

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: Variation to condition 5 of permission reference FULL/2022/1283 to fell chestnut tree to north of site (site of Protected Building).

LOCATION: Bella Luce Hotel, La Fosse, St. Martin.

APPLICANT: Green Giant 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: 02/09/2024

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 04/06/2024 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Drawing: 1154-S-Prpsd-P1

Application Ref: FULL/2024/0930

Property Ref: J012840000+J01284A000

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. A minimum of 3 replacement trees shall be planted. Details of the replacement trees, including the location, species and the size of the trees at the time of planting, shall be submitted to and approved in writing by the Authority prior to the removal of the existing tree (see Advice and Other Remarks). The replacement trees shall then be planted within six months of the existing tree being removed or in the first planting season following the removal of the tree whichever is the sooner, or in accordance with a programme previously agreed in writing by the Authority. Any trees removed, dying, being severely damaged or becoming seriously diseased, within 5 years of planting shall be replaced in the following planting season by trees of a size and species similar to those originally required to be planted.

Reason - To ensure that suitable replacement trees are planted within a reasonable time period of the removal of the existing tree in order to preserve the special quality and appearance of the Conservation Area.

Expiry Date: This permission will cease to have effect on 02/09/2027 unless development is commenced by that date.

ADVICE AND OTHER REMARKS:-

With regards to the replacement trees required under condition 3, it is recommended that *Tilia x europea* which is a hybrid between the native large leaf Lime (*Tilia platophyllus*) and small leaf Lime (*Tilia cordata*) be planted.

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/2024/0930
Property Ref: J012840000+J01284A000
Valid date: 04/06/2024
Location: Bella Luce Hotel La Fosse St. Martin Guernsey GY4 6EB
Proposal: Variation to condition 5 of permission reference
FULL/2022/1283 to fell chestnut tree to north of site (site of
Protected Building).

Applicant: Green Giant 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. A minimum of 3 replacement trees shall be planted. Details of the replacement trees, including the location, species and the size of the trees at the time of planting, shall be submitted to and approved in writing by the Authority prior to the removal of the existing tree (see Advice and Other Remarks). The replacement trees shall then be planted within six months of the existing tree being removed or in the first planting season following the removal of the tree whichever is the sooner, or in accordance with a programme previously agreed in writing by the Authority. Any trees removed, dying, being severely damaged or becoming seriously diseased, within 5 years of planting shall be replaced in the following planting season by trees of a size and species similar to those originally required to be planted.

Reason - To ensure that suitable replacement trees are planted within a reasonable time period of the removal of the existing tree in order to preserve the special quality and appearance of the Conservation Area.

INFORMATIVES

With regards to the replacement trees required under condition 3, it is recommended that *Tilia x europea* which is a hybrid between the native large leaf Lime (*Tilia platophyllus*) and small leaf Lime (*Tilia cordata*) be planted.

OFFICER'S REPORT

Site Description:

The application site includes the Bella Luce Hotel and an existing dwellinghouse to the east known as Santa Lucia which is in the same ownership. The site is bounded by Les Camps du Moulin to the north, Rue Jacques Guille to the east and La Fosse de Bas to the west and is in a Conservation Area designated in the Island Development Plan. The traditional main hotel building is a Protected Building.

The site has been cleared and works have commenced to create the site works for the foundations pursuant to previous planning permission leaving the main structure of the Protected Building minus its roof and the dwellinghouse Santa Lucia presently intact.

Relevant History:

FULL/2022/1283	Extend and alter hotel complex (Protected Building).	Granted 24/08/2022
FULL/2023/0052	Widen vehicle access to west boundary for a temporary period, and widen vehicle access to north boundary (part retrospective)	Granted 18/05/2023
FULL/2023/1338	Extend and alter Hotel complex, demolish dwelling and erect Wellness Centre and staff accommodation and flat (Protected Building) (Revised Scheme).	Granted 26/09/2023

Existing Use(s):

Hotel – Visitor economy use class 7: Serviced visitor accommodation.

Dwellinghouse – Residential use class 1.

