

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 of kitchen of dwelling (Residential Use Class 1) for a takeaway business (Residential Use Class 5) (Retrospective).

LOCATION: Clos A L'Avione, Rue De Maladerie, St. Saviour.

APPLICANT: Mr C Millward

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: 27/06/2022

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 25/05/2022 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Application Block Layout Plan, Ground Floor Plan, Kitchen Plan and letter from Christopher Millward received 25/05/2022

Application Ref: FULL/2022/0862

Property Ref: E008320000

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 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.

3.The business use hereby permitted shall be operated in accordance with the letter from Christopher Millward received on 25/05/2022.

Reason - Permission has been granted on the basis that the use will be limited to that outlined above. Any other use or change to operating arrangements is likely to raise different planning policy considerations.

4.The use of the site shall revert to the previous use and the dwelling shall revert to a single dwellinghouse, as defined in Residential Use Class 1 of the Land Planning and Development (Use Class) Ordinance, 2017 or in any provision equivalent to that Use Class in any Ordinance revoking or re-enacting that Ordinance when the premises is no longer occupied by the named applicant in this case, Christopher Millward.

Reason - To manage the possible future impact of the home based employment on residential amenity should the operator of the business change.

Expiry Date: This permission will cease to have effect on 26/06/2025 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/2022/0862
Property Ref: E008320000
Valid date: 25/05/2022
Location: Clos A L'Avione Rue De Maladerie St. Saviour Guernsey GY7 9RA
Proposal: Change of use of kitchen of dwelling (Residential Use Class 1)
for a takeaway business (Residential Use Class 5)
(Retrospective).

Applicant: Mr C Millward

RECOMMENDATION - Grant: Planning Permission with Conditions:

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Reason - To ensure that it is clear that permission is only granted for the development to which the application relates.

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Reason - To manage the possible future impact of the home based employment on residential amenity should the operator of the business change.

OFFICER'S REPORT

Site Description:

Clos A L'Avione is a detached dwelling situated on the corner of Rue De la Maladerie and Route De La Perelle. It is a detached one and a half-storey dwelling with detached one and a half-storey garage to the north.

The site is located Outside of the Centres as designated in the Island Development Plan.

Relevant History:

Pre-application advice was sought in this case.

Existing Use(s):

01 dwellinghouse

Brief Description of Development:

The application relates to the use of the existing domestic kitchen in connection with the operation of a takeaway business operating from Clos A L'Avione. The application is retrospective as the business is currently operational. The takeaway is operated by the occupier of the premises, with no externally employed staff. The application sets out that the opening/operating times for the takeaway are between 5pm and 7.30pm on Friday and Saturday evenings. The business operates a collection service only and with customers placing an order and agreeing a time to collect. Parking for customers is shown to be provided to the west of the garage building, with further parking available to the south of the garage.

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

Island Development Plan policies:

GP14: Home Based Employment

GP8: Design

GP9: Sustainable Development

IP9: Highway Safety, Accessibility and Capacity

Representations:

None.

Consultations:

Office of Environmental Health and Pollution Regulation – no objections. A food hygiene inspection was carried out in September 2021 and no issues were found.

Summary of Issues:

The issues in this case relate to the principle of the proposed use, the impact of the development on residential amenity, highway safety and parking.

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.

Principle of home-based business

The Island Development Plan outlines that working from home can allow people, with low numbers of employees, to start up a low intensity business at their home with very little initial outlay in premises costs, provides flexibility for workers and lessens the need to travel to the principal workplace and represents a good example of sustainable development. Policy GP14 offers support for home based business where it will not have an adverse impact on neighbouring residents or the surrounding area as a result of increased activity and disturbance. The IDP also sets out that in order to protect the amenities of nearby residents, conditions may be attached to any planning permission for home based employment limiting the hours of work and the types of activities that can be carried out and restricting the business to the occupier of the dwelling. Such conditions may help alleviate some concerns raised regarding the future expansion of the business operation because

any deviation from the approved days/hours would be the subject of a further planning application and could represent a business operation that goes beyond the realms of Policy GP14.

The application relates to a small-scale hot food takeaway operation undertaken by one person in a residential dwelling and operated for two early evenings per week, with a total of 5 hours a week associated with customers visiting the property to collect food. The primary use of Clos A L'Avione clearly remains as a unit of residential accommodation used by the occupier in line with the aims of Policy GP14.

The impact on residential amenity must also be assessed in relation to GP14 and other policies in the Plan and is considered in more detail elsewhere in this report.

Impact on residential amenity

The Office of Environmental Health and Pollution Regulation raise no objections to the proposals. Given the limited scale of the use, just two nights a week, there is no evidence to suggest that odours associated with the Cambodian style of cooking is any worse than if the occupiers of any house in vicinity of the application site prepared such meals for their own consumption (just because the volumes are greater does not mean that the smells associated with it will also be more).

The potential for visitors to cause nuisance and disturbance to neighbouring will remain within acceptable limits given the limited hours of operation which in combination with a single person preparing all food ordered will be self-limiting in terms of the number of customers visiting the premises for takeaway collection.

In these respects, the scheme meets the aims of Policies GP8, GP9 and GP14 of the Island Development Plan.

Parking and road safety

The applicant sets out that off-road parking is available on Friday and Saturday evenings for collections. Given the extent of hardstanding at the property, this will not displace parking associated with the property. If more than one vehicle arrives at the premises at the same time for collection purposes again, given the level of off-road parking and turning available on the site, this would not affect the free flow of traffic nor represent an unacceptable intensification in the use of the vehicular access.

In this case, there would be no means through the grant of planning permission to manage or stagger collection times to avoid multiple vehicles arriving at the same time. Whilst in some home-based business cases the arrival of customers/clients is staggered to avoid congestion this is generally due to a different business operation where clients are seen on a one-to-one basis. The nature of the takeaway operation is such that it would be unreasonable and unenforceable for the Planning Service to control the matter by way of a planning condition.

There are therefore, insufficient grounds to demonstrate that the low level of takeaway operating from this premises would result in an unacceptable increase in vehicle movements on the local road network nor that the limited number of vehicles per Friday and Saturday night would have an unacceptable impact on parking in the vicinity. The scheme therefore accords with the aims of the IDP in this respect.

Conclusions

It is acknowledged that an intensification of the use (days of the week/hours of operation/number of customers or introduction of delivery service from the address) could have some impact on nearby residents however, as a detached dwelling set away from neighbouring properties the effects will be limited. Nonetheless, it would be reasonable to impose a planning condition to limit the takeaway use in order that it operates only in accordance with the details contained in this application relating to days/hours of operation and parking provision. Any deviation from such a planning condition would represent a breach of planning control that may be the subject of a Planning Enforcement investigation and may require the submission of a further planning application. Different policy considerations may be applicable if the use becomes more intensive at Clos A L'Avione.

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: 24 June 2022

