

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 and alter building to create office with associated parking and landscaping and relocate vehicle access.

LOCATION: Former packing shed at La Grande Rue, Vale.

APPLICANT: Panda Holdings Ltd

I refer to the application referred to below received as valid on 25/04/2022 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 19/08/2022

Drawing Nos: SOUP Architects drawing: 416_110
Letter and Biodiversity Plan dated 12/03/2022 from Strategic Planning and Property Ltd.

Application Ref: FULL/2022/0659

Property Ref: C01414A000

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. The application has not been accompanied by a Structural Report and the application as submitted does not satisfactorily demonstrate that the existing building is of sound and substantial construction and is capable of conversion without extensive alteration or rebuilding. The scheme is therefore contrary to Policy GP16(A) c. of the Island Development Plan.

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/2022/0659
Property Ref: C01414A000
Valid date: 25/04/2022
Location: Former packing shed at La Grande Rue Vale Guernsey
Proposal: Convert and alter building to create office with associated parking and landscaping and relocate vehicle access.
Applicant: Panda Holdings Ltd

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The application has not been accompanied by a Structural Report and the application as submitted does not satisfactorily demonstrate that the existing building is of sound and substantial construction and is capable of conversion without extensive alteration or rebuilding. The scheme is therefore contrary to Policy GP16(A) c. of the Island Development Plan.

OFFICER'S REPORT

Site Description:

The building that is the subject of this application is a pitched roof former packing shed/horticultural building situated to the west of La Grande Rue. The building has a corrugated sheet roof (asbestos), timber vehicular access doors to the east elevation with glazing above and glazing runs the length of the north elevation, facing the field. It appears that the glass used may have been taken from greenhouses. The building is set back from the road with an area of hardstanding/off-road parking to the front. An earthbank is situated to the north of the access driveway with the field which extends to the north and west of the building. A tall hedge and dwarf wall are situated along the south site boundary. A wall/bank exists to the eastern field boundary of the application site and a hedge forms the boundary with Riduna to the north.

Residential development is found in the vicinity of the site, with open and undeveloped land to the west and north to La Corvee Road.

The site is located Outside of the Centres as designated in the Island Development Plan.

Relevant History:

The site was in horticultural use from at least 1898 although a structure did not exist in the position of the application building until 1963. The glasshouses had been removed by 1990.

Although the application submission sets out that the building has been used as a domestic garage for a considerable length of time the site was historically a vinery site. The building therefore represents an agricultural building on agricultural land because planning permission has never been sought nor granted for the change of use of the building and access driveway.

Existing Use(s):

28 agriculture

Brief Description of Development:

The application relates to the conversion of the building west of La Grande Rue to an office, the formation of a new vehicular access north of the building, infilling the existing access and providing parking and landscaping associated with the proposed development.

The application has been accompanied by supporting information set out in letters dated 12 March 2022. These outline that the building was formerly a domestic garage for the neighbouring property owner used since at least 1994. It was purchased by the applicant in 2020. Cadastre classify the building as “B1.1 Domestic (Whole Unit) Local Market Garage/Shed Store”. The building therefore became redundant as a domestic garage/store when it was sold off from the adjoining dwelling, Riduna. The submission states that it is not required as a garage nor used for its last known purpose as a garage.

It is noted that the vehicular access to the site is substandard and proposes the change of use of agricultural land to curtilage associated with the proposed office offering enhanced access arrangements and suitable off-road parking provision. The proposal will incorporate new boundary features and planted areas to offer biodiversity net gain along with cycle storage, new sustainable drainage systems for new hardsurfacing and electrical charging point (if required).

The application outlines that the building is clearly, visibly structurally sound and that because of this a structural report has not been provided but that one could be prepared during the course of the consideration of the application. The submission specifies that the following works would be undertaken:

- Replace east gable door with glazed doors
- Replace windows on a like for like basis
- Repair guttering and downpipes
- Install internal insulation
- New vehicular access and other alterations to the site for parking/landscaping

These works are described as “very minimal and not extensive” to provide a “very simple office” in line with the requirements of Policy GP16(A).

