

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: Convert, extend and alter existing restaurant (Retail Use Class 11) to a dwelling (Residential Use Class 1).

LOCATION: Gold & Silversmiths, Le Gron, St. Saviour.

APPLICANT: Bruce Russell & Son Ltd

This permission is granted under the terms of Sections 15 and 16 of the Land Planning and Development (Guernsey) Law, 2005 (the 'Law').

Date of Grant of Permission: 20/10/2023

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 09/03/2023 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Direct Architectural Solutions Ltd: 1258-SK-01E & -02E.

Application Ref: FULL/2023/0410

Property Ref: E000490000

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.Notwithstanding the information submitted, full details of the new wall along the south-east and south-west boundary to the rear of the approved domestic curtilage shall be submitted to and agreed in writing by the Authority. The agreed details shall thereafter be implemented prior to the dwelling-house being first occupied.

Reason - to ensure that the dwelling-house is appropriately demarcated in order to achieve an acceptable standard of external amenity.

5.The hereby approved garage to the front of the dwelling shall be constructed and completed prior to the dwelling-house being first occupied, unless otherwise agreed in writing.

Reason - to provide a sufficient area for secure and covered bicycle storage to accord with Supplementary Planning Guidance: Parking Standards and Traffic Impact Assessment.

6.Notwithstanding the information submitted, full details of all replacement and additional trees and hedges as indicated on drawing no: 1258-SK01 shall be planted within the application site (outlined in red) and must be submitted to and agreed in writing by the Authority, including the species, sizes, numbers and densities of plants.

Reason - To ensure that the replacement and additional planting is carried out within the application site and not on the adjacent meadow (as indicated on drawing 1258-SK-01), to offset the loss of the existing trees, and to assimilate the development to the front of the approved dwelling with the surrounding area.

7.The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of the above condition, in the first planting season following dwelling-house being first occupied. Any plants removed, dying, being severely damaged or becoming seriously diseased, within 5 years of planting shall be replaced in the following planting season by plants of a size and species similar to those originally required to be planted.

Reason - To ensure that the planting scheme is carried out in a reasonable timeframe.

Expiry Date: This permission will cease to have effect on 19/10/2026 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/2023/0410
Property Ref: E000490000
Valid date: 09/03/2023
Location: Gold & Silversmiths Le Gron St. Saviour Guernsey GY7 9RN
Proposal: Convert, extend and alter existing restaurant (Retail Use Class 11) to a dwelling (Residential Use Class 1).

Applicant: Bruce Russell & Son Ltd

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. Notwithstanding the information submitted, full details of the new wall along the south-east and south-west boundary to the rear of the approved domestic curtilage shall be submitted to and agreed in writing by the Authority. The agreed details shall thereafter be implemented prior to the dwelling-house being first occupied.

Reason - to ensure that the dwelling-house is appropriately demarcated in order to achieve an acceptable standard of external amenity.

5. The hereby approved garage to the front of the dwelling shall be constructed and completed prior to the dwelling-house being first occupied, unless otherwise agreed in writing.

Reason - to provide a sufficient area for secure and covered bicycle storage to accord with Supplementary Planning Guidance: Parking Standards and Traffic Impact Assessment.

6. Notwithstanding the information submitted, full details of all replacement and additional trees and hedges as indicated on drawing no: 1258-SK01 shall be planted within the application site (outlined in red) and must be submitted to and agreed in writing by the Authority, including the species, sizes, numbers and densities of plants.

Reason - To ensure that the replacement and additional planting is carried out within the application site and not on the adjacent meadow (as indicated on drawing 1258-SK-01), to offset the loss of the existing trees, and to assimilate the development to the front of the approved dwelling with the surrounding area.

7. The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of the above condition, in the first planting season following dwelling-house being first occupied. Any plants removed, dying, being severely damaged or becoming seriously diseased, within 5 years of planting shall be replaced in the following planting season by plants of a size and species similar to those originally required to be planted.

Reason - To ensure that the planting scheme is carried out in a reasonable timeframe.

INFORMATIVES

OFFICER'S REPORT

Site Description:

The site comprises a cluster of buildings of traditional forms and character set on the north-western edge of a woodland valley. The application site is located Outside of the Centres and is within an Agriculture Priority Area as designated in the Island Development Plan.

The premises is recognised as a visitor attraction site comprising a gold and silversmiths workshop and showroom, café/restaurant, and gardens/nature walk, with parking provision to the south. The premises also features a dwelling-house.

The subject of this application focuses on the café/restaurant located to the north of the site, with outdoor seating provision to the south. The building is comprised of granite and features a traditional pitched clay tiled roof and a dormer window to the rear. The building currently features a kitchen, restaurant and store on the ground floor, with toilet facilities located in the basement.

