

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 sun room of dwelling to operate beauty business (Residential Use Class 5).

LOCATION: Lusanael, 2 Duveaux Park Estate, Duveaux Lane, St. Sampson.

APPLICANT: Ms L Fox

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: 20/12/2022

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 21/10/2022 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Application Site Location Plan, Application Block Layout Plan, Ground Floor plan and letter dated 20/10/2022 from Lindsay Fox

Application Ref: FULL/2022/2078

Property Ref: B010480002

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.The business use hereby permitted shall be operated in accordance with the letter from Lindsay Fox dated 20/10/2022.

Reason - Permission has been granted on the basis that the use will be limited to that outlined above. Any other use or change to operating arrangements is likely to raise different planning policy considerations.

5.This permission relates to the use of this dwelling for the home based business specified in the application, in accordance with the provisions of Residential use class 5 of the Land Planning and Development (Use Classes) Ordinance, 2017, or in any provision equivalent to that Use Class in any Ordinance revoking or re-enacting that Ordinance. On the cessation of the approved business purposes in accordance with this permission and use class, the dwelling shall revert to use as a single dwellinghouse, as defined in Residential Use Class 1 of the Land Planning and Development (Use Classes) Ordinance, 2017 or in any provision equivalent to that Use Class in any Ordinance revoking or re-enacting that Ordinance.

Reason - To allow return to use as a single dwellinghouse without the need for a further grant of planning permission.

6.The business use hereby approved shall operate only between 09:00 and 18:00 Tuesdays to Saturdays and there shall be no working on Mondays, Sundays or Public Holidays.

Reason - For the avoidance of doubt.

Expiry Date: This permission will cease to have effect on 19/12/2025 unless development is commenced by that date.

ADVICE AND OTHER REMARKS:-

Please note that the decision to grant planning permission is based on the information contained in your letter dated 20/10/2022. This indicates that your proposal involves home working and thus falls within Residential Use Class 5 of the Land Planning and Development (Use Classes) Ordinance, 2017. This is defined as:

'Use of any dwelling principally as a permanent residence for one household but also, by a member of that household, for professional or business purposes or retail trade or business and carried on in not more than two rooms but which does not involve -

(a) storage of hazardous or odorous materials,

(b) a use falling within use classes 26 or 27 or for any general, or special industrial purpose, or

(c) any other use which could not be carried on without material detrimental effects on a neighbouring property.'

Any significant change in the way in which the business is run from that described in the above letter may mean that the use no longer falls within Residential Use Class 5, thus resulting in the need for a separate grant of planning permission.

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/2022/2078
Property Ref: B010480002
Valid date: 21/10/2022
Location: Lusanael 2 Duveaux Park Estate Duveaux Lane St. Sampson
Guernsey GY2 4YA
Proposal: Change of use of sun room of dwelling to operate beauty
business (Residential Use Class 5).

Applicant: Ms L Fox

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.

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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.

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Reason - Permission has been granted on the basis that the use will be limited to that outlined above. Any other use or change to operating arrangements is likely to raise different planning policy considerations.

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Reason - For the avoidance of doubt.

INFORMATIVES

Please note that the decision to grant planning permission is based on the information contained in your letter dated 20/10/2022 This indicates that your proposal involves home working and thus falls within Residential Use Class 5 of the Land Planning and Development (Use Classes) Ordinance, 2017. This is defined as:

'Use of any dwelling principally as a permanent residence for one household but also, by a member of that household, for professional or business purposes or retail trade or business and carried on in not more than two rooms but which does not involve -

(a) storage of hazardous or odorous materials,

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the above letter may mean that the use no longer falls within Residential Use Class 5, thus resulting in the need for a separate grant of planning permission.

OFFICER'S REPORT

Site Description:

Lusanael is a semi-detached two-storey property that occupies a corner plot within the Duveaux Farm Park clos. The property is set back from the road and has an area of hardstanding in the southeast corner of the site which is ample space for one vehicle but is unlikely to accommodate two cars. There was evidence of on-street parking at the time of the site visit in connection with this application.

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.

Existing Use(s):

01 dwellinghouse

Brief Description of Development:

The application submission proposes to operate a beauty business from the sunroom of Lusanael. The application submission confirms that the primary use of the property would remain as residential with only one occupier of the dwelling running/operating the business, with no employees. The submission states that there are two off-road parking spaces available on the site with direct access from the parking area to the sunroom for clients. The trading hours are specified as typically Tuesday – Saturday 9am – 4.30pm but with occasional appointments outside these hours. The approximate number of clients per week is 20 and with a 15 minute break between appointments to avoid overlap.

