

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 ground, first and second floor levels to create 3 flats (Residential Use Class 2) (revised scheme).

LOCATION: 15 New Street, St. Peter Port.

APPLICANT: Cambria House Ltd

I refer to the application referred to below received as valid on 27/06/2022 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 20/09/2022

Drawing Nos: Naftel Associates - A200704 (01)600 B, (01)601 A & (01)700 O.

Application Ref: FULL/2022/1373

Property Ref: A201020000

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 development as proposed does not represent a good standard of design as the development would, by virtue of its proximity to and relationship with the adjoining flats at Roselle Place result in an unacceptable degree of overlooking from level 2 accommodation and external staircase of Roselle Place to proposed flat 2 and mutual overlooking between the level 2 of Roselle Place and proposed flat 3 to the detriment of the amenities enjoyed by the occupiers of both buildings.

The occupiers of the proposed flats, units 2 and 3, would be served by unsatisfactory daylight and outlook from the windows in the west elevation which would be detrimental to the amenities, health and well-being that future occupiers could reasonably expect to enjoy.

The scheme is therefore contrary to Policies GP8 a. and d. and GP9 b. of the Island Development Plan.

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/2022/1373
Property Ref: A201020000
Valid date: 27/06/2022
Location: 15 New Street St. Peter Port Guernsey GY1 2PQ
Proposal: Change of use of ground, first and second floor levels to create 3 flats (Residential Use Class 2) (revised scheme).
Applicant: Cambria House Ltd

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

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The scheme is therefore contrary to Policies GP8 a. and d. and GP9 b. of the Island Development Plan.

OFFICER'S REPORT

Site Description:

The application site comprises a four-storey building situated to the west of New Street in St Peter Port. The building is currently vacant but its authorised use is office over the ground, first and second floor, with two residential apartments above.

The site is situated within a Main Centre Inner Area and a Conservation Area as designated in the Island Development Plan.

Relevant History:

PAPP/2007/0618	Change of use of 2 flats to offices	Refused 21/05/2007
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Existing Use(s):

Office use (ground, first and second floors)

Residential (two flats on the third floor)

Brief Description of Development:

Planning permission is sought for the change of use of the ground, first and second floor levels to create three flats (Residential Use Class 2).

Ground floor

- Unit 1 – 1 bedroom
- Secure store for 5 units
- Refuse store

First floor

- Unit 2 – 3 bedroom

Second floor

- Unit 3 – 3 bedroom

Third floor (currently in residential use)

- Unit 4 – 1/2 bed (see FULL/2020/0378 for second bedroom)
- Unit 5 – 1 bedroom with proposed formation of a second bedroom by installing internal partition walls

The application has been accompanied by a Waste Management Plan, Concept Design document and Photographic Survey.

The drawings were amended to address an error relating to a window on the first floor (shown but which does not exist). The agent also offered to omit obscure glazed windows from the first floor proposed master bedroom.

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

MC2: Housing in Main Centres and Main Centre Outer Areas;

MC4(A): Office Development in Main Centres;

GP4: Conservation Areas;

GP8: Design;

GP9: Sustainable Development;

IP6: Transport infrastructure and support facilities;

IP7: Private and Communal Car Parking.

Representations:

One letter of representation has been submitted querying the number of flats the scheme relates to and expressing concerns about the Alleyway Analysis which forms part of the submission. It notes that the staircase at Roselle Place is used by residents of 5 apartments to gain access between the garage and flats. It is also noted that there is no parking proposed and it is assumed that another application will be made to purchase and convert the ground adjacent to 15 New Street into parking.

Consultations:

None

Summary of Issues:

- Whether the loss of office accommodation and the principle of residential development is acceptable in this location;
- Design and impact of the development on the character and appearance of the Conservation Area
- Impact on neighbour amenity;
- Whether the proposal would provide a good living environment for future occupiers;
- Parking and cycle storage.

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.

Whether the loss of office accommodation and the principle of residential development is acceptable in this location.

Policy MC4(A): (Office Development in Main Centres) supports proposals to change the use in specific circumstances. As the office floorspace involved in the conversion of the building exceeds 250m², criterion (a) of policy MC4(A) must therefore be satisfied in this case.

As part of the application a letter has been submitted from MRB Surveyors dated 13 April 2021. The letter describes 15 New Street as secondary office space, subservient to such prime office space available elsewhere in St Peter Port (such as Admiral Park). The information states that 15 New Street was not constructed with modern office requirements in mind and confirms that it cannot be easily refurbished to meet modern needs given its construction, service routes, facilities and limited floor to ceiling heights.

Furthermore, vertical access to the upper floors is by stairs only and accessibility is a prominent issue for modern companies.

The applicant's agent has confirmed that 15 New Street has been vacant for 12 years and extensively marketed over a period of 12 years. For the last two and a half years the property has been marketed with a number of commercial letting agents locally. Incentives were also offered to potential tenants to obtain an occupier and it was made clear that the landlord would accept any reasonable offer, irrespective no substantive interest has been shown to let the property for its current office use.

Based on the above Criterion (a) of Policy MC4(A) has been satisfied and the loss of office accommodation at this site for an alternative use is acceptable.

