



**IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY**

## **COUNCIL OF THE ISLES OF SCILLY**

Town Hall, St Mary's TR21 0LW  
Telephone: 01720 424455 – Email: [planning@scilly.gov.uk](mailto:planning@scilly.gov.uk)

Town and Country Planning Act 1990  
Town and Country Planning (Development Management Procedure) Order 2015

### **PERMISSION FOR CHANGE OF USE OF LAND**

**Application No:** P/23/036/COU      **Date Application Registered:** 5th June 2023

**Applicant:** Mr M & Mrs A Smalley  
Browarth,  
Rams Valley,  
Hugh Town,  
St Mary's,  
Isles Of Scilly,  
Tr21 0JX

**Site address:** Holgates Green Lower Strand Hugh Town St Mary's Isles Of Scilly  
**Proposal:** Application for a change of use of land for the siting of a mobile hot food takeaway unit, known as Lily's and serving Thai cuisine with associated Land Rover (with generator). (Re-submission of planning application P/22/056/COU).

In pursuance of their powers under the above Act, the Council hereby **PERMIT** the above development to be carried out in accordance with the following Conditions:

- C1 The intermittent use of Holgates Green for Street Trading, hereby permitted for the days and times as specified in this application only, shall cease on or before 31st March 2024 or on the date the Street Trading License expires or is revoked, whichever is soonest.**  
Reason: To enable the Council to retain long-term control of the land and to ensure no long-term prejudicial impact or loss of this site as a recreation site in accordance with the provisions of Policies SS2(1)d) and e), SS4(3) and OE7(5) of the Isles of Scilly Local Plan (2015-2030).
- C2 The intermittent use of Holgates Green for street trading, hereby permitted, is restricted in use to the catering unit, known as Lily's, serving hot Thai and English Cuisine and associated Land Rover only, and shall not be open to customers outside the hours of between 1700-2000hrs on any day, for no more than 5 days in any week and not when the Holgates is hired or booked for other events. All equipment, trailers, vehicles and trade waste shall be removed from site each day.**  
Reason: Holgates Green remains a public open space that is used for community events and activities and this use shall not prejudice its wider use as a recreation and public open space in accordance with the provisions of Policies SS4(3) and OE7(5) of the Isles of Scilly Local Plan (2015-2030).
- C3 The use of the land hereby permitted shall be carried out in accordance with the approved details only including:**

- **Plan 1 Location Plan**
- **Plan 2 Block Plan**
- **Plan 3 Layout Plan with Dimensions**
- **Plan 4 Photograph of Takeaway Unit and Land Rover**
- **Plan 5 Planning Statement (measures to minimise impacts)**

**These are stamped as APPROVED**

Reason: For the clarity and avoidance of doubt and in the interests of the character and appearance of the public open space, adjacent Listed Building, the Conservation Area, Area of Outstanding Natural Beauty and Heritage Coast in accordance with Policy OE1 and OE7 of the Isles of Scilly Local Plan 2005.

**C4 No floodlights or other forms of external lighting shall be installed as part of this use.**

Reason: To protect the amenities of the locality, including the amenities of neighbouring residential properties and to protect and preserve Isles of Scilly's dark night skies in accordance with Policy OE4 of the Isles of Scilly Local Plan (2015-2030).

**Important Information**

1. This planning permission does not grant the applicant any rights to access land they do not own. The Council, as owner of Holgates Green, would be required to give permission for the use of its land. This is separate to the Licencing or Planning processes.
2. It is the applicants responsibility to ensure the site is accessed safely. If a bus is parked in the bus parking bay, accessing the site should not attempted until this is clear.
3. Holgates Green is a bookable public space, maintained by the Council, that is open to anyone to hire for public/community events. The Open Spaces Team regularly take bookings for activities on Holgates Green. To ensure consistency and to avoid conflicts please ensure you contact the Open Space Team to make the necessary arrangements to use Holgates Green: [environment@scilly.gov.uk](mailto:environment@scilly.gov.uk)
4. In dealing with this application, the Council of the Isles of Scilly has actively sought to work with the applicants in a positive and proactive manner, in accordance with paragraph 38 the National Planning Policy Framework 2021.

