

Planning Officer's Report – LDCA MAY 2021

APPLICATION	2021/22 – Proposal to Retain the Structures within the Mule Yard (Retrospective Application)
PERMISSION SOUGHT	Permission in Full
REGISTERED	18 th February 2021
APPLICANT	Jonny Dillion & SHG
PARCEL	JT020006
SIZE	0.32 acres (1313m ²)
LAND OWNER	Private Lease/Crown Estate
LOCALITY	The Mule Yard, Jamestown
ZONE	Intermediate Zone
CONSERVATION AREA	Heritage Coast Conservation Area
CURRENT USE	Leisure
PUBLICITY	The application was advertised as follows: <ul style="list-style-type: none">▪ Independent Newspaper on 19th March 2021▪ A site notice displayed in accordance with Regulations.
EXPIRY	9 th April 2021
REPRESENTATIONS	None Received
DECISION ROUTE	Delegated / LDCA / EXCO

A. CONSULTATION FEEDBACK

- | | |
|-----------------------------|--------------|
| 1. Water Division | No Objection |
| 2. Sewage Division | No Objection |
| 3. Energy Division | No Objection |
| 4. Fire & Rescue | No Response |
| 5. Roads Section | No Objection |
| 6. Property Division | No Response |
| 7. Environmental Management | No Response |
| 8. Public Health | No Response |

9. Agriculture & Natural Resources	No Response
10. St Helena Police Services	Not Consulted
11. Aerodrome Safe Guarding	Not Consulted
12. Enterprise St Helena (ESH)	No Objection
13. National Trust	No Response
14. Heritage Society	Objection - Comments

B. PLANNING OFFICER'S APPRAISAL

LOCALITY & ZONING

The development site is an open area north of the Castle wall and the moat on the Jamestown sea front. The whole of this area is historically and environmentally important with the Fortifications that provide the background to the Island and Jamestown. This whole area is Grade I listed and within the Heritage Coast Conservation Area. The application site is within the Intermediate Zone.

Diagram 1: Locality



THE PROPOSAL

The proposal is continue the current use and retain all the structures in this area known and referred to as Mule Yard providing entertainment and leisure venue. The Jamestown front is promoted as an area for leisure, recreation and tourism and has number of entertainment venues of which the Mule Yard is one such venue. Adjoining the Mule Yard is the swimming pool.

The Mule Yard is one of the venues that caters for young people and holds number cultural and leisure events during day for families. In the evenings it also provides

adult entertainments, as a night club/disco venue. The proposal is continue this wider entertainment and leisure use for the area

Diagram 2: Site Plan and Layout



Currently, there are number of structures on the site that have been erected over the years with and without the benefit of development permission. However, due to a level of uncertainty for the use and lack of repair and maintenance some of these structures are dated. However, the recent occupier and operator of this venue has made some improvements to these structure to continue the use and its operation as an entertainment venue.

Diagram 3: View of the Development Site



The current use and the structures on the site are unauthorised, as the previous development permission has lapsed, however, the use has continued and the structures have remained and are being used.

PLANNING HISTORY

In 2009 temporary development permission was granted by the Governor for the erection of a covered area, decking and toilets for this area, Reference 2009/10/JT. This development permission expired on 30th June 2018 and the requirement was that all structure from the site to be removed within one month of the expiration of the permission and the site made good to the satisfaction of the Governor. The reality is that use has continued and all the structures have remained and planning action has been taken to secure the removal of the structure. The original operator has also been allowed to continue the operation through continued extension of the lease.

From the assessment of the plans that were approved in 2009, it appears that only some of the development has taken place in accordance with the plans that were submitted, however some of the proposals have altered and others have not been completed. Over the past nine months, there have number of discussions with the officers in Crown Estate and Property Services and more recently with the new lessee and operator of the venue to agree a way forward and this has resulted in the submission of this development application to seek retention of the structures that were erected and to continue the use. The continued use of this area for entertain and leisure fall within wider aspirations of the Jamestown Seafront area and the venue remains popular with the local people and through an agreed approach with the grant of development permission, opportunity can be afforded regenerate and enhance these facilities and the wider area.

