

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: Change of use of part of site to retail use class 11, erect outbuilding to north east of site for use as retail unit, construct verandah and ramp.

LOCATION: Le Gouffre Restaurant, Le Gouffre, Forest.

APPLICANT: Le Gouffre Holdings Limited

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: 02/06/2023

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 11/07/2022 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Direct Architectural Solutions - 1431-WD-01 & 02

Application Ref: FULL/2022/1332

Property Ref: H003480000

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.For the avoidance of doubt, this decision authorises the hereby permitted outbuilding for the selling of daily and essential items such as fresh produce and food and drink which is to be used ancillary to the use of the restaurant (known as Le Gouffre, Use Class 11 - Food, although is recognised as 'convenience' retail unit for the purposes of the Island Development Plan).

Reason - to define the use of the permitted outbuilding and to prevent the creation of a new comparison retail unit Outside of the Centres which would conflict with Island Development Plan Policy OC4 (Retail Outside of the Centres).

5.Prior to works commencing on site, full details of how the existing stream will be protected throughout the construction phase of the development shall be submitted to and agreed in writing by the Authority. The works shall be carried out only in accordance with the agreed details.

Reason - to protect the watercourse from being damaged, contaminated and/or polluted during site works which could affect the Site of Special Significance downstream.

6.No timber cladding or shingles shall be brought to the site until such time as details of the type, texture and colour of the materials to be used for the walls and roof of the approved outbuilding have been submitted to and agreed in writing by the Authority. The work shall be completed in accordance with the agreed details.

Reason - In the interests of visual amenity.

7.No development, excluding demolition and site works, shall begin until a landscaping scheme to include full details of any tree, hedge and/or low level planting

(noting the species, sizes, numbers and densities of plants) shall be submitted to and agreed in writing by the Development & Planning Authority.

Reason - To make sure that a satisfactory landscaping scheme for the development is agreed, in order to help assimilate the development into its surroundings.

8. The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of the above condition, in the first planting season following the first use of the approved outbuilding, or in accordance with a programme previously agreed in writing by the Authority. Any trees or plants removed, dying, being severely damaged or becoming seriously diseased, within 5 years of planting shall be replaced in the following planting season by trees or plants of a size and species similar to those originally required to be planted.

Reason - To make sure that the appearance of the completed development is satisfactory and to help assimilate the development into its surroundings.

Expiry Date: This permission will cease to have effect on 01/06/2026 unless development is commenced by that date.

ADVICE AND OTHER REMARKS:-

Please note that the proposed outbuilding, however named, does not permit the sale of goods, including clothing and footwear, furniture, furnishings and household equipment, however named, on a scale that would be beyond minor associated works associated with the primary use of the site (Use Class 11 - Food, 'convenience' retail unit for the purposes of the Island Development Plan). Should the nature of the business change, this is likely to require a separate grant of planning permission and involve different planning policy considerations.

It is recommended that a level surface is provided between the top edge of the disabled access ramp and the southern edge of the veranda to comprehensively take into account the needs of disabled individuals.

This permission does not relate to the display of any sign or advertisements. A separate permission will be needed for any such display.

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/2022/1332
Property Ref: H003480000
Valid date: 11/07/2022
Location: Le Gouffre Restaurant Le Gouffre Forest Guernsey GY8 0BN
Proposal: Change of use of part of site to retail use class 11, erect outbuilding to north east of site for use as retail unit, construct verandah and ramp.

Applicant: Le Gouffre Holdings Limited

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.

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. For the avoidance of doubt, this decision authorises the hereby permitted outbuilding for the selling of daily and essential items such as fresh produce and food and drink which is to be used ancillary to the use of the restaurant (known as Le Gouffre, Use Class 11 - Food, although is recognised as 'convenience' retail unit for the purposes of the Island Development Plan).

Reason - to define the use of the permitted outbuilding and to prevent the creation of a new comparison retail unit Outside of the Centres which would conflict with Island Development Plan Policy OC4 (Retail Outside of the Centres).

