

THE LAND PLANNING AND DEVELOPMENT (GUERNSEY) LAW, 2005
AND THE LAND PLANNING AND DEVELOPMENT (GENERAL PROVISIONS)
ORDINANCE, 2007

NOTIFICATION OF GRANT OF PLANNING PERMISSION

PROPOSALS: Erect covered bar area to north-west boundary. (Protected Tree).

LOCATION: The Terrace Garden Cafe, Cornet Street, St. Peter Port.

APPLICANT: The Terrace Garden Cafe

This permission is granted under the terms of Sections 15 and 16 of the Land Planning and Development (Guernsey) Law, 2005 (the 'Law').

Date of Grant of Permission: 20/05/2022

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 10/11/2021 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: J G Architecture Ltd: 2158/02.01A, /02.02A & /02.03.

Application Ref: FULL/2021/2460

Property Ref: A401170000

Conditions and reasons:-

1.All development authorised by this permission must be carried out and must be completed in every detail in accordance with the written application, plans and drawings referred to above. No variations to such development amounting to development may be made without the permission of the Authority under the Law.

Reason - To ensure that it is clear that permission is only granted for the development to which the application relates.

2.The development hereby permitted shall be begun within 3 years from the date of grant of this permission.

Reason - This condition reflects section 18(1) of the Land Planning and Development (Guernsey) Law, 2005 which states that planning permission ceases to have effect unless development is commenced within 3 years of the date of grant (or such shorter

period as may be specified in the permission).

3.The development hereby permitted and all the operations which constitute or are incidental to that development must be carried out in compliance with all such requirements of The Building (Guernsey) Regulations, 2012 as are applicable to them, and no operation to which such a requirement applies may be commenced or continued unless (i) plans relating to that operation have been approved by the Authority and (ii) it is commenced or, as the case may be, continued, in accordance with that requirement and any further requirements imposed by the Authority when approving those plans, for the purpose of securing that the building regulations are complied with.

Reason - Any planning permission granted under the Law is subject to this condition as stated in section 17(2) of the Land Planning and Development (Guernsey) Law, 2005.

4.The scheme hereby approved shall be constructed in accordance with the details provided in the Arboricultural Report dated 28th April 2022, unless otherwise agreed in writing by the Authority.

Reason - To ensure the Protected Tree is preserved.

Expiry Date: This permission will cease to have effect on 19/05/2025 unless development is commenced by that date.

ADVICE AND OTHER REMARKS:-

Effect of planning permission:

Section 18 of the Land Planning and Development (Guernsey) Law, 2005 ('the Law') defines the effect of the planning permission hereby granted, namely:

- (1) Planning permission ceases to have effect unless the development permitted by it is commenced within a period of three years immediately following the date on which it is granted (or such shorter period as may be specified in the permission).
- (2) Planning permission enures for the benefit of the land concerned and of every person for the time being having an interest in it.
- (3) Any conditions subject to which planning permission is issued are enforceable in accordance with the provisions of Part V of the Law.
- (4) Planning permission for the erection of a building is only permission to use it for the purpose specified in the permission or, subject to any restriction so specified, for any other purpose for which it is designed.

(5) Planning permission is only permission to carry out the development specified in it (subject to any conditions so specified), and does not imply the giving of any other approval or consent required under this Law or any other enactment or under any rule of law.

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, on the merits against a decision to grant planning permission subject to conditions (except a building condition), to the Planning Tribunal, which is independent of the States of Guernsey. 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. The official Appeal Notice Forms are available on the States of Guernsey website at www.gov.gg/planningpanel and must be completed with all enclosures in multiples as requested and received within the six months deadline.

Copy of representations made:

In reaching this decision the 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 under section 11 will be included with this decision in accordance with section 19 of the Ordinance.

Other Remarks:

Please note that any work which abuts or affects the public highway requires prior approval by Traffic and Highway Services. Please contact Traffic & Highway Services (highways@gov.gg) for further advice. You must also ensure that any access/es to the development are constructed to meet the existing road/footway levels in accordance with their requirements.

This document is not a Building Licence and confers no approval under the Building Regulations.

A separate Building Control Licence may be required and it is the responsibility of the developer to ensure that ALL necessary consents are obtained and that any pre-commencement conditions are discharged prior to development being commenced.

