

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 Taxi service centre (sui-generis use) to car body repair workshop (Light Industrial use class 24), and install flues (retrospective).

LOCATION: Germain & Sons Warehouse, Guelles Road, St. Peter Port.

APPLICANT: Mr S Rebstein

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: 12/05/2022

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 25/02/2022 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Application Block Layout Plan, annotated plan to show retained taxi office and proposed body repair shop, email dated 12/04/2022 and photographs of flues installed

Application Ref: FULL/2022/0169

Property Ref: A10214B000

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.Noise associated with the plant and machinery incorporated into the development shall be controlled such that the Rating Level, measured or calculated 1m from the facade of the nearest existing noise sensitive premises, shall not exceed a level 5 dB(A) below the existing LA90 background noise level, including low frequency tones.

Reason - The premises are close to residential properties and a limit on the use is needed to prevent nuisance or annoyance to nearby residents.

5.No use of the premises shall be carried out other than between 0800 hours and 1700 hours on Mondays to Fridays, and 0800 hours and 1300 hours on Saturdays, and there shall be no working on Sundays or Public Holidays.

Reason - The premises are close to residential property and a limit on the use is needed to prevent nuisance or annoyance to nearby residents.

6.No use of spray booths shall be carried out other than between 0800 hours and 1600 hours on Mondays to Fridays, and there shall be no work using the spray booths on Saturdays, Sundays or Public Holidays.

Reason - The premises are close to residential property and a limit on the use is needed to prevent a nuisance or annoyance to nearby residents.

Expiry Date: This permission will cease to have effect on 11/05/2025 unless development is commenced by that date.

ADVICE AND OTHER REMARKS:-

With regard to condition 4, Rating Level and existing background noise levels shall be determined as per the guidance provided in BS 4142:2014.

Should you have any queries please contact the Office of Environmental Health and Pollution Regulation on 221161 or envhealth@gov.gg

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/2022/0169
Property Ref: A10214B000
Valid date: 25/02/2022
Location: Germain & Sons Warehouse Guelles Road St. Peter Port
Guernsey GY1 3FB
Proposal: Change of use from Taxi service centre (sui-generis use) to car
body repair workshop (Light Industrial use class 24), and install
flues (retrospective).
Applicant: Mr S Rebstein

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. Noise associated with the plant and machinery incorporated into the development shall be controlled such that the Rating Level, measured or calculated 1m from the facade of the nearest existing noise sensitive premises, shall not exceed a level 5 dB(A) below the existing LA90 background noise level, including low frequency tones.

Reason - The premises are close to residential properties and a limit on the use is needed to prevent nuisance or annoyance to nearby residents.

5. No use of the premises shall be carried out other than between 0800 hours and 1700 hours on Mondays to Fridays, and 0800 hours and 1300 hours on Saturdays, and there shall be no working on Sundays or Public Holidays.

Reason - The premises are close to residential property and a limit on the use is needed to prevent nuisance or annoyance to nearby residents.

6. No use of spray booths shall be carried out other than between 0800 hours and 1600 hours on Mondays to Fridays, and there shall be no work using the spray booths on Saturdays, Sundays or Public Holidays.

Reason - The premises are close to residential property and a limit on the use is needed to prevent a nuisance or annoyance to nearby residents.

INFORMATIVES

With regard to condition 4, Rating Level and existing background noise levels shall be determined as per the guidance provided in BS 4142:2014.

Should you have any queries please contact the Office of Environmental Health and Pollution Regulation on 221161 or envhealth@gov.gg

OFFICER'S REPORT

Site Description:

The building to which this application relates is served by an access road off Guelles Road which also serves premises occupied by Funky Pigeon.

The building has the character of an industrial unit although the building was under scaffolding at the time of the site visit associated with this application.

The site is located in the Main Centre Outer Area as designated in the Island Development Plan.

Relevant History:

FULL/2010/2386 - Change of use of building for use in connection with taxi business, including taxi office, storage and servicing of taxi fleet – granted

PAPP/2006/0266 - Change of use of part of building to a taxi office – granted

PAPP/2004/3323 - Change of use from warehouse to light industrial unit – granted

Existing Use(s):

Taxi office and taxi service centre (sui-generis)

Brief Description of Development:

The application relates to the change of use of the taxi service centre to a car body repair workshop (Use Class 24) with associated new flues. The application is retrospective because the change of use and installation of flues have been implemented.

