

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 of ground floor restaurant/takeaway (use class 11) to flat (use class 2). Remove external staircase and erect two storey extension (north-west elevation) and alterations to ground floor fenestration. Create inverted balcony to south-west (front) to existing 1st floor flat and erect roadside boundary wall.

LOCATION: La Plage, Route Des Sablons, L'Eree, St. Pierre Du Bois.

APPLICANT: Ms L Letten

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: 29/11/2022

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 14/09/2022 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Application Block Layout Plan, Block Plan (1:200_ and Leslie Burgher Architect - 2219A 004C

Application Ref: FULL/2022/1650

Property Ref: F00162A000

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.

Expiry Date: This permission will cease to have effect on 28/11/2025 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/2022/1650
Property Ref: F00162A000
Valid date: 14/09/2022
Location: La Plage Route Des Sablons L'Eree L'Eree St. Pierre Du Bois
Guernsey GY7 9LN
Proposal: Change of use of ground floor restaurant/takeaway (use class 11) to flat (use class 2). Remove external staircase and erect two storey extension (north-west elevation) and alterations to ground floor fenestration. Create inverted balcony to south-west (front) to existing 1st floor flat and erect roadside boundary wall.

Applicant: Ms L Letten

RECOMMENDATION - Grant: Planning Permission with Conditions:

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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.

OFFICER'S REPORT

Site Description:

La Plage, Route Des Sablons is a detached, one and a half-storey pitched roof building with gable facing the road and dormers to both the northwest and southeast roofslopes. Ground floor and first floor windows face southwest onto the coast road. The property has a granite and render exterior with PVCu windows and doors. An external staircase is situated to the rear/northeast of the building and serves the first floor flat. The ground floor is currently vacant but has been occupied by various restaurants in recent years. To the immediate northwest is an access driveway associated with the adjoining restaurant, currently occupied by Taste of India. To the southeast is a single-storey dwelling with ground floor windows facing the common boundary which is marked by a granite wall.

The site is located Outside of the Centres as designated in the Island Development Plan.

Relevant History:

Pre-application advice was sought in this case.

FULL/2015/1183 - Change of Use from cafe (Retail use Class 15) to cafe for sale of hot food to take away (Retail use classes 15 & 16) (Retrospective) and construction of external ducting on rear (south east side) with acoustic fencing, replace two signs – granted

FULL/2013/3516 - Change of use from Retail Use Class 15 to Retail Use Class 15 & 16 (retrospective) and construction of external extract ducting on rear (south east) elevation (revised) – refused

Existing Use(s):

02 flat

11 food for consumption on the premises

Brief Description of Development:

The application relates to the change of use of the ground floor from a restaurant to a flat and for the removal of the external staircase, construction of a one and a half

storey rear extension to house the staircase for the first floor flat. Alterations to fenestration are also proposed both to the proposed ground floor unit and the existing first floor flat.

The application has been accompanied by a statement setting out that following pre-application discussions in August 2021 the restaurant reopened under the name Sahara City however, the business closed after less than two months due to a lack of viability and no further interest in the premises has been forthcoming.

The application was deferred in order for more information to be provided relating to the retail history of the premises. The applicant has provided further information by way of a letter and other supporting documents. The letter does not specifically refer to a minor departure from the Island Development Plan.

The letter outlines that the site was purchased in July 2007 and was operated as a café/restaurant until March 2008. A 14 year lease was agreed although between April 2008 and 2011 the operator, Channel Hotel & Properties, did have some periods of closure. It was revamped/branded but it was not successful and in 2014 it was sublet albeit in breach of planning control (chip shop). Various applications were submitted and restrictions applied to the operation as a chip shop but with issues relating to noise and odours affecting neighbours the premises was sublet again in 2017. The tenant at that time left the property empty for much of the time due to the noise generated by fans which impacted on neighbours and which were onerous to resolve. The planning restrictions placed on the premises preventing breakfast openings meant it was not viable.

The property was then leased again for several years with some interested but which did not proceed.

A tenant was found again in 2021 but they operated for only 2 months citing restrictions and lack of business as the reasons why the business was not profitable. The premises has remained empty since.

