

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: Variation to Condition 2 of FULL/2004/2441 to allow for use of the laundry room for habitable purposes ancillary to the residential use of Delmar (Retrospective).

LOCATION: Delmar House, Vauvert, St. Peter Port.

APPLICANT: Mr D Vasic

I refer to the application referred to below received as valid on 18/01/2023 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 14/06/2023

Drawing Nos: Arctech drawing no's: DV-1003-22-01A & 02A

Application Ref: FULL/2023/0038

Property Ref: A306860000

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. By virtue of the inadequate provision of ancillary facilities, and the unsatisfactory living environment created, the proposal would fail to consider the health and well-being of the occupiers of the accommodation. The proposal would therefore fail to comply with Policy GP8 a) and d) (Design).

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/2023/0038
Property Ref: A306860000
Valid date: 18/01/2023
Location: Delmar House Vauvert St. Peter Port Guernsey GY1 1NJ
Proposal: Variation to Condition 2 of FULL/2004/2441 to allow for use of the laundry room for habitable purposes ancillary to the residential use of Delmar (Retrospective).
Applicant: Mr D Vasic

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. By virtue of the inadequate provision of ancillary facilities, and the unsatisfactory living environment created, the proposal would fail to consider the health and well-being of the occupiers of the accommodation. The proposal would therefore fail to comply with Policy GP8 a) and d) (Design).

OFFICER'S REPORT

Site Description:

Delmar forms part of a terrace of pre-1900 buildings located to the west of and facing on to Vauvert/La Couperderie junction, with the latter road running along the east and around the south of the terrace. The site is accessed via a shared drive running along the rear (west) of the terrace from La Couperderie to the south and benefits from parking and a garage/laundry building to the rear of the site.

The site is located within the St Peter Port Conservation Area and Main Centre Inner Area in the Island Development Plan. The whole of the main building is protected.

Relevant History:

FULL/2012/3746 Convert basement of garage to unit of residential accommodation (Retrospective). Refused 08/03/2013

PAPP/2004/2441 Variations to works previously approved to construct a garage/utility room (Retrospective) – alterations to dimensions (6.8m x 5.4m) and siting. Approved 16/03/2005, conditioned as follows:

2. The parking area, garage and the laundry room, hereby approved, shall be used solely as ancillary facilities for those purposes by the owners and occupiers of

'Delmar' and at no time shall the building be used as habitable accommodation or for any purpose independent of 'Delmar' (see additional note below).

Other remarks: The residential property 'Delmar' is recognised in terms of the Island Development (Use Classes) Ordinance 1991 as comprising: Lower ground floor and attic Residential Use Class 4 [Flat]; Ground, first and second floors Residential Use Class 7 [Residence for more than one household].

PAPP/2004/0343 Variations to works previously approved to construct a garage/utility room (Retrospective) – alterations to the overall dimensions (6.8m x 7.1m) and siting. Refused 23/03/2004

PAPP/2003/2492 Variations to works previously approved to construct a garage (Retrospective) – alterations to dimensions of garage (6.8m x 5.4m) and creation of basement laundry room. Approved 07/07/2003

PAPP/2002/5629 Variations to works previously approved to construct a garage – alterations to dimensions of garage (6.8m x 7.1m) and creation of basement laundry room. Refused 27/05/2003

Application to construct basement store to garage. Refused 2002.

Application to construct garage and archway. Approved 2002.

Existing Use(s):

Notwithstanding the submitted plans or the comments made by the Office for Environmental Health and Pollution Regulation, planning history recognises the uses of the building as:

Lower ground and attic floors: Residential Use Class 2 (Flat)

Ground, first and second floors: Residential Use Class 6 (Premises in Multiple Occupation)

Brief Description of Development:

Permission is sought in retrospect under this application to vary Condition 2 of FULL/2004/2441 to allow for use of the laundry room within the basement of the detached garage building for habitable purposes ancillary to the residential use of Delmar.

In support of the application the following points are made:

- The basement floor of the main building is a self-contained flat with its own facilities;
- The ground, first, second and attic floors are a premises in multiple occupation and are served by kitchen/cooking facilities with 2no washing machines;
- The proposal would increase the number of HMO rooms to 14;
- The basement of the garage has never been used as a washing facilities room;

- The total floor area of the garage basement is 32.9smq;
- A shower/washing room has been formed in the garage basement, cooking facilities would be shared with the main building.

