being removed or such other period as may be agreed beforehand in writing by the Authority.

Reason - To secure the satisfactory appearance of the completed development and to respect the special interest of the protected building and character and appearance of the Conservation Area.

Retrospective planning permission was refused in 2023 to demolish the gateposts/pillars to widen the vehicle accesses (FULL/2023/1344). The application was refused for the following ground:

1. The development if approved would have a significant detrimental effect on the overall special interest of the protected building, and would not conserve the character and appearance of the Conservation Area as a result of removing two roadside wall pillars to the front (south) of the site. The proposal would be contrary to Policy GP5 (Protected Buildings), and Policy GP4 (Conservation Areas) of the Island Development Plan.

A revised application was made valid in March 2024 to demolish the pillars to widen the vehicle access (FULL/2024/0452). Concerns were raised over the 'proposed design' as set out in the Planning Service's deferral e-mail of 1st July 2024.

The scheme was later withdrawn in September 2024 as the application did not submit revised plans in attempt to address the reasons for deferral due to the change in ownership of the property.

The application site changed ownership in August 2024 and all enforcement matters relating to the gatepost have been transferred to the new owners, as such enforcement matters stay with the land, and therefore are applicable to the new property owner(s) to address.

It is understood that sometime between the sale of the property (August 2024) and 23rd October 2024 (e-mail from the new owner), that the inner gate post and part of the roadside wall adjacent to the west access point had been damaged.

To summarise;

- The western gate post has not be reinstated and has been cobbled over with granite sets;
- The inner gate post and part of the roadside wall adjacent to the west access point has been damaged and lies on the front garden since the sale of the property; and,
- The eastern gate post remains partially demolished.

Relevant History:

FULL/2024/0452	Demolish pillars to widen vehicle accesses (Protected Building) (revised scheme).	Withdrawn
FULL/2023/1344	Demolish pillars to widen vehicle accesses (Protected Building) (retrospective).	Refused
FULL/2020/1894	Reconstruct boundary wall (Protected Building).	Granted
FULL/2019/1388	Temporary removal and repair of gate posts (protected building).	Granted
FULL/2018/0595	Demolish existing extension and erect new garage/utility room on east elevation and alterations to fenestration (Protected Building)	Granted

Existing Use(s):

Residential

Brief Description of Development:

Planning permission is sought to replace the gate pillars and build a new section of wall on both the outer east and west gateposts, respectively.

It is also proposed to demolish a small section of the inner gate posts central wall.

The recognised and lawful access point will therefore increase from 2759mm (as shown on the west access point), to 3750mm, an increase of 991mm to both access points.

The position of the western gatepost has been removed and been replaced with granite sets and not reinstated by the former owner of the site, in accordance with approved permission (FULL/2019/1388). Moreover, the inner western gatepost and wall which has been damaged by accident. This application seeks to address both circumstances comprehensively.

As set out in the refused application FULL/2023/1344, it was noted that there may be an alternative design that could be supported, in principle, subject to the detailed design. The following comments were set out in the officer's report:

Alternative design:

A possible alternative solution to the applicant's aspiration to widen the vehicular entrances, would be to move the 'inner' pillars. As established above both pillars on either side of each opening are important to the overall special interest of the Protected Building and are sensitive to change. It may however be possible to move the 'inner' pillars which are connected to the brick wall.

This would require shortening that wall, but it could be done in a sensitive way, with the pillars then rebuilt with a wider opening. An application for this work would be considered, without prejudice.

These comments were also reiterated in the deferral e-mail to the agent as part of the revised application (FULL/2024/0452) which was later withdrawn:

“...subject to the detailed design, to shorten length of the central wall to increase the vehicular access to the property. If agreed, it would be expected that this is proposed in a sensitive manner in which seeks to remove as little as possible of the main wall i.e. not as shown on the ‘Alternative Design’. The width of a pillar is likely to be considered a sensible amount to increase the vehicular access by in order to balance the interest of the protected building and Conservation Area. It would be expected that sufficient justification is provided as part of any revised scheme.”

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

GP4 Conservation Areas
GP5 Protected Buildings
GP8 Design
GP9 Sustainable Development
GP13 Householder Development
IP9 Highway Safety and Traffic Management

Representations:

None.

Consultations:

None.

Summary of Issues:

- Whether the removal of the roadside pillars would have a detrimental effect on the special interest of the protected building.
- Whether the proposal would conserve or enhance the character and appearance of the Conservation Area.

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).