Signed:



**Chief Planning Officer**

*Duly Authorised Officer of the Council to make and issue Planning Decisions on behalf of the Council of the Isles of Scilly.*

**DATE OF ISSUE:** 28<sup>th</sup> July 2023



# COUNCIL OF THE ISLES OF SCILLY

Planning Department  
Town Hall, The Parade, St Mary's, Isles of Scilly, TR21 0LW  
☎0300 1234 105  
✉planning@scilly.gov.uk

Dear Mr M & Mrs A Smalley

## Please sign and complete this certificate.

This is to certify that decision notice: P/23/036/COU and the accompanying conditions have been read and understood by the applicant: Mr M & Mrs A Smalley.

- I/we intend to commence the development as approved:** Application for a change of use of land for the siting of a mobile hot food takeaway unit, known as Lily's and serving Thai cuisine with associated Land Rover (with generator). (Re-submission of planning application P/22/056/COU) at: Holgates Green Lower Strand Hugh Town St Mary's Isles Of Scilly **on:** .....
- ~~I am/we are aware of any conditions that need to be discharged before works commence.~~
- ~~I/we will notify the Planning Department in advance of commencement in order that any pre-commencement conditions can be discharged.~~

You are advised to note that Officers of the Local Planning Authority may inspect the project both during construction, on a spot-check basis, and once completed, to ensure that the proposal has complied with the approved plans and conditions. In the event that the site is found to be inaccessible then you are asked to provide contact details of the applicant/agent/contractor (delete as appropriate):

**Name:** \_\_\_\_\_ **Contact Telephone Number:** \_\_\_\_\_  
**And/Or Email:** \_\_\_\_\_

Print Name: \_\_\_\_\_

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Please sign and return to the **above address** as soon as possible.



# COUNCIL OF THE ISLES OF SCILLY

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Planning Department

Town Hall, St Mary's, Isles of Scilly, TR21 0LW

☎01720 424455

✉[planning@scilly.gov.uk](mailto:planning@scilly.gov.uk)

**THIS LETTER CONTAINS IMPORTANT INFORMATION  
REGARDING YOUR PERMISSION – PLEASE READ  
IF YOU ARE AN AGENT DEALING WITH IS ON BEHALF OF THE  
APPLICANT IT IS IMPORTANT TO LET THE APPLICANT KNOW  
OF ANY PRE-COMMENCEMENT CONDITIONS**

Dear Applicant,

This letter is intended to help you advance your project through the development process. Now that you have been granted permission, there may be further tasks you need to complete. Some aspects may not apply to your development; however, your attention is drawn to the following paragraphs, which provide advice on a range of matters including how to carry out your development and how to appeal against the decision made by the Local Planning Authority (LPA).

**Carrying out the Development in Accordance with the Approved Plans**

You must carry out your development in accordance with the stamped plans enclosed with this letter. Failure to do so may result in enforcement action being taken by the LPA and any un-authorised work carried out may have to be amended or removed from the site.

**Discharging Conditions**

Some conditions on the attached decision notice will need to be formally discharged by the LPA. In particular, any condition that needs to be carried out prior to development taking place, such as a 'source and disposal of materials' condition, an 'archaeological' condition or 'landscaping' condition must be formally discharged prior to the implementation of the planning permission. In the case of an archaeological condition, please contact the Planning Department for advice on the steps required. Whilst you do not need to formally discharge every condition on the decision notice, it is important you inform the Planning Department when the condition advises you to do so before you commence the implementation of this permission. Although we will aim to deal with any application to discharge conditions as expeditiously as possible, you are reminded to allow up **to 8 weeks** for the discharge of conditions process.

**Please inform the Planning Department when your development or works will be commencing. This will enable the Council to monitor the discharge and compliance with conditions and provide guidance as necessary. We will not be able to provide you with any written confirmation on the discharge of pre-commencement conditions if you do not formally apply to discharge the conditions before you start works.**

As with the rest of the planning application fees, central Government sets a fee within the same set of regulations for the formal discharge of conditions attached to planning permissions. Conditions are necessary to control approved works and development. Requests for confirmation that one or more planning conditions have been complied with are as follows (VAT is not payable on fees set by central government). More information can be found on the Council's website:

- Householder permissions - £34 per application
- Other permissions - £116 per application

### **Amendments**

If you require a change to the development, contact the LPA to see if you can make a 'non material amendment' (NMA). NMA can only be made to planning permissions and not a listed building consent. They were introduced by the Government to reflect the fact that some schemes may need to change during the construction phase. The process involves a short application form and a 14 day consultation period. There is a fee of £34 for householder type applications and £234 in all other cases. The NMA should be determined within 28 days. If the change to your proposal is not considered to be non-material or minor, then you would need to submit a new planning application to reflect those changes. Please contact the Planning Department for more information on what level of amendment would be considered non-material if necessary.

