

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 upper floors from retail (Use Class 10) to create 3 visitor accommodation units (Use Class 18) and to extend part of existing flat. Alter height of chimney, install rooflights and internal alterations (Protected Building).

LOCATION: Nos. 29-33, Commercial Arcade, St. Peter Port.

APPLICANT: Silvester Ltd & Mrs N Silvester

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: 15/12/2023

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 20/06/2023 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Create Ltd: 974-3-001B, 002B, 003A & 004

Application Ref: FULL/2023/0870

Property Ref: A300450000

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.Prior to the installation of the fire safety sprinkler system (or however named) full details of all associated pipework and any ducting including details of routes of such throughout the building shall be agreed in writing by the Authority. The equipment shall be installed only in accordance with the approved details.

Reason - To secure the satisfactory appearance of the completed development and to protect the special interest of the protected building in accordance with Policy GP5 of the IDP.

Expiry Date: This permission will cease to have effect on 14/12/2026 unless development is commenced by that date.

ADVICE AND OTHER REMARKS:-

This permission does not relate to the display of any sign or advertisements. A separate permission will be needed for any such display.

For the avoidance of doubt, no permission is sought nor conferred for the wholesale replacement of the timber floorboards. Should additional alterations be proposed following opening up works, with particular but not exclusive regard to the floor structures and any floorboards, further information will be required to be submitted to the Authority in the first instance to determine whether further permissions are required.

For the avoidance of doubt, no permission is sought nor conferred for any alterations to the northeast stairwell should any alterations be required further information will

be required to be submitted to the Authority in the first instance to determine whether further permissions are required.

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/2023/0870
Property Ref: A300450000
Valid date: 20/06/2023
Location: Nos. 29-33 Commercial Arcade St. Peter Port Guernsey
GY1 1JX
Proposal: Change of use of upper floors from retail (Use Class 10) to
create 3 visitor accommodation units (Use Class 18) and to
extend part of existing flat. Alter height of chimney, install
rooflights and internal alterations (Protected Building).
Applicant: Silvester Ltd & Mrs N Silvester

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. Prior to the installation of the fire safety sprinkler system (or however named) full details of all associated pipework and any ducting including details of routes of such throughout the building shall be agreed in writing by the Authority. The equipment shall be installed only in accordance with the approved details.

Reason - To secure the satisfactory appearance of the completed development and to protect the special interest of the protected building in accordance with Policy GP5 of the IDP.

INFORMATIVES

This permission does not relate to the display of any sign or advertisements. A separate permission will be needed for any such display.

For the avoidance of doubt, no permission is sought nor conferred for the wholesale replacement of the timber floorboards. Should additional alterations be proposed following opening up works, with particular but not exclusive regard to the floor structures and any floorboards, further information will be required to be submitted to the Authority in the first instance to determine whether further permissions are required.

For the avoidance of doubt, no permission is sought nor conferred for any alterations to the northeast stairwell should any alterations be required further information will be required to be submitted to the Authority in the first instance to determine whether further permissions are required.

OFFICER'S REPORT

Site Description:

The application site comprises a terraced type 4.5 storey building situated within Commercial Arcade in St Peter Port. The basement, ground floor, first floor, second floor and part of the third floor are currently vacant and until recently occupied a retail premises. The remainder of the third floor is used as a one bedroom flat accessed from street level by a shared entrance and staircase to the north east of the building.

The site is situated in a Main Centre Inner Area, Conservation Area, and Core Retail Area as designated in the Island Development Plan. The whole of the property (interior and exterior) is protected.

Relevant History:

FULL/2022/1174	Change of use from Retail (Use Class 10) to Cafe (Use Class 11), provide accessible ramp to west entrance and internal alterations (Protected Building).	Granted 17/10/2022
FULL/2021/0503	Internal alterations to ground and basement floor (protected building).	Granted 12/05/2021
FULL/2021/0502	Internal alterations - Enlarge opening to ground floor (protected building).	Granted 12/05/2021
FULL/2019/2466	Change of use of upper floors from retail to 3 residential units (use class 2). Replace windows and rooflight and internal alterations (protected building).	Granted 06/07/2020

Existing Use(s):

Retail: Basement, ground floor, first floor, second floor and part of third floor;
Residential Flat: remainder of the third floor.

