

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 Dwelling (use class 1) to House of Multiple Occupancy (use class 6) (Protected Building) (Retrospective).

LOCATION: 2 St James Place, St. Jacques, St. Peter Port.

APPLICANT: Mr I Smethurst

I refer to the application referred to below received as valid on 09/11/2021 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 02/03/2022

Drawing Nos: Application Block Layout Plan, extract of Swoffers estate agent details received 09/11/2021 and letters from the applicant dated 10/01/2022 and 06/02/2022

Application Ref: FULL/2021/1980

Property Ref: A206290000

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 application has not been accompanied by, nor had at the time of determination sufficient information been provided, that demonstrates that appropriate and satisfactory kitchen facilities would be provided to serve future occupiers of the proposed house in multiple occupation (HMO). This means that it is not possible to establish whether the development would offer a satisfactory living environment for future occupiers of the HMO. The proposal is therefore contrary to Policy GP8 (d) of the Island Development Plan which relates to consideration of the health and well-being of the occupiers.

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/2021/1980
Property Ref: A206290000
Valid date: 09/11/2021
Location: 2 St James Place St. Jacques St. Peter Port Guernsey GY1 1SP
Proposal: Change of use from Dwelling (use class 1) to House of Multiple Occupancy (use class 6) (Protected Building) (Retrospective).
Applicant: Mr I Smethurst

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The application has not been accompanied by, nor had at the time of determination sufficient information been provided, that demonstrates that appropriate and satisfactory kitchen facilities would be provided to serve future occupiers of the proposed house in multiple occupation (HMO). This means that it is not possible to establish whether the development would offer a satisfactory living environment for future occupiers of the HMO. The proposal is therefore contrary to Policy GP8 (d) of the Island Development Plan which relates to consideration of the health and well-being of the occupiers.

OFFICER'S REPORT

Site Description:

2 St James Place is a mid-terrace four storey building with accommodation in the roofspace and basement. The property is set back from the road and the frontage area was originally enclosed by a wall and railings with steps up to the front door. The left hand wall and railings have however, been removed in order to provide a small area for off-road parking. On-street parking is available in various places in St Jacques.

The site is located in the Main Centre Outer Area and Conservation Area as designated in the Island Development Plan. 2 St James Place is a Protected Building.

Relevant History:

Pre-application advice was sought by the owner in 2012 regarding the change of use of the basement to create habitable accommodation for rental. Advice was given regarding the need for planning permission for the subdivision and for alterations to the conservatory roof, drawing attention to the need for Building Control approval and suggesting discussions be held with Housing.

Existing Use(s):

01 dwellinghouse (authorised use)

Brief Description of Development:

The application relates to the change of use of the dwelling, 2 St James Place, to a house in multiple occupation (HMO). The application is retrospective because the change of use has already been implemented.

The small and basic floor plans (not to scale) that accompany the application indicate that the ground floor comprises three reception rooms, the kitchen is located in the basement/lower ground floor along with the laundry room and cloakroom. The first floor contains two bedrooms, both en-suite and the second floor within the roofspace contains a bedroom with en-suite WC and separate shower room. A supporting document sets out however that the ground floor contains a sitting room, sitting/dining room, kitchen/diner and a WC. The basement is indicated to be used as a bed/sitting room, utility room, shower room and storage. The first and second floors remains unchanged.

The application sets out that the property has been used “as a multiple occupancy residence as put forward by Housing in May 2013”. Before 2017 only one person could occupy an Open Market A registered property as a guest. Following the change in the Housing Law two persons and a child occupied the basement of the property. An officer from housing visited the property with a view to the Open Market housing register and the classification of the basement as part D. It was advised that this could be possible but that the tenants should have access to all parts of the house and that reversion to part A of the Register would be possible at any time. The property was agreed to be moved from part A of the Open Market register to part D. Tenants were found and the lease started on 20th January 2018.

By July 2021 the Planning Service understood that the three tenants occupying the basement had vacated and one tenant was now living at the property, in the basement. An email dated 1st September 2021 noted however that the original three tenants were residing at the property.

Following the deferral of the application the applicant set out:
“we have no intention of taking in 9 persons to live in the house ... We are targeting a total of 4 persons only to include myself and my wife.”

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

Island Development Plan policies:

MC2: Housing in the Main Centre and Main Centre Outer Area

GP5: Protected Building

GP4: Conservation Area

GP8: Design

GP9: Sustainable Development

Representations:

None.

Consultations:

Office of Environmental Health and Pollution Regulation – have a number of issues of concern.

