

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: Install external ventilation equipment to west elevation (retrospective).

LOCATION: Puffin & Oyster, Route Du Picquerel, Vale.

APPLICANT: Liberation Group

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: 30/08/2023

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 21/12/2022 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Mark Frampton & Co - 2020 / 586 / 04B; technical data sheet (date stamped received 31/07/2023) and supporting letter dated 28/07/2023; Building and Catering Services Drawings Ref: PO0305-001(f), 003(f), 004(f).

Application Ref: FULL/2023/0048

Property Ref: C02591D000+C02591E000

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 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.

3.Noise associated with plant and machinery incorporated within the development shall be controlled such that the Rating Level, measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, shall not exceed the existing LA90 background noise level, including low frequency tones. Rating Level and existing background noise levels shall be determined as per the guidance provided in BS 4142:2014.

Reason - To protect the reasonable amenities of neighbouring residents.

Expiry Date: This permission will cease to have effect on 29/08/2026 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/2023/0048
Property Ref: C02591D000+C02591E000
Valid date: 21/12/2022
Location: Puffin & Oyster Route Du Picquerel Vale Guernsey GY6 8JR
Proposal: Install external ventilation equipment to west elevation (retrospective).

Applicant: Liberation Group

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 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.

3. Noise associated with plant and machinery incorporated within the development shall be controlled such that the Rating Level, measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, shall not exceed the existing LA90 background noise level, including low frequency tones. Rating Level and existing background noise levels shall be determined as per the guidance provided in BS 4142:2014.

Reason - To protect the reasonable amenities of neighbouring residents.

INFORMATIVES

OFFICER'S REPORT

Site Description:

The site formerly known as 'Le Houmet Tavern' (now the Puffin and Oyster) is a single storey restaurant and pub, which is set back from Route du Picquerel, which runs around the northeast, north and northwest boundary of the car park in front of the building. The building faces east with gable facing the carpark to the northeast. There are neighbouring residential properties to the west and south/southeast.

The property is located Outside of the Centres as defined in the Island Development Plan.

Relevant History:

FULL/2022/1349	Variation to works previously approved under FULL/2020/1986 - omit ramp and erect steps to external terrace, alteration to decking and change steps to main access to north east elevation (retrospective)	Granted 24/11/2022
FULL/2022/1052	Erect 9 signs (retrospective).	Granted 20/10/2022
FULL/2020/1896	Erect raised decking area with ramped access, demolish external steps and alterations to fenestration, erect cold store to west (rear) elevation and bin store to north-east (front) elevation.	Granted 17/09/2021

Existing Use(s):

Retail use class 11: food.

Brief Description of Development:

Retrospective planning permission is sought to install external ventilation equipment to the west elevation. During the course of consideration, the application was deferred for further information/revised plans following consultation responses received from the States Office of Environmental Health and Pollution Regulation.

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

OC4: Retail Outside of the Centres

GP1: Landscape Character and Open Land

GP8: Design

GP9: Sustainable Development

Representations:

One letter of representation has been received from the occupier of a neighbouring residential property. The grounds for objection are summarised as follows:

- The proposal is not minor in nature as stated on the application material. There was previously one small extractor fan prior to the extensive works that took place in 2022. The new extractor cannot be classed as minor works;
- The equipment can be seen from neighbouring properties and the statement that the equipment cannot be seen on the application material is factually incorrect;
- The supporting letter is factually incorrect where it states that there will be no unacceptable impact on the amenities of neighbouring properties as the equipment cannot be seen from the private amenity areas of immediate neighbours, as the equipment can be seen;
- Fumes and fatty odours from the extractor fan have intensified and we can no longer use our outdoor space;
- Fumes penetrate through the house and fatty residue is present on windows;
- The increase in seat covers has resulted in much greater volume of extracted fumes;
- The system appears to have no filters, or they are not regularly cleaned;
- The operational hours have more than doubled since the extensive alterations took place;
- The potential noise levels although the reduction in the fan speed has reduced the noise this has not eliminated it;
- Concerns are raised with regard to the wording of the letter relating to ambient background noise levels;

Consultations:

The States Office of Environmental Health and Pollution Regulation (OEHPR) were consulted on the application.

By letter dated 17th January 2023 stated the following:

"I have reviewed the submission of the retrospective application for the installation of external ventilation equipment to the west elevation of Puffin & Oyster, Route Du Picquerel, Vale. There is currently insufficient information contained with the submitted documents for me to comment fully on the application.

