

ENVIRONMENT DEPARTMENT PLANNING DIVISION

OPEN PLANNING MEETING AGENDA

An Open Planning Meeting will be held at Beau Sejour, Cambridge/Delancey Room, on **Tuesday 27/01/2015** at 8.45am for a 9.00am start.

The following applications will be considered at the Open Planning Meeting:-

Agenda Item 1 :-

APPLICATION NUMBER:	FULL/2014/2743
APPLICATION ADDRESS:	North Beach Car Park St Peter Port Harbour St. Peter Port.
DESCRIPTION OF WORK:	Change of use of eastern section of North Beach car park to port operational area.
NAME OF APPLICANT:	Guernsey Harbours.

Agenda Item 2 :-

APPLICATION NUMBER:	FULL/2014/1920
APPLICATION ADDRESS:	Castle Pier St. Peter Port.
DESCRIPTION OF WORK	Erect Guernsey donkey statue at harbour.
NAME OF APPLICANT:	Guernsey Donkey LBG.

The agenda for the open planning meeting, along with the planning application reports relating to the applications to be considered, which follow below, are made available five working days before the date of the Open Planning Meeting on the Department's website and also in hard copy at the Department's offices. The planning application reports below contain a summary of consultation responses and of any representations received on the applications from third parties.

There will be provision for **public speaking** at the open planning meeting. The opportunity to speak is afforded only to persons who:

a) have submitted a representation in writing within the period specified for publicity of the application under section 10 of the Land Planning and Development (General Provisions) Ordinance, 2007, along with the applicant and/or their agent for the application; and

b) who have notified the Department in writing (by letter or by e-mail addressed to Planning@gov.gg) of their intention to speak which is received by the Department by 12.00 Noon on the working day immediately preceding the date of the Open Planning Meeting.

Application No: FULL/2014/2743
Property Ref: A411192A00&A411192A02
Valid date: 24/09/2014
Location: North Beach Car Park St Peter Port Harbour St. Peter Port Guernsey
Proposal: Change of use of eastern section of North Beach car park to port operational area.
Applicant: Guernsey Harbours

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 Environment Department 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 Environment Department and (ii) it is commenced or, as the case may be, continued, in accordance with that requirement and any further requirements imposed by the Environment Department 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. This permission is given for a maximum of four years from the date of this decision notice. On or before 01 February 2019, the use of the application site for public car parking shall be resumed.

Reason - The permission is granted to meet an operational need associated with port operations. A temporary permission allows for the preparation of a Harbours Strategy in accordance with policy ETL1 of the Urban Area Plan or the re-consideration of the development against the policies of the new Island Development Plan.

5. No use of the application site for use in connection with port operations shall begin until such time as additional public car parking, indicated on the aerial photograph submitted with the Harbourmaster's letter dated 2 January 2015, has been laid out and the spaces delineated in a manner first agreed in writing by the Environment Department. The additional car parking shall be

retained for public use for as long as the use of the application site for port operations continues.

Reason - To minimise any loss of public car parking as a result of the proposed development.

6. No use of the application site for use associated with the re-positioning of the ferry vehicle check-in area shall begin until such time as a scheme detailing the arrangements to be made for the flow of traffic to and around the application site, including the provision of appropriate signs, has been submitted to and agreed in writing by the Environment Department. The agreed scheme shall be fully implemented before the use associated with the re-positioning of the ferry vehicle check-in area begins.

Reason - To ensure vehicle circulation to and around the site is provided in a way which maximises the free and safe flow of traffic.

7. Notwithstanding the information submitted, no development shall begin on site until precise details of the new fencing have been submitted to and agreed in writing by the Environment Department. The fencing used shall be only as agreed .

Reason - To ensure the satisfactory appearance of the completed development.

8. The ends of the new openings created under FULL/2011/3733 shall be neatly finished in matching stone within two months of the date of this decision notice.

Reason - To ensure the satisfactory appearance of the completed development.

9. Notwithstanding the information submitted, no use of the application site for use in connection with port operations shall begin until such time as the carved stone monument located within the site has been re-sited to a position agreed in writing by the Environment Department, and an associated interpretation panel has been erected.