The application indicates the HMO is for 9 persons, and the accommodation provides 7 bedrooms, two of which are large enough for double occupancy. Three shower room/wc's are provided which is adequate for this number of occupants.

The plans for the kitchen are not clear enough to determine whether sufficient cooking facilities, sinks and food storage is provided as per the guidance below;

Each occupancy should have use of a kitchen separate from the bedroom and, if possible, on the same floor (but not more than one floor distant from any occupancy). Dining facilities should be on the same floor as the kitchen or in the kitchen, i.e. kitchen/diner.

Each occupancy should be provided with a proper food store. In multiple occupied accommodation it should be lockable if it is located in the shared kitchen. A suitable worktop should be provided. In accommodation with multiple occupancy, the shared kitchen will be provided with a proper cooking appliance to the following standards:

- I. Two rings and a grill or two rings and an oven per person; or*
- II. Three or four rings with grill and oven for three people; or*
- III. In a house occupied by five or fewer people, a four ring cooker with grill and oven.*
- IV. For houses occupied by six or more people, cooking appliance should be provided as in (i) per person sharing or as in (ii) per three people sharing. Adequate electrical socket outlets for the reasonable needs of the occupiers must be provided.*

The kitchen should be provided with a sink unit with hot and cold water. In multiple occupied accommodation a sink unit should be provided for five or fewer people or in the ratio of one sink (with hot and cold water) per three people.

Could the applicant please confirm the maximum number of occupants in the property and the details of the kitchen facilities?

Building Control – no objection

Summary of Issues:

The key issue in this case relates to the future living environment of the occupiers of the house in multiple occupation and whether adequate provision has or will be made to provide suitable kitchen accommodation in line with Environmental Health Guidance.

Assessment against:

1 - Purposes of the law.

The objectives set out in Section 1(2) of The Land Planning and Development (Guernsey) Law, 2005, 'the Law', have been considered and this report forms part of the assessment, with policy issues set out in Section 2 below.

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

Policy MC2 sets out that housing development includes new build housing, change of use to housing from other uses and the conversion and subdivision of existing buildings. The plan also seeks to provide a mix of tenures, housing sizes and types. This scheme relates to the subdivision of an existing dwelling to offer a house in multiple occupation (HMO) which would make more efficient use of an existing building in line with the aims of Policy MC2 and the Island Development Plan.

Although the applicant has indicated that the property would be occupied by no more than 4 people, to seek to control the level of occupancy by way of planning condition in this circumstance would be impractical. The building is capable of being occupied by up to 9 persons as an HMO and should permission be granted it could be occupied by more people than indicated by the current owner/occupier, for example if the site were sold. Furthermore, to restrict a building that is capable of a higher level of occupancy would not represent efficient and effective use of this building which, as outlined above, is an aim of the Island Development Plan.

The scheme, to use 2 St James Place as a house in multiple occupancy does not propose any internal or external alterations to the building. The proposal therefore would not have a detrimental impact on the character or appearance of the Conservation Area or the special interest of the Protected Building in accordance with Policies GP4 and GP5 of the Island Development Plan.

The site is located in a residential area and the use of the building as an HMO is compatible with the surrounding area. The proposal will not result in unacceptable harm to the amenities of surrounding occupiers in terms of privacy in accordance with Policies GP4, GP8 and GP9 of the Plan.

The basic level of information that accompanies this submission and the fact that little further information has been forthcoming, despite the application being deferred requesting information regarding the kitchen facilities, means that it is not possible to establish whether the development would offer a satisfactory living environment for future occupiers of the HMO. This is because a detailed kitchen layout has not been provided to demonstrate that, in accordance with the Code of Good practice for Renting Accommodation, appropriate and satisfactory kitchen facilities would be provided.

As a result, the scheme would not meet the aims of Policy GP8 (d) (which relates to consideration of the health and well-being of the occupiers) and the application is recommended for refusal.

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

In addition to the consideration of policy issues, Section 13 of the Land Planning and Development (General Provisions) Ordinance, 2007 identifies other material planning considerations which could be relevant. These include; the appropriateness of the development in relation to its surroundings in terms of design, layout, scale, siting and materials; the likely effect on the character and amenity of the locality; any possible fall-back position by way of extant planning permissions or exempt development; the likely effect on the reasonable enjoyment of neighbouring properties. These issues where relevant are considered above.

4 - Additional considerations (for protected trees, monuments, buildings and/or SSS's).

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

Date: 28 February 2022