It should also be noted that local residents are against its operation as a restaurant and this has been ongoing since 2007/8. Attention is also drawn to the benefit the unit of accommodation would have to the current housing situation and the unlikely event that a tenant would be found for the restaurant/café use with off-site parking only available and the bleak position in winter.

Supporting documents:

- Pre-application enquiry 2021/1585
- Letter from former tenant (chip shop) dated 7/11/2022 highlighting the difficulties experienced in operating from the premises
- Online news article 25/09/2013 highlighting the restrictions placed on the business by the Planning Service regarding takeaways
- Online news article 25/10/2013 highlighting plans for new extractor to address planning concerns

- Online comments in relation to news articles x 2
- Planning Service letter 05/09/2017 re: breach of planning conditions
- Online news article (undated) highlighting that the chip shop had shut down due to opening hours restrictions
- Email from Rock Commercial (undated) confirming that the flat and chip shop were marketed during a period in 2020 and 2021 resulting in significant interest but none with a lease being agreed
- Property Skipper marketing information for the premises (undated)
- Copy of Guernsey Press article submitted with original application submission, headline 'Planning Constraints made L'Eree restaurant unviable'
- Email between applicant and last restaurant operator (Sahara City) (undated) highlighting the restrictions and challenges for this property
 - Operating hours restricted
 - Operating hours of equipment restricted
 - Signage limited to specific size/shape
 - Limitation on illuminated external signage
 - Repairs to a fence to the rear to avoid fines
 - No onsite car parking and no option for drive-through/collection window
- Online news article (14/01/2022) highlighting that planning constraints have made this an unviable location for a restaurant
- Planning Service letter 15/09/2021 re: signage and planning conditions (including acoustic fence required by planning condition)
- Online article referring to a former tenant of the site (undated)

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

Island Development Plan policies:

OC1: Housing Outside of the Centres

OC4: Retail Outside of the Centres

GP8: Design

GP9: Sustainable Development

GP13: Householder Development

GP16(A): Conversion of Redundant Buildings

Representations:

None.

Consultations:

None

Summary of Issues:

The key issues in this case relate to the principle of the proposed change of use, the design and appearance of the extension and other alterations and their likely effect on the character and appearance of the locality along with the potential impact on residential amenity in terms of overlooking and loss of privacy and noise and nuisance from the proposed units.

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.

Change of use of restaurant to residential flat

Policy OC4 makes provision for the change of use away from retail premises provided all other relevant policies are satisfied and Policy OC1 only supports the formation of new residential accommodation through the subdivision of an existing dwelling or the conversion of a redundant building. In relation to Policy GP16(A) the scheme relates to the formation of a unit of residential accommodation in accordance with criterion b. and as a building of modern construction with an actively used flat at first floor level the building is considered to be of sound and substantial construction capable of conversion without rebuilding. Criteria b. and g. of Policy GP16(A) are not relevant in this case.

The supporting information that accompanies the application provides a broad overview of the premises since 2007 when the site was purchased by the applicant. It is apparent that during the last 15 years the site has not been continually operated as a restaurant/café and that the site has come to the attention of Planning Enforcement during that time. The more recent planning permissions have sought to enable a business to operate from the premises whilst providing adequate protection to the occupiers of surrounding dwellings. The Planning Service has consistently indicated that further applications could be submitted for alterations to signage or to change the hours of operation however these have not been forthcoming. It is acknowledged however, that whilst this site operates a coastal location where retail provision is supported for the recreational enjoyment of the coastal location that the challenging operational situation of the site is unlikely to see prospective tenants investing significant time and money into applications and signage with no guarantee of success. The Authority cannot require such applications to be submitted only indicate that there would be scope to offer a level of comfort for prospective tenants.

Policy GP16(A) of the IDP sets out that a building should be demonstrated to be no longer required or capable of being used for its current or last known purpose. It remains the case that it would technically be possible to operate a restaurant/café from the premises however, the supporting information that accompanies the submission highlights ongoing constraints and challenges that have impacted on the success of business operations and as outlined above, no operators have chosen to pursue amendments to existing planning permissions to enable them to operate from the site. The information also highlights that the premises has been marketed for rent, albeit during 2020 and 2021 when the Covid 19 pandemic was at its height, that there was significant interest in the site but this did not lead to a lease being signed. This further highlights the earlier points regarding intermittent operation of a business from the site and lack of appetite to pursue changes that would allow a business to operate and on balance the scheme does comply with Policy GP16(A) a.