Reason - The carved stone monument has historical interest. Its re-siting to a more appropriate position with an interpretation panel will ensure it is more open to view by the public and visitors.

10. Unless otherwise agreed in writing, the new fencing approved as part of this permission shall be removed at the end of the temporary period to which condition 4 refers. As part of the process of removal, the coping of the historic sea wall shall be made good, in a manner first agreed in writing by the Environment Department, within 28 days of its removal.

Reason - To ensure the satisfactory re-instatement of the wall which comprises an historic feature in the conservation area.

11. At the expiry of this permission, the eastern boundary of the North Beach car park shall be re-instated, in a manner previously agreed in writing by the Environment Department.

Reason - To provide a clear definition to the car park and thereby ensure the satisfactory appearance of the area.

INFORMATIVES

For the avoidance of doubt, the existing granite wall running along the southern boundary of the ferry check-in area shall be retained and the layout of the vehicle waiting area will need to be re-arranged to accommodate this.

For the avoidance of doubt, this permission provides for the re-location of the existing check-in huts, WC block and telecommunications box, but does permit the erection of any new buildings.

Please note the enclosed comments from the Traffic Services Unit, particularly in relation to the position of the proposed roundabout. These comments must be considered in meeting the requirements of condition 6 above.

OFFICER'S REPORT

Site Description:

The application site comprises the eastern end of the North Beach car park and the adjoining land to the east comprising the established trailer park and ferry parking area.

The site is within a conservation area.

Relevant History:

2011/3733 02/02/2012 Permission for Use of section of North beach car park as trailer park for the duration of the Berths 4, 5 & 6 project, including creation of access/egress and erection of perimeter fencing

2011/1497 24/06/2011 Permission to Refurbish berths 4, 5 & 6

Existing Use(s):

Public car park and port operations

Brief Description of Development:

The application seeks planning permission to retain the area granted temporary permission in 2012 for use in connection with port operations on a permanent basis. A condition of the 2012 permission states:

This permission is given for a maximum of three years from the date of this decision notice. On or before 01 February 2015, the use of the application site for public car parking shall be resumed.

Reason - The permission is granted to meet a declared short term need and because it is a development which by virtue of its nature and impact is considered to be unacceptable for any longer period.

When applying for temporary planning permission to use part of the public car park for storage associated with the operation of the port, it was indicated that this was needed during the time works were carried out to re-furbish berths 4, 5 and 6. The area has been used to accommodate trailers containing freight. A new road has been created immediately to the west of the area being used.

The application was accompanied by a supporting statement. This explained that the works to re-furbish berths 4, 5 and 6 would result in part of the secure area of the harbour being lost. Alternative provision was needed to ensure continuity of port operations, to meet health & safety requirements and to provide necessary security.

Following consideration of alternatives, it was concluded that the only option was to use part of the North Beach car park. The duration of the project was anticipated as 30 months. The area to be taken provided 203 car parking spaces.

The present application is accompanied by a letter of support from the Harbour Master. This letter refers to various reports which point to inadequacies in the current operation of the harbour and indicates that these are being considered as part of the long term arrangements in and around the harbour.

However, there is a more immediate need to accommodate Condor's new larger vessel, which is expected to enter service in Spring 2015. There is an urgent need to address the inadequate facilities available for ferry bound cars and passengers and the need for additional freight storage capacity.

The existing car marshalling area would be expanded from 90 spaces to 204 with a third check-in lane. The RoRo freight storage area would be expanded to accommodate 55 trailers instead of 45 as now.

These changes would improve the flow of vehicles and address some of the problems associated with maintaining essential port operations.

It is suggested that the use of the East Arm for public parking has worked well with no complaints and the intention is that this would continue. The area on Castle emplacement, which provides around 20 parking spaces, would be handed back.

The proposal provides for the permanent removal of part of the existing stone wall together with demolition of significant additional sections.

Consideration of the application was deferred in view of concerns about:

1. lack of a Harbours Strategy to support the application;
2. the proposed demolition and the impact of the development on the conservation area;
3. lack of detail submitted with the application;
4. loss of public parking and issues raised by the Traffic Services Unit; and
5. the justification given for the proposal.

