

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 dwelling/dog grooming parlour (Residential Use Class 5) to dwelling/dog grooming parlour, dog boarding and dog day care (Residential Use Class 5) and vary condition 4 of planning permission (FULL/2016/1199) to allow up to 8 dogs on the premises at any one time (retrospective) (Revised scheme).

LOCATION: Koumassi, La Route Des Capelles, St. Sampson.

APPLICANT: Mr & Mrs Duquemin

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: 14/02/2023

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 19/12/2022 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Turnstone Architecture drawing 213-10 and letter dated 15/12/2022

Application Ref: FULL/2023/0029

Property Ref: B01402A000

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.There shall be no more than eight dogs on the premises at any time. The hours of operation of the dog grooming parlour shall be limited to Mondays to Fridays 0800 hours to 1600 hours, Tuesdays and Thursdays 1800 hours to 2000 hours and Saturdays 0900 hours to 1500 hours. The hours for drop off and collection for dogs boarded or in day care at the premises shall be between 0800 and 1100 hours and 1700 and 2000 hours daily.

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

5.This permission relates to the use of this dwelling for the home based business specified in the application and personal to the occupier of the dwelling/applicant, however named, 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 business purpose hereby approved or the occupier of the house/applicant ceasing to occupy the dwelling, 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 permitted shall be operated only in accordance with the letter from Turnstone Architecture reference 221213-213-3.1 and dated 15/12/2022.

Reason - Permission has been granted on the basis that the use will be limited to that outlined above and any other use is likely to raise different planning policy considerations.

Expiry Date: This permission will cease to have effect on 13/02/2026 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 the letter from Turnstone Architecture dated 15/12/2022. 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.

Please note that this grant of planning permission does not negate the possibility of formal action under the Public Health Ordinance should a statutory nuisance be identified.

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/2023/0029
Property Ref: B01402A000
Valid date: 19/12/2022
Location: Koumassi La Route Des Capelles St. Sampson Guernsey
GY2 4GH
Proposal: Change of use of dwelling/dog grooming parlour (Residential Use Class 5) to dwelling/dog grooming parlour, dog boarding and dog day care (Residential Use Class 5) and vary condition 4 of planning permission (FULL/2016/1199) to allow up to 8 dogs on the premises at any one time (retrospective) (Revised scheme).

Applicant: Mr & Mrs Duquemin

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. There shall be no more than eight dogs on the premises at any time. The hours of operation of the dog grooming parlour shall be limited to Mondays to Fridays 0800 hours to 1600 hours, Tuesdays and Thursdays 1800 hours to 2000 hours and Saturdays 0900 hours to 1500 hours. The hours for drop off and collection for dogs boarded or in day care at the premises shall be between 0800 and 1100 hours and 1700 and 2000 hours daily.

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

5. This permission relates to the use of this dwelling for the home based business specified in the application and personal to the occupier of the dwelling/applicant, however named, 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 business purpose hereby approved or the occupier of the house/applicant ceasing to occupy the dwelling, 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 permitted shall be operated only in accordance with the letter from Turnstone Architecture reference 221213-213-3.1 and dated 15/12/2022.

Reason - Permission has been granted on the basis that the use will be limited to that outlined above and any other use is likely to raise different planning policy considerations.

INFORMATIVES

Please note that the decision to grant planning permission is based on the information contained in the letter from Turnstone Architecture dated 15/12/2022. 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.

Please note that this grant of planning permission does not negate the possibility of formal action under the Public Health Ordinance should a statutory nuisance be identified.

OFFICER'S REPORT

Site Description:

Koumassi, La Route Des Capelles is a detached, hipped roof bungalow with rendered exterior. A detached pitched roof garage exists to the rear of the property with a driveway along the south boundary leading to the garage. The south boundary with Mimosa is marked by a hedge.

The garage has been converted for home-based employment as a dog grooming parlour.

The property is in a residential area with neighbours very close by.

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

Relevant History:

FULL/2016/1199 - Alterations and change of use of garage to dog grooming parlour (Residential use class 4) – granted.

- Condition 4 – no more than 6 dogs on the premises at any time. Hours of operation for dog grooming parlour.
- Condition 5 – operate business in accordance with details provided with the application.
- Condition 6 – revert to residential.

FULL/2017/2744 - Variation of condition 4 of planning permission FULL/2016/1199 for change of use of garage to dog grooming parlour - to allow eight dogs on the premises at any one time and for the change of use from Residential Use Class 1 (Dwelling) to Residential Use Class 5 (use of part of dwelling for business purposes - dog boarding) (Retrospective) – granted.

- Condition 3 – use for dog boarding to cease by 31/12/2018
- Condition 4 – personal permission to the applicant
- Condition 5 – no more than 8 dogs on the premises at any time with a maximum of four dogs boarding and dog grooming limited to a maximum of two at any one time
- Condition 6 – operating hours for the grooming parlour and drop off and collection for dog boarding

Condition 3 of this 2017 permission lapsed almost four years ago and cannot be varied or rescinded.