A J ROWLES

Director of Planning
Planning Service



PLANNING APPLICATION REPORT

Application No: FULL/2021/2460
Property Ref: A401170000
Valid date: 10/11/2021
Location: The Terrace Garden Cafe Cornet Street St. Peter Port
Guernsey
Proposal: Erect covered bar area to north-west boundary. (Protected Tree).

Applicant: The Terrace Garden Cafe

RECOMMENDATION - Grant: Planning Permission with Conditions:

1. All development authorised by this permission must be carried out and must be completed in every detail in accordance with the written application, plans and drawings referred to above. No variations to such development amounting to development may be made without the permission of the Authority under the Law.

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Reason - To ensure the Protected Tree is preserved.

OFFICER'S REPORT

Brief Description of the site:

The site known as 'The Terrace Garden Café' is a restaurant which is elevated above the Town Church and street level, with the entrance from Cornet Street which runs from street level along the north boundary and then runs uphill southward along the west boundary. To the south is another building serviced by Cornet Street and to the east are east facing buildings which are at the lower street level. The northern part of the site is an outdoor seating area with views over the harbour and the town. The property is located in the St Peter Port Main Centre and Conservation Area as defined in the Island Development Plan. The site also has a Protected Tree within the terrace area.

Relevant History:

There is no relevant history pertaining to this application.

Existing Use(s):

Retail use class 11: food.

Assessment: *(Tick as appropriate)*

no representation	☒	visual amenity acceptable	☒
accords with policy	☒	no material neighbour impact	☒
within curtilage	☒	traffic not affected	☒
design acceptable	☒		

Policies considered most relevant:

MC6: Retail in Main Centres
GP4: Conservation Areas
GP5: Protected Buildings (Setting)
GP8: Design
GP9: Sustainable Development

Consultations:

Agriculture, Countryside & Landscape Management Services (ACLMS).

Initial consult reply 03/03/22

Description of Tree

The tree is a mature specimen located in the north-west of the site in a heavily developed part of Town. There are few other trees in the immediate vicinity apart from some smaller Cordyline palms on the same site. The next nearest trees of significance are the Canary palm next to the statue of Prince Albert and the Turkey oaks at the Bus Terminus. Consequently it is considered to offer a high visual amenity through softening the impacts of development. Other benefits also derive from the tree including the reduction of particulate air pollution and shade although the latter is also recognised as a disbenefit at times when it casts shade over customers during the afternoons. Consequently it has been subjected to significant pruning in the past (mainly crown thinning) to reduce the level of shade. This has produced a tree with a single stem which then subdivides down into primary and secondary branches which are vertical or near vertical.

Despite the frequency and extent of pruning the tree is in reasonable health. An inspection of the tree on site was not made as part of this report. The tree is protected by a Tree Protection Order made on 6th April 2009.

Outline of proposals which might affect the tree

The development proposal is to construct an external bar and a new servery adjacent to the tree and to relocate a condensing unit (boiler?), again within the canopy area of the tree. No details have been offered in respect to any works to the crown of the tree, so it is assumed that no pruning works are needed.

It is proposed there are changes to the ground surfaces including the removal of existing brick paving with permeable brick pavers whilst retaining the existing sub-base. Within the footprint of the new external bar existing brick pavers will be replaced with external grade porcelain tiles. It is assumed that the porcelain tiles are impermeable. It is not made explicit as to whether the existing sub-base will be retained or altered in any way.

Trees can be affected by development in several ways. The highest risk of damage is caused by injuring the root system or the soil structure which supports the roots. Similar damage can also be caused by altering the soil air/water relations. The older and more mature a tree becomes the more sensitive a tree is to damage and the longer it may take to recover even if the impacts can be mitigated.

The main activities which should be avoided or minimised as far as possible when constructing within the Tree Protection Area¹ of a tree are any digging and excavation, significant changes to levels/topography and altering the drainage characteristics of the site. Anything which affects or changes soil water/air relationships should also be avoided.

Existing site conditions

It is noted that the existing site conditions are probably quite heavily compacted already but that the tree has over the years adapted sufficiently to survive. The site is relatively unusual in that it is surrounded on two sides by very high retaining walls and it is the site of an old burial ground.