Diagram 4: View of the Development Site



The issue in the past has been the nature of temporary development permission and the level of uncertainty for the future. However, with the future relocation of the freight container and port operations to Rupert's Bay, there is now expectation for the regeneration of the Jamestown Seafront for leisure, recreation and tourism activities and the use of Mule Yard can provide one the key venues for entertainment.

C. POLICY CONSIDERATION

The proposed development is assessed against the LDCP Policies set out below:

- Intermediate Zone: Policies IZ1(a, b and g)
- Built Heritage Policies: BH1 (c), BH.2, BH.3

The assessment of the proposed development is against the objectives of Built Heritage Policies of LDCP. The area between the moat fortification and the curtain wall on both sides of the access road has already been well established with leisure, recreation and community facilities. There are no specific policies or proposals in the LDCP that identifies and promotes these areas for leisure and recreation related uses, although many of these uses were probably partially established when the current LDCP was being formulated and then adopted in 2012. It is therefore, right to assume that the established uses in this area at the time when the LDCP was being formulated were considered to be acceptable and further development of these use since 2012 meet with the wider objectives that has recognised the development of tourism and recreational activities on the Jamestown Seafront. In view of this, it is considered that use of this application site for the purposes for entertainment and recreational is acceptable. The assessment of the various buildings and structures that have been erected and installed over the years need to be assessed against the Built Heritage Policy BH.1(c) of the LDCP, which states that:-

Development in Historic Conservation Areas will be permitted only if it enhances and protects the character of the Area by reference to scale, proportion, details and external materials of the proposed development in relation to those of the Historic Conservation Area.

It is considered that some of these buildings and structures are now well established in this area and whilst not wholly reflective of the historic fabric of the area, they reflect the naturally evolving character of the area and the nature of use. The built structures are not over powering and create a form of ambiance with the recreational, leisure and entertainment. There are number of portable buildings that are not acceptable in their current state, however through the grant of development permission the applicant can be encouraged to improve/renovate their elevations or replace them with a more acceptable buildings that will be more acceptable within this historic landscape and the wider environment and surroundings of the area.

REPRESENTATION

Representation to this development application has been received from the Heritage Society and the issues raised are summarised as follows:

- the general principle to formalise permission for any existing buildings in the Mule Yard should not be pursued and the Government, as owner of the site, should ensure the site is cleared of buildings and a comprehensive scheme to restore the site as a family friendly area and prime historic and tourist asset and future use would be in line with Waterfront Working Group Masterplan, "The Sea Front: Wharf and Seaside, Jamestown," April 2019;
- the application is completely ambiguous and having met and discussed this several times with the planning officer it is no less clear how the development is correlated the previous permission referred to in the application form (2009/10/JT) with any specific building on site;
- all buildings except the toilet and steel canopy, are 'portacabins' and were placed in the Mule Yard around 2003/4 and the canopy was installed later but in position by early 2006 and were intended as temporary but continue in use;
- around 2012/13 one portacabin was granted short term permission, however the temporary bar now continues in use;
- toilet block was installed about that time by the Leasee and there now appears to be ambiguity over ownership though the site remains Crown Land;
- application appears to be a means for the Government to try to resolve some of the contractual lease issues that have arisen because Government control seems to have been less than diligent over the years;
- the area is Grade I Listed Monument in Historic Conservation Area and when temporary permission was granted for the buildings in the Mule Yard the planning system was not as comprehensive as it is now and it is not clear exactly why permission was only temporary but there must have been a strong sense that the buildings were not wanted in the long term and Permission 2009/10/JT stated the buildings must be removed after a certain period but this has never been enforced;
- there remains public view that the buildings are required to be removed and should that they be; even though it is recognised there is some social benefit from its current use and some of those benefits remain available at a much longer established permanent venue only a few yards away;
- Political circumstances have changed since the portacabins and canopy were first installed;
- in 2013 the site became statutorily protected by policies of the new Land Development Control Plan along with the General Development Order;
- seaside and wharf became protected under the policies of the Heritage Coast Historic Conservation Area;
- the entire site of the Mule Yard, being part of The Fortifications, and specifically the historic gun platform (or mount), became legally protected as a Grade I Listed Monument by the General Development Order and the Listing notes that, "Despite many reconstructions these remains are of prime historic and environmental importance";

