

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: Install replacement air conditioning units to south-west elevation.

LOCATION: Rock House, Victoria Avenue, St. Sampson.

APPLICANT: Anytime Fitness

I refer to the application referred to below received as valid on 10/01/2022 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 19/08/2022

Drawing Nos: Plan 1:1000 scale dated January 4, 2022 showing Air Conditioning Units Location, Approved Plan Extract (Proposed South-West Elevation), Fujitsu Air Conditioning Product Lineup and letter dated 15/10/2021 from Strategic Planning & Property Ltd.

Application Ref: FULL/2021/2382

Property Ref: B012730000

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 appropriate supporting information to demonstrate that the proposed air conditioning units, if permitted, would not have an unacceptable detrimental impact on the amenities, health and well-being of the occupiers of surrounding units of residential accommodation. The scheme does not therefore represent a good standard of design and is contrary to Policies OC9, GP8 a. and GP9 b. of the Island Development Plan.

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/2021/2382
Property Ref: B012730000
Valid date: 10/01/2022
Location: Rock House Victoria Avenue St. Sampson Guernsey GY2 4BB
Proposal: Install replacement air conditioning units to south-west elevation.
Applicant: Anytime Fitness

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The application has not been accompanied by appropriate supporting information to demonstrate that the proposed air conditioning units, if permitted, would not have an unacceptable detrimental impact on the amenities, health and well-being of the occupiers of surrounding units of residential accommodation. The scheme does not therefore represent a good standard of design and is contrary to Policies OC9, GP8 a. and GP9 b. of the Island Development Plan.

OFFICER'S REPORT

Site Description:

The application site comprises a large building, the majority of which was previously utilised by a tenpin bowling business, and which also contains 8no. residential flats (the occupation of 3no. of which is restricted in connection with operation of the former bowling alley). A large car park with a capacity of c.100 vehicles extends to the west, interspersed with mature landscaping. The site is located at the Western end of Victoria Avenue, adjacent to The Track, and is Outside of the Centres as designated in the Island Development Plan.

Relevant History:

PAPP/2006/4354 - Extend existing and create additional units of staff accommodation and install new and replacement pedestrian bridges and steps.
Approved 20/05/2007

FULL/2020/0556 - Change of use of former bowling alley to health and fitness centre (Public Amenity Use Class 21) and omit Condition 5 of PAPP/2006/4354 to enable unrestricted occupation of former staff flats.

FULL/2022/0665 - Install air conditioning units and vents to north-east (front) elevation and vents to south-west elevation – under consideration

Existing Use(s):

Sui Generis – mixed use (application proposal relates to Anytime Fitness (Use Class 21))
Residential Use Class 2 – Flats

Brief Description of Development:

The application relates to the installation of replacement air conditioning (AC) units to the south west elevation of Rock House. The submission sets out that two large grey condenser AC units have been removed from this elevation. The scheme proposes the installation of 8 Fujitsu AC units and is accompanied by a letter that sets out that the AC units will be situated at ground floor level to the rear of the building and are not visible from any public place being situated under a canopy and attached to a solid masonry wall. Confirmation is provided that they are all below the 55dB specification and set away from the first floor flats at the site. The submission sets out that they will only be operational during permitted opening times and that conditions relating to the noise/control of the units would be acceptable.

The application was deferred in January for further information to be provided following advice from OEHPR and the concerns raised regarding the potential for noise nuisance to arise given the 8 residential units at first floor level on the site and having regard to Policies GP8 and GP9 of the Plan. Further information was provided in March however, it was necessary to defer the application due to ongoing concerns relating to the impact of the units on residential amenity. The need for the information requested in January 2022 was reiterated. Although the agent in this case has indicated that the information is being prepared at the time of determining the application the necessary information had not been supplied for consideration.

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

Island Development Plan policies:

GP8: Design

GP9: Sustainable Development

Representations:

None.

Consultations:

Office of Environmental Health and Pollution Regulation – are concerned about the potential for noise nuisance to arise from the new 8 units which would replace 2 existing units given the domestic properties located on the first floor immediately above the units. Whilst there is a sound pressure level stated on the 'Fujitsu Air Conditioning' manual provided, it does not state at what distance this sound pressure level relates to.

It is also unclear which air conditioning units are proposed to be installed. As such, there is insufficient information to provide comments on this application. OEHPR would welcome the following information:

- Model of the air conditioning units;
- Sound power level;
- The distance at what the provided sound pressure level is taken at;
- Evidence that the combined noise rating level of the proposed units will be at least 5 dB below the existing LA90 background noise level;
- Details of any proposed attenuation measures

Following the receipt of further information OEHPR commented further:

There remains insufficient information to enable OEHPR to comment on the application. The following would be welcome:

- Sound power level per unit
- Evidence that the combined noise rating level of the proposed units would be at least 5dB below the existing LA90 background levels
- Details of any proposed attenuation measures

It is noted that the proposed units will be located below a bedroom window. The applicant describes the bedroom as an inhabitable space, however, a bedroom is considered a habitable room in relation to noise assessment. Regardless of this, OEHPR would expect any measurement and assessment to take place in accordance with BS4142:2014 which stipulates that assessment should be made 1m from the façade of the nearest noise sensitive receptor, in this case the residential unit immediately above. Whilst the applicant has attempted to provide some assurance in relation to the rating level of the units this has not been supported by suitable evidence. To determine the impact of these proposed units it is likely that some form of acoustic assessment will be required. Only once this has been undertaken can it be determined whether attenuation measures are necessary.

Summary of Issues:

The key issue in this case relates to the impact of the proposed units on the amenities of adjoining residents, especially those occupying the first floor flats above the development.

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.

Anytime Fitness, the occupier of the unit to which the application relates represents a form of Indoor Formal Recreation as set out in Policy OC9 of the IDP. The IDP makes provision for alterations to an existing facility such as this and as the scheme would not increase the scale of the facility which could undermine the vitality of a Local or Main Centre there is scope to consider the proposal.

The siting and appearance of the air conditioning units, when viewed in the context of the existing design and scale of the building, would represent an acceptable form of design that would not have an unacceptable impact on the character and appearance of the locality when considering Policy GP8.

With regard to Policy GP9: Sustainable Development, it has been demonstrated that the proposed development will comply with Building (Guernsey) Regulations 2012 and therefore has taken into account the use of energy, resources and any adverse impact on the environment.

Although additional information has been requested to enable a fuller assessment of the development on the amenities, health and well-being of the occupiers of the first floor flat, to date, insufficient information has been provided to allow this full assessment to be undertaken. The applicant has indicated that a planning condition would be accepted in order to manage the noise generated by the proposed equipment however, it is much more challenging to address noise concerns post installation and it is for this reason the additional information has been requested prior to the determination of the application.

Based on the information provided, it is not possible to establish whether the proposal would have an adverse impact on the amenities enjoyed by the occupiers of the flats due to the noise generated by 8 air conditioning units. As a result, it is not possible to determine whether the scheme represents a good standard of design and it fails to meet the requirements of Policy GP8 and GP9 of the Island Development Plan. The scheme also fails to comply with Policy OC9 which requires proposals to meet the aims of all other relevant policies of the IDP. The current proposal for installation of 8 air conditioning units is therefore 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: 19 August 2022