Brief Description of Development:

The application relates to a variation to condition 5 of permission reference FULL/2022/1283 to fell an existing chestnut tree to the north of the site. The tree in question although not protected in its own right was shown to be retained in the original landscaping scheme details of which were submitted to discharge condition 5 of the original permission referred to above.

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

Island Development Plan policies:

GP1 - Landscape Character and Open Land

GP4 – Conservation Areas

GP5 – Protected Buildings

GP8 - Design

Representations:

In total 8 letters of representation have been received objecting to the proposal. The grounds for objection are summarised as follows:

- The tree is a signal element of nature in this small hamlet and if kept will serve to mask some of the bulk of the substantial redevelopment scheme from casual view;
- The tree softens the appearance of this often busy road and regular route for walkers;
- The tree is in a Conservation Area to accept its felling would be indulgent and a 'free pass' to ignore the best interests of residents and passersby;

- The tree is healthy and contributes significantly to the appearance and atmosphere of the surrounding area;
- Retention of the tree is a line in the sand and there is absolutely no reason why permission should be afforded to the applicant to fell this tree;
- The tree is an integral part of the Conservation Area and screens and protects the site from neighbours;
- The change of use, unsympathetic modern design and increase in the building footprint are in grave danger of altering the character of this corner of Guernsey beyond recognition. To remove one of the few remaining longstanding features of the setting would undermine even further that rustic aspect that gives the Bella Luce its sense of charm and heritage;

Consultations:

Agriculture, Countryside and Land Management Services (ACLMS)

By email dated 14 June 2024 stated the following:

“In response to a request from the Planning Service an application, to remove a mature horse chestnut, was reviewed. Part of the review included a site visit which was made on 12th June 2024. ACLMS responses are provided in bold below, underneath the relevant paragraphs which have been copied & pasted from two documents: the letter drafted by James Le Gallez Strategic Planning & Property Ltd and the report prepared by Richard Loyd of Tree Dimensions.

James Le Gallez Strategic Planning & Property Ltd. (letter dated 13th May 2024)
 2.2. *This tree was noted as “T10” at that time and the conclusion reached was, “A historically truncated example which, through a lack of proactive management and poor pruning practices, has resulted in a tree with poor scaffold integrity with reaction wood present at major scaffold points. Retention will prove difficult given its current form and the position close to the adjoining property, I would suggest if it is retained then a sympathetic crown reduction of approximately 30-40% is undertaken or the tree is considered for removal as part of a sustainable landscape plan.”*

2.3. *To give the tree every chance, it was crowned to stimulate new growth and given 16 months observation and it is still subject to structure issues and the disease referred to as ‘leaf minor’.*

Response: Further information is required to provide more detail on the “structure issues” referred to above. This information must provide enough evidence to make a clear case to justify the tree’s removal. The pest, horse chestnut leaf miner (HCLM), is now widespread in the UK and according to the UK Forestry Research website: “HCLM does not significantly impair the trees’ overall health, and the effect is mostly aesthetic. Research has shown that HCLM can attack up to 75% of the total leaf area on the trees, but that the loss of subsequent photosynthetic leaf tissue only reduces the total carbon assimilation by, at most, an estimated 30-40 per cent over the growing season. The reduction is much less than the total leaf area affected, because the majority of damage caused by HCLM occurs late in the

season, after the tree has completed most of its photosynthesis for the year. As such, the general tree condition and stem radial growth are not affected by HCLM, even over repeated annual attacks. Although HCLM attacks can potentially weaken a tree's defences to disease (eg Phytophthoras) or other pest attack, removal of a tree on the basis of what might happen in the future is insufficient grounds for removal.

2.4 Removal and mitigation replacement are the only viable options, and this will also remove any risk to public safety on the directly adjacent public footpath and highway.

Response: The current level of evidence, which might support this conclusion, is insufficient

2.5. This tree is visible within the Conservation Area but set well away from the Protected Building or in the setting of the Protected Building. However, the higher canopy surrounding trees remain and are the main feature in this location.

Response: Tree T10 makes a significant contribution to the public visual amenity of the area which would warrant retention.

2.6. The vaster areas of land to the south and south-east of the application site offer ample space for viable and suitable mitigation. The suggestion is three large and small leaf Lime trees which can provide a buffer, decent crown and compliant with the local landscape.

