

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: Variation of Condition 4 of permission for use of the building by Channel Islands Ceramics for storage and distribution and industrial activities (FULL/2014/3145) - To allow use of the building by the Natural Stone Company (retrospective).

LOCATION: Unit 4, Clemrose, La Rue Des Fosses, Forest.

APPLICANT: Mr M 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: 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 10/07/2023 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Annotated 1:1250 scaled location plan date stamped received 07/03/2023

Application Ref: FULL/2023/0479

Property Ref: H000970000

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 and in accordance with the approved details and drawings of permission reference FULL/2014/3145. 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.The building to which this permission relates shall be used only for storage & distribution purposes within Storage/Distribution Use Class 22 and light industrial purposes within Industrial use class 24 of the Land Planning and Development (Use Classes) Ordinance, 2017, or in any provision equivalent to those Use Classes in any Ordinance revoking or re-enacting that Ordinance, and only in connection with the business of the Natural Stone Company. The building shall not be used for any other storage & distribution or industrial activity or by any other occupier without the express prior written consent of the Authority.

Reason - The permission has been granted on the basis that the building will be used only for storage and distribution and light industrial purposes by The Natural Stone Company. Any change in operation will require further consideration against the relevant planning policies.

5. No part of the building shall be used for refrigerated storage.

Reason - Such storage can result in noise and disturbance, which may result in a loss of amenity for neighbouring dwellings.

6.No industrial activity shall take place outside the hours of 0800 to 1800 Mondays to Fridays and 0800 to 1300 on Saturdays. There shall be no working on Sundays or public holidays.

Reason - To safeguard the amenities of people living in the locality.

7.No deliveries shall be received at or despatched from the site outside the hours of 0800 to 1800 hours on Mondays to Fridays and 0800 to 1300 hours on Saturdays and there shall be no deliveries or despatches at any time on Sundays or public holidays.

Reason - To safeguard the amenities of people living in the locality.

8.Except in times of emergency or road closure, deliveries to and from the new building shall be directed from the south and west via Rue du Manoir and Les Reines respectively.

Reason - In order to ensure delivery vehicles serving the building have minimum impact on road safety and neighbour amenity.

9.Full details of all plant and machinery required to be used and the associated noise, shall be submitted to and approved in writing by the Authority within two months of the date of this permission. Only those approved by the Authority shall be continued to be used thereafter.

Reason - To safeguard the amenities of people living in the locality.

10.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 a level below 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 safeguard the amenities of people living in the locality.

11.Industrial plant and machinery shall be operated in the building only while all doors and windows remain closed.

Reason - To safeguard the amenities of people living in the locality.

12.No industrial activity of any kind, except loading and unloading and the storage of materials in the storage areas shown on the 1:1250 scaled location plan (date stamped received 07/03/2023), shall take place outside the proposed building within the curtilage of the site.

Reason - To safeguard the amenities of people living in the locality.

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/2023/0479
Property Ref: H000970000
Valid date: 10/07/2023
Location: Unit 4 Clemrose La Rue Des Fosses Forest Guernsey GY8 OJA
Proposal: Variation of Condition 4 of permission for use of the building by Channel Islands Ceramics for storage and distribution and industrial activities (FULL/2014/3145) - To allow use of the building by the Natural Stone Company (retrospective).

Applicant: Mr M J Mahy

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 and in accordance with the approved details and drawings of permission reference FULL/2014/3145. 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. The building to which this permission relates shall be used only for storage & distribution purposes within Storage/Distribution Use Class 22 and light industrial purposes within Industrial use class 24 of the Land Planning and Development (Use Classes) Ordinance, 2017, or in any provision equivalent to those Use Classes in any Ordinance revoking or re-enacting that Ordinance, and only in connection with the business of the Natural Stone Company. The building shall not be used for any other storage & distribution or industrial activity or by any other occupier without the express prior written consent of the Authority.

Reason - The permission has been granted on the basis that the building will be used only for storage and distribution and light industrial purposes by The Natural Stone Company. Any change in operation will require further consideration against the relevant planning policies.

