

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 garage/studio from Residential (Use Class 1) to architects office (Residential Use Class 5) (retrospective), (revised scheme).

LOCATION: Bon Air, Le Rocher Road, St. Martin.

APPLICANT: Mr & Mrs R J Mahy

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: 04/07/2023

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 13/01/2023 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Create Limited: 600-3-014D, -016 &-017A.

Application Ref: FULL/2023/0156

Property Ref: J01295A000

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. For the avoidance of doubt, this permission is only granted on the principle that the total number of people working on the premises, does not exceed 3 individuals (including the homeowner), at any one time.

Reason - to ensure that the scale of the business is ancillary to the principal residential use of the site for the purposes of Island Development Plan Policy GP14 (Home Based Employment).

4. No use of the premises shall be carried out other than between 0800 hours and 1800 hours on Mondays to Fridays, and 0800 hours and 1300 hours on Saturdays, and there shall be no working on Sundays or Public Holidays.

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

5. This permission is solely for the benefit of the applicant and shall not run with the land. When the premises cease to be occupied by the current owner of the site, the use of part of the site as an architect's office hereby permitted shall cease.

Reason - But for the special circumstances of the application and the limited number of people working on site, the Authority would not have been prepared to grant permission for the development.

Expiry Date: This permission will cease to have effect on 03/07/2026 unless development is commenced by that date.

ADVICE AND OTHER REMARKS:-

Should the nature or scale of the business change or increase, it is strongly advised that you contact the Authority to consider whether a material planning consideration has occurred which may involve the submission of a planning application.

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/2023/0156
Property Ref: J01295A000
Valid date: 13/01/2023
Location: Bon Air Le Rocher Road St. Martin Guernsey GY4 6EL
Proposal: Change of use of garage/studio from Residential (Use Class 1) to architects office (Residential Use Class 5) (retrospective), (revised scheme).

Applicant: Mr & Mrs R J Mahy

RECOMMENDATION - Grant: Planning Permission with Conditions:

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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.

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Reason - to ensure that the scale of the business is ancillary to the principal residential use of the site for the purposes of Island Development Plan Policy GP14 (Home Based Employment).

4. No use of the premises shall be carried out other than between 0800 hours and 1800 hours on Mondays to Fridays, and 0800 hours and 1300 hours on Saturdays, and there shall be no working on Sundays or Public Holidays.

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

5. This permission is solely for the benefit of the applicant and shall not run with the land. When the premises cease to be occupied by the current owner of the site, the use of part of the site as an architect's office hereby permitted shall cease.

Reason - But for the special circumstances of the application and the limited number of people working on site, the Authority would not have been prepared to grant permission for the development.

INFORMATIVES

Should the nature or scale of the business change or increase, it is strongly advised that you contact the Authority to consider whether a material planning consideration has occurred which may involve the submission of a planning application.

OFFICER'S REPORT

Site Description:

The application site comprises a detached bungalow with a large, detached outbuilding to the rear and a stable to the west of the house.

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

Planning permission was refused in 2022 to change the use of a newly constructed garage/studio from residential (Use Class 1) to an architects home office (Residential Use Class 5).

Relevant History:

FULL/2022/1218	Change of use of garage/studio from Residential (Use Class 1) to Architects Office (Residential Use Class 5)	Refused
FULL/2020/0044	Demolish existing and erect dwelling, erect two storey detached garage/studio with external staircase. Remove hedge, erect retaining wall and pedestrian gate.	Granted

Existing Use(s):

Residential

Brief Description of Development:

Following the refusal, the agent now seeks to amend the scheme to change the use of the site from a residential (Use Class 1) to home based business (Residential Use Class 5) as an architects office. The proposed architects office focuses on the first floor of the recently constructed garage/studio.

This application as originally submitted included two works stations. It was noted that two employees would remotely work from home, although one employee would shortly be leaving the business.

The agent's letter of 6th January 2023 and the 5th May 2023 sets out that:

"... the new intended use of the Home Office is for the business owner to have a suitable place to work from their own home with one assistant. The Home Office will consist of the entirety of the First Floor above the Garage as previously approved and will host a maximum of two desk workspaces. There will also be a room on the Ground Floor where a computer server, large format printer and general store will be located. Meetings with clients will be conducted off site (at their property/office) or completed via a video call connections. The remaining two employees will work remotely."