Response: T10's location next to the public thoroughfare means that it offers considerably higher amenity value than a tree of similar size sited further away, from the road. Whilst replanting can offer some mitigation it will take decades to achieve so replacement should be a last resort. It follows that justification to remove should be based on robust evidence.

Loyd report – dated 2/4/2024

Part of the recommendations was to either remove and replace this tree, or undertake a crown reduction on Tree 10, a Horse Chestnut situated within 1 metre of the old retaining wall, which was part of the former hotel accommodation building. The reduction work was recommended due to the declining structural condition of the tree's scaffold following an historical truncation. The reduction work was completed to a good standard, and the regrowth from the pruning points has been satisfactory albeit the tree's continued battle with leaf minor (Cameraria ohridella). Chestnut leaf minor is prevalent within the Island and the UK and not only is it having a slow-burning detrimental effect to the Horse Chestnut stock on the Island, but also preventing this genus to be included within any future planting schemes.

Response: See response to 2.3 above

4.1 Risk Assessment. The redevelopment of the hotel proposes construction within close proximity to the tree, requiring extensive foundation work which would incur up to a 50% of disturbance within the root plate. The close proximity of the building in the context of the anticipated attained mass of the tree will make it subject to

regular, extensive management to avoid interference to the infrastructure of the building. There is a high likelihood that regular pruning schedules required, combined with the deterioration in vitality with seasonal infestation of leaf minor, will result in a reasonably rapid decline in the tree's overall condition.

Response: This is a material reason for allowing removal. However it requires an evidence based assessment to justify. Based on aerial photos going back to 1979 it is known that buildings, presumably with foundations, were already located close to T10. Roots of trees are less likely to grow underneath a building because water and air can be limiting and the soil environment is less likely to support growth to the same extent. It follows that encroachment into the Root Protection Area (RPA) might be acceptable – again an evidence based report is needed to demonstrate that it isn't (acceptable). It is noted that this justification was not cited in the Le Gallez letter.

5.1 Recommendations. The anticipated decline of the tree severely limits the amount of contribution it can be expected to make to the amenity of the development and the wider landscape. I would recommend the tree is removed prior to the start of the development, and mitigation planting undertaken as part of the landscaping scheme for the development, and to replace the loss of the tree.

Response: See 2.3 above, last paragraph.

6.1 Mitigation Planting. The landscape proposals are extensive and seek to undertake a considerable amount of new tree planting. The removal of this tree, will present an opportunity to implement new tree planting within the wider area of tree loss. This will have a positive contributing effect to the development and the locality overall. I would suggest the loss can be mitigated by planting at least three new trees planted within the created landscape border or wider land. The most suitable, sustainable trees for this area are Tilia x europea which is a hybrid between the native large leaf Lime (Tilia platophyllus) and small leaf Lime (Tilia cordata). The trees will create a cohesive buffer that will soften the development and create a sustainable symbiotic crown-line which will compliment the tree form of the local landscape.

Response: see 2.6 above."

The application was deferred and additional information was sought to address the issues of concern raised by ACLMS. ACLMS was reconsulted on the additional information received and by email dated 03rd July 2024 stated the following:

"You requested my comments in response to the applicant's further submission, to support the removal of T10, a horse chestnut, on the Bella Luce site. The submission was requested to provide an evidence based justification for the proposed removal of T10.

The Loyd report, dated 29th June 2024, provides insufficient evidence that T10 should be removed on the grounds of poor condition and/or ill health, alone. The information provided and the conclusions drawn are reiterations of what has been

stated in the previous report, dated 2nd April 2024. The tree had previously been categorised as a "C" and a "B", according to previous arboricultural surveys.

However, having sought clarification on the plan detail for the proposed development, it is noted that the edge of the footprint of the proposed development (right next to T10) include buildings requiring significant foundations, as opposed to basic hardstanding. Therefore, the extent of encroachment into the calculated Tree Protection Area is such that the retention of the tree is incompatible with the approved development. The justification for this is that it is estimated that construction would lead to a loss of at least 50% of the T10's root system. Such loss which would very likely result in the rapid and premature decline of the tree and would compromise the structural integrity of the root plate, requiring the tree's removal."