Planning permission was granted in 2012 to change the use of the café/restaurant to a dwelling-house, subject to a replacement café/restaurant being built (FULL/2012/2657).

Relevant History:

FULL/2023/0330	Erect wall to south-west and south-east of building.	Pending
FULL/2017/2776	Convert first floor office to residential flat including install rooflight (north-west elevation) and alterations to fenestration. Remove hedge, erect boundary wall and gates and create parking area. Alter fenestration to showroom on north-east elevation (retrospective).	Granted
FULL/2016/0574	Erect timber building to serve drinks and snacks.	Granted
FULL/2012/2657	Convert and extend existing cafe to form one dwelling, to include garage on north west side, balcony on north east elevation, porch on south east elevation and 4 rooflights on south east elevation.	Granted

Existing Use(s):

Overall site – Sui generis – Visitor attraction.

Café/restaurant building (the subject of this application) - Retail – General Retail Use Class 10.

Brief Description of Development:

Planning permission is sought to convert, extend and alter the café/restaurant to create a dwelling-house.

The application includes the creation of curtilage to the front and rear of the proposed dwelling. The proposal includes creating a garage to the front of the property, and erecting a porch and wall to the rear to define the domestic curtilage.

The proposed dwelling features 2 bedrooms, living room, dining room, kitchen, utility, garage, and store, together with a proposed balcony on the north-east elevation and a new porch and patio area to the rear.

The agent set out in their letter of 15th February 2023 that the last known use of the building is a café/restaurant. In the past 6 years, the premises has been occupied by 3 different tenants, and has remained empty for 10 months during this period (presumably up until the date of submission). The applicant has *“struggled to find an experienced chef/and or a reliable person to take on the lease in a declining market.”* It is also noted that:

“We have spoken to several people that have shown interest in the past when the café was busy, but they all say the market has changed and that they are no longer willing, even with a reduced rent, to undertake such a large financial risk, with decreasing footfall. We have reached the point where the building is redundant and not required by our Gold and Silversmith business with increasing online sales and less tourists visiting the site.”

Some concerns were raised over the justification provided in terms of whether the building is ‘redundant’ for the purposes of Policy GP16(A) (Conversion of Redundant Buildings).

In attempt to overcome the concerns raised, the agent has:

- Provided a copy of correspondence from the applicant dated 27th June 2023 which sets out a combination of factors as to why the business is unviable including, reduction in number of visitors, restricted to operating during daytime hours only, and *“upkeep working from an old building made it increasingly difficult to run a profitable business from the premises”*.
 - The business model of the jewellers and silversmiths has adapted to the online market and a consequence of such change does not support an onsite café. Other factors include staff issues, lack of

tourists and general footfall has made the premises unviable based on a previous tenants experience. One enquiry to operate the business was on the provision that the opening hours would be extended to 23:00 hours, although this was considered high risk by the applicant's insurers and would not provide cover as stated below.

- Provided a copy of email correspondence between an insurance company dated 2nd June 2016. This sets out the company's stance with regards to the significant increase in business/property insurance cover should the café be openable longer (until 23:00 hours) to suit a tenant's proposed opening hours. The rationale behind this decision was due to the proximity of existing jewellers and silversmiths on site.
- Contacted two estate agent companies, whom have both:

"...verbally advised that due to the nature of the hospitality and catering business, the advertising to find a future tenant would not really very successful, as any possible future tenant would most likely come from an approached from either a new venture or an existing on island café facility... which has also historically been the case with previous tenants".

- Provided an e-mail from an estate agent who has confirmed that the café was marketed for a 4 month period. No dates were specified.
- Provided an advertisement posted on the Café's social media page in 2019 seeking a new tenant.
- Provided advertisement signage installed on the exterior of the building in 2019, in search of a new tenant. Photographs provided.
- Confirmed that advertisements were installed to the front and rear of the site within the application site, in attempt to secure a new tenant.

The agent has also noted in their letter of 30th August 2023 that:

"The reasoning behind the new fit-out works being carried out and completed in February 2019 was due to the existing café being empty for a period of approximately 10 months.... looking to secure a new tenant for the existing café, the estate agents Watts Property Consultants Limited recommendation that Bruce Russel & Son Limited (Gold and Silversmiths) undertake the new fit-out works as a 'Good Will Gesture' and an incentive to attract a new tenant to the existing café."

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

- OC1: Housing Outside of the Centres.
- OC4: Retail Outside of the Centres
- GP1: Landscape Character and Open Land
- GP8: Design

GP9: Sustainable Development
GP16(A): Conversion of Redundant Buildings
IP7: Private and communal parking
IP9: Highway Safety, Accessibility and Capacity

Supplementary Planning Guidance – Parking Standards and Traffic Impact Assessment (2016)

Representations:

None.

