

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 ancillary beauticians within the Mallard Complex (sui-generis) to medical facility (Public Amenity Use Class 18).

LOCATION: The Mallard Complex, Rue De La Villiaze, Forest.

APPLICANT: The Mallard Complex

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: 18/08/2022

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 01/06/2022 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Lovell Ozanne & Partners - D48-9950-S1-01, 03 & 04; Lovell Ozanne letter dated 17/03/22 ref AME/akdw/9950

Application Ref: FULL/2022/0920

Property Ref: H001330000

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.The medical facility use hereby approved shall not be carried on otherwise than in strict accordance with the details set out in the letter reference AME/akdw/9950 dated 17th March 2022, and within the terms of Public Amenity Use Class 18 of the Land Planning and Development (Use Classes) Ordinance, 2017, or of any provision equivalent to that Use Class in any Ordinance replacing or re-enacting that Ordinance.

Reason - The proposed use and its impact on the Main and Local Centres has been assessed on the basis of the level of operation proposed in this application. A different or more intensive use of the medical facility could have different effects on the vitality of the Main Centres or the character and vitality of the Local Centre which will need to be fully assessed, through a formal planning application, by the Development & Planning Authority.

Expiry Date: This permission will cease to have effect on 17/08/2025 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/2022/0920
Property Ref: H001330000
Valid date: 01/06/2022
Location: The Mallard Complex Rue De La Villiaze Forest Guernsey GY8 OHG
Proposal: Change of use of ancillary beauticians within the Mallard Complex (sui-generis) to medical facility (Public Amenity Use Class 18).
Applicant: The Mallard Complex

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. The medical facility use hereby approved shall not be carried on otherwise than in strict accordance with the details set out in the letter reference AME/akdw/9950 dated 17th March 2022, and within the terms of Public Amenity Use Class 18 of the Land Planning and Development (Use Classes) Ordinance, 2017, or of any provision equivalent to that Use Class in any Ordinance replacing or re-enacting that Ordinance.

Reason - The proposed use and its impact on the Main and Local Centres has been assessed on the basis of the level of operation proposed in this application. A different or more intensive use of the medical facility could have different effects on the vitality of the Main Centres or the character and vitality of the Local Centre which will need to be fully assessed, through a formal planning application, by the Development & Planning Authority.

OFFICER'S REPORT

Site Description:

This site consists of a large building and grounds in a Local Centre and within the Airport Consultation Zone. Land within the application site to the south of the buildings falls outside the Local Centre and within the Agriculture Priority Area (APA) as designated in the Island Development Plan.

The site is close to the junction of La Route de Farras, Rue De Landes and Rue de La Villiaze. Current use of the main building would appear to be primarily for visitor self-catering apartments. The site also provides a cinema and Chinese restaurant and has previously included a beauticians which is currently not operational. The application relates to the ground floor part of the building adjacent to a timber fenced boundary which separates the Mallard from the open land to the south which is within the APA. Parking exists to the east of the building. High level windows and access doors exist to the accommodation in the east and south elevations of this part of the Mallard building. Above is accommodation with roof terrace to the east and west.

Relevant History:

FULL/2015/1542 - Change of use of Apartment 7 to Residential Use Class 2 (Retrospective) - refused

FULL/2015/1825 - Change of use of part of car park to commercial vehicle parking for hire cars (retrospective). – granted

FULL/2011/3535 - Change of use of front car park to commercial vehicle parking for hire cars – refused

FULL/2010/2146 - Remove leylandii hedge at side (north) of complex (retrospective) – granted

FULL/2009/2516 - Two storey extension to provide business tourism facilities including 12 suites, restrooms and café – refused

PAPP/2008/2733 - Change of use of part of hotel to offices (retrospective) (reconsideration) – refused

PAPP/2008/0696 - Change of use from part of hotel to offices (retrospective) – refused

PRCN/2005/0694 – Utilise part of premises for the storage and valeting of motor vehicles and erect an equipment store (retrospective) [reconsideration] - refused

PAPP/2005/0655 - Change of use of premises from tourism/horticulture to light industrial – withdrawn

PAPP/2004/3804 - Utilise part of premises for the storage and valeting of motor vehicles and erect an equipment store (retrospective) - refused

PAPP/2004/3858 - Change of use of restaurant to office suite and relocate restaurant facility – refused

PRCN/2003/2067 – Redevelop site adjacent to The Mallard to provide seminar and IT business suites (reconsideration) - refused

PAPP/2002/5119 - Convert part of premises for educational and associated administrative use (Public Amenity use class 31) - refused

June 2001 – Extend hotel to provide seminar rooms, business suites and internet server farm (P31) approved.