With regard to Policy OC3 the submission sets out that this is a small-cost effective office space to be used by a sole practitioner.

The scheme offers design improvements through the provision of a new vehicular access to achieve satisfactory visibility splay with complementary boundary wall finishes to match the existing and with only a modest extension to curtilage to allow vehicular access to the rear of the site for turning and parking and for a proper field access proposed for the retained agricultural land.

Consideration has been given to how the scheme meets the requirements of Policies GP8 and GP9 as the conversion will reduce waste, excavation and use of materials. The scheme will comply with current Building Regulations and the roofslope can accommodate photovoltaic technology if required.

Only a small increase is proposed to the curtilage associated with the building to enable vehicles to turn and exit the site in a forward gear and for better field access. Although the area of the field would be reduced it would remain at 1083 m³.

It has been noted that the application drawings do not accurately reflect the design/appearance of the existing windows in the north elevation of the building. The drawings do not refer to the replacement of any of the windows in the north elevation of the building.

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

Island Development Plan policies:

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

GP16(A): Conversion of Redundant Buildings

OC3: Offices, Industry and Storage and Distribution Outside of the Centres

GP5: Protected Buildings

GP8: Design

GP9: Sustainable Development

GP15: Creation and Extension of Curtilage

IP7: Private and Communal Car Parking

IP9: Highway Safety, Accessibility and Capacity

Representations:

One letter has been submitted raising concerns about the siting and legibility of the site notice as originally displayed.

Seven letters of representation have been submitted commenting on the application and raising the following points:

Use and condition of existing building

- The wooden structure is in a poor state of repair – it is not capable of the use requested; it would need to be demolished to accommodate current regulation requirements
- The building abuts a party boundary wall which cannot sustain any additional loading as the foundations are minimal with evidence of structural movement
- An engineer's report is essential in this case
 - The building probably contains asbestos that will need to be carefully removed
- Until recently it was used as a garage and general storage with short term parking in the one space provided, it has been rented and there has been minimal activity – it is unoccupied due to lack of use not because it is not needed. The current owner uses the building for storage
- The building may have been used as a food store for animals, the land has been used for grazing purposes (currently horses but previously sheep and as a base for homing pigeons) – it has “no viable purpose” and has no services such as water, electric or sewage
- The garage is not redundant because it was rented, as a garage, until recently with others having expressed an interest in renting the building but who were unsuccessful
- Its use was not connected to the adjoining residential property as suggested through the application
- There is no way the building could be upgraded to be used as office accommodation, it will have to be demolished and replaced

Impact on locality

- There is currently a peaceful aspect of an agricultural field used for grazing horses, cattle and sheep. The development will affect views from adjoining properties and result in a loss of peace and enjoyment to residents
- There would be a 100% increase in curtilage associated with the proposal, this is not minor as suggested by the applicant
- The scheme would have a negative effect on the existing field as a result of a loss of grazing
- The field gate and change of land for parking/turning would emphasise the change of use from agriculture to commercial
- A commercial development would be completely inappropriate in this area
- Two fields have already been lost in the locality (Marataine and the Triangular Field) – this proposal would commence the erosion of another green site, a great loss to the well-being of the surrounding community. What constitutes Important Open Land?
- The site is home to wildlife and is a hunting ground for birds of prey
- The demolition of a traditional granite wall and building a new driveway would have an unacceptable adverse impact on the character and openness of the landscape
- The proposal would result in all parking externally and visible (where one space is within a building and hidden from view)

Traffic and highway safety

- The existing access is not ideal but there is no recollection of road traffic collisions from the access in the last 40 years and is used by horseboxes as well as agricultural machinery to cut the grass for animal feed
- The new access would go some way to address the substandard sightline of traffic from the south but moving it north moves it closer to a blind bend
- The proposed development will inevitably lead to an increase in vehicle movements to the site
- There is a well-used bus stop outside the development and there would be a potential hazard to those waiting and alighting the buses (2 per hour) – they will have to wait in the road and negotiate any vehicle arriving or leaving the commercial office. There is no alternative location for the bus stop. Buses will be pushed closer to the blind bend
- The site is directly opposite the gateway of Clearbrook and the proposal will cause a disturbance in access to the property
- The new entrance to the field would be very difficult, or impossible, for tractors/machinery required to maintain the field to enter/exit the site thereby rendering the land useless
- The new entrance will affect loading/unloading animals to graze the land because the new entrance is closer to the corner, unsafe to stop and reverse trailers/horse boxes