5. No part of the building shall be used for refrigerated storage.

Reason - Such storage can result in noise and disturbance, which may result in a loss of amenity for neighbouring dwellings.

6. No industrial activity shall take place outside the hours of 0800 to 1800 Mondays to Fridays and 0800 to 1300 on Saturdays. There shall be no working on Sundays or public holidays.

Reason - To safeguard the amenities of people living in the locality.

7. No deliveries shall be received at or despatched from the site outside the hours of 0800 to 1800 hours on Mondays to Fridays and 0800 to 1300 hours on Saturdays and there shall be no deliveries or despatches at any time on Sundays or public holidays.

Reason - To safeguard the amenities of people living in the locality.

8. Except in times of emergency or road closure, deliveries to and from the new building shall be directed from the south and west via Rue du Manoir and Les Reines respectively.

Reason - In order to ensure delivery vehicles serving the building have minimum impact on road safety and neighbour amenity.

9. Full details of all plant and machinery required to be used and the associated noise, shall be submitted to and approved in writing by the Authority within two months of the date of this permission. Only those approved by the Authority shall be continued to be used thereafter.

Reason - To safeguard the amenities of people living in the locality.

10. 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 a level below 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 safeguard the amenities of people living in the locality.

11. Industrial plant and machinery shall be operated in the building only while all doors and windows remain closed.

Reason - To safeguard the amenities of people living in the locality.

12. No industrial activity of any kind, except loading and unloading and the storage of materials in the storage areas shown on the 1:1250 scaled location plan (date stamped received 07/03/2023), shall take place outside the proposed building within the curtilage of the site.

Reason - To safeguard the amenities of people living in the locality.

INFORMATIVES

OFFICER'S REPORT

Brief Description of the site:

The application site comprises an industrial unit forming part of the Clemrose Industrial Complex situated to the east of Les Reines and to the west of La Rue Des Fosses. Surrounding the site the area comprises industrial units to the south, east and west with residential properties beyond to the south, northwest and northeast. Agricultural fields are situated to the north.

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

Relevant History:

FULL/2014/3145	Utilise building in course of construction by Channel Islands Ceramics for storage & distribution and industrial activities	Granted 10/12/2014
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	(Storage/Distribution use classes 30 & 32 and Industrial use class 37).	
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Existing Use(s):

Storage and distribution use and Light industrial Use

Assessment: *(Tick as appropriate)*

no representation	☒	visual amenity acceptable	☒
accords with policy	☒	no material neighbour impact	☒
within curtilage	☒	traffic not affected	☒
design acceptable	☒		

Policies considered most relevant:

MC3: Offices, Industry and Storage and Distribution Use Outside of the Centres;
GP8: Design
IP9: Highway Safety, Accessibility and Capacity

Consultations:

Environmental Health

By letter dated 11th August stated the following:

"I have reviewed the retrospective application for Unit 4 Clemrose which were received by email on 21st July 2023 for the variation of Condition 4 of permission for use of the building by Channel Islands Ceramics for storage and distribution and industrial activities (FULL/2014/3145) - To allow use of the building by the Natural Stone Company (retrospective).

Condition 4

The building to which this permission relates shall be used only for storage & distribution purposes within Storage/Distribution Use Classes 30 and 32 and light industrial purposes within Industrial use class 37 of the Land Planning and Development (Use Classes) Ordinance, 2007, or in any provision equivalent to those Use Classes in any Ordinance revoking or re-enacting that Ordinance, and only in connection with the business of Channel Island Ceramics. The building shall not be used for any other storage & distribution or industrial activity or by any other occupier without the express prior written consent of the Environment Department.

Reason - The permission has been granted on the basis that the building will be used only for storage and distribution and light industrial purposes by Channel Island Ceramics. Any change in operation will require further consideration against the relevant planning policies.

As the retrospective changes only relates to the name of the business operating out of Unit 4 Clemrose, and there are no amendments to the activities of condition 4, I see no problem with the retrospective application.