Brief Description of Development:

Planning permission is sought to change the use of the upper floors (first, second, and part of the third floor) from retail (Use Class 10) to create 3 serviced visitor accommodation uses (Use Class 18) and to extend part of the existing residential flat. The scheme also proposes to alter the height of the chimney to the rear, to install rooflights and for various internal alterations.

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

Island Development Plan Policies:

MC6: Retail in Main Centres;

MC8: Visitor Accommodation in Main Centres and Main Centre Outer Areas;

GP4: Conservation Areas;

GP5: Protected Buildings;

GP8: Design;

GP9: Sustainable development;

GP13: Householder development;

Representations:

None

Consultations:

None

Summary of Issues:

- Whether the principle of the proposal is acceptable;
- Whether the scheme would impact on the character or appearance of the surrounding Conservation Area, or impact on the special interest of the protected building;
- Whether the scheme would impact on residential amenity;
- Whether the scheme would impact on highway safety.

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 principle of the proposal is acceptable

Although the site until recently was used for retail purpose as a photography shop (Use Class 10), planning permission was granted in 2022 to change the use of the ground floor to a Café (Use Class 11) which remains extant until 2025. The principle of the proposed use of the ground floor of the premises to be used as a restaurant has therefore already been established which will continue as part of the proposal.

Policy MC8 supports proposals for new visitor accommodation within Main Centres provided that the proposal accords with all other relevant policies of the IDP. Policy MC6 supports the change of use of upper floors within Core Retail Areas to non-retail use provided that the new use contributes to the vitality and viability of the Core Retail Area.

As part of the application a supporting letter has been submitted (dated 19/06/2023) to demonstrate how the proposed visitor accommodation will operate differently from a standard self-catering unit and how they will provide a serviced accommodation facility. The information states that a reception desk will be situated in the restaurant, which will be used to service the visitor accommodation above. The service will provide a hassle free arrangement suited to the individual need of the occupier offering a reception desk and a team of individuals which will allow visitors to make arrangements suited to their requirements including aid in utilising local services (i.e. taxis, beauty appointments, restaurant bookings etc.). The apartments will be cleaned weekly and the team will be available for guests to organise and make arrangements and to provide a service for the guests whilst on Island.

The use of the upper floors of the building to provide serviced visitor accommodation as proposed would ensure that they are used for a use that will continue to contribute to the vitality and viability of the Core Retail Area. The loss of retail on the upper floors and the use for visitor accommodation complies with Policies MC6 and MC8 of the IDP.

The remainder of the third floor of the premises will be continued to be used as a residential flat which will be extended into the roofspace as part of this proposal. Although the original permission granted in 2020 included the provision of 3 units of residential accommodation on the upper floors (Ref: FULL/2019/2466) only one was ever constructed on the third floor and the remainder of the floorspace remained in retail use. A single flat will continue to be provided and the proposal would therefore not result in the loss of a residential unit.

For the above reasons the principle of the development complies with the relevant policies of the IDP.

Whether the scheme would impact on the character or appearance of the surrounding Conservation Area, or impact on the special interest of the protected building.

The site is within a Conservation Area and the property is protected and Policies GP4 and GP5 are also relevant in the assessment of this application.

The Authority has a duty under Section 38 of The Land Planning and Development (Guernsey) Law, 2005 to pay “special attention to the desirability of preserving and enhancing the character and appearance” of Conservation Areas. This duty is encapsulated in Policy GP4: Conservation Areas of the IDP which states that *“proposals for development within a Conservation Area will be supported where the development conserves and, where possible, enhances the special character, architectural or historic interest and appearance of the particular Conservation Area.”*

The Authority also has a duty under Section 34 of the Law to wherever possible ensure the special interest of a protected building is not harmed and to pay special to preserving the protected building’s special characteristics. This duty is encapsulated in Policy GP5 which supports proposals to extend or alter a protected building where the development proposed does not have an adverse effect on the special interest of the particular protected building or its setting. The policy states that in all cases proposals must accord with other relevant policies of the IDP.