Consultations:

None.

Summary of Issues:

- Whether the loss of the retail unit in this location is acceptable.
- Whether the conversion of the building into a dwelling-house is acceptable.
- Creation of curtilage.
- Whether the design of the proposed development is acceptable.
- Parking and access.
- The impact of the development on the character and appearance of the area.
- The impact of the development on neighbour amenity.
- The impact on the setting of the adjacent protected building.

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 loss of retail is appropriate in this location:

Policy OC4 states that a *“Change of use away from comparison or convenience retail will be supported providing that the proposal accords with all other relevant policies of the Island Development Plan.”* Consequently, the loss of the retail unit in this location is acceptable, subject to complying with other relevant planning policies.

Whether the building is redundant:

Policy OC1 states that *“Outside of the Centres, proposals for the creation of new dwellings will only be supported where this is achieved through the subdivision of an existing dwelling or the conversion of an existing redundant building.”* The application falls under the conversion of an existing ‘redundant’ building, although whether the proposal is ‘redundant’ is discussed below.

The agent has submitted further justification as set out in their letter of 5th July 2023 in attempt to demonstrate that the building is no longer capable of being used for its current or last known purpose, as a café/restaurant, as the premises is unviable due to various factors and therefore is no longer required for the purposes of Policy GP16.

As set out above in the ‘brief description of the development’, the factors over redundancy focus on reasons such as; the decline in visitor numbers and general low footfall, change in market trends within increasing online sales resulting in the restructuring of the business, staffing issues (i.e. difficulty in hiring an experienced chef), rental being subsidised although still proving to be unviable, restriction in opening hours, and presumably inadequate catering facilities due to the age of the building (*“upkeep working from an old building made it increasingly difficult to run a profitable business from the premises”*).

Whilst some of these claims are reasonable, the justification submitted is not corroborated, e.g. viability statements, in order to understand whether the valuation of the rent is reasonable. In addition, it would be expected that the property owner maintains or improve catering facilities from previous profits in order to ensure the premises is fit for purpose and remains attractive to potential future tenants. It would also be expected that the period of marketing would ordinarily be longer than 4 months to demonstrate redundancy.

However, when taking into account the cumulative factors that make the café/resultant unviable as set out above, together with the period of advertisement of the café, cumulatively indicates the inappropriateness of the site being retained for retail use.

The supporting information that accompanies the application provides a broad overview of the premises since 2019 when the site was purchased by the applicant. It is apparent that during the last 4 years the site has not been continually operated as a restaurant/café. The supporting info has also highlighted the ongoing constraints of the site, changes in markets/business operations, and challenges which have impacted on the success of the business, including the move to an online shop resulting in less footfall to the site, less tourists and cruise ships to the island and issues relating to insurance cover should the café become a licensed premises

with extended opening hours. There has also been a succession of short leases and some formal advertising through estate agents and also on social media and within the site itself. The site appears to have been vacant since December 2022, and in consideration of all these factors, together and on balance, the proposal is considered to comply with Policy GP16(A) in terms of redundancy.

It could be also argued that the site lends itself to residential when taking into account the general support and policy direction away from retail outside of the Centres, as well as assessing the spatial relationship between the building and the neighbouring residential properties which indicates poor connectivity to other retail premises (apart from the jewellers and silversmiths on site). In addition, the spatial strategy of the IDP seeks to concentrate the majority of development, including retail provision, within the Main Centres therefore its loss in this circumstance is not resisted.

On this basis, it is reasonable to come to the conclusion that for the purposes of Policy GP16(A), the building is '*no longer capable of being used for its current or last known purpose*'.

In addition, permission was granted in 2012 to change the use of the café/restaurant to a dwelling-house therefore the principle has been supported in the past, despite the material change in planning policy and circumstances relevant to that case.

Whether the conversion of the building into a dwelling-house is acceptable:

The proposal would result in a residential use which is acceptable under Policy, the existing building of sound and substantial construction, and is capable of conversion without extensive alteration or rebuilding as alluded to in the Structural Engineers report.

The proposal would have no unacceptable impacts on the character and appearance of the surrounding area, and the conversion and ancillary development associated with the building can be implemented without having any unacceptable impacts on the building's contribution to the character and openness of the landscape.

The conversion would not involve more than a modest garage and porch extension to the existing building for it to be achieved.

The building is redundant as aforementioned above.

On this basis, the proposal would accord with Policy GP16(A).

Consequently, the principle of housing development is acceptable and further consideration as to whether the development would be in character with its surroundings, achieves a satisfactory design, and the effect of the building on neighbouring residents is assessed below.

