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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: Change of Use from General Industrial (Use Class 38) to storage and distribution Use Class 35 (Data and Archive Storage).

LOCATION: Unit 1, Route De La Garenne, Pitronnerie Road Industrial Estate, St. Peter Port.

APPLICANT: Mr G Miller

I refer to the application referred to below received as valid on 27/09/2010 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 18/11/2010

Application Ref: FULL/2010/3252

Property Ref: A10068B000-P010A

The Department 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 Department remains firmly of the view that a change of use to storage and distribution Use Class 35 (Data and Archive Storage) would be wholly inappropriate within the Key Industrial Area where the policy is to reserve land for the development of business and industrial uses that require purpose built industrial premises and which cannot be reasonably accommodated elsewhere. No exceptional circumstance is demonstrated to override the stipulations of Urban Area Plan Policies EMP5 and EMP9 which seek to protect industrial sites for industrial use.

The proposed use places emphasis on the provision of archive and storage facilities for activities that are carried on at a different location. The scarcity of industrial land, the advantages of the Pitronnerie Road Key Industrial Area, which in particular offers specific advantages for industrial and closely related

uses that are not generally available elsewhere in Guernsey, and the fact that data and archive storage can be accommodated outside Key Industrial Areas are material to the consideration of this application. The circumstances of this application continue to fail to justify the introduction of such storage, which does not specify or imply a productive or distributive function, on this site.

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 on the merits against a decision to refuse an application for planning permission or outline planning permission 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 Department made this decision. The official Appeal Notice Forms are available on the Department's website at www.gov.gg/planning-appeals 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 Department took into account any written representations arising from consultations made under Section 11(1) of the Land Planning and Development (General Provisions) Ordinance, 2007 ('the Ordinance'). A copy of any representations made to the Department under section 11 will be included with this decision in accordance with section 19 of the Ordinance.

A J ROWLES
Director of Planning Control Services

ENVIRONMENT
A STATES OF GUERNSEY GOVERNMENT DEPARTMENT

PLANNING APPLICATION REPORT

Application No: FULL/2010/3252
Property Ref: A1.68/B-P010A
Valid date: 27/09/2010
Location: Unit 1, Route de la Garenne, Pitronnerie Road Industrial Estate, St. Peter Port, Guernsey, GY1 2RH
Proposal: Change of Use from General Industrial (Use Class 38) to storage and distribution Use Class 35 (Data and Archive Storage)

Applicant: Mr G Miller

RECOMMENDATION - Refusal

REASONS FOR REFUSAL

1. The Department remains firmly of the view that a change of use to storage and distribution Use Class 35 (Data and Archive Storage) would be wholly inappropriate within the Key Industrial Area where the policy is to reserve land for the development of business and industrial uses that require purpose built industrial premises and which cannot be reasonably accommodated elsewhere. No exceptional circumstance is demonstrated to override the stipulations of Urban Area Plan Policies EMP5 and EMP9 which seek to protect industrial sites for industrial use.

The proposed use places emphasis on the provision of archive and storage facilities for activities that are carried on at a different location. The scarcity of industrial land, the advantages of the Pitronnerie Road Key Industrial Area, which in particular offers specific advantages for industrial and closely related uses that are not generally available elsewhere in Guernsey, and the fact that data and archive storage can be accommodated outside Key Industrial Areas are material to the consideration of this application. The circumstances of this application continue to fail to justify the introduction of such storage, which does not specify or imply a productive or distributive function, on this site.

OFFICER'S REPORT

Site Description:

The application site comprises the east end of an industrial building within the eastern part of Pitronnerie Road Industrial Estate, part of a Key Industrial Area within the Urban Area Plan. Vehicular access into the site is from the west, via Route de la Garenne which runs to the north. On-site parking is available to the north of the proposed archive store and a turning area, partly occupied by a shipping container, stands to the east.

