

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: Demolish section of glasshouses, convert, extend and alter outbuilding/store to dwelling, change of use of agricultural land to domestic garden (1,067sqm) and associated works.

LOCATION: Greensleeves Nurseries, Rue Perrot, Forest.

APPLICANT: Mr & Mrs R Coumbe

I refer to the application referred to below received as valid on 13/02/2024 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 14/03/2024

Drawing Nos: Altered Homes: 22-010 PD.00-02A, 03A, PA.03.01, 03.02, 03.03

Application Ref: FULL/2024/0153

Property Ref: H00115A000

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 site is adjacent to the Agriculture Priority Area which is situated on the other side of Rue Perrot to the east. The application fails to demonstrate that the site, following the clearance of glasshouses and all ancillary structures, could not practically be used for commercial agricultural use without adverse environmental impacts and that the site would not make a positive contribution to a wider area of open land. The scheme therefore fails to comply with Policy OC7 (a) and (b) 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/2024/0153
Property Ref: H00115A000
Valid date: 13/02/2024
Location: Greensleeves Nurseries Rue Perrot Forest Guernsey GY8 0HH
Proposal: Demolish section of glasshouses, convert, extend and alter outbuilding/store to dwelling, change of use of agricultural land to domestic garden (1,067sqm) and associated works.
Applicant: Mr & Mrs R Coumbe

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The application site is adjacent to the Agriculture Priority Area which is situated on the other side of Rue Perrot to the east. The application fails to demonstrate that the site, following the clearance of glasshouses and all ancillary structures, could not practically be used for commercial agricultural use without adverse environmental impacts and that the site would not make a positive contribution to a wider area of open land. The scheme therefore fails to comply with Policy OC7 (a) and (b) of the Island Development Plan.

OFFICER'S REPORT

Site Description:

Greensleeves Vinery is situated to the west of Rue Perrot. Vehicular access is via a gated driveway adjacent to the south site boundary and the roadside boundary is marked by a bank and hedge. The north boundary is also marked by a bank with sporadic areas of hedgerow. The land to the north is open and undeveloped and the glasshouses and other structures are visible when travelling southeast along the lane. The eastern part of the site is currently open, laid to grass with some tree planting and in an area, adjacent to the driveway serving the glasshouses rows of roof tiles have been stacked/stored.

The east boundary, with Bromarni, is currently marked by a 1.8m high fence. A small packing shed, with render exterior, timber windows and doors is situated adjacent to the north site boundary along with a lorry body with various items stacked/stored between the two. The northernmost section of glasshouse has been substantially clad, to eaves level, and part of the roof, with what may be asbestos sheeting. The remainder of the glasshouses have heat reflective paint covering many panes. The glasshouses are not currently in active use although there was evidence of numerous vehicles and other storage being carried out within them, particularly towards the eastern end where the single access door is situated. Overall, the glasshouses remain in good condition.

The building to which this application relates is situated to the northeast of the glasshouses, with the mainly clad section of glass to the immediate west. The building is of blockwork construction with the front and rear elevations finished in blockwork whilst the two side elevations have had a scratch coat of render applied. It has a pitched roof and PVCu windows and pedestrian doors. The windows have had obscure film applied from the inside which largely prevents views inside although at the time of the officer visit it was apparent that the building was used for general storage (including furniture) and the storage of vehicles which will have gained access via the garage door situated in the north elevation.

The site is located Outside of the Centres and in the Airport Consultation Zone as designated in the Island Development Plan (IDP).

Relevant History:

Pre-application advice was sought in this case. The advice highlighted that the expectation of the IDP is for land to return to open agricultural use following the clearance of glasshouses and all ancillary structures and that large and contiguous areas of agricultural land should be protected. At the enquiry stage it was not clear whether the glasshouses were redundant or in active use but that the site would likely contribute to a wider area of open land.

PAPP/2004/0471 – Remove derelict buildings and construct a store – granted - permission in principle to demolish 5 no. sheds and replace with a pitched roof storage building with two no. roller shutter door entrances on the north elevation. Permission subject to a condition requiring the store to be used in conjunction with and ancillary to the glasshouses for purposes incidental to the horticultural operation of the site (not to be used separately or for any other purpose).

PAPP/2004/1514 – Remove derelict buildings and construct a store - granted - the proposal differed from the approved Planning in Principle as it related to a pitched roof in place of a mono-pitched roof. The size increased by 12.2%. Restrictive condition as per 0471 relating to use.

PAPP/2004/3821 – variations to approved store relating to the installation of two windows (east and south elevations) – refused – as approved the building had a window to serve a toilet, a boiler and electrical room and to the tractor area. The form of construction was consistently shown as being cavity. The proposed windows were concluded not to provide natural light as they are blocked by the chiller unit and were not essential to the proper running of the existing productive horticultural holding contrary to the Rural Area Plan.

The building appears to have been constructed with two additional windows without the benefit of planning permission.

Between 1898 and 1938 three large glasshouses were constructed running north/south adjacent to the east site boundary with Rue Perrot and the site was expanded by 1963 with a further four glasshouses constructed to the west of those already on site.

By 1979 a four span of glass running east west were constructed on the westernmost part of the site.

Between 1990 and 1996 the four glasshouses that were present in 1963 were removed and replaced by extensions to the westernmost span of glass, including the small section now largely clad adjacent to the north site boundary (the cladding appears to have been added between 2006 and 2009).

The site remained largely unchanged until 2004 when the oldest glasshouses, to the east of the site had been removed although the aerial photograph shows the remains of the glasshouse walls/layout.

Between 2004 and 2006 the building that is the subject of this application was constructed and it was understood that in 2004 the glasshouses were used for the growing of Carnations although aerial photographs did not show any clear indication of active growing on site. Between 2009 and 2013 the glasshouses were used prolifically for vehicle storage with further aerial photographs of such storage taken in 2019 and 2022.

Existing Use(s):

28 agriculture

Brief Description of Development:

The application relates to the extension and conversion of the block built packing shed/store to a dwelling, the demolition of the easternmost portion of glasshouse, to the immediate south of the building, and the formation of an area of domestic garden to the east of the proposed dwelling, adjacent to the road. The open land to the south and glasshouses to the west would be retained as agricultural and horticultural land respectively.

The proposal incorporates biodiversity enhancement measures within the retained field to the south of the proposed dwelling and garden/curtilage comprising shrubs and wildflower planting. A new hedge and earthbank is proposed to form the south garden boundary (with field access provided