

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: Install air conditioning unit to south-west elevation.

LOCATION: Rock House, Victoria Avenue, St. Sampson.

APPLICANT: Bellflower Asset Holdings Ltd

I refer to the application referred to below received as valid on 18/05/2023 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 05/07/2023

Drawing Nos: C8 Ltd - QPRO2008-01 Rev P & -02 Rev P.

Application Ref: FULL/2023/0799

Property Ref: B012730000

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. Based on the information provided the proposed development if permitted, without any form of acoustic attenuation, would be detrimental to the amenities enjoyed by the occupiers of the existing flats at Rock House contrary to Policy GP8 a). Design of the Island Development Plan.

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/2023/0799
Property Ref: B012730000
Valid date: 18/05/2023
Location: Rock House Victoria Avenue St. Sampson Guernsey GY2 4BB
Proposal: Install air conditioning unit to south-west elevation.
Applicant: Bellflower Asset Holdings Ltd

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. Based on the information provided the proposed development if permitted, without any form of acoustic attenuation, would be detrimental to the amenities enjoyed by the occupiers of the existing flats at Rock House contrary to Policy GP8 a). Design of the Island Development Plan.

OFFICER'S REPORT

Site Description:

The application site comprises a large building, the majority of which is used as a gym. The site also comprises several flats. The site is located to the west of Victoria Avenue, adjacent to The Track. The property is sited Outside of the Centres as designated on the Island Development Plan Proposals Map.

Relevant History:

PAPP/2006/4354	Extend existing and create additional units of staff accommodation and install new and replacement pedestrian bridges and steps.	Granted
FULL/2020/0556	Change of use of former bowling alley to health and fitness centre (Public Amenity Use Class 21) and omit Condition 5 of PAPP/2006/4354 to enable unrestricted occupation of former staff flats	Granted
FULL/2021/2382	Install replacement air conditioning units to south-west elevation.	Refused
FULL/2022/0665	Install air conditioning units and vents to north-east (front) elevation and vents to south-west elevation. Incorporated a recommended condition from OEHPR:	Granted

	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 5 dB(A) 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.	
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Existing Use(s):

Sui Generis – mixed use (application proposal relates to Rock Health – Multipurpose fitness centre, Use Class 21))
Residential Use Class 2 – Flats

Brief Description of Development:

Planning permission is sought to install air conditioning units to the north-west elevation of the building in connection with part of the building being used by Rock Health.

The proposed operating hours for the air conditioning unit are:

0600 to 2000 Monday to Friday.
0800 - 1600 Saturday
1000 - 1600 Sunday

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

Island Development Plan policies:
OC9: Leisure and Recreation Outside of the Centres
GP8: Design
GP9: Sustainable Development

Representations:

None.

Consultations:

Office of Environmental Health and Pollution Regulation - reviewed the proposed plans for an air conditioning unit to be installed to the west elevation of the above-mentioned address, which were received by email on 22nd May 2023 and are concerned about the potential noise level emanating from the air conditioning units with residential properties in close proximity.

OEHPR would welcome the following information:

- Closest residential property to the proposed location of the air conditioning unit;
- Proposed operating times of the air conditioning unit.

Following confirmation of the proposed operating times of the air conditioning unit OEHPR commented further:

After undertaking noise calculations from the information provided, OEHPR have concerns relating to the close proximity of residential properties and the proposal for the use of an air conditioning unit. There is no acoustic information provided as part of the application and no data relating to any acoustic properties of any proposed enclosure.

At a minimum the department requires the following information:

- Evidence that the noise level the proposed air conditioning unit would operate at would be at least 5 dB(A) below the lowest background noise level at any time (this is generally at night)
- Details of any proposed attenuation measures to reduce the level of the unit

OEHPR would urge the applicant to contact an acoustic consultant regarding the matter and any measurements and assessment shall be made in accordance with British Standard 4142:2014.

Summary of Issues:

The impact of the development on the amenities of adjoining residential neighbours.

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.

The application site relates to the use for Indoor Formal Recreation as referred to in Policy OC9 of the IDP. The IDP makes provision for alterations to an existing facility such as this and as the scheme would not increase the scale of the facility which could undermine the vitality of a Local or Main Centre there is scope to support the proposal in principle subject to other considerations.

The siting of the air conditioning unit will not have a detrimental impact on the character and appearance of the locality. In line with the OEHPR comments however, the scheme is not considered to satisfy the aims of the Island Development Plan in

terms of mitigating potential noise nuisance from a development. The submission does not propose any acoustic attenuation measures and does not represent a good standard of design nor have due regard for the material planning considerations set out in the General Provisions Ordinance, 2007.

In view of the above it is recommended that planning permission is refused for the development. It would be inappropriate to impose a planning condition requiring the unit to operate at, at least 5 dB(A) below the lowest background noise level at any time (this is generally at night) because, based on the information available it is not possible to establish whether this could be achieved and it is difficult to retrospectively remediate to reduce the noise generated by equipment. This matter therefore must be resolved prior to the grant of planning permission and implementation of the approved scheme.

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, buildings or sites.

Date: 03/07/2023

