

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 residential dwelling with associated landscaping and parking.

LOCATION: ALP Flowers, Douit Lane, Vale.

APPLICANT: Mr A Le Poidevin

I refer to the application referred to below received as valid on 06/06/2023 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 26/07/2023

Drawing Nos: PF+A Ltd - 7556-01 B1, B2 & B3.

Application Ref: FULL/2023/1034

Property Ref: C019600000+C022150000

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 proposal as submitted does not meet the principle of Policy OC7 and criterion iv) of that policy as it does not include the demolition and removal from the site of all glasshouses and ancillary structures which are not capable of being used for a use in accordance with the relevant policies of the Island Development Plan. Furthermore, as the land could then positively contribute to the adjacent Agriculture Priority Area and to a wider area of open land criterion a) and criterion b) of Policy OC7 are therefore also not satisfied.

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/2023/1034
Property Ref: C019600000+C022150000
Valid date: 06/06/2023
Location: ALP Flowers Douit Lane Vale Guernsey GY6 8AA
Proposal: Convert outbuilding to residential dwelling with associated landscaping and parking.
Applicant: Mr A Le Poidevin

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The proposal as submitted does not meet the principle of Policy OC7 and criterion iv) of that policy as it does not include the demolition and removal from the site of all glasshouses and ancillary structures which are not capable of being used for a use in accordance with the relevant policies of the Island Development Plan. Furthermore, as the land could then positively contribute to the adjacent Agriculture Priority Area and to a wider area of open land criterion a) and criterion b) of Policy OC7 are therefore also not satisfied.

OFFICER'S REPORT

Site Description:

Oakleigh Vinery is a large site which is situated to the north of Landes du Marche and east of Douit Lane. It comprises 11 glasshouses across the centre of the site, two buildings to the north of the site and a car park and one building close to the road to the south of the site. There is a car business to the east, residential properties across the road to the south, open agricultural land across the road to the west and open agricultural land (part of the Agriculture Priority Area – APA) to the north under the same ownership. The property is located Outside of the Centres as defined in the Island Development Plan.

Relevant History:

PREA/2023/0087 – Conversion of building to dwelling.

CLU/2022/2348 - Regularise use of flower shop (General retail use class 10) – Approved February 2023.

CLU/2022/1314 - Regularise use of land for use within Storage and Distribution (Use Class 22) including ancillary car parking associated with that use – Approved August 2022.

Existing Use(s):

Packing shed

Brief Description of Development:

This application is to convert the packing shed into a residential dwelling with associated landscaping and parking.

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

OC7: Redundant Glasshouse Sites Outside of the Centres

GP1: Landscape Character and Open Land

GP8: Design

GP9: Sustainable Development

GP15: Creation and Extension of Curtilage

GP16(A): Conversion of Redundant Buildings

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

Defining Redundant Glasshouse Sites – Supplementary Planning Guidance 2018.

Representations:

None

Consultations:

None

Summary of Issues:

- Whether the site is a redundant glasshouse site.
- Whether the site can contribute to the Agriculture Priority Area.
- Whether the site can contribute to Open Land.

Assessment against:

1 - Purposes of the law.

The objectives of the Law, as set out in Section 1(2), have been considered and this forms part of the assessment of policy issues as set out in 2 below.

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

Policy OC7 promotes the return of land into open agricultural use following the clearance of glasshouses in the first instance, where viable and practical and the Island Development Plan policies seek to maintain and protect large contiguous areas of agricultural land by prioritising agricultural use. Outside the Centres and in limited circumstances, the IDP makes provision for certain forms of development on redundant glasshouse sites in order to make the most effective and efficient use of land.

The IDP and 2018 Supplementary Planning Guidance: Defining Redundant Glasshouse Sites defines the term “Redundant glasshouse site” as “a glasshouse or glasshouses together with ancillary structures and land where the glass and ancillary structures are no longer required or capable of being used for their authorised purpose.”

There are two elements to this definition. First, there must be a clear indication that glasshouses are no longer required or capable of being used for their authorised purpose for a site to be considered a redundant glasshouse site. Second, the purpose of the policy is to secure improvements in the physical appearance and quality of the landscape. To be able to fulfil the purpose of the policy a redundant glasshouse site must be one where there is visible evidence of substantial superstructures still remaining on the site, the clearance of which will have a positive impact on visual amenity and landscape quality and character.

In this case glasshouse superstructures are present on the site and are not being used for commercial horticulture. Therefore this site qualifies as a redundant glasshouse site and Policy OC7 provides a gateway to consider development on this site, although there remains a presumption that when a horticultural use ceases the site will be cleared of glasshouses and ancillary structures and returned to agricultural use.

A comprehensive pre-application letter was sent to the agent, specifically noting that ‘*A proposal must demonstrate compliance with all of the policies, and in particular all of the criteria of OC7. Should this be successful then Policy GP16(A) would come into play where all of the criteria of that policy will have to be complied with.*’

Policy OC7 states, ‘*The Planning Law considers horticultural premises, including redundant glasshouse sites, and any ancillary structures to be agricultural land so, on clearance of the structures, the land is expected to revert to other non-horticultural types of agricultural use. Therefore there is a presumption that when a horticultural use ceases the site will be cleared of glasshouses and ancillary structures and returned to agricultural use.*’

However, the application has not sought to address Policy OC7, as the submitted information has not provided any evidence that criteria a) or b) of Policy OC7 would be satisfied and nor does the proposal seek to clear the redundant glass or associated structures as specifically required by Policy OC7 criterion iv).

Notwithstanding this, Criterion a) of Policy OC7 states, ‘*the site is not within or adjacent to an Agriculture Priority Area, unless it is demonstrated that the site cannot positively*

contribute to the commercial agricultural use of an identified Agriculture Priority Area or cannot practically be used for commercial agricultural use without adverse environmental impacts or where proposals are for renewable energy infrastructure and the design would allow agricultural activity to continue on the site'

The site is adjacent to APA land along the whole north boundary. If the glasshouses and the associated buildings were to be removed in accordance with the policy then the land could easily contribute to the commercial agricultural use of the adjacent Agriculture Priority Area.

Furthermore Criterion (b) requires consideration to be given to the contribution the land would make to a wider area of open land following the clearance of glasshouses and ancillary structures. Paragraph 17.5.6 of the Island Development Plan clarifies this further, stating that where a redundant glasshouse site is located within or adjacent to a wider area of open land, it will be expected to contribute to the wider area of open land where capable of doing so positively.

In the case of Oakleigh Vinery there is visual access to the open land from Landes du Marche to the south and from Douit Lane to the west given the largely flat topography of the land further enhanced by the adjoining APA land to the north of the site. As a result it is not considered that the scheme would then satisfy criterion (b).

The proposal as submitted does not meet the principle of Policy OC7 and criterion iv) of that policy as it does not include the demolition and removal from the site of all glasshouses and ancillary structures which are not capable of being used for a use in accordance with the relevant policies of the Island Development Plan. Furthermore, as the land could then positively contribute to the adjacent Agriculture Priority Area and to a wider area of open land criterion a) and criterion b) of Policy OC7 are therefore also not satisfied.

As the principle of the proposal is unacceptable due to the failure to meet Policy OC7 of the IDP, and having regard to the Guernsey Court of Appeal judgement in *The Island Development Committee v Portholme [2002] (Civil 320)*, further consideration has not been given to details of the application (e.g. design, GP16(A) etc.).

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

The proposal would have no impact on Protected Buildings, Trees or Monuments or on SSS's.

Date: 24/07/2023

