

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 building/covered dining area to south elevation and relocate horse trough to north elevation.

LOCATION: Waffle House, Land adjacent to the Weighbridge, St. Peter Port.

APPLICANT: Silvester Group

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: 25/05/2023

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 26/10/2022 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: CCD Architects - 3761-PL01, 02, PL03, PL04, PL05, PL06, PL07, & PL011.

Application Ref: FULL/2022/2116

Property Ref: A411190002

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.Notwithstanding the information submitted, no permission is granted for the use of composite cladding in this sensitive location. Prior to materials being brought on site, full details together with a finished sample of timber cladding to be used for the walls and roof, including the type of timber, colour and finished appearance, shall be submitted to the Authority. Only the material agreed in writing by the Authority shall be used in carrying out the development.

Reason - Reason - to avoid any ambiguity and to ensure that the finished timber material is agreed by the Authority prior to materials being brought on site and to achieve a high standard of design for the purposes of Policy GP8, GP5 and GP4.

5.Prior to materials being brought on site, full details of the hereby approved fenestration, including the colour and finished appearance, shall be submitted to the Authority. Only the details agreed in writing by the Authority shall be used in carrying out the development.

Reason - to avoid any ambiguity and to ensure that the fenestration is agreed by the Authority prior to materials being brought on site.

6.For the avoidance of doubt, the detached extension/outbuilding, however named, hereby approved shall only be used ancillary to the retail use (Class 11) of the Waffle House located within the Weighbridge building to the north of the detached extension/outbuilding.

Reason - to ensure that the use of the detached extension/outbuilding is associated with the existing business and for no other purposes whatsoever. The permission does not include the creation of a kitchen or facilities of such manner within the detached extension as this is likely to require a separate grant of planning permission and require further consideration.

Expiry Date: This permission will cease to have effect on 24/05/2026 unless development is commenced by that date.

ADVICE AND OTHER REMARKS:-

As noted on drawing 3761-PL03, any Al Fresco dining area will be subject to a separate Al Fresco License application and does not form part of this permission.

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/2022/2116
Property Ref: A411190002
Valid date: 26/10/2022
Location: Waffle House Land adjacent to the Weighbridge St. Peter
Port Guernsey GY1 1WG
Proposal: Erect building/covered dining area to south elevation and
relocate horse trough to north elevation.

Applicant: Silvester Group

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. Notwithstanding the information submitted, no permission is granted for the use of composite cladding in this sensitive location. Prior to materials being brought on site, full details together with a finished sample of timber cladding to be used for the walls and roof, including the type of timber, colour and finished appearance, shall be submitted to the Authority. Only the material agreed in writing by the Authority shall be used in carrying out the development.

Reason - Reason - to avoid any ambiguity and to ensure that the finished timber material is agreed by the Authority prior to materials being brought on site and to achieve a high standard of design for the purposes of Policy GP8, GP5 and GP4.

5. Prior to materials being brought on site, full details of the hereby approved fenestration, including the colour and finished appearance, shall be submitted to the Authority. Only the details agreed in writing by the Authority shall be used in carrying out the development.

Reason - to avoid any ambiguity and to ensure that the fenestration is agreed by the Authority prior to materials being brought on site.

6. For the avoidance of doubt, the detached extension/outbuilding, however named, hereby approved shall only be used ancillary to the retail use (Class 11) of the Waffle House located within the Weighbridge building to the north of the detached extension/outbuilding.

Reason - to ensure that the use of the detached extension/outbuilding is associated with the existing business and for no other purposes whatsoever. The permission does not include the creation of a kitchen or facilities of such manner within the detached extension as this is likely to require a separate grant of planning permission and require further consideration.

INFORMATIVES

As noted on drawing 3761-PL03, any Al Fresco dining area will be subject to a separate Al Fresco License application and does not form part of this permission.

OFFICER'S REPORT

Site Description:

The application site comprises a protected building, namely St. Julian's Weighbridge. The whole of the building is protected, including the horse trough to the south elevation. The Waffle House is a hot food takeaway (retail) business which operates within the building. An area of hard standing exists to the south of the Weighbridge

which is identified as forming as part of the application site, which is the subject of this application.

The building is located in the Main Centre Inner Area, Conservation Area and Harbour Action Area as designated in the Island Development Plan.

Relevant History:

FULL/2022/1986	Install a movable catering trailer (for temporary period of 2 years).	Pending
PREA/2022/1012	Erect a covered dining area.	Pre-application advice
FULL/2017/0343	Change of use of premises to Retail Use Class 12 to operate a food takeaway business, and internal alterations. (Protected Building).	Granted

Existing Use(s):

Area of hard standing to the south of St. Julian's Weighbridge.
St. Julian's Weighbridge (Waffle House - Hot food takeaway business - Retail use class 12).