- Within the last year the Governor in Council has endorsed a quest to further protect such historic assets as the
- Fortifications as an economic resource for the island under the Heritage Strategy as well as an agreement to push towards obtaining World Heritage Status.
- overall the appearance and ambience of the Mule Yard is one of an irregular jumble of buildings and of concern for the Fortifications including the Curtain Wall and Middle Bastion which abut the Mule Yard, are not easily accessible to the public due to the unplanned nature of the current development at the Mule Yard;
- the 'temporary' bar was clad in timber without development permission under current legislation and more recently a wider pitched roof was added together with a large television aerial again both without permission that relates to a Conservation Area and no enforcement action has been taken;
- another large canopy was placed over the Get Carters portacabin and it is not clear if permission was granted for that;
- it should be remembered the portacabins are designed as temporary structures and they sit on blocks and their removal would not be difficult;
- as the Government have overall control of the Mule Yard this opportunity should be taken to clear and improve the site; and with a long term view formulate a plan to reinstate a family orientated future, where any buildings are properly considered and planned to enhance the Conservation Area, the Listed Monument and the experience of Islanders and visitors.

Officer Response: the number of issues raised by the Society are relevant in the context of the historic nature of the area and its heritage value, however many of the historic assets remain unaffected. The physical nature of the area and the uses therein have evolved over the years and with a number of newer uses and developments, some of which are less sympathetic to the area in the historic context. The use of the seafront for the development leisure, recreation, entertainment and tourism activities has been established over many decades globally including historically important towns and cities and in this respect Jamestown seafront is no different. In assessing development proposals it is important to consider their impact and to ensure wider benefits that will create opportunities for restoration of buildings and spaces by encouraging new uses for the area and buildings that will deliver economic and social benefits for the area and wider communities.

It is also recognised that one of the most appropriate means of preserving and managing historic/heritage assets is to encourage the buildings and areas to be brought back into viable and acceptable use. Laying them dormant and neglected only causes further dereliction and increase public liability. The continued use of the area should not undermine any other initiative for promoting and developing strategies and that includes the aspirations for the World Heritage Status

The use of Mule Yard for entertainment, leisure and recreation is creating a venue for the local community and complements other similar uses that have been established. This is in line with the April 2019 Document that was endorsed by the Waterfront

Working Group Masterplan to provide a framework for the future development and regeneration of Jamestown Seafront. Many of the structures and building that were granted temporary development permission are a concern and they are of poor design and physical condition, however, the development application provides an opportunity to address these issues.

OFFICER ASSESSMENT

The development permission granted in 2009 was for a temporary period that lapsed in 2018. The permission was granted with a number of conditions that have not been complied with and as result all the agreed proposal submitted with the development application have not been implemented. The current development application is an opportunity to readdress these issues, should the Governor-in-Council be minded to grant development permission having considered the views expressed by the Authority, to ensure the use and development is sympathetic to its location and in compliance with the consent.

The site has been in used for the purpose of leisure and recreation, either formally and/or informally for many year prior to the 2009 development application, further development of the use for entertainment is an extension and intensification of the operation and these uses. The LDCP adopted in 2012 was formulated whilst this historic area was evolving the early and later years of noughties and although this development plan has made no reference to the developing uses in the area or considered any other proposals. In view of this, it can be considered acceptable to assume the current uses in this area as well for other areas on the Island at the time of the adoption of the current development plan were acceptable.