In response, the Harbour Master has indicated:

1. the existence of the Guernsey Ports Master Plan, the Future Harbour Requirements Study and the Guernsey Harbours 2014-2023 Business Plan. He suggests that these support the present proposal;
2. that a number of alternative layouts have been considered. The proposed demolition would maximise use of the space and improve port traffic flows and delineation of working areas. He suggests that this is similar to the previous proposal already given

planning permission. Removal of walls has been kept to a minimum while attempting to maximise the port operational area and working;

3. that further details have been submitted in a separate planning application;
4. that TSU have no concerns about the width of parking spaces on East Arm, 40 spaces have been made available for Inter-Island travel during the summer and parking on East Arm would be available at all times. He suggests that 192 spaces would be lost as a result of the proposal with 183 replacement spaces being made available at East Arm with a further 9 being created on the southern edge of the QE2 marina. Further clarification of traffic flows and management is provided;
5. that the changes to the ferries will result in the same number of vehicles requiring processing daily, but all at once for one departure. Currently, vehicles are spread over multiple sailings. Introduction of 3 check-in lanes and greater check-in capacity would address this issue. Use of the trailer park involves a progressive and repetitive process throughout the day. Full trailers are taken away progressively and returned empty ready for return shipment off Island. Typical capacity requirement as advised by Condor is for 65 at any given time.

Following discussions with harbour staff, additional information and a revised drawing have been submitted.

The Harbour Master has repeated that the Guernsey Ports Master Plan, the Future Harbour Requirements Study and the Guernsey Harbours 2014-2023 Business Plan are used to plan and make strategic decisions about the future of the harbour, even though they may not be regarded as a Harbours Strategy for the purposes of the Urban Area Plan. The proposal addresses longstanding issues identified in relation to health & safety and operational efficiency and meets long term recommendations made in the above studies. The arrival of the new Condor ship will compound existing problems and there is a wish to introduce the new port layout before the ship is introduced in March.

The Harbour Master has provided an illustration showing the provision to be made for alternative parking. He has accepted that a temporary permission may be appropriate at this time and has revised the proposal so as to retain the historic wall running along the northern side of St Julian's Emplacement. This results in a reduced capacity of the car check-in area by 36 spaces.

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

Urban Area Plan

GEN2 – Comprehensive development

GEN7 – Roads and infrastructure

CEN6 – Public and commercial car parks

GEN8 – Safe and convenient access

DBE7 - New development in Conservation Areas

ETL2 - New harbour facilities

ETL3 - The quality of the quayside environment

Representations:

Three representations have been received objecting to this proposal for reasons as summarised below:

1. reneging on a public undertaking to return area to car parking;
2. loss of 200 long term parking spaces on a permanent basis and the impact on the Island economy;
3. existing trailer park is under-utilised;
4. current ferry parking area is rarely full and a reduction in sailings to accommodate the larger ferry would result in little overall change;
5. East Arm is already used for parking. Proposal would reduce area for boats;
6. harbour staff/permit holders should have to compete for a parking space like everyone else;

A letter of support has been received from the General Manager of Ferryspeed. He indicates that, first thing in the morning, trailers are being left outside the secure area and down the roadway of the harbour. He suggests the proposal is a sensible solution to a congested area.

Consultations:

Traffic Services Unit:

The Department notes that there will be a loss of 192 parking spaces from the North Beach car park under the proposal, but as these will be provided on the East Arm (183) and next to the QE2 Marina (9) there will be no nett loss. It will require motorists to park further away from the centre of Town, so there is an inconvenience factor. However, there is no significant objection in regards the removal of parking spaces.

In regards of the proposed traffic management and layout of the car marshalling area etc, Department staff have been closely involved with the plans and have no issues, except to point out that the roundabout will need repositioning further west to enable car drivers to drive around it when entering the check-in queuing lane. Turning circles for different types of vehicles should be shown for all the arms to assess its best position. We accept that the reconfiguration will help improve the flow of vehicles around the harbour, from an operational, safety and security perspective and, whilst from the plans it appears that there will still be some cross-over of vehicles, we consider that the best has been done within the road space available and current positions of buildings.

