

THE LAND PLANNING AND DEVELOPMENT (GUERNSEY) LAW, 2005

AND SECTION 19 OF THE LAND PLANNING AND DEVELOPMENT (GENERAL PROVISIONS) ORDINANCE, 2007

NOTIFICATION OF REFUSAL OF PLANNING PERMISSION

PROPOSALS: Convert outbuilding to dwelling and associated landscaping.

LOCATION: Le Clos Vinery, Rue Des Marettes, St. Martin.

APPLICANT: Mr & Mrs A C Rogers

I refer to the application referred to below received as valid on 10/09/2021 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 21/01/2022

Drawing Nos: The Drawing Room drawing no's: 171 B1, B2A, B3, B4, B5 & B6

Application Ref: FULL/2021/1885

Property Ref: J010590000

The Development & Planning Authority has decided to refuse your application under the provisions of section 16 of the Land Planning and Development (Guernsey) Law, 2005 for the following reasons:-

1. Once cleared, the application site would contribute positively to the wider area of open land within which it is located. The application is therefore contrary to the clear aims and objectives of Policy OC7.

OTHER REMARKS:-

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, against a decision to refuse an application for planning permission or outline planning permission to the Planning Tribunal on the merits. 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 Authority made this decision.

Copy of representations made

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

A J ROWLES

Director of Planning

Planning Service



PLANNING APPLICATION REPORT

Application No: FULL/2021/1885
Property Ref: J010590000
Valid date: 10/09/2021
Location: Le Clos Vinery Rue Des Marettes St. Martin Guernsey GY4 6JH
Proposal: Convert outbuilding to dwelling and associated landscaping.
Applicant: Mr & Mrs A C Rogers

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. Once cleared, the application site would contribute positively to the wider area of open land within which it is located. The application is therefore contrary to the clear aims and objectives of Policy OC7.

OFFICER'S REPORT

Site Description:

The application site comprises an area of land measuring approximately 2.08 hectares and is largely covered by metal framed commercial glasshouses. The site is largely bounded to the north, east and partly to the south by agricultural or undeveloped land, some of which is currently covered by glasshouses. The western section of the site is bounded by Rue des Marettes and the south-west section is bounded by a neighbouring residential property and a hotel. The site is accessed via a tarmacked track onto Rue des Marettes. The site is located Outside of the Centres.

Relevant History:

12/12/2018 – PREA/2018/3025 – Pre-application advice regarding demolish glasshouses, packing shed and ancillary structures and erect a dwelling.

Existing Use(s):

Agriculture use class 28

Brief Description of Development:

Planning permission is sought to convert a packing shed situated in the south-west corner of the site to form a one bedroom dwelling with associated garden. The application also includes the demolition and clearance of all of the glasshouses together with the restoration of the land that they cover to either agricultural use or a woodland.

The application is accompanied by a supporting statement from the agent dated 11/08/2021 and a Structural Report dated August 2021.

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

Policy OC1: Housing Outside of the Centres

Policy OC5(B): Agriculture Outside of the Centres – outside the Agriculture Priority Areas

Policy OC7: Redundant Glasshouse Sites Outside of the Centres

Policy GP1: Landscape Character and Open Land

Policy GP8: Design

Policy GP9: Sustainable Development

Policy GP15: Creation and Extension of Curtilage

Policy GP16(A): Conversion of Redundant Buildings

Policy GP17: Public Safety and Hazardous Development

Policy IP7: Private and Communal Car Parking

Policy IP9: Highway Safety, Accessibility and Capacity

Representations:

Two letters of representation were received, main points as follows:

- This is a large area and will be greatly enhanced by the removal of the glasshouse.
- No plans have been submitted regarding biodiversity, species used should be native, it is noted that the reservoir could have wildlife value and it is questioned whether the reservoir pond could be turned into a wildlife pond as a condition.
- La Société Guernesiaise notes that the site is within a large land parcel and the surrounding landscape is largely undeveloped. They consider that the proposal does not meet Policy OC7 as if the glasshouses were cleared the land would be suitable for agriculture and the site would contribute positively to a wider area of open land. The potential loss of existing habitats and associated wildlife is also highlighted in respect of the Strategy for Nature and it is recommended that an independent ecological assessment is undertaken.

Consultations:

None

Summary of Issues:

The main issues in deciding this application are:

1. The principle of the development.
2. Whether the site would contribute positively to a wider area of open land.
3. Whether the existing building is of sound and substantial construction and is capable of conversion to a residential use without extensive alteration or rebuilding.

4. The impact of the development on the character and openness of the landscape.
5. The impact on the amenities of neighbouring residents.

