

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: Remove rooflight, install external steps and balustrade to create fire escape, relocate plant and vent, fenestration and internal alterations (Protected Building) (revised scheme).

LOCATION: Le Petit Bistro & Cafe, Lower Pollet, St. Peter Port.

APPLICANT: M & D Limited

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: 01/03/2024

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 15/01/2024 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: PF+A Limited - 6249-01 D1, D2C & D3.

Application Ref: FULL/2024/0043

Property Ref: A112450000+A112460000

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.The hours of operation of the plant and machinery incorporated within the development should be limited to between 10:00 and 00:00 Monday to Sunday.

Reason - To clearly define the permission and to protect the amenities of neighbouring residents.

5.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.

Reason - To protect the amenities of neighbouring residents.

Expiry Date: This permission will cease to have effect on 01/03/2027 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/2024/0043
Property Ref: A112450000+A112460000
Valid date: 15/01/2024
Location: Le Petit Bistro & Cafe Lower Pollet St. Peter Port Guernsey
GY1 1WF
Proposal: Remove rooflight, install external steps and balustrade to
create fire escape, relocate plant and vent, fenestration and
internal alterations (Protected Building) (revised scheme).

Applicant: M & D Limited

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. The hours of operation of the plant and machinery incorporated within the development should be limited to between 10:00 and 00:00 Monday to Sunday.

Reason - To clearly define the permission and to protect the amenities of neighbouring residents.

5. 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.

Reason - To protect the amenities of neighbouring residents.

OFFICER'S REPORT

Site Description:

The application site, known as “Le Petit Bistro”, forms the corner between Lower Pollet and Le Truchot. The property is a Protected Building. The building comprises of a restaurant at ground and part first floor level and staff accommodation for the remainder of the first floor level. The building is located in a Main Centre Inner Area and Conservation Area as defined in the Island Development Plan.

Relevant History:

FULL/2022/1672	Remove rooflight, install external steps and balustrade to create fire escape, relocate plant and vent, fenestration and internal alterations (Protected Building).	Refused
FULL/2013/1405	Change of Use of first floor to extend restaurant and provide ancillary staff accommodation and internal alterations - Protected Building	Granted

Existing Use(s):

Food – Retail.
Staff accommodation.

Brief Description of Development:

Planning permission was refused in 2023 to remove a rooflight, install external steps and balustrade to create fire escape, relocate plant and vent, alter the fenestration and make internal alterations.

The reasons for refusal were based on the fact that insufficient information was submitted to satisfactorily demonstrate that the relocated plant equipment would not have a detrimental effect on the amenities of neighbouring residents. Given that the potential noise effect was unclear and that an accurate assessment could not be made, the application had to be refused.

In response, the agent has resubmitted the application which has been accompanied by a noise impact assessment in respect of relocating the existing kitchen inlet and extract, in an attempt to overcome the reasons for refusal.

In light of Environmental Health's comments, during the course of consideration of the application clarification was sought over the acoustic report submitted in terms of the timing of the background noise level assessment. The acoustic consultant and agent have corrected the report to accurately reflect the timing of the assessment.

The acoustic consultant had stated the following:

"Apologise, this report contained a typo which has now been corrected to align with the following:-

- 1. The Background noise level was ascertained between 07:00 hrs and 00:00 (midnight).*
- 2. The operating time of the extract would be between 10:00 hrs and 00:00 (midnight)."*

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

MC6 Retail in Main Centres
GP4 Conservation Areas
GP5 Protected Buildings
GP8 Design
GP9 Sustainable Development

Representations:

None received.

Consultations:

The Office of Environmental Health and Pollution Regulation's comments – 30th January 2024:

"I have reviewed the proposed plans in relation to the relocation of the kitchen air inlet and extraction equipment, on the second-floor flat roof area of the above property and have read the Noise Impact Assessment, produced by Sound Advice Acoustics Ltd., dated December 2023, reference SA-7651.

I note that the assessment report states at paragraph 1.3 that 'the daytime background noise levels between 07:00 and 23:00 was found to be LA90, 1 hour 52 dB at the assessment position'. The report goes on to state that the Rating Level of the kitchen air inlet and extraction equipment is 46 dB, giving a reduction of 6 dB below the background level, between the operational times of 10:00 and 00:00.

I am satisfied that the equipment will operate at 6 dB below the existing background level during daytime hours, up to 23:00 hours, however, I note that the proposed operational times of the equipment are 10:00 to 00:00, with no separate assessment of the impact it may have in night-time hours, between 23:00 and 00:00.

I would therefore recommend that the following conditions are attached to any granted planning consent:

- The hours of operation of the plant and machinery incorporated within the development should be limited to between 10:00 and 23:00 Monday to Sunday.
- 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.

I would be grateful if my comments are considered during the determination of this application.

Please do not hesitate to contact me at the above address should you require any additional information regarding this matter."

The Office of Environmental Health and Pollution Regulation's comments following clarification in respect of acoustic report– 29th February 2024:

I confirm that we would recommend the two following conditions are attached to any consent:

- The hours of operation of the plant and machinery incorporated within the development should be limited to between 10:00 and 00:00 Monday to Sunday.*
- 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.*

Summary of Issues:

- Whether the development would have a significant detrimental impact on the amenities of neighbouring properties.
- Whether the proposed development would affect the special interest of the protected building.
- Whether the proposed development would affect the Conservation Area.
- Whether the design of the development is acceptable.

Assessment against:

- 1 - Purposes of the law.**
- 2 - Relevant policies of any Plan, Subject Plan or Local Planning Brief.**
- 3 - General material considerations set out in the General Provisions Ordinance.**
- 4 - Additional considerations (for protected trees, monuments, buildings and/or SSS's).**

Both Policy GP8 and GP9 consider the effects of any new development on the amenities of neighbouring residents. In addition, the preceding text to Policy GP8 refers to the need to consider the material planning considerations as specified in Part IV, Section 13 of the Land Planning and Development (General Provisions) Ordinance, 2007. These include the appropriateness of the development in relation to its surroundings in terms of its design, layout, scale, siting and the materials to be used, as well as its likely effect on the character and amenity of the locality in question and its likely effect on the reasonable enjoyment of neighbouring properties.

The application has established a background noise level which was taken between 07:00 and 00:00 hours. The noise assessment has stipulated that the operational time of the equipment is between 10:00 to 00:00. The results of the assessment note that the equipment would operate below this background noise level, and

therefore would overcome the reasons for refusal as there would be no significant adverse effects on neighbour amenity.

It is however necessary and reasonable to attach Environmental Health's recommended conditions to ensure the decision is specific to the hours of operation which have been assessed, and to safeguard the amenities of neighbouring residents should a noise complaint transpire in the future.

In light of the above, the revised application successfully overcomes the reasons for refusal.

Other matters:

As set out in the officer's report as part of application FULL/2022/1672, *"it is likely that the remaining alterations to the building could be supported, in principle, given the negligible effect on the special interest of the protected building, and not affecting the Conservation Area"*.

In light of the proposed drawings as part of this application, the proposal would not adversely affect the special interest of the protected building due to the limited works to the building, and would not affect the Conservation Area as the proposal is not publicly visible. The alterations at first floor level would also comply with policy as the application seeks to incorporate a shower room/toilet at first floor level to serve staff accommodation.

Based on the above, the application is considered compliant with the relevant Island Development Plan policies, and accords with the purpose of the Law and the Material Planning Considerations. It is therefore recommended that planning permission be granted, subject to conditions.

Date: 29/02/24