As the site is located in the Main Centre the Island Development Plan supports new housing development in principle. The completed development will comprise a mixture of 1 and three bedroom units and is not located within an area of Important Open Land, therefore criterion b. is addressed and c. is not relevant in this case.

As the proposal would see an existing building reused this would represent efficient and effective use of land in line with Policy GP8 criterion b. It should be noted however, that the objective to build at high densities must be balanced against, and will not override, the need to create acceptable living environments.

The case is assessed against all other relevant policies of the IDP in the following sections of this report.

Design and impact of the development on the character and appearance of the Conservation Area

All of the proposed units of accommodation will be contained within the envelope of the existing building and no external alterations are proposed, although the agent has confirmed that first floor obscure glazed windows could be switched for clear glass if considered necessary. The proposal would not harm the character or appearance of the surrounding Conservation Area and accords with the aims of Policy GP4 of the IDP and also respects the character of the local built environment in line with policy GP8 criterion c.

Health and well-being

Policy GP8 however requires that the units created consider the health and well-being of the occupiers by means of providing adequate daylight, sunlight and private/communal open space, and directs proposals to be considered against Annex 1 of the Plan: Amenities.

New developments should be planned and built to support the health and well-being of occupants and users and maintain appropriate amenities for those of neighbouring property.

The Annex sets out that building at higher densities brings challenges with respect to ensuring reasonable amenities are provided. There must be a balance between the most effective and efficient use of land and the requirement to ensure that proposed living and working conditions are acceptable and that the higher density Main Centres, in particular, remain attractive places to live and work.

Whether the proposal would provide a good living environment for future occupiers

- Aspect/Outlook
- Daylight/Sunlight

The Annex seeks opportunities for development occupiers to benefit from interesting or attractive outlook within the urban centre identified for example, as views over urban open spaces, public parks, landscape features or longer vistas over the townscape.

The Annex considers sunlight alongside daylight and their ability to enter a building will not, alone, be a determining factor when considering development proposals, providing that other amenities objectives are appropriately addressed. All new developments are encouraged to provide adequate levels of daylight and sunlight to all rooms, or at least principal rooms, gardens, balconies or communal external open spaces; these aspirations are qualified for sunlight by “where possible”. This reflects the constraints imposed by aspect relative to the movement of the sun, shading by existing development, and, in the case of converting existing buildings, its physical constraints.

The scheme proposes the formation of a single unit of residential accommodation on each of the ground, first and second floors of 15 New Street. As a result, all units are dual aspect (front and rear or front and side) but light and aspect/outlook from those windows facing Roselle Place will be severely constricted as a result of the close relationship between the two buildings when considering the future living environment and standard of accommodation that should be afforded to future occupiers. The effect of this on the future living environment of occupiers is sought to be managed through the internal layout. The ground floor apartment will have kitchen/utility room windows facing Roselle Place whilst the upper floors would introduce bedrooms facing west, concentrating primary living accommodation to the east and facing towards the office development on the opposite side of New Street. As a result, the aspect and outlook associated with flat 1 is considered satisfactory and whilst daylight may be somewhat unsatisfactory on balance this is considered acceptable.

With regard to flats 2 and 3 the accommodation would benefit from some morning sunlight. In this case, outlook would be unavoidably limited by the density and height of surrounding development and the quality would be poor. Outlook would be poor to the rear of the building given its relationship with Roselle Place and this, combined with unsatisfactory daylight provision does not satisfactorily address the health and well-being of future occupiers of these units.

In this case, windows to the first-floor master bedroom are currently obscure glazed which would offer an unsatisfactory level of outlook associated with this accommodation and which does not satisfactorily consider the health and well-being of

future occupiers. The agent in this case has however, indicated that these windows could be replaced with clear glass but this would contribute to and compound issues relating to overlooking and loss of privacy as discussed elsewhere in this report.

Flats 4 and 5 on the third floor are existing and do not form part of the assessment of this scheme.

- Privacy

The Annex states that development will be expected to be designed with windows an adequate distance apart and / or suitably orientated to ensure that the level of privacy that could reasonably be expected to be enjoyed by an occupier is not adversely affected and that the use of obscure glazing alone to achieve privacy will not, normally, be considered acceptable.

This tight relationship between 15 New Street and Roselle Place would result in a development that would impact on the privacy of future occupiers given the significant number of windows and access staircase in the east elevation of Roselle Place. The windows at Roselle Place generally serve bedrooms, kitchens, bathrooms, lobbies/stairwells however there would be overlooking and mutual overlooking between the residential accommodation in the two buildings; in particular, between the proposed second floor accommodation (flat 3) and level 2 of Roselle Place and level 2 of Roselle Place into the first floor flat (flat 2) proposed. Overlooking and loss of privacy would also affect the occupiers of flat 2 by residents and visitors to Roselle Place using the external staircase to travel between the garage and flats.

The existing first floor obscure glazed windows serving flat 2 would prevent mutual overlooking between the accommodation and level 2 accommodation at Roselle Place but as outlined above does present issues relating to outlook, health and well-being of future occupiers.