Conclusions & Recommendations

The removal of existing bricks and their replacement with ones that are more permeable should benefit the tree by allowing greater water/air exchange. This provided that a no dig construction is strictly adhered to and that any activity which is likely to cause compaction is prohibited. For example the use of heavy plant and equipment where a load bearing surface has been removed.

It is not clear if the porcelain tiles are being laid on the existing sub-base. Nor is it clear if there are excavations of any kind within the site of the external bar. Where porcelain tiles can be considered to be impermeable (relative to the existing brick pavers which would have a degree of permeability) this is potentially detrimental to the tree's health if laid in significant amounts. However if it can be shown that less than 20% of the TPA is to be covered in porcelain tile the impact is likely to be minimal – provided the root system is not disturbed or the structure of the soil damaged. If more than 20% then it is recommended that mitigations are required to ensure that air/water exchange is not reduced to a level that would cause harm.

No TPA has been included on the plans, but it can be assumed that given the age of the tree that most of the site can be considered to be a TPA and therefore the recommendations as defined in British Standard 5837:2012 should be followed as part of the design, planning and execution of the build.

More information on the methodology of the build would prove helpful in ensuring that there are no activities which are likely to cause significant damage (in the ways referred to above).

Second consult reply 23/03/22

Certainty needs to be established on the extent, if any, of excavation. There should also be an assessment of the tree's root system – in particular the structural woody root system within 3 metres of the stem – to establish the extent and make up of roots greater than 25mm in diameter and the extent of the root buttress. This will inform the extent of any root damage (and its acceptability) and the extent to which a no dig zone *must* be applied to ensure the structural integrity of the tree is not compromised.

Third consult reply 19/05/22

I am satisfied that provided the recommendations are followed, as stated, in the Loyd report, then this will limit the impact on the protected Turkey oak to a practicable and acceptable minimum. Key to ensuring the success of any measures to mitigate injury resulting from construction works is arboricultural oversight. This would include contractor briefing before works commence and site inspections during work in progress.

Conclusion/Brief comment:

This application is to erect a covered bar area to the northwest boundary, close to the Protected Tree.

Policy MC6 supports the retainment and enhancement of an existing retail establishment, such as the restaurant in this case. Proposals to extend, alter or redevelop existing retail premises will also be supported providing they accord with all other relevant policies of the Island Development Plan.

The proposed development is in very close proximity to a protected tree (PT4). As well as having statutory protection, this tree contributes to local character and is a feature within the Conservation Area. Therefore, if the development (including its construction), prejudices the survival of the protected tree, the character of the area will be affected, and the character and appearance of the Conservation Area will be harmed.

In order to assess how the development may affect the tree ACLMS were consulted. Once their reply was received, see above, the application was deferred to allow the agent to provide more detail.

The agent supplied an expanded methodology, explaining the construction, but it was clear that there were still some unknowns regarding the roots and whether there was an existing subbase. It was suggested that an arboriculturist carry out a tree impact assessment to give further understanding of the tree root system.

The tree root assessment drove the redesign of the bar area, ensuring the proposed structure avoided the sensitive areas, the ground finishes were changed and perimeter planters kept.

The amended drawings and the tree assessment now show a scheme which limits the impact on the protected tree to a practicable and acceptable minimum, and still provides the outdoor area which the applicants want to achieve.

The key for the scheme to be successful will be the input of an arboricultural oversight, which is recommended in the report. A condition shall be added to ensure the work is carried out in accordance with the report.

The paired back proposals are considered to achieve a good standard of design, using materials which complement the surrounding area.

The scale and massing of the new bar area is not considered to have a detrimental effect on the special character and amenity of the surrounding conservation area, nor will it have any impacts on any of the immediate neighbours.

Confirmation has been received that the development proposed has been designed to take into account matters of energy efficiency and current Building Regulations in accordance with Policy GP9.

The proposals are considered to conform to the above policies of the Island Development Plan and grant of permission is recommended, subject to conditions.

All material considerations as set out in the Land Planning and Development (Guernsey) Law, 2005 and the Land and Planning (General Provisions) Ordinance 2007 have been taken into account in the assessment of this application.

Recommendation:

Grant with Conditions



Date: 19/05/2022

