

**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/storage shed to dwelling and including change of use of agricultural land to domestic garden (1,200 sq.m.) (revised).

**LOCATION:** Storage Shed Site, Houmtel Lane, Vale.

**APPLICANT:** Mr J Mooney

I refer to the application referred to below received as valid on 02/11/2022 regarding the above proposals as described more fully in the application and drawings referred to below.

**Date of refusal of permission:** 24/01/2024

**Drawing Nos:** MAT Ltd - 21-212-03B, 04A & 05A.

**Application Ref:** FULL/2022/1938

**Property Ref:** C014450000

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 information submitted regarding the extent of works required to convert the building to a residential use lacks detail and precision. For example the submitted structural report sets out that the structural integrity of the steel stanchions will need to be addressed but no information is provided about the proposed works to the steel stanchions. Consequently, there is insufficient information to conclude that the existing building is of sound and substantial construction and is capable of conversion to a residential use without extensive alteration or rebuilding, contrary to Policy GP16(A).

2. Windows in the east elevation face towards a neighbouring property and are positioned approximately 2 metres from the boundary. Together with the layout of the neighbouring property and the lack of a suitable boundary treatment to safeguard privacy, the proposal is likely to have an adverse effect on the amenities of neighbouring residents. The proposal is contrary to Policies GP8, GP9 and GP16(A) of the Island Development Plan.

3. The information provided with the application including the wholesale clearance of existing trees and vegetation and the additional proposed soft landscaping does not demonstrate that the proposed change of use of this sizeable parcel of land will result in proportionate enhancements to biodiversity. As a result the proposal does not accord with the 2020 Strategy for Nature Supplementary Planning Guidance.

**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/2022/1938  
**Property Ref:** C014450000  
**Valid date:** 02/11/2022  
**Location:** Storage Shed Site Houmtel Lane Vale Guernsey GY3 5LG  
**Proposal:** Convert outbuilding/storage shed to dwelling and including change of use of agricultural land to domestic garden (1,200 sq.m.) (revised).  
**Applicant:** Mr J Mooney

**RECOMMENDATION - Refusal with Reasons:**

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**REASONS FOR REFUSAL**

1. The information submitted regarding the extent of works required to convert the building to a residential use lacks detail and precision. For example the submitted structural report sets out that the structural integrity of the steel stanchions will need to be addressed but no information is provided about the proposed works to the steel stanchions. Consequently, there is insufficient information to conclude that the existing building is of sound and substantial construction and is capable of conversion to a residential use without extensive alteration or rebuilding, contrary to Policy GP16(A).
  2. Windows in the east elevation face towards a neighbouring property and are positioned approximately 2 metres from the boundary. Together with the layout of the neighbouring property and the lack of a suitable boundary treatment to safeguard privacy, the proposal is likely to have an adverse effect on the amenities of neighbouring residents. The proposal is contrary to Policies GP8, GP9 and GP16(A) of the Island Development Plan.
  3. The information provided with the application including the wholesale clearance of existing trees and vegetation and the additional proposed soft landscaping does not demonstrate that the proposed change of use of this sizeable parcel of land will result in proportionate enhancements to biodiversity. As a result the proposal does not accord with the 2020 Strategy for Nature Supplementary Planning Guidance.
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**OFFICER'S REPORT**

**Site Description:**

The site consists of a former horticultural site which has largely been cleared, except for a storage shed in the north-east corner and a series of low walls, oil tanks/metal structures and a tall water tower. The southern section of the land appears to be unmanaged and includes a number of semi-mature trees and undergrowth. The storage

shed is a single storey block work building with a pitched corrugated clad roof and a floor area of approximately 160sqm.

The site is situated behind neighbouring residential properties which front onto highways and it is accessed from Houmtel Lane to the north via a gravelled track between neighbouring properties. The site is located Outside of the Centres.

**Relevant History:**

09/01/2018 – PREA/2017/2490 – Pre-application advice regarding conversion of building.

**Existing Use(s):**

Agricultural Use Class 28

**Brief Description of Development:**

Planning permission is requested to convert a storage shed to a 3 bedroom dwelling and including the change of use of a parcel of agricultural land measuring 1,200sqm to domestic land.

**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 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 IP6: Transport Infrastructure and Support Facilities

Policy IP9: Highway Safety, Accessibility and Capacity

**Representations:**

8 representations were received in response to the original application, including a representation from La Société Guerneslaise, main points as follows:

- Proposed curtilage extension includes few details and makes no mention of biodiversity enhancements or whether existing trees and planting is to be retained.
- The area is far too built up as it is and further development would have a negative effect on the area.
- The highways are too narrow for additional traffic.
- Access to the site.
- Impact on the privacy of neighbouring properties.
- One representation raises no objections to the construction of a dwelling but requests that it is relocated further from neighbouring boundaries.

