

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 to al fresco restaurant (Retail use class 11), install catering unit and facility, fencing enclosure, generator, outdoor furniture and planters.

LOCATION: Round Top Stores, Victoria Pier, St. Peter Port.

APPLICANT: Mr & Mrs Blondin

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: 03/11/2023

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 15/05/2023 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Turnstone - 244 - 01 Rev P0, 02 Rev P1, 03 Rev P0, 04 Rev P0, 05 Rev P0, 06 Rev P0, 07 Rev P0 & 08 Rev P0.
JCB G45Qs Canopy Set Generator details

Application Ref: FULL/2023/0777

Property Ref: A411190006

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 first use of the restaurant, details of a spills action plan in the event of a wastewater spillage shall be submitted to and approved in writing by the Authority.

Reason - To ensure that processes are in place to minimise the risk of pollution in the event of a wastewater spillage.

5.Noise associated with the generator shall be controlled such that the Rating Level, measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, shall not exceed a level 5 dB(A) below the existing LA90 background noise level, including low frequency tones. Rating Level and existing background noise levels shall be determined as per the guidance provided in BS 4142:2014.

Reason - To protect the reasonable amenities of neighbouring residents and users.

6.The hours of operation of the generator shall only be between 08:00 hours and 19:00 hours.

Reason - To protect the reasonable amenities of neighbouring residents and users.

7.No development shall begin on site until details of the type, texture and finish of the timber cladding to be used have been submitted to and agreed in writing by the Authority. The work shall then be completed in accordance with the agreed details.

Reason - In the interests of visual amenity and to conserve the character and appearance of the Conservation Area.

8.No tables or chairs shall be brought onto site until details of the design and materials of the tables and chairs have been submitted to and agreed in writing by the Authority. Only tables and chairs improved in writing shall be used on the site.

Reason - In the interests of visual amenity and to conserve the character and appearance of the Conservation Area.

9.No extract ventilation shall be installed to the roof unless details have first been submitted to and approved in writing by the Authority. The work shall then be completed in accordance with the agreed details.

Reason - In the interests of visual amenity and to conserve the character and appearance of the Conservation Area.

Expiry Date: This permission will cease to have effect on 02/11/2026 unless development is commenced by that date.

ADVICE AND OTHER REMARKS:-

Please see the enclosed consultation response from The Office of Environmental Health and Pollution Regulation, Food Safety Officer, regarding the proposed store rooms and the management and storage of food waste.

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/2023/0777
Property Ref: A411190006
Valid date: 15/05/2023
Location: Round Top Stores Victoria Pier St. Peter Port Guernsey
Proposal: Change of use to al fresco restaurant (Retail use class 11),
install catering unit and facility, fencing enclosure, generator,
outdoor furniture and planters.

Applicant: Mr & Mrs Blondin

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. Prior to the first use of the restaurant, details of a spills action plan in the event of a wastewater spillage shall be submitted to and approved in writing by the Authority.

Reason - To ensure that processes are in place to minimise the risk of pollution in the event of a wastewater spillage.

5. Noise associated with the generator shall be controlled such that the Rating Level, measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, shall not exceed a level 5 dB(A) below the existing LA90 background noise level, including low frequency tones. Rating Level and existing background noise levels shall be determined as per the guidance provided in BS 4142:2014.

Reason - To protect the reasonable amenities of neighbouring residents and users.

6. The hours of operation of the generator shall only be between 08:00 hours and 19:00 hours.

Reason - To protect the reasonable amenities of neighbouring residents and users.

7. No development shall begin on site until details of the type, texture and finish of the timber cladding to be used have been submitted to and agreed in writing by the Authority. The work shall then be completed in accordance with the agreed details.

Reason - In the interests of visual amenity and to conserve the character and appearance of the Conservation Area.

8. No tables or chairs shall be brought onto site until details of the design and materials of the tables and chairs have been submitted to and agreed in writing by the Authority. Only tables and chairs improved in writing shall be used on the site.

Reason - In the interests of visual amenity and to conserve the character and appearance of the Conservation Area.

9. No extract ventilation shall be installed to the roof unless details have first been submitted to and approved in writing by the Authority. The work shall then be completed in accordance with the agreed details.

Reason - In the interests of visual amenity and to conserve the character and appearance of the Conservation Area.

INFORMATIVES

Please see the enclosed consultation response from The Office of Environmental Health and Pollution Regulation, Food Safety Officer, regarding the proposed store rooms and the management and storage of food waste.