We are pleased to note that Guernsey Harbours is receptive to working with us to consider the provision of cycle and motorcycling facilities as appropriate, in line with the aims of the Integrated Transport Strategy.

In summary, the Traffic Services Unit has no significant objections to the proposals.

Constables of St Peter Port: “The matter was considered by the Douzaine recently, some of whom had concerns regarding the permanent loss of parking but generally it was felt that there is no alternative.”

Summary of Issues:

The main issues in deciding this application are:

1. the impact of the development on the port;
 2. the impact of the development on public parking;
 3. the impact of the development on the conservation area; and
 4. access issues,
- taking into account the policies set out above.

Assessment against:

1 - Purposes of the law.

The objectives of the Law, as set out in Section 1(2), have been considered and this forms part of the assessment of policy issues set out in 2 below.

2 - Relevant policies of any Plan, Subject Plan or Local Planning Brief.

Impact on the port

Policy ETL2 states:

The further improvement of harbour facilities and the construction of new facilities together with their associated land uses, in accordance with an approved Harbours Strategy, will be supported.

The supporting text to the policy indicates that the strategy will help to identify the operational requirements, capacity and performance standards of the harbours.

Permission was granted to improve berths 4, 5 and 6 on the basis that replacement of the harbour cranes, which were at the end of their useful life, was essential to safeguard the satisfactory maintenance of harbour operations. The provision of new mobile cranes required work to strengthen and improve the existing decks. Unless the work was carried out, there was an increasing risk to the Island's economy. The associated use of part of the public car park for port operations on a temporary basis was granted to allow for this work to be completed effectively.

Policy ETL3 indicates the need to take into account the quayside's distinctive character, important public views, and the need to conserve and enhance features of architectural and historic interest.

The previous permission was granted on the basis that the proposal involved works to provide access to the site and to cater for changes to traffic flows. However, it was stated that the areas affected would be re-instated at the end of the project. As such, it was accepted that there would be no long term effect on the harbour environment.

The Harbour Master has pointed out that the current proposal is driven by the need to accommodate the new Condor vessel, but that it is also essential in order to address longstanding concerns identified in relation to health & safety, security and operational

efficiency. These issues are identified in the Guernsey Ports Master Plan, the Future Harbour Requirements Study and the Guernsey Harbours 2014-2023 Business Plan. In effect, these documents comprise a harbours strategy.

The Guernsey Ports Master Plan is a key document establishing the future direction for the harbours. Engagement with interested parties, commercial operators, port users, stakeholders and the public formed an integral and important part of the evolution of the Plan. The Plan was noted by the States but neither this nor the other documents referred to above have been approved by either the States or the Environment Board. Their findings and recommendations have not been the subject of public consultation. It is unclear whether all these documents are publicly available. They are not regarded as a harbours strategy for the purposes of the Urban Area Plan, although their contents are relevant in the context of the current application as they provide justification for the proposed development.

In effect, the proposal would continue the present arrangements, but with a different layout. The position of the existing trailer storage area and car check-in area would be reversed with a revised entry to the ferry check-in area. Physical changes would be limited to the removal of the existing wall along the eastern boundary of the original public parking and the erection of new fencing to match the existing.

The aims and objectives of the Strategic Land Use Plan (2011), the Integrated Transport Strategy (2014) and the work emerging from Ports Masterplan 2013 and associated documents, will inform the Department's current review of the Island Development Plans. A new Island Development Plan is to be published in February 2015 and, following a public inquiry, will be laid before the States for adoption in 2016.

Considering the progress of recently adopted strategies and other work by States Departments which will influence the future use of the harbour area together with the fact that considerable work is still required to identify the best, long-term arrangement of all the port facilities, it would be premature for either the proposed section of the North Beach car park to be permanently incorporated within the commercial port area or for any substantial and irreversible works to be carried out.

Impact on public parking

Policy CEN6 seeks to ensure that there is sufficient and suitably regulated public and private off-street parking to meet the operational needs of Town. It is indicated that a reduction in the level of car parking provision will not normally be permitted.