### **Appealing Against the Decision**

If you are aggrieved by any of the planning conditions attached to your decision notice, you can appeal to have specific conditions lifted or modified by the Secretary of State. All appeal decisions are considered by the Planning Inspectorate – a government department aimed at providing an unbiased judgement on a planning application. From the date of the decision notice attached you must lodge an appeal within the following time periods:

- Householder Application - 12 weeks
- Planning Application – 6 months
- Listed Building Consent – 6 months
- Advertisement Consent - 8 weeks
- Minor Commercial Application - 12 weeks
- Lawful Development Certificate – None (unless for LBC – 6 months)
- Other Types - 6 months

Note that these periods can change so you should check with the Planning Inspectorate for the most up to date list. You can apply to the Secretary of State to extend this period, although this will only be allowed in exceptional circumstances.

You find more information on appeal types including how to submit an appeal to the Planning Inspectorate by visiting <https://www.gov.uk/topic/planning-development/planning-permission-appeals> or you can obtain hard copy appeal forms by calling 0303 444 5000.

Current appeal handling times can be found at: [Appeals: How long they take page](#).

## **Building Regulations**

With all building work, the owner of the property is responsible for meeting the relevant Planning and Building Regulations. Building Regulations apply to most building work so it is important to find out if you need permission. This consent is to ensure the safety of people in and around buildings in relation to structure, access, fire safety, infrastructure and appropriate insulation.

The Building Control function is carried out on behalf of the Council of the Isles of Scilly by Cornwall Council. All enquiries and Building Control applications should be made direct to Cornwall Council, via the following link [Cornwall Council](#). This link also contains comprehensive information to assist you with all of your Building Control needs.

Building Control can be contacted via telephone by calling 01872 224792 (Option 1), via email [buildingcontrol@cornwall.gov.uk](mailto:buildingcontrol@cornwall.gov.uk) or by post at:

Building Control  
Cornwall Council  
Pydar House  
Pydar Street  
Truro  
Cornwall  
TR1 1XU

Inspection Requests can also be made online: <https://www.cornwall.gov.uk/planning-and-building-control/building-control/book-an-inspection/>

## **Registering/Altering Addresses**

If you are building a new dwelling, sub dividing a dwelling into flats or need to change your address, please contact the Planning Department who will be able to make alterations to local and national databases and ensure postcodes are allocated.

## **Connections to Utilities**

If you require a connection to utilities such as water and sewerage, you will need to contact South West Water on 08000831821. Electricity connections are made by Western Power Distribution who can be contacted on 08456012989.

Should you require any further advice regarding any part of your development, please contact the Planning Department and we will be happy to help you.



