

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 land to provide expanded seating area for kiosk, extend service area and enclose with fencing, install mobile food van, realign public path.

LOCATION: Mims Kiosk, Cobo Coast Road, Castel.

APPLICANT: Ms M Sarre

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: 31/07/2023

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 06/04/2023 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: The Drawing Room: 365/C4A, /C5A, /C6A, /C7A & /C14A.
Email of 21/07/2023 providing dimensions of van and photographs of van.

Application Ref: FULL/2023/0640

Property Ref: D014400000 + D01440A000

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. Prior to the installation of the movable planters hereby approved between the kiosk area and the public footpath to the north, details of those planters shall be submitted to and agreed in writing by the Authority. The development shall be carried out only in accordance with the agreed details.

Reason - The information provided with the application does not include full details of the proposed features. This condition is imposed to make sure that the planters are of satisfactory design and do not have any adverse impact on the character of the area.

5. a) Within three months of the date of this decision, a landscaping scheme providing details of all new planting, to include planting schedules noting the species, sizes, numbers and densities of plants, shall be submitted to and agreed in writing by the Authority.

b) The landscaping scheme shall be fully completed, in accordance with the approved details, in the first planting season following the first use of any part of the development or completion of development whichever is the sooner, or in accordance with a programme previously agreed in writing by the Authority. Any 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 a satisfactory landscaping scheme for the development is agreed, in order to help assimilate the development into its surroundings and to provide enhancements to biodiversity in line with the Strategy for Nature.

6. The mobile food van hereby approved shall be parked only in the position shown on the approved plan and shall be used only for the preparation and sale of food in association with and ancillary to the use of the business operating from the adjacent kiosk. Should the van no longer be required for the approved use it shall be removed from the site.

Reason - To control the use of the van in association with the existing business as a separate use would require different planning policy considerations and to ensure that the van is removed from the site once its use ceases, in the interests of visual amenity.

Expiry Date: This permission will cease to have effect on 30/07/2026 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/2023/0640
Property Ref: D014400000 + D01440A000
Valid date: 06/04/2023
Location: Mims Kiosk Cobo Coast Road Castel Guernsey
Proposal: Change of use of land to provide expanded seating area for kiosk, extend service area and enclose with fencing, install mobile food van, realign public path.
Applicant: Ms M Sarre

RECOMMENDATION - Grant: Planning Permission with Conditions:

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

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4. Prior to the installation of the movable planters hereby approved between the kiosk area and the public footpath to the north, details of those planters shall be submitted to and agreed in writing by the Authority. The development shall be carried

out only in accordance with the agreed details.

Reason - The information provided with the application does not include full details of the proposed features. This condition is imposed to make sure that the planters are of satisfactory design and do not have any adverse impact on the character of the area.

5. a) Within three months of the date of this decision, a landscaping scheme providing details of all new planting, to include planting schedules noting the species, sizes, numbers and densities of plants, shall be submitted to and agreed in writing by the Authority.

b) The landscaping scheme shall be fully completed, in accordance with the approved details, in the first planting season following the first use of any part of the development or completion of development whichever is the sooner, or in accordance with a programme previously agreed in writing by the Authority. Any 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 a satisfactory landscaping scheme for the development is agreed, in order to help assimilate the development into its surroundings and to provide enhancements to biodiversity in line with the Strategy for Nature.

6. The mobile food van hereby approved shall be parked only in the position shown on the approved plan and shall be used only for the preparation and sale of food in association with and ancillary to the use of the business operating from the adjacent kiosk. Should the van no longer be required for the approved use it shall be removed from the site.

Reason - To control the use of the van in association with the existing business as a separate use would require different planning policy considerations and to ensure that the van is removed from the site once its use ceases, in the interests of visual amenity.

OFFICER'S REPORT

Site Description:

The application site comprises a single storey granite built coastal kiosk served by a limited seating area to the north and service area to the south. The kiosk is surrounded by open grassland, separating the kiosk from the adjacent beach to the north, a public car park to the south-west and the Cobo Coast Road to the south. Public pathways border the site to the west (providing access from the coastal car park to the slipway on to Cobo beach) and north, and separate the site from the public toilets to the north-west. A German bunker is located immediately to the south of the site, creating a raised mound in that location.

The land immediately surrounding the kiosk is identified as Coastal Grassland on the 2018 Habitat Survey, giving way to Amenity Grassland extending along the coast road to the east.

The site is located Outside of the Centres in the Island Development Plan.

Relevant History:

None.

Existing Use(s):

Coastal kiosk
Open land

Brief Description of Development:

Permission is sought for the change of use and excavation of the land to the north and east of the existing kiosk, realigning the public footpath to the north, to provide an expanded seating area for the kiosk. As part of the application the following works are proposed:

- Resurfacing of the area around the kiosk in pink granite paving and surfacing of the area to the east in gravel;
- Demolition of the granite wall to the north of the kiosk and installation of movable timber planters along the realigned footpath;
- Enclosure of the eastern boundary with an earthbank and hedging;
- Formation of a planted area to the west of the existing wall between the seating area and the track to the west;
- Initially the proposal included the provision of a pergola and planted structure within that area, however, following deferral, these elements have been removed from the application.

