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: Variation to previously approved plans to erect temporary retail unit, demolish existing and erect replacement retail unit (Use Class 9) and associated works (FULL/2025/0516) - Amend delivery bay layout with canopies, alter stair/ramp, install electrical switch gear cupboard to south, alter main entrance canopy, install plant equipment and louvre fencing to roof plant area.

LOCATION: M&S St Martin, Les Merriennes, St. Martin.

APPLICANT: West Quay Holdings Limited

I refer to the application referred to below received as valid on 31/07/2026 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 02/09/2026

Drawing Nos: Lovell Ozanne: K73-10106 S1-01 Rev E, 04 Rev E, 05 Rev E, 06 Rev E, 07 Rev C, 08 Rev D, 09 Rev D, 10 Rev C, 22 Rev J, 23 Rev G, 24 rev F, 30 Rev B, 31 Rev C, 41 Rev G.
DDA: 26-5092-M50-0001 Rev P1
Environoise Accoustics Report

Application Ref: FULL/2026/1159

Property Ref: J003920000

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 scheme as submitted fails to demonstrate that the proposed rooftop plant equipment can and will operate, at all times, at a level that would not generate unacceptable noise and nuisance to the occupiers of surrounding dwellings. The scheme therefore fails to comply with Policy GP8 (a) design and (d) health and well-being of neighbours of the development, 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

States of Guernsey
Planning Service

PLANNING APPLICATION REPORT

Application No:	FULL/2026/1159
Property Ref:	J003920000
Valid date:	31/07/2026
Location:	M&S St Martin Les Merriennes St. Martin Guernsey GY4 6NS
Proposal:	Variation to previously approved plans to erect temporary retail unit, demolish existing and erect replacement retail unit (Use Class 9) and associated works (FULL/2025/0516) - Amend delivery bay layout with canopies, alter stair/ramp, install electrical switch gear cupboard to south, alter main entrance canopy, install plant equipment and louvre fencing to roof plant area.
Applicant:	West Quay Holdings Limited

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The scheme as submitted fails to demonstrate that the proposed rooftop plant equipment can and will operate, at all times, at a level that would not generate unacceptable noise and nuisance to the occupiers of surrounding dwellings. The scheme therefore fails to comply with Policy GP8 (a) design and (d) health and well-being of neighbours of the development, of the Island Development Plan.

OFFICER'S REPORT

Site Description:

The application site is situated to the east of Les Merriennes and north of La Grande Rue. Vehicular access to this site is from Les Merriennes, adjacent to the north site boundary, with the exit to the south onto La Grande Rue. To the north of the wider commercial site is Vets4Pets with areas of parking available. To the southeast of the existing exit point for the site is a two and a half-storey pitched roof building with retail showroom at ground floor level and residential accommodation above. Beyond this to the southeast is a two and a half storey building with double piled roof and gables facing the road. The ground floor has a shopfront installed, with fascia over and again, the upper floor appears to be in domestic use.

Other commercial properties are situated to the southeast of the site and across the road to the west in La Grande Rue. Residential properties exist to the north of the site in Les Merriennes and Rue De L'Eglise and to the west and south in Les Merriennes and La Grande Rue.

The site is currently undergoing redevelopment following the demolition of the original retail unit and former light industrial unit on the site. A temporary retail unit has been erected within the wider site and is currently operational.

There are a number of Protected Buildings within the vicinity of the application site.

The site is located in a Local Centre and Conservation Area as designated in the Island Development Plan.

Relevant History:

FULL/2026/0284 - Variation to previously approved plans to erect temporary retail unit and portacabins (temporary staff facilities) to east of site. Erect 2m high fencing (north, east and south boundaries) and temporary 2.4m high fencing (south boundary) - Demolish existing retail (Use Class 9) and former light industrial unit (Use Class 24) (retrospective) and erect retail unit (Use Class 9) and associated works – granted
Conditions:
4. Variations
5. Cycle parking – no details required
6. The retail floorspace/shop floor shall be limited to the area labelled Retail Area on drawing S1-05 rev D and shall not be extended into any other part of the building currently shown as storage, cold room, loading/unloading, back office and staff areas.

FULL/2025/1095 - Variation to previously approved plans to demolish petrol station (sui-generis) and infill vehicle access, change of use from light industry (Use Class 24) to retail and erect extension to retail unit (Use Class 9) to front/northwest elevation and side/northeast elevation and associated works - Raise and alter roof eaves height, alter ramp access to south elevation and alter car parking/cycle and trolley
store layout - granted
Conditions:
4. Variations
5. cycle parking – no details required
6. The retail floorspace/shop floor shall be limited to the area labelled Retail Area on drawing S1-05 rev B and shall not be extended into any other part of the building currently shown as storage, cold room, loading/unloading, back office and staff areas.

FULL/2024/0256 - Demolish petrol station canopy, remove petrol pumps (sui generis) and infill vehicular access, change of use from light industry (Use Class 24) to retail and erect extensions to retail unit (Use Class 9) front/northwest elevation and side/northeast elevations. Extend car park (eastern part of site) and associated works – granted
Conditions:
4. external lighting - agreed
5. infill existing access – no details required
6. visibility splay – no details required
7. landscaping in accordance with the approved scheme – no details required
8. solar panels – no details required
9. hardstanding – agreed

10. parking/servicing provided prior to use – no details required
11. secure parking for cycles and implementation – details yet to be provided
12. The retail floorspace/shop floor shall be limited to the area labelled Retail on drawing K73-10106-S1-05 rev A and shall not be extended into any other part of the building currently shown as storage, back office and staff areas.

