

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: Erect 2 dwellings with associated landscaping and parking.
(Revised scheme).

LOCATION: Land at, Rue Des Monts, St. Sampson.

APPLICANT: Aspire Developments

I refer to the application referred to below received as valid on 20/01/2025 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 24/04/2025

Drawing Nos: MAT Limited: 24-325-01, -02B, -03 & -04A .

Application Ref: FULL/2025/0047

Property Ref: B00575B000

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. The proposed development, by virtue of the site layout proposed, would not protect or enhance the biodiversity interest of the wider Area of Biodiversity Importance of which the site forms part, nor would the layout appropriately mitigate any negative impacts arising from the development. The application is therefore contrary to the clear aims and objectives of Policy GP3 (Areas of Biodiversity Importance).

2. The proposed development would not achieve a good standard of architectural design which positively enhances the local built environment. The application is therefore contrary to Policy GP8 (Design).

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/2025/0047
Property Ref: B00575B000
Valid date: 20/01/2025
Location: Land at Rue Des Monts St. Sampson Guernsey
Proposal: Erect 2 dwellings with associated landscaping and parking.
(Revised scheme).
Applicant: Aspire Developments

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The proposed development, by virtue of the site layout proposed, would not protect or enhance the biodiversity interest of the wider Area of Biodiversity Importance of which the site forms part, nor would the layout appropriately mitigate any negative impacts arising from the development. The application is therefore contrary to the clear aims and objectives of Policy GP3 (Areas of Biodiversity Importance).
 2. The proposed development would not achieve a good standard of architectural design which positively enhances the local built environment. The application is therefore contrary to Policy GP8 (Design).
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OFFICER'S REPORT

Site Description:

The application site comprises the north east corner of an overgrown and irregularly shaped parcel of land which is designated as an Area of Biodiversity Importance (ABI), and is located within a Main Centre Outer Area and adjacent to a Conservation Area under the Island Development Plan (IDP). The site itself has been cleared of all vegetation and a temporary post and mesh fence has been erected along the south boundary, with hedge planted on the southern side. Access to the site is provided from Rue des Monts to the east, and a private drive (Waters Rocque) runs along the north boundary, separating the site from a residential property in that direction. Further residential properties are located across the open land to the south, set at a lower level than the application site, and across the road to the south-east.

Relevant History:

Application site

FULL/2024/0437 - Variation to previously approved plans to erect 2 dwellings with associated landscaping and parking - widen vehicle access to create additional parking space and alter landscaping. Refused 02/05/2024.

FULL/2022/1906 - Erect 2 dwellings with associated landscaping and parking. Approved 21/09/2023

FULL/2021/0016 - Erect dwelling, alter existing vehicular access and create new vehicular access (Revised Scheme – Dwelling relocated to rear of site). Approved 22/03/2022 – subject to a planning covenant preventing completion of the development approved under FULL/2017/0669 should the permission granted be implemented. This permission has now expired.

FULL/2020/0128 - Erect two dwellings. Refused 04-09-2020. Appeal (PAP-001-2021) withdrawn 06/10/2022.

FULL/2017/0669 - Erect a dwelling with associated landscaping and parking (to front of site). Approved 05-05-2017. Previously accepted that physical works sufficient to implement this permission have been carried out.

Site to the south (B00575C000)

FULL/2023/2078 - Erect dwelling with associated works and create vehicle access to north boundary. Refused 15/02/2024 due to impacts on the Area of Biodiversity Importance.

Existing Use(s):

Residential development site/Undeveloped land

Brief Description of Development:

This application proposes a revised scheme for the erection of 2no 3-storey, 3-bedroom detached dwellings, one located at the front (east) and one at the rear (west) of the site.