Outside of the planning process, I have been in communication with the agent for this application, as this office has served a Notice Requiring the Prevention of Recurrence of Nuisance on the premises owners due to the installed equipment causing a noise nuisance to nearby residents.

I have concerns relating to the close proximity of residential properties in relation to the external ventilation equipment and the noise that residents may be subject to. Details of the specific proposed extraction system are not included with the application. There is also no acoustic information provided as part of the application and no information relating to any proposed attenuation measures. Should further information be forthcoming I will reconsider my recommendation.

At a minimum the department requires the following information:

- *Manufacturers' specifications of the proposed ventilation system*
- *Distance from flue outlet to the closest noise sensitive property (this includes domestic outdoor areas)*
- *Evidence that the noise level the proposed ventilation system would operate at would be at least 5 dB(A) below the existing L_{A90} background noise level at any time*
- *Details of any proposed attenuation measures to reduce the level of the extraction system*

I would urge the applicant to contact an acoustic consultant and 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.

Any measurements and assessment shall be made in accordance with British Standard 4142:2014. Please do not hesitate to contact me at the above address should you require any additional information regarding this matter.

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

Following discussions between OEHPR and the Planning Service regarding odour emission/control from the ventilation equipment OEHPR by letter dated 11th April 2023 provided the following revised request for the applicant to provide additional information. This was forwarded onto the agent for the application as part of a further deferral.

"I have reviewed the submission of the retrospective application for the installation of external ventilation equipment to the west elevation of Puffin & Oyster, Route Du Picquerel, Vale. There is currently insufficient information contained with the submitted documents for me to comment fully on the application.

Outside of the planning process, I have been in communication with the agent for this application, as this office has served a Notice Requiring the Prevention of Recurrence of Nuisance on the premises owners due to the installed equipment causing a noise nuisance to nearby residents.

I have concerns relating to the close proximity of residential properties in relation to the external ventilation equipment and the noise that residents may be subject to. Details of the specific proposed extraction system are not included with the application. There is also no acoustic information provided as part of the application and no information relating to any proposed attenuation measures.

In addition to noise concerns, residents living nearby the premises have complained about strong cooking odours causing them disturbance relating to the installed ventilation equipment and I am therefore also concerned about the impact that odour from the equipment may have on residents. Should further information be forthcoming I would be happy to review this and provide additional comments.

At a minimum the department requires the following information:

- Manufacturers' specifications of the proposed ventilation system*
- Distance from flue outlet to the closest noise sensitive property (this includes domestic outdoor areas)*
- Evidence that the noise level the proposed ventilation system would operate at would be at least 5 dB(A) below the existing L_{A90} background noise level at any time*
- Details of any proposed attenuation measures to reduce the level of the extraction system*

I would urge the applicant to contact an acoustic consultant and 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.

Any measurements and assessment shall be made in accordance with British Standard 4142:2014. Please do not hesitate to contact me at the above address should you require any additional information regarding this matter.

I would also welcome information regarding odour attenuation from the extraction system and refer the applicant to the [\[Withdrawn\] Guidance on the control of odour and noise from commercial kitchen exhaust - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/guidance-on-the-control-of-odour-and-noise-from-commercial-kitchen-exhaust). The full web address for the guidance document is: <https://www.gov.uk/government/publications/guidance-on-the-control-of-odour-and-noise-from-commercial-kitchen-exhaust>. Whilst I recognise that this guidance has been withdrawn, it is a useful reference and assessment tool. Within the guidance is an example odour risk assessment (Annex c, page 95-96). Completion and submission of this would be welcomed.

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 applicant’s agent submitted additional information/revised plans to address the issues raised by OEHPR, who were reconsulted for comment on the additional information received. By letter dated 18th August 2023 they stated the following: “I have reviewed the additional information submitted by Mark Frampton & Company, in relation to the retrospective application for the installation of external ventilation equipment to the west elevation of Puffin & Oyster.

I note that in Mr Frampton’s letter, dated 28 July 2023, ref. 2020/586, it is proposed that two silencers are fitted within the ventilation system to reduce noise. I further note the confirmation received by Mark Frampton & Company from Aura (Sound & Air) Limited that the installation of the two silencers might result in a Noise Rating Level of 2 dB below the existing background noise level, and that if the silencers improve tonality there could be a further reduction of 2 dB, which could possibly result in the external ventilation system operating at 4 dB below the existing background noise level.