In addition to the above it is proposed to extend the service area to the rear of the kiosk to the east and to the west, excavating into the bank between the service area and the adjacent track to the west, and enclosing both areas with fencing. The retained section of bank would be supported by a retaining wall and topped by hedging.

The application also includes the provision of a 6m (length) x 2m (width) x 2.8m (height) mobile food van against the east elevation of the kiosk.

For the avoidance of doubt, the flag pole shown on the plans is existing.

Letters of support have been submitted as part of the application from Outdoor Guernsey and the Constables of Castel. The Constables however note two concerns:

- That the pizza van should be restricted to its proposed, designated space, kept clear of the car park;
- Views of the van should be mitigated as much as possible.

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

OC4 Retail Outside of the Centres
 GP1 Landscape Character and Open Land
 GP15 Creation and Extension of Curtilage
 GP8 Design
 GP9 Sustainable Development

Strategy for Nature (2020)

Representations:

La Societe Guerneslaise comment as follows:

La Societe wishes to express its concerns over the proposed loss of coastal grassland habitat to hard landscaping and would recommend that appropriate mitigation or offsetting measures be considered.

We believe that the current application may lead to a net biodiversity loss which would not meet the requirements of the Strategy for Nature (2020).

Further, we are not convinced that the soft landscaping, as illustrated in the submitted plans, is achievable in this coastal location. We would highlight that there is not sufficient detail regarding the proposed plantings to enable us to determine their suitability for the location.

We would highlight that the existing grassland habitat is comparable to SSS- or ABI-designated grassland elsewhere on the West Coast; this particular area has not been designated under the IDP merely due to its relative small size.

Consultations:

The Office for Environmental Health and Pollution Regulation do not raise any objection to the application.

Summary of Issues:

Impacts on openness, landscape character and visual quality.

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).

Policy OC4 supports proposals to extend, alter or redevelop existing retail premises which support the recreational enjoyment of a coastal location where there would not be an unacceptable impact on the visual character and amenity of the locality.

In addition the proposal must meet the terms of Policy GP15 in respect of the change of use of the land, and Policies GP1, GP8 and GP9 in respect of impacts on open land, design and sustainable development, and must take into account the Strategy for Nature.

The proposed seating area, excavated to the level of the existing kiosk and enclosed with a bank and planting, is proportionate to the activities of the kiosk and would not have significant impacts on the landscape character, visual amenity or openness of the area. The site is not located within an Agriculture Priority Area and there are no boundary features. The site is not located within a Site of Special Significance or Area of Biodiversity Importance, and the higher levels of protection afforded to those designations cannot be applied on an adhoc basis to sites falling outside of those designations. The Strategy for Nature is however applicable, and the scheme would be expected to be supported by a landscape design which is appropriate to the particular landscape character and habitat of the area. The submitted plans indicate limited planting to the east and west of the site, together with additional planting within planters. Whilst planting within movable planters can only be given limited weight, there is potential for the remainder of the planting proposed to balance against the impacts of the development. Subject to conditions relating to the provision of a detailed landscaping scheme and implementation of that scheme, the change of use of the land to extend the seating area would accord with policy.

The introduction of a planted structure and 3.5m high pergola at the eastern edge of the area as initially proposed were however considered to intrude in to the open land, and to introduce features alien to the immediate locality. Following deferral, those elements were omitted from the application.

The proposed mobile food van is a substantial vehicle and its visual impact would be increased by its colour. The vehicle would however support and enhance the overall offer at the site and the proposed location, situated against the existing building and partially screened by the higher ground to the south/south-west, together with the landscaping proposed, would provide some mitigation in terms of the visual impact. Given that there is no limitation on the hours of operation of the kiosk, it is not considered reasonable or necessary to limit the hours of operation of the food van. It would however be reasonable to ensure that the van is only used for food-related activities, in association with the business operating from the site, and that the van be removed from the site should it no longer be required for that purpose.

Limited alterations are proposed to the north-west of the kiosk area, generally to allow for the movement of the van, and these would have no adverse impacts.

There are some concerns regarding the excavation of the bank to the west of the kiosk and the introduction of fencing in that location. It is however noted that the extended service area is integral to the operations of the kiosk, the works will be viewed in the context of the existing building and the retained bank and proposed planting will provide some mitigation.

The realignment of the existing public path would have no adverse impacts and there are no concerns regarding the removal of the granite wall currently separating the path from the kiosk area. There are however concerns regarding the potential design and appearance of the movable planters to be located along the southern side of the realigned path and it is recommended that details of these planters are required by condition, to ensure they are of a quality which would enhance the locality.

In respect of the amenity of nearby residential properties, those properties are located on the opposite side of the busy coast road, at a distance of over 30m. The proposed seating area would be reduced below the ground level of the surrounding land, and additional planting is proposed around the perimeter. The proposal would not therefore be likely to result in significant impacts on nearby residential property.

In respect of the comments made by the Constables, the grant of permission would only allow the operation of the food van from the indicated location, no consent would be conferred for the van to operate from the adjacent coastal car park. The parking of a vehicle on the public car park, where the vehicle is simply parked and not providing any service and that parking does not amount to permanent storage, would not however comprise a use which requires planning permission and would not be controlled under planning law.

Overall the amended proposals are considered to accord with the purpose of the Law, material considerations and relevant planning policies and approval is recommended.

Date: 31/07/2023

