

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: Install mechanical extraction flue to north elevation of courtyard (retrospective), (revised scheme). (Protected Building).

LOCATION: The Cock & Bull, 2 Lower Hauteville, St. Peter Port.

APPLICANT: The Corner Group

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: 15/03/2024

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 09/02/2024 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: DLM Architects: 1215_2.

Application Ref: FULL/2024/0224

Property Ref: A402840000

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.For the avoidance of doubt, the recommendations set out in Section 4.0 of the Noise Impact Assessment report (dated 28th November 2023 produced by Aura (Sound & Air) Limited), including the installation of a (Type 1) silencer, shall be implemented in strict accordance with the details set out in Section 4.0, within 28 days of this permission.

Reason - The recommendations set out in the acoustic report need to be followed in order to reduce potential harm to the amenities of neighbouring residents.

5.The hours of operation of the plant and machinery incorporated within the development should be limited to between Monday to Saturday 10:00 to 21:30 hours only.

Reason - To define the permission, and limit the hours of operation to protect the amenities of neighbouring residents.

6.Noise associated with plant and machinery incorporated within the development shall be controlled such that the noise level, measured within the nearest noise sensitive residential property, shall not exceed a LAeq level of 35 dB(A). This level shall be determined with reference to the guidance provided in BS 8233:2014.

Reason - To protect the amenities of neighbouring residents.

Expiry Date: This permission will cease to have effect on 15/03/2027 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/2024/0224
Property Ref: A402840000
Valid date: 09/02/2024
Location: The Cock & Bull 2 Lower Hauteville St. Peter Port Guernsey
Proposal: Install mechanical extraction flue to north elevation of courtyard (retrospective), (revised scheme). (Protected Building).

Applicant: The Corner Group

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. For the avoidance of doubt, the recommendations set out in Section 4.0 of the Noise Impact Assessment report (dated 28th November 2023 produced by Aura (Sound & Air) Limited), including the installation of a (Type 1) silencer, shall be implemented in strict accordance with the details set out in Section 4.0, within 28 days of this permission.

Reason - The recommendations set out in the acoustic report need to be followed in order to reduce potential harm to the amenities of neighbouring residents.

5. The hours of operation of the plant and machinery incorporated within the development should be limited to between Monday to Saturday 10:00 to 21:30 hours only.

Reason - To define the permission, and limit the hours of operation to protect the amenities of neighbouring residents.

6. Noise associated with plant and machinery incorporated within the development shall be controlled such that the noise level, measured within the nearest noise sensitive residential property, shall not exceed a LAeq level of 35 dB(A). This level shall be determined with reference to the guidance provided in BS 8233:2014.

Reason - To protect the amenities of neighbouring residents.

OFFICER'S REPORT

Site Description:

The application site known as the "Cock and Bull" consists of a 3.5 storey building which forms the corner between Lower Hauteville and Cliff Street. The property is recognised as a Protected Building. The building contains a Public House on the ground floor and flats above.

The building is located in a Main Centre Inner Area and Conservation Area as defined in the Island Development Plan.

Relevant History:

FULL/2022/1893	Install mechanical extraction flue to north elevation of courtyard (retrospective). (Protected Building).	Granted
HAPP/2005/1518	Alterations.	Granted
PAPP/1995/4909	Change of use of part of restaurant to retail shop	Granted
PAPP/1993/1835	Convert basement to customer seating area	Granted

PAPP/1992/0882	Amendments to plans to refurbish restaurant and flats	Granted
----------------	---	---------

Existing Use(s):

Food – Public House (Cock and Bull)/ Flats.

Brief Description of Development:

Retrospective permission was refused last year to install a mechanical extraction flue to the rear of the Cock and Bull public house. The flue was sited approximately 2m above ground level, was approximately 3m in length, and approximately 300mm in width. The flue was attached to a north-facing elevation of an external courtyard to the rear (east) of the building. The application was refused as insufficient information was provided to make an accurate assessment and the development had the potential to cause a significant noise nuisance to nearby residents.

Following the refusal, a new application has been submitted in attempt to overcome the reasons for refusal. The application has been accompanied by a Noise Impact Assessment report to measure the noise emission and set out recommendations to reduce its impact on neighbouring residents. Correspondence has also been submitted between Environmental Health and the noise consultant in respect of agreeing an alternative approach to record the noise data.

The agent has noted in their letter dated 30th January that a silencer will be fitted internally within the existing duct work so there would be no material change to the visual appearance.