As confirmed in my previous letter regarding this application, dated 11 April 2023, outside of the planning process I have been liaising with Mr Frampton about this premises and the external ventilation system installed, due to noise nuisance that has been identified relating to the installed equipment and for which a Notice Requiring the Prevention of Recurrence of Nuisance was served on 6th September 2022. I confirm that I had previously been provided with the above information, on 10th July, in the form of an email chain between Mark Frampton and Fay de Gruchy of Aura (Sound & Air) Limited.

Due to our ongoing concerns that the installed system will continue to cause a noise nuisance to residents if modifications are not applied, I would recommend that the following condition is attached to any consent given for this application:

- *Noise associated with plant and machinery incorporated within the development shall be controlled such that the Rating Level, measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, shall not exceed the existing L_{A90} background noise level, including low frequency tones. Rating Level and existing background noise levels shall be determined as per the guidance provided in BS 4142:2014.*

In addition to the noise issues relating to the kitchen air flow system, as previously commented in my letter dated the 11 April 2023, residents living nearby the premises have complained about strong cooking odours causing them disturbance relating to the installed ventilation equipment. I had asked in my letter for the applicant to provide information regarding odour attenuation. I note that in Mr Frampton's letter, dated 28 July 2023, ref. 2020/586, it is confirmed that carbon filtration has been added to the proposed upgrade of the system, and a list of filtration equipment is detailed. I confirm that I do not wish to make further comment or objection on this part of the application.

I would be grateful if this information and recommended condition are considered during the determination of this application.

Summary of Issues:

- Whether the principle of the development is acceptable;
- Design of the scheme and its impact on the character and appearance of the surrounding area;
- Impact of the proposal on neighbouring residential properties.

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.

Whether the principle of the development is acceptable.

Comments from the representor that the renovation works completed in 2022 have resulted in a significant increase in the use of the site and that the new extractor cannot be classed as minor works are noted.

However, other than the works listed in the planning history section of the report the renovation works completed in 2022 involved internal alterations that did not constitute development for the purpose of Planning Law and therefore did not require planning permission. Although the internal alterations may have resulted in an increase in the use of the site they are outside of planning control. For the purpose of planning policy therefore the retail function continues to operate within the same building and no additional floorspace has been created. In this respect therefore, the ventilation system is of limited scale to facilitate the existing retail use at its current level of operation and for the reasons referred to in the following sections of this report, would not cause an unacceptable adverse impact on the visual character and amenity of the locality and accords with all other relevant policies of the Island Development Plan. The principle of development is therefore considered to be acceptable and complies with Policy OC4 of the IDP.

Design of the scheme and its impact on the character and appearance of the surrounding area

Policy GP8 (Design) sets out a number of criteria which development will be expected to address to ensure that a scheme achieves high standards of design which respect the character of the environment.

Situated and attached to the rear of the existing building, below eaves level and screened from the surrounding area by existing built form, the development is unseen from public vantage points within the surrounding area. The comments from the representor have been noted and although the proposal is visible in viewpoints from the neighbouring residential property, this alone would not be a reason for refusal of permission.

Overall the impact of the scheme on the visual character and appearance of the surrounding area would therefore not be so substantial to warrant the refusal of planning permission. The scheme complies with Policy GP8 in this respect.

Impact of the proposal on neighbouring residential properties.

The comments from the representor have been noted and during the course of consideration the application has been deferred following consultation responses from the States Office of Environmental Health and Pollution Regulation to seek

additional information to address the concerns raised with particular regard to noise and disturbance, odours and fatty residue emittance from the equipment during operation.

The applicant's agent has submitted information produced by a specialist acoustic consultant to demonstrate that additional equipment has been installed to the ventilation system and that it will be controlled to operate at an appropriate level to address the issues raised regarding noise and disturbance.

The agent has also confirmed that a carbon filtration system has been added to the equipment and a list of additional filtration equipment has also been detailed in a supporting letter to address the concerns raised regarding odours and fatty residue.

The States OEHPR were consulted on all additional information received and recommend that a condition is imposed on any permission to ensure that the equipment operates at the appropriate noise level so as not to cause disturbance to the amenities of nearby uses.

In the absence of any objection from OEHPR and subject to the recommended condition the scheme is considered to be acceptable in this respect and any harm on neighbouring properties would not be so substantial to warrant the refusal of permission.

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; the effect of the proposed which the site could be put without further planning permission; 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 development does not impact on any Protected Buildings, trees, monuments or on any SSS's.

For the reasons set out within this report the development complies with the relevant provisions of the Island Development Plan and satisfies the other relevant material planning considerations; it is therefore recommended that planning permission be granted with conditions.

Date: 29/08/2023

