

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: Change of use of lower ground floor from Retail (Use Class 10) to Flat (Use Class 2). Remove awning and alterations to fenestration to east elevation.

LOCATION: Guernsey Pearl, 37 High Street, St. Peter Port.

APPLICANT: InStyle Guernsey Ltd

I refer to the application referred to below received as valid on 15/04/2024 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 21/06/2024

Drawing Nos: SOUP Architects: 460.090, .100, .105, .200 and .300.

Application Ref: FULL/2024/0684

Property Ref: A200100000

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 development as proposed does not represent a good standard of design as the development would, by virtue of its proximity to and relationship with the proposed door serving the commercial/residential development within the same building, 37 High Street, result in an unacceptable degree of overlooking from users of this access door, to the detriment of the amenities that can reasonably be expected to be enjoyed by the future occupiers of the proposed dwelling.

The occupiers of the flat would be served by unsatisfactory sunlight/daylight and aspect/outlook from the single glazed door which is the only fenestration serving the proposed accommodation (east elevation) which would be detrimental to the amenities, health and well-being that future occupiers could reasonably expect to enjoy. The scheme is therefore contrary to Policy GP8 a. and d. 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/2024/0684
Property Ref: A200100000
Valid date: 15/04/2024
Location: Guernsey Pearl 37 High Street St. Peter Port Guernsey GY1 2JT
Proposal: Change of use of lower ground floor from Retail (Use Class 10) to Flat (Use Class 2). Remove awning and alterations to fenestration to east elevation.
Applicant: InStyle Guernsey Ltd

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The development as proposed does not represent a good standard of design as the development would, by virtue of its proximity to and relationship with the proposed door serving the commercial/residential development within the same building, 37 High Street, result in an unacceptable degree of overlooking from users of this access door, to the detriment of the amenities that can reasonably be expected to be enjoyed by the future occupiers of the proposed dwelling.

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OFFICER'S REPORT

Site Description:

37 High Street is a four storey mid-terrace building in the centre of St Peter Port. A traditional shopfront exists at ground floor level and above there is a uniform pattern of timber sash windows, one over one sashes at first floor, six over six at second floor and three over six at third floor level. A corbel and projecting roof overhang exists at roof level. The rear of the building is visible from the sea front with a hipped, tiled roof and PVCu/aluminium casement windows to five levels including a Juliet balcony to the uppermost floor. Rooflights exist to the roofspace.

At present the ground and basement levels are in retail use, with associated storage and staff facilities. Offices appear to exist at first, second and third floor levels with associated staff facilities and storage although Cadastre indicate that residential

properties exist within the building. The retail space that is the subject of this application currently measures 36 sqm.

The site is located in a Main Centre, Conservation Area, Archaeological Area, Harbour Action Area and Core Retail Area as designated in the Island Development Plan. The steps to the rear of the site form part of a Protected Monument: "The whole of the steps known as North Pier Steps, Quay Steps, and Victoria Pier Steps, together with the linking venelles".

Relevant History:

FULL/2015/1277 - Change of Use from Retail (Use Class 14) to cafe (Use Class 15) on ground floor and to Administrative, financial and professional services (Use Class 21) on upper floors - granted

FULL/2023/2158 – Change of use of lower ground, 1st, 2nd and 3rd floors from Retail/Office (Use Classes 10 and 15) to 3 self-catering units (Non-serviced visitor accommodation - Use Class 8) – withdrawn

Existing Use(s):

Retail
Offices
Residential (not noted on the application drawings but shown via Cadastre records)

Brief Description of Development:

The application relates to the change of use of the basement from retail/offices to a unit of residential accommodation (studio flat). Various internal alterations are proposed which would result in a unit of residential accommodation 41 sqm in size. The removal of a fabric canopy does not require the specific grant of permission and the works to fenestration are also exempt.

The accommodation would be served by a glazed front door directly onto the steps and would contain a dining area and sitting area closest to the entrance, a bed and wardrobe set back in the open plan space and new internal walls to the rear of the accommodation to house a shower room and separate kitchen.

The submission has been accompanied by a Daylight Analysis drawing showing that the sitting area and dining area would have reasonable levels of daylight but that this would diminish in the bedroom area and the kitchen/bathroom beyond.

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

Island Development Plan policies:
MC2: Housing in the Main Centres and Main Centre Outer Areas
MC6: Retail in Main Centres
MC10: Harbour Action Areas
GP4: Conservation Areas

GP5: Protected Buildings
GP6: Protected Monuments
GP8: Design
GP9: Sustainable Development

Representations:

None.

Consultations:

None.

Summary of Issues:

The issues in this case relate to the change of use away from offices, the introduction of residential in this location, compatibility with surrounding uses and the amenities of the occupiers of that accommodation.

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 Core Retail Area seeks to retain an active retail frontage and this would not change as a result of the proposed development. The scheme would relate to the change of use of basement accommodation away from retail and the accommodation appears to be entirely separate from the retail accommodation fronting the High Street. The principle of introducing new housing in this location is also supported by IDP Policy MC2. This therefore supports the aim of Policy MC6.

