

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: Partial change of use from general retail (use class 10) to create 3 additional flats (Residential use class 2). Raise and alter roof and create 1st floor terrace (protected building).

LOCATION: Clinton Cards, 42-46 High Street, St. Peter Port.

APPLICANT: Kirkwood Properties Ltd

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: 30/12/2021

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 07/10/2021 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Tyrrell Dowinton Associates drawing no's: 2043 03.01, 03.02, 03.03A, 03.04A, 03.05A, 03.06, 03.07, 03.08 & 03.09

Application Ref: FULL/2021/2053

Property Ref: A200260000

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.Notwithstanding the notes shown on the approved plans relating to ""where appropriate"" all fireplaces highlighted as being retained must be kept as part of this approval. They shall not be removed without the prior written approval of the Authority.

Reason - The fireplaces form part of the special interest of the Protected Building and their removal would have an adverse impact on what is special about the building.

Expiry Date: This permission will cease to have effect on 29/12/2024 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/2021/2053
Property Ref: A200260000
Valid date: 07/10/2021
Location: Clinton Cards 42-46 High Street St. Peter Port Guernsey GY1 2JU
Proposal: Partial change of use from general retail (use class 10) to create 3 additional flats (Residential use class 2). Raise and alter roof and create 1st floor terrace (protected building).
Applicant: Kirkwood Properties Ltd

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.

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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. Notwithstanding the notes shown on the approved plans relating to ""where appropriate"" all fireplaces highlighted as being retained must be kept as part of this approval. They shall not be removed without the prior written approval of the Authority.

Reason - The fireplaces form part of the special interest of the Protected Building and their removal would have an adverse impact on what is special about the building.

OFFICER'S REPORT

Site Description:

42-6 High Street, St Peter Port is a multi-storey building situated to the west of the High Street. The ground floor is an occupied retail premises, Clintons Cards. The upper floors are varied in terms of their use with some areas of the building entirely empty and unused. The property has decorative first floor windows facing the High Street.

The site is located in the Main Centre, Conservation Area, Core Retail Area and Archaeological Area as designated in the Island Development Plan.

Relevant History:

Pre-application advice was sought in this case.

Existing Use(s):

Retail with associated storage/staff room etc.

Brief Description of Development:

The application relates to the partial change of use of the upper floors of the building to provide three flats (Residential Use Class 2) and alterations to the roof to provide an external terrace at first floor level.

The application as originally submitted was accompanied by a Statement of Significance, however this did not address two concealed glass floors. The application was deferred in order for this, and other matters, to be addressed. Revised plans and additional information following the opening up of the glass floors were submitted.

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

Island Development Plan policies:

MC2: Housing in Main Centres and Main Centre Outer Areas

MC6: Retail in Main Centres

GP4: Conservation Areas

GP5: Protected Buildings

GP7: Archaeological Remains

GP8: Design

GP9: Sustainable Development

IP6: Transport infrastructure and support facilities

Representations:

None.

Consultations:

None.

Summary of Issues:

The key issues in this case relate to the principle of the proposed change of use, the impact of the development on the fabric and special interest of the Protected Building and the design and appearance of the roof extension and its likely effect on the character and appearance of the Conservation Area and the potential impact of the development on residential amenity with regard to sunlight and daylight and loss of privacy.

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.

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.

Section 34 of the Law explains the general functions of authorities in respect of protected buildings. This states that:

It is the duty of any department of the States when exercising its functions under this Law –

(a) to secure so far as possible that the special historic, architectural, traditional or other special characteristics of buildings listed on the protected buildings list (“protected buildings”) are preserved, and

(b) in particular, in exercising its functions with respect to a protected building or any other building or land in the vicinity of a protected building, to pay special attention to the desirability of preserving the protected building’s special characteristics and setting.

Section 38 of the Law explains the general functions of authorities in respect of conservation areas. This states that:

In the exercise, with respect to any building or other land in a conservation area, of any powers under this Law or any other enactment, special attention shall be paid to the desirability of preserving and enhancing the character and appearance of that area.

In respect of these statutory duties, the word ‘preserve’ is taken in its ordinary meaning as set out in Chamber’s dictionary, which is ‘to keep safe from harm or loss’.

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,

Section 15 clarifies that the material considerations referred to in paragraphs (b) and (c) of section 14 of Part IV of The Land Planning and Development (General Provisions) Ordinance, 2007 also apply to protected buildings:

b) where any alteration to a protected monument is proposed, the appropriateness and compatibility of that alteration in relation to that monument, and

c) the opportunity that the development may afford to restore, enhance or improve the protected monument or its setting.

Principle of the change of use

Policy MC6 of the Island Development Plan sets out that within the Core Retail Areas, change of use away from retail at upper floor level may be supported where the new use would contribute to the vitality and viability of the Core Retail Area. In this case, the ground floor and part of the first floor is to be retained for retail with associated storage and staff facilities whilst the remainder of the upper floors would be given over to residential development. The introduction of residential units within the centre of St Peter Port would make a contribution to the vitality and viability of the area by introducing activity throughout the day and into the evening.

