

THE LAND PLANNING AND DEVELOPMENT (GUERNSEY) LAW, 2005

AND SECTION 19 OF THE LAND PLANNING AND DEVELOPMENT (GENERAL PROVISIONS) ORDINANCE, 2007

NOTIFICATION OF REFUSAL OF PLANNING PERMISSION

PROPOSALS: Erect raised decking area and balustrade to east elevation.

LOCATION: Sorrento Restaurant, 27 The Quay, St. Peter Port.

APPLICANT: Sorrento Restaurant

I refer to the application referred to below received as valid on 05/05/2023 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 02/02/2024

Drawing Nos: Mark Frampton & Company: 2023 / 649/ 01A

Application Ref: FULL/2023/0758

Property Ref: A300130003

The Development & Planning Authority has decided to refuse your application under the provisions of section 16 of the Land Planning and Development (Guernsey) Law, 2005 for the following reasons:-

1. The site lies within a Conservation Area where it is the duty of the Development & Planning Authority to pay special attention to the desirability of preserving or enhancing its character and appearance. The proposed development, by virtue of the raised deck, would detract from the special character of the Conservation Area and the existing pattern of al fresco areas along The Quay. The proposals are therefore contrary to Policy GP4, GP8 a., GP9 b. and MC6 of the Island Development Plan.

2. The proposed raised deck, accessible only via steps, would be contrary to Policy GP8 a. and f. and MC6 of the Island Development Plan as the proposal is not well designed, represents a retrograde step from the existing access arrangements on site, and would not enable people of all abilities convenient access to the raised deck area.

OTHER REMARKS:-

Right of appeal against planning decisions

Your attention is drawn to the provisions of Section 68(1) of the Land Planning and Development (Guernsey) Law 2005, which provides a right of appeal, against a decision to refuse an application for planning permission or outline planning permission to the Planning Tribunal on the merits. An appeal to the Planning Tribunal under section 68 of the Law against this decision must be made before the expiry of the period of six months beginning with the date on which the Authority made this decision.

Copy of representations made

In reaching this decision the Development & Planning Authority took into account any written consultations made under Section 11(1) of the Land Planning and Development (General Provisions) Ordinance, 2007 ('the Ordinance'). A copy of any consultation responses made to the Authority under section 11 will be included with this decision in accordance with section 19 of the Ordinance.

A J ROWLES

Director of Planning
Planning Service

PLANNING APPLICATION REPORT

Application No: FULL/2023/0758
Property Ref: A300130003
Valid date: 05/05/2023
Location: Sorrento Restaurant 27 The Quay St. Peter Port Guernsey
Proposal: Erect raised decking area and balustrade to east elevation.
Applicant: Sorrento Restaurant

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

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2. The proposed raised deck, accessible only via steps, would be contrary to Policy GP8 a. and f. and MC6 of the Island Development Plan as the proposal is not well designed, represents a retrograde step from the existing access arrangements on site, and would not enable people of all abilities convenient access to the raised deck area.

OFFICER'S REPORT**Site Description:**

The two-storey building known as 'Sorrento Restaurant' forming the lower part of Waterloo House, 27 The Quay, faces east directly onto the pavement with views across the marina between Albert and Victoria Piers.

There are attached buildings to the north and west and the upper floors of Waterloo House face west onto the High Street.

The property is in the St Peter Port Main Centre, Conservation Area and a Harbour Action Area as defined in the Island Development Plan. Waterloo House is also a Protected Building.

Relevant History:

Sorrento

FULL/2023/1108 - Install sign and light to east (front) elevation (Protected Building) (Retrospective) – under consideration

Balthazar

FULL/2022/0660 – Erect covered and enclosed Al Fresco area with signage to east (front) elevation (Protected Building) - granted

Existing Use(s):

11 Food

Brief Description of Development:

The application relates to the construction of a raised deck, formed of light grey composite boards, with associated balustrade to the front/east elevation of Sorrento. The deck itself would be raised above pavement level by 461mm with a 1100mm high glass and metal framed balustrade attached.

The application was deferred following concerns relating to the impact of the development on the character and appearance of the Conservation Area and in relation to access for all.

Revised plans were provided showing shallower steps (four goings/risers rather than three) along with a handrail to either side to better facilitate access for ambulant disabled. It was also highlighted that the existing restaurant has stepped access and that the submission would replicate this situation. It is explained that staff assist patrons depending on individual mobility or health requirements which would remain the case. The information acknowledges the benefit of providing a level access here and elsewhere in other commercial properties it is not considered practicable or achievable in all cases and argues that there is no policy requirement within the IDP to achieve this and that this alone should not prevent the grant of planning permission.

