ONLINE VERSION

THE LAND PLANNING AND DEVELOPMENT (GUERNSEY) LAW, 2005

AND THE LAND PLANNING AND DEVELOPMENT (GENERAL PROVISIONS) ORDINANCE, 2007

NOTIFICATION OF GRANT OF PLANNING PERMISSION

PROPOSALS: Change of use of part of vinery to create parking for 2 vehicles (retrospective).

LOCATION: St Clair Nursery, Rue Des Pointues Rocques, St. Sampson.

APPLICANT: Mr J Eborall

This permission is granted under the terms of Sections 15 and 16 of the Land Planning and Development (Guernsey) Law, 2005 (the 'Law').

Date of Grant of Permission: 17/07/2015

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 03/03/2015 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Application Ref: FULL/2015/0315

Property Ref: B00750C000

Conditions and reasons:-

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. The permission granted shall be personal to the applicant and on the applicant ceasing to occupy the premises, the use for which the permission is hereby granted shall be discontinued and the current use of the premises as horticultural shall be resumed.

Reason - The permission has been granted to the applicant on the basis of details set out in the application and subject to those restrictions and the previous/following conditions, is considered acceptable for a temporary period. The retention of the development for a further period would be likely to prejudice or inhibit the comprehensive development of the Housing Target Area.

5. The use hereby approved shall not be carried on otherwise than in strict accordance with the details set out in the letter accompanying the application, signed and dated by Mr J Eborall T/A Bag-it rubbish clearance on 29/01/15, and subsequent letters of 15 May 2015 and 15 June 2015 from John Eborall, which formed part of the planning application, and is for two vehicles only, on the area of hardstanding identified.

Reason - To define the permission for the avoidance of any doubt.

6. This permission is given for a limited period of 2 years from the date hereof, expiring on 16 July 2017, by which time the use carried out under this permission shall be discontinued and the land will revert to its former authorised horticultural use to the satisfaction of the Environment Department.

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

7. No vehicular movements nor any loading or unloading of vehicles shall take place on the site except between the hours of 0700 and 1800 on Monday to Friday and 0700 and 1200 noon on Saturdays and not at any time on Sundays, Bank or Public Holidays.

Reason - To protect the reasonable amenities of neighbouring residents.

8. The activities which take place on the site shall be retricted to the storage of items of inert waste only on, or within, the two parked vehicles, and to the movement of items of inert waste between the vehicles, as set out in Mr Eborall's letter of 15 June 2015, and no processing of any waste whatsoever (putrescible or inert) shall take place on this site, without the prior express permission of the Environment Department.

Reason - To define the permission for the avoidance of any doubt and to protect the reasonable amenities of neighbouring residents.

Expiry Date: This permission will cease to have effect on 16/07/2017.

ADVICE AND OTHER REMARKS:-

Effect of planning permission:

Section 18 of the Land Planning and Development (Guernsey) Law, 2005 ('the Law') defines the effect of the planning permission hereby granted, namely:

(1) Planning permission ceases to have effect unless the development permitted by it is commenced within a period of three years immediately following the date on which it is granted (or such shorter period as may be specified in the permission).

(2) Planning permission enures for the benefit of the land concerned and of every person for the time being having an interest in it.

(3) Any conditions subject to which planning permission is issued are enforceable in accordance with the provisions of Part V of the Law.

(4) Planning permission for the erection of a building is only permission to use it for the purpose specified in the permission or, subject to any restriction so specified, for any other purpose for which it is designed.

(5) Planning permission is only permission to carry out the development specified in it (subject to any conditions so specified), and does not imply the giving of any other approval or consent required under this Law or any other enactment or under any rule of law.

Right of appeal against planning decisions:

Your attention is drawn to the provisions of Section 68(1) of the Land Planning and Development (Guernsey) Law 2005, which provides a right of appeal, on the merits against a decision to grant planning permission subject to conditions (except a building condition), to the Planning Tribunal, which is independent of the States of Guernsey. An appeal to the Planning Tribunal under section 68 of the Law against this decision must be made before the expiry of the period of six months beginning with the date on which the Department made this decision. The official Appeal Notice Forms are available on the Department's website at www.gov.gg/planning-appeals and must be completed with all enclosures in multiples as requested and received within the six months deadline.