Both dwellings are set c1.1m further from the north boundary. The building footprint remains substantially the same as those previously approved, increased c700mm east-west at ground floor level (essentially infilling below the first-floor overhang previously approved). At first floor level the floor area is not significantly altered, however the corner terrace has been omitted for two balconies, extending across the width of the south elevation. A 1800mm obscure glazed privacy screen is proposed to the eastern end of each balcony. At second floor level, the floor area has been increased c500mm east-west and c700mm north-south, and the roof terrace has been extended c200mm to the west but no longer wraps around the south elevation.

Fenestration has changed to all elevations. Previously two windows were proposed to the east elevation upper levels of both dwellings, both obscurely glazed, and an additional full-length window was proposed to the east elevation of Unit 2. Now three

obscurely glazed and one full length window are proposed to each dwelling. West elevation fenestration is reduced, including use of high-level horizontal windows. A full length obscurely glazed window is proposed in the north elevation to serve the stairwell. Apertures remain similar to the south elevation, with design/means of opening only changed, particularly at second floor level which is proposed to be a large sliding sash element.

The timber strip cladding has been replaced with composite cladding, brown oak effect vertical and diagonal at first floor and light grey horizontal at second floor level. The green roof to the third storey has been omitted and solar panels proposed.

The site access would be onto Waters Rocque to the north, in the same position as previously approved but reduced c1m across both the bellmouth and the internal parking area. That parking area would provide 3 no full sized parking spaces, one of which is to serve a neighbouring property. Cycle and bin storage are proposed within the garden area of each dwelling.

The north boundary is to be replaced with a wall and the northern section of the east boundary wall is to be reduced in height, a new gate pillar installed and fixed panels inserted into the existing gateway.

Garden spaces are extended to the south boundary and predominantly hardsurfaced, with an “ABI Wild Meadow” proposed to the south of the parking area, between the garden areas. Unspecified planting is indicated along the south and west boundaries, with unspecified fencing also noted to the south boundary. Supplementary planters are shown to the north and west boundaries, with a planted bank around the parking area.

A Planning Statement (dated 27 December 2024) has been submitted in support of the application, with appended GP3 Mitigations and Approved Document Carry-Over statement, making the following key points:

- The amended design is driven by buildability and deliverability following site investigations, in particular the discovery of a large drain/pipe along the north boundary;
- The ABI provision is equal to, if not greater, than that previously approved, taking into account planting along the north and west boundaries and better delineation of curtilage.

The Sexton Green Germany Ivy report dated 15/04/2020 has been resubmitted in support of this application.

A Site Waste Management Plan has also been provided.

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

Island Development Plan

MC2 – Housing in Main Centres and Main Centre Outer Areas

GP1 – Landscape Character and Open Land

GP3 – Areas of Biodiversity Importance
GP8 – Design
GP9 – Sustainable Development
GP15 – Creation and Extension of Curtilage
IP6 – Transport Infrastructure and Support Facilities
IP7 – Private and Communal Car Parking
IP9 – Highway Safety, Accessibility and Capacity

Supplementary Planning Guidance

The Strategy for Nature (July 2020)
Parking Standards and Traffic Impact Assessment
Bicycle Parking

Representations:

8 letters of representation have been received, raising the following points:

- The application site extends beyond the ownership boundaries to the west;
- Ground levels shown are not representative of on-site situation;
- The previously approved scheme represented a high standard of design, which the current application dilutes, omitting the green roofs (important for biodiversity and comprising a reduction in green space) and substituting composite for natural timber, of varied colours and orientation;
- The plans do not identify domestic curtilages or retained ABI areas, and no barriers are proposed between the two, therefore the ABI area is likely to be absorbed into the domestic curtilages;
- The protected ABI area appears to be significantly reduced in size;
- The application is not supported by a detailed landscape scheme;
- Any previous biodiversity benefit previously provided would be negated;
- The buildings are positioned further south on the site, and the terrace areas increased, resulting in greater overlooking of the property to the south;
- Windows to the east elevation are fully openable, despite being obscurely glazed;
- A number of changes are likely to be needed for the proposals to meet the requirements of the Building Regulations, which would impact on the overall size and appearance of the proposed buildings;
- Level access is not provided, which was incorporated in the previous scheme, and door and corridor widths at ground floor do not allow for good circulation;
- No internal storage is provided;
- No details of surface water drainage, it is suggested that this would have to be dealt with by installing soakaways below the ABI land;
- Parking can only be accessed over privately owned road “Waters Rocque” and there is no right of access;
- A third party has a right to park one vehicle on the land, which must be provided for within the proposed parking provision. The third party has no right of access over “Waters Rocque”;
- There is insufficient space to manoeuvre cars into and out of their spaces.

