

## Open Agenda

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### Memorandum for Executive Council

**SUBJECT**

**Development Application: Proposal to Retain the Structures within the Mule Yard (Retrospective Application)**

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 Proposal to Retain the Structures within the Mule Yard (Retrospective Application).**

**BACKGROUND & CONSIDERATIONS**

#### **CONSIDERATION OF DEVELOPMENT APPLICATION BY EXECUTIVE COUNCIL**

2. In accordance with the directions issued by the Governor-in-Council to the Chief Planning Officer on 17 April 2014 under Section 23(1) of the Land Planning and Development Control (LPDC) Ordinance, 2013, the Chief Planning Officer is required to report to him on all applications for Development Permission for the development of any land covered by water or land within 50 metres of land covered by water.

#### **THE DEVELOPMENT PROPOSAL**

3. 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. (See the LDCA Report at Annex A and Diagrams in Annex B).
4. The proposal is to continue the current use and retain all the structures in this area known and referred to as the Mule Yard providing an entertainment and leisure venue. The Jamestown seafront is promoted as an area for leisure, recreation and tourism and has a number of entertainment venues of which the Mule Yard is one such venue. Adjoining the Mule Yard is the swimming pool.
5. The Mule Yard is one of the venues that caters for young people and holds a number of cultural and leisure events during the day for families. In the evenings it also provides adult entertainment, as a night club/disco venue. The proposal is to

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continue this wider entertainment and leisure use for the area.

### **RATIONALE BEHIND THE DEVELOPMENT PROPOSAL**

6. The rationale for the development is to utilise the existing buildings and structures that are on the site and to continue the recreational, leisure, entertainment and tourist facility on the Jamestown seafront. With the grant of full development permission to encourage potential operators to invest into the site and improve, enhance and upgrade the physical environment of the area and structures that are more acceptable in the important historic environment.
7. The principal objective of this development is to continue the recreation and leisure use for the local community and visitors to the Island. The use complements the other similar uses on the Jamestown seafront.
8. Development and investment in the local economy is important to the economic prosperity of the Island and the development of a tourism industry. Development of recreational, leisure and tourism operations is considered an important economic objective for the Island and to optimise its location for international visitors to enjoy the leisure and recreation and sample the quality nature and historic environment.
9. The level of investment outlined in this proposed development and the potential to improve and upgrade some of the local community infrastructure also support the goals in the 10-Year Plan (2017-2027) including developing St Helena industry.

### **PLANNING HISTORY FOR THE DEVELOPMENT PROPOSAL**

10. The use of the site referred to as the Mule Yard has been in recreational and leisure related use for many years, even before the grant of the temporary development permission by the Governor-in-Council in 2009 (Development Application ref: 2009/10/JT). This development permission lapsed in June 2018 however the use has continued and the building and structure have remained on site. No action has been taken by the Planning Service to ensure compliance. The continued use of the site and the buildings and structures are in breach of the Land Planning and Development Control Ordinance 2013, as the use and building do not have a valid development consent and furthermore it has also failed to comply with the condition requiring the site to be cleared following the expiration of the development permission and to return the site to its original state.

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11. The current proposal is to continue the recreational, leisure and entertainment use and to retain the buildings and structures. Full details of the development and its assessment is set out in section B of the LDCA report in Annex A.

## **PUBLIC CONSULTATION**

12. There has been no community and/or stakeholder consultation prior to the submission of this development application. The Planning Service has consulted with the local community and stakeholders on the proposed development. A full analysis of stakeholder responses is set out in Section B of the LDCA Report.

## **SOCIAL BENEFITS FROM THE DEVELOPMENT**

13. There are a number of social benefits arising from the development application that is seeking to retain the existing buildings and structures in order to continue the recreational, leisure and entertainment use that is provided in the Mule Yard to the local community. This use is one of a number of similar and complementing uses on the Jamestown seafront meeting with the overall future vision for tourism and leisure facilities on the Island. Whilst the development is not creating additional jobs due to the size of the operation, however, through the continued use of the operation, jobs are being retained and discontinuing the current use of the property would lead to job losses. If the business venture is successful, there may be opportunities for further jobs being created.