Conditions 5 and 6 of this 2017 permission now relate only to the applicants own pet dogs and the dog grooming parlour as there is no authorised dog boarding facility operating from the site.

FULL/2022/1954 - Change of use of dwelling/dog grooming parlour (Residential Use Class 5) to dwelling/dog grooming parlour, dog boarding and dog day care (Residential Use Class 5) and vary condition 4 of planning permission (FULL/2016/1199) to allow up to 14 dogs on the premises at any one time. (retrospective) – refused:

The proposal for a total of 14 dogs to be on site at one time in connection with a home-based dog boarding and dog daycare business would introduce an unacceptable degree of noise nuisance, in an area with an established character of residential development, and would be severely detrimental to the amenities that can reasonably be expected to be enjoyed by the occupiers of the surrounding residential properties. The proposal is therefore contrary to Policies GP8 d., GP9 b., GP13 a. and GP14 b. of the Island Development Plan.

Existing Use(s):

05 home based employment (dog grooming parlour)

Brief Description of Development:

A revised scheme has been submitted seeking retrospective planning permission for a material change of use from the authorised Residential Use Class 5 (dog grooming parlour) to Residential use Class 5 to operate a dog boarding and doggy daycare facility from Koumassi (in addition to the authorised dog grooming parlour) and to vary condition 4 of the 2016 permission (FULL/2016/1199) in relation to the number of dogs permitted on the premises at any one time.

An authorised dog grooming parlour currently operates from the former domestic garage on the site.

Condition 4 of the 2016 permission states:

There shall be no more than six dogs on the premises at any time and the hours of operation for the dog grooming parlour shall be limited to Mondays to Fridays 0800 hours to 1600 hour, Tuesdays and Thursdays 1800 hours to 2000 hours and Saturdays 0900 hours to 1500 hours.

It is necessary to vary condition 4 in order to increase the number of dogs that can be on the site at any one time. This is to take into account dogs visiting for grooming, dogs boarding or in day care on site and the applicants own pets.

A letter accompanying the submission sets out that a dog grooming parlour has operated from the site since permission was granted in 2016 and a further application was granted in 2017 for the use of part of the dwelling for dog boarding both within Residential Use Class 5 and as part of this a total of 8 dogs were permitted at the premises at one time. Although a condition was imposed to the dog boarding permission limiting the use to a year this use has continued since the time without complaint and has done so for five years.

Since that time the business model has evolved (particularly due to Covid) with boarding being non-existent but gradually building again to more customers looking for day care for dogs. The number of boarders has reduced and demand for day care facilities has increased. The revised submission sets out a proposal to accommodate 8 dogs on the premise daily (2 at the grooming parlour, 3 dogs of their own and 3 for day care/boarding). This would mean only 3 dogs on site for boarding or day care purposes.

Confirmation has been provided that the boarding dogs share the ground floor of the property and are not housed in kennels. The house has sufficient rooms that each boarding dog can be separated and for day care they can be given their own space, as needed. External space to the rear of the property provides an area for informal exercise and the dogs are always accompanied on the property, day and night, receiving constant attention to keep noise disturbance to a minimum. The submission reiterates that dogs are vetted prior to bookings being taken to ensure they are of a suitable temperament and dogs are taken off site twice a day for walks and physical activity.

The submission sets out that the dog grooming business remains operational in accordance with the 2016 permission (FULL/2016/1199) (two dogs at any one time). Drop off and collection is between 8am and 11am and 5pm and 8pm (times allocated in advance) and that the business operates by appointment and with an optional collection service which reduces visitors to the site.

In relation to off-road parking there is ample space described as being available for both the dog grooming business and dwelling with on-site turning available. The application would not see the use of the vehicular access or parking change significantly.

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

Island Development Plan Policies:

GP8: Design

GP9: Sustainable Development

GP14: Home Based Employment

IP7: Private and Communal Car Parking

IP9: Highway Safety, Accessibility and Capacity

Representations:

None.

Consultations:

Office of Environmental Health and Pollution Regulation - do not wish to raise any objections to the proposals. Whilst I do have concerns that there may be disturbance caused by the dogs barking given the detail provided and the obvious commitment from the applicant, I do not wish to raise further objection.

I would be grateful if the applicant could be made aware that planning permission, if granted, does not negate the possibility of formal action under the Public Health Ordinance should a statutory nuisance be identified.

Deputy States Veterinary Officer - It appears in the application letter dated 15 Dec 22 that they have taken on board my comments with regards to future licencing. I therefore have no further comments for this application.

Summary of Issues:

The key issues in this case relate to the potential impact of the proposed use on the amenities of surrounding residents with regard to noise and nuisance and in relation to increased vehicle movements at the site.

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.

Policy GP14 makes provision for home-based employment as this can reduce the demand for additional business accommodation and allow people to start up a business at their home with very little initial outlay in premises costs. Nonetheless, such proposals will only be supported where there would not be an adverse impact on neighbouring residents or the surrounding area because of increased activity and disturbance.