Further written supporting information was also provided highlighting the personal choice of property owners in terms of property development along with the established character of the locality and varied nature of al fresco areas with reference to an approval at nearby Balthazar. It is argued that the development is high quality and durable, visually lightweight with minimal impact on the Protected Building.

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

MC6: Retail in Main Centres

MC10: Harbour Action Areas

GP4: Conservation Areas

GP5: Protected Buildings

GP8: Design

IP6: Transport infrastructure and support facilities

Representations:

None.

Consultations:

Traffic and Highway Services – note that the applicant has previously advised that they have consent of the owner to make the application. This is true to the extent that the Committee for the Environment & Infrastructure has given permission for the use of the footpath along this part of the Quay for al fresco on a more permanent basis.

Although THS has no issue with the principle of proposal, there are concerns from a practical perspective and these relate to whether the hatches in the raised decking would provide suitable access to utility service covers and the equipment below. This is in the context that the decking would be in a raised position as opposed to broadly at footpath level. Therefore, any hatch would require sufficient space for the cover to be lifted and for an operative to work on the service below within the chamber. THS has noted 5 service covers that would be under or in very close proximity to the decked area. It is recommended that the utilities are consulted in order that they can convey any specific requirements or views that they might have if this input has not already taken place.

In the event that there are planned or emergency roadworks required along the Quay, THS is currently unsure of the practicalities of the decking and balustrade being removed in a reasonable timeframe to enable utilities/contractors to work. If the practicalities regarding reasonable utility access can be resolved then THS would favour a form of modular construction such that sections could be lifted out of the way. It is still unclear from the plans whether the design proposed, fully takes this into account or proposes something else that would achieve this objective.

With regard to the extension of the al fresco area to the south and the widening of the walkway, THS is of the view that the garage/store of the adjacent property would remain usable and the widened walkway on the marina side would still provide sufficient space for the northbound traffic lane. The new asphalt ramp would not hinder access to the garage/store.

In conclusion, whilst the extent of the al fresco area and the walkway/planters raise no significant issues from a traffic management or pedestrian safety perspective, there remain concerns about reasonable access to services and in respect of the ability to remove the decked area in a satisfactory timeframe to enable roadworks to take place.'

Summary of Issues:

The key issues in this case relate to the design and appearance of the proposed development and its impact on the character and appearance of the Conservation Area, the impact of the works on the special interest of the Protected Building and in relation to accessibility to the building for people of all ages and abilities.

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.

Section 34 of the Law explains the general functions of authorities in respect of protected buildings. This states that:

It is the duty of any department of the States when exercising its functions under this Law –

(a) to secure so far as possible that the special historic, architectural, traditional or other special characteristics of buildings listed on the protected buildings list ("protected buildings") are preserved, and

(b) in particular, in exercising its functions with respect to a protected building or any other building or land in the vicinity of a protected building, to pay special attention to the desirability of preserving the protected building's special characteristics **and setting** [emphasis added].

Section 38 of the Law explains the general functions of authorities in respect of conservation areas. This states that:

In the exercise, with respect to any building or other land in a conservation area, of any powers under this Law or any other enactment, special attention shall be paid to the desirability of preserving and enhancing the character and appearance of that area.

In respect of these statutory duties, the word 'preserve' is taken in its ordinary meaning as set out in Chamber's dictionary, which is 'to keep safe from harm or loss'.

The purposes of the Law are reflected in the Island Development Plan, the principal aim of which is to help maintain and create a socially inclusive, healthy and economically strong Island, while balancing these objectives with the protection and enhancement of Guernsey's built and natural environment and the need to use land wisely. Relevant policies will be addressed below in assessing the key issues.

Section 13 to Part IV of The Land Planning and Development (General Provisions) Ordinance, 2007, sets out a number of general material considerations, the following of which are considered to be relevant in this instance:

(b) the character and quality of the natural and built environment which is likely to be created by the development,

(c) the appropriateness of the development in relation to its surroundings in terms of its design, layout, scale, siting and the materials to be used,

(d) the likely effect of the development on the character and amenity of the locality in question,

Section 15 clarifies that the considerations referred to in paragraphs (b) and (c) of section 14 also apply to protected buildings.

The proposed works would not prejudice the outcome of a Local Planning Brief for the Harbour Action Area and its implementation. The Island Development Plan makes provision for extensions and alterations to existing retail premises where the scheme accords with all other relevant policies therefore there is scope for the alterations outlined in this submission.

It is noted that there is no uniform design or layout to the existing alfresco areas along The Quay and the IDP sets out that development should respect the palate of traditional local materials without necessarily being bound by them, unless the special interest of a Conservation Area or protected building or protected monument would be adversely affected. The combination of composite decking and the glazed balustrade would not have a detrimental impact on the special interest of the Conservation Area and the materials in themselves would represent a good standard of design when considering Policies GP4 and GP8.