- Two representations raise no objection in principle to the conversion of the building to a dwelling provided that the current height and footprint of the building is not exceeded.
- Concerns are raised about the change of use of the entire site due to its disproportionate size; the potential gateway to future development; part of the site is used for growing; no details of the clearance of land or planting, boundary treatments or outbuildings are provided; and concerns are raised that the clearance of the land will be detrimental to wildlife.
- The building is not redundant and is capable of being used for its existing use as a storage shed and could support the use of the site for growing.
- The design of the dwelling calls into doubt the longevity of the project.
- The impact of the development on the setting of nearby protected buildings.
- Site notice not displayed correctly.
- Errors and inconsistencies regarding the labelling of elevations, the number of bedrooms and the address of the property are noted.

A representation on behalf of La Société Guernesiaise advises that:

“The area in question, measuring over 0.5 hectares, is one of the largest applications of this type we have seen. We consider it to be excessive in terms of the needs of a dwelling.

We would suggest that the proposals do not meet Point A or E of GP15: Creation and Extension of Curtilage -

A ‘it would not have an unacceptable detrimental impact on the landscape character’

The land represents a significant area of green space within a fairly developed landscape. This land has remained largely unchanged for many years and provides extensive natural screening of numerous dwellings from multiple directions.

E. ‘it would not adversely affect the reasonable amenities of neighbouring residents’.

This area of land forms a local green lung to the entire block of land. If it was reclassified as domestic curtilage, the present (or future) landowner would be able to undertake extensive clearance works and effectively remove this semi-natural habitat. This would be to the detriment of the local community.

We would also suggest that reclassifying this land as domestic curtilage would not be supported by the Strategy for Nature as it would, in all likelihood, lead to extensive ecological losses.

Finally we would also point out that the proposals do not include any provision for biodiversity measures as required by the Planning Service.

With the above in mind, we wish to oppose this application”.

1 representation was received in response to the revised application, main points as follows:

- Impact on the privacy of the neighbouring property to the east due to the loss of privacy.
- No objections to the construction of a dwelling but requests that it is relocated further from the neighbouring boundary.

### **Consultations:**

The Office of Environmental Health and Pollution Regulation, 26/01/2023

"I have reviewed the proposed plans for the conversion of an outbuilding/storage shed to a dwelling, with change of use from agricultural land to domestic garden at the above site.

I am concerned about potentially contaminated land at the site. Having viewed the historic Cadastre documents it is evident that there were a number of heated glasshouses on the site and this would have encompassed associated fuel storage. I would therefore recommend the following phased condition is attached to any granted consent:

#### Potential Contaminated Land Condition

Please note this is one condition with multiple sub-sections:

(i) No works pursuant to this permission shall commence until there has been submitted to and approved in writing by Planning Services: (A desktop study shall be the very minimum standard accepted. Pending the results of the desk top study, the applicant may have to satisfy the requirements of b and c below, however, this will all be confirmed in writing).

- (i) (a) A desktop study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Land Contamination Risk Management (LCRM) and BS10175:2001+A2:2017 - Investigation of Potentially Contaminated Sites - Code of Practice;

and unless otherwise agreed in writing by Planning Services,

- (i) (b) a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS10175;

and, unless otherwise agreed in writing by Planning Services,

- (i) (c) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include nomination of a competent person to oversee the implementation of the works.

(ii) The development hereby permitted shall not be occupied or brought into use until there has been submitted to Planning Services verification by a competent person

approved under the provisions of condition (i)c that any remediation scheme required and approved under the provisions of condition (i)c has been implemented fully in accordance with the approved details (unless varied with the written agreement of Planning Services in advance of implementation). Unless otherwise agreed in writing by the local planning authority such verification shall comprise:

- (ii) a) as built drawings of the implemented scheme;
- (ii) b) photographs of the remediation works in progress;
- (ii) c) certificates demonstrating that imported and/or material left in situ is free from contamination.

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under condition (i)c.

#### Informatives/Advice Notes

The phased risk assessment should be carried out also in accordance with the procedural guidance and UK policy.

The site is known to be or suspected to be contaminated. Please be aware that the responsibility for the safe development and secure occupancy of the site rests with the developer.

It is strongly recommended that in submitting details in accordance with the above conditions that the applicant has reference to Land Contamination risk management available at <https://www.gov.uk/guidance/land-contamination-risk-management>.

