



PLANNING APPLICATION REPORT

Application No: FULL/2022/1095
Property Ref: C00839A000+C00840A000
Valid date: 10/05/2022
Location: Braye Road Industrial Site La Route Du Braye Vale Guernsey
Proposal: Rescind condition 4 of application number FULL/2021/2298 to erect 18 light industrial units in order to develop the approved scheme as a single phase of work, rather than in two phases.
Applicant: RED5

RECOMMENDATION – Agree to Rescind condition 4 of application number FULL/2021/2298 to erect 18 light industrial units in order to develop the approved scheme as a single phase of work, rather than in two phases.

OFFICER'S REPORT

Site Description:

The application site is located within an urban/built up area within the Vale parish. The site comprises approximately 0.42 hectares (2.6 verges) of agricultural land situated to the south of La Route du Braye. The site was formerly in horticultural use with the glass being cleared from the site between 1980 and 1996 and there are currently no buildings on the site.

There are no significant changes in level across the site although there is a slight slope down from the north to the south and west to east. The site falls within the built-up area within the Lowlands Landscape Character Area within the Braye du Valle Wetlands.

Surrounding the site, the area comprises industrial units to the south and west, and residential properties to the north and northeast with the associated garden area of one of these properties immediately to the east of the site.

The site is currently accessed from La Route du Braye to the north of the site, which is a Traffic Priority Route.

The site is situated within the Bridge Main Centre Outer Area and the western part is allocated as part of the wider Saltpans Key industrial Area with the eastern part allocated as a Key Industrial Expansion Area as designated in the Island Development Plan.

Situated to the north and sharing a boundary with the site is a protected building (Brayehurst).

Relevant History:

24/03/22 FULL/2021/2298 Permission to erect 18 light industrial units with associated parking and landscaping, alterations to vehicle access and erect signage.

Existing Use(s):

Agricultural land

Brief Description of Development:

Planning permission was granted in 2022 to erect 18 light industrial units at this site with associated parking and landscaping, and including alterations to the existing access point into the site and the erection of signage.

Condition 4 of that decision read as follows:

“Prior to the commencement of any development on site, a detailed scheme showing the two phases of construction of the development shall be submitted to and approved in writing by the Authority. The development shall only be carried out in accordance with the approved phasing scheme.”

The current application seeks to rescind that condition, requesting a minor departure from Plan policy.

In terms of sustainability the submission notes that this is a small light industrial development and needs to be brought to completion in one process due to the following efficiencies:

- Shipment of materials and mobilization of plant, reducing environmental impacts due to reduced traffic movements;
- Setting up of site compound;
- Length of the project and duration of nuisance to neighbours;
- Site landscaping can't be undertaken until construction phase is complete;
- Utility companies will have to make provision for overall energy usage, effectively over producing until the scheme is complete;
- For the next 9 months the company has a use for the exported soil, beyond that the soil will go to landfill;
- Business operators won't operate from a site that is still under construction;
- Health and Safety improvements, avoiding site and operator traffic using the access together.

In terms of commercial effects of phasing, effecting viability, the following points are made:

- Phasing is not viable and the Client's lending bank will not finance the scheme;
- Doubling up of processes increases costs dramatically;
- The overall infrastructure costs cannot be met by the returns generated from only Phase 1;

- Through the Development Framework process it has been established that there is a need for this development in its entirety.

A letter has also been provided from Blondel Touzeau Partnership noting that Condition 4 presents significant material uncertainty about the feasibility of “Phase 2”, and prevents BTP from being able to value the second phase of the development.

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

S1:	Spatial Policy
S2:	Main Centres and Main Centre Outer Areas
MC5(A):	Industry Storage and Distribution Uses in Main Centres and Main Centre Outer Areas – within Key Industrial Areas and Key Industrial Expansion Areas

Braye Road Industrial Estate Development Framework Supplementary Planning Guidance June 2021.

Representations:

Two letters received raising the following points:

- Condition 4 is in accordance with MC5(A), the policies and clauses of the IDP are there for a reason and should be adhered to. Rescinding the condition is clearly in contravention of the IDP;
- Rescinding this condition will set a precedent for similar actions elsewhere;
- It is not Planning’s business whether an applicant can or can’t afford to develop, nor is it Planning’s responsibility to facilitate the borrowing of money or securing of finance;
- The developer was aware of the site constraints at the time of purchase;
- The site should be designed to deal with the two Phases of development, it is the applicant’s fault if this is not the case;
- Site landscaping could be completed in phasing;
- Although described as a ‘biodiversity positive scheme’ birds or bats won’t nest on an industrial site, native plants have no positive aspects for pollinating insects and the doubt is not being opened up;
- It is difficult to believe there are no other options for storage of soil other than taking it to landfill;
- Impact on neighbours resulting from a longer construction phase if the site is developed as one phase;
- The immediate neighbours have not been consulted and do not want the development completed swiftly as stated in the submission;
- How will construction traffic be managed on site, particularly larger vehicles turning left from the work site.