OFFICER'S REPORT

Site Description:

The site is located on the Victoria Pier of St Peter Port Harbour and is within the Main Centre Inner Boundary, Conservation Area, Harbour Action Area and Archaeological Area as designated in the Island Development Plan.

Relevant History:

11/01/2022 – PREA/2021/2566 – Pre-application advice regarding the development of an Al Fresco restaurant.

20/09/2021 – FULL/2021/1785 – Permission granted to install ormer statue.

Existing Use(s):

Harbour stores

Brief Description of Development:

Planning permission is requested for the change of use of a section of the northern end of Victoria Pier to an al fresco restaurant (Retail use class 11) and including the installation of a single storey catering unit/facility, fenced enclosure, generator, outdoor furniture and planters. The catering unit/facility and fenced enclosure is proposed to be finished with vertical charred larch cladding.

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

GP4: Conservation Area

GP8: Design

GP9: Sustainable Development

GP18: Public Realm and Public Art

MC6: Retail in Main Centres

MC10: Harbour Action Areas

IP3: Main Centre Port Development

IP8: Public Car Parking

Representations:

Three letters of representation were received, main points as follows:

- Concerns were raised about the impact on the ease and safety of access to and use of moorings.
- This harbour area is not a suitable location for a restaurant.
- Loss of public and boat owners parking.
- Concerns were raised about the supply of services and resultant health and safety issues.

- Pollution from the use of a diesel generator and pollution and litter from the proposed use.
- Loss of storage space for boat owners.
- Waste disposal will have a detrimental impact on the appearance of the area and potentially create a pest control problem.
- Concerns were raised about the poor maintenance and adequacy of existing facilities on the pier and the potential for another business to further add to the deterioration of these facilities.

Consultations:

Guernsey Harbours, 28/06/2023

“Guernsey Harbours are content with the nature and detail of the planning application. In relation to the specific concerns raised, access to the steps and ladder to the north will be retained, and the lease agreement will include a caveat that mooring holders’ right to access and maintain their moorings will not be impeded. There will therefore be no change in the ease and safety of access. The dinghy storage will also be relocated further south, closer to steps for easier access.

The parking area is space let by Guernsey Harbours to the GBA for use by its members, and is currently underutilised”.

The Office of Environmental Health and Pollution Regulation, 07/06/2023

“I have reviewed the proposed plans including the change of use to an al fresco restaurant and the use of a diesel generator and there are a number of issues of concern that I must raise.

I have concerns about the potential for statutory nuisance as well as general pollution and would request the following information.

- What times of use are proposed for the generator? Where night-time operation is proposed further evidence will be required to demonstrate that the sound rating level at the nearest noise sensitive receptor will not exceed a level 5 dB below the existing LA90 background noise level.
- In relation to the water supply, can further details on how this will be provided and removed and where the foul water will be discharged?

I understand that my colleague Tom Roberts has liaised with the applicant in relation to food safety matters”.

The Office of Environmental Health and Pollution Regulation, 27/06/2023

“I have carried out a distance calculation and have concerns in relation to the potential for noise nuisance to arise. The sound pressure level at the nearest residential property is estimated to be 48 dB(A). Whilst this is in town this level is likely to be above background noise level at times when the generator is operating. As such please can the applicant advise whether there is any potential to reduce the

hours that the generator operates at? Have any additional attenuation measures been considered?"

The Office of Environmental Health and Pollution Regulation, 31/10/2023

"I have reviewed the additional requested details for the above site and there are a number of issues of concern that I must raise.

I have concerns about the potential for statutory nuisance as well as general pollution. I would therefore recommend that the following conditions are attached to any consent granted for this application:

- Noise associated with the generator shall be controlled such that the Rating Level, measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, shall not exceed a level 5 dB(A) below the existing LA90 background noise level, including low frequency tones. Rating Level and existing background noise levels shall be determined as per the guidance provided in BS 4142:2014.
- The hours of operation of the generator should be limited to between 08:00 hours and 19:00 hours.
- A documented spills action plan should be in place in the event of a wastewater spillage".

The Office of Environmental Health and Pollution Regulation, Food Safety Officer, 04/10/2023

"I have reviewed the proposed plans for Round Top Stores, Victoria Pier which were received by post on 19th of May and there are a number of issues of concern that I must raise which should be passed to the applicant.

I would be grateful if these issues are considered during the determination of this application.