Existing Use(s):

Retail – undergoing redevelopment

Brief Description of Development:

The application seeks to vary the previously approved scheme for a replacement retail unit (see 2026 variation application) on the site and comprises:

- Amending the delivery bay layout and associated canopies
- Alterations to stair/ramp (south elevation)
- Installing an electrical switch gear cupboard (south elevation)
- Altering the main entrance canopy to suit revised delivery access
- Installing plant equipment and louvre fencing to roof plant area (adjusted size/arrangement of the rooftop enclosure from that shown on previously approved drawings)
- Associated internal alterations
- Adjustments are also shown to the roof heights of various elements of the scheme

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

LC5: Retail in Local Centres
GP4: Conservation Areas
GP8: Design
GP9: Sustainable Development
IP6: Transport infrastructure and support facilities
IP7: Private and Communal Car Parking
IP9: Highway Safety, Accessibility and Capacity

Representations:

None.

Consultations:

Office of Environmental Health and Pollution Regulation - there are a number of issues of concern that I must raise.

In paragraph 4.1.4 the acoustic report makes reference to 5no. Daikin RZA250D units in the AC Condenser area operating on the "Quiet Mode 2" step-down setting at night. Having discussed this matter with members of the Planning Service I am of the opinion that where a standard operating mode is not possible to achieve the required level of 5

dB below the existing LA90 background noise level such a condition as proposed would not be enforceable or deemed reasonable to apply to a consent from a planning perspective.

Table 4.1 demonstrates that the specific broadband noise level during daytime hours of the proposed units at NSR 1 will be 37dB, equating to -4dB below the measures LA90 background noise level. Paragraph 4.2.2 states that this achieves the required limit, this is not the case as the level required to be achieved is 5 dB below the existing background noise level.

I would therefore suggest that the acoustic consultant revisit the assessment to take into account the above factors to ensure that suitable attenuation measures can be integrated within the development so that the required standard can be achieved.

Summary of Issues:

The key issue in this case relates to the effect of the rooftop plant on the amenities of surrounding residents and the impact of works on the character and appearance of the locality, within a Conservation Area.

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 proposals as listed above in the Brief Description of Development will not result in harm to the character and appearance of the Conservation Area, and the physical position of works will not impact on neighbour amenity in terms of overshadowing.

The key concern in this case relates to the impact of the rooftop plant on the amenities of surrounding residents when considering the matter of noise and nuisance. The application relies on the fact the equipment has multiple operating modes and that the quiet mode would achieve an acceptable reduction in the noise generated. This could not reasonably be conditioned and enforced by the Authority and as such the scheme fails to satisfactorily address and ensure that, at all times, the amenities of surrounding residential neighbours will not be adversely affected.

The quiet mode feature is not suitable as a planning condition because it does not provide a permanent, measurable, or enforceable means of controlling noise impacts. Key reasons for this are:

1. **Not a fixed operating state**

Quiet mode is a user-selectable or software-controlled setting. It can be switched off at any time by the occupier, installer, or during servicing, meaning compliance

cannot be guaranteed over the lifetime of the development.

2. **Lack of enforceability**

Planning conditions must be clear, precise, and enforceable. Planning Authorities cannot realistically monitor whether a heat pump is operating in quiet mode at all times, particularly outside normal working hours when noise disturbance is most likely.

3. **Performance may change over time**

Noise output can increase due to wear, maintenance issues, or firmware updates. Quiet mode does not account for degradation or future changes in operation.

4. **May compromise system efficiency or heating demand**

Quiet mode often reduces fan or compressor speed. During cold weather or peak demand, the system may automatically override quiet mode to meet heating requirements, resulting in higher noise levels.

5. **Does not address worst-case scenarios**

Noise assessments should be based on maximum sound power levels under realistic operating conditions, not reduced or optional settings. Planning decisions must consider worst-case impacts on neighbouring amenity.

6. **Contrary to good acoustic practice**

Standard practice is to control noise through:

- Appropriate siting and orientation
- Acoustic screening or enclosures
- Meeting defined noise limits at sensitive receptors

These are objective, measurable, and enforceable.

The scheme therefore fails to comply with Policy GP8 of the Island Development Plan in relation to good design and neighbour amenity.

Attention is also drawn to condition 12 of the 2024 permission and conditions 6 of the 2025 and 2026 permissions all of which sought to limit the extent of retail floorspace but which would alter through the revisions proposed but which is not addressed in this submission. The reason for this condition is: Permission has been granted on the basis that the retail floor area will be limited to that outlined above. Any change or enlargement of this retail floorspace is likely to raise different planning policy considerations. If the application had been considered acceptable in all other respects, then the application could have been deferred to enable the agent to clarify/confirm the approved and proposed retail floorspace and a further condition attached if appropriate.

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 fallback 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, buildings or sites.

Date: 02/09/2026