Copy of representations made:

In reaching this decision the Department took into account any written representations arising from consultations made under Section 11(1) of the Land Planning and Development (General Provisions) Ordinance, 2007 ('the Ordinance'). A copy of any representations made to the Department under section 11 will be included with this decision in accordance with section 19 of the Ordinance.

Other Remarks:

You should note that any work which abuts or affects the public highway requires prior approval by the Public Services Department (PSD). You must also ensure that any access/es to the development are constructed to meet the existing road/footway levels in accordance with PSD requirements.

This document is not a Building Licence and confers no approval under the Building Regulations.

A separate Building Control Licence may be required and it is the responsibility of the developer to ensure that ALL necessary consents are obtained and that any pre-commencement conditions are discharged prior to development being commenced.

A J ROWLES
Director of Planning

ENVIRONMENT
A STATES OF GUERNSEY GOVERNMENT DEPARTMENT

PLANNING APPLICATION REPORT

Application No: FULL/2015/0315
Property Ref: B00750C000
Valid date: 03/03/2015
Location: St Clair Nursery Rue Des Pointues Rocques St. Sampson Guernsey
Proposal: Change of use of part of vinery to create parking for 2 vehicles (retrospective).
Applicant: Mr J Eborall

RECOMMENDATION - Grant: Planning Permission with Conditions:

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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. The permission granted shall be personal to the applicant and on the applicant ceasing to occupy the premises, the use for which the permission is hereby granted shall be discontinued and the current use of the premises as horticultural shall be resumed.

Reason - The permission has been granted to the applicant on the basis of details set out in the application and subject to those restrictions and the previous/following conditions, is considered acceptable for a temporary period. The retention of the development for a further period would be likely to prejudice or inhibit the comprehensive development of the Housing Target Area.

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6. This permission is given for a limited period of 2 years from the date hereof, expiring on 16 July 2017, by which time the use carried out under this permission shall be discontinued and the land will revert to its former authorised horticultural use to the satisfaction of the Environment Department.

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

7. No vehicular movements nor any loading or unloading of vehicles shall take place on the site except between the hours of 0700 and 1800 on Monday to Friday and 0700 and 1200 noon on Saturdays and not at any time on Sundays, Bank or Public Holidays.

Reason - To protect the reasonable amenities of neighbouring residents.

8. The activities which take place on the site shall be retricted to the storage of items of inert waste only on, or within, the two parked vehicles, and to the movement of items of inert waste between the vehicles, as set out in Mr Eborall's letter of 15 June 2015, and no processing of any waste whatsoever (putrescible or inert) shall take place on this site, without the prior express permission of the Environment Department.

Reason - To define the permission for the avoidance of any doubt and to protect the reasonable amenities of neighbouring residents.

OFFICER'S REPORT

Site Description:

The application site relates to an area of land to the northern end of the St Clair Nursery vinery site.

Relevant History:

2005 – Unauthorised storage of skips on site. Subsequently removed.
2008 – Unauthorised skips and waste separation. Subsequently cleared.
2012 – Allegation of waste storage/separation, but no evidence.
2013 – Waste collection/recycling business investigated and compliance notice served

2014 – Appeal against compliance notice dismissed, and Compliance Notice upheld, subject to modified terms; vehicles to be removed and storage, transfer and sorting of waste to cease.

Existing Use(s):

Vinery - Horticulture

Brief Description of Development:

This application, which is in retrospect, is for a change of use of part of the vinery to allow parking for 2 lorries.

The applicant has stated that sorting of rubbish is done as he goes along (i.e. at collection points) with no rubbish or bags ever put on the ground at the vinery. There is now only himself involved (he has had to let Chris go), and there will only be 1-2 movements of lorries per day, between the hours of 7am to 6pm, Monday to Friday and 7am to 12noon on Saturday.

