

OPEN AGENDA

Copy No:

No: 85/2020

Memorandum for Executive Council

SUBJECT

Development Application: Proposed construction of Pet Care Centre, Merrimens Forest

Memorandum by the Chief Secretary

ADVICE SOUGHT

1. **Executive Council is asked to consider and advise whether FULL Development Permission should be granted, with Conditions for the development application for the proposed construction of Pet Care Centre, Merrimens Forest, as recommended by the Land Development Control Authority (LDCA).**

BACKGROUND & CONSIDERATIONS

2. At the Land Development Control Authority meeting held on 4th November 2020, it was recommended that Full Development Permission be granted for the proposed construction of a Pet Care Centre, Merrimens Forest, subject to conditions as set out in the Recommendation Section of the reports to LDCA included as Annex A and the Decision Letter in Annex B.
3. In accordance with Section 23(2)(b)(ii) of the Land Planning and Development Control (LPDC) Ordinance, 2013, the Chief Planning Officer is required to refer to the Governor-in-Council all applications for Development Permission for which granting the application would be inconsistent with a Development Plan but that there are material planning considerations which suggest that permission should nevertheless be granted.
4. **Section 17 (a)** reads: Outline Development Permission, the effect of which is to give **Approval in Principle** to the proposed development which is the subject of an application, but not to permit (except to the extent, if any, allowed by conditions attached to the permission) commencement of development to take place, or

(b): full development permission, the effect of which is to permit the development, subject to the terms and conditions of the grant of full development permission.

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5. PROPOSED DEVELOPMENT

- a) The building will be used as a pet care centre, which will provide services that includes: kennelling for dogs and cats, whose owners are travelling overseas; kennelling and re-homing of stray dogs; microchipping of pets; sale of worm and flea treatments; general pet care including grooming and nail clipping. Kennelling would be a 24 hour service. Times for other services will be determined through clinics and appointments.
- b) The centre will also offer the opportunity to provide training for persons interested in working and caring for domestic pets and will also provide essential information to the general public about pet care. The primary entrance to the building is from the south elevation of the building via a single entrance door. The layout consists of a reception area, care room, disabled friendly toilet, store room, utility area, cat room, and five dog units with dog runs.

LOCATION & ZONING

- c) The application site is situated within Merrimens Forest, approximately 200m north of Sure's telecommunication hut at White Gate, see Diagram 1 in Annex C. The development will be within the Green Heartland with no conservation area restrictions.

THE PROPOSAL

- d) An existing track runs beneath the site, which leads towards Model Cottage from White Gate. The access track is currently only utilised by Connect St Helena Ltd (Connect) and Sure SA Ltd (Sure). The development will be sited above the existing track in the northern perimeter of the proposed fence line. In order to accommodate the proposal, excavation will be required measuring 1.9m in height. The development will consist of a single storey building with a footprint measuring 11.5m by 7.4m, and four car parking spaces to the south see Diagram 2 in Annex C.

PROPOSED DEVELOPMENT

- e) The development will consist of a single storey steel structure building clad with cement fibre boards with IBR roof sheets and a small section of the roof on the east elevation with translucent sheets. The east side of the building will also include an enclosed area with a 1.5m high

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chain-linked fence and timber posts for dogs. This will project 3.0m from the building, see Diagram 3 (proposed Floor Plan), Diagram 4 (proposed West Elevation) and Diagram 5 (Proposed East Elevation) in Annex C.

- f) Access will be gained from the track beneath the site. Sufficient space is available for car parking and on-site manoeuvrability of vehicles.
- g) Electricity is in the area and can be connected to. The developer will need to apply for connection into the water mains. Sewage is proposed via a septic tank soakaway.
- h) There is potential issue with the access track as it may not be suitable for normal vehicles, in view of this there may be a requirement for the access track to be upgraded to improve access for users. If permission is granted, then an appropriately worded condition will be included requiring the improvement to the access track to meet proposed use and be suitable for the increase in the number of vehicles that may potentially be visiting the centre. This will need to be undertaken by the applicant in consultation with other users; Sure and Connect.

6. PLANNING POLICY

- a) The proposed development application is assessed against the Principle and Strategy of the Land Development Control Plan and in respect of the policies that apply and these include the following:
 - Green Heartland Zone: GH1, GH2, GH4, GH5, GH6
 - Sewage and Storm Drainage Policies: SD7
 - Social Infrastructure Policies: SI1(a)
- b) In respect of the proposed development LDCP policies relating to the Green Heartland are particularly relevant and these are set out below in detail –
- c) **The Green Heartland Zone Primary Policy GH1** states that: “There will be a presumption in favour of retaining the undeveloped nature of the Green Heartland and its natural ecology. The grant of the development permission will therefore be strictly controlled by the implementation policies”.
- d) The proposed development is clearly contrary to this principle policy in that the proposal involves clearance of natural vegetation to enable the construction of a small building. The general area including the application site is

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probably very rich in its ecological values, however within the wider area there are number of developments prior to the introduction of the zonal policy being formulated within the current development plan. However, these developments now form a back-drop to the local landscape. The proposed development whilst being contrary to the policy sits very discretely within this forested area and will be well shielded by the trees and vegetation.