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:

The Authority has received a letter of representation from one party objecting to the proposal. Grounds for objection principally relate to the following issues:-

- *Size and look.*
- *Noise.*
- *Smell.*
- *Development requires planning permission.*
- *Noise.*
- *Fit with local area.*

- Consistency in applying planning policies.
- No financial loss.
- Engagement and balance.
- Planning conditions.
- Additional works.

Consultations:

Office of Environmental Health and Pollution Regulation's original comments - 1st March 2024:

"I have reviewed the proposed plans for the retrospective installation of a mechanical kitchen extraction flue to the north elevation of the courtyard at the above site, including the Noise Impact Assessment, produced by Aura (Sound & Air) Limited, dated 28 November 2023, reference M139.1 V1.

I note that an assessment of the noise from the extraction flue was carried out using BS 8233:2014 and the World Health Organisation guidance for noise levels as an appropriate criterion, and I confirm this method was discussed and agreed between this office and Aura prior to the assessment being made.

The findings of the assessment are that the extraction flue operates 10 dB above the recommended level for internal resting / living rooms. Although I understand that the room within the nearest noise sensitive premises where measurements were taken is used as a living / kitchen area, it is my opinion that as this is the only room where resting can take place, the WHO Target of 35 dB should be applied to this room.

I note Aura's recommendation to install silencers to mitigate noise emission from the extraction flue. The applicant confirms in their letter dated 30th January 2024, reference 125 Cock & Bull, that a Type 1 silencer which will sit inside the existing duct work has been specified and quoted for already.

With the above information in mind, I would recommend that the following conditions are attached to any granted consent for this application:

- *The recommendations made within the Noise Impact Assessment produced by Aura (Sound & Air) Limited dated 28 November 2023, reference M139.1.V1, must be implemented.*
- *The hours of operation of the plant and machinery incorporated within the development should be limited to between Monday to Saturday 10:00 to 21:30 hours only.*

- *Noise associated with plant and machinery incorporated within the development shall be controlled such that the noise level, measured within the nearest noise sensitive residential property, shall not exceed a LAeq level of 35 dB(A). This level shall be determined with reference to the guidance provided in BS 8233:2014.*

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

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).**

All material considerations as set out in the Land Planning and Development (Guernsey) Law, 2005 and the Land Planning and Development (General Provisions) Ordinance, 2007 have been taken into account in the assessment of this application.

Impact associated with the extract flue:

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.

Unlike the previous application, this revised application has been supported by a Noise Impact Assessment report. Subject to the recommendations of the report being implemented in full, the proposed development is likely to create a 'low noise

impact' and therefore would not cause significant harm to the amenities of neighbouring residents to reasonably justify refusal.

It is appreciated that the agent has set out in their letter of 30th January 2024 that they would welcome a further noise assessment following the implementation of a Type 1 silencer to make sure that noise emission meets the 'expectations and noise data as agreed between Aura and Environmental Health'. Although, it is not considered reasonable to attach a condition to require an acoustic consultant to undertake a further noise impact assessment following the installation of the silencer. More importantly, this would only provide a snapshot in time of the emissions generated, and therefore the noise level and associated impact could vary overtime. This suggestion would not protect the amenities of neighbouring residents over the medium to long term.

However as a more consistent and long-term approach, it is considered reasonable to attach the recommended condition from Environmental Health to ensure the extract equipment does not exceed a level of 35 dB(A) below background noise level. This can be investigated and assessed should a new noise complaint be received by either the Authority, or Environmental Health.

In light of the representation received, it is concluded that the smells associated with the kitchen extract equipment is a reasonable consequence of operating a public house, and together with the limited operational hours of the restaurant, the smell of pub food would not significantly affect the amenities of neighbouring residents to justify refusal.

Other matters:

Policy MC6 allows provision to extend, alter or redevelop existing retail premises in the Main Centres. The design of the flue is large, bulky and shiny, although is considered appropriate and acceptable to serve a public house.

With regards to the impact of the development on the special interest of the protected building and Conservation Area, the proposal is considered to have a limited effect on the special character of the protected building when taking into account the location of the extract, and is outweighed in this case by the reasonable aspirations of the property owner to install a kitchen extract to serve a public house (Policy GP5).

Due to the secluded position of the flue extract, the proposal will not affect the character or appearance of the Conservation Area as it is located to the rear of the building and is not highly visible from public vantage points.

Sufficient information has been submitted that has taken into account the criteria of Policy GP9 (Sustainable Development).

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: 11/03/24