Feb 2000 – Redevelop site to provide additional hotel and staff accommodation, health suite, leisure complex, holiday apartment village, fishing lake, outdoor activity area and parking – rejected.

Jan 2000 – Convert hotel to s/c units, enclose swimming pool, convert holiday centre to health suite (P27) approved.

May 1999 – Redevelop site to provide additional hotel and staff accommodation, health suite, casino, holiday apartment village, fishing lake, outdoor activity area and parking – rejected.

Nov 1998 – Reconsideration of application to redevelop to provide 28 s/c units, horticultural centre, café, extend and alter hotel and parking, children's play area – rejected.

Mar 1998 – Application to redevelop to provide 28 s/c units, horticultural centre, café, extend and alter hotel and parking, children's play area – rejected.

Existing Use(s):

Sui-generis, Mixed use.

Brief Description of Development:

The application relates to the change of use of part of the Mallard Complex formerly occupied by a beauticians to a medical facility comprising a reception, secure store, administration office and three consulting rooms along with appropriate ancillary accommodation such as WCs and staff facilities.

The application sets out that by accommodating the medical practice, Medicann, on the site there will be an expansion of community mixed uses on the site. The proposal is identified to be small scale (164sqm) and operate 4 days per month. In relation to Policy LC3(A) the submission sets out that this site comprises a mixed use with an underlying leisure use but with a number of different but complimentary uses, and that there are no other sites within the Forest West Local Centre that could accommodate this particular use at this time. The scale of the proposal is small in comparison with other uses in the Complex and would not have a detrimental impact on the vitality of the Local Centre or any of the Main Centres. This proposal would benefit the vitality and longevity of the Mallard Complex but reinforce the vitality of the Forest West Centre.

The application was deferred in order to seek clarification as to whether the use is retrospective as Medicann currently have an address at the Mallard Complex but also in relation to the location of the current clinic and the level this clinic operates at (more or less than 4 days per month). The Planning Service also raised concerns regarding the application because Medicann appear to offer a very specific medical facility and it was unclear from the submission how this would serve only the local community when considering paragraph 12.2.2 of the IDP: *"Local Centres should have the services and facilities that contribute to an area's ability to meet local social, economic and environmental needs and that access to adequate community and social facilities is fundamental to supporting sustainable Local Centres allowing them scope to adapt and expand to meet the needs of the community"*.

Further information has been submitted requesting a minor departure from the IDP but does not specify which Policy this request relates to.

Medicann offers a limited consultation service from an existing boardroom within the complex, 2 -3 days per month in order to provide care to patients often suffering from both physical and mental impairments. On-site parking is essential in this case although it is noted that the site is conveniently located for bus services. If the business operated from a Main Centre such as St Peter Port the application asserts

that this would discriminate against a specific sector of the community because they would be unable to access it.

The proposed change of use equates to 6% of the overall commercial floor area on site which is minor in the context of the commercial centre of The Mallard. In relation to IDP paragraph 12.2.2 which states: *“Local Centres should have the services and facilities that contribute to an area’s ability to meet local social, economic and environmental needs and that access to adequate community and social facilities is fundamental to supporting sustainable Local Centres allowing them scope to adapt and expand to meet the needs of the community”* the submission asserts that the proposal should not be considered outside the intentions of the SLUP. This emphasises the need to provide adequate social and community facilities as fundamental in supporting Local Centres, ensuring their sustainability as attractive and desirable places to live for a broad spectrum of society. Local Centres need to adapt and expand to meet the needs of the community, in this case disadvantaged members of our community.

The submission goes on to state that Policy LC3(A) is not considered exclusive as the intention is not to push something out of a group thereby creating an element of specialness because of restricted use, but is inclusive, meaning that the policy does not limit the use of a facility to certain people i.e. people in this application living within the Local Centre of Forest. The recent approval of a Development Framework for The Mallard is relevant here in relation the provision of limited new development in a Local Centre to enable community growth and where the Framework relates to specialised residential uses.

Attention is also drawn through the submission to the fact that there are no medical facilities in Forest, unlike other Local Centres such as St Martin, Cobo, St Pierre du Bois and L’Aumone and as such a medical facility is missing in this location.

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

Island Development Plan policies:

LC3(A): Social and Community Facilities in Local Centres - New, Extension, Alteration or Redevelopment of Existing Uses

LC5: Retail in Local Centres

GP8: Design

GP9: Sustainable Development

IP7: Private and Communal Car Parking

Development Framework Mallard Complex

Representations:

None.