- Proposed stores rooms - floors, walls, shelving and ceilings should be smooth, impervious to water and easy to keep clean. Floors should be in a light colour and be non-patterned to facilitate cleaning and checking for pest activity. There should be bright lighting also to facilitate pest checking. Store rooms should be pest proofed – no gaps to the exterior.
- Consideration should be given to food waste management and storage. Waste should be stored in a way that does not cause odour or pest issues. Waste food should not be stored in store rooms where food or drink is also being stored".

Summary of Issues:

The main issues in deciding this application are:

1. Whether the proposed use accords with planning policy within the harbour area.

2. Design and impact of the development on the character and appearance of the Conservation Area.
3. The impact of the development on the amenity of surrounding uses.
4. Road safety and traffic management.

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).**

During the course of consideration the application was deferred due to concerns about the potential for noise nuisance from the generator and pollution from the management of water and waste water. Clarification was also sought about the use of the raised public walkway and public access to the Round Top Stores at the northern tip of the pier. In response an alternative quieter diesel generator is now proposed, further information has been provided about how the provision of water and wastewater will be managed and confirmation has been provided that a minimum 1m wide walkway will be retained along the raised public walkway to provide public access to the Round Top Stores.

New retail uses within the Main Centre are supported and encouraged by Policy MC6. Guernsey Harbours raise no objections to the application and the scale nature of the development at the northern end of the pier is considered to be of a minor nature which would not prejudice or inhibit the outcome of the Local Planning Brief process for the Harbour Action Area, in accordance with Policy MC10. Although representations have been received raising concerns about the impact of the development on the ease and safety of access to and use of nearby moorings, Guernsey Harbours advise that *“access to the steps and ladder to the north will be retained, and the lease agreement will include a caveat that mooring holders’ right to access and maintain their moorings will not be impeded. There will therefore be no change in the ease and safety of access. The dinghy storage will also be relocated further south, closer to steps for easier access”*. It is therefore concluded that the development of the al fresco restaurant will not adversely affect the effective, efficient and safe operation of the port, in accordance with Policy IP3.

The northern arm of Victoria Pier is currently dominated by car parking which has a negative impact on the character and appearance of the area. In principle the removal of a limited number of parking spaces and the creation of an al fresco restaurant at the northern end of the pier has the potential to increase the vitality and vibrancy of the area and to enhance the character and appearance of the area.

The single storey catering unit and fenced enclosure provides screening to the necessary services and facilities whilst it's positioning close to the harbour wall to the east together with its low profile minimises its impact on wider public views

across the harbour. The use of high quality timber cladding will be essential to achieve a high standard of design and further details will be required about the design of the proposed outdoor furniture, these matters can be dealt with by condition. The application notes that extract ventilation will be installed to the roof or the end wall with further details to be provided. There are concerns about the potential size, design and prominence of any extract ventilation to the roof and it is recommended that extract ventilation is installed to the end wall. If extract ventilation to the roof is proposed details will need approval, this can be dealt with by condition. As a whole the proposal is likely to conserve and enhance the character and appearance of the Conservation Area, in accordance with Policies GP4 and GP8.

Representations have been received about the potential for pollution from the use of a diesel generator and from discarded litter. The Office of Environmental Health and Pollution Regulation have also raised concerns about the potential for noise nuisance and general pollution. To address these concerns, The Office of Environmental Health and Pollution Regulation recommend conditions to control the hours of operation and the noise associated with the generator and for a documented spills action plan to be in place in the event of a wastewater spillage. Whilst Policy GP9 encourages sustainable development, there is no planning policy which would prevent the use of a diesel generator in this situation. There is no reason to suspect that littering from the proposed use is any more or less likely than littering from the use of existing al fresco areas and other publicly accessible areas adjacent to the harbour. Provided that the suggested conditions from The Office of Environmental Health and Pollution Regulation are applied, the proposal is unlikely to have a material adverse effect on the amenities of surrounding uses and the risk of pollution can be minimised.

Representations have been received about the loss of public and boat owners parking. Guernsey Harbours advise that the boat owners parking is let by them to the GBA for use by its members and it is currently underutilised. Considering the total number of public parking spaces on Victoria Pier, the loss of 3 public parking spaces is likely to have a negligible impact on the overall public parking provision in the area. The existing turning area will be maintained and the proposal is unlikely to have any significant adverse effects on road safety and traffic management.

To address the comments of The Office of Environmental Health and Pollution Regulation, Food Safety Officer, it is recommended that a note is attached to the decision notice to provide advice about the store rooms and the management and storage of food waste.

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.

It is recommended that the application is approved.

Date: 03/11/2023