Although no proposal drawings have been submitted as part of the application (the submitted drawings all referring to existing floor plans and uses), the plans are highlighted to indicate the area to which the application relates. Notwithstanding the extension of this highlighted area to the ground floor garage area, the supporting covering letter clearly states that the proposed change of use would relate solely to the basement room of the garage and not to the garage itself. The proposal is therefore sufficiently clear to enable assessment of the application.

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

GP8 Design
GP9 Sustainable Development
GP13 Householder Development

Representations:

None received.

Consultations:

The Office for Environmental Health and Pollution Regulation comment as follows:

I have reviewed the proposed plans for conversion of the basement room under the garage to an additional bedroom which were received by post on 26th January and there are a number of issues of concern that I must raise.

Delmar is a house in multiple occupation and at my last visit in April 2021 the basement of the main part of the property was not a separate flat but was used as an HMO with access to the upper part of the building. The basement comprised one large double room and three single bedrooms, a shower room and kitchen which was in a poor state of repair. It should be noted that the two small rooms in the basement shown as 'bed 13' and 'cupboard' do not meet the minimum room sizes for sleeping and do not have any windows or mechanical ventilation. In May 2021 the applicant was asked to relocate the tenants in those rooms or be served with a closing order preventing their legal use for sleeping. I note that the room 13 was vacated promptly and the room described as a cupboard was vacated in late 2021.

It should be noted that 21 tenants were housed at Delmar when I visited in April 2021. If the basement is used as a self-contained flat the kitchen is not available for use by the HMO tenants. This leaves one very small kitchen to be shared between the occupants of the HMO, which is insufficient.

I do not support the conversion of the room under the garage to additional sleeping accommodation and recommend refusal for the following reasons;

- There is insufficient ventilation to the room under the garage
- The tenants would have to cross the garden to the main house every time they wanted to prepare food or drinks
- There are insufficient kitchen facilities for the current number of bedrooms in the property.

Summary of Issues:

- Standard of ancillary and communal facilities to serve the existing premises of multiple occupation;
- The contribution of the floor area which forms the subject of this application to enhancing the standard of ancillary and communal facilities to serve the existing premises of multiple occupation;
- The impact of increasing the number of occupants associated with the premises of multiple occupation on the existing ancillary and communal facilities;
- The living environment of the proposed accommodation.

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).

The application site was purchased by the applicant in 1999. Whilst Cadastre records indicate the site was a single dwellinghouse at the time of purchase, there was no planning history which could corroborate that position. The property was visited by a member of the former Island Development Committee in 2000, at which time the accommodation within the building comprised a flat within the basement and at attic level, with the intervening floors in use for multiple occupation. In the absence of any evidence of when those uses commenced, and notwithstanding the internal linkages shown on the submitted floor plans, no further action was taken or could now be taken against the self-contained use of the basement or attic floors. The use of the ground, first and second floors is recognised as in multiple occupation.

The accommodation relating to the premises of multiple accommodation, i.e. that provided on the ground, first and second floors of the building, is summarised in the table below, taken from the information provided on the submitted plans.

Floor	Room	Size (sqm)	Bathing facilities	Cooking facilities
Ground	Bed 1	9.1	Basin	None
	Bed 2	17	En-suite	Fridge & sink
	Bed 3	19.36	None	Oven & sink
	Kitchen	4.14		
	Laundry facilities		Two washing machines	
	Shower room	2.88		

First	Bed 4	13.3	None	Fridge & sink
	Bed 5	18.5	En-suite	Fridge & sink
	Bed 6	16.36	En-suite	Fridge & sink
	Bed 14	4.18	None	None
	Shower room	4.05		
Second	Bed 7	20	En-suite	None
	Bed 8	18.48	Basin	Fridge & sink
	Bed 15	19.44	Basin	Fridge & sink
	Shower room	4.8		

The Guernsey Technical Standards Part G sets out minimum sizes for sleeping accommodation, but does not provide any standards in respect of the provision of ancillary facilities for premises in multiple occupation. The Office for Environmental Health and Pollution Regulation have published guidance in respect of the provision of such accommodation, entitled the Code of Good Practice for Renting Accommodation.

The designated “Bedroom 14” would not meet either the minimum standards for sleeping accommodation under the Guernsey Technical Standards, or the Code of Good Practice, and could not therefore be recognised as such. Taking into account the substandard size of “Bedroom 14” and the recognised use of the basement and attic floors, the premises in multiple occupation would comprise 8 double rooms and 1 single room, allowing for a maximum occupancy of 17 persons. The Code of Good Practice recommends 16.5m² kitchen space and 25m² of communal living space for premises of 16+ occupants. The existing accommodation provides only 4m² of kitchen space, with adjacent unenclosed laundry facilities, and no communal living space. Whilst the submitted plans indicate the provision of kitchen sinks within some of the rooms, cooking facilities are only identified within Bed 3. The provision of kitchen and communal living space within the building is therefore inadequate to serve the existing number of bedrooms in the premises. This assessment is corroborated by the consult response from the Office for Environmental Health and Pollution Regulation, which states that the existing amenities provision for the premises of multiple occupation is insufficient to serve the existing rooms within the building.