Consultations:

None undertaken.

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).**

Planning permission was granted in 2022 to erect 18 light industrial units at this site with associated parking and landscaping, and including alterations to the existing access point into the site and the erection of signage.

Condition 4 of that decision read as follows:

"Prior to the commencement of any development on site, a detailed scheme showing the two phases of construction of the development shall be submitted to and approved in writing by the Authority. The development shall only be carried out in accordance with the approved phasing scheme."

The reason for the application of the condition was stated to be:

"To ensure that the part of the site that is designated as a Key Industrial Expansion Area comes forward for development only where it has been demonstrated that there are no suitable alternative sites available within any of the Key Industrial Areas or Main Centres and Main Centre Outer Areas in accordance with Policy MC5(A) and the Braye Road Industrial Estate SPG (2021)."

This reason was expounded upon in the informative attached to the decision:

"The phasing strategy required by condition 4 will need to demonstrate that Blocks 1 and 2, the main access and infrastructure for the site and landscaping and associated works will come forward as Phase 1 and that blocks 3 and 4 will form Phase 2 that will come forward for development only where it has been demonstrated that there are no suitable alternative sites available within any of the Key Industrial Areas or Main Centres and Main Centre Outer Areas."

The site falls within the Bridge Main Centre Outer Area as designated in the Island Development Plan. The western part of the site is allocated as part of the wider Saltpans Key Industrial Area (KIA) and the eastern part of the site, representing approximately one third of the site area, is allocated as a Key Industrial Expansion Area (KIEA). The purpose of KIA's is to enable the consolidation of industry, storage and distribution uses, with the KIEA's allowing for the expansion of these areas. Whilst policy allows for development within the KIAs at any time, development within the KIEAs is only supported where it has been demonstrated that no suitable alternative sites are available within the KIA's or Main Centres. (Policy MC5(A) and

paragraph 2.2 of the Braye Road Industrial Estate Supplementary Planning Guidance 2021 (SPG)).

In this case, no information has been put forward to demonstrate that there are no suitable alternative sites within the KIAs or Main Centres.

Whilst the SPG suggests that it is likely that the site will be developed in phases, to provide a comprehensive development scheme in accordance with Policy MC10, paragraph 5.3 of the SPG however requires proposals for the development of the site to conform to a comprehensive scheme for the whole of the site. To this end, the approved scheme detailed the construction of 18 industrial units at the site, to come forward for development as part of two phases of development. Phase one comprising two blocks each containing five industrial units (10 in total), access and parking, and Phase 2, located on the smaller area within the Key Industrial Expansion Area (KIEA), comprising the construction of a further 8 industrial units situated in the eastern section of the site.

Saltpans is one of four Key Industrial Areas identified within the Island Development Plan and each has an identified Key Industrial Expansion Area. The KIEA at Saltpans is however notably smaller than those attached to the other KIAs and represents a small proportion of the land allocated for industry in the Island. Given the limited size of this KIEA, development of the site as proposed, for purposes otherwise in accordance with Plan policy, would not prejudice or inhibit development within the KIAs themselves and would not undermine the rationale behind the policy direction. The development would also support and advance investment within the designated KIA area itself, and would therefore be in accordance with the overriding direction of the policy.

Given the wording within the policy text, SPG and the applicant's own submission, it is difficult to credit that the applicant was unaware of the likely phasing requirement of the development and the financial arrangements of the company cannot be given significant weight. The practicalities of delivering a development on a site of this size in a phased manner are however appreciated, and it is noted that the required phasing could inhibit investment into the KIA itself, whilst delivering little benefit in terms of enhancement to the wider KIA designation.

The original permission relating to this development was subject to conditions, to control the use of and operations at the site, detailed finishes of the buildings, landscaping of the site, and construction operations, to ensure compliance with Plan policy and, in particular, to mitigate impacts on the environment and neighbour amenity. All such conditions would still apply and impacts on the environment and neighbour amenity would be unchanged as a result of this application, albeit that construction operations would be over a consolidated period as opposed to two separate phases. It should however be noted that a number of these conditions are pre-commencement and must be discharged prior to works commencing at the site.

On balance and, taking into account the above, it is considered that the requirement to complete this particular development in phases would be disproportionate to the size of the development and the size of KIEA and could prejudice development of the KIA itself. Furthermore, the proposal would be in accordance with the overriding approach to development within the Key Industrial Areas and Key Industrial Expansion Areas, and it is therefore recommended that the application be approved as a minor departure from the development plan under section 12(2) of the Land Planning and Development (General Provisions) Ordinance, 2007.