5. Prior to works commencing on site, full details of how the existing stream will be protected throughout the construction phase of the development shall be submitted to and agreed in writing by the Authority. The works shall be carried out only in accordance with the agreed details.

Reason - to protect the watercourse from being damaged, contaminated and/or polluted during site works which could affect the Site of Special Significance downstream.

6. No timber cladding or shingles shall be brought to the site until such time as details of the type, texture and colour of the materials to be used for the walls and roof of the approved outbuilding have been submitted to and agreed in writing by the Authority. The work shall be completed in accordance with the agreed details.

Reason - In the interests of visual amenity.

7. No development, excluding demolition and site works, shall begin until a landscaping scheme to include full details of any tree, hedge and/or low level planting (noting the species, sizes, numbers and densities of plants) shall be submitted to and agreed in writing by the Development & Planning Authority.

Reason - To make sure that a satisfactory landscaping scheme for the development is agreed, in order to help assimilate the development into its surroundings.

8. The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of the above condition, in the first planting season following the first use of the approved outbuilding, or in accordance with a programme previously agreed in writing by the Authority. Any trees or plants removed, dying, being severely damaged or becoming seriously diseased, within 5 years of planting shall be replaced in the following planting season by trees or plants of a size and species similar to those originally required to be planted.

Reason - To make sure that the appearance of the completed development is satisfactory and to help assimilate the development into its surroundings.

INFORMATIVES

Please note that the proposed outbuilding, however named, does not permit the sale of goods, including clothing and footwear, furniture, furnishings and household equipment, however named, on a scale that would be beyond minor associated works associated with the primary use of the site (Use Class 11 - Food, 'convenience' retail unit for the purposes of the Island Development Plan). Should the nature of the business change, this is likely to require a separate grant of planning permission and involve different planning policy considerations.

It is recommended that a level surface is provided between the top edge of the disabled access ramp and the southern edge of the veranda to comprehensively take into account the needs of disabled individuals.

This permission does not relate to the display of any sign or advertisements. A separate permission will be needed for any such display.

OFFICER'S REPORT

Site Description:

The application site comprises a restaurant (known as Le Gouffre Restaurant) and is understood to comprise an element of habitable accommodation to the front of the site within the projecting hipped roof gable, known as 'The Hollows Cottage'. The site is located Outside of the Centres as defined in the Island Development Plan.

The site is located adjacent to a coastal cliff path to the south, recognised as a Site of Special Significance, and is located east of an Agricultural Priority Area. It is understood that the site was previously used as a hotel and guesthouse over the mid-to-late 20th Century.

Planning permission was granted in recent years to change the use of the former shop to the east of the restaurant (approx. 90sqm) into a residential unit of accommodation (FULL/2017/1608), the reasons of which was that it was redundant and no longer needed for its current use as a shop, for the purposes of Policy GP16.

The restaurant is served by a parking area to the north of the site, and a raised grassed area beyond. The raised grassed area, the focus of this application, is adjacent to a stream which lies to the west of the proposed pavilion.

The area of land in question is not designated with regards to any specific constraints under the Island Development Plan Proposals Map.

Relevant History:

FULL/2017/1608 – associated with neighbouring land to the east of the application site.	Change of Use of shop from retail to residential use.	Granted
PREA/2016/0074 - associated with neighbouring land to the east of the application site.	Demolish existing building and erect new residential units.	Pre-application advice
FULL/2010/1133	Remove existing and erect replacement pergola.	Granted

Existing Use(s):

Restaurant – Retail use class 11 (food).

The Hollows Cottage – formally recognised as visitor accommodation.

Brief Description of Development:

Planning permission is sought to change the use of part of site to retail use class 11 (food) in order to erect an outbuilding to north-east of site (for retail use) and construct verandah and ramp. The outbuilding will be approx. 100sqm including the verandah to the front, with an internal floor area of approx. 68sqm.