The implication is that permission should not be granted to reduce parking provision in Town. However, the previous proposal granted permission:

- related to a temporary period only while essential improvement works were carried out to facilitate the satisfactory long term operation of the port;
- included mitigation measures to reduce the impact of the loss. These related principally to the use of the East Arm for public parking during the day providing 159 spaces and the use of land to the south of the Model Yacht pond providing 40 spaces.

The mitigation measures created 199 spaces in compensation. It was concluded that the proposals represented a practical alternative solution to this short term problem.

The present situation would be similar in its effect. As the Traffic Services Unit points out, motorists would need to park further away from the centre of Town so there would be some inconvenience. However, as there would be no net loss of parking spaces, the TSU does not object to the proposal.

Impact on the conservation area

The site is within a conservation area. There is a statutory duty to have regard to the desirability of preserving and enhancing the character and appearance of conservation areas, a duty reflected in Policy DBE7 of the Urban Area Plan.

The proposal as originally submitted involved the demolition of a section of the harbour wall which was existing pre 1900. This is one of the relatively few remaining features of heritage interest within this part of the harbour.

The revised proposal retains this section of harbour wall. The section removed, which runs east-west, is of later date associated with the construction of the QEII Marina in the 1980's. The proposal as revised would have a much reduced visual impact.

The carved stone monument affected by development would be re-positioned.

The harmful effects of demolishing the wall could be mitigated by requiring the wall to be rebuilt once the temporary permission expires. However, such an approach would only replace a late C20th wall with an early C21st wall. Due to the low historic interest of the wall, such an approach would not be proportionate.

Although the proposed fencing is unattractive, it is required for security purposes. It would be similar to existing fencing. The immediately surrounding area is dominated by vehicles and is generally unattractive.

The fencing around the perimeter of the car parking and including the fixing to the sea wall would preserve the character and appearance of the conservation area (i.e. would not harm).

As the recommendation relates to a temporary permission, a condition is recommended requiring making good any damage to the remaining sea wall should the fencing be removed.

Access issues

The proposal provides for changes to the flow of traffic around the application site. Whatever solution is chosen, there would be some inconvenience for drivers and pedestrians using the roads and footways in the area and some need for supervision by port operatives when freight is being moved.

The present arrangements have been drawn up in consultation with the Traffic Services Unit, which has no objection to the proposal.

Conclusions

In considering a proposal for permanent development, the impact on port operations, public parking for Town, the Conservation Area, safe access and movement around the site and the future development of the Harbour area as a whole needs to be considered.

A co-ordinated approach to the planning of the harbour is needed, considering opportunities beyond the purely functional requirements of the ports. There is potential to enhance the harbour areas and secure significant inward investment, to promote wider economic, social and environmental objectives. The Strategic Land Use Plan, which will influence the new Island Development Plan, seeks a balance between the operational needs of the functioning ports and making the most of opportunities in the harbour areas for other development for the greater good of the economy and community, in order to maximise the potential of these areas.

A temporary permission to accommodate the short term need of harbour operations with any physical works kept to an absolute minimum appears to be the appropriate way forward. This would not prejudice future work to maximise the potential of the harbour area.

Recommendation

Grant a temporary planning permission subject to conditions.

3 - General material considerations set out in the General Provisions Ordinance.

The matters to be considered under Section 13 of the Land Planning and Development (General Provisions) Ordinance 2007 have been assessed as part of the section dealing with policy issues set out in 2 above.

4 - Additional considerations (for protected trees, monuments, buildings and/or SSS's).

The proposal would have no impact on protected trees, buildings or sites.

Date: 20 January 2015

Application No: FULL/2014/1920
Property Ref: A300030000
Valid date: 08/09/2014
Location: Castle Pier St. Peter Port Guernsey
Proposal: Erect Guernsey donkey statue at harbour.
Applicant: Guernsey Donkey LBG

RECOMMENDATION - Refusal with Reasons:

1. The Castle Breakwater, although not a protected building is an historic and unique structure within the Conservation Area. Public views to the breakwater and along its length are distinctive and are themselves iconic. It is considered that the silhouette of the column and donkey, whether against sea or sky, will not enhance or conserve the character or appearance of the area. In views from Castle Emplacement and Pier, it is likely to obstruct views to the lighthouse. There is no cogent justification for the proposed location.

