

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 third floor level from 7 flats (Use Class 2) to Administration Office (Use Class 16).

LOCATION: Carey House, Les Banques, St. Peter Port.

APPLICANT: Commerce Holdings Limited

I refer to the application referred to below received as valid on 19/09/2024 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 14/02/2025

Drawing Nos: CCD Architects - 3843 PL01, 02, 03, 04, & Photographic survey

Application Ref: FULL/2024/1600

Property Ref: A10481A000

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 proposed development would result in the loss of 7 units of residential accommodation and the submitted application fails to demonstrate that the accommodation is substandard by virtue of its size, location, form of construction or means of access to it and that there is no reasonable way of upgrading the accommodation to provide satisfactory living conditions. The proposal therefore fails to comply with Policy GP12 criterion (a).

The scheme does not relate to a site or building required for an important social or community requirement or the displacement of housing and fails to comply with criteria (b) and (c) of Policy GP12.

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/2024/1600
Property Ref: A10481A000
Valid date: 19/09/2024
Location: Carey House Les Banques St. Peter Port Guernsey GY1 3BZ
Proposal: Change of use of third floor level from 7 flats (Use Class 2) to Administration Office (Use Class 16).
Applicant: Commerce Holdings Limited

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The proposed development would result in the loss of 7 units of residential accommodation and the submitted application fails to demonstrate that the accommodation is substandard by virtue of its size, location, form of construction or means of access to it and that there is no reasonable way of upgrading the accommodation to provide satisfactory living conditions. The proposal therefore fails to comply with Policy GP12 criterion (a).

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OFFICER'S REPORT

Site Description:

The application site comprises a five-storey building situated to the west of Les Banques and to the south of Rue du Commerce. The property currently comprises office use over four floors with seven unoccupied residential flats on the top floor.

Surrounding the site the area comprises a mixture of uses with office to the south and southwest, a multi-storey car park to the west and residential properties to the north. To the east on the opposite side of Les Banques is the coast.

The site is situated within a Main Centre Outer Area as designated in the Island Development Plan

Relevant History:

PREA/2024/0461	Convert 7 residential units to administrative offices	Advice provided 03/05/2024
PREA/2016/1217	Convert 8 apartments (7 on 3rd Floor) to part of offices and relocate residential units (UAP H09 D)	Advice provided 24/05/2016
PREA/2014/0891	Change of use of 7 flats to offices	Advice provided 10/04/2014
PREA/2011/3650	To discuss the possibility of change of use of 7 flats in the top to offices.	Advice provided 22/11/2011

Existing Use(s):

Office use: lower ground, ground, first and second floor
Residential Flats – third floor

Brief Description of Development:

Planning permission is sought to change the use of the third-floor level from seven flats (Use Class 2) to an administrative office (Use Class 16).

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

- MC4(B): Office Development in Main Centre Outer Areas;
- GP12: Protection of Housing Stock

Representations:

One representation has been received from two States' Deputies objecting to the proposal. The grounds for objection are summarised as follows:

- Concerns are raised about the loss of 7 units of accommodation at this point in time;
- The number of new units being brought onto the market falls some way short of the indicator;
- With the identified shortfall and the pressing need for more accommodation (especially smaller units) in mind, we cannot really afford to lose existing units;
- Such a decision would exacerbate rather than ameliorate housing need at a time when that need is already acute;
- The scheme appears non-compliant with Policy GP12 and we encourage the DPA to refuse the application.

Consultations:

None.

Summary of Issues:

- Whether additional office accommodation is acceptable in this location;
- Loss of the residential units and whether the proposal complies with Policy GP12 of the IDP.

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 additional office accommodation is acceptable in this location

Within Main Centre Outer Areas with the exception of the Office Expansion Area, Policy MC4(B) restricts new office development on new sites, but supports extensions, alterations or the redevelopment to meet modern needs to ensure that existing office activity can continue. The additional office space as proposed is therefore acceptable in principle subject to satisfying all other relevant policies of the IDP.

Loss of the residential units and whether the proposal complies with Policy GP12 of the IDP

The proposal includes the loss of 7 flats from the 3rd floor (top floor) of the building. Policy GP12 of the IDP sets out a presumption against the loss of residential units, unless exceptional circumstances can be demonstrated, and sets out three tests for such circumstances:

- a) It can be demonstrated that the accommodation is substandard by virtue of its size, location, form of construction, or means of access to it and there is no reasonable way of upgrading the accommodation to provide satisfactory living conditions; or
- b) The site or building is needed to meet an important essential social or community requirement; or
- c) The displacement of housing will facilitate a development with substantial and overriding economic and/or social benefit to the Island and where the replacement housing is of an appropriate type, and it is located on a suitable alternative site, in accordance with the relevant policies of the Island Development Plan.

Given that an administrative office falling within Use Class 16 would not be considered to meet an important essential social or community requirement, and there is no replacement housing proposed, criteria (b) and (c) of Policy GP12 are not relevant in this instance. The proposal falls to be considered solely under criterion (a) of Policy GP12.