This proposal would introduce a raised deck alfresco area unlike any other premises along The Quay where they are currently situated at pavement level (with balustrades of various designs, c. 1m in height defining the extent of each). The proposal, to introduce an alfresco area situated on raised decking would see the external area associated with Sorrento elevated when compared to those properties currently surrounding it.

The only exception to this is the approved, but not yet implemented, scheme for Balthazar (see relevant history above). This approval relates to the installation of rising screens below a sign written canopy/pergola. The lower section of the screens would be solid (for privacy) but when raised the uppermost section would be glazed and sign written thereby still permitting views across the street to the marina.

When assessed against the installation approved at Balthazar the partitions at Sorrento would be elevated a lesser distance above the resultant surface level resulting in a rail that is only c.10cm above the height of those approved at Balthazar which then also has glazed elements above. As a result, the proposed enclosed seating area at Sorrento would appear less solid than the approved scheme at Balthazar given the entirely glazed nature of the screens currently proposed.

Notwithstanding the above however, given the existing pavement level arrangement of alfresco areas along The Quay the proposed raised deck to form the alfresco area as proposed in combination with the, then elevated, glazed balustrade (c. 0.5m taller than those around) would neither conserve nor enhance the character and appearance of the street scene and this part of the Conservation Area. The proposal would therefore fail to comply with Policy GP4, GP8 relating to a high standard of design, GP9 due to the impact of the development on the Conservation Area and, by extension, Policy MC6

which requires alterations to a retail unit to also accord with all other relevant policies in the IDP.

The submission highlights that the existing restaurant is accessible only via steps with assistance offered, when necessary. It is not the case however, that the existing al fresco area is accessible only via steps because of its pavement level position. Although not suitable for year-round use the al fresco area at present does provide a greater level of accessibility to Sorrento for people of all abilities than the restaurant alone. Although the amendments offered through the course of the submission (shallow steps and hand rails) would improve access for ambulant disabled it would not facilitate access for wheel chair users. The proposal, in relation to access for all, appears as a retrograde step when compared to the existing situation and does not therefore, represent a good standard of design that demonstrates accessibility to the al fresco area (and restaurant beyond) for people of all abilities and therefore the scheme fails to comply with Policy GP8 a. and f. of the IDP.

The submission refers to an assessment of the site by the Planning Tribunal (in relation to a scheme for illuminated signage) and highlights that the historic and traditional special interest of the façade has largely been destroyed as a result of changes carried out since the late 19th Century. It is concluded that any adverse effects on the special interest of the protected buildings arising from the proportions and external appearance of the seating areas would be outweighed by the reasonable aspirations of the applicant and the scheme therefore complies with Policy GP5 of the IDP.

If the scheme were acceptable in all other respects it would be reasonable to impose conditions relating to the means of fixing the structures to the building (positioned such that they are through joints in the stonework) and the specification of the composite decking proposed. This information would be appropriate in order to ensure that the special interest of the Protected Building is not harmed by the installation works nor that its setting is harmed by the final colour/finish of the decking proposed.

THS highlighted the matter of widening the walkway, new ramp and the extent of the deck area (extending the al fresco) but ultimately raise no objections to these works in terms of traffic management or pedestrian safety. It appears however, that works within the highway to alter the planters and install a new ramp, would fall beyond the ownership and control of the applicant, and beyond the red line site boundary and could not therefore be required as part of this application proposal. The introduction of the new ramp would narrow the level pedestrian access route between Sorrento and the roadside planters and could impede pedestrian access (access for all) along this part of the Quay. This could, to some degree, be managed by an informative note however, perhaps relating to contrast markings to differentiate the tarmac ramp from the level pavement route to reduce the possible trip hazard.

THS have raised concerns relating to access to the utilities situated below/in close proximity to the proposed decked area. Following the deferral of the application confirmation was provided that service hatches would be installed to facilitate access however, this does not take into account the weight of covers to be lifted, from the elevated deck position or emergency access. Should permission have been granted for

this development the decking would not convey the permission/agreement of any utilities providers to the access arrangements proposed and, by condition, further details relating to the construction (modular) of the decking may have been reasonable in order to ensure that sections could be readily removed for access.

It remains the case however, that the scheme would not represent a good standard of design when considering access for all nor would the introduction of an elevated decked area represent a high standard of design that would preserve or enhance the character and appearance of the Conservation Area. It is recommended therefore, that the application be refused.

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; any possible fall-back position by way of extant planning permissions or exempt development; 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 proposal would have no adverse impact on protected trees or sites.

Date: 02/02/2024