Creation of curtilage:

The proposal seeks to create a modest sized curtilage to the front and rear of the building which will not have a detrimental effect on the landscape character of the wider area, nor would it adversely affect; an Area of Biodiversity Importance, an Agriculture Priority Area, nor result in the loss of established boundary features. The effect of the development on neighbouring amenity is discussed below.

The creation of curtilage is required as part of the conversion of a redundant building to a dwelling-house in the interests of the health and well-being of future occupiers, and the proposed granite boundary wall is an acceptable means of enclosure.

The proposal seeks to use part of the recognised curtilage associated with the sui generis use of the site. The loss of this land to residential would not fundamentally alter the use of the visitor attraction site and/or retail use as sufficient space and toilet provision would remain on site adjacent to the jewellers and silversmiths shop.

There is no requirement to achieve a positive environmental enhancement through the direction of the Strategy for Nature (2020) given that no agricultural land is being lost as part of the proposal, and the scheme does not require assessment against Policy GP15 as the curtilage created is within the land owner's ownership and does not result in the change of use of agricultural land to domestic curtilage.

Whether the design of the proposed development is acceptable, parking and access, the impact of the development on the character and appearance of the area, and on neighbour amenity.

The proposed development seeks to convert an existing retail building in order to create a two-bedroom dwelling-house with a reasonably sized internal and external amenity space. The scale, form and footprint of the building would remain unchanged, whilst modernising its appearance through limited alterations to the property.

Some of the works are focused on the interior of the building to improve aspects such as thermal performance, ventilation, sanitation etc in order to comply with the Guernsey Building Regulations (2012).

The remaining works to the building, such as alterations to the fenestration, balcony, new garage and porch will have a negligible effect on the exterior of the building, subject to appropriate conditions.

The new dwelling would satisfy the amenity standards providing a reasonable living environment set out in Annex 1 (Amenities). The conversion of the barn alone would surpass the building standards in terms of minimum size rooms and living conditions. In this case, the additions of the balcony, new garage and porch would create additional floor area which would enhance the quality of the living environment.

The vast majority of the accommodation is created on the ground floor (apart from a second bedroom), thereby the building would remain accessible for people with an ambulant disability. As new internal partitions are non-structural, the building would be capable of adaptation in future to meet the changing needs of occupiers.

Towards the front of the building, the property already has provision for car parking and is served by an existing access and therefore there will be no highway safety or traffic management issues as sightlines would remain unchanged, so would the space available to manoeuvre a vehicle within the site. The application also includes secure and covered bicycle provision for the dwelling in the form of the proposed garage. It is reasonable to attach a condition to the decision to ensure that this is available to the occupants of the dwelling prior to it being brought into first use in the interests of sustainable means of travel (Supplementary Planning Guidance – Parking Standards and Traffic Impact Assessment (2016)).

The use of the building as a dwelling-house will have limited effect on the character and appearance of the area when compared to using the building for retail use, particularly as the surrounding area is predominately characterised as residential.

Despite the inclusion of new roof-lights and a window on the west elevation of the building at first floor level, the degree of overlooking would not be significant to justify refusal given that the first floor is to be used as a store and study and comprised void areas serving the ground floor accommodation. Whilst the relationship between the first floor gable window to the west of the property will result in overlooking, the degree of overlooking of the neighbours garden (in this case the applicant's garden) would not be detrimental when taking into account the distance, relationship, boundary treatment and extent of garden overlooked.

Sufficient information has been submitted that has taken into account the criteria of Policy GP9 (Sustainable Development).

Overall, the proposal will have little effect on the character and appearance of the area as the majority of the works are not highly visible in public views, and there will be no substantial effect on neighbours.

The proposal is compliant with Policy GP8, GP9, IP7 and IP9.

Conclusions

The principle to convert a redundant retail unit into a dwelling-house in this location based on the characteristics and constraints of the site, justification provided, together with the spatial strategy of the IDP is appropriate under the provisions of Policy OC1, OC4 and GP16(A). The proposal is considered to respect the character and appearance of the surrounding area.

The dwelling is acceptable as it achieves a good standard of design under Policy GP8, which also demonstrates the most effective and efficient use of land whilst respecting the surrounding built environment.

The new dwelling would satisfy the amenity standards providing a reasonable living environment set out in Annex 1 (Amenities), nor undermine the privacy of neighbouring residents.

Based on the above, the application is considered compliant with the relevant Island Development Plan policies; it is therefore recommended that planning permission be granted, subject to conditions.

3 - General material considerations set out in the General Provisions Ordinance.

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.

4 - Additional considerations (for protected trees, monuments, buildings and/or SSS's).

There will be no effect on protected trees, monuments, buildings and/or SSS's.

Date: 26/09/23