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 Spatial Policy of the Island Development Plan, expressed through Policy S1, is to, *“concentrate the majority of new development in the Main Centres and the Main Centre Outer Areas to maintain the vitality of these areas...and to allow for development Outside of the Centres in identified specific circumstances, in accordance with the Strategic Land Use Plan.”*

This approach is reinforced through Policy S4 and the introduction to Part 3 of the Plan, *Policies for Outside of the Centres*, which, whilst acknowledging that the Plan makes provision for certain types of development Outside of the Centres, states that proposals for new housing will not generally be supported Outside of the Centres.

Policy OC1 sets out potential exceptions to this direction, stating that the creation of new dwellings Outside of the Centres will only be supported where it is achieved through the subdivision of an existing dwelling or the conversion of an existing redundant building, and directs proposals for conversion of redundant buildings to be considered principally under Policy GP16(A). In this case, the application relates to a horticultural site and the proposal also falls to be considered under Policy OC7.

The existing glasshouses are currently in the early stages of dereliction with some panes of glass missing and vegetation becoming overgrown within them, although the northern most glasshouse has deteriorated further than the other two glasshouses. The agent advises that the vinery has not been in commercial use since 2011. Information available to the Planning Service, including surveys of commercial horticultural operations, also indicates that the site is not in commercial horticultural use. It is recognised that the horticultural industry is in decline and due to the aim of providing a managed exit from this sector in land use terms, it is accepted that the site can be considered as a redundant glasshouse site under Policy OC7.

Policy OC7 notes that horticultural premises, including redundant glasshouse sites, are considered to be agricultural land, and there is a presumption that when the horticultural use ceases the site will be cleared and returned to agricultural use. However, where the site is not within or adjacent to an Agriculture Priority Area and where the site would not contribute positively to a wider area of open land, Policy OC7 provides scope to develop redundant ancillary structures to residential use where the proposal accords with Policy GP16(A) and where the proposal would facilitate the clearance of redundant glass. Before assessing the application against Policy GP16(A), the starting point is to reach a view on whether the proposal accords with parts (a) and

(b) of Policy OC7, which refer to the potential use of the land for commercial agriculture where it is within or adjacent to Agriculture Priority Areas, and whether the land would contribute positively to a wider area of open land.

The application site is not located within or adjacent to an identified Agriculture Priority Area and therefore the proposal accords with criterion (a) of Policy OC7.

The application site is located in a semi-rural area characterised by built development of mainly residential properties situated in ribbons and clusters along the highways with areas of agricultural and undeveloped land providing a break between the pockets of built development. The application site can be seen as being situated within a rough inverted triangular shaped area bordered to the west and south-west by Rue des Marettes, to the north by Rue des Grons and to the east and south-east by Saints Road and Icart Road. When viewed at this scale, the application site forms part of an area of largely undeveloped land, albeit with some of that land being covered by glasshouses, which separates and provides a break between the built development along the highways, particularly to the east along Saints Road and the west along Rue des Marettes.

The application site is largely bounded to the north, east and partly to the south by agricultural or undeveloped land, some of which is currently covered by glasshouses. As a result, the land is adjacent to areas of open land and when combined with the site itself, this would form a wider area of open land. Furthermore, if the adjacent glasshouse site to the south was cleared, together with the application site, this would result in a large swathe of open and undeveloped land running in a north/south direction between Saints Road and Rue des Marettes.

If the application site were cleared of glasshouses and other structures then it would undoubtedly contribute to the wider area of open land, with the majority of the site being visible in views from Rue des Marettes. As such the application is contrary to criterion (b) of Policy OC7.

Having regard to the Guernsey Court of Appeal judgement in *The Island Development Committee v Portholme* [2002] (Civil 320), as the proposal fails to satisfy the policy requirements of Policy OC7, then the proposal must be refused as no policy gateway applies and no further consideration of the proposals is necessary.

As a result of this conclusion, no detailed assessment of the scheme has been made having regard to the other planning policies, including Policies GP16(A), GP1, GP8, GP9, GP15, GP17, IP7 and IP9 of the Island Development Plan, or in respect of other material planning considerations as identified in Section 13 of the Land Planning and Development (General Provisions) Ordinance, 2007.

However, from a preliminary assessment, it is noted that further information would be required to demonstrate the extent of works proposed to convert the building to residential use including the extent of works to the external cladding; there are concerns about the size of the associated domestic curtilage for the proposed dwelling; due to the previous use of the site, information is likely to be required to assess the potential for contaminated land; the reservoir should be removed if it would not

provide an agricultural or ecological benefit; and omitting the hedge labelled number 4 on plan 171/B1 would improve visual access to open and undeveloped land by providing views across the agricultural land from the public highway. As the application does not otherwise accord with Policy OC7, these matters have not been explored further at this stage.

Conclusion

Once cleared, the application site would contribute positively to the wider area of open land within which it is located. The application is therefore contrary to the clear aims and objectives of Policy OC7 and it is recommended that the application is refused.

Date: 17/01/2022