Relevant History:

30/07/10 – PP refused to change use from General Industrial (Use Class 38) to storage and distribution Use Class 35 (Data and Archive Storage) due to conflict with policy for the Key Industrial Areas.

Pending – Change of use from General Industrial (Use Class 38) to Storage and Distribution Use Class 34 (Goods Transfer or Distribution of Goods).

Pending – Appeal against decision of 30/07/10.

A1.68/A:
30/11/09 – Application to change use to data and archive storage (Storage/Distribution Use Class 35) refused due to conflict with policy for the Key Industrial Areas.

Existing Use(s):

Industrial Use Class 38 (General Industrial).

Brief Description of Development:

Change use of east part of building (270m^2) from general industrial (Use Class 38) to data and archive storage within Storage/Distribution Use Class 35. Areas to north and south of building to be used in conjunction with proposed use.

A supporting letter seeks to address the reasons for refusal of the previous application for this change of use.

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

Urban Area Plan Policies GEN8, GEN9, GEN12, EMP5 and EMP9.

Representations:

None.

Consultations:

Commerce and Employment Department – Business Development Unit:

"The Commerce and Employment Department would wish to confirm the comments on the application that were made in its report dated the 21st July, 2010 as follows:

- The site to which this application relates is located in the Urban Area Plan, in the Pitronnerie Road Key Industrial Area and consists of a warehouse-type building completely surrounded by other buildings of a similar nature.
- The Pitronnerie Road Estate provides a number of advantages for industrial and related activities, not least the ease of access, including for large container-size vehicles.
- It is also located near significant centres of population for whom it provides employment, and is within easy access to bus routes from the centre of St Peter Port and other parts of the Island.
- In addition, the concentration of buildings on one site of a number of different industrial and similar activities encourages efficiencies in the operation of the businesses and provides opportunities for possible synergies between the different activities.

- The nature of the site indicates therefore that it could most advantageously be used for purposes that imply a comparatively frequent need for access, including by large vehicles, which might also provide employment for a significant number of persons, and which will contribute positively to other industrial activities situated in the Area.
- Although access to the building that is the subject of this application is not ideal, the road width is similar to that in other areas of the Pitronnerie Road Estate and the turning space for larger vehicles would appear to be adequate.
- There is some provision for car-parking, which in addition can be supplemented by the use for car parking of other areas on the Estate.
- The application is for a significant area that constitutes approximately 40% of the floor space of the building.

The Commerce and Employment Department is of the view that Pitronnerie Road is a Key Industrial Area and as such offers specific advantages for industrial and closely related uses that are not generally available elsewhere in Guernsey. While due to its size and location the building that is the subject of this application is not the most attractive on the estate for such uses, it nevertheless makes an important contribution to the ensuring that there is an adequate provision of industrial premises in the Island. The Department does not support therefore the application by Mr G Miller for change of use from General Industrial (Use Class 38) to storage and distribution Use Class 35 (Data and Archive Storage) at Unit 1, Route de la Garenne, Pitronnerie Road Industrial Estate, St Peter Port."

Summary of Issues:

Appropriateness of change of use of existing industrial premises; compliance with planning policy for the Key Industrial Areas.

Assessment against:

1. Purposes of the Law

The objectives of the Law, as set out in Section 1(2), have been considered and this forms part of the assessment of the policy issues set out in 2 below.

2. Relevant policies of any Plan, Subject Plan or Local Planning Brief

The premises are located within a Key Industrial Area where Urban Area Plan Policies EMP5 and EMP9 are relevant.

This application is for a change of use to data and archive storage (Storage/Distribution Use Class 35) which would relate primarily to a business carried out elsewhere. Planning Permission for the proposed change of use was refused on 30th July 2010 and the current application is supported by a letter from the applicant. The points raised are addressed in this report.

