

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: Alterations to create inset balcony at 1st floor level, alterations to fenestration at 2nd floor level to east (front) elevation.

LOCATION: Canvas Nightclub, 54 Lower Pollet, St. Peter Port.

APPLICANT: Hutch Limited

I refer to the application referred to below received as valid on 05/07/2024 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 10/10/2024

Drawing Nos: DRP Architecture: 3262-DR-001, 111, -121, -203.

Application Ref: FULL/2024/1070

Property Ref: A112470000

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 alterations proposed would erode the classical proportions and vertical emphasis of the existing façade through introducing a large horizontal void and rectangular area of glazing. This would undermine the architectural composition of the building and street scene and therefore fails to conserve the character, historic and architectural interest and appearance of the Conservation Area. Furthermore, the application does not pay special attention to the desirability of preserving and enhancing the character and appearance of the Conservation Area as set out in Section 38(1) of the Land Planning and Development (Guernsey) Law, 2005 and would be contrary to Policy GP4 (Conservation Areas) of the Island Development Plan.

2. The proposal would result in a poor architectural composition thereby failing to achieve a high standard of design, and fails to respect the character of the local built environment. The proposal would be contrary to Policy GP8 (Design) of the Island Development Plan.

3. There are domestic properties situated immediately adjacent to and opposite the premises. Given the form of the proposed development, the existence and proximity of residential uses within this area and in the absence of details of noise attenuation or mitigation, it is considered likely that the proposal would give rise to noise and disturbance which would detract from the amenities which nearby residents might reasonably expect to enjoy.

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/2024/1070
Property Ref: A112470000
Valid date: 05/07/2024
Location: Canvas Nightclub 54 Lower Pollet St. Peter Port Guernsey
Proposal: Alterations to create inset balcony at 1st floor level, alterations to fenestration at 2nd floor level to east (front) elevation.
Applicant: Hutch Limited

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The alterations proposed would erode the classical proportions and vertical emphasis of the existing façade through introducing a large horizontal void and rectangular area of glazing. This would undermine the architectural composition of the building and street scene and therefore fails to conserve the character, historic and architectural interest and appearance of the Conservation Area. Furthermore, the application does not pay special attention to the desirability of preserving and enhancing the character and appearance of the Conservation Area as set out in Section 38(1) of the Land Planning and Development (Guernsey) Law, 2005 and would be contrary to Policy GP4 (Conservation Areas) of the Island Development Plan.
 2. The proposal would result in a poor architectural composition thereby failing to achieve a high standard of design, and fails to respect the character of the local built environment. The proposal would be contrary to Policy GP8 (Design) of the Island Development Plan.
 3. There are domestic properties situated immediately adjacent to and opposite the premises. Given the form of the proposed development, the existence and proximity of residential uses within this area and in the absence of details of noise attenuation or mitigation, it is considered likely that the proposal would give rise to noise and disturbance which would detract from the amenities which nearby residents might reasonably expect to enjoy.
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OFFICER'S REPORT

Site Description:

The application site is within the 'Old Town' part of the St Peter Port Conservation Area. There are protected buildings near, but not abutting, the application site. The property is in a Main Centre Inner Area, Conservation Area, and Harbour Action Area as designated in the Island Development Plan.

Relevant History:

PREA/2024/0329	Install cladding and signage to exterior of building, new balcony at second floor level and internal alterations.	Pre-application enquiry.
PREA/2023/1741	Change position of bathroom and install a new exterior balcony	Pre-application enquiry.

Existing Use(s):

Nightclub – Sui generis.

Brief Description of Development:

Planning permission is sought to remove windows and a section of wall from the main roadside façade of the building at first and second floor level to create a void, to serve a balcony within the building envelope, and horizontal glazing within the frontage. The proposal would create a seating terrace and balcony, overlooking Le Pollet. The application has been subject to pre-application advice, including PREA/2023/1741 and PREA/2024/0329.

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

GP4 - Conservation Areas

GP8 - Design

GP9 - Sustainable Development

MC9(A) - Leisure and Recreation in Main Centres and Main Centre Outer Areas - New, and Extension, Alteration or Redevelopment of Existing Uses

MC10: - Harbour Action Areas

Representations:

None.

Consultations:

The Office of Environmental Health and Pollution Regulation's comments:

"I have reviewed the proposed plans for a balcony to be installed at the above mentioned address which were received by email on 10th July 2024 and there are a number of issues of concern that I must raise. There is also currently insufficient information to enable me to comment.

I have significant concerns about the potential noise nuisance that may result as a consequence of this development. There are domestic properties immediately adjacent and opposite the premises. There is limited reference to noise mitigation within the

application and I would strongly suggest that the applicant reconsiders their approach to address potential noise issues.

Noise from people can be very challenging to control and as such careful consideration to numbers, opening of doors and windows, times of use etc. should all be addressed prior to progressing with the proposed plans. In addition, I am concerned about noise from music within the premises. Mitigation measures such as noise limiting devices, positioning of speakers and times of music should be considered.

I would also like to make the applicant aware that under Smoking (Prohibition in Public Places and Workplaces) (Guernsey) Law, 2005, smoking would not be permitted within the proposed balcony area as it would be considered substantially enclosed.

Once further information has been submitted with regard to noise mitigation measures I would be happy to review the application again.

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

Summary of Issues:

- Whether the design, composition and materials of the proposed development is acceptable.
- The impact of the development on the character and appearance of the Conservation Area.
- The impact of the development on neighbour amenity.

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).**

Legal and policy background

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 considered in the assessment of this application.