Brief Description of Development:

Planning permission is sought to erect a single storey pitched roof building that will serve as a covered dining area to the south elevation of St. Julian's Weighbridge, and to relocate the horse trough to the north elevation. The proposed structure is recognised as an extension of the existing business, albeit is physically detached from the Weighbridge.

As set out in the agent's letter dated 18th October 2022, the *'the architectural expression of the building has been carefully considered to reference the pitched roof of the existing historic building whilst also providing a dynamic contrast'*.

The building will primarily serve as a covered seating area, a physically detached extension of the building's use. The building incorporates an asymmetrical design which follows the outline of the granite paving slabs to the south, with the west elevation setback from west elevation of the Weighbridge, and the north elevation of the building being marginally offset from the Weighbridge.

The building will be approximately 6m (along the west elevation) x 5.5m (along the north elevation), with the south elevation tailored to the existing granite paving edge. The apex of the building will be approx. 3.5m above floor level, with the eaves height being approximately 2m high. The roof adopts a pitched roof to replicate that of the Weighbridge whilst incorporating a distinctive, yet subtle change in the roof profile along the south elevation.

The agent has provided a Heritage Impact Assessment in support of the application.

The agent has noted in their application that the horse trough was relocated in 1922 and therefore is not in its original position.

As set out in the agent's letter dated 18th October 2022, the proposed building is to be operational between the hours of 07:00 and 00:00 to enable the building to cater for special events which would including operating in the evenings on certain occasions. It is understood that the building is unlicensed.

An Al Fresco dining area is shown to the south of the building which is subject to a separate Al Fresco License application and does not form part of this permission.

Planning permission is also being sought to install a temporary catering trailer to the south of the Weighbridge (FULL/2022/1986). This is currently under consideration, and the proposed trailer is to be temporarily positioned in the same place as this proposed building.

The application was deferred over some concerns over the use of composite cladding, as well as clarifying the colour of the materials as shown on the drawings submitted, and the change of use of the proposed building from hot food takeaway (retail use class 12) to a café/restaurant (retail use class 11).

In light of the Land Planning and Development (Exemptions) Ordinance (2023) which was adopted by the States of Guernsey on 29th March 2023, a change of use from hot food takeaway (retail use class 12) to a café/restaurant (retail use class 11), including within the curtilage of a protected building is exempt, and therefore planning permission is not required for this aspect of the development.

Furthermore, as set out in the agent's e-mail of 31st March 2023, the agent has omitted the proposed composite cladding, and has adopted natural timber cladding to be finished in grey. It is also noted that the agent has requested the Authority to condition the materials to be used to enable a more detail study to be undertaken and to take into account supply issues due to external matters.

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

MC6 Retail in Main Centres
MC10 Harbour Action Areas
GP4 Conservation Areas
GP5 Protected Buildings
GP8 Design
GP9 Sustainable Development
GP18 Public Realm and Public Art

Representations:

The Authority has received 8 representations from 8 parties objecting to the proposal, including the National Trust of Guernsey. Grounds for objection principally relate to the following issues:-

- Design.
- Out of keeping with the Weighbridge tower, detracts from its setting and is not appropriate to its surroundings.
- Detracts from the quality and character of the built environment.
- Effect on pedestrian access between North beach car park and the pelican crossing.
- Insufficient elevation plans submitted.
- No mention of the Harbour Action Area.
- No Design Statement submitted.
- Impact on public views.
- Ownership of the land.
- Relocation of the horse trough.

Consultations:

Guernsey Water:

No formal response received.

Summary of Issues:

- Whether the design, scale, mass, siting, form and materials of the proposed development is appropriate to St. Julian's Weighbridge.
- The impact of the development on the fabric and setting of the protected building.
- The impact of the development on the character and appearance of the Conservation Area.

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.

Policy MC6 Retail in Main Centres states that *"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."*

It is a requirement under the Land Planning and Development (Guernsey) Law, 2005, when considering applications affecting protected buildings, to secure so far as possible that the special historic, architectural, traditional or other special characteristics (including setting) are preserved. This duty is reflected in Policy GP5 of the IDP.

Under Section 38 of The Land Planning and Development (Guernsey) Law, 2005 the Authority has a duty to pay *“special attention to the desirability of preserving and enhancing the character and appearance”* of Conservation Areas. This duty is encapsulated in Policy GP4 (Conservation Areas) which states that *“proposals for development within a Conservation Area will be supported where the development conserves and, where possible, enhances the special character, architectural or historic interest and appearance of the particular Conservation Area.”*

The agent has demonstrated an understanding of the significance of the protected building in accordance with Policy GP5. Whilst a Planning and Design Statement has not been submitted as part of the application, the agent has provided a satisfactory description of the proposed building and has explained how it relates to the Weighbridge tower and public realm, therefore it is not considered necessary that the application be deferred to request additional information.

