

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 restaurant (class 11).

LOCATION: 13 Mill Street, St. Peter Port.

APPLICANT: Mr A Kiskunas

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: 10/11/2023

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 15/07/2022 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Block Layout Plan and Ground Floor Plan (both dated 15/07/22).

Application Ref: FULL/2022/1248

Property Ref: A301260000

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.Between 07:00 and 23:00 hours on each day, the maximum noise level of music from the premises must not exceed 76 dB(A).

Reason - The premises are close to residential property and a limit on noise from the premises is needed to prevent a nuisance or annoyance to nearby residents.

5.Between 07:00 and 23:00 hours on each day, the internal noise level within the existing residential accommodation above the premises as a result of the use of the ground floor of the premises must not exceed 30 dB(A).

Reason - The premises are close to residential property and a limit on noise from the premises is needed to prevent a nuisance or annoyance to nearby residents.

6.Between 23:00 and 00:45 hours on each day, the maximum noise level of music from the premises must not exceed 71 dB(A).

Reason - The premises are close to residential property and a limit on noise from the premises is needed to prevent a nuisance or annoyance to nearby residents.

7.Between 23:00 and 00:45 hours on each day, the internal noise level within the existing residential accommodation above the premises as a result of the use of the ground floor of the premises must not exceed 25 dB(A).

Reason - The premises are close to residential property and a limit on noise from the premises is needed to prevent a nuisance or annoyance to nearby residents.

Expiry Date: This permission will cease to have effect on 09/11/2026 unless development is commenced by that date.

ADVICE AND OTHER REMARKS:-

It is recommended that premises users control the volume of more intrusive bass frequencies, and that excessively loud bass is avoided. Reducing lower frequencies will result in a lowering of the more prominent frequencies that are generally more perceptible and can cause adverse impacts on residents.

The premises will be required to apply for a Liquor Licence, on which the Office of Environmental Health and Pollution Regulation (OEHPR) will be consulted. The applicant should note that the OEHPR may request conditions are applied to a granted Liquor Licence to control noise from the premises.

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/2022/1248
Property Ref: A301260000
Valid date: 15/07/2022
Location: 13 Mill Street St. Peter Port Guernsey GY1 1HG
Proposal: Change of use from retail use (class 10) to restaurant (class 11).

Applicant: Mr A Kiskunas

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. Between 07:00 and 23:00 hours on each day, the maximum noise level of music from the premises must not exceed 76 dB(A).

Reason - The premises are close to residential property and a limit on noise from the premises is needed to prevent a nuisance or annoyance to nearby residents.

5. Between 07:00 and 23:00 hours on each day, the internal noise level within the existing residential accommodation above the premises as a result of the use of the ground floor of the premises must not exceed 30 dB(A).

Reason - The premises are close to residential property and a limit on noise from the premises is needed to prevent a nuisance or annoyance to nearby residents.

6. Between 23:00 and 00:45 hours on each day, the maximum noise level of music from the premises must not exceed 71 dB(A).

Reason - The premises are close to residential property and a limit on noise from the premises is needed to prevent a nuisance or annoyance to nearby residents.

7. Between 23:00 and 00:45 hours on each day, the internal noise level within the existing residential accommodation above the premises as a result of the use of the ground floor of the premises must not exceed 25 dB(A).

Reason - The premises are close to residential property and a limit on noise from the premises is needed to prevent a nuisance or annoyance to nearby residents.

INFORMATIVES

It is recommended that premises users control the volume of more intrusive bass frequencies, and that excessively loud bass is avoided. Reducing lower frequencies will result in a lowering of the more prominent frequencies that are generally more perceptible and can cause adverse impacts on residents.

The premises will be required to apply for a Liquor Licence, on which the Office of Environmental Health and Pollution Regulation (OEHPR) will be consulted. The applicant should note that the OEHPR may request conditions are applied to a granted Liquor Licence to control noise from the premises.

OFFICER'S REPORT

Brief Description of the site:

The premises known as 13 Mill Street is a three storey building which faces east directly on to Mill Street, there is an attached building to the north, a walkway at ground level and another building beyond to the south. The property is located

within the St Peter Port Main Centre and Conservation Area as defined in the Island Development Plan.

Relevant History:

There is no relevant history pertaining to this application.

Existing Use(s):

Retail use class 10: general retail

Assessment: *(Tick as appropriate)*

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

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

Policies considered most relevant:

MC6: Retail in Main Centres
GP4: Conservation Areas
GP5: Protected Buildings (Setting)
GP8: Design

Consultations:

The Office of Environmental Health and Pollution Regulation.

'I have reviewed the additional information submitted by the applicant regarding the proposed plans for the change of use from retail use (Retail use class 10) to restaurant (Retail use class 11). It is noted that the applicant intends to operate the premises as a cocktail bar with 'background music' being played.

Having reviewed the Acoustic Design Review letter produced by Aura (Sound & Air) Limited, dated 17th October 2023, reference M84.1 V1, I am concerned that noise coming from the proposed cocktail bar could potentially negatively impact occupants of the residential accommodation at the upper floor level of the premises.

In line with the recommendations and limitations detailed in section 5 (Discussion) of the Acoustic Design Review letter, I recommend the following conditions are attached to any granted consent, to protect the amenity of residents living in the nearest noise sensitive property:

- Between 07:00 and 23:00 hours on each day, the maximum noise level of music from the premises must not exceed 76 dB(A).*

- *Between 07:00 and 23:00 hours on each day, the internal noise level in existing residential accommodation above the premises must not exceed 30 dB(A).*
- *Between 23:00 and 00:45 hours on each day, the maximum noise level of music from the premises must not exceed 71 dB(A).*
- *Between 23:00 and 00:45 hours on each day, the internal noise level in existing residential accommodation above the premises must not exceed 25 dB(A).*

In addition to these recommended conditions, I would ask that the following advisory notes are also added to any granted consent:

Advisory notes:

- *It is recommended that premises users control the volume of more intrusive bass frequencies, and that excessively loud bass is avoided. Reducing lower frequencies will result in a lowering of the more prominent frequencies that are generally more perceptible and can cause adverse impacts on residents.*
- *The premises will be required to apply for a Liquor Licence, on which the Office of Environmental Health and Pollution Regulation (OEHPR) will be consulted. The applicant should note that the OEHPR may request conditions are applied to a granted Liquor Licence to control noise from the premises.*

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

Conclusion/Brief comment:

This application is for a change of use from general retail (use class 10) to food (use class 11) to use as part of the restaurant, the unit is to become a cocktail bar separate from the restaurant.

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.

There will be no changes to the exterior of the building so the special quality of the character and appearance of the surrounding Conservation Area will be retained. Therefore policies GP4 and GP5 are complied with.

On receipt of the Environmental Health comments (see above) there are some concerns about the possible noise coming from the proposed cocktail bar and the potential to negatively impact occupants of the residential accommodation at the

upper floor level of the premises and other nearby residents. To mitigate these concerns it is recommended that conditions are applied with the aim of restricting noise levels to below specified limits. Provided that the noise limits are complied with, the proposed use is unlikely to have a material adverse effect on the amenities of neighbouring residents.

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: 09/11/2022