As part of the application, information has been provided by both the applicant and the applicant's agent in relation to criterion (a), claiming that the residential accommodation is substandard for the following reasons (as summarised):

- Flats (all 2 bed) have not been occupied since before 2008;
- The units have no fitted kitchens or bathrooms;
- None of the units have running water;
- The building is occupied by a legal business and the confidentiality and security of the information (particularly client information) is of paramount importance;
- During office hours clients and visitors are required to sign into reception to obtain a visitors pass;
- The building is served by a staircase and two lifts, which are accessed through the main entrance past the office's reception;
- Access to the 3rd floor is via entrances used by the office users. There is no separate access to the third floor;
- There is internal access between the third floor and the office use – issues of confidentiality and security – although a key card is required to access the offices internally – reception, the stairwell and toilets would be accessible and would offer the prospect of up to 30 people (if the units were fully tenanted) entering and exiting the business at all times of the day and night. This would present a distraction and disturbance to the office use and would present the potential for non-employees and their guests gaining access into the office by tailgating or other means;
- The applicant does not support the idea of the accommodation being used by Carey Olsen employees for the same reasons – guests of employees having access to the common parts of the building at all times of the day and night;
- A secure internal access to the third floor is not possible with the current configuration – a separate external access would be required;
- The access is substandard in relation to paragraph 3.77 of Guernsey Technical Standard Part B1, i.e. if the flats were built today, they would need to have an independent alternative escape route; it is claimed that there is no reasonable or cost-effective solution to the sole access route, which would not require major building works at huge inconvenience to the tenant, to remedy this. The loss of these vacant residential units should, therefore, be supported by Policy GP12.

The comments referred to above have been fully considered in the assessment of this application and a visit to the site, which also included an internal inspection of the reception, stairwell, lift arrangements and all of the residential units on the upper floor of the premises.

Policy GP12 seeks to protect the existing housing stock and sets a high bar to considering the loss of any housing units. The applicant's concerns relate to the existing facilities of the units and security concerns between the residential and office use. Policy GP12 refers to *"no reasonable way of upgrading the accommodation to provide satisfactory living conditions"*.

In relation to the facilities, it is claimed that the units are substandard with no reasonable way of upgrading the accommodation to provide satisfactory living

conditions, however this is not accepted. When built, the residential units would all have had been fitted with kitchens, bathrooms and access to running water. These have been removed at cost for an unknown reason. Furthermore, the use of this floor for the intended office purpose would no doubt require some works to provide such facilities, particularly the need to provide access to running water and sanitary facilities. Works to fit or reinstate these facilities cannot be considered an unreasonable upgrade for the purpose of criterion (a) of Policy GP12.

In relation to access and security concerns, it must be noted that there are multiple examples of successfully operated mixed use schemes within St Peter Port Main Centre and elsewhere on the Island. Indeed mixed-use buildings with office use (or other commercial use) and residential use on upper floors are commonplace and in many situations are considered best practice bringing vitality and viability to areas. Therefore, the Authority must consider such claims carefully to not set an unwanted and unwarranted precedent that would affect a significant portion of the housing stock.

In the case of the application site, the applicant has assumed that an additional, external, stairwell and/or lift would be required to access the 3rd floor. No information has been submitted with the application to analyse the options available to provide a suitable alternative access arrangement utilising the existing building core, or the costs involved in any potential solution, so the Authority cannot assess the reasonableness of the required works. These claims are therefore not accepted in this instance.

In this case, there are clear options that should be considered. The stairwell and lifts are situated within a central core within the building. Between this central core, the office floorspace on each floor is separated by a two-door fire protection method, which in itself offers an element of security. Through building management techniques (such as the use of code tags) access to certain floors and even through certain doors could easily be restricted solely to the employees of the business, with access granted only to the upper floor for residential occupiers and their visitors. The building could also be altered internally to segregate the reception space from the entrance area via a secure door. Furthermore, one of the lifts could be reserved solely for the occupiers of the residential units, or the lift(s) could be controlled again via code tags, restricting access solely to the upper floor for residents and their visitors.

Across the industry it is claimed that Guernsey is currently experiencing a housing crisis and finding suitable residential accommodation as part of relocation packages is often difficult making it difficult to recruit personnel. Although the applicant does not consider it to be possible for the security reasons identified, there is no reason as to why through improved security measures (as referred to above) the residential accommodation could not be used to accommodate employees of the business.

States Building Control were consulted on the application with particular regard to the claims that the access is also substandard (and GP12 requirements are met). If built today a five-storey mixed use building with offices and residential accommodation would require a separate stair to be provided as an escape route in accordance with paragraph 3.77b of the Guernsey Technical Standard Part B1. Building Control in their consultation response have concluded that this requirement is however irrelevant as

Building Control would not require an application and have no ongoing control over the existing building if the kitchens, bathrooms and potable water supply are put back no worse than they were previously.

The units appear to exceed the Guernsey Technical Standards minimum internal space standards and the best practice minimum internal space standards which are published on the Authority's website. The units are of relatively modern construction and situated within a Main Centre Location with a mixture of uses surrounding (including residential properties to the north). The units would not be substandard by virtue of their size, location or form of construction.

There is a clear need for additional housing stock in the Island (as per the States' Strategic Housing Indicator). The objection from the States Deputies to the loss of these units is also noted. In relation to Policy GP12 it is therefore reasonable to require all avenues to be explored to bring these seven units of residential accommodation back into use. For the reasons contained within this report the information submitted as part of the application does not demonstrate that the accommodation is substandard by virtue of its size, location, form of construction or means of access to it and that there is no reasonable way of upgrading the accommodation to provide satisfactory living conditions. The proposal therefore fails to comply with Policy GP12 criterion (a).

The scheme does not relate to a site or building required for an important social or community requirement or the displacement of housing and fails to comply with criteria (b) and (c) of Policy GP12 and must be refused planning permission.

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).

The proposal would not impact on any Protected Buildings, trees, monuments or on any SSS's.

Date: 14/02/2025