**APPROVED**

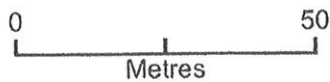
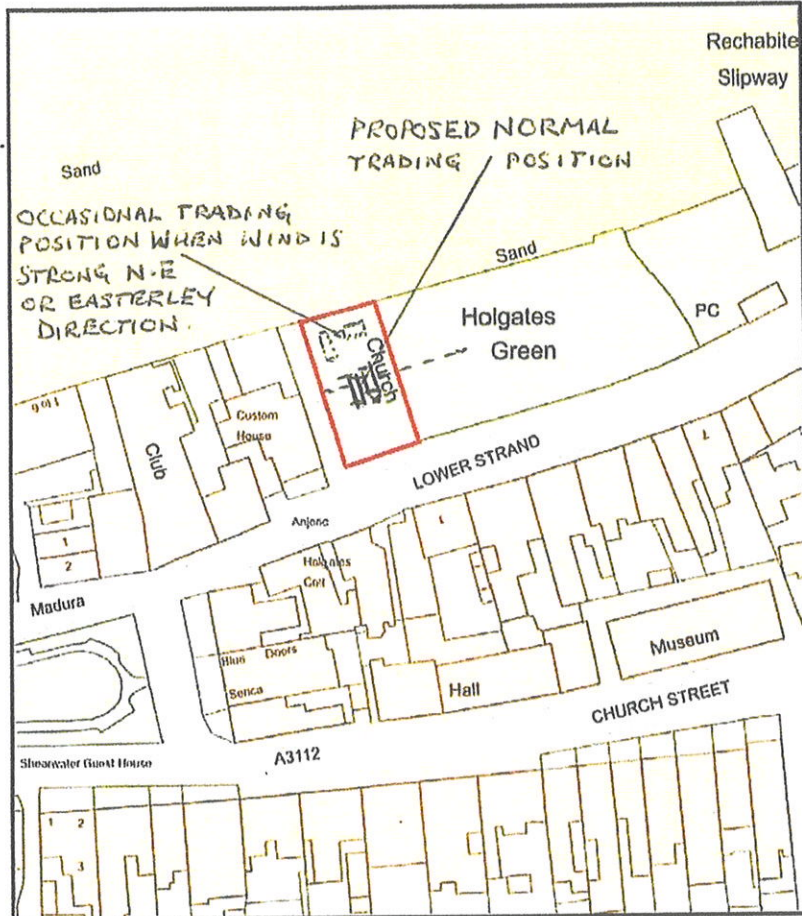
By Lisa Walton at 11:34 am, Jul 28, 2023

**RECEIVED**

By A King at 11:54 am, Jun 02, 2023

1/6/23

### Location Plan - LP

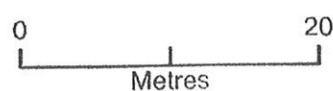
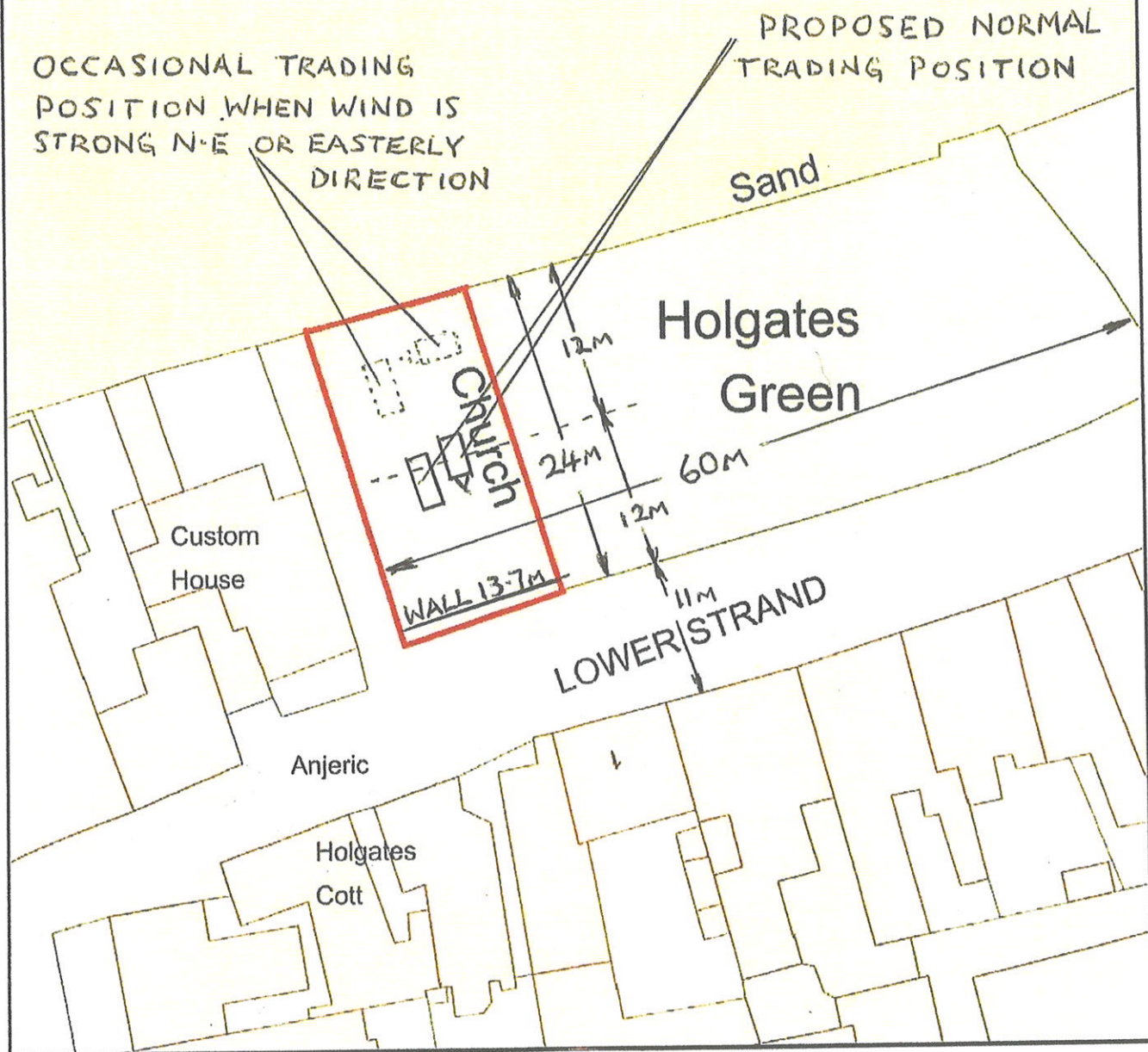