Date: 23/08/2022

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: Erect 18 light industrial units with associated parking and landscaping, alterations to vehicle access and erect signage.

LOCATION: Braye Road Industrial Estate, Braye Road, Vale.

APPLICANT: Red 5 Limited

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: 24/03/2022

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 17/11/2021 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Lovell Ozanne & Partners - AA30-10460-S1-02A, 03A, 04A, 05A, 06, 07, 08, 09A, 10A & 11.

Application Ref: FULL/2021/2298

Property Ref: C00839A000+C00840A000

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 Authority 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 Authority and (ii) it is commenced or, as the case may be, continued, in accordance with that requirement and any further requirements imposed by the Authority 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 units hereby approved shall be used only for general storage or distribution (Storage/Distribution use class 22) or light industry (Industrial use class 24) as set out in the Land Planning and Development (Use Classes) Ordinance, 2017, or in any provision equivalent to that Use Class in any Ordinance revoking or re-enacting that Ordinance. On the first use of each unit, the authorised use of that specific unit shall thereafter be recognised as being the use class within which the use for which it was first used falls.

Reason - To provide an initial element of flexibility to enable the development to be marketed to a range of potential occupants, whilst ensuring that the recognised use of each unit is established when they are first occupied and brought into use.

5. Notwithstanding the details shown on the approved plans prior to the commencement of any work in connection therewith a landscaping scheme, to include those details specified below, shall be submitted to and agreed in writing by the Authority:

- i) the treatment proposed for all ground surfaces, including hard areas;
- ii) full details of tree and hedge planting;
- iii) planting schedules, noting the species, sizes, numbers and densities of plants (in accordance with the recommendations of the Sexton Green report);
- iv) finished levels or contours and
- v) all existing trees, hedges and other landscape features, indicating clearly those to be removed.

Reason - To make sure that a satisfactory landscaping scheme for the development is agreed, in order to help assimilate the development into its surroundings.

6. The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of the above condition, in the first planting season following the first occupation of any part of the development or completion of development whichever is the sooner, or in accordance with a programme previously agreed in writing by the Authority. Any trees or plants removed, dying, being severely damaged or becoming seriously diseased, within 5 years of planting shall be replaced in the following planting season by trees or plants of a size and species similar to those originally required to be planted.

Reason - To make sure that the appearance of the completed development is satisfactory and to help assimilate the development into its surroundings.

7. No part of the development, hereby permitted, shall be occupied or used until details of any external lighting proposed for the site have been submitted to and agreed in writing by the Authority. Any lighting to be installed shall only be in accordance with the agreed details.

Reason - To make sure the level of lighting is not excessive in order to secure a sustainable form of development and one which does not unduly interfere with residential amenity or traffic and pedestrian safety.

8. No cladding shall be brought to the site until such time as details of the type, texture and colour of the cladding material(s) to be used have been submitted to and agreed in writing by the Authority. The work shall be completed in accordance with the agreed details.

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

9. Prior to the completion of the development or the first occupation of any of the approved units (whichever is the sooner) the HGV no left turn sign shall have been erected and the vehicle access point onto Braye Road shall have been completed in strict accordance with the details shown on the approved drawing Ref: AA30-10460-S1-09.

Reason - To ensure the development is carried out only as hereby approved in the interests of pedestrian and highway safety.

10. Details of the public art installation in the position shown on drawing ref AA30-10460-S1-10 Rev A shall be submitted to and agreed in writing by the Authority and the agreed public art installation shall be installed prior to the first occupation of any part of the development or completion of development whichever is the sooner, or in accordance with a programme previously agreed in writing by the Authority.

Reason - To ensure that the development includes an appropriate form of public art in accordance with Policy GP18.

11. No development, including site clearance and demolition, shall take place until an updated version of the Site Waste Management Plan submitted as part of this application has been submitted to and approved in writing by the Authority. The updated Site Waste Management Plan shall take into account any further site surveys or changes to the construction programme, and shall identify an individual with responsibility for regularly monitoring the Site Waste Management Plan. The development shall thereafter be carried out only in accordance with the Site Waste Management Plan so approved.

Reason: To ensure that the development is managed to minimise waste during the demolition of any existing buildings or structures or during construction, that existing materials are reused, recycled or disposed of either on or off site, and that residual waste will be dealt with appropriately, in accordance with the aims and objectives of Policy GP9.