Whilst accepting that the development permission for the buildings and structure has lapsed since June 2018 and that these structure are unauthorised, however no action has been taken by the Planning Service to secure their removal in compliance with the 2009 development permission. Should the Governor-in-Council be minded to refuse development permission having regards to the view expressed by the Authority, then the removal of these buildings and structure will required and the reinstatement of the area an agreed scheme of open space.

Recognising how this area has continued to evolve over many years with new uses and developments in the wider Jamestown seafront for new and extension of existing tourism related activities, further development of activities that promote and cater for leisure, recreation and entertainment uses must be seen as the future for this area. It is also important to ensure that design and quality of future development have regards to the historic and heritage value of the area and that these design and details are sympathetic and adhere to these values.

D. PLANNING OFFICER'S RECOMMENDATION

Having evaluated and reviewed the previous development permission and having regards to wider area of the Jamestown seafront in light of the LDCP policies and the representation made by the Heritage Society, it is considered that use of the site for purpose of tourism activities that leisure, recreation and entertainment use would be an acceptable use. The nature and quality of the development that has taken place over the past raises many concern and through the development process there is an opportunity to address these concern and seek improvements in design and quality of the development that will respect the historic setting and heritage value of this area.

As the application site is within 50m of the coast and in accordance with the Governor's direction to the Chief Planning Officer of April 2014, this development application will referred to the Governor-in-Council for decision. The view of the Authority will be conveyed to the Governor-in-Council when the development application is reported for decision.

In light of the justification set out in this report, subject to any other view and concerns the Authority have in respect of this development proposal, it is recommended that the Authority supports this development application and request that the Governor-in-Council grants Full Development Permission subject to number condition as set out in this report.

It is recommended that **FULL DEVELOPMENT PERMISSION** is **GRANTED** for the continued use of the application site, referred to the Mule Yard, for the purpose leisure, recreation and entertainments, within Use Classes A3 and D2, and for the retention of the buildings and structures related to these uses, subject to the following Condition:

- 1) The use and layout of the development will accord with plans (DWG No. 01/001/2021, 01/002/2021 and 01/003/2021) received on 11th March 2021 as stamped and approved by the Chief Planning Officer, on behalf of the Land Development Control Authority, subject to the Condition of this Decision Notice and unless the prior written approval is obtained for an amendment to the approved details under Section 29 of the Land Development Control Ordinance, 2013.

Reason: Standard condition to define the terms of the development and to ensure that the development is implemented and retained in accordance with the approved plans.

- 2) Within six months from the date of this development permission, full detailed proposals for the upgrading and improvement of the buildings and structures are submitted and approved in writing by the Chief Planning Officer, on behalf of the Land Development Control Authority.

Reason: to ensure that the buildings and structures on the site are of design, detail and quality that respects the historic area and the heritage value of the conservation area.

- 3) Subject to the approval of full detailed proposals for the upgrading and improvement of the buildings and structures as set out in Condition 2, the implementation of the proposal will be completed with six months of the approval and Discharge of Condition.

Reason: to ensure that the improvement and upgrading of the buildings and structures are undertaken within an agreed time frame.

- 4) Within six months from the date of this development permission, a landscaping scheme for both hard and soft landscaping of the sites, including improvements to the external boundary of the site, will be submitted and approved in writing by the Chief Planning Officer, on behalf of the Land Development Control Authority.

Reason: to ensure that the general appearance of the site upgraded and enhance that respects the historic area and the heritage value of the conservation area.

- 5) Subject to the approval of landscaping for the site as set out in Condition 4, the implementation of the landscaping scheme will be completed with two years of the approval and Discharge of Condition.

Reason: to ensure that the improvement and upgrading of the general environmental of this area is undertaken within an agreed time frame.