I would be grateful if the above information is considered during the determination of this application.

Please do not hesitate to contact me at the above address should you require any additional information regarding this matter”.

#### **Summary of Issues:**

The main issues in deciding this application are:

1. The principle of residential conversion.
2. Whether the existing building is of sound and substantial construction and is capable of conversion without extensive alteration or rebuilding.
3. The impact on the amenities of neighbouring residents.
4. The impact of the development on the character and openness of the landscape.
5. Whether the proposal would result in biodiversity enhancements.

#### **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).**

During the course of consideration, the application was deferred due to concerns about the extent of alterations and works required to the building, the impact on the amenities of neighbouring residents, the change of use of the entire site to domestic land, it had not been demonstrated that the change of use of the land would include biodiversity enhancements, it had not been demonstrated that the proposal had taken into account the use of energy and resources and it was advised that the surface of the access track may need to be upgraded to comply with Building Regulations.

In response revised plans were submitted which included a reduction in the domestic curtilage of the proposed dwelling from 5,519sqm to 1,200sqm; alterations were made to the fenestration in the east elevation and further information was submitted regarding the redundancy of the building, the extent of works to the building and the sustainable design features to be incorporated into the development.

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”*.

In exceptional circumstances, in relation to housing, the Island Development Plan does however recognise the potential opportunity to convert and reuse redundant buildings. The balance in terms of housing provision Outside of the Centres is however to protect the physical environment and to ensure that the spatial strategy of the Plan is not undermined. To this end, any proposal to create housing must comply with a series of rigorous tests, summarised in Policy OC1 and encapsulated in Policy GP16(A) in the Island Development Plan.

The proposal is addressed against the criteria of Policy GP16(A) below.

*a. It is demonstrated that the building is no longer required or capable of being used for its current or last known purpose;*

The agent advises that the storage shed is a remnant of the former horticultural use of the site and has been in situ since at least 1963. The glasshouses have been cleared and the former and last known use of the storage shed as a packing shed is no longer required.

The glasshouses on the site showed increasing signs of dereliction throughout the 1990s and 2000s, they have since been cleared from the site and therefore it is agreed that the storage shed is no longer required to service the former horticultural use of the site. However, on the clearance of the glasshouses the land and building reverted to agricultural use. At the time of the site visit during the processing of this application, a section of the land to the west of the storage shed had been cleared and appeared to be

in use as a vegetable patch and the shed was being used to store various items of unknown origin. No details have been provided about the recent and historic use of the storage shed since the glasshouses were removed and it is unclear whether the storage shed is required in association with the agricultural use of the land. However, as the application does not otherwise accord with Policy this aspect has not been explored further at this stage.

*b. The conversion will result in the establishment of either residential, social and community, industrial, storage and distribution, convenience retail in coastal locations in accordance with Policy OC4, visitor accommodation or office use or provide facilities for outdoor formal creation or informal leisure and recreation uses;*

The proposal would result in the establishment of a residential use.

*c. The existing building is of sound and substantial construction and is capable of conversion without extensive alteration or rebuilding;*

Following the approach taken by the Planning Tribunal in relation to an appeal under Policy GP16(A) (Rue Coutance Ref: PAP/008/2019), this criterion must be assessed in two parts. Firstly, whether the building is of sound and substantial construction (in relation to the use originally intended), and secondly, an assessment as to whether the building is capable of conversion without extensive alteration or rebuilding.

The preceding text to Policy GP16(A) states that a structural survey will usually be required to address this criterion. The application is supported by a structural report based on a visual inspection. The structural report concludes that once the structural integrity of the steel stanchions have been addressed the building would be suitable for adoption for residential purposes. Whilst additional information was submitted regarding the extent of works, the information still lacks detail and precision. For example no information is provided about the proposed works to the steel stanchions. Consequently, there is insufficient information to conclude that the existing building is of sound and substantial construction and is capable of conversion to a residential use without extensive alteration or rebuilding, contrary to Policy GP16(A).

*d. The proposal would have no adverse impacts on the special interest of a protected building and that such interest is appropriately and proportionately preserved and, where possible, enhanced;*

There are no protected buildings at the site and the distance to the nearest protected buildings is sufficient to prevent any adverse effects on their setting.

*e. The proposals would have no unacceptable impacts on the contribution a building of character makes to the character and appearance of the area;*

The existing building is not considered to comprise a building of character.

