

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: Change of use from office (Use Class 16) to staff accommodation (Use Class 6).

LOCATION: 11 Westerbrook, South Quay, St. Sampson.

APPLICANT: Mr N Miah

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: 28/02/2022

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 26/11/2021 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: A7 Design Ltd: 21-1359/PD-01.

Application Ref: FULL/2021/2571

Property Ref: B003160000

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.No development shall take place until details of a scheme to provide soundproofing between the approved House in Multiple Occupation and the ground floor accommodation beneath it has been submitted to and agreed in writing by the Authority. Thereafter the House in Multiple Occupation shall not be occupied until the agreed soundproofing works have been carried out in full, written confirmation of which shall first have been submitted to the Authority.

Reason - To minimise noise impacts, in the interests of the amenity of future residential occupants.

5.No occupation of the House in Multiple Occupation hereby permitted shall take place until all the air conditioning units shown on the elevation drawings (north, south and west elevations) have been removed and the affected areas of external wall made good to match the existing walls.

Reason - To ensure the removal of sources of noise, in the interests of the amenity of future residential occupants and to ensure that appropriate repair work is carried out in the interests of the visual amenities of the locality.

6.Occupation of the House in Multiple Occupation hereby approved shall be limited to employees of the adjacent restaurant, currently known as "Indian Cottage".

Reason - The accommodation would not be served by adequate kitchen facilities, and occupancy by persons not employed by the adjacent restaurant would not represent a good standard of design nor provide a satisfactory living environment for future occupiers.

Expiry Date: This permission will cease to have effect on 27/02/2025 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/2021/2571
Property Ref: B003160000
Valid date: 26/11/2021
Location: 11 Westerbrook South Quay St. Sampson Guernsey
Proposal: Change of use from office (Use Class 16) to staff accommodation (Use Class 6).

Applicant: Mr N Miah

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.

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. No development shall take place until details of a scheme to provide soundproofing between the approved House in Multiple Occupation and the ground floor accommodation beneath it has been submitted to and agreed in writing by the Authority. Thereafter the House in Multiple Occupation shall not be occupied until the agreed soundproofing works have been carried out in full, written confirmation of which shall first have been submitted to the Authority.

Reason - To minimise noise impacts, in the interests of the amenity of future residential occupants.

5. No occupation of the House in Multiple Occupation hereby permitted shall take place until all the air conditioning units shown on the elevation drawings (north, south and west elevations) have been removed and the affected areas of external wall made good to match the existing walls.

Reason - To ensure the removal of sources of noise, in the interests of the amenity of future residential occupants and to ensure that appropriate repair work is carried out in the interests of the visual amenities of the locality.

6. Occupation of the House in Multiple Occupation hereby approved shall be limited to employees of the adjacent restaurant, currently known as "Indian Cottage".

Reason - The accommodation would not be served by adequate kitchen facilities, and occupancy by persons not employed by the adjacent restaurant would not represent a good standard of design nor provide a satisfactory living environment for future occupiers.

OFFICER'S REPORT

Site Description:

11 Westerbrook is a two-storey building with rendered exterior situated to the rear of frontage development on South Quay.

The site is located in a Main Centre, Conservation Area, Harbour Action Area and area at risk of flooding as designated in the Island Development Plan.

Relevant History:

11/12/2020 - FULL/2020/1336 – Permission granted for the change of use of first floor office (Use Class 16) to 2 flats (Residential Use Class 2), external alterations and construct decked external amenity areas.

12/10/2020 - FULL/2020/1135 – Permission granted for the change of use of ground floor offices (use class 16) to part of adjoining restaurant (use class 11) and alterations to fenestration.

Existing Use(s):

Administrative, financial and professional services use class 16: administrative office

Brief Description of Development:

Planning permission is requested to change the use of the first floor from an office (Use Class 16) to staff accommodation (Residential use class 6).

Through the course of the application it has been confirmed that existing air conditioning units will be removed and that internal soundproofing between the proposed HMO and ground floor accommodation will be undertaken.

