

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: Install air conditioning unit to south elevation.

LOCATION: Ben Le Prevost Chocolatier, 14 Mill Street, St. Peter Port.

APPLICANT: Mr B Le Prevost

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: 09/03/2023

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 20/07/2022 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Site location plan, block layout plan, air conditioning technical data sheet, annotated photograph (all date stamped received 4th May 2022), air conditioning technical data sheet (dated 20th July 2022)

Application Ref: FULL/2022/1039

Property Ref: A40045A000

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 hours of operation of the air conditioning unit hereby approved shall be limited to between 07:00 hours and 19:00 hours Monday - Saturday only, there shall be no operation on Sundays or bank holidays.

Reason - To protect the amenities of neighbouring residents.

5.Noise associated with plant and machinery incorporated within the development shall be controlled such that the Rating Level, measured or calculated at 1-metre from the façade 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. Rating Level and existing background noise levels shall be determined as per the guidance provided in BS 4142:2014.

Reason - To protect the amenities of neighbouring residents.

Expiry Date: This permission will cease to have effect on 08/03/2026 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/2022/1039
Property Ref: A40045A000
Valid date: 20/07/2022
Location: Ben Le Prevost Chocolatier 14 Mill Street St. Peter Port
Guernsey GY1 1HQ
Proposal: Install air conditioning unit to south elevation.

Applicant: Mr B Le Prevost

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 hours of operation of the air conditioning unit hereby approved shall be limited to between 07:00 hours and 19:00 hours Monday - Saturday only, there shall

be no operation on Sundays or bank holidays.

Reason - To protect the amenities of neighbouring residents.

5. Noise associated with plant and machinery incorporated within the development shall be controlled such that the Rating Level, measured or calculated at 1-metre from the façade 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. Rating Level and existing background noise levels shall be determined as per the guidance provided in BS 4142:2014.

Reason - To protect the amenities of neighbouring residents.

OFFICER'S REPORT

Site Description:

The application site comprises a ground floor retail unit as part of a traditional mid-terrace property located to the east of Mill Street. The property is located in a Conservation Area and Main Centre Inner Area as designated in the Island Development Plan.

Relevant History:

None germane to this application.

Existing Use(s):

Retail.

Brief Description of Development:

Planning permission is sought to install an air conditioning unit to the south elevation.

The application was deferred on multiple occasions to request further information with regards to the specification of the unit, distance from the nearest neighbouring property, and background noise levels due to concerns over the effect of the development on the amenities of neighbouring residents.

The applicant has provided further information in attempt to overcome these concerns including an acoustic report from a noise consultant.

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

MC6 Retail in Main Centres
GP8 Design
GP9 Sustainable Development

Representations:

None.

Consultations:

The Office of Environmental Health and Pollution Regulation's comments:

5th August 2022:

"I have reviewed the proposed plans for the installation of an air conditioning system which were received by email on 22nd July 2022 and there are a number of issues of concern that I must raise. I am concerned about the potential for noise nuisance and require additional information before I am able to fully consider the application. It is noted that the unit is proposed to be used between the hours of 09:00 and 17:00 Monday – Saturday during warm weather. Once additional information has been submitted these hours will be recommended to be conditioned on the planning consent. To address my concerns about noise nuisance I would request the following information:

- *Confirmation of the model number of the air conditioning unit*
- *Distance to the nearest residential receptor (I note that there are residential properties directly above the proposed location of the unit)*
- *I am concerned about the potential for background noise creep and the cumulative impact of an additional unit in this location. Could details including photographs be provided to give an idea of what other units are in this location?*

Once the above information has been received, I should be able to calculate the predicted noise level at the receptor location to give an idea of whether the installation would be suitable in this area. I would appreciate it if the applicant could be made aware that additional information may also be required and to negate this being the case, they may also wish to take the opportunity to provide evidence of the following at this stage:

- *Evidence that the air conditioning unit will operate at a noise rating level at least 5 dB lower than the existing LA90 background noise level. Any*

measurement and assessment should be undertaken in accordance with BS4142:2014 + A1:2019.

The applicant may wish to contact an acoustic consultant for specialist advice. I have attached a list of consultants who may be able to assist. Please note that inclusion on the list does not infer any kind of recommendation by the department."

7th March 2023

"I have reviewed the additional information for the installation of an air conditioning unit at the above property which were received by email on 7th March 2023. Whilst I welcome the amendments to the report concerns in relation to the potential for noise nuisance remain. To ensure that these concerns are mitigated I would recommend that the following conditions are attached to the consent:

- *The hours of operation of the air handling unit should be limited to between 07:00 hours and 19:00 hours Monday – Saturday, there shall be no operation on Sundays or bank holidays.*
- *Noise associated with plant and machinery incorporated within the development shall be controlled such that the Rating Level, measured or calculated at 1-metre from the façade 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. Rating Level and existing background noise levels shall be determined as per the guidance provided in BS 4142:2014.*

I would be grateful if these issues are considered during the determination of this application."

Summary of Issues:

The effect of the development on the amenities of neighbouring residents.

Assessment against:

- 1 - Purposes of the law.**
- 2 - Relevant policies of any Plan, Subject Plan or Local Planning Brief.**
- 3 - General material considerations set out in the General Provisions Ordinance.**
- 4 - Additional considerations (for protected trees, monuments, buildings and/or SSS's).**

All material considerations as set out in the Land Planning and Development (Guernsey) Law, 2005 and the Land and Planning (General Provisions) Ordinance 2007 have been taken into account in the assessment of this application.

Policy MC6 (Retail in Main Centres) states that *“proposals to extend, alter or redevelop existing retail premises will also be supported providing they accord with all other relevant policies of the Island Development Plan.”*

The proposed air conditioning unit will be located on the south elevation, towards the rear of the building. Due to its siting, the proposal will not be visible in public vantage points, and therefore would not affect the Conservation Area.

In light of the additional information submitted, the proposal is not considered to cause significant harm to the amenities of neighbouring residents that would warrant refusal. It is however recommended that planning conditions be imposed to reflect the comments raised by the Office of Environmental Health and Pollution Regulation in the interests of neighbour amenity.

Sufficient information has been submitted that has taken into account the criteria of Policy GP9 (Sustainable Development).

Based on the above, the application is considered compliant with the relevant Island Development Plan policies; it is therefore recommended that planning permission be granted, subject to conditions.

Date: 08/03/23