The business at this site now has three elements, dog boarding, dog daycare and dog grooming. The number of dogs accommodated in the grooming (2 dogs) aspect of the business is limited and remains unchanged from the existing approval. The boarding and daycare element offers space for 3 dogs. It is also clear from the application form that the applicant is operating the business and lives in the dwelling-house, Koumassi (GP14 a) with 3 dogs of their own.

To operate dog boarding, day care and grooming from the site can represent home-based employment provided there would not be an adverse impact on neighbour amenity and the area (criteria b) resulting, in this case, primarily from disturbance from dogs on the site which is considered in more detail below. Criteria c) is not considered directly relevant as there are no new buildings proposed in connection with the business.

Impact on visual and residential amenity

Impact on visual amenity is limited as no alterations to the site are proposed. It is concluded that the proposals would have a negligible impact on the visual amenities of the area.

It was noted in the 2017 report that if *“no nuisance is recorded it would be inappropriate to restrict the use to a specified timescale if a further application is submitted to continue the dog boarding element of the home-based employment.”*

This application must assess whether there would be undue harm to residential amenity from the combination of dog boarding and doggy daycare without any time limits should permission be granted and whether planning conditions could be used to help mitigate any potential impact. In this case, it is not simply a retrospective application for the dog boarding element of the business, previously approved on a temporary basis, because the fact remains that the business model has evolved since that time.

Planning permission was previously granted for dog boarding to occur on a limited basis (temporary permission and limiting the number of dogs to 4) and there has been no change in the policies against which the application was considered to alter this conclusion. There is scope to operate a dog boarding from the site subject to conditions relating to the number of dogs/hours of drop off/pick up in accordance with Policy GP8 and GP14 of the Plan.

The application also seeks retrospective permission for doggy day care which is a new element to the business operation. Nonetheless, as with the dog boarding referred to above, the principle of the use operated by a person living in the dwelling would accord with Policy GP14. Although day care dogs would only visit during the day the use can be accommodated through Policy GP14 subject to conditions relating to the number of dogs and hours for drop off/pick up to manage the impact of the use on the amenities of surrounding residential occupiers.

The key issue in this case remains not the principle of dog boarding (which has previously been granted a temporary permission) or an element of dog day care but rather the number of dogs on the site at any one time and whether this would represent home based employment which can operate without unacceptable detrimental impacts on the amenity of the area or the amenities of nearby residents.

Whilst vetting dogs to board or attend day care at the premises could mean the selection of dogs that are not inclined to bark in their home environment and/or who do not have known behavioural issues this is not a matter that can be controlled nor enforced by planning condition. Furthermore, how dogs behave in their own home may be different to their behaviour in a day care/boarding setting with multiple other dogs. A dog may enjoy the company of some dogs in the day care/boarding setting but not others which cannot be known until the dog has been vetted and accepted.

As part of the application and given the nature of the business for dog boarding and day care, consultation has been undertaken with the Office of Environmental Health and Pollution Regulation who do not object to the revised application although it remains the case that one dog can generate a statutory nuisance. OEHPR have highlighted that formal action under the Public Health Ordinance could occur if nuisance is reported.

The submission does not seek to place a specific division between the day care and boarding facility, presumably to allow the owners to be flexible to the business needs at any one time (perhaps less demand for boarding and more demand for day care during the winter months). Ultimately however, the number of dogs on the site would not increase above the 2017 temporary level (8 dogs) albeit with 3 dogs permanently in residence and only 3 for day care/boarding (previously 4). It should be noted however, that it would be unreasonable to place a planning condition on a permission specifically controlling/limiting the number of pet dogs the occupiers of Koumassi can own but the number of dogs associated with the grooming parlour has already been restricted and it would also be possible to place a similar condition on the permission in relation to the day care and boarding element of the business along with a condition relating to the overall number of dogs.

Consultation was carried out with the States Vet in relation to welfare standards and no objections were raised. Matters relating to welfare standards would ultimately be assessed under other relevant laws.

Traffic and Parking

A large area of hardstanding exists to the front and side of the dwelling allowing for ample opportunity for vehicles to be parked and turn on site in order to leave the site in a forward gear in accordance with Policy IP7 of the Plan. The additional vehicle movements associated with the increased business activity at the property is not considered to represent significant or unacceptable highway safety, capacity or management issues having regard to Policy IP9.

Conclusion

No significant concerns have been raised during the course of the application or by OEHPR and as outlined above the visual amenities of the locality are not adversely affected by the business operating from the site.

In view of the above it is recommended permission is granted for the change of use proposed and to vary condition 4 of permission reference FULL/2016/1199 for an increase in the number of dogs kept on the premises at any one time to 8, without the time limitation of the 2017 permission. It is necessary to re-impose the approved operating hours associated with dog grooming given that this condition is varied and to control the hours of drop off and collect for day care/boarding. It is also reasonable to impose a condition requiring the use to cease when the current occupier of Koumassi vacates the premises.

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: 09 February 2023