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

MC4(A): Office Development in Main Centres

MC10: Harbour Action Areas

GP4: Conservation Areas

GP8: Design

GP9: Sustainable Development

Representations:

None

Consultations:

09/12/2021 The Office of Environmental Health and Pollution Regulation – do not raise any objections to the proposals subject to a condition relating to the provision of kitchen facilities if the building is no longer associated with the adjoining restaurant. This is because minimal kitchen facilities have been proposed in this instance due to the intention that all occupying staff will eat meals within the adjoining restaurant. Only because of the provision of meals in the adjoining restaurant would the accommodation be considered satisfactory as an HMO.

As part of the 2020 application OEHPR noted: that while the proximity of the proposed flats to existing air conditioning units and extract ventilation equipment may lead to noise and/ or odour complaints from future occupants, any complaints would have to be assessed on a case by case basis and addressed as necessary at that point.

Summary of Issues:

The key issues in this case relate to the principle of the proposed change of use, potential impact on the character and appearance of the area and on residential amenity along with the future living environment of occupiers.

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 existing office floorspace is less than 250 sq m, and therefore the principle of conversion to residential accommodation is acceptable in accordance with IDP Policies MC2 and MC4(A).

The proposed house in multiple occupation (HMO) would be located above an existing office and as set out in the Planning History above, permission has been granted to extend the adjacent restaurant. The accommodation proposed is associated with the adjoining restaurant 'Indian Cottage' but nonetheless, there would be potential for adverse noise impacts on future residential occupants. The previous residential scheme set out that a full acoustic upgrade to the separating floor would be undertaken, a matter controlled by condition, the agent in this case has indicated that such works would be undertaken in relation to the proposed HMO and it would remain reasonable for such upgrade works to be carried out for the amenities and living environment that can reasonably be expected by future occupiers of the HMO (GP8).

Air conditioning units exist to the south, north and west elevation of the building and were previously shown to be removed. OHEPR have previously noted adjoining air conditioning units but raised no objection to the residential occupancy of the upper floor in relation to this equipment. Notwithstanding that Environmental Health have chosen not to raise objections, the use of those units, particularly those associated with the restaurant and which could be expected to be used later into the night than might be the case with units serving offices, appears likely to result in unacceptable noise impacts on the amenity of future occupants. It is reasonable therefore, to require that these units are removed prior to the occupation of the proposed residential accommodation in the interests of residential amenity.

The potential for adverse impacts arising from odours from the adjacent restaurant's kitchen extract ventilation is noted, however the potential for this is considered to be no greater than experienced by many residential properties in the Island's

commercial centres, and as such is not considered to represent a reason to refuse permission.

In terms of design, the proposed HMO would benefit from internal accommodation of an acceptable size. OEHPR have commented on the application, providing guidance regarding kitchen facilities and the intention that all occupying staff will eat meals within the adjoining restaurant. OEHPR note that if the HMO is not to be used solely for the staff of the adjacent restaurant that cooking facilities would need to be provided at the accommodation. A condition regarding occupancy and meal provision is considered appropriate because the kitchen facilities would not be satisfactory for an HMO if meals were to be prepared within the HMO. In this respect, the scheme satisfies the aims of Policy GP8 regarding good design and the living environment of future occupiers.

The scheme does not relate to external alterations to the building and the change of use will not have a detrimental impact on the character of the Conservation Area. With regards to accessibility and residential amenity, access is proposed to be via the external staircase and does not alter from the previously approved residential scheme. Although the accommodation does not benefit from external amenity space the highly sustainable location of the development is such that occupiers would be in close proximity to services, public transport, coastal walks and beaches.

Due to the small scale of the development and the fact that it involves the re-use of part of an existing building, it is not considered that the development as proposed would prejudice the outcomes of any future Local Planning Brief process in relation to the Harbour Action Area (MC10).

In view of the above, it is recommended planning permission is granted for the proposed change of use.

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: 25 February 2022