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

Island Development Plan policies:

GP14: Home Based Employment

GP8: Design

GP9: Sustainable Development

IP7: Private and Communal Car Parking

IP9: Highway Safety, Accessibility and Capacity

Representations:

Seven letters of representation have been submitted raising the following points:

General

- Duvaux Farm Park was constructed in the 1970s and comprises 12 semi-detached, three bedroom family homes and 10 houses share access through the Private Clos
- The Clos has a tranquil and quiet character
- The houses share rain and foul drainage provisions and all residents contribute equally to the maintenance of the shared assets
- Since the 1970s a number of houses (including the application property) have received permission for extensions (bedrooms/bathrooms) increasing the number of 'users' of the Clos and the private access and drainage provisions are already under heavier use than originally designed for
- As a conservatory there are environmental criteria issues with regard to heating in winter and air conditioning in summer
- If the beauty business fails to meet expectations will it become a tattoo parlour or used for piercings/other uses?

Parking, traffic and highway safety

- The property has been purchased as a rental, this is a quiet clos made up of houses with both elderly home owners and small children who play in the Clos, away from traffic and in relative safety – there will be an increased risk of accidents
- The parking at the property is not suitable for two cars, only one – where will customers park? The parking was lost from the site when the extension was built
- The applicant living at the property does not currently have a car but this can change, this is a 4, bedroom house and it is expected that parking will be required for use by the occupants
- If permission is granted and parking becomes an issue (e.g. blocking other drives) it would be more than inconvenient as residents would need to police this themselves which could become confrontational
- If the business changes in future there would be potential increase in traffic generation/nuisance etc. – 20 extra vehicle movements are suggested but this could change
- There is limited vision from the exit to the clos and the lane is busy at peak times with children walking or scooting to/from school, cars on the school run and horses using the road (horses also have access through the Clos to an area of grazing)
- There is a blind bend on the Clos where the pavement is overgrown with conifer trees from the applicant site garden

Impact on services/utilities

- The beauty business would place unavoidable, disproportionate weighted use of the services and access road/parking provision which would result in unacceptable and unfair harm to the amenities of other residents
- The application does not clearly specify the level of water use proposed
- The development could put more strain on access to essential services in the area e.g. St Sampson's High and Le Murier
- There will be increased wear and damage to the Clos Road and pavements which will not affect customers but will impact longer term on residents of the Clos

Impact on residential amenity

- Having unfamiliar clients using the business in the clos will have a negative impact
- When the windows are open in the summer neighbours will be able to hear music and conversations of people using the sunlounge/conservatory
- Noise will be generated from air conditioning and boiler units used to serve the business in the conservatory
- A Beauty Bar can have many meanings and if permission is given without control the business may evolve generating harm to residential amenity
- Concerns exist regarding the property being sublet or the business expanding further into this four bedroom house
- The development would result in harm to the area and neighbouring residents contrary to Policy GP14 b.
 - Use of the private road – more wear and tear
 - Use of the private cesspool – the title deeds should be amended if permission is granted for the owner to pay for all the fees for the documents to be updated and the owner of the property pays a larger portion for the cesspit and Clos upkeep

Consultations:

None.

Summary of Issues:

The key issues in this case relate to the impact of the change of use on residential amenity, traffic generation and highway safety.

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.

Principle of home-based business

The Island Development Plan outlines that working from home can allow people, with low numbers of employees, to start up a low intensity 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 and represents a good example of sustainable development. Policy GP14 offers support for home based business where it will not have an adverse impact on neighbouring residents or the surrounding area as a result of increased activity and disturbance. The IDP also sets out that in order to protect the amenities of nearby residents, conditions may be attached to any planning permission for home based employment limiting the hours of work and the types of activities that can be carried out and restricting the business to the occupier of the dwelling. Such conditions may help alleviate some concerns raised regarding the future expansion of the business operation because any deviation from the approved days/hours would be the subject of a further planning application and could represent a business operation that goes beyond the realms of Policy GP14.

The business proposed to operate from the premises advertises on Facebook and is named 'Beauty Bar' and which describes the business as offering "a variety of beauty and nail treatments". Posts from the last year which are available for the public to view relate to gel nail varnish/treatments and eye lash lifts only. The submission also confirms that piercings and tattoos are not part of the business operation. It is noted that concerns have been raised regarding the potential for the business to evolve into a tattoo parlour however, this represents a sui-generis use class. Given that the application relates to a beauty salon and that a condition can be imposed limiting the use a further application would be necessary for a tattoo parlour to operate from the site.