The detached garage and associated basement were completed in 2005, following numerous applications, and the decision was conditioned as set out above, to restrict use of the building to those uses proposed within the application, to provide ancillary facilities for the occupants of Delmar. Under the terms of that condition, the basement of the garage could only be used as a laundry room, for use by the occupants of Delmar. The current application states that the room has never been used as a laundry room and washing machines are available within the kitchen (shown within the ground floor lean-to on the submitted plans).

Although it is stated that the basement of the garage has never been used as a laundry room, if that use were implemented this could presumably allow for a (limited) expansion of the kitchen facilities within the main building, as the washing machines could be relocated, and therefore a small enhancement to the existing facilities serving the premises of multiple occupation, although those facilities would remain inadequate in respect of the guidance referenced above.

In addition to limiting the potential for provision of enhanced communal facilities, the proposal to create sleeping accommodation within the laundry room floorspace would increase the number of occupants associated with the premises of multiple occupation, without any proposal to improve the provision of communal facilities serving those occupants. The proposal would therefore compound the already substandard provision of communal facilities, through not only increasing the number of occupants sharing those facilities, but through the removal of other facilities which could offset the inadequate provision within the main building.

In terms of the quality of the proposed accommodation itself, the application plans indicate that the whole of the basement floor area, including the laundry room, shower room and enclosed veranda area, would be used as part of the creation of habitable accommodation ancillary to and sharing kitchen facilities with the premises of multiple occupation. The application does not confirm how many occupants it would be intended to house within the area, however the proposed plans do not indicate any alteration to the existing layout, which would limit the accommodation to a maximum of two person occupancy.

The proposed floor space would provide 20.3m² of sleeping accommodation, 3.04m² of bathing facilities and the addition of 7.15m² in the form of the enclosed veranda. This accommodation would therefore exceed the requirements for two person occupancy, where the accommodation was served by adequate communal facilities (it would fall short of the Guernsey Technical Standards for independent accommodation for two persons). As noted above, the communal facilities at the premises are however inadequate in respect of the existing situation and, in the case of the proposed accommodation, would be located at a distance of c19.5m across the open garden.

Furthermore, the proposed accommodation would be single aspect (easterly), largely below ground level with outlook restricted by the change in levels. In addition, the majority of the floor space comprises an inner room, with fenestration opening into the enclosed veranda. The accommodation would therefore suffer from low levels of daylight and sunlight, as well as limited outlook and likely poor ventilation. Whilst these deficits could potentially be offset by access to appropriate communal living space, as discussed above, that is not available in this case.

In addition to the above, it is noted that, unless conditioned otherwise, the floorspace could be further subdivided to create additional bed spaces without the need for planning permission, were this application approved. Any such subdivision would not only further increase the overall occupancy of the premises, but would be likely to result in living accommodation with an even more substandard living environment. Were the application recommended for approval, these matters could however be addressed through conditions limiting the occupancy of the accommodation, preventing the subdivision of the floorspace and preventing any separate use of any part of the floorspace, including the shower room or enclosed veranda.

In conclusion, the existing facilities serving the premises of multiple occupation are insufficient to support the proposed use of the garage basement as additional ancillary

habitable accommodation. Furthermore, the provision of the authorised facilities within the garage basement could be used to improve the existing substandard situation. In addition, the proposed accommodation would provide an unsatisfactory living environment and standard of accommodation, having regard to daylight, sunlight and outlook, which would not be offset by access to good quality communal facilities.

By virtue of the inadequate provision of ancillary facilities, and the unsatisfactory living environment created, the proposal would fail to consider the health and well-being of the occupiers of the accommodation. The proposal would therefore fail to comply with Policy GP8 a) and d) and the application must be refused.

Condition 2 of FULL/2004/2441 would therefore remain in place, and the basement of the garage could only be used to provide ancillary facilities as a laundry room used by the owners and occupiers of 'Delmar'. It is however advised that there may be scope to consider an alternative application to vary the condition to allow for alternative provision of ancillary facilities associated with the premises of multiple occupation within the basement, to enhance the communal facilities associated with that premises.

Date: 14/06/2023