- e) **Policy GH2** states that: “No Development permission will be granted for development which includes the construction of buildings above 550m contour line, however there are a number of exemptions related to leisure, tourism and nature conservation.”
- f) The proposed development is sited between 570m – 573m contour line. Due to the location of the track, it would not be ideal to site the development beneath the 550m contour, as the building will then become visible from the main public road from Red Hill and would be a visual intrusion to the landscape. The main objective of restricting development below the 550m contour line is to prevent development from being visually intrusive in the landscape from higher vantage points such as a Diana’s Peak. The proposed development whilst being above the 550m contour line ensures that any visual impact on the landscape is minimal and hence less intrusive.
- g) **Policy GH3** states that: “Except as provided for in policy GH2, permission will not be granted in the Green Heartland for development which includes the creation of sleeping or catering facilities or new dwellings ...”
- h) The proposed development does not include sleeping accommodation or catering facility nor a new dwelling, although the proposal includes a construction of a building for a use that may be classified as being *sui genre* and can therefore be considered to be in compliance with this policy.
- i) **Policy GH5** requires that: “Where development permission is granted in the Green Heartland it shall be subject, in all cases, to the requirement to landscape the site to sufficiently conceal the development or blend it into the landscape, including a proportion of indigenous species appropriate to the scale and nature of the development.’
- j) The area around the application site is in general well established with a relatively good coverage of trees and other greenery and vegetation. With the proposed building

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being discreet in this location, it is unlikely that it will be visible within the wider landscape and is unlikely to be seen from vantage points such as Diana's Peak National Park, and would require landscaping. However, should it be considered that the development could benefit from further landscaping, then an appropriate worded condition can be included, but this should be an assessment following the completion of the development should the authority be minded to grant development permission.

- k) **Policy GH.6** requires that: "In considering any development proposal in the Green Heartland there shall be a presumption in favour of identifying, protecting and promoting established footpaths, development which fails to do so will not normally be permitted.'
- l) The existing track is used mainly by the utility service providers on the island. However it is known for dog walkers to also take advantage of this track. The track will remain unaffected as a result of this development and potentially there may be opportunities to promote the track for walking as a result of this business and its operation. Policy SI1(a) in respect of Social Infrastructure is a Primary Policy and states that: "Development Permission will be granted for all development reasonably needed for the social development of the island and such development shall be designed to be sustainable in all services including collection, storage and re-use of rainwater and storage, treatment and re-use of grey-water".
- m) The proposed use meets the requirement of this policy in developing a much need facility for the health, care and well-being of animals, in particular "domestic animals". There is currently no such facility on the island. The issues to consider are whether the proposed location is considered to be the most suitable siting for such a facility and a further argument is whether the proposed use is considered to fall within the wider objective or spirit of policy GL4 which supports the development of small animal shelters, which is intended for farm animals and livestock.

7. REPRESENTATION

- a) Representation has been received from the Heritage Society which has raised objections to the proposed development; these are summarised as:
- i. site is 570m above sea level within the Green Heartland Zone and since at least 2012 the Green Heartland Zone

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policy GH2 has said, “No development permission will be granted for development which includes the construction of buildings above the contour line of 550m” and none of the listed exceptions apply;

- ii. if the venture fails will the building be demolished or could it be used as a house;
- iii. kennels are noisy and there are local residential properties close by and the use could be uncontrolled noise through a 24 hour period;
- iv. proposal could also affect the setting of the Plantation House and Knollcombes Historic Conservation Areas;
- v. existing road would seem inadequate and so road improvements over Merriman’s may be necessary;
- vi. proposal includes use such as a shop and an educational facility and would this lead to further development at any time in the future;
- vii. proposed building is right on top of the ridge only obscured from distant views by existing trees and if these are removed and as these are under separate ownership, the building would be exposed;
- viii. bulkhead lights are inappropriate in that setting; and
- ix. what would prevent similar developments all over the Green Heartland.