Policy EMP5 seeks to reserve the Key Industrial Areas for the development of business and industrial uses that require purpose built industrial premises and which cannot be reasonably accommodated elsewhere. Development for other business and industrial uses will only be permitted in exceptional circumstances and in accordance with other policies and proposals of the Plan.

Policy EMP9 generally seeks to protect industrial land sites for industrial use, resisting a change of use unless it can be clearly demonstrated that the site is no longer suitable in land

use terms. Standard of accommodation, level of demand and suitability of access are of importance, as is the potential for remedying land use conflicts.

The applicant's supporting letter suggests that none of the buildings on this Industrial Estate were purpose-built, the uses having changed away from the original factory uses. It goes on to state that the proposed use is a business use which through fulfilling the needs of the finance industry implies a productive function.

The buildings were purpose-built as factories. Factory use is industrial use. The uses of these buildings remain industrial. The Oxford English Dictionary defines "business" as "*commercial activity*" or "*trade considered in terms of its volume or profitability*". This does not demonstrate that the proposed use would be appropriate within the Key industrial Area and it remains the case that data and archive storage is a passive storage activity which does not entail a productive or distributive function.

The applicant also claims that the term 'warehousing' implies that goods have originated off-site however concedes that data and archive storage could be accommodated elsewhere but questions the reasonableness of the Department in denying benign users an efficient and convenient option "solely in furtherance of a planning objective".

This exactly demonstrates a justification for Policies EMP5 and EMP9 – if such sites were not protected for industrial uses (implying a productive and/or distributive function) then they could easily be occupied by other uses thus driving out, possibly through premiums in rent, the less neighbourly uses properly accommodated within the Key Industrial Areas.

In the applicant's opinion one of the main reasons for refusal of the previous application related to ease of access to the site by large vehicles. This is not the case. Access for large vehicles was mentioned as something which could be considered an asset to the site but was not detailed as a primary reason for refusal.

The Bouet residential estate (currently being redeveloped) stands at a distance of approximately 60m from the application site and the applicant is concerned about the impact of industrial uses on the reasonable amenity enjoyment of the residents of those dwellings. This is a Key Industrial Area where industrial use is long-established. The impact on nearby dwellings is of importance however the established nature of the use is acceptable. Furthermore, any significant neighbour impacts through noise, dust, etc. from an established use may be dealt with under separate Environmental Health legislation.

The applicant has advised the Department of difficulty in letting the building which is at present not in use. As with the previous refusal of Planning Permission for the change of use proposed this is not considered sufficient to override the requirements of Urban Area Plan Policies EMP5 and EMP9.

The Commerce and Employment Department has been consulted on the application in accordance with normal procedures and remains of the view that the Pitronnerie Road Key Industrial Area offers specific advantages for industrial and closely related uses that are not generally available elsewhere in Guernsey. The site makes an important contribution to ensuring that there is adequate provision of industrial premises in the Island. The Commerce and Employment Department therefore continues to oppose change of use to Use Class 35 which does not specify or imply a productive or distributive function.

The Urban Area Plan recognises that storage and distribution uses are found on key industrial sites but within a Key Industrial Area land is safeguarded for development which requires purpose built industrial premises and which cannot be reasonably accommodated elsewhere. The scarcity of industrial land and the fact that data and archive storage can be

accommodated outside Key Industrial Areas are material to the consideration of this application. Comparable applications for Storage/Distribution Use Classes within Key Industrial Area have been rejected and the circumstances of this application are not such as to justify the introduction of such storage on this site.

A change of use as proposed would set an undesirable and damaging precedent to the detriment of the Key Industrial Area designation.

It is recommended that the application be refused.

3. General material considerations set out in the General Provisions Ordinance

The matters to be considered under section 13 of the Land Planning and Development (General Provisions) Ordinance 2007 have been assessed as part of the section dealing with policy issues set out in 2 above.

4. Additional considerations (for protected trees, monuments, buildings and/or SSSs).

The proposal would have no impact on protected trees, buildings or sites.

Date: 18/11/10