A nightclub is a sui-generis use as set out in the Use Classes Ordinance. The most relevant IDP Policy in relation to this use would be MC9(A) - Leisure and Recreation in Main Centres and Main Centre Outer Areas - New, and Extension, Alteration or Redevelopment of Existing Uses.

Policy MC9(A) states that :

“In Main Centres, new leisure or recreation developments, or extension, alteration or redevelopment of existing provision, will be supported.

In all cases and areas proposals must also accord with all the relevant policies of the Island Development Plan.”

Policies GP4 and GP8 also apply and are considered in more detail below.

Conservation Area:

Policy GP4 (Conservation Areas) 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.

Moreover, it is a requirement under the Land Planning and Development (Guernsey) Law, 2005, when considering applications affecting Conservation Areas that special attention shall be paid to the desirability of preserving and enhancing the character and appearance of that Area.

Island Development Plan Annex VII includes the Summary of Special Interest for the St Peter Port Conservation Area. In support of Annex VII, a Conservation Area Appraisal for St Peter Port has been produced. The Overview divides the Conservation Area into 16 Character Areas. The application site is within the Old Town Character Area for which a detailed Appraisal has been written. The following paragraph summarises the character of this localised area.

The Lower Pollet is a narrow, one-way and enclosed street which runs parallel to the sea front. Here, traditionally and classically proportioned buildings follow a mediaeval settlement pattern abutting (often the narrow gable-end) the rear edge of the pavement. Buildings present a narrow, rendered frontage to the street. ‘Solid to void’ ratios are consistent which contributes to the character of the area. Windows of upper floors are usually of Georgian proportions and often (although not in the case of No.54) historic, of timber construction and with old glass. Replacements have been carried out sensitively, including retention of the proportions of openings with large shop windows at ground level and smaller domestic-scale openings to upper floors. This, and adjacent buildings, are identified within the Appraisal as ‘Buildings of Merit’, noted as making a positive contribution to the Conservation Area.

In section 7 (Strengths, Issues and Opportunities), the Character Appraisal identifies the following as an ‘issue’, including;

“Potential for unsympathetic alterations, such as replacement of historic windows, doors and shop fronts and insertion of inappropriate signage, to both protected and non-protected buildings and structures.”

It sets out an opportunity to:

“Design new and replacement developments to respond positively to the context: ensure that established building and roof lines and form, materials and underlying landscape are respected; seek creative adaptation rather than demolition” and to “Encourage sympathetic configurations and materials where replacement of doors and windows is proposed.”

54 Lower Pollet comprises a mid-terrace building, dating from the 18th century. This and neighbouring buildings line the west side of the road. This traditional terrace complements the special character of the Conservation Area as buildings here retain, for the most part, their classical proportions, such as small apertures, which is ‘read’ against larger expanses of external wall to the façades. These classical proportions and solid-to-void ratios contribute to the character of the Conservation Area.

The alterations proposed would entail replacement of domestic-scale casement windows and a portion of the rendered façade, with a large void over the first floor level and horizontal glazing at second floor.

A consequence is that the vertical emphasis and the classical proportions of openings within the existing façade would be eroded, undermining the architectural composition of the building and street and so would fail to conserve the character, historic and architectural interest and appearance of the Conservation Area, contrary to Policy GP4.

Moreover, the existing vertical emphasis of fenestration would be replaced with a horizontal emphasis which would exacerbate an already confusing and muddled elevation given the split frontage at ground level which serves two separate buildings, each with its own advertisement, thereby diminishing any form of cohesion of the façade.

Design:

The preceding text of Policy GP8, paragraph 19.9.4 states that:

“Some parts of the Island are more sensitive to building design than others. Within Conservation Areas and where development relates to protected buildings or protected monuments and their settings, development will be expected to achieve a particularly high standard of design which should respect the character of the particular environment concerned. This may result in either a contemporary or traditional approach to design but, whatever the chosen approach, new development in such circumstances should consider, without necessarily replicating, the scale, mass, detail and special interest of the surrounding built form to complement the local character. In Sites of Special Significance and Areas of Biodiversity Importance development will be required to be designed in such a way as to avoid or minimise negative impacts on the special interest of a Site of Special Significance or biodiversity, or to provide acceptable mitigation in accordance with a scheme approved by the Authority

which could impact on the design and use of materials for buildings in these areas.”

For the reasons set out against Policy GP4, above, the proposal would result in a poor and confusing architectural composition when ‘read’ as a whole and against other buildings in the vicinity, thereby failing to achieve a high standard of design as expected under Policy GP8. The proposed composition would be at odds with the rhythm and form of buildings that share a vertical emphasis to the west of Lower Pollet.

It would fail to respect the character of the local built environment, contrary to criterion ‘c’ of Policy GP8. It would not conserve the particular special interest of the Conservation Area, one of the highest areas of protection outlined in Policy GP8.

It is acknowledged that developments in Conservation Areas need not replicate the surrounding built form (as set out in paragraph 19.9.4) however the application submitted does not respect the detail, composition and special interest of the surrounding built form that complements the local character.

Consequently, the proposal does not meet the requirements of Policy GP8.

Neighbour amenity:

The Office of Environmental Health and Pollution Regulation has expressed concerns regarding the proposal and requests additional information. There are domestic properties situated immediately adjacent to and opposite the premises. Given that the application is unacceptable in other fundamental respects as described above, further information has not been requested prior to its determination. However, given the form of the proposed development, the existence and proximity of residential uses within this area and in the absence of details of noise attenuation or mitigation, it is considered likely that the proposal would give rise to noise and disturbance which would detract from the amenities which nearby residents might reasonably expect to enjoy.

For the reasons set out above, it is recommended that planning permission is refused.

Date: 10/10/2024

