

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: Remove rooflight, install external steps and balustrade to create fire escape, relocate plant and vent, fenestration and internal alterations (Protected Building).

LOCATION: Le Petit Bistro & Cafe, Lower Pollet, St. Peter Port.

APPLICANT: M & D Limited

I refer to the application referred to below received as valid on 15/09/2022 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 31/07/2023

Drawing Nos: PF+A Ltd - 6249-01 D1 & D2C.

Application Ref: FULL/2022/1672

Property Ref: A112460000+A112450000

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 proposed relocation of the plant equipment to the rear of the building is in close proximity to residential properties. Without sufficient information being provided to make an accurate assessment, the development has the potential to cause a significant noise nuisance to nearby residents, including the staff accommodation on site.

Without sufficient evidence being provided to demonstrate that the plant equipment will not adversely affect nearby residents, the proposal cannot be supported in its current form and therefore conflicts with Policies MC6 (Retail in Main Centres), GP8 (Design) and GP9 (Sustainable Development) of the adopted 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/2022/1672
Property Ref: A112460000+A112450000
Valid date: 15/09/2022
Location: Le Petit Bistro & Cafe Lower Pollet St. Peter Port Guernsey GY1 1WF
Proposal: Remove rooflight, install external steps and balustrade to create fire escape, relocate plant and vent, fenestration and internal alterations (Protected Building).
Applicant: M & D Limited

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The proposed relocation of the plant equipment to the rear of the building is in close proximity to residential properties. Without sufficient information being provided to make an accurate assessment, the development has the potential to cause a significant noise nuisance to nearby residents, including the staff accommodation on site.

Without sufficient evidence being provided to demonstrate that the plant equipment will not adversely affect nearby residents, the proposal cannot be supported in its current form and therefore conflicts with Policies MC6 (Retail in Main Centres), GP8 (Design) and GP9 (Sustainable Development) of the adopted Island Development Plan.

OFFICER'S REPORT

Site Description:

The application site known as "Le Petit Bistro" comprises a building which forms the corner between Lower Pollet and Le Truchot. The property is a Protected Building. The building comprises a restaurant at ground floor level and staff accommodation at first floor level. The building is located in a Main Centre Inner Area and Conservation Area as defined in the Island Development Plan.

Relevant History:

FULL/2013/1405	Change of Use of first floor to extend restaurant and provide ancillary staff accommodation and internal alterations - Protected Building	Granted
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Existing Use(s):

Food – Retail.
Staff accommodation.

Brief Description of Development:

Planning permission is sought to remove a rooflight, install external steps and balustrade to create fire escape, relocate plant and vent, alter the fenestration and make internal alterations.

The application was deferred as insufficient information was submitted in order to accurately assess the effect of the relocated plant equipment on the amenities of neighbouring residents as highlighted by the Office of Environmental Health's consultation response, in which the agent was made aware of.

On 17th May 2023 the agent amended the drawings to show the proposed location of the plant equipment from the *Le Petit Cafe side directly up to the roof above which keeps the ventilation within the demise of the Le Petit Cafe building*. Additional information was also submitted in relation to the plant equipment and noted that:

"...in it location over the Le Petit Bistro building the extract appeared to discharge up above the line of the wall which is suggested as providing a screen...The flat that directly adjoins the flat roof housing the relocated ventilation is used by the staff of the restaurant that the ventilation serves which would suggest that when the extract is in use the occupants will be working in the restaurant."

A technical sheet of the proposed fan was also included.

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

MC6 Retail in Main Centres
GP4 Conservation Areas
GP5 Protected Buildings
GP8 Design
GP9 Sustainable Development

Representations:

None received.

Consultations:

The Office of Environmental Health and Pollution Regulation's original comments – 5th October 2022:

"I have reviewed the proposed plans for alterations to be made to the above address, which includes relocating existing plant, which were received by post on 27th September 2022 and I am concerned about the relocation of the plant."

The plant proposed to be moved appears to be relocating to the other side of a wall, which is potentially removing noise attenuation measures in its current location. The plant is also being moved closer to a residential property, and without having the existing sound power level I am unable to undertake a calculation to determine whether or not the noise would impact the occupants within that property.

I would urge the applicant to contact an acoustic consultant to undertake a report of all plant that is to be relocated. I have attached a list of consultants who are prepared to operate on the island. Please note that inclusion on the list does not infer any kind of recommendation by the department.

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

Please do not hesitate to contact me at the above address should you require any additional information regarding this matter.”

The Office of Environmental Health and Pollution Regulation’s further comments
– 6th June 2023:

“I have reviewed the additional information provided for the proposed plans for plant to be relocated at the above address which were received by post on 24th May 2023 and there is insufficient information for me to comment.

On my previous response, I suggested that an acoustic consultant be employed to undertake an acoustic report to determine the potential impact on the residential properties in close proximity to the proposed relocation of the plant. My suggestion remains the same.

I would be happy to look at this application again should further information be provided, such as:

- *An acoustic report undertaken by an acoustic consultant;*
- *Running times of the plant;*
- *Confirmation that the staff accommodation is the closest residential property to the proposed location.*

Please do not hesitate to contact me at the above address should you require any additional information regarding this matter.”

Summary of Issues:

- Whether the development would have a significant detrimental impact on the amenities of neighbouring properties
- Whether the proposed development would affect the special interest of the protected building.
- Whether the proposed development would affect the Conservation Area.

- Whether the design of the development is acceptable.

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).**

All material considerations as set out in the Land Planning and Development (Guernsey) Law, 2005 and the Land Planning and Development (General Provisions) Ordinance, 2007 have been taken into account in the assessment of this application.

Both Policy GP8 and GP9 consider the effects of any new development on the amenities of neighbouring residents. In addition, the preceding text to Policy GP8 refers to the need to consider the material planning considerations as specified in Part IV, Section 13 of the Land Planning and Development (General Provisions) Ordinance, 2007. These include the appropriateness of the development in relation to its surroundings in terms of its design, layout, scale, siting and the materials to be used, as well as its likely effect on the character and amenity of the locality in question and its likely effect on the reasonable enjoyment of neighbouring properties.

Careful consideration has been given to the effect of the development on the amenities of neighbouring residents. However, due to the close proximity between the relocated plant equipment and neighbouring properties, including the amenities of staff accommodation, and without sufficient information being provided in order to fully assess its potential impact, the proposed development cannot be supported in its current form given that there could be undue harm on residential amenity. This decision has been reached when taking into account the lack of information submitted together with the potential harm on the amenity of the occupiers of the neighbouring properties.

For the reasons set out within this report, and given the lack of relevant information submitted despite the previous deferral, it is recommended that planning permission be refused.

Other matters:

It is likely that the remaining alterations to the building could be supported, in principle, given the negligible effect on the special interest of the protected building, and not affecting the Conservation Area.

Date: 31/07/2023