Drainage

- The plans do not show the field drain system, this should be shown and a full report provided
- The new entrance is over a very important land drain which was damaged during the 1980s when the site was cleared of glass – water was pouring through the structure of the wall and the damage also exacerbated flooding in the Maison Au Compte
- Drainage in the area is problematic, affected when the existing open ditch which passed in front of the property was infilled and replaced with a culvert. Care will need to be taken to avoid exacerbating flooding in the Maison Au Compte and flooding which also occurs at the Grande Rue/Les Landes junction

Protected Buildings

- The application does not give consideration to Protected Building
- The site is adjacent to Clearbrook which is a listed building and there are other listed buildings nearby (including Riduna)

Other matters

- Why is such a proposal being contemplated? It appears as a gateway proposal for a potential building plot or estate. The land should be cleared and returned to agriculture
- The glasshouses on the site were demolished in the 1980s
- What purpose would an office serve here – it is not needed to manage the plot, there is no need for this office
- Concerns exist regarding the further expansion to the construction and associated increase in curtilage

- The vehicles accessing the office could impact on the animals grazing as this will be greater than those accessing the store
- The shed behind the building offered a pigeon loft but was due to be removed before the sale of the field, concerns exist that it has been incorporated into the curtilage of the application

A States' Deputy has written objecting to the application on the grounds that:

- the scheme would not accord with Policy GP16(A): h. due to the impact on neighbours in terms of noise and disturbance
- the building is considered to be capable of being leased for car parking in its current condition
- there are many thousands of square metres of unoccupied office space in the town areas and it is not necessary to convert this garage Outside of the Centres to office accommodation
- the scheme is contrary to Policy GP15 because the new access and curtilage demarcation would lose agricultural land for parking and turning for the development
- the agricultural land is used for grazing but could be used for arable farming too
- the scheme would see a reduction in the field area from 1169 sqm to 1083 sqm
- The DPA should demonstrate that the land is unsuitable for commercial agricultural uses outside the Agriculture Priority Areas – it was asked in the DPA States debate (IDP Annual Monitoring Report 2020 on 30th March 2022) due to concerns regarding the loss of agricultural land through change of use
- The application should be considered at an Open Planning Meeting

Consultations:

Traffic and Highway Services – raise no objections to the application with regard to the impact of the scheme on the bus stop. Should planning permission be granted and implemented then the situation for passenger safety will be monitored and, if necessary, the bus stop may be relocated.

Guernsey Water – no objection. Draw attention to a private water system, that is the landowner's responsibility to maintain, that runs through the area of land and dispenses into the road surface water gully system. Guernsey Water will attempt to confirm its exact location for reference.

Summary of Issues:

The key issues in this case relate to the principle of the proposed development, the impact of the development on the character and appearance of the locality, on residential amenity and on traffic generation/road safety.

Assessment against:

1 - Purposes of the law.

The objectives set out in Section 1(2) of The Land Planning and Development (Guernsey) Law, 2005, 'the Law', have been considered and this report forms part of the assessment, with policy issues set out in Section 2 below.

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

Policy OC5(B) makes provision for the loss of agricultural buildings or land. Policies OC3 and GP16(A) b. offer support for new office accommodation through the conversion of a redundant building, therefore there is a policy gateway for the proposed office development.

As the authorised planning use of the building is not as a domestic garage the scheme will not be assessed on this basis but rather on the basis that it is a building on agricultural land. This was a former packing shed associated with the historic horticultural use of the site which has long since ceased and the glasshouses cleared. The building therefore is no longer required nor is it capable of being used as a packing shed because there are no glasshouses for it to serve (GP16(A) a.).