Consultations:

States Archaeologist commented in respect of previous applications at this site as follows:

As the field has not previously been developed and is 150m south of the destroyed prehistoric Menhir (Le Rocque Pointue), along with large stones identified on the 1898 Ordnance Survey map lying immediately to the west of the site, I would be grateful if you could place an informative notice on this development, should planning permission be granted, to the effect that the developers are encouraged to contact the Assistant Archaeologist if they encounter anything of archaeological interest during the building works.

Summary of Issues:

- Principle of housing development;
- Principle of development within an ABI;
- Design and impacts on character;
- Impacts on neighbouring amenity;
- Amenity of the proposed development;
- Parking and access;
- Sustainable 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).**

This application follows a series of applications at this site. Currently there are two extant permissions, that issued for a single dwellinghouse at the front of the site under FULL/2017/0669 and that issued for two dwellinghouses under FULL/2022/1906. The current application comprises a revised version of the latter scheme.

Principle of Housing Development

Policy MC2 states that proposals for new housing development in Main Centres and Main Centre Outer Areas will be supported where:

- a. they are in accordance with all other relevant policies of the Island Development Plan; and,*
- b. where they are able to accommodate a variety of dwellings they provide an appropriate mix and type of dwellings; and,*
- c. where the site is identified as Important Open Land, new housing is achieved only through the subdivision of existing dwellings or the conversion of existing buildings.*

The current proposal is for 2no 3 bed dwellinghouses. Subsequent to the previous approvals at this site, the States Strategic Housing Indicator: 2024 has been published. Whilst this indicator no longer identifies a requirement for 3 bed dwellinghouses, it is accepted that there may be instances where there is justification for development to depart from the indicator. In this case, taking into account the history at this site, the extant permissions for development and the similarities between the extant permission and that now proposed, it is considered reasonable to accept this housing type.

Given the limited number of dwellings proposed, and the Plan objective and policy direction to make an efficient and effective use of land, it was not previously considered reasonable to require a mix of development in this case and that remains the case in respect of the current application.

Principle of development within an ABI

The site is designated as part of an ABI within the Island Development Plan, and forms approximately 7% of the ABI designation. As part of the Focussed Review of the Island Development Plan, a review of Areas of Biodiversity Importance has been published (dated December 2019). The ABI of which the application site forms a part of is designated as No 37 Delancey Lane within that report and, whilst acknowledging the disturbance at the application site relating to the commencement of FULL/2017/0669 and identifying the threat posed by the approved development, the report recommends retention of the ABI designation without alterations. Notwithstanding the works which have been undertaken, and those which are approved at the site, it must therefore be concluded that the land retains value as part of the wider ABI site.

Policy GP3 is applicable to development within ABIs, and states that:

Development within an Area of Biodiversity Importance will be supported provided that:

- a. proposals demonstrate that the biodiversity interest of the site has been considered and taken into account as part of the design and development process; and,*
- b. the biodiversity interest of the area has been protected and, where possible, enhanced; or,*
- c. any negative impacts can be appropriately and proportionately mitigated in accordance with a scheme to be approved by the Authority.*

The preceding text to Policy GP3 states at para. 19.4.4 that:

Designation of an Area of Biodiversity Importance is not intended to prevent development that is capable of satisfying the tests in this policy and would otherwise be acceptable under the policies of the Island Development Plan. However, in recognition of the identified importance of the biodiversity of these sites, proposals for development within an Area of Biodiversity Importance will be carefully assessed in order to secure protection and positive enhancement of biodiversity through development, where possible, and to minimise any negative

impacts. Where impacts cannot be avoided, appropriate mitigation will be sought.