The application was deferred on 13th October 2022 as concerns were raised over the proposed use of the building and to determine whether the proposed development would fall under convenience retail or comparison retail in order to determine the scope of the proposal under Policy OC4 (Retail Outside of the Centres).

The agent's letter of 1st November 2022 deferral response notes that the proposed use of the outbuilding will be used for *“ancillary convenience retail for customers to purchase often essential local produced goods and products that have either been grown, prepared and/or made in the island”*. It was also noted that the stream to the west of the proposed pavilion will be retained and remained untouched, as the proposed building will be sited at least 3m from the watercourse. In addition, the stream will be appropriately fenced off during construction to ensure no risk of any contamination or pollution as stated by the agent.

Despite the additional information submitted, the application was deferred on 20th January 2023 in order to clarify the specifics of the products sold on site in order to fully understand the nature of the business. In addition, the size of the structure was also questioned to reduce the potential visual impact of the development on the

surrounding area and to ensure that it is ancillary to the restaurant in terms of its physical relationship.

The agent has responded by providing additional information from the applicant which sets out the nature of the business and type of products to be sold from the proposed pavilion shop and reconfirming that the building will be used for ancillary convenience retail purposes.

It is also noted that the location and size of the structure was considered as part of the drafting of the application. The agent considered locating the outbuilding within the car park, adjacent to the northwest corner of the site, although this proposal was discounted due to the loss of car parking spaces and turning point, and would be more impactful on visual amenity, and would raise health and safety concerns of customers.

The agent has also included a letter from the owner of the site in support of the application.

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

OC4 Retail Outside of the Centres
GP1 Landscape Character and Open Land
GP8 Design
GP9 Sustainable Development

Representations:

None.

Consultations:

None.

Summary of Issues:

- Whether the principle of the development is acceptable under policy.
- Whether the design, scale, mass, siting, form and materials of the proposed development is acceptable.
- The impact of the development on the character and appearance of the area.
- The impact of the development on neighbour amenity.

Assessment against:

- 1 - Purposes of the law.**
- 2 - Relevant policies of any Plan, Subject Plan or Local Planning Brief.**
- 3 - General material considerations set out in the General Provisions Ordinance.**

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

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.

Legal context:

The operation of the restaurant and the provision of food on site is classified as Retail Use Class 11: Food under the Land Planning and Development (Use Classes) Ordinance, 2017.

Policy Context:

Within the Island Development Plan, Policy OC4 Retail Outside of the Centres defines *kiosks, cafes and restaurants as 'convenience retail'.*

Paragraph 17.2.4 of Policy OC4 further sets out that:

"...no provision has been made for new retail development outside the Main and Local Centres, except, in the case of properties located on the coast or within close proximity to the coastal area, through the change of use of existing buildings where the provision of limited amount of convenience retail development would support the recreational enjoyment of the coast."

In addition to the above, Paragraph 17.2.6 of Policy OC4 states that:

"Small scale works to existing convenience and comparison retail premises Outside of the Centres, however, will generally be supported where this will be of a limited scale to provide for minor alterations to facilitate the continuation of the existing retail use at its current level of operation, in order to not adversely affect the vitality of the Main Centres and Local Centres. More scope exists to extend and alter convenience retail operations in the coastal areas where this would support the recreational enjoyment of the coast for both Island residents and visitors."

Policy OC4 states that:

"Proposals to extend, alter or redevelop existing retail premises Outside of the Centres will be generally supported where:

- a. Development is of a limited scale to provide for minor alterations to facilitate the continuation of existing retail use at its current level of operation; or,*
- b. The existing convenience retail operation supports the recreational enjoyment of the coastal location; and,*

- c. *In all cases there would not be an unacceptable adverse impact on the visual character and amenity of the locality."*

With regards to the adjoining Site of Special Significance, paragraph 17.2.7 of Policy OC4 states that:

'Any retail development, including any ancillary development required for its operation, must be carefully balanced against the potential impacts on the environmental, recreational and economic opportunities of the wider coastal area, assessing development proposals in the context of the entire coastal area and in line with other policies of the Island Development Plan. Particular regard will need to be paid to the potential impact of the development on Sites of Special Significance and Areas of Biodiversity Importance (see Policies GP2: Sites of Special Significance and GP3: Areas of Biodiversity Importance).'