Policy MC2 outlines that proposals for housing development will be supported where they accord with all the relevant policies in the Plan. The policy also makes reference to the type and mix of housing and sites on Important Open Land, which this is not. The scheme relates to the conversion of an existing building which does not offer a great deal of opportunity to provide a range of housing types. Nonetheless, provided the development accords with all other relevant policies in the Island Development Plan the introduction of residential accommodation is accepted.

Impact on fabric and special interest of the Protected Building

The Planning Law sets out statutory duties “to secure as far as possible that the special historic, architectural, traditional, or other interest [i.e. the special interest] of buildings listed on the protected building list (protected buildings”) are preserved [i.e. are not harmed] and “...to pay special attention to the desirability [i.e. a sought after goal] of preserving [i.e. not harming] the buildings’ special characteristics and setting.”

Policy GP5 provides for and positively supports the appropriate development of, and managed change of protected buildings in order to secure, as far as possible, the particular special interest of a protected building whilst at the same time taking into consideration the requirement to meet the social and economic aims of the States of Guernsey and the reasonable aspirations of property owners (see IDP para 19.6.4).

Policy GP5 supports development where it does not have an adverse effect on the special interest of a building. However, development is often needed to sustain the special interest of a protected building and in some cases, it may be necessary for some harmful work to be undertaken in order that the overall special interest and/or the part of the building are sustained.

Therefore, where development has an adverse effect, Policy GP5 requires a proportionate approach to be taken which balances the degree of effect on the overall special interest of the building against the reasonable aspirations of the building owner as well as any economic, social or other benefits and, where appropriate, the contribution the development might make to the vitality of a Main Centre (see IDP para 19.6.2).

Policy GP5, sets out *“When designing a development, applicants will be expected to demonstrate an understanding of the special interest of the protected building so that it can be taken into consideration at the outset of the design and development process and, wherever possible, any negative effects on the special interest can be avoided.”* (IDP para 19.6.7). This outlines a process by which to avoid harm wherever possible and rebut the strong presumption against development that harms the special interest of the protected building.

It is acknowledged that the use of the upper floors of the building would result in social and economic benefits by bringing the empty and underused part of the building back into use and providing housing in a sustainable location close to facilities and services. The application as originally submitted however, would cause substantial harm to the interior of the Protected Building and the extent of removal of internal fabric and features including:

- Removal of matchboard
- Floor boards
- Stairs
- Glass floors
- Fireplaces

And would have cumulatively amounted to partial demolition (see para 19.6.9).

In order to reduce the harm to the fabric and special interest of the Protected Building the application was deferred to invite amendment to the scheme such as the reuse of matchboarding and the retention of fireplaces along with the uncovering and exploration of the glass floors with a view to them being retained, albeit covered again.

The revised plans and information show that the first floor glass floor will be retained covered as existing and that fireplaces at second floor and third floor levels will also be retained. The floor is considered to be of some interest but does not contain decorative glass. A matchboard wall at third floor level is to be retained and other matchboarding is to be carefully removed and reinstated following renovation and conversion works. The amendments to the scheme ensure that, although there remains some loss of historic features and fabric in this case that on balance, the scheme complies with the aims of Policy GP5 and the requirements of the Law.

Impact on Conservation Area

External alterations to the building are limited to a roof extension. The works will not be highly visible from outside the site and this alteration is considered to preserve the character and appearance of the Conservation Area in accordance with Policy GP4.

Living environment of future occupiers

The conversion scheme makes efficient and effective use of the building by bring underused upper floors back into active use. The scheme has carefully considered the layout of the proposed accommodation to offer the living/kitchen areas with natural light from existing windows or rooflights. Outlook from the accommodation will primarily be over the High Street and to the buildings opposite. Outlook from the bedroom of apartment 4 will be somewhat limited, looking across the roofs of the existing building but this is not the primary living accommodation and remains adequate to provide a satisfactory living environment for the occupiers of this unit.

Although on the whole the development is not able to offer external amenity space for occupiers, unit 5 does incorporate a small external terrace. Furthermore, the accommodation is centrally and sustainably located close to the sea front and areas of public open space within the town in order to meet the needs of future occupiers. The scheme therefore satisfies the requirements of Policy GP8 in this respect.

Impact on the health and well-being of adjoining occupiers

The residential use of the upper floors of the building will not result in nuisance or harm to the occupiers of adjoining buildings. The development, largely utilising existing window/door openings will not introduce overlooking where none could exist (although the upper floors are currently vacant). A minor change is proposed to the roof of part of the building and the development overall will not result in unacceptable overshadowing, loss of light or loss of privacy meeting the aims of Policies GP8 and GP9 if the Island Development Plan.

Other matters

The application incorporates areas for refuse storage and cycle storage which represents a good standard of design in accordance with Policies GP8 and IP6 of the Island Development Plan.

Although the scheme does not offer accessible and flexible accommodation as required by Policy GP8 this is due to working with the constraints of an existing, Protected, building. The benefits of bringing the upper floors back into use and the restoration of the Protected Building are considered to outweigh the fact that these aspects of Policy GP8 cannot be met in this instance.

In view of the above, it is recommended planning permission is granted for the proposed development. The application drawings include a note “existing fireplaces to be retained and made good where appropriate” and to ensure they are retained a condition should be included to reiterate the requirement for their retention.

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 or sites.

Date: 24 December 2021