Plan Produced for: Mr Smalley  
Date Produced: 05 Aug 2022  
Plan Reference Number: TQRQM22217133536877  
Scale: 1:1250 @ A4

1/6/23

TOTAL DISTANCE FROM FOOD TRAILER TO RESIDENTIAL HOMES  
 ACROSS LOWER STRAND IS 23M, COULD ACHIEVE 25M IF  
 NECESSARY

TOTAL AREA OF FOOD TRAILER AND LANDROVER IS 0.833%  
 OF TOTAL AREA OF HOLGATES GREEN.



Plan Produced for: Mr Smalley  
 Date Produced: 05 Aug 2022  
 Plan Reference Number: TORQM22217134209242  
 Scale: 1 500 @ A4



**APPROVED**

By Lisa Walton at 11:45 am, Jul 28, 2023

**RECEIVED**

By A King at 11:55 am, Jun 02, 2023

1/6/23

RESIDENTIAL PROPERTIES.

LOWER STRAND

60M

HOLGATES GREEN

THE BEACH

CUSTOMS HOUSE

PATHWAY TO BEACH

HEDGE

23M FROM PROPERTIES TO CENTRE OF FOOD VAN

4M

12M

24M

WALL 13.1M

TOILETS

BOAT PARK

'Not to Scale - Dimensions only'

**APPROVED**

*By Lisa Walton at 12:04 pm, Jul 28, 2023*

**RECEIVED**

*By A King at 12:01 pm, Jun 02, 2023*







GETRIPPO



Isles of Scilly



Lily's



Thailand

THAI & ENGLISH CUISINE



*Lily's*



Isles of Scilly



Thailand

THAI &  
ENGLISH CUISINE





Lily's

Lily's

THAI &  
ENGLISH CUISINE

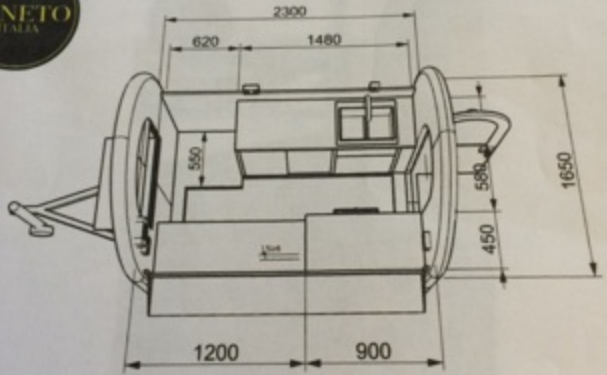
**APPROVED**

By Lisa Walton at 12:04 pm, Jul 28, 2023

X

**RECEIVED**

By A King at 12:15 pm, Jun 02, 2023





**APPROVED**

*By Lisa Walton at 11:46 am, Jul 28, 2023*

**RECEIVED**

*By A King at 2:08 pm, Jun 02, 2023*

Supporting Statement for the Planning Department CIOS

We would like to apply for a change of use of part of the western end of the recreational area known as Holgate's Green in Hugh Town, St. Mary's. We wish to use this site to run a mobile hot food takeaway unit in the form of a catering trailer towed onto site by a short-wheeled base Landrover.