The application relates to a beauty salon operation undertaken by one person in a residential dwelling and Tuesday – Saturday and with approximately 20 clients visiting the Clos to attend the salon. This would represent approximately 4 clients per day taking into account that treatments take between 1 and 2 hours and a break is included between visits. The primary use of Lusanael clearly remains as a unit of residential accommodation used by the occupier in line with the aims of Policy GP14. A planning condition may be imposed relating to operating hours.

The impact on residential amenity must also be assessed in relation to GP14 and other policies in the Plan and is considered in more detail elsewhere in this report.

Impact on residential amenity

The concerns raised through the public consultation process regarding increased water use/outflow to the shared cesspit arrangement in the Clos have been noted but this is a private civil matter which cannot influence the assessment and determination of a planning application. There is also no evidence to demonstrate

that clients visiting the property would result in any more nuisance or alarm to residents in the Clos than unknown visitors/guests to any other residential property nor that the business operator and one client in the sun lounge would generate any more noise than occupiers of the dwelling using the same space.

The potential for visitors to cause nuisance and disturbance to neighbouring occupiers is considered to remain within acceptable limits given that on average 4 clients would visit on Tuesday – Saturday only. The increased use of the rear access from the parking area to conservatory/sunroom associated with the business operation as set out in this submission is not considered sufficient to justify the refusal of planning permission. The operating hours given are typical and in order to manage the operation of the business against residential amenity it is reasonable to impose a condition relating to operating hours. Day time operation and taking into account the potential for occasional clients at the end of the day (after 4.30pm) it is reasonable to impose a condition relating to the days of operation as set out but extending the hours by a short period to address the occasional additional clients at the end of the day. Whilst this could increase the number of clients visiting the property in any one day this is not considered to unacceptably impact on surrounding residents for the reasons set out in the report. It would not warrant the refusal of planning permission.

The concerns raised regarding the installation of boilers and air conditioning equipment has been noted however, domestic boilers do not amount to development requiring permission. A separate planning application would be required to install an external air conditioning unit but as one is not proposed as part of this submission a future possible need cannot influence the assessment of this application.

In these respects, the scheme meets the aims of Policies GP8, GP9 and GP14 of the Island Development Plan.

Parking and road safety

Key concerns raised in this case relate to traffic generation, the speed of vehicles using the Clos and the impact this activity has on road safety in the Clos. Matters raised relating to illegal parking, parking on private property and property deeds would ultimately be private civil matters that cannot influence the determination of a planning application and may require the involvement of the Police. The private nature of the Clos takes the management of parking beyond the control of Traffic and Highway Services.

Whilst the application states that two off road parking spaces are available it would appear that the area is approximately 5.6m long and 4m wide. Aerial photographs of the property do show however, that parking was undertaken further north within the garden beyond the existing area of hardstanding and that two vehicles were accommodated in this area. Another aerial photograph (2016) showed 4 vehicles parked to the south of the dwelling. It should also be noted that exemption rights

would enable an owner or occupier to provide further hardstanding within the garden of the property without the specific grant of planning permission. The submission sets out that the applicant does not drive but as interested parties state, other occupiers of the dwelling may own/use a car and there is no way to prevent the applicant from owning a car. There is also clear evidence, from the site visit and aerial photographs, of on-street parking in the Clos and the development may result in displaced parking associated with the property onto the Clos during the day and given the staggered arrival/departure of clients, seen on a one to one basis, to the property this would avoid unacceptable congestion. A condition can be imposed relating to the business operating in accordance with the information provided with the submission to manage the effects of the use on the Clos.

Although there may be some congestion in the Clos if more than one vehicle arrives at the premises at the same time, this would not represent such a significant change to the vehicle movements associated with the Clos, with the comings and goings associated with any of the properties and where multiple vehicles may access or exit the Clos at the same time or in a short period of time (e.g. in the morning/at the end of the working day).

The road layout of the Clos is such that vehicle speeds will be low (sharp corner and roundabout layout with on-street parking) and the limited number of additional vehicle movements associated with the business on a daily basis would not result in an unacceptable increase in vehicle movements in the Clos and on highway safety within the Clos or at the Clos junction. Furthermore, the business as proposed would not have an unacceptable impact on parking in the private Clos. The scheme therefore accords with the aims of the IDP in this respect.

Conclusions

It is acknowledged that a different type of use or an intensification of the use (longer hours of operation/number of customers) could have a greater impact on the Clos parking and Clos residents. It would be reasonable therefore to impose a planning condition to limit the use in order that it operates only in accordance with the details contained in this application relating to days/hours of operation, parking provision and customer levels. Any deviation from such a planning condition would represent a breach of planning control that may be the subject of a Planning Enforcement investigation and may require the submission of a further planning application.

In view of the above, it is recommended planning permission is granted for the proposed change of use.

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: 14 December 2022