Consultations:

None.

Summary of Issues:

The key issue in this case relates to the principle of the proposed change of use.

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.

As noted above, there is an approved Development Framework for the site which primarily relates to the potential to develop specialised housing on land to the north of the existing building. The Development Framework does make reference to Policy LC3(A) however, in relation to any medical services or day centre facilities associated with the specialist housing. This proposal would not however, affect the potential to bring forward such proposals associated with specialist housing.

There is no planning permission for the beauticians at the Mallard Complex because this was considered ancillary to the hotel and part of the sui-generis mixed use development. Policy LC5 relates to retail in Local Centres and is relevant to the change of use because the ancillary retail element would be lost. Policy LC5 supports a change of use where the new use accords with other relevant policies.

The SLUP sets out that Local Centres should have services and facilities that contribute to an area's ability to meet local social, economic and environmental needs and access to community and social facilities is fundamental to supporting sustainable Local Centres, enabling them to adapt to meet the needs of the community. The Plan also sets out that social and community facilities of a scale to meet the requirements of the wider Island population should be situated within the Main Centres or Main Centre Outer Areas.

Policy LC3(A) requires proposals to be of a scale appropriate to the Local Centre concerned and that development opportunities in Local Centres will be limited, reflective of the current scale and function of the particular Local Centre. The impact of the development, which includes cumulative impact, must be appropriate to that Local Centre either unacceptably reducing the level of provision or over-providing a particular use as well as ensuring the development would not affect the vitality and viability of the Main Centres.

Sustainability Indicators have been used to identify the Local Centres and The Local Centres Survey, 2020 identified two clusters of non-residential uses within this Centre. The first being the two schools and petrol station and the second the Mallard Complex and Venture Inn and other non-residential uses are recognised as Bodyline Car Repairs and Forest Chip Inn. The Mallard Complex will have a broad catchment area given the Mallard Cinema is on the site and the non-residential uses referred to above will also benefit from passing trade and trade from residents in the southern part of the Island generally. The change of use of a modest part of the mixed-use development at the Mallard will not impact on the Sustainability Indicators nor the range and balance of uses in the Local Centre (LC3(A) b.).

The onus is on the applicant to demonstrate that there is an identified local community need for the facility proposed and the application does not provide detailed information to demonstrate compliance with this aspect of the IDP. The Planning Service conclude however, that this facility would provide island-wide interest given the type of service proposed. It is also noted that there is no doctor surgery in the Local Centre or in the nearby Forest Local Centre. In the Guernsey context, regardless of location, specialist medical facilities will often serve patients from across the island and it can be difficult to demonstrate a particular need from within the boundaries of a Local Centre.

The scheme proposes the reuse of floor area within an existing mixed-use development where there is parking provision and access to public transport and where there are no existing medical facilities. It is accepted that the facility would be available for residents within the Local Centre if required and therefore contributes to meeting local needs. As a result, the development is of a suitable scale for the Forest West Local Centre and would support its role as a socially inclusive and diverse community. The facility would not be of a scale where the intensity of use would be out of character for the Local Centre and would not be comparable with a facility such as the MSG which serves the island as a whole and, in the context of the existing mixed-use development on site, the development is appropriate in this location when considering Policy LC3(A).

Having regard to the vitality and viability of the Main Centres and Main Centre Outer Areas (LC3(A) c.) the proposal would not mean that Main Centres would have less diversity in terms of use or purpose and it is noted that there are other health uses in the Main Centres. Whilst the relocation of the Queens Road surgery to the former education offices has not been implemented at this time this proposed scheme would not impact on that planned development given the different type of services provided. There are vacant units in the Main Centres and the use could, depending on the site, deliver improvements to the public realm. Nonetheless, the additional health facility proposed, in a Main Centre, would not significantly enhance the popularity of the Centre for those who live, work and visit them.

Although the submission does not include details regarding the number of users associated with the proposed use it is understood there would be three consultation rooms provided and that the use could attract patients from across the island.

Nonetheless, the impact on Main Centre footfall will not be significant and would not conflict with the aims of Policy LC3(A) c.

Turing to other relevant policies, there are no external alterations proposed in connection with this change of use and the location and intensity of use is not considered to conflict with existing uses on the site nor have a detrimental impact on residential amenity in accordance with the aims of Policies GP8 and GP9.

There is ample parking on the site to meet the needs of the existing uses and the proposed development and the scheme therefore addresses the aims of Policy IP7.

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: 18 August 2022