In our revised application, we are asking to be allowed to trade for three hours per day on five days a week. This reduction in requested trading hours seeks to address concerns expressed by elected members of the Council of the Isles of Scilly, which led to a refusal of our previous application, particularly in respect of the presence of multiple vehicles. As pointed out by an elected member of the Licensing Committee during the hearing on May 12<sup>th</sup> 2023, there are not, in fact, multiple vehicles. The food trailer is not classed as a vehicle, given that it has no engine, no steering-wheel and is not self-propelled. Be that as it may, the CIOS policy does not actually preclude the use of multiple vehicles, nor does it state that a catering trailer may not be towed onto site by a vehicle.

Highway safety was another cause for member concern, as previously it was necessary to pause in the road whilst laying down timber ramps, thereby potentially blocking traffic. In fact, the timber ramps proved to be superfluous, so eliminating them has avoided the need to pause in the road. No other highway issues were mentioned.

Whereas the policy does not permit generators, it is impossible to trade in 'fast' food without power. As the CIOS has been unwilling or unable to provide power, then it is reasonable to expect street traders to provide their own. It should be emphasised that our generator is extremely quiet and is very well insulated.

There is an evermore urgent need for more food outlets on St. Mary's, particularly given the recent reduced offer and, in some cases, closure of some restaurants in recent times combined with increasing visitor numbers. Demand far outstrips supply, which is causing significant reputational damage to the islands as a tourist destination. Many visitors complain (locally and via social media platforms) that they cannot get food, especially in the evenings, even when they attempt to book many weeks in advance. Holidaymakers who are unaware of the situation and who, therefore, have not made advance table bookings, complain that even the local supermarket has run out of sandwiches by evening and that food is unavailable. Tourism in Scilly is suffering potentially irreparable damage as a result. Visitors are heard to say that they will not return due to these difficulties. It is often said that tourism accounts for approximately 85% of the islands' revenue. Our proposal, if accepted, would help to mitigate this situation.

Holgate's Green is a large, open area with picnic benches and easy access to public conveniences. It is an ideal location for our proposal. The grassy area is roughly 60 metres long and 24 metres wide. Given the size of our vehicles relative to the size of the whole area, any visually negative impact would be minimal. The towable catering trailer is 3 metre long, 1.65 metres wide and 2.3 metres high. The Landrover is less than 4 metres long, 1.6 metres wide and 1.9 metres high. It would be positioned behind the catering trailer, under the large hedge, to reduce any visual impact when viewed from the Green. The Landrover has been customised to house a generator supplying electric power to the catering trailer. Much research has gone into finding a very quiet generator in order to avoid noise pollution and disturbance for local residents during operating hours. The rear of the Landrover has been insulated and compartmentalised to further reduce noise levels. At the July 11<sup>th</sup> site meeting, attendees agreed that the noise levels during the simulation of trading were reasonable and, indeed, quieter than the passing traffic. Most of the cooking equipment is gas-powered and, therefore, silent. We do not anticipate strong food odours or atmospheric pollution due to the type of food on offer.

In order to access the site, it is necessary to cross a footpath to get from the highway onto the Green. To facilitate this manoeuvre, we propose always to have two persons present in the interests of public safety. One person would stand on the footpath to advise pedestrians. The Green is used for large public events at various times throughout the year, so this type of manoeuvre is accepted practice locally.

Our trailer has no external lighting. Light would only be emitted when the trading hatch is open during business hours. Ideally, we would like to trade for three hours per day on five days per week during the tourist season with the possibility of occasional trading in the winter, if there is sufficient local demand.

In summary, our proposal is to provide a much-needed food outlet on a wide, open space in Hugh Town, where there are adequate facilities. The fully mobile unit would be removed from the site at the end of each day's trading. It is our opinion that this venture would enhance the tourist provision and contribute to improving the visitor experience.

Martyn and Ammarawadee Smalley