Legal and Policy context:

It is a requirement under the Land Planning and Development (Guernsey) Law, 2005, when considering applications affecting protected buildings, to secure so far as possible that the special historic, architectural, traditional or other special characteristics (including setting) are preserved. This duty is reflected in Policy GP5 of the IDP.

IDP Policy GP5 requires any harm to the special interest of a protected building to be balanced against:

1. The reasonable aspirations of the property owner;
2. the economic, social or other benefits of the development; and,
3. where appropriate, its contribution to enhancing the vitality of a Main Centre

Under Section 38 of The Land Planning and Development (Guernsey) Law, 2005 the Authority has a duty to pay *“special attention to the desirability of preserving and enhancing the character and appearance”* of Conservation Areas. This duty is encapsulated in Policy GP4 (Conservation Areas) which states that *“proposals for development within a Conservation Area will be supported where the development conserves and, where possible, enhances the special character, architectural or historic interest and appearance of the particular Conservation Area.”*

Protected Building:

The roadside pillars/gateposts form part of the special interest on this protected building by forming part of the boundary walls, marking a symmetrical entrance/exit to the property and separating the street from the front garden. All of these aspects are a design intention of this protected building.

The description of the protected building (1996), when it was first protected includes: *“...and the roadside wall is unusual in that it is constructed in brick with a dog toothed pattern...”*. The pillars are of high value to the overall special interest of the protected building.

The application is supported by a covering letter from the agent, which in summary states:

- The current entrances are approximately 2.76m, with 0.45 pillars.
- Advice was given to widen the vehicular accesses by around 1 pillar width, creating x2 3.25m wide entrances, although this is pretty limited.
- The proposal seeks to create x2, 3.75m access points. The total amount of the roadside wall would be 1.68m or 0.84m either side which is not unreasonable.
- The proposal would balance the roadside detail by adding to the Conservation Area, adding symmetry to the protected building and providing good access for all users and improve road safety.

- A planning condition could be attached to reuse the original materials.

Previous correspondence has noted that the pillars have been damaged, on different occasions by different contractors, entering and exiting the property.

Whilst the applicant's comments in relation to road safety and traffic management have been considered, Policy IP9 notes that any improvement to the existing road network to improve road safety will be supported, unless it would have an adverse effect on the special interest or character or appearance of a Conservation Area or a Protected Building. It is recognised that the proposal would lead to some road safety and traffic management benefits, although the effect on the protected building and Conservation Area must take precedent given their legal weight.

In light of the drawings submitted which seeks to widen the narrow access points by a reasonable and proportionate extent, the proposal strikes a balance to preserve the special character and appearance of the roadside wall, whilst enabling the reasonable aspirations of the property owner to be achieved. The agent has taken into account the Authority's previous advice and have devised a sensible compromise.

Overall, the proposed development will not unduly harm the overall special interest of the protected building to justify refusal, and in this case is outweighed by the reasonable aspiration of the property owner. The application accords with IDP Policy GP5.

It is however important that appropriate conditions are attached to the decision to document the original wall, ensure the construction of the wall matches the existing, and to ensure the works are carried out within a reasonable timeframe.

Conservation Area:

Annex VII of the IDP summarises the special interest of the King's Mills Conservation Area. Paragraphs VII.67 and VII.70 are relevant to this application, as below.

"Buildings are frequently in close proximity to the road and these, along with roadside walls, are primarily constructed of local stone and, throughout the Conservation Area, have a very strong visual impact on character and are intrinsic to that character. (VII.67)..."

"...and has an outstanding traditional environment which has been little altered with a character derived from the traditional buildings, prominent roadside walls and the relationship of the buildings to the roads and to one another." (VII.70)

The unusual dog-toothed roadside boundary walls and accompanying pillars form part of the character of this part of the Conservation Area, and therefore are an important feature of the Conservation Area. Policy GP4 allows for the demolition of a feature where the replacement makes an equal or enhanced contribution to the Conservation Area.

The proposed works will cause harm to the character and appearance of the Conservation Area, although the degree of harm would not be unacceptable to justify refusal.

For the purposes of Policy GP4, the proposal would 'conserve' the character and appearance of the Conservation Area, subject to appropriate conditions.

The application complies with IDP Policy GP4.

Conclusion:

Overall, the design of the proposal is such that it would not cause unacceptable harm to the protected building, Conservation Area or visual amenity. The proposal would also lead to some road safety and traffic management benefits.

Based on the above, the application is considered compliant with the relevant Island Development Plan policies, and accords with the purpose of the Law and the Material Planning Considerations.

It is therefore recommended that planning permission be granted, subject to conditions.

Date: 19/02/25