Assessment of proposal:

Clarification has been sought over the proposed use of the proposed outbuilding/pavilion. The agent and applicant have satisfactorily demonstrated that the use of the proposal will be ancillary to the principal use of the site i.e. a detached extension of the main restaurant serving a mix of hot and cold food, such as readymade picnics, sandwiches, warmed pastries, pies and pasties etc, prepared within the existing restaurant kitchen, including hot and cold drinks and ice creams. The proposed pavilion will also provide freshly prepared and frozen ready meals and a range of fresh and packaged delicatessen foods and complimentary sauces. This is considered to be convenience retail.

In addition, the building will also supply a range of goods to local and visitors to support the recreational enjoyment of the coast such as souvenirs and gifts, similar to that offered at out-of-town tourist and convenience-based facilities. This is considered to be comparison retail.

Whilst the size of the retail offering might be larger than that ordinarily allowed in other parts of the Island, Policy OC4 gives more scope to allow for extending and altering convenience retail operations in coastal locations as this would support the recreational enjoyment of the coast for both Island residents and visitors. In particular, design of the pavilion would support interest throughout the year by providing an internal space during the winter months and extending out onto the veranda during the summer months, thereby supporting the local economy and tourism sector. On this basis, and in light of the nature of the business as described by the applicant, including the small-scale only comparison retail provision in conjunction with the main convenience retail offer ancillary to the main café/restaurant, the proposed use of the outbuilding would maintain and support the recreational enjoyment of the coastal location for the purposes of Policy OC4.

With regards to design, the proposal is single storey in scale and adopts a pitched roof with cedar shingle roof, timber framed fenestration and horizontal timber

cladding with black uPVC gutters and downpipes. The structure will be 3574mm high measured to the apex and will be 8500mm wide (including the veranda) and 12000mm in length. The building will be sited on a raised grassed area to the north of the car park. Whilst the position of the outbuilding could be closer related to the restaurant to achieve a more ancillary relationship and that the justification for its siting is limited nor is overly compelling, the degree of harm to the surrounding area in terms of visual amenity and character of the area would not be so substantial to justify refusal. In particular, the pavilion is sited to the west of the lane (La Rue Du Gouffre) which decreases in height in a north-south direction. The lane is bounded by an earth bank and hedgebank to the west which in turn is likely to limit the visibility of the proposed outbuilding in various vantage points, particularly when stood towards the top of the lane or in line with the proposed outbuilding. Coupled with its low profile, and being setback in public vantage points, and being surrounded by mature landscaping to the north and west, the proposal is on balance, achieves a good standard of design in this location for the purposes of Policy GP8.

Although, it is reasonable and necessary to attach planning conditions to the decision to ensure that the stream to the west of the site is appropriately protected during site works, a finished sample of the timber cladding and shingle roof is submitted to and agreed in writing to ensure a satisfactory appearance given the sensitive location, and full details of a landscaping scheme are agreed.

With regards to the Sites of Special Significance (SSS), the proposal does not directly affect the SSS and due to the siting of the building on a relatively open area of grassland which does not involve the removal of trees or hedges, the degree of harm to the SSS would be negligible at best, provided that the stream is appropriately protected during the construction phase of the development.

The proposal adopts will not have a detrimental impact on the amenities of neighbouring residents.

Sufficient information has been submitted that has taken into account the criteria of Policy GP9 (Sustainable Development). The proposal also includes a disabled access ramp to enable access up to the outbuilding from the car park, although the proposal does not appear to include level surface between the ramp and the edge of the veranda to enable ease of access. An informative to this effect should be attached to the decision.

Based on the above, the application is considered compliant with the relevant Island Development Plan policies, and accords with the purpose of the Law and material considerations; it is therefore recommended that planning permission be granted, subject to conditions.

Date: 01/06/23