At the time of the appeal, referred to above, Mr Eborall stated that some mixed material was brought back to the St Clair Vinery site and sorted by type on the backs of the lorries. In some cases material was "cleaned up", for example plugs removed from cables etc. At that time the business had 4 lorries, two were kept at the vinery, one at a rental site and one at Mr Eborall's home.

Following deferral of this application, the applicant was asked whether he could accept a condition stating "no sorting or processing of any waste whatsoever on the site". He confirmed that such a condition would prevent him from recycling, but explained that the reason he needs to visit the site is "so I can put what needs to go in each parked lorry then transfer each load to mine and take it to the designated places to be recycled".

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

CO1, HO8, EMP6 and EMP7

Representations:

None

Consultations:

Environmental Health

Reviewed the proposed plans for the retrospective parking of two vehicles at the above address. Recommend the following condition is attached should this application be approved.

No vehicular movements nor any loading or unloading of vehicles shall take place on the site except between the hours of 0700 and 1800 on Monday to Friday and 0700 and 1200 noon on Saturdays and not at any time on Sundays, Bank or Public Holidays.

Summary of Issues:

Industrial use of horticultural land, effect on adjoining properties.

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 parking or storage of motor vehicles on land would fall within Storage/Distribution Use Class 33. The sorting, treatment, baling, disposal or transfer of putrescible or inert waste would fall within Industrial Use Class 42.

Urban Area Plan policy EMP6 refers to the development of sites for storage and distribution purposes within Settlement Areas and on previously developed land. This site is neither. However the policy does note that other considerations would include amenity of adjoining uses and access and parking arrangements.

Policy EMP7 allows for the development of small workshops and yards in very limited and exceptional circumstances, on horticultural sites, which met certain criteria, including, no real prospect of continuation of horticulture or restoration to agriculture, adequate access and not detract from the character and amenity of the area.

In this case, the vinery site is still being used for growing, but longer term it has been identified as a Housing Target Area, which if implemented would prevent the continuation of horticulture or restoration to agriculture. Access and character are discussed below.

The site is outside the Settlement Areas where policy CO1 only permits development where;
a) the scale, location and design of such development would not detract from the openness of the countryside;
b) it would not result in the unacceptable loss of agricultural land; and
c) it is compatible with the surroundings and other policies in the Plan.

In this case the scale of the operation is very limited, one man and parking of two vehicles.

The location is the northern end of a vinery site, on an area of unsurfaced roadway next to an old boiler shed and chimney.

It would not detract from the openness of the countryside, nor the general character and amenity of the area.

The glasshouses on the site are being used for growing, and the parking of two vehicles would not prevent or interfere with this, so there would be no loss of horticultural activity.

The location of the lorries would be well away from residential properties, so any effects on adjoining properties would be limited to any impact from the comings and goings of the vehicle to the site, where the site entrance is close to residential properties. If this is limited in terms of the number and times of trips, as suggested by the applicant, then the impact is unlikely to be sufficient to justify rejection of the proposal.

When the appeal was being considered, the Tribunal noted that where the activities were wholly or mainly uncontrolled, the potential existed for it to be intensified, with potential for greater harm to the amenity of residential occupiers nearby.

The vinery site is identified as a Housing Target Area (HTA) where policy HO8 only permits development in accordance with an Outline Planning Brief, or is unlikely to inhibit the implementation of a Brief or prejudice the comprehensive development of the HTA.

In this case a temporary permission, for two years, would ensure that the proposed use would not to inhibit the implementation of a Brief or prejudice the comprehensive development of the site, when required for housing.

So a temporary permission, with conditions to restrict times and activities, could be acceptable within the scope of policies EMP7, CO1 and HO8, but such conditions would have to be precise in order to restrict the potential for it to be intensified, with consequential potential for harm to the amenity of residential occupiers nearby.

Recommend a temporary approval, subject to conditions, as above.

Date: 16/07/15