*f. the conversion and any ancillary development associated with it can be implemented without having any unacceptable adverse impacts on the character and openness of the landscape;*

The building is situated behind neighbouring dwellings which front onto the highway resulting in limited public views of the site. No extensions to the existing building are proposed. Whilst the proposed domestic curtilage of the dwelling is generous, it is confined to the north-east corner of the site, it is not necessarily unreasonable for a dwelling of this size in this location and the majority of the site would be retained as open/undeveloped land. Overall the use of the building and associated land for residential purposes is unlikely to have any significant adverse impacts on the character and openness of the landscape.

*g. The conversion would not require more than modest extension to the existing building for it to be achieved;*

No extension is proposed.

*h. The proposal would have no unacceptable adverse impacts on the amenities and enjoyment of neighbouring properties and the surrounding area;*

Windows in the east elevation face towards a neighbouring property and are positioned approximately 2 metres from the boundary. Although 3 of the 5 windows are indicated to be obscure glazed, the 2 bedroom windows do not include obscured glazing and 3 of the 5 windows include casement windows which would negate any benefits of obscured glazing when the windows are open. Together with the layout of the neighbouring property and the lack of a suitable boundary treatment to safeguard privacy, the proposal is likely to have an adverse effect on the amenities of neighbouring residents. The proposal is contrary to Policies GP8, GP9 and GP16(A) of the Island Development Plan and in relation to General material consideration (i).

The proposal to change the use of a section of the land to a domestic use to serve the proposed dwelling also falls to be considered under Policies OC5(B), GP15 and GP1 of the Island Development Plan.

The site is not within an Agriculture Priority Area or an Area of Biodiversity Importance, no existing boundaries are proposed to be removed and the use of the land for domestic purposes is unlikely to have any significant adverse effects on neighbouring residents. As set out under section (f) above, it is concluded that the proposal is unlikely to have any significant adverse impacts on the character and openness of the landscape and consequently the change of use of the land to a domestic use accords with Policies OC5(B), GP15 and GP1.

In line with the 2020 Strategy for Nature, which has been adopted as Supplementary Planning Guidance, the Development and Planning Authority has directed that from 1<sup>st</sup> September 2021 all applications involving the change of use of agricultural land to domestic garden must be accompanied by information demonstrating environmental

benefits in respect of biodiversity that will be incorporated should planning permission be granted.

The application as originally submitted had not addressed the 2020 Strategy for Nature or included meaningful environmental benefits that would be implemented on site should planning permission be granted for the change of use of the land. The agent in this case was invited to provide further details of biodiversity enhancements as a result of the development. In response, hedging is indicated around domestic and agricultural boundaries and tree planting is shown on the agricultural land. The revised plans appear to indicate the clearance of existing former horticultural structures including oil tanks/metal structures and a tall water tower which is welcomed, although further details would be required to confirm the extent of the demolition works, including whether low walls and hardsurfacing would also be removed.

However, the southern section of the agricultural land is currently unmanaged and includes a number of semi-mature trees and areas of undergrowth. The revised plans indicate the entire existing area of trees and undergrowth would be cleared. No information has been provided about the biodiversity value of the existing trees and vegetation and it is unclear whether the loss of biodiversity resulting from the wholesale clearance of the land would be offset and enhanced by the proposed planting scheme. In addition, biodiversity enhancements are confined to the agricultural land with no proportionate enhancements to biodiversity within the domestic land. It has not been demonstrated that the proposed change of use of this sizeable parcel of land will result in proportionate enhancements to biodiversity and the proposal does not accord with the 2020 Strategy for Nature Supplementary Planning Guidance.

The change of use of the building to a residential use is likely to have a limited effect on the intensity of use of the access and a negligible impact on road safety and traffic management on the wider road network. No secure and covered bicycle parking is indicated but this could be dealt with by condition should permission be granted.

The issues raised by the Office of Environmental Health and Pollution Regulation regarding the potential for contaminated land could be dealt with by conditions should planning permission be granted for a change of use of the building and land to a residential use.

It is understood that an access serving 2 or more dwellings will need to comply with Part P of the Guernsey Technical Standards and therefore the gravelled access track would need to be resurfaced with tarmac, concrete or brick paviours. A separate planning application would be required to upgrade the access track but in principle such a proposal is unlikely to raise any objections from a planning perspective.

Information has been submitted to demonstrate that the design has taken into account the use of energy and resources, in accordance with Policy GP9.

All material considerations as set out in the Land Planning and Development (Guernsey) Law, 2005 and the Land Planning and Development (General Provisions) Ordinance, 2007 have been taken into account in the assessment of this application.

It is recommended that the application is refused.

**Date:** 24/01/2024