The applicant has advised as part of the submission that a spray booth has been installed which includes flues and that the Accident Repair Centre previously operated from Fosse Andre. The pandemic affected the Accident Repair Centre and the decision was reached not to extend the lease in 2021. This site has been rented to Island Taxis Ltd since 2007 and so the business was transferred from Fosse Andre to Guelles Road. Taxis haven't been serviced from Guelles Road since 2019, a garage has opened next door and the vehicles are now serviced there.

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

Island Development Plan policies:

MC5(B): Industry, Storage and Distribution Uses in Main Centres and Main Centre Outer Areas – outside of the Key Industrial Areas and Key Industrial Expansion Areas

GP8: Design

GP9: Sustainable Development

Representations:

One letter of representation has been submitted from a resident of St Martins objecting to the application and raising the following points:

- The site was formerly used as a post office maintenance garage for changing bulbs/topping up washer fluid which did not generate nuisance to neighbours
- 20 years ago the Department advised that all new auto spray facilities should be located on heavy industrial sites due to bringing about the building of

Graham Brown Ltd at Vale Castle Industrial Estate (2000) owned by the representor

- The site is in close proximity to residential properties and Amherst School and it is irresponsible to allow a workshop ejecting a lot of paint fumes containing isocyanates through the chimneys which endanger residents/children
- Staff have been proven irresponsible for having experienced a workshop fire whilst illegally burning workshop waste and setting fire to a large diesel tank
- The applicant did not have to move from the previous site in Fosse Andre, it was possible for the lease to be renewed and the site is now being rented as a bodyshop to someone else.
- The applicant has been vocal about preferring the old post office site because during lockdown rent was free and he was able to operate behind the smoke screen of the taxi business (an essential business) and therefore made a commercial decision to buy a spray oven from Harrison Automotive as they were closing down and financed having it installed despite claiming business was struggling because of Covid.

Consultations:

Office of Environmental Health and Pollution Regulation – express concerns relating to noise nuisance and fumes from the site. In order to manage these concerns various planning conditions are recommended:

- Restrict hours of the building to 8am – 5pm Monday to Friday and 8am – 1pm on Saturdays with no use on Sundays or Public Holidays
- The spraying booths should be limited to 8am – 4pm Monday to Friday only
- Noise associated with the machinery shall be controlled/limited

Summary of Issues:

The key issues in this case relate to the principle of the proposed change of use and the impact of the proposed use on the locality and on the health and well-being of surrounding 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 overall use of the site represents a sui-generis use because a taxi office falls outside any recognised use class. The service centre, now operated as a car body repair shop falls within an industrial use class.

Comments made through the consultation process regarding earlier advice regarding the location of future industrial development have been noted however, since the time the advice was given there has been material changes in the policies against which applications must be considered and it is also likely that areas identified for industrial development will also have changed. As outlined below, the current Island Development Plan makes provision for industrial development in the Main Centre which provides a gateway for the proposed development.

Policy MC5(B) relates to proposals to redevelop/alter/extend an existing industrial use and sets out that such proposals will be supported subject to an assessment against other relevant policies in the Island Development Plan including the impact on the amenities of surrounding uses. The principle of the proposed change of use from a car service centre to a car body repair shop is therefore supported by the IDP.

The installation of flues to the roof of this commercial building, situated amongst other commercial premises and not highly visible from the surrounding area represents a good standard of design that respects the character of the local built environment. These flues will not have a detrimental impact on the character and appearance of the locality.

Concerns have been raised through the public consultation process regarding the impact of the use on residential amenity and the health and well-being of nearby school children. The proposals have also been assessed by the Office of Environmental Health and Pollution Regulation. The purpose of installing flues to the building in connection with operating spray booths from the site will be to mitigate fumes/odours from the building in order to limit the impact of the proposals on surrounding occupiers. The operation, if uncontrolled, could however have a detrimental impact on the enjoyment of nearby dwellings, harmful to the health and well-being of occupiers. In line with the advice provided by the Office of Environmental Health and Pollution Regulation therefore, it is reasonable to impose conditions relating the hours of trading, the hours the spray booth may be used and the noise generated by equipment installed on site. Subject to these conditions the development will not have an unacceptable adverse impact on residential amenity and accords with the aims of Policies GP8 and GP9 of the IDP.

The comments raised regarding the success or failure of the applicants business and the decision to relocate from another site can have no bearing on the consideration and determination of the application.

In view of the above it is recommended that planning permission is granted for the proposed development.

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: 11 May 2022