The existing building is currently used for a mix of residential and retail uses, in a predominantly residential area. The building appears to be of sound and substantial construction, although the application submission has not been accompanied by any information or survey report that seeks to demonstrate this. It is noted that the first floor flat is currently occupied. Consideration must be given as to whether the development would require extensive alteration/rebuilding. The submission proposes the installation of three new ground floor windows in the southeast elevation, alterations to the window in the southwest elevation in order to form sliding doors onto a patio and internal works removing existing partition walls and creating new walls as necessary.

As a modern building that has been in use (including existing occupied flat at first floor) the submission does not propose any structural repairs or upgrades necessary for it to be safe and structurally capable for the use of the ground floor as a unit of residential accommodation and for the purposes of criterion (c) to Policy GP16(A) no extensive works are necessary. The building has been in active use until relatively recently and should not require works to the floor and wall coverings in order to meet current constructional standards when consider criterion c. of Policy GP16(A).

The drawings show that three new openings are proposed to the southwest elevation in order to provide windows to serve the two proposed bedrooms and a secondary window to serve the kitchen/living area, which would also benefit from existing windows in the northwest elevation and southwest elevation. A replacement door is proposed to the existing opening in the northwest elevation and the windows in the southwest elevation are to be enlarged to form doors to the patio area. With regard to the new windows, replacement of the door and enlargement of a window opening, the internal alterations proposed (which includes the construction of partitions to create new room arrangements, and the provision of new services and fittings), these are all representative of the types of alterations that are generally required for the conversion of buildings into alternative uses and are therefore considered to be neutral for the purpose of GP16(A).

Based on all of the above, the application is considered to comply with criterion (c) of Policy GP16(A).

The alterations proposed are considered to represent a good standard of design that respects the local built environment and as the building is not considered to represent a building of character therefore Policies GP8 and GP16(A) criterion e. are satisfied in this respect. The building is not located in an open landscape in relation to criterion f.

Three new windows are proposed in the southeast elevation of the building to serve bedrooms and a kitchen associated with the ground floor residential use. A 1.8m high timber fence is shown to the boundary in order to manage the potential for overlooking and loss of privacy to the adjacent residential property. To the northwest is a restaurant, set away from the site by a driveway and the works will not have a detrimental impact on the amenities of the occupiers/users of this adjoining building. The changes to fenestration to the front of the ground floor accommodation will face the road and coastal carpark and will not impact on residential amenity. The scheme therefore addresses the requirements of Policy GP16(A) h. and GP8 in this respect.

In terms of the health and well-being of future occupiers the scheme offers accommodation with satisfactory internal space standards, sunlight and daylight, access to external open space (being opposite the beach) and privacy. With regard to aspect/outlook, the open plan living area would be served by numerous existing and enlarged windows with reasonable aspect. Although aspect is onto the coast road the property is set back and an area of defensible space is proposed. The accommodation is also on a single level although with stepped access arrangements. Although the accommodation cannot be extended the internal layout could be adapted and overall the accommodation offers flexible and adaptable accommodation that can respond to the needs of occupiers over time and which offers access to ambulant disabled and accessible accommodation within the building. The scheme therefore addresses the aims of Policy GP8.

Extensions and alterations to existing flat

The existing first floor flat is served by an external staircase and the submitted application proposes the construction of a pitched roof extension providing stair access to the rear of the building. The design and appearance of the extension represents a good standard of design that respects the local built environment. As a staircase only, natural light is proposed via a rooflight and it will not result in unacceptable overlooking of any adjoining residential properties. Being situated to the northeast of the building, adjacent to the parking area associated with Rossville to the northeast, the extension will not result in unacceptable overshadowing or loss of light to the occupiers of any adjoining dwelling.

The extension and alterations to the front elevation to form an inverted balcony represent a good standard of design which will provide enhancements to the living environment of occupiers. The alterations to fenestration will offer adequate sunlight and daylight to the accommodation and a small area of external space for the benefit of occupiers.

This aspect of the development accords with the requirements of Policies GP8, GP9 and GP13 of the Plan.

Conclusions

In view of the above it is recommended that permission is granted for the change of use and other alterations proposed.

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: 15 November 2022