12. No part of the development hereby permitted shall be occupied or brought into use until there has been submitted to the Authority a report providing verification that the development has been carried out and monitored fully in accordance with the Site Waste Management Plan approved under Condition 12 above. Where there has been any variation from the approved Site Waste Management Plan, the report shall highlight and detail the reasons for this.

Reason: To ensure that the development is managed to minimise waste during the demolition of any existing buildings or structures or during construction, that existing materials are reused, recycled or disposed of either on or off site, and that residual waste will be dealt with appropriately, in accordance with the aims and objectives of Policy GP9.

13. No development, including demolition and site works, shall begin until a Construction Environmental Management Plan (CEMP) has been submitted to and agreed in writing by the Authority. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting during the construction process. The CEMP shall include the following information:

- Hours during which any site works, demolition and building works would be carried out;
- Site lighting and light pollution control;
- Measures for dust prevention and management; and
- A detailed noise and vibration management plan.

The construction works shall be carried out only in accordance with the agreed CEMP.

Reason - The site is situated adjacent to residential properties and routes to the site are through residential areas. A limit on the use is needed to prevent a nuisance or annoyance to nearby residents and the local amenity.

14. No development, including site works, shall begin on site until such time as full details of the proposed permeable hard surfacing to ensure that all surface water is disposed of within the site have been submitted to and agreed in writing by the Authority. All hard surfaces shall be completed in accordance with the details so agreed before the first occupation of any part of the development.

Reason - In the interests of sustainable development and to mitigate against the risk of flooding outside the site.

15. No industrial use of the premises shall be carried out other than between 0700 hours and 1900 hours on Mondays to Fridays, and 0700 hours and 17:00 hours on Saturdays, and there shall be no working on Sundays or Public Holidays.

Reason - The premises are close to residential property and a limit on the use is needed to prevent a nuisance or annoyance to nearby residents.

16. Plant and machinery shall be operated inside of the buildings only while all doors and windows remain closed and no industrial activity of any kind shall take place outside of the proposed buildings.

Reason - The premises are close to residential property and a limit on the use is needed to prevent a nuisance or annoyance to nearby residents.

17. Any windows serving mezzanine floors installed in any of the units contained within blocks 3 and 4 shall be fixed (i.e. non openable) and shall be glazed with obscure glass to a minimum of level 3 on the Pilkington scale (or equivalent) which shall thereafter be retained at all times. No changes shall be made to these windows nor shall any additional windows be inserted in this elevation.

Reason - To minimise the effect of the development on the privacy and amenities of nearby residents.

18. Before the first occupation of any part of the development hereby permitted, bat, bird and hedgehog boxes shall be installed in appropriate locations in accordance with recommendations set out in the Ecological Assessment submitted as part of this application. The bat, bird and hedgehog boxes shall thereafter be so maintained.

Reason - To ensure that the development makes a positive contribution towards biodiversity.

Expiry Date: This permission will cease to have effect on 23/03/2025 unless development is commenced by that date.

ADVICE AND OTHER REMARKS:-

For the purposes of condition 7, any lighting scheme should include:

1. a statement of why the lighting is needed;
2. an indication of the proposed frequency of use of the lights and the hours of illumination;
3. two copies of an accurate plan showing the areas to be lit;
4. details of the number, location, height and colour of any lighting columns or other fixtures;
5. the type, number, mounting height and alignment of the luminaires and the beam angles and upward waste light ratio for each;
6. a diagram showing the predicted levels of illumination at the site boundaries;
7. a diagram showing the predicted vertical illumination affecting any adjacent dwellings.

If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted to the Planning Services a method statement to identify, risk assess and address the unidentified contaminants, and obtained written agreement from the Authority for the works to continue. Any subsequent works shall be carried out only in accordance with the conclusions and recommendations contained in the agreed report.

For the avoidance of doubt, any offices formed within any of the units hereby permitted are to be used only as ancillary or ordinarily incidental to the authorised use of the premises, and shall not be used for any separate office use.

Please note that, in order for the permitted activity to be considered as 'light industrial', the processes carried on and the machinery installed must be carried on or installed in a way that does not affect the amenities enjoyed by people living or working in the area by giving rise to noise, vibration, offensive odours, fumes, smoke, ash, dust, grit or effluent.

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 Authority made this decision. The official Appeal Notice Forms are available on the States of Guernsey website at www.gov.gg/planningpanel 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 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 under section 11 will be included with this decision in accordance with section 19 of the Ordinance.

Other Remarks:

Please note that any work which abuts or affects the public highway requires prior approval by Traffic and Highway Services. Please contact Traffic & Highway Services (highways@gov.gg) for further advice. You must also ensure that any access/es to the development are constructed to meet the existing road/footway levels in accordance with their 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

Planning Service

