

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: Install air conditioning unit at 1st floor level to north elevation (Protected Building).

LOCATION: 57 Lower Pollet, St. Peter Port.

APPLICANT: Bailiwick Retail Ltd

I refer to the application referred to below received as valid on 09/12/2024 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 22/04/2025

Drawing Nos: Site & Block Plan & Photos.
Daikin: Sky Air Advance-series Air Conditioning Technical Data RZASG-MV1.

Application Ref: FULL/2024/1899

Property Ref: A113310000

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 submission does not propose any acoustic attenuation measures and therefore, when operating at normal capacity, the proposed air conditioning unit would exceed expected noise levels close to the nearby residential properties, to the detriment of the amenities that residents of those properties might reasonably expect to enjoy and contrary to Island Development Plan Policy GP8: Design.

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/2024/1899
Property Ref: A113310000
Valid date: 09/12/2024
Location: 57 Lower Pollet St. Peter Port Guernsey GY1 1WL
Proposal: Install air conditioning unit at 1st floor level to north elevation (Protected Building).
Applicant: Bailiwick Retail Ltd

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The submission does not propose any acoustic attenuation measures and therefore, when operating at normal capacity, the proposed air conditioning unit would exceed expected noise levels close to the nearby residential properties, to the detriment of the amenities that residents of those properties might reasonably expect to enjoy and contrary to Island Development Plan Policy GP8: Design.

OFFICER'S REPORT

Site Description:

The property known as '57 Lower Pollet' is an attached three storey building with its gable ends facing the Lower Pollet to the west and the North Esplanade to the east. There is a retail convenience store at ground floor level to the west and a hairdressers to the east with the entrance to a restaurant above at first floor level. The attached buildings are to the north and south. The property is located within the St Peter Port Main Centre, a Conservation Area, a Harbour Action Area and a Regeneration Area as defined in the Island Development Plan. The building is also a Protected Building.

Relevant History:

A pre-application enquiry was received.

Existing Use(s):

Mixed use building, including a convenience store, a hairdressers and a restaurant.

Brief Description of Development:

This application is to install an air conditioning unit on a section of flat roof between buildings, over the parapet of the western gable, to the north of the site.

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

MC6: Retail in Main Centres
MC10: Harbour Action Areas
MC11: Regeneration Areas
GP4: Conservation Areas
GP5: Protected Buildings
GP8: Design
GP9: Sustainable Development

Representations:

None

Consultations:

The Office of Environmental Health and Pollution Regulation.

03/01/25

'I have reviewed the proposed plans for the installation of an air conditioning unit to the north elevation at the above site. Having regards to the information provided the current proposal is not suitable in this location.

I have concerns relating to the close proximity of the air conditioning unit to existing residential properties. Whilst I note that there are existing air conditioning units and a kitchen extraction system at the site, I have concerns that the cumulative impact of an additional unit at this site could cause a detriment to the amenity of neighbouring residential properties. I also note that the application letter suggests that the proposed system will not operate 5dB(A) above the lowest background noise at night, however no supporting information has been supplied to confirm this.

Should further information be forthcoming I will reconsider my recommendation.

At a minimum the department requires the following information:

- Distance to the closest noise sensitive property*
- Evidence that the noise level the proposed pump would operate at would be at least 5 dB(A) below the lowest background noise level at any time (this is generally at night)*
- Details of any proposed attenuation measures to reduce the level of the air conditioning unit*

I would urge the applicant to contact an acoustic consultant I have attached a list of consultants who are prepared to operate on the island. Please note that inclusion on the list does not infer any kind of recommendation by the department.'

22/04/25

'I have reviewed the additional information submitted for the installation of an air conditioning unit at the above site.

The acoustic report with reference PG011.1 V1 concludes that the original RZASG100MV 1 unit proposed for the site, when operating at full capacity, would have had a significant adverse impact on noise levels at the nearest receiver from the proposed equipment.

Following this report, I understand that the applicant has proposed an alternative unit for the site, which Aura has considered in a revised acoustic report under reference PG011.1 V2. The secondary report concluded that an RZASG71MV1 unit operating in quiet mode at all times would likely operate at 5 dB below the existing background level.

Although the unit is proposed to operate in quiet mode, I have concerns that it would not be appropriate to recommend a condition which specifies that a unit should operate only in quiet mode. Air conditioning units are not designed to operate in a quiet mode setting for their full continuous operation. The specification for the RZASG71MV1 details the following:

"Night quiet mode – reduces automatically the operation sound during nighttime of the outdoor unit by 3dB(A) by removing an outdoor jumper wire. (Multi outdoor units in cooling mode only)."

The acoustic report (ref PG011.1 V2) demonstrates even during daytime hours (when there is a higher background noise level) the unit would have to be in quiet mode to achieve a level 5 dB below the background LA90.

Should the proposed alternative unit be operated in normal operating mode, it is likely to adversely affect the amenity of nearby residential properties.

The original report commissioned by Aura concluded that the proposed plant would require mitigation to achieve the desired 5 dB(A) below the existing background sound level, and I would urge the applicant to reconsider this recommendation.

Based on the current information submitted for the unit to be installed in this location, and without any further options for attenuation provided, I have no other option than to recommend refusal for the unit to be installed at the proposed location.'

Summary of Issues:

- Design of the development.
- Impact of the development on the character and appearance of the area.
- Impact of the development on neighbouring properties.

Assessment against:

1 - Purposes of the law.

The objectives of the Law, as set out in Section 1(2), have been considered and this forms part of the assessment of policy issues as set out in 2 below.

2 - Relevant policies of any Plan, Subject Plan or Local Planning Brief.

The application site relates to the use for Convenience Retail at ground floor level as referred to in Policy MC6 of the IDP. The IDP makes provision for alterations to an existing facility such as this as long as the proposals accord with all other relevant policies of the IDP.

The siting of the air conditioning unit will not have a detrimental impact on the character and appearance of the locality as there are other units in the location or have an unacceptable impact on the Protected Building. However, in line with the OEHPR comments, the scheme is not considered to satisfy the aims of the Island Development Plan in terms of mitigating potential noise nuisance from a development. The submission does not propose any acoustic attenuation measures and therefore, when operating at normal capacity, the unit would exceed expected noise levels close to the nearby residential properties.

In view of the above it is recommended that planning permission is refused for the development.

Although the applicant has noted within their report that they would operate the unit continuously in quiet mode, it would be unreasonable and unenforceable to impose a planning condition requiring this. In addition, a condition requiring the unit to operate at, at least 5 dB(A) below the lowest background noise level at any time (this is generally at night) would also be unreasonable and unachievable based on the information submitted as part of the application.

3 - General material considerations set out in the General Provisions Ordinance.

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. Where relevant the issues are considered in section 2 above.

4 - Additional considerations (for protected trees, monuments, buildings and/or SSS's).

The proposal would have no impact on Protected Trees or Monuments or on SSS's.

Date: 22/04/2025