Permission was initially granted for a single dwelling at the site on the basis that invasive German Ivy was present and the proposed development provided an opportunity to eradicate that ivy from the site, thus preventing spread to the wider ABI area. A similar justification was put forward in respect of the subsequent applications for two dwellings. In those cases it was however found that works to clear the ivy had already been undertaken, as part of the commencement of FULL/2017/0669, and the reports submitted as part of those applications noted that that work had been successful, although ongoing work would be required to ensure there was no resurgence. Given that the works had already been undertaken to clear the ivy, the eradication of ivy was not therefore considered, in itself, to provide justification to support additional development proposed under the subsequent applications. The same reports have been resubmitted to support the current application, and the conclusion remains the same, development has previously been approved to offset the clearance of the Ivy and ongoing remediation of the land and that work, in itself, would not provide justification for any further encroachment into the ABI land than previously approved.

The previous approval retained c170sqm of ABI land to the south of the site, falling outside of the domestic curtilage of the dwellings, together with a strip of planting to the west of the site and a planted boundary to the north and provision of green roofs to the buildings. Whilst not specifically designated, the domestic curtilages were clearly identifiable on the plan, and entirely separated from the ABI land. The provision of biodiversity enhancements was carefully considered and the approval was granted on balance, taking into account the comments of specialist reports confirming that the development could still achieve the same level of contribution to the ABI as those previously approved.

The current application retains c72sqm of “ABI – Wild Meadow” in the centre of the site. The submitted information implies the planting along the south, west and north boundaries would also be counted towards the ABI land. Whilst the planting in these areas could contribute to the biodiversity provision of the site, the areas could not be considered ABI land, simply comprising narrow strips of boundary planting (the south planting comprising a strip of 0.9m depth and the west 1.2m), with no other apparent division between the domestic areas and those areas of planting. In effect, the domestic use of the revised scheme would extend to the south boundary on either side of the proposed ABI “meadow” and, whilst partially separated from the domestic land by planting, gaps are retained allowing easy access between the domestic and ABI land. The proposal would result in a significant reduction in ABI land, whilst simultaneously fragmenting the biodiversity provision and enclosing and segregating the proposed “meadow” from the surrounding land.

Under the previous application, it was noted that the incorporation of green roofs may bring some biodiversity benefits, however this depends entirely on their initial specification, ongoing health and future maintenance and the overall biodiversity contribution of those roofs to the scheme was weighted accordingly. The inclusion of those roofs did however contribute towards the value of a finely balanced scheme. The

supporting statement contends that the inclusion of solar panels to the roofs would provide sustainability enhancements which would offset the loss of the green roofs. Whilst sustainability enhancements are welcomed, in this case the contribution of the scheme to the ABI is fundamental to the acceptability of the development and the proposed solar panels would not provide benefit in that respect.

Overall, the proposal would result in a further erosion to the size and quality of the already constrained ABI land approved at this site. The specialist reports provided as part of the previous applications have not been updated to demonstrate an equal contribution would be achieved and the application does not demonstrate that the biodiversity interest of the area would be protected or enhanced, or that impacts of the development would be appropriately or proportionately mitigated. The proposal would therefore be contrary to Policy GP3.

Design and impacts on character

The land to the north and east of the site is designated a Conservation Area. Policy GP4 (Conservation Areas) only however applies to development within designated Conservation Areas and would not therefore be relevant to the consideration of this application.

Notwithstanding the Conservation Area designation of the adjoining area, development along this part of Rue des Monts varies significantly in terms of its scale, architectural character and relationship to the road, and there is no defining character or features to the built form. In this context, it was previously considered that the introduction of a pair of detached, 3-storey, flat-roofed buildings of contemporary design and materials of construction could be acceptable.