Policy GP8 (Design) sets out that in sensitive areas such as this, development can either adopt a traditional or contemporary approach that should respect the character of its surroundings. Paragraph 19.9.4 of Policy GP8 states that:

“Some parts of the Island are more sensitive to building design than others. Within Conservation Areas and where development relates to protected buildings or protected monuments and their settings, development will be expected to achieve a particularly high standard of design which should respect the character of the particular environment concerned. This may result in either a contemporary or traditional approach to design but, whatever the chosen approach, new development in such circumstances should consider, without necessarily replicating, the scale, mass, detail and special interest of the surrounding built form to complement the local character.”

The proposed building is single storey in nature and therefore the scale of the development is subservient to Weighbridge tower. The footprint of the building is dictated by the application site which is outlined in red on the drawings submitted. In this case, the application site to the south of the tower forms a triangular shaped area of land and is demarcated on site by hard surfacing. Consequently, to maximise the use of the land, the proposal extends up to the full extent of the application site boundary to the south of the Weighbridge tower and therefore adopts a triangular shaped footprint. The proposed building is located very closely adjacent to the south elevation of the weighbridge, but is not physically attached.

The mass of the building is limited given the restricted footprint of the site, and is setback from the west elevation of the Weighbridge tower. The form of the proposal

is irregular in shape and therefore distinctively contrasts with the Victorian style architecture of the Weighbridge tower.

The proposed materials of the building comprise vertical Millboard timber effect cladding for the walls and roof, with aluminium 'Champagne' colour fenestration, adopting a beige appearance. Although, the appearance of the materials as described above is different to the appearance of the materials shown on the drawings which depict a pink/blue colour.

Despite the discrepancy over the appearance of the building, concerns are raised over the use of a composite material (made up of timber and plastic) on such a prominent building and location. The use of composite cladding in this context is not considered appropriate, nor would it achieve a high enough standard of architectural design to respect the special interest of the Protected Building, nor the character and appearance of the Conservation Area. It is therefore necessary for this material be conditioned out of the scheme and replaced with a more suitable material for these sensitive surroundings to be agreed by condition. In principle, the use of a natural form of timber cladding would be appropriate for a highly prominent building within the Conservation Area, adjacent to a protected building, as indicated in the agent's e-mail of 31st March 2023.

Overall, the proposed building would result in a development that visually contrasts, but respects, the traditional architecture of the Weighbridge. The proposal does not attempt to replicate the scale, mass, form or materiality of the Weighbridge tower, and is 'read' as a juxtaposing addition to the building which is supported under Policy GP8. Whilst the building is different to the original design of the tower, and traditional buildings within the Conservation Area, it does not represent significant harm to the fabric of the protected building, its setting, nor the character and appearance of the Conservation Area to reasonably justify refusal. For the purposes of Policy GP8, the proposal achieves a high enough standard of design, subject to appropriate conditions.

In addition, the detached extension of the Weighbridge would have positive benefits to the vitality of the Main Centre by virtue of introducing a covered dining area to support and expand the café/restaurant. This positive contribution to the vitality of the Main Centre is a key focus of the IDP and outweighs any minor effect the structure will have on these sensitive surroundings.

The agent has noted that the building is unlicensed and seeks to operate the business between 7am and midnight, presumably 7 days a week and public holidays. There are however no restrictions on the operation of the existing building, including the kitchen, and the premises are located within the town centre. It would not therefore be reasonable to attach a condition to limit the hours during which the extension could be used.

The application is compliant with Policy MC10 (Harbour Action Areas) as the development is of a minor nature, and the Weighbridge or wider area is not subject

to an approved Local Planning Brief. In addition, the proposal is unlikely to prejudice the outcomes of the process of creating a Local Planning Brief due to its limited footprint and proximity to the Weighbridge. Moreover, the contour and form of the building has been sensitively designed so that it relates to the Weighbridge whilst not encroaching into the public realm, by virtue of developing up to the granite paving slabs.

The development is not considered to adversely effect on the amenities of neighbouring residents.

Based on the above, the application is considered compliant with the relevant Island Development Plan policies.

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

The relevant matters to be considered under Section 13 of The Land Planning and Development (General Provisions) Ordinance 2007 have been assessed as part of the section dealing with policy issues set out in section 2 above.

The comments set out in the representations have been taken into account as part of the assessment of this application, and where appropriate have been addressed above. The agent has made a declaration that they have consent of the owner of the land to make such application.

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

The proposal would have no impact on protected trees or on SSS's. The effect of the development on the protected building is set out above.

For the reasons referred to within this report, it is recommended that planning permission be granted, subject to conditions.

Date: 23/05/23