- Access to external open space

The Annex states that the value of external open space becomes increasingly important in higher density development with all development having safe and convenient access to it.

None of the new units (ground, first and second floors) would benefit from access to external open space and units 2 and 3 are of sufficient size to be occupied by families. Regard has however been had to the Planning Tribunal decision at 7 Berthelot Street (application reference FULL/2018/2060) which is close by and which concluded:

“the property is located in the centre of the Town, only a few minutes’ walk from the harbour front and an area known locally as the “Sunken Garden”. A little further away, but still within easy walking or cycling distance, are the Candie Gardens and the attractions of the coast, including the Havelet Bay and the La Vallette bathing pools. The property would be very well located with respect to these facilities for casual relaxation, interest and exercise, easily making up for any perceived shortcomings in some of the on-site provision”.

There would be provision of space within the apartments for a tumble drier in lieu of external space for clothes drying (utility or storage space) and on balance access to external open space is considered satisfactory.

- internal space provision

The three proposed flats exceed Part G of the Building Regulations and the DCLG space standards which represent best practice offering good internal space provision for future occupiers.

- Accessibility and flexible accommodation

It is noted that all floors are currently served by a staircase only and which would not alter as a result of the development. This would likely preclude access for wheelchair users however, the staircase would offer access to the upper floors by ambulant disabled. The existing building presents some barriers to accessibility for people of all ages and abilities. The layout of the units proposed could also be adapted at a later date to meet the changing needs of occupiers (e.g. grab rails in WCs/bathrooms, installation of hoists provided bedroom and bathroom ceilings are constructed in an appropriate manner and careful and appropriate siting of service controls) and in the balance would see an underused building brought back into use. The scheme therefore addresses GP8 criteria f. and g.

- Conclusions

The proposed ground floor flat, given the proposed internal layout would offer satisfactory internal space, privacy, aspect/outlook and access to external open space. Although some reservations exist regarding sunlight and daylight, in the Annex these are not a determining factor and on balance this unit is considered to have satisfactorily considered the health and well-being of occupiers.

Flat 2 on the first floor would also offer satisfactory internal space and access to external open space. Some reservations exist in relation to privacy however, given the relationship of this first floor accommodation to level 2 accommodation at Roselle Place, where the windows are set above the level of the windows at 15 New Street the potential for overlooking and loss of privacy would be more limited. Nonetheless, the future occupiers of flat 2 would suffer from overlooking from level 2 of Roselle Place windows and external stairs. The combined effect of a lack of aspect/outlook from the three bedrooms along with unsatisfactory daylight and sunlight provision would lead to a unit of residential accommodation that has not satisfactorily considered the health and well-being of future occupiers.

Flat 3 on the second floor would offer appropriate internal space and access to external open space but would not be provided with satisfactory privacy, outlook, sunlight and daylight from the proposed bedrooms which does not satisfactorily consider the health and well-being of future occupiers.

Flats 4 and 5 on the third floor are existing therefore have not been assessed for the purpose of the application. The creation of a second bedroom by inserting partition walls does not require planning permission.

The different amenity objectives must be balanced with the objective of seeking to make maximum use of urban developments. Whilst the development is within a tight urban location, the first and second floor accommodation fail on so many factors of health and well-being that cannot reasonably be balanced by the good internal space standards, access to external open space nor making maximum use of sites in urban areas. The scheme, in relation to units 2 and 3, does not represent a good standard of design and is contrary to Policy GP8 criteria a. and d.

Impact on neighbour amenity

Unit 1 has four high level windows facing a blank wall and undercroft car park at Roselle Place. The windows are to serve a kitchen and utility room and will not result in harm to the amenities of occupiers of the adjoining development.

Units 2 and 3 will have multiple bedroom windows facing Roselle Place. Unit 2, at first floor level will sit at a lower level than the level 2 windows (above the parking area) at Roselle Place which would limit the potential for direct overlooking from the proposed accommodation to the existing adjoining flats. It is acknowledged however, that the introduction of a residential use in place of the day time, office use would increase the perception of overlooking and loss of privacy to the occupiers of the adjoining apartments/duplexes. With regard to unit 3, at second floor level however, there would be a high degree of overlooking to the level 2 windows at Roselle Place given the elevated position of the windows at 15 New Street which would afford views down into this adjoining accommodation.

Although various windows in the east elevation of Roselle Place are obscure glazed this, and the obscure glazed windows on the first floor at 15 New Street is not considered to satisfactorily address the potential for overlooking and loss of privacy to the occupiers of Roselle Place from flat 3 in particular contrary to Policy GP8 criterion d. and GP 9 criterion b. of the IDP.

Parking and cycle parking provision

Although comments have been raised regarding anticipated future parking provision the application must be assessed on the basis of the information provided, that the site will not be served by any off-road parking. The site is located in a highly sustainable location, within walking distance of local services and facilities. The scheme incorporates individual storage areas for each flat which is welcomed and these could provide the occupiers of the development with the opportunity for secure, covered cycle storage in line with the aims of Policies IP6 and IP7 of the IDP. It is acknowledged however, that given the stepped access to the building this will not be convenient for this purpose.

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: 20 September 2022