## **ASSESSMENT OF DEVELOPMENT PROPOSAL AGAINST PLANNING POLICY**

14. **The Land Development Control Plan 2012:** The relevant Land Development Control Plan (LDCP) policies that are applicable in respect of this development include the following:
  - i. Intermediate Zone: Policies IZ1(a, b and g)
  - ii. Built Heritage Policies: BH1 (c), BH.2, BH.3
15. The LDCP policies identified for the assessment provide direct and indirect support in principle for the actual use of recreation, leisure and entertainment in this location, however as this use was current and operational at the time of the LDCP 2012 being formulated and adopted, the recreational and leisure use would have been applicable. The assessment and analysis for the retention of the buildings and structures against

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the policies is included in Section C of the LDCA Report.

### **CONSIDERATION OF THE APPLICATION BY THE LAND DEVELOPMENT CONTROL AUTHORITY (LDCA)**

16. At their 2 June 2021 meeting, the Land Development Control Authority (the Authority) considered the report on the development application seeking FULL Development Permission for the Retention of the Structures in the Mule Yard (see Diagrams 1 and 2 in Annex B). The Authority whilst welcoming and supporting the continued use of the application site for the purposes of recreation, leisure, entertainment and tourism has expressed concern regarding the retention of the various buildings and structures, due to their poor design and condition, and its impact on the historic importance of the area and the general environment being created by these building and structures. The Authority considers that the existing buildings and structures should be removed and a detailed proposal formulated for this area that would respect the heritage importance of the application site and the general area.
17. The Authority also raised a number of other issues related to the ownership of land and buildings, future lease arrangement and the responsibilities for ensuring compliance of conditions for the implementation of improvements and upgrading of the buildings and the general area.
18. In view of the above issues and concerns raised, the Authority advises that should the Governor-in-Council be minded to grant development permission in respect of this development application for the retention of the buildings and structures then Conditions 2 and 5 should be amended as follows:
  - a) Condition 2: “assessment of the existing buildings and structures that are built against the listed structures and where possible these should be moved away and the areas repaired and appropriate restoration undertaken.”
  - b) Condition 5: “the implementation of the landscaping scheme to be implemented within 12 months of the Discharge of the Condition.”

### **CONCLUSION AND RECOMMENDATION**

19. The application site has been in use for the purpose of leisure and recreation, either formally and/or informally for many years prior to the 2009 development application and there has been further development of the use for entertainment through extension and intensification of the operation and these uses. There are no specific proposals or policies contained in the

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LDCP for the use of the area other than the general view for promoting lower Jamestown for tourism activities. The continued use of this area for recreation, leisure, entertainment and tourism is, therefore an acceptable use for the seafront area

20. 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 a result all the agreed proposals submitted with the 2009 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 and other stakeholders, to ensure the use and development is sympathetic to its heritage location and is in compliance with the consent, the various conditions are included to ensure that the general design of the buildings and structures is enhanced and respects its location and heritage location.
21. The conditions to be included with the development consent, should the Governor-in-Council support the development, are designed to provide an opportunity for the new operator to assess and work-up proposals to repair, refurbish and renovate these buildings and structures, to be agreed by the Chief Planning Officer on behalf of the Authority. This may also include the need to remove and replace buildings and structures that would enhance and restore the historic environment and heritage value of the area.
22. The responsibility of ensuring compliance with the development permission rests with the landowner and future leases/operator of the site. The landowner in granting future lease of the site will need to ensure that conditions of the development permission are appropriately set out in the lease agreement. It is considered that the timelines for the compliance of the conditions recommended by the Chief Planning Officer are not unreasonable as it provides reasonable period to assess and design a scheme both for the buildings and structures and for the wider environment of the site. Similarly, it is considered that a period of six months and two years for the implementation of the approved plans is an appropriate period to commence works following approval. Although, the Authority would consider that Condition 5 should be 12 months, the objective of two years for the implementation of the landscaping scheme is to ensure that there is no undue financial burden on the operator.
23. The Governor-in-Council is also reminded that should the decision be to refuse development permission, then a request

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would be to the Authority at its next meeting to commence enforcement action to seek removal of the buildings and structures that are erected on this application site as they will be in breach of development permission granted in 2009 that has expired.