The detailed design of the previously approved dwellings however incorporated discrete and subservient architectural elements positioned to break up the overall massing of the buildings, a monopitch roof to the upper floor softened with planting, a considered pattern of fenestration and natural materials. These elements combined to achieve a successful and coherent design.

The revised design put forward under this application omits a number of the elements which previously made the proposal successful. This is stated to be for reasons of buildability, however results in a monolithic appearance to the buildings which would not be overcome by the proposed use of material, but would be emphasised by both the exterior finish and fenestration selections. Whilst the reasons for the proposed alterations are understood, the revised design presented under this application cannot be considered to achieve a good standard of architectural design for the purposes of Policy GP8 (Design).

In terms of the character of the area, the scale and positioning of the proposed development would be similar to that previously approved and, as noted above, the area is characterised by a mix building types. Whilst there are no defining characteristics for the building design to respect, the dilution of the proposed design approach would negatively impact on the appearance of the building within short views

of the site from along Rue des Monts and Waters Rocque. In long views from the southern end of Delancey Lane and along the coast the details of the design would be less visible and the overall form of the building would remain similar to that previously approved.

In terms of the accessibility and adaptability of the buildings, the submitted information notes that the buildings include ground floor bedrooms and potential for ground floor living accommodation. The submission notes that external doors would be level threshold and there is ample space for the inclusion of lifts in the future if required. Whilst external ramped access to the buildings has been omitted in favour of stepped access, it is stated that the steps would be shallow, and it is confirmed the proposed design would meet the requirements of the Building Regulations. Whilst this would not allow access for all, it would enable access for ambulant disabled, and it is understood this is a factor of the site constraints. On balance therefore, the accessibility of the dwellings would be adequate.

Impact on neighbour amenity

The closest neighbouring residential property, 'Mont San Michel', stands on the north side of Waters Rocque. The overall scale of the elevations presented to this property would not be significantly greater than those previously approved although, as above, alterations to the design would give the appearance of greater bulk and massing. Given the relative positions of the buildings on the application site and the neighbouring property, the orientation of the building on the neighbouring property and the relative site levels, it is however considered that any overbearing impact would not be sufficient to warrant refusal of the application. The proposals incorporate an additional first floor window to the north elevation, serving the stairwell, however this would be fixed and obscurely glazed, preventing any overlooking. Potential overlooking of 'Mont San Michel' could result from use of the second-floor roof terrace, however if permission were to be granted it is considered that this could be dealt with by way of a condition requiring details of screening along the north side of that terrace.

In respect of the nearest property to the south, it was previously found that sufficient separation distance exists to that property to prevent any significant impact on the associated amenity. Notwithstanding the re-positioning of the proposed buildings and alterations to fenestration proposed under this application, this remains the case.

Across the road to the east is an education campus, with further residential properties located to the south-east. The fenestration proposed to the east elevation of Unit 2 remains as previously approved. Whilst openable, the upper floor windows are positioned away from the residential property in that direction and would not result in any significant overlooking. The first-floor balcony would extend further across the south elevation towards the east, however a high level obscure glazed screen is proposed to the end of that balcony to limit overlooking, implementation of which could be managed by planning condition. Whilst there may be some views towards the adjacent garden to the south-east, these would be at an oblique angle and at a distance of over 10m.

Overall the proposals would not significantly alter the impacts on the amenity of adjacent residential properties, and any impacts arising can be managed by planning condition.

Amenity of the proposed development

The scheme proposed under this application would not fundamentally alter the amenity of the proposed dwellings and, whilst the amenity space and associated facilities (e.g. internal and external storage) would remain extremely constrained, particularly relative to the size of dwellings proposed, it would, on balance, be acceptable.