In the Island Development Plan, 'conversion' is defined for the purposes of the policy as 'development that involves works to an existing building that would facilitate an alternative use (e.g. conversion of a barn to a dwelling). Paragraph 19.17.3 goes on to state that: *"proposals that would require significant works to the fabric of the structure, such as rebuilding of external walls, may be regarded as being 'new-build' rather than conversion."*

The onus is on the applicant to demonstrate that a building is of sound and substantial construction (GP16(A) c.) and recent appeals considered by the Planning Tribunal have indicated that such proposals should be accompanied by an appropriate Structural Survey. Such a survey has not been provided in this case but the application submission indicates that one could be produced and provided. A visual inspection of the exterior of the building in connection with this application suggests that the blockwork walls may be sound however the lightweight glazing and lightweight roof covering are not clearly of sound and substantial construction for the purposes of Policy GP16(A) c. It is not possible, based on the information available with the submission, to be satisfied that the building would not require rebuilding because it is not possible to establish whether the building is of sound and substantial construction.

The scheme was deferred in order to seek the provision of a Structural Survey however this had not been forthcoming at the time the application was determined therefore, based on the information provided/available the scheme would not comply with Policy GP16(A) c.

Under criterion (c) of Policy GP16(A) the application assessment must also address the matter of "conversion without extensive alteration" and in this respect the current planning application proposes:-

- Existing asbestos roof retained and encapsulated with a specialist coating

- Replace existing solid timber door with glazing above with new aluminium window system and side door
- Rainwater goods to be replaced
- Replacement windows on a like for like basis (not annotated on the application drawings nor the existing window arrangement accurately shown on the plans)
- Inside the building will be insulated
- Infill existing vehicular access
- Form new vehicular access
- Remove existing area of hardstanding to the front/east of the building
- Lay new hardstanding (permeable paving) to provide an access driveway and turning to the north of the building and two off-road parking spaces to the west of the building

The retention of the existing roof covering would not represent extensive alteration however, as the application drawings do not accurately show the existing windows it is not possible to establish whether the replacement windows would represent an extensive alteration. Furthermore, in the absence of a Structural Survey it is not possible to establish whether extensive alterations would be required in order to upgrade the structure to modern office standards. The scheme also fails Policy GP16(A) c. in this respect.

Implications of *The Island Development Committee v Portholme* [2002]

In *The Island Development Committee v Portholme* [2002], the Court of Appeal held that “... if a plan allows for development only in certain identified circumstances, by necessary inference, development out with those circumstances is not to be allowed.”

Section 12(1) of The Land Planning and Development (General Provisions) Ordinance, 2007, is also clear that where the Authority has regard to any relevant Plan in determining an application for planning permission for development which would involve a departure from such a Plan then it must refuse the application (unless the applicant has requested that the application be considered as a minor departure), and it need not take into account any other matter to which it is required to have regard under the Law.

Given the identified conflict with GP16(A), the only lawful decision that can be reached is that planning permission be refused. Although it has been requested by a representor that the application be determined at an Open Planning Meeting, in line with the scheme of delegation this is not necessary given the planning considerations and conclusions in this case.

Other matters

For the reasons set out above, other matters that would ordinarily be relevant to the determination of this application have not been the subject of a full and detailed assessment. For completeness’ sake however, those matters that would be relevant are set out below.

In relation to Policy GP15, the area of land to be brought within the curtilage of the proposed office is well associated with the building to which the application relates and is not located within an Agriculture Priority Area nor an Area of Biodiversity Importance as designated by the IDP. The removal of a section of the roadside boundary in connection with the formation of a replacement vehicular access is considered elsewhere in this report. Although the public consultation has requested land outside the APA to be assessed in terms of its usability for commercial agriculture this is not currently a requirement of the IDP and cannot be required at this time, in relation to this application.

The Island Development Plan recognises there is a balance between protecting open and agricultural land and other legitimate uses Outside of the Centres. The designation of the Agriculture Priority Area represents the Island's most valuable agricultural area. In this instance, given that the land is outside of the Agriculture Priority Area, the balance would not be towards protecting this land for agricultural purposes.