Concerns were raised regarding the number of employees associated with the home based business, which would have not satisfied the ethos of policy GP14 beyond the reasonable expectation of a home based business. Although the applicant noted that some employees would work remotely, this would have been difficult to control through planning conditions and would have been unreasonable and unenforceable. The scheme as first submitted would therefore likely have been refused.

The agent has since however amended the drawings and has noted that an employee had handed in their notice and left the business since the initial submission of the application, resulting in 3 employees, including the homeowner now working from the site. The first-floor plan now shows three desk workplaces with no employees working from home.

Consequently, the homebased business would feature 3 individuals, one of which is the home owner, working from the site and include two car parking spaces allocated to the business.

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

GP14 Home Based Employment
IP7 Private and communal parking
IP9 Highway Safety, Accessibility and Capacity

Representations:

None

Consultations:

None

Summary of Issues:

- Whether the proposed business falls within the scope of Policy GP14 (Home Based Employment).
- The impact of the development on the character and appearance of the area.
- The impact of the development on neighbour amenity.

Assessment against:

- 1 - Purposes of the law.**
- 2 - Relevant policies of any Plan, Subject Plan or Local Planning Brief.**
- 3 - General material considerations set out in the General Provisions Ordinance.**
- 4 - Additional considerations (for protected trees, monuments, buildings and/or SSS's).**

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

The principle for erecting a detached two storey garage to be used ancillary to the dwelling-house was granted planning permission under application FULL/2020/0044, therefore its physical design has already been determined and is compliant with criterion 'c' of Policy GP14. Works have commenced on site.

The application is in relation to the use of the approved garage changing from Residential Use Class 1 (Dwelling-House) to Residential Use Class 5 (Use of part of dwelling for business purposes).

Policy GP14 (Home Based Employment) is the gateway policy in assessing this application. Both the policy text and preceding text have equal weight and must be read together, and in context.

The preceding text explains that the Strategic Land Use Plan (SLUP) offers limited provision for small-scale office-based businesses, and other small-scale businesses outside of the Centres.

Uses that may be acceptable under Policy GP14 typically employ a low number of people, have a low intensity of use, do not require a significant level of support services, and are of a scale and form which do not detract from the character of the surroundings. These acceptable type of businesses rely on modern technology and communications which can reasonably be carried out from a residential property. Conditions may be attached to limit the hours of work, type of activities, and restriction of the business to the occupier.

It is noted in Policy GP14 that any development relating to home-based employment must be ancillary to the principal residential use of the site and therefore does not represent new office, retail or industry Outside of the Centres.

The surrounding area is predominately residential in character and is defined by narrow country lanes with low traffic volumes and speeds, as opposed to a more built up and heavily trafficked area of the Island.

The nature of an architectural business will have a low impact on the locality and neighbour amenity given that this type of business is dependent on modern technology and communications. Assurances have also been given by the applicant that meetings will be undertaken offsite. Despite these assurances, conditioning that all meetings must be undertaken offsite would likely be unreasonable and unenforceable.

In light of the amendments secured following the application being deferred, the number of people working from the site has reduced to an appropriate level that respects the tranquillity of the surrounding rural area. Consequently, the total number of people working from site is considered to be 'low' for the purposes of Policy GP14. Limiting the number of people working at the site to 3 would also reduce associated noise and disturbance from the business on the amenities of neighbouring residents to an acceptable level.

The focus of the business is restricted primarily to the first floor of the approved garage, therefore it is clear that the site as a whole will remain residential in character.

It is reasonable and necessary to attach planning conditions to manage the use of the site by restricting the number of people working from the site at any one time, hours of operation, and that the permission is for the homeowner only given the specifics of the case, in order to respect the character and amenity of the area.

Overall, the proposals is regarded as a 'small-scale' business and ultimately falls within the provisions of Policy GP14, together with the aims and objectives of the Island Development Plan. Based on the above, the application is considered compliant with the relevant Island Development Plan policies, accords with the purpose of the Law, and the requirements of the material considerations; it is therefore recommended that planning permission be granted, subject to conditions

Date: 03/07/23