The proposed change of use 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 new residential development in this location. The proposed change of use will add to the mix of uses in this part of the Main Centre and will not undermine the vitality and viability of the Core Retail Area.

New developments should be planned and built to support the health and well-being of occupants and users and maintain appropriate amenities for those of neighbouring property.

The Annex sets out that building at higher densities brings challenges with respect to ensuring reasonable amenities are provided. There must be a balance between the most effective and efficient use of land and the requirement to ensure that proposed living

and working conditions are acceptable and that the higher density Main Centres, in particular, remain attractive places to live and work.

Annex I seeks opportunities for development occupiers to benefit from interesting or attractive outlook within the urban centre identified for example, as views over urban open spaces, public parks, landscape features or longer vistas over the townscape. The unit would have limited outlook and aspect due to there being a single glazed access door which also serves as the window for this accommodation.

The Annex states that development will be expected to be designed with windows an adequate distance apart and / or suitably orientated to ensure that the level of privacy that could reasonably be expected to be enjoyed by an occupier is not adversely affected and that the use of obscure glazing alone to achieve privacy will not, normally, be considered acceptable. The privacy that occupiers could reasonably expect to enjoy would also be affected by users of the new office entrance door (likely during office hours/week days generally). The use of blinds or obscure glazing would not satisfactorily address this matter without having a detrimental impact on amenity given that the entrance door to the studio flat is the only form of outlook to this single aspect accommodation.

Annex I considers sunlight alongside daylight and their ability to enter a building will not, alone, be a determining factor when considering development proposals, providing that other amenities objectives are appropriately addressed. All new developments are encouraged to provide adequate levels of daylight and sunlight to all rooms, or at least principal rooms, gardens, balconies or communal external open spaces; these aspirations are qualified for sunlight by “where possible”. This reflects the constraints imposed by aspect relative to the movement of the sun, shading by existing development, and, in the case of converting existing buildings, their physical constraints.

The lighting analysis provided with the submission is noted but relies entirely on the layout/internal siting of furniture being as per the application drawings. Any deviation from this could have a further negative impact on the amenities of occupiers in relation to providing adequate daylight and sunlight (GP8 d.). Furthermore, this has little regard for the tunnelling effect of the existing development to either side of the application site or the orientation of the site, with east facing fenestration only resulting in the accommodation being cast into shadow for most of the day.

Although the accommodation would have no access to external amenity space given the highly sustainable location, in the heart of St Peter Port with the sea front and other public amenities on the doorstep, on balance access to external open space is considered satisfactory.

The Building Regulations (Part G) define a bedsit as accommodation where the bedroom and sitting room are combined and may also include cooking and washing facilities. This is therefore a studio flat/bedsit and the internal space provision accords with the Habitable Room requirements set out in G7 (Table 3). The accommodation does not reach the recommended space standards set out in the DCLG guidance. On balance therefore, internal space provision would be satisfactory.

The different amenity objectives must be balanced with the objective of seeking to make maximum use of urban developments. Whilst the development is within a tight urban location, the accommodation fails on so many factors of health and well-being that cannot reasonably be balanced by the reasonable internal space standards, access to external open space nor making maximum use of sites in urban areas. The scheme does not represent a good standard of design and does not satisfactorily address the health and well-being of occupiers contrary to Policy GP8 of the IDP.

External alterations are limited, and do not require the specific grant of planning permission. Nonetheless, the change proposed to the access door is essential in this case as the daylight analysis has been undertaken on the basis of this change and it is likely that the limited access to sunlight/daylight as proposed would be adversely affected if the existing access arrangements were retained. If the scheme were acceptable in all other respects this is a matter that could be managed by planning condition.

The change of use will not have a detrimental impact on the neighbouring Protected Building or the Protected Monument steps.

The proposals make use of the vacant and under-utilised basement floor in a highly sustainable location. Although no provision is made for cycle storage, all manner of services and amenities are available within walking distance along with access to public transport. The accommodation would be accessed by the existing steps (Protected Monument) from the sea front and stepped access only is available within the building.

The proposed use will not result in unacceptable overlooking or loss of privacy to the occupiers of surrounding buildings.

The recommendations of Building Control, such as the type of kitchen door, fire resistant flooring/walls and GTS E and possible fire detection, can be accommodated without significant alteration to the drawings and would, overall, relate to works that do not require planning permission.

In relation to the matter of the WC to serve Guernsey Pearl, the unit that is the subject of this application is separate from the High Street unit. Although not set out in this submission, it is assumed that Guernsey Pearl has its own staff facilities elsewhere in this large building. The lack of alternative provision for Guernsey Pearl would not prevent the grant of planning permission in relation to this lower-level unit.

Given the matter of the health, well-being and living environment of future occupiers the scheme as currently proposed is not considered to accord with Policy GP8 and it is recommended permission is 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. Other protected sites and Protected Buildings have been considered elsewhere in this report.

Date: 18/06/2024