As proposed the installation is considered to impact on the setting of Castle Cornet, a Protected Monument, to detract from the public views to Castle Cornet and the Breakwater, would fail to conserve or enhance the character or appearance of the conservation area and therefore is contrary to Policies DBE1, DBE6, DBE7 and DBE8 of the adopted Urban Area Plan.

OFFICER'S REPORT

Site Description:

The sculpture is shown as positioned c11m north of the Castle Breakwater, at a point approximately opposite the easternmost point of Castle Cornet and therefore within the harbour entrance and intertidal zone.

Relevant History:

None.

Brief Description of Development:

The kicking donkey sculpture would be of cast bronze, its maximum height approximately 3.8m (12½ feet) mounted on a 1.5m diameter, 7m high granite column, designed so that the base of the sculpture would be 1.6m above the height of the breakwater. The top extremity of the sculpture would therefore be 5.5m above the breakwater. Illumination is not part of the application, although uplighting at the base of the sculpture is 'being investigated' by the applicant.

The application suggests that the particular orientation of the kicking hooves towards Salarie Corner and the head turned to the harbour mouth would avoid comparison with the postcard published at the end of the occupation and be seen as welcoming arrivals by sea.

The statement in support of the application, parts of which are referred to in consultations and representations below, explains:

- Since the Millennium there has been wider use of Guernsey people being described as Guernsey Donkeys, the project will be welcomed and enjoy widespread support and the Guernsey Donkey is an integral part of the island and islanders' culture and identity.
- The proposal is aimed at creating a sculpture which will not become lost in the street scene, 'a dramatic, artistic and spectacular work that can be to Guernsey what Nelson's Column is to London, the Eiffel Tower to Paris, the Manneken Pis to Brussels, the Statue of Liberty to New York and of course the Mermaid to Copenhagen'.
- The harbour is the ideal location for this striking representation of our historical and cultural tradition.
- The height will accommodate the tidal range and be above the level of the breakwater so as to be silhouetted against sea or sky.
- The project will be a step to redressing our failure to provide much significant public art.
- The statement concludes with a list of named supporters.

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

The breakwater is part of the Conservation Area, Castle Cornet is a Protected Monument, the harbour is a Site of Archaeological Importance, and the Harbour itself is part of the key infrastructure of Guernsey.

In addition to the General policies of the Urban Area Plan, Policies DBE1, DBE6, DBE7, DBE8, DBE10, CEN10 and ETL3 are particularly relevant.

Policy CEN10 seeks to encourage proposals and support initiatives that will enhance the quality of the urban environment and local distinctiveness including ...c) provision of works of art, craft or decoration as part of new development proposals.

In 2013, the Culture and Leisure, Environment and Treasury and Resources Departments all endorsed the Guernsey Arts Commission 'Opportunities for Public Art' document.

Representations:

Three letters of representation have been received, each objecting to the application on grounds which include:

- The overall height would render the development obtrusive, an eyesore especially at low tide.
- The height indicated would be above that of the roof of the nearby breakwater building.
- The concept of a kicking donkey is objectionable.
- Comparison to the Little Mermaid is flawed; that statue is little, fractionally over 4 feet high and quite narrow, and given the tidal range in Copenhagen the view is virtually the same at all states of the tide.

- Statues, like all art, should make some sort of sense; having a donkey in the middle of the sea does not.
- The view of Castle Cornet is one of the exceptional views in Guernsey; the effect of the statue would be to the extreme detriment of this view and the setting of the protected Monument.
- It is completely out of keeping with the character of the harbour and appearance of the built and natural environment.
- The column and sculpture is not an appropriate use of the harbour.

Consultations:

The Constables of St Peter Port comment that:

‘...while the Douzeniers support this proposal in principle, the location and image gave much cause for concern.

The Douzaine felt that it could be erected in a more public friendly location such as the top of La Vallette or the Sunken Gardens, with the statue itself portraying a much ‘friendlier, softer’ image that is more aesthetically pleasing.

