

THE LAND PLANNING AND DEVELOPMENT (GUERNSEY) LAW, 2005

AND SECTION 19 OF THE LAND PLANNING AND DEVELOPMENT (GENERAL PROVISIONS) ORDINANCE, 2007

NOTIFICATION OF REFUSAL OF PLANNING PERMISSION

PROPOSALS: Change of use of garage/studio from Residential (Use Class 1) to Architects Office (Residential Use Class 5).

LOCATION: Bon Air, Le Rocher Road, St. Martin.

APPLICANT: Mr & Mrs R J Mahy

I refer to the application referred to below received as valid on 07/06/2022 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 29/12/2022

Drawing Nos: Create Ltd - 600-3-013B, 014B & 015A

Application Ref: FULL/2022/1218

Property Ref: J01295A000

The Development & Planning Authority has decided to refuse your application under the provisions of section 16 of the Land Planning and Development (Guernsey) Law, 2005 for the following reasons:-

1. The scale of the business proposed in this case would not be ancillary to the principal residential use of the site for the purposes of Island Development Plan Policy GP14: Home Based Employment. The proposal would in effect represent a new office development Outside of the Centres and therefore would be beyond the scope, nature and scale of home-based businesses permitted under the provisions of Policy GP14. New office development Outside of the Centres is allowed under Policy OC3: Offices, Industry and Storage and Distribution Outside of the Centres only where it involves the conversion of a redundant building, which is not applicable in this case and the proposal therefore would fail to comply with Policy OC3.

OTHER REMARKS:-**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, against a decision to refuse an application for planning permission or outline planning permission to the Planning Tribunal on the merits. 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.

Copy of representations made

In reaching this decision the Development & Planning 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 to the Authority under section 11 will be included with this decision in accordance with section 19 of the Ordinance.

A J ROWLES

Director of Planning
Planning Service



PLANNING APPLICATION REPORT

Application No: FULL/2022/1218
Property Ref: J01295A000
Valid date: 07/06/2022
Location: Bon Air Le Rocher Road St. Martin Guernsey GY4 6EL
Proposal: Change of use of garage/studio from Residential (Use Class 1) to Architects Office (Residential Use Class 5).
Applicant: Mr & Mrs R J Mahy

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The scale of the business proposed in this case would not be ancillary to the principal residential use of the site for the purposes of Island Development Plan Policy GP14: Home Based Employment. The proposal would in effect represent a new office development Outside of the Centres and therefore would be beyond the scope, nature and scale of home-based businesses permitted under the provisions of Policy GP14. New office development Outside of the Centres is allowed under Policy OC3: Offices, Industry and Storage and Distribution Outside of the Centres only where it involves the conversion of a redundant building, which is not applicable in this case and the proposal therefore would fail to comply with Policy OC3.

OFFICER'S REPORT

Site Description:

The application site comprises a detached bungalow with a large, detached outbuilding to the rear and a stable to the west of the house.

The property is situated Outside of the Centres as defined in the Island Development Plan.

Planning permission was granted in 2020 to demolish the dwelling and erect a replacement dwelling. The permission (FULL/2020/0044) also included erecting a two-storey detached garage/studio with an external staircase.

Relevant History:

FULL/2021/1349	Variation to previously approved plans to demolish existing and erect dwelling and detached garage/studio - enlarge dormer and install Juliet balcony to north (rear) elevation and alterations to fenestration of dwelling and detached garage/studio.	Granted
FULL/2020/0044	Demolish existing and erect dwelling, erect two storey detached garage/studio with external staircase. Remove hedge, erect retaining wall and pedestrian gate.	Granted
FULL/2019/0104	Alterations to outbuilding to rear of dwelling: Alter roof form of north-west wing to form 1st floor flat roof extension. Enclose veranda, install external cladding and alter fenestration.	Granted
FULL/2017/0992	Remove section of roadside earth bank to create wider vehicular access and erect automatic gates.	Granted

Existing Use(s):

Residential

Brief Description of Development:

Planning permission is sought to change the use of the garage/studio from Residential (Use Class 1) to an architect's office (residential use class 5). The change of use encompasses the entirety of the first floor which will serve as office accommodation, together with a room on the ground floor to serve as a printer room, computer server room and general store associated with the business.

The application was deferred in order to gain further information in relation to the proposed development.

The agent has provided further information and has noted the following points:

Number of employees: 4 (+1 occupier of dwelling). 5 in total.
Number of visitors: Max 2-3 per week.
Parking provision: 5 spaces on driveway (+1 temporary)
1 space within garage (+1 micro car space)
Turning point: GTS part P compliant turning does not intersect with any parking areas.

It is stated by the applicant in their e-mail of 1st September 2022 that:

"[The] architectural practice does intend to use this studio office as a base. However, as outlined within the justification statements in the drawings, it is of a scale and operational nature that follows the guidance as set out for GP14. Through both a matter of the business downsizing, and through technology enablement and home working, the architectural practice moving to this site would not significantly impact the surrounding area".

The agent has also submitted a supporting document from a Planning Consultant in support of the application which seeks to address the scale and intensity of the proposed Architects Office, parking provision, traffic movements and local amenity, and precedent.

It is noted within paragraph 2.1 that the office space will host a maximum of 5 desk workspaces around the perimeter of the room (allowing for the potential that an additional employee might be recruited in the future).

References to a 'microbusiness' is also noted from a UK and EU context which generally involve less than 10 people and most operate from a small office space or run their businesses from their home.

Suggestions over conditioning the number of employees to restrict the number of employees associated with the business and in future are included within the letter.

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

OC3 Offices, industry and Storage and Distribution Outside of the Centres.
GP14 Home Based Employment
IP7 Private and communal parking
IP9 Highway Safety, Accessibility and Capacity

Representations:

None.