The scheme does not relate to a Protected Building and nor does it propose an extension therefore Policy GP16(A) d. and g are not relevant in this case. The building is of no particular architectural merit given that it was designed as a functional packing shed for a vinery site. It does not represent a building of character (GP16(A) d.) The proposed alterations to the building represent a good standard of design that would respect the local built environment (GP8).

The new vehicular access and driveway represents an extensive alteration but this is balanced against the benefit of providing an improved access to the site, with better visibility along the road and with an area of turning to enable vehicles to exit the site in a forward gear (no need to reverse in or out of the site). The level of hardstanding proposed to provide the driveway, parking and turning has been kept to a minimum in order to reduce the impact of the works on the locality and having regard to Policy GP9: Sustainable Development. The scheme indicates that the surface will be permeable and this is a matter that can be controlled by planning condition. In this respect the scheme does, on balance meet the aims of GP16(A) c.

The ancillary development associated with this conversion relate to the new access and parking arrangements. They are situated close to the existing building, screened from view when travelling north along La Grande Rue but would be visible in the context of the adjoining residential development when travelling south. The conversion and associated works would not however, have an unacceptable adverse impact on the character and openness of the landscape (GP16(A) f. and GP1).

Consideration must also be given to the impact of the proposals on residential amenity. The siting and layout of the accommodation is such that it will not result in unacceptable overlooking or loss of privacy to the occupiers of any surrounding dwellings. The limited size of the accommodation is such that it would not result in conflict with the adjoining existing uses. The site would not accommodate significant numbers of clients/visitors at a single time and the office use will not generate unacceptable noise and nuisance for surrounding residents. There is no evidence to demonstrate that the driveway and parking area adjacent to the field will result in harm

to those animals which graze in the field, which at present has a roadside boundary therefore the animals will be accustomed to an element of traffic noise. Given the limited scale of the development it is not considered reasonable or necessary to impose limitations on the days/hours of use and operation and the scheme addresses the requirements of Policies GP15, GP16(A) h., GP8 or GP9 of the IDP.

The site is not situated in a Conservation Area and although a section of the boundary would be lost, a large proportion will remain intact, including replacement to infill the existing access which can be controlled by condition, which will continue to provide an adequate boundary feature. In this particular instance it is considered therefore that any adverse impact on the character of the area as a result of the development is not so substantial to warrant the refusal of planning permission. This conclusion is reinforced by the preceding text to Policy IP9, which notes that, *“the Authority will balance any impact on the character of the locality concerned with affording a significant degree of flexibility so that reasonable development aspirations can be met.”* In this case, the existing access is unsatisfactory with poor visibility south onto La Grande Rue. The provision of an access that offers good sightlines in both directions meets the aims of Policy IP9 but does not outweigh the reason to refuse permission.

Having regard to the above, the change of use of land would accord with Policy GP15 a)-e) and the principle of change of use of agricultural land to land falling within Use Class 15 or 16 of The Land Planning and Development (Use Classes) Ordinance, 2017 is considered to be acceptable in this particular location.

Whilst there are protected buildings in the vicinity of the application site the scheme would not result in harm to the setting of those protected building in accordance with Policy GP5.

In line with the States’ Strategy for Nature, 2020, which has been adopted as Supplementary Planning Guidance, the Development and Planning Authority has directed that from 1 September 2021 all applications involving the change of use of agricultural land must be accompanied by information demonstrating environmental benefits in respect of biodiversity that will be incorporated should planning permission be granted. The scheme does include a Biodiversity enhancement Landscaping Plan and should permission be granted for the development this could be controlled by planning condition.

Guernsey Water raise no objections to the proposed development and an informative note could be placed on a permission highlighting the points raised.

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

In addition to the consideration of policy issues, Section 13 of the Land Planning and Development (General Provisions) Ordinance, 2007 identifies other material planning considerations which could be relevant; however, having regard to the Guernsey Court of Appeal judgement in *The Island Development Committee v Portholme* [2002] (Civil 320) these have been given limited further consideration in this case.

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

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

Date: 19 August 2022