Parking and access

In respect of access to the site, the proposed access is in the same location and the proposed parking area takes a similar form to that previously approved under FULL/2021/0016 and FULL/2022/1906. The width of the access is slightly reduced from 8.4m to 7.2m, however this would not fundamentally affect either the functionality or appearance of the access and parking area. Whilst the depth of the space between the parking spaces and the wall on the far side of Waters Rocque falls short of the Technical Standard requirements for a standard vehicle turning head and some manoeuvring may be required to access/egress the spaces, this is not considered to represent a significant road safety issue taking into account the nature of Waters Rocque.

The previous application proposed 3 small car parking spaces. It was however noted under that application that, given the extent of the hard surfacing, it would be possible to use these as 3 standard parking spaces. This was found to accord with adopted maximum standards set out within the Parking Standards and Traffic Impact Assessment Supplementary Planning Guidance. It was further noted that the proposed development was unlikely to give rise to significant additional vehicle movements along Waters Rocque and at its junction with Rue des Monts, and it was therefore considered that there should not be any material impact on highway safety. In light of the above, the application was considered to accord with the aims and objectives of policies IP7 and IP9.

This assessment remains valid in respect of the current application. The proposal is for three standard parking spaces, although one of those spaces is stated to be for off-site use, resulting in a single parking space allocated to each of the dwellings. Whilst this is limited for the size of dwelling proposed, the emphasis within the SPG is on the use of sustainable and alternative modes of transport, especially where there is good access to facilities. In the context of this site, the parking provision proposed would be acceptable having regard to the SPG and would therefore accord with Policy IP7.

The application shows the reduction in height of the existing wall to the north-east corner of the site and the existing access being infilled with a fixed panel and pedestrian gate. Similar alterations were proposed as part of the previous application, however these alterations were not required within a specified timeframe and it would be unreasonable to impose such a time frame under the current application. The location of the eastern dwelling would prevent vehicular use of that access and there is no

requirement to control the closure of the access, beyond requiring details of the proposed panel and gate.

Secure and enclosed cycle storage is provided for each dwelling. This storage represents a further encroachment into the ABI land. Accessibility to the storage would be limited by the stepped access however, on balance, whilst this may discourage use of the storage for bicycles, it would not preclude such storage.

Sustainable development

Information has been submitted which demonstrates that sustainable development principles have been considered in developing this scheme, including the provision of solar panels and EV charge points, in accordance with the requirements of Policy GP9.

The submitted information states that SUDs surfacing would be utilised, however is not clear where any water would be directed. The previous decision was conditioned to ensure that the land designated as ABI land would not be used for domestic purposes at any time (Condition 17 FULL/2022/1906). For the avoidance of doubt, this would preclude the inclusion of any form of soakaway, cess pit or other associated domestic infrastructure on that land.

Other matters

The site boundaries have been revised to accord with the details provided in the letters of representation. This did not however fundamentally alter the scheme and it was not therefore found to be necessary to re-advertise the application.

The grant of planning permission cannot override separate legal ownership rights. Representations relating to the access track are noted, but would need to be resolved between the relevant parties independent of the planning process.

Conclusion

The issues in respect of the previous approvals at this site were finely balanced, particularly in relation to the density of development at the site and potential impacts on the Area of Biodiversity Importance.

The changes proposed to the site layout under this application would further erode the size and quality of the already constrained ABI land approved at this site. The specialist reports provided as part of the previous applications have not been updated to demonstrate an equal contribution would be achieved to the ABI as under previous approvals and the application does not demonstrate that the biodiversity interest of the area would be protected or enhanced, or that impacts of the development would be appropriately or proportionately mitigated. The proposal would therefore be contrary to Policy GP3 (Areas of Biodiversity Importance).

In addition to the above, the alterations to the design of the proposed buildings would not achieve a good standard of architectural design for the purposes of Policy GP8

(Design), and would not achieve a positive impact on the character of the surrounding area.

In light of the above it is recommended that the application be refused.

Date: 23/04/2025

