

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: Install section of fence to top of existing wall to east boundary (revised scheme).

LOCATION: Land At, La Neuve Rue, Albecq, Castel.

APPLICANT: Mr & Mrs Whitehorne

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: 22/05/2025

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 13/01/2025 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: 1:500 scaled block plan (dated stamped received 30/12/2024), elevation drawing and annotated photograph drawing showing the fence in position, and a fence specification sheet (all dated stamped received 12/05/2025)

Application Ref: FULL/2025/0021

Property Ref: D01197A000

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.

Expiry Date: This permission will cease to have effect on 21/05/2028 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/2025/0021
Property Ref: D01197A000
Valid date: 13/01/2025
Location: Land At La Neuve Rue Albecq Albecq Castel Guernsey
Proposal: Install section of fence to top of existing wall to east boundary (revised scheme).

Applicant: Mr & Mrs Whitehorne

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.

OFFICER'S REPORT

Site Description:

The application property comprises a detached house located on the north side of La Banquette, having a terraced rear garden descending towards the coast road to the north. A section of the eastern boundary wall enclosing the middle terrace of the rear garden is affected by this application. The coastal roadside boundary is defined by an earth bank and hedge, and there is a pedestrian access and sliding gate in the north-east corner of the site. The property is located Outside of the Centres and is the subject of no other designation under the Island Development Plan.

Relevant History:

FULL/2023/1841 - Install fence to top of existing wall to east boundary.

Refused 03-01-2024

FULL/2020/1039 – Install wooden fence on top of existing wall to east boundary.

Refused 28-09-2020

FULL/2019/1975 - Install wooden fence on top of existing wall to east boundary.

Refused 15-01-2020

FULL/2018/0982 - Erect a detached garden room. (Revised scheme).

Approved 22-06-2018

FULL/2014/1446 - Lower level of land and replace boundary hedge, erect boundary wall, raise existing wall and install entrance gate.

Approved 19-08-2014

Existing Use(s):

Residential Use Class 1

Brief Description of Development:

As initially applied for, planning permission was sought for the installation of 3no. 600mm tall slatted timber fence panels atop an existing rendered boundary wall, extending for a total length of 5.4m. To address concerns raised (referred to further within this report) revised plans have been submitted reducing the scheme for the installation of two panels measuring 3.6m in overall length.

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

Island Development Plan

GP8 – Design

GP13 – Householder Development

Representations:

None

Consultations:

None

Summary of Issues:

- Principle of development
- Privacy and impact on neighbouring amenity
- Design and character of the locality

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 purposes of the Land Planning and Development (Guernsey) Law, 2005, are to protect and enhance, and to facilitate the sustainable development of, the physical environment of Guernsey.

The purposes of the Law are reflected in the Island Development Plan, the principal aim of which is to help maintain and create a socially inclusive, healthy and economically strong Island, while balancing these objectives with the protection and enhancement of Guernsey's built and natural environment and the need to use land wisely. Relevant policies will be addressed below in assessing the key issues.

Section 13 to Part IV of The Land Planning and Development (General Provisions) Ordinance, 2007, sets out a number of general material considerations, the following of which are considered to be relevant in this instance:

- (b) the character and quality of the natural and built environment, which is likely to be created by the development,
- (c) the appropriateness of the development in relation to its surroundings in terms of its design, layout, scale, siting and the materials to be used,

- (d) the likely effect of the development on the character and amenity of the locality in question,
- (i) the likely effect of the development on the reasonable enjoyment of neighbouring properties.

Background to the application

As the planning history demonstrates, the applicant has been seeking planning permission for the erection of a fence atop of the wall the subject of this application since 2019 with the submission of three separate planning applications.

In 2020 planning permission was refused (Ref: FULL/2019/1975) to install slatted panel style fencing comprising (the same style as those now proposed) comprising five panels measuring 1.8m wide and 0.6m high spanning an overall length of 9m. The application was refused permission on the basis that *“the proposed development would, by virtue of the length and height of fencing proposed and the shallow depth of the neighbouring external amenity area, have an adverse effect on the outlook from and an unacceptably overbearing impact on the amenity of the neighbouring property to the east, 'Boa Vista'.”*

Following the refusal of that permission a subsequent application was submitted to address the previous reason for refusal, proposing a reduction in the amount of fence panels to be erected from 5 to 4 (ref: FULL/2020/1039). Concerns regarding the impact on the neighbouring property to the east remained and the Authority deferred the application to allow the applicant 21 days to amend the scheme to achieve an acceptable solution. The deferral sent by email dated 01/09/2020 stated *“The Planning Service has previously suggested that the addition of 2 panels at the southern end of this section of wall would be a more acceptable option in terms of balancing aspirations of privacy and neighbouring amenity and having now visited the neighbouring property I [the case officer of the application at that time] remain of the opinion that this represents a wholly appropriate compromise.”* No revised drawings were received, and the application was subsequently refused for the same reason as stated previously on the original application for permission (ref: FULL/2019/1975).

In 2023 a further planning application was submitted (ref: FULL/2023/1841) again for a fence atop of the wall the subject of this planning report. The application sought permission for a fence identical to that refused under application reference FULL/2019/1975 (i.e. five 1.8m wide 0.6m high fence panels combined to span a 9m length). It must be noted that between refusal of application ref FULL/2020/1039 and the submission of the 2023 application, a change in ownership and a change in the name of the neighbouring property to the east occurred both of which are not material planning considerations which can be taken into account in the determination of an application. The application was subsequently refused for the same reason as stated on both of the previous reasons for refusal, (the only change being the change in name of the neighbouring property from 'Idlerocks Villa' to 'Boa Vista').