However, I would like to reiterate the comments relating to the site for application FULL/2014/3145 below.

- 1. The hours of operation of the building shall be restricted to between 0700 and 1800 Mondays to Fridays and between 0700 and 1300 on Saturdays. There shall be no working on Sundays and Public Holidays.*
- 2. No development shall commence until a report is submitted detailing a scheme for the suitable soundproofing of the building against the transmission of sound and/or vibration has been submitted to and approved in writing by the Environment Department. The measures shall be implemented in strict accordance with the approved details prior to the development and shall thereafter be retained as such.*
- 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 a level below 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 4142:1997.*
- 4. No deliveries shall be received at or dispatched from the site outside the hours of 0800 and 1800 hours on Mondays to Fridays and 0800 and 1300 hours on Saturdays. There shall be no deliveries or dispatches at any time on Sundays or public holidays.*
- 5. Details of the proposed plant and machinery and associated noise levels should be submitted to and agreed by the Environment Department prior to operation.*
- 6. Unless all doors and windows within the building remain closed no plant or machinery shall be operated on the premises.*
- 7. No industrial activity of any kind, except loading and unloading, shall take place outside the proposed building within the curtilage of the site without the prior written approval of the Environment Department.*

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

Conclusion/Brief comment:

Planning permission was granted at the site to use the building the subject of this application and part of the site, for storage and distribution and industrial activities subject to various conditions. In particular, condition 4 of the permission restricted the use of the site to storage and distribution and light industrial uses only in connection with the Channel Island Ceramics business and by no other occupier without the express consent of the Environment Department (now Authority).

Under the application the subject of this report, retrospective planning permission is sought to vary condition 4 of the permission to allow the 'Natural Stone Company' to continue to occupy the premises. As part of the application a supporting letter has been submitted to confirm that the Natural Stone Company is a sister company of Channel Islands Ceramics and will use the premises for exactly the same purpose as previously used. In addition, and following a visit to the site, a review of the planning history and of aerial images an area of the site to the west of the building (as shown on the 1:1250 scaled site location plan) has been used in excess of 4 years for the storage of materials and is outside of enforcement control. It is suggested therefore that condition 13 of the original permission (which will form condition 12 of this permission) is also varied to regularise this area for storage purposes.

The key issue in the case of this application is whether the proposal would harm the amenity of surrounding uses (in terms of noise and disturbance) or impact on highway safety. The advice received from States Environmental Health and Pollution Regulation indicates that the scheme is satisfactory and would not unduly affect local residents provided that appropriate planning conditions that they suggested be imposed on the previous approval are repeated. From a planning perspective (and subject to the variations referred to above) with the exception of condition 9 (explained further below) these remain relevant, and it is recommended that these conditions are included should planning permission be granted.

With regard to condition 9, given that the building has been operating since 2014 for the existing uses without any complaints from a planning enforcement perspective, it would appear that the soundproofing originally required by the condition has been implemented. If not, given that the site has been operating as such in excess of 4 years (and beyond enforcement control for breach of condition) and that the unit will be occupied by a sister company to the original occupier, it would be unreasonable to request that a scheme for the soundproofing of the building is submitted as part of this application and retrospectively fitted. Condition 9 should therefore be omitted from the permission.

For clarity although the site will be occupied by a sister company to the original occupier, additional tools, plant and machinery may be used that were not previously approved as part of the original permission. It is therefore reasonable to

request further details of industrial plant and machinery to be used within 2 months of the permission as per condition 10 of the original permission (FULL/2014/3145) and condition 9 as suggested as part of the permission the subject of this report.

Regarding highway safety, it would seem unlikely that there would be any significant change to the existing traffic generated at the site given that the unit forms part of a wider industrial site that comprises much larger industrial buildings.

The visual impact of the proposed development would be unchanged and the area used for external storage would remain.

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.

Recommendation:

Grant with Conditions



Date: 29/08/2023