Consultations:

None

Summary of Issues:

- Whether the proposed business falls within the scope of Policy GP14 (Home Based Employment).
- Whether the design, scale, mass, siting, form and materials of the development is acceptable.
- The impact of the development on the character and appearance of the area.
- The impact of the development on neighbour amenity.

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).

The principle for erecting a detached two storey garage to be used ancillary to the dwelling-house has been granted planning permission under application FULL/2020/0044, therefore its physical design has already been determined and is compliant with criterion 'c' of Policy GP14. It is understood that works have commenced on site.

The application is in relation to the use of the approved garage changing from Residential Use Class 1 (Dwelling-House) to Residential Use Class 5 (Use of part of dwelling for business purposes).

Policy GP14 (Home Based Employment) is the gateway policy in assessing this application. Both the policy text and preceding text have equal weight and must be read together, and in context.

The preceding text explains that the Strategic Land Use Plan (SLUP) requires limited provision for small-scale office-based businesses, and other small-scale businesses outside of the Centres.

Paragraph 19.15.2 of Policy GP14 states that:

“Working from home can reduce the demand for additional business accommodation, allows people to start up a 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. It is therefore a good example of sustainable development and will be encouraged where it will not have an adverse impact on neighbouring residents or the surrounding area as a result of increased activity and disturbance.”

Uses that may be acceptable under Policy GP14 typically employ a low number of people, have a low intensity of use, do not require a significant level of support services, and are of a scale and form which do not detract from the character of the surroundings. These acceptable type of businesses rely on modern technology and communications which can reasonably be carried out from a residential property. Conditions may be attached to limit the hours of work, type of activities, and restriction of the business to the occupier.

It is noted in Policy GP14 that any development relating to home-based employment must be ancillary to the principal residential use of the site and therefore does not represent new office, retail or industry Outside of the Centres.

The policy text states that:

“The use of part of a dwelling, or the conversion or erection of a building within the curtilage of a dwelling, for the purpose of a business carried out by the occupier will generally be supported where:

a. the principal use of the site will clearly remain residential use by the occupier; and,

b. the use will not lead to any unacceptable detrimental impacts on the amenity of the area or the amenities of nearby residents; and,
c. in the case of the erection of a new building, the proposal accords with all other relevant policies of the Island Development Plan."

In light of the policy context above, the principle to allow an architectural business to operate in a residential setting that is ancillary to the dwelling-house could be favourably considered under policy. In this hypothetical scenario, a single architect, or an architect and their assistant could reasonably be considered to fit within the scope and nature of the provisions of Policy GP14.

However, the scale and intensity of the business and its consequential effects on neighbour amenity, and amenity of the area, are the main issues that are considered below.

The agent and planning consultant have set out that it is the intention that 5 members of staff (including the householder) would be operating from the proposed premises. Whilst it is acknowledged that the word 'low' is not defined in the IDP with regards to home-based businesses, it would be reasonable to conclude that the scale and intensity of the business would be beyond the scope of what is afforded in Policy GP14. The proposal would be akin to a 'medium' sized office-based business for the purposes of Policy GP14.

By way of context, the general ethos and intention of Policy GP14 is to enable start-up businesses to operate within the householder's residential dwelling due to the low cost in overheads and premises cost. Should such business develop and expand its operations, including the number of employees, it would likely constitute a material change of use and at that point, the business would be directed and encouraged to operate within the Centres in accordance with the Spatial Policy, to a building and use class that is more appropriate, and away from residential use.

Notwithstanding the reference to 'microbusiness' in support of the application, enabling an established architectural business of this size, operating Outside of the Centres and within a residential property, would be contrary to the overarching Spatial Policy and direction of the Island Development Plan and Policy GP14. In addition, an established business of this size would not be ancillary to the principal residential use of the site and would represent a new office use Outside of the Centres.

Allowing a business of this size and intensity would increase traffic movements in this rural lane. The number of vehicular movements per day from 4 employees (excluding the householder/employer), twice a day, together with the anticipated number of clients visiting the premises per week would be substantially greater than the current use of the site and would represent a detrimental effect to nearby residents with regards to noise and disturbance and the amenity of the area. In addition, no anticipated movements have been provided in relation to staff members visiting their client's properties and/or sites per day/week which would increase the number of vehicular movements per day/week.

It is acknowledged that the mode of working has become more remote and IT dependent in recent years. Applying planning conditions to limit the number of employees using the premises at any one time would fail to meet with the '6 tests' of applying planning conditions to a decision. This would lead to monitoring issues from an Enforcement perspective should a certain number of employees be using the site at any one time, and therefore would be unreasonable to apply a condition. Similarly, issues of enforceability and reasonableness would occur should the number of vehicular movements to and from the premises be controlled by condition in attempt to limit disturbance to neighbouring residents. In addition, due to the application site's relatively remote location compared to the Main or Local Centres, it would be unlikely that employees would travel to and from work using non-motorised or public means of transport.

Conclusion:

The combination of the number of employees, together with the number of comings and goings per day and week, the resultant disturbance to neighbouring residents and the amenity of these rural surroundings, and the intention and ethos of Policy GP14, leads to the conclusion that the application would not fall within the scope of Policy GP14 and would represent an independent, established architectural business that would be operating Outside of the Centres in a residential setting which would conflict with the relevant planning policies.

The proposal, in its current form, would represent new office development Outside of the Centres (Policy OC3 Offices, Industry and Storage and Distribution Outside of the Centres) and therefore is only allowed where it involves the conversion of a redundant building, which is not applicable in this case and therefore would fail to comply with Policy OC3.

Date: 19/12/2022