As initially proposed as part of the application the subject of this report, planning permission was sought for 3no. 1.8m wide 600mm tall slatted timber fence panels atop of the wall extending a total length of 5.4m, however following a visit to the application site and to the neighbouring property to the east, to reduce the impact on the neighbour, the application was deferred to seek a reduction in the amount of fencing from three panels to two. Revised plans have been received to this effect which are assessed in detail below.

Principle of development

Policy GP13 operates a general presumption in favour of householder development such as this, on the basis that the exercise of private choice will generally have no significant bearing on the strategic objectives of the States. Therefore, in terms of basic principle, the proposed development is acceptable. However, Policy GP13 also requires that consideration be given to whether there would be any significant adverse effects on the amenities of neighbouring properties, and whether the design, scale, mass and form would detract from the open character of open locations. These matters are considered below.

Privacy and impact on neighbouring amenity

In general terms the applicant's aspiration to increase privacy levels within their property is a reasonable one, provided that this is not achieved in a way that would result in unacceptable overshadowing or overbearing impacts on neighbouring properties.

It is also reasonable to take into account the degree to which neighbouring properties are overlooked by and overlook the application site, and also the way in which the middle terrace has had permission to be developed (although now expired), in assessing whether or not the applicant's desire to increase privacy levels within their property would result in an unacceptable impact on neighbouring amenity.

The proposed fence would affect only one neighbouring property, Boa Vista (formerly Idlerocks Villa), which adjoins the application site to the east. That property comprises a detached house, constructed c.2009, which largely fills its plot, having a small front garden area adjacent the coast road and narrow path/patio areas to the side (west) and rear (south).

Boa Vista has been visited and observations previously made from inside the property. Given that the situation has not changed on site as part of this application it was not considered necessary to reassess the proposal from the inside of the neighbouring property. There is a single window in the west elevation of Boa Vista, which serves the kitchen within a larger open plan kitchen/living/dining room. The window is next to a sink and section of worksurface. The head of that window is only marginally higher than the top of the existing section of boundary wall c.2.2m opposite it, whilst the internal floor level appears to be slightly lower than the level of the external path.

The height of the existing wall on their side is 1.9m. At the top of the steps that lead to a raised patio area in the southwest corner of the Boa Vista site, the height of the wall affected by the current proposals is c.0.9m. That being the case, other than from the steps leading to the patio area there is limited potential for the application site's middle terrace to be directly overlooked from Idlerocks Villa's kitchen window or external path. On the basis of typical adult heights, it is considered that any overlooking that could occur would be limited to when a person or persons stood within the middle terrace in the application site came within 2m of the wall, and even then, would only be most pronounced within 1m.

The amenity of Boa Vista is currently adversely affected due to the fact that there are unobstructed views over that property's side and rear external areas from the application site's upper garden, as well as over the wall the subject of this application (albeit that it is acknowledged that Boa Vista enjoyed much lower levels of privacy prior to the boundary wall being permitted in 2014). These areas are very shallow in depth, varying between c.1m - 2.8m to the side and c.1m – c.3m to the rear, where ground levels rise, but notwithstanding their limited dimensions, they appear to be well-tended with established planting, garden ornaments, and garden furniture visible. As well as being overlooked, the degree to which they are enclosed by rising ground levels to the south and the existing rendered boundary wall to the west is considered to result in a restricted outlook and somewhat overbearing impact on the amenity of that property.

The reduction in the number of fence panels to 2 (a length of 3.6m) at the southern end of the middle terrace was previously discussed with the applicant as a potential solution to address concerns raised regarding the impact on the neighbouring property that led to the previous reasons for refusal. The application has now agreed to pursue this, and revised plans have been submitted to this effect. Observations made during the recent site visit to Boa Vista confirm that this would effectively screen the applicant's middle terrace from any overlooking from the neighbouring steps and raised patio area. The revised scheme presents an acceptable solution in terms of balancing aspirations of privacy and neighbouring amenity. It would also reduce the overall massing of the proposal to an acceptable level and would not significantly harm outlook for the neighbouring property.

Due to the relative levels between the application site and Boa Vista, the orientation of that property, the distance to the boundary and the proposed height of the fence panels, it is not considered that there would be so significant a loss of sunlight or daylight that planning permission could be refused on that ground alone.

Permission has previously been granted to construct a single storey garden room in a central position on the middle terrace, with stepped access on the western side of the garden (ref: FULL/2018/0982) however that permission has since expired.

In light of the above, it is considered that the revised scheme as proposed would not cause any significant harm to the amenities of any neighbouring properties and the scheme complies with Policy GP8 and GP13 in this respect.

Design and character of the locality

The proposed fence panels are of a standard domestic design, scale and appearance, and would not look out of keeping within the application site or in the context of neighbouring and nearby residential properties.

Due to the position of existing boundary hedges to the west and Boa Vista to the east, the proposed fence would not be readily visible to passers-by travelling east or west on the coast road other than for a short distance when directly opposite the existing pedestrian gate. At that point the proposed fence would be almost perpendicular to the road, which would substantially minimise its visual prominence. On that basis it is not considered that there would be any adverse visual impact on the character of the locality.

The application is considered to comply with the aims of policies GP8 and GP13 as they relate to design and landscape character.

The application is acceptable in relation to the above policies and other material planning considerations and it is recommended that planning permission is granted.

Date: 21/05/2025

