

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 Retail (Use Class 10) to Cafe (Use Class 11), provide accessible ramp to west entrance and internal alterations (Protected Building).

LOCATION: 29-33 Commercial Arcade, St. Peter Port.

APPLICANT: Esher Investments Limited

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: 17/10/2022

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 24/05/2022 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Create Ltd - 837-3-013

Application Ref: FULL/2022/1174

Property Ref: A300450000

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.Notwithstanding the approved drawing 837-3-013 no permission is inferred for regrading of the western entrance step. In line with the information contained in the letter from Create Ltd, ref: 837/RM/HF/SJS dated 01/08/2022 a portable ramp will be used to provide access to the premises.

Reason - To protect that part of the building to be retained and to make sure the works respect the special character of this protected building, as required by Section 34 of The Land Planning and Development (Guernsey) Law, 2005.

Expiry Date: This permission will cease to have effect on 16/10/2025 unless development is commenced by that date.

ADVICE AND OTHER REMARKS:-

It is noted that no extract ventilation is proposed in connection with the change of use application however, planning permission is required for such works to the Protected Building. The applicant/developer is encouraged to consider the provision of a service route/ installation of such equipment from the outset and is invited to make a pre-application planning enquiry prior to the submission of a formal planning application. This permission does not relate to the display of any sign or advertisements. A separate permission may be needed for any such display.

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/2022/1174
Property Ref: A300450000
Valid date: 24/05/2022
Location: 29-33 Commercial Arcade St. Peter Port Guernsey GY1 1LB
Proposal: Change of use from Retail (Use Class 10) to Cafe (Use Class 11), provide accessible ramp to west entrance and internal alterations (Protected Building).

Applicant: Esher Investments Limited

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).

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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.

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Reason - To protect that part of the building to be retained and to make sure the works respect the special character of this protected building, as required by Section 34 of The Land Planning and Development (Guernsey) Law, 2005.

INFORMATIVES

It is noted that no extract ventilation is proposed in connection with the change of use application however, planning permission is required for such works to the Protected Building. The applicant/developer is encouraged to consider the provision of a service route/ installation of such equipment from the outset and is invited to make a pre-application planning enquiry prior to the submission of a formal planning application. This permission does not relate to the display of any sign or advertisements. A separate permission may be needed for any such display.

OFFICER'S REPORT

Brief Description of the site:

The application property comprises a group of 3no. interconnected 4-storey buildings with basement on the corner of the easternmost block within the Commercial Arcade, the whole of which is a protected building. The ground floor of the property is utilised as a single retail unit, with three residential flats on the upper floors. The site is located within a Main Centre Inner Area, Core Retail Area, and Conservation Area under the Island Development Plan (IDP).

Relevant History:

FULL/2019/2466 - Change of use of upper floors from retail to 3 residential units (use class 2). Replace windows and rooflight and internal alterations (protected building) – Approved July 2020.

FULL/2021/0502 - Internal alterations to enlarge opening to ground floor (protected building) – Approved May 2021.

FULL/2021/0503 - Internal alterations to ground and basement floor (protected building) – Approved May 2021.

Existing Use(s):

Residential use class 2: flats
Retail use class 10: general retail.

Assessment: *(Tick as appropriate)*

no representation	X
accords with policy	X
within curtilage	X
design acceptable	X

visual amenity acceptable	X
no material neighbour impact	X
traffic not affected	X

Policies considered most relevant:

MC6 – Retail in Main Centres
GP4 – Conservation Areas
GP5 – Protected Buildings
GP8 – Design

Consultations:

The Office of Environmental Health and Pollution Regulation.
11/07/2022

'There is currently insufficient information for me to comment fully on the proposals. Should further information be forthcoming I will be happy to look at this application again and provide comment.'

Then information I would recommend is provided is as follows:

- Details of any acoustic protection to be provided for residential units above/adjacent to the proposed café commercial unit. We would expect reference to be made to BS8233:2014 - Guidance on sound insulation and noise reduction for buildings.*
- Details of the proposed times that the café will operate.*
- Details of any odour control measures.*
- Details on whether any music is proposed to be played in the café unit.*

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

23/09/2022

'I thank the applicant for answering the points in my letter dated 11th July 2022. I am concerned about the impact the change of use to a café may have on local residential

amenity and I would recommend that the following conditions are attached to any issued consent:

- Construction work shall not commence until a scheme for protecting the residential units within the same building has been submitted and approved by the Planning Service. All works which form part of the scheme shall be completed in accordance with the approved details before any part of any of the residential units are occupied. The scheme shall have regard to the principles contained within the World Health Organisation community noise guidelines and achieve the internal ambient standard within BS8233:2014 to minimise noise in residential dwellings. Following approval and completion of the scheme, a competent person employed by the developer shall undertake a test to demonstrate that the attenuation measures proposed in the scheme meet the good standard within BS8233:2014 to protect the residential units from noise and the results of the test shall be submitted to and approved by the Planning Service.*
- The use hereby permitted shall not be open to customers except between the hours of 07:00 and 20:00 on Mondays to Fridays and 08:00 and 20:00 on Saturdays, Sundays and Bank or Public Holidays.*
- No amplified music shall take place unless a noise management plan has been submitted and agreed by the Planning Service. The noise management plan, at a minimum, should consider noise levels and duration as well as having regard to nearby residential properties.*

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

It should be noted that the conditions suggested will not be added to the decision because the first is a Building Control issue and not Planning considerations. It would also not be reasonable to condition opening times/playing of music when other premises nearby do not have such conditions.

Conclusion/Brief comment:

This application as originally submitted was for a change of use from general retail (use class 10) to a café (use class 11), the addition of an accessible ramp to the west entrance and the insertion of a ground floor accessible WC within this Protected Building.

Policy MC6 states that within the Main Centres, new convenience and comparison retail provision will be supported and encouraged. 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 application was initially deferred to request further information regarding to the ramp and a few issues highlighted by Environmental Health. The agent provided information to which Environmental Health responded suggesting some conditions. The first condition dealt with issues that fall within Building Controls remit and not Development Control. The other two conditions would be unreasonable to add to the decision when other similar establishments have not had the same prescriptive controls added to their applications.

The change of use and the internal changes will not affect the special quality of the surrounding Conservation Area because there will be no external changes. The addition of a ground floor accessible WC is not considered to affect the special interest of the protected building and is considered acceptable.

The other issue for which the application was initially deferred was the addition of a ramp to the western doorway, which has a step. It was felt that without details of the ramp and how it was going to affect the protected building no approvals could be given. The applicants have now confirmed that the ramp will now be a portable ramp which will be put in place when needed and then stored away when not needed.

A portable ramp is considered to be the best solution for disabled access into the building, as it will provide the ramp without compromising the historic entrance to the building, which forms part of the special interest of the protected building.

Confirmation has been received that the development proposed has been designed to take into account matters of energy efficiency and current Building Regulations in accordance with Policy GP9.

The proposals are considered to conform to the above policies of the Island Development Plan and grant of permission is recommended, subject to conditions.

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.

Recommendation:

Grant with Conditions



Date: 14/10/2022