24. In view of the assessment and analysis of the development application set out in this memorandum and having regards to the concerns raised by the Authority and the stakeholders, it is concluded that the use of the site for recreation, leisure, entertainment and tourism is an appropriate and acceptable use for the site. However as the buildings and structures are not appropriate for this location, the grant of development permission is the most acceptable way to address this. The various conditions included with the development permission would be able to address the implementation through partnership working between the landowner and the leases/operator of the site.

### FINANCIAL IMPLICATIONS

25. There are no financial implications arising for the St Helena Government from the application for development, as financing of the development will be the responsibility of the Applicant.

26. However, as SHG is the landholder who leased the property to the current operator after lapse of the previous development permission, there may be financial issues that arise from the grant of lease and any financial impact to the Applicant. These impacts are not considered a planning issue.

### ECONOMIC IMPLICATIONS

27. The existing development is a private business that has been operational under various operators since 2009. This business provides employment to St Helenians and is one of a limited number of hospitality establishments operating at the Jamestown Seafront. Continued operation of this establishment would be considered positive from an economic perspective.

28. The focus of the existing development is on providing additional and varied community related facilities in a quality environment. This continued use and development is consistent with the recommendation of the SEDP for developing recreation, leisure and tourism facilities.

29. If new buildings are required, local contractors in the construction industry could benefit, however this will come at a cost to another local business. Reducing or eliminating the services available from this location for a period of time would

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affect employment of those individuals already working there.

### **CONSISTENCY WITH INVESTMENT POLICY PRINCIPLES**

30. The proposal is to continue the current use and retain all the structures in this area known and referred to as the Mule Yard providing an entertainment and leisure venue.
31. Approving this proposal as requested would be consistent with the Investment Policy principles:
  - Make St Helena a desirable and competitive destination to do business by removing barriers to investment
  - Support an economy which is accessible to all potential investors and promote investments across the economy
  - Support the locally based private sector to compete in an open economy but, where possible, avoid being overly protective
32. Additional conditions may not be consistent with the Investment Policy principles if they create an undue burden on the operator.

### **PUBLIC/SOCIAL IMPACT**

33. There is no social impact assessment (SIA) accompanying the planning application. The proposed development has some social and cultural impact due to the quality of the existing buildings and structures in this historically important and prominent location. The use is well established in this location and complements a number of similar recreational and leisure uses on the seafront area of Jamestown that is also popular with tourists and visitors to the Island.
34. The venue also holds a number of community and cultural events that are well supported.

### **ENVIRONMENTAL IMPACT**

35. The issues raised by the stakeholders regarding the impact of these buildings and structure on the local heritage of the area is an important consideration in the assessment of this development application. In short the existing buildings and structure detract from the historic setting.
36. This development application provides an opportunity to work with the lessor and operator of the business to upgrade the buildings and structures to ensure they are more in keeping with the historic setting. Any upgrading should also consider the wider environmental impacts to ensure the overall quality of the environment is enhanced.

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### PREVIOUS CONSULTATION/ COMMITTEE INPUT

37. The development application was advertised for a period of 14 days to seek comments from the communities and stakeholders on the development proposal.
38. Key Stakeholders have responded and their views have been considered by the LDCA.
39. There were representations received from the Heritage Society and the issues raised have been assessed and responded to in paragraph 15 of the report.
40. There has also been a representation received from Enterprise Saint Helena supporting the proposed development.

### PUBLIC REACTION

41. Due to the Mule Yard being a popular venue for social and community events this will generate both public and media interest during the future implementation of the project.

### PUBLICITY

42. ExCo's decision will be covered in the Radio Briefing following the meeting.

### SUPPORT TO STRATEGIC OBJECTIVES

43. This paper supports the Altogether Wealthier Goal and Strategic Objective 3.1 Ensure sustainable economic development.

### LINK TO SUSTAINABLE ECONOMIC DEVELOPMENT PLAN GOALS

44. The development proposal is consistent with Goal 10 of the SEDP 'Provide investment opportunities for people living on St Helena to buy into, as an alternative to Investing abroad and Goal 3 of the SEDP 'Attract Visitors and Increase Tourism.'

### IMPLEMENTATION OF POLICY LEGISLATION

45. N/A

### OPEN/CLOSED AGENDA ITEM

46. Recommended for the Open Agenda.

**SO'B**

Central Support  
Service

7<sup>th</sup> June 2021

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