



## Appeal Decision Notice

Planning Tribunal Hearing held on 31<sup>st</sup> May 2012 at Les Cotils Christian Centre,  
St. Peter Port including a visit to the Appeal site in the course of the Hearing

Members: Mrs. Linda Wride (Presiding), Mr. Patrick Russell, Mrs. Sheelagh Evans

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<b>Appeal Site:</b>	<b>The Wing, St Julian's Cottage, Les Canichers, St. Peter Port</b>
<b>Property Reference:</b>	<b>A111620000-P06</b>
<b>Planning Application Reference:</b>	<b>FULL/2011/3576</b>
<b>Planning Application Valid Date:</b>	<b>15/11/2011</b>
<b>Appeal Case Reference:</b>	<b>PAP/013/2012</b>

- The Appeal is made under the provisions of Part VI and section 68 of The Land Planning and Development (Guernsey) Law, 2005.
- The Appeal is made by Mr. F. M. Gauson against the decision of the Environment Department made on 19/12/2011 under section 16 of the Law to refuse planning permission for the change of use of office (Use Class 21) to residential unit (Use Class 2).
- The appellant, Mr. F. M. Gauson, attended in person and was also represented by Mr. A. Dyke and Mrs. E. Male of CCD Architects Limited
- The Environment Department was represented by Mrs. C. Miles, Planning Officer

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### Decision

1. The Appeal is dismissed.

## **Background**

2. In the past, it appears that part of St Julian's Cottage currently known as "The Wing" has been used for residential purposes and as a shop. Planning permission was granted in October 2001 to sub-divide and alter the premises at St Julian's Cottage into four flats (Ref. A1.1162/P4a). Although not coloured in the same way as the proposed flats, the approved ground floor plan shows the appeal site retained as an existing office.
3. In 2008, an application (Ref PAPP/2008/1042) to change the use of "The Wing" from office to a bedsit was refused on the grounds that it would not provide a satisfactory living environment and standard of accommodation. A related application under the Building Regulations was not approved due to insufficient information being provided in relation to thermal and sound insulation, ventilation and fire safety. The only difference between the 2008 scheme and the current appeal proposal is the provision of an internal lobby at the entrance.

## **The Development Plan**

4. Policy EMP4 of the Urban Area Plan (UAP) sets out the circumstances where changes from offices to other uses will be permitted, based on specified criteria. Policy HO6 supports the conversion of office space for residential use where the development does not conflict with Policy EMP4 and other relevant policies in the Plan. Policy HO4 supports the conversion and sub-division of existing buildings to provide housing subject to the requirements of specific criteria being satisfied.
5. At the Hearing, the Department confirmed that the requirements of Policies EMP4 and HO6 are met and that the criteria set out in Policy HO4 are satisfied, with the exception of criterion (c) which requires a satisfactory living environment and standard of accommodation to be achieved. The Tribunal has therefore focused on this issue, there being no other matters in dispute in this appeal.

## **Main Issue**

6. The main issue in this appeal is whether the proposed residential unit would provide a satisfactory living environment and standard of accommodation, having regard to daylight and sunlight, outlook, privacy, noise and disturbance.

## **Assessment**

7. Les Canichers runs from Well Road to the north and slopes down towards St Julian's Avenue and centre of St. Peter Port. The lower end of Les Canichers to the south of the junction with Bosq Lane is narrow, providing access for pedestrians only. Further south, buildings on both sides of the lane rise directly from the footway without any intervening basement areas or front gardens, restricting the width of the lane even more.

8. The appeal site is situated in this narrow southern section of Les Canichers, close to the junction with St Julian's Avenue. It forms part of a larger building located on the west side of the lane, which is about 2.3m wide at this point. Whilst relatively quiet mid-morning when the Tribunal visited the site, the lane is a well used pedestrian route into the centre of St Peter Port and can get busy at other times, especially in the evening and at weekends.
9. The appeal site comprises a street-level room with a part-glazed door and a single, three-bay window, both of which open directly on to the footway. One corner of the room is currently partitioned off to provide a separate toilet and shower room. This facility would be retained in the appeal scheme. A range of kitchen units currently runs along the back of the room, opposite the window. The proposed kitchen area would occupy much the same area with a short run of additional units extending around the corner, opposite the shower room.
10. The remaining space, currently used as an office, would become a bed-sitting room, apart from a small area where an internal lobby would be created to provide a privacy and noise buffer at the front door on to Les Canichers.
11. There is no dispute that the existing window would be the sole source of natural light (daylight and sunlight) reaching the bed-sitting room. The difference of opinion between the parties is whether the level of natural light inside the bed-sitting room would be sufficient to ensure a satisfactory living environment for the occupier(s) of the proposed accommodation.
12. In considering this matter, the Tribunal would have been assisted by approved, adopted guidelines setting out clearly how the Department makes such an assessment. In the absence of such guidance, or any other assessment by the parties based on widely recognized good practice such as the British Standard: Code of Practice for Daylighting, the Tribunal's judgement is based primarily on observations at the site visit.
13. Given its orientation and having regard to the height and proximity of the building on the opposite side of Les Canichers, the Tribunal considers that the east-facing window serving the proposed bed-sitting room would receive little, if any, direct sunlight at any time of the year. Likewise, due to the height and proximity of the building directly opposite, we, the members of the Tribunal, noted that only small segments of the sky are visible from within the proposed bed-sitting room, and then only from a position very close to the window and looking upwards at a steep angle. The amount of sky visible through the window affects daylight levels within the room served by the window.
14. At the site visit, the Tribunal observed that internal daylight levels are low, reducing deeper into room where the proposed kitchen would be located. In these circumstances, we think it likely that for tasks such as food preparation and cooking, reading and similar close work, the occupier of the proposed flat would be likely to rely on artificial lighting for much of the time, notwithstanding any light which might be reflected into the room off the wall