The value of elements of the existing building (both internally and externally) have been assessed against the magnitude of impact of the works to establish the effect of the development on the overall special interest using the matrix on page 16 of BS 7913:2013. A Statement of Significance has been provided with the application, this explains the proposal, sets out the history of building and the surrounding area and assesses the impact of the development proposed on the special interest of the

protected building. Detailed floor plans have been provided to show the existing and proposed layout and how the scheme will impact on the historic fabric of the building.

The application was deferred during the course of consideration to address issues raised following discussion with the States Building Control with regards to internal layout of the fourth floor and escape routes in the event of a fire. This led to a slight alteration to the layout, the inclusion of an additional opening through a main wall in the property between the proposed dressing room and study. The agent also confirmed that a fire suppression system based on a mist system will be used which will require minimal requirements for water storage within the building. However no details of the location or requirements of any ducting or pipes have been provided (as these are not known at present) and it is recommended that prior to the installation of such a system full details with piping routes throughout the building should be submitted to the Authority (controlled by condition).

The application material states that upgrades may be required to the internal floors of the building (for sound and insulation purpose) but until opening up works have been completed the full extent of any works is not known at this stage. It is suggested therefore that an informative is including requiring the applicant to contact the Authority in the first instance to confirm any alterations and the requirements for any further permissions.

Given that a large part of the internal alterations have already been granted permission under the previous planning application (Ref: FULL/2019/2466) and that some of these (i.e. alterations to the ground floor and the creation of one of the flats in the third floor) have already been implemented, the additional alterations proposed as part of this scheme have been assessed and it is concluded that they would not harm the special interest of the protected building.

With regards to the external alterations, the installation of the rooflights and the reduction in the height of the external chimney would not cause significant harm on the character or appearance of the surrounding Conservation Area.

No details of any air handling plant have been submitted (for the restaurant), but the applicant's agent has confirmed that this will form part of a subsequent application once full details of the requirements and where this will be located are known.

Confirmation has been received that the development proposed has been designed to take into account matters of energy efficiency and current Building Regulations in accordance with Policy GP9.

The scheme complies with Policies GP4, GP5 and GP9 in this respect.

Whether the scheme would impact on residential amenity

Policy GP8 requires *inter alia* that proposals for new development will be expected to consider the health and well-being of the occupiers and neighbours of the development by means of providing adequate daylight, sunlight and private/communal open space.

Although residential properties surround the site on some of the upper floors of buildings, the site is situated within a Main Centre Inner Area where restaurant and retail functions and associated activity are supported and where the IDP encourages proposals to enhance the vitality and viability of these Centres. Any noise or disturbance to neighbouring properties associated with the use of the ground floor as a restaurant (excluding any mechanical ventilation or air handling plant) would therefore not be a reason alone to refuse planning permission.

No details of any air handling plant (air condition, ventilation and air extraction systems) required for the restaurant have been submitted as part of the application. However, the applicant's agent has confirmed that such details will be submitted as part of a separate application. It is recommended that an informative is included on any permission to this effect.

The existing flat will be retained and extended into the roof space and a good level of internal space and amenity will be maintained for its occupiers. The scheme would therefore not result in harm to the amenity of the occupiers of the existing residential unit or any neighbouring residential units that surround the property.

Whether the scheme would impact on highway safety

Situated in Main Centre Inner Area, the site accessible by a range of accessible transport modes and within walking distance of all Town Centre car parks and the main bus terminus terminal. The increase in the use of the site as proposed would not harm highway safety.

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; the effect of the proposed which the site could be put without further planning permission; 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).

As assessed above the proposal would not impact on any protected buildings. The scheme would not harm any protected trees, monuments or impact any SSS's.

For the reasons set out within this report the proposal complies with the relevant provisions of the IDP and satisfies the other relevant material planning considerations; it is therefore recommended that planning permission be granted with conditions.

Date: 12/12/2023