Summary of Issues:

Whether the principle of removal of the tree is acceptable and the impact on the visual character and appearance of the surrounding Conservation Area.

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).**

The site is situated within a Conservation Area and the trees form part of the setting of a protected building and Policies GP1 (Landscape Character and Open Land), GP4 (Conservation Areas), GP5 (Protected Buildings) and GP8 (Design) are relevant. In addition, the Authority also has a duty to consider the material planning considerations as specified in Part IV, Section 13 of the Land Planning and Development (General Provisions) Ordinance 2007. Relevant to this proposal these include the likely effect of the development on the natural beauty and landscape quality of the locality in question and the likely effect on the character and amenity of the locality in question.

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

Policy GP1 sets out that development will be supported where it respects the relevant landscape character type within which it is set and where development does not result in the unacceptable loss of any specific distinctive features that contribute to the wider landscape character and local distinctiveness of the area.

Policy GP8 indicates, inter alia, that new development will be supported where it respects the character of the local built environment or the open landscape concerned.

The tree is not a protected tree and is not of a unique or important species to Guernsey to warrant protection in its own right. As part of the application a Tree Report (dated 02/04/2024) produced by a local qualified arboriculturist was submitted to justify the removal of the tree. The report referred to a previous tree report commissioned for application reference: FULL/2022/1283 which granted permission to extend and alter the hotel complex. In the 2022 tree report, it was recommended that due to the declining structural condition of the trees scaffold, the tree in question is either removed and replaced, or a crown reduction scheme be undertaken and the condition of the tree monitored.

The 2024 tree report confirmed that to give the tree every chance of success the tree was crowned to a good standard (as originally recommended) and was observed for 16 months to monitor its condition. However, it is reported that the tree is still subject to structural issues and the disease referred to as 'leaf minor'. It was concluded that *"the anticipated decline of the tree severely limits the amount of contribution it [the tree] can be expected to make to the amenity of the development and the wider landscape. It is recommended that the tree is removed prior to the start of development and mitigation planting undertaken as part of a landscaping scheme to replace the loss of the tree."*

The States ACLMS was consulted on the application and in summary confirmed that the information presented was insufficient to justify removal of the tree. Additional information was requested and a revised tree report dated 29th June 2024, was submitted to address the issues raised. ACLMS was reconsulted and concluded that the information submitted to date *"provides insufficient evidence that T10 should be removed on the grounds of poor condition and/or ill health, alone."* However, ACLMS did consider that the proposed development includes buildings that require significant foundations which would encroach into the calculated Tree Protection Area of the tree resulting in the loss of at least 50% of its root system. Retention of the tree is therefore incompatible with the approved development which is likely to result in rapid and premature decline of the tree resulting in its removal. Given the above and that the loss of the tree is inevitable no objections were raised by ACLMS.

It is worth noting In the 'Mitigation Planting' section of the tree report, the arboriculturist recommends that although an extensive landscaping scheme is proposed for the site as part of the development which includes a considerable amount of new tree planting, the removal of this tree will present the opportunity to implement further tree planting within the wider area of tree loss. The report suggests that three additional trees be planted within the created landscaped border or wider land and recommends that the most suitable trees for this area are Tilia x europea, a hybrid tree between the native large leaf Lime (Tilia platophyllus) and

small leaf Lime (*Tilla cordata*). This will help to mitigate the loss of the tree in the medium to long term.

Although the existing tree makes a significant positive contribution to the character and appearance of the Conservation Area, due to its close proximity to the development and that its loss would be inevitable there are compelling grounds for its removal. Although its removal will undoubtedly have an adverse visual impact in the short to medium term on the character of the Conservation Area, provided that suitable replacement trees are planted (as suggested in the mitigation section of the tree report referred to above) which can be controlled by planning condition, this impact can be minimised/mitigated.

Considering the above and subject to the suggested mitigation, on balance the proposal would conserve the character and appearance of the Conservation Area in the medium to long term and would have no significant adverse impact on the setting of the adjacent protected building. The proposal does not conflict with Policies GP1, GP4, GP5 and GP8.

It is recommended that the application is approved subject to conditions.

Date: 29/08/2024