OFFICER RESPONSE

- b) Some of the issues and concerns raised by the representation are valid, in that the development is contrary to Green Heartland Zone policies, however, if the proposed development is considered to be acceptable in this location then this will be assessed as a material consideration and whether these are sufficient grounds to enable the development application to be granted development permission. As regards to noise, the development is considered to be a reasonable distance from the residential property, with the nearest residential property being east of White Gate Road, which may be more or less 100m away, however given the difference in levels, density of trees in the forest and the number of physical barriers it is unlikely that there would be a noise issue for the nearest residential property that is east of White Gate Road.
- c) As regards to the number of other issues raised, the use being proposed is specific and the nature of the building proposed meets that requirement. Any future developments would be subject to development permission if extension is proposed or the use and operation is considerably increased; any applications will be assessed in accordance with the development plan policies or other relevant and appropriate guidance.

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8. MATERIAL CONSIDERATION

- a) The location of the proposed development and the nature of the use within the Green Heartland within the rural setting whilst not wholly in compliance with the Primary Policy can be considered to be within the spirit of the policy objective as the development site is within and amongst the forested area and will not be visually intrusive in the landscape and due to the size and mass would have minimal impact to the ecology of the area.
- b) Similarly its location above the 550m contour line, ensures that due to physical constraint it remains less intrusive in the landscape than if it was located on a lower plain. Therefore the proposed location at a higher plain makes the development more acceptable.
- b) The proposed facilities are considered to be meeting the service and/or use not currently available on the Island and would therefore meet the social obligation for the health, care and wellbeing of domestic animals (household pets). Whilst there may be other more suitable locations for development of such a facility, given the nature of use that could potentially create considerable noise, a location away from the residential neighbourhood would be better. In view of this whilst there are residential properties in the close vicinity of the site, it is considered that the nature of the area and physical constraints would create a sufficient barrier to reducing the level of noise that could potentially cause nuisance to the neighbouring residents.

9. OFFICER ASSESSMENT

- a) The proposed development within the Green Heartland does not comply with various LDCP policies for the location of development in this zone and is therefore considered to be contrary to the development plan. However given the nature of the development and the use that cannot be located within a residential neighbourhood, the location within densely forested area may be considered to be acceptable. The development would not be visually intrusive in the landscape and will not be visible from other higher vantage points. There is a need for such a facility on the island and the development and facilities would be beneficial. In this respect it meets the policy object for the development of social infrastructure.

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- b) The material considerations set out in the report provides sufficient justification to support the proposed development contrary to the development plan policies. The proposed use is considered to be *sui genre* as it does not fit with any of the Use Class Order of the Land Planning and Development Control Ordinance 2013. In view of this, if development permission is granted it would not set any precedence in consideration for any future development as the use is very specific and probably “one-off” and meets the social objective of providing a facility for the health, care and well-being of domestic animals.
- c) As this development permission is departure from the Land Development Control Plan, the Principle Policy of the Green Heartland Zone, the development application is being reported to the Governor-in-Council in accordance with Section 23(2)(b)(i) of the Ordinance.

10. OFFICER RECOMMENDATION

- a) The Land Development Control Authority considered the report on the proposed development application and is in support of the material consideration set out for exemption to the Green Heartland Zone and has recommended to the Governor-in-Council to grant Full Development Permission subject to Conditions as set in Section E of the LDCA Report and in the Decision Letter in ANNEX B.

FINANCIAL IMPLICATIONS

11. Executive Council acts as the Planning Authority in this case.

ECONOMIC IMPLICATIONS

12. None specifically, however the proposed development has the opportunity to create training and employment opportunities.

CONSISTENCY WITH INVESTMENT POLICY PRINCIPLES

13. N/A

PUBLIC/ SOCIAL IMPACT

14. This development will create a service which is much needed on the Island for the health, care and wellbeing of domestic animals.

ENVIRONMENTAL IMPACT

15. The impact on the natural environment of the area will be minimal.

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- PREVIOUS CONSULTATION/ COMMITTEE INPUT** 16. There was consultation on the development application and one representation was received from the Heritage Society and this has been considered in Section 7 of the Memorandum.
- PUBLIC REACTION** 17. This would receive some public and media attention, especially from pet-lovers on Island.
- PUBLICITY** 18. The decision will be mentioned in the ExCo Radio Briefing following the meeting. Once works begin and following completion, a Press Release could be issued.
- SUPPORT TO STRATEGIC OBJECTIVES** 19. N/A
- LINK TO SUSTAINABLE ECONOMIC DEVELOPMENT PLAN GOALS** 20. The Sustainable Economic Development Plan highlights the role of entrepreneurs providing services not currently available on St Helena as an opportunity to support economic growth.
- IMPLEMENTATION OF POLICY/ LEGISLATION** 21. N/A
- OPEN/CLOSED AGENDA ITEM** 22. Recommended for the Open Agenda.

SO'B

Corporate Support
Corporate Services

08th December 2020

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