opposite, which is currently painted a light colour. Whilst the use of artificial light may be acceptable in an office which is only occupied for part of the day, the Tribunal does not consider reliance on artificial light for daily living activities to be appropriate for a residential unit which could potentially be occupied for much longer periods at the weekends or throughout the day if, for example, the occupier were retired.

15. The existing window looks out on to the largely blank wall of the three storey building on the opposite side of Les Canichers, less than 2.5 metres away. The dominance of the building opposite, combined with the lack of any direct view beyond this building, results in an oppressive and somewhat claustrophobic outlook from the only window serving the proposed bed-sitting room.
16. Most of the windows facing the street at the southern end of Les Canichers have sills close to or above eye level, some with obscure glass in the lower panes. However, due to the size of the existing window at the appeal site and its location at street level, passers by in Les Canichers would be afforded direct views into the bedsitting room. In the Tribunal's opinion, such uninterrupted public views would unacceptably compromise the level of privacy which might reasonably expect to be enjoyed by occupiers of residential accommodation.
17. It would be possible to improve the level of privacy using some physical means such as net curtains (as presently used in the office) or obscure glass (as used in some other ground floor windows further along Les Canichers). However, based on the Tribunal's observations at the site visit, such screening devices would be likely to reduce the amount of natural light reaching the interior of the proposed bed-sitting room and further compromise the poor outlook from the only window serving the proposed accommodation.
18. The Tribunal noted that traffic noise from St Julian's Avenue was clearly audible inside the existing office. We acknowledge that the provision of an internal lobby at the entrance would be likely to reduce such noise intrusion. However, in our opinion, activity in the street directly outside the only window serving the proposed bed-sitting room would be likely to cause a degree of disturbance which would not be mitigated by the provision of an internal lobby at the entrance. We are particularly concerned about the effect of activity in the street at night on the living conditions of the occupier of the proposed bed-sitting room.
19. The Tribunal's attention was drawn to other areas of St Peter Port where windows serving residential accommodation are located in narrow streets and lanes. However, no specific properties were identified as being directly comparable to the appeal site in terms of the windows in question providing the sole source of daylight and sunlight to, and outlook from, a bed-sitting room with a similar aspect and relationship to the street and buildings opposite. We therefore give this consideration little weight in reaching our decision.

## **Conclusion**

20. For the reasons stated, the Tribunal does not consider that the appeal scheme would achieve a satisfactory living environment and standard of accommodation having regard to the level of natural light within the proposed bed-sitting room; the poor outlook from the only window; the direct views into the accommodation from the public realm and consequent impact on privacy for the occupier of the proposed unit, and the likelihood of noise and disturbance from activity in the street immediately outside the only window. In consequence, we do not consider that the requirements of criteria (c) of Policy HO4 to be satisfied and therefore conclude that the appeal should fail.
21. In reaching this conclusion, the Tribunal has had regard to the appellant's argument that if the appeal room is considered by the Department to be acceptable as part of a larger residential unit, then it should be acceptable as a self-contained residential unit in its own right. The Tribunal does not accept this argument. We consider there to be a significant difference between the appeal scheme, which depends entirely on a single window to provide natural light and outlook for the entire habitable space, and a larger unit where the occupier has a choice of rooms for living, sleeping, cooking and eating and, as a result, living conditions and standard of amenity are not dependent on a single source of natural light and outlook as they would be in this case.
22. There may be people, such as those currently sharing accommodation in multi-occupied dwellings, who would be willing to occupy the proposed bed-sitting room, as argued by the appellant. However, the Tribunal does not consider this justifies permitting a scheme which would fail to provide satisfactory living conditions for future occupiers having regard to natural light, outlook, privacy, noise and disturbance. Consequently, we do not find this argument compelling. We have determined the proposal in accordance with the Development Plan and found it unacceptable for the reasons stated.
23. The Tribunal has considered all other matters raised in written submissions, discussed at the Hearing and seen during its site visit. However, these do not affect its conclusion under the provisions of Part VI section 69 of the Land Planning and Development (Guernsey) Law 2005, that the Department's decision to withhold planning permission in this case was reasonable, and that the Appeal cannot be upheld.

**Linda Wride Dip TP MRTPI  
Presiding Member**

**Date: 15<sup>th</sup> June 2012**