They were also concerned about the association between this statue and the same image used in connection with the war and the negative impression that would give to visitors.’

Guernsey Arts Commission comment:

‘.. The Committee spent some time discussing the proposal because of the very high profile of the proposed sculpture and because of the overarching ambitions of the project. With this in mind we wanted to raise our points falling under three titles:

1. Concept

- The committee were concerned about the message a kicking donkey could have to visitors, in particular those arriving /leaving by sea.
- Some discussions centred around the fact that there is little historical precedent of lone animals on plinths.
- Comparative examples, as mentioned in the application, such as Nelson’s column, Eiffel Tower and the Statue of Liberty all had other purposes which enrich their meaning and sense of place.
- There was some doubt how this work could ‘develop cultural identity’ as claimed.

2. Location

- Concern was expressed about the scale of the sculpture in relation to Castle Cornet.
- It was felt that the plinth is at odds (shape/scale/materials) with other architectural elements in the surrounding area, including Peter Le Lievre’s iconic lighthouse.
- It was mentioned that leisure users of The Pool have voiced concerns that the siting of the donkey was potentially hazardous with possible hazard of snagged lines or masts.

3. Site and Scale

- It was felt that the donkey could appear ‘stranded’ at low tide.

- In this location, any public interaction with this sea-based sculpture would be minimal, thereby making the stance of kicking out more aggressive.
- How appropriate is a donkey set within water? The example quoted, in the application, of the Little Mermaid has a much better resonance and relationship with its location which contributed to its success.'

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 application is supported by an Applicant's Statement, which describes why the kicking donkey is considered appropriate to Guernsey and why the location is considered appropriate. The history of the kicking donkey is described and the location justified for example being akin to the Mermaid in Copenhagen.

Whilst the symbolism of the kicking donkey can be acknowledged, and notwithstanding the assertion that the harbour is an ideal location, there is no apparent relevance or logic as to why a donkey should be located on a column in the harbour and alongside the breakwater and Castle. Furthermore, unlike the Mermaid in Copenhagen, the Manneken Pis in Brussels or the Capaud in Jersey (referred to in the Applicant's Statement), the art will not be accessible to the public. It seems that the public art has been designed and a location is being post-rationalised.

There is a statutory duty to have regard to the desirability of preserving and enhancing the special interest and setting of Protected Buildings and Monuments. This duty is reflected in Policy DBE8 of the Urban Area Plan. There is a similar duty in relation to preserving and enhancing the character and appearance of conservation areas, a duty reflected in Policy DBE7 of the Plan.

The Castle Breakwater, although not itself a protected building, is an historic and unique structure within the Conservation Area. Public views to the breakwater and along its length are distinctive and are themselves iconic. It is considered that the silhouette of the column and donkey, whether against sea or sky, will not enhance or conserve the character or appearance of the area. In views from Castle Emplacement and Pier, it is likely to obstruct views to the lighthouse. There is no cogent justification for the proposed location.

The public art will be positioned approximately 30 metres north of Castle Cornet and located within the harbour. At this distance, and of the proposed scale, the proposals may only have a relatively limited effect on the setting of the protected Monument. However the juxtaposition and character of the proposed structure would produce an uncomfortable relationship which would, it is considered, detract from the setting of Castle Cornet. It is important to note that section 31 of the Land Planning and Development Law sets out a strong presumption against development that affects a protected Monument. Therefore, even a minor effect needs to be justified, by justifying the design and location of the public art.

As proposed, the installation is considered to impact on the setting of Castle Cornet, a Protected Monument, to detract from the public views to Castle Cornet and the Breakwater, and would fail to conserve or enhance the character or appearance of the conservation area. The proposal is therefore contrary to Policies DBE1, DBE6, DBE7 and DBE8 and on this basis it is recommended that planning permission be refused.

As suggested in the consultation responses, the sculpture might be better positioned on land where it might be accessible and admired. When the application was first received and prior to its validation, the Department did suggest that potential alternative sites might be discussed. While this suggestion was not taken up, the character portrayed within the art, albeit without the column, might be well suited to a site closer to public recreation and the area above the Island Kiosk at the Bathing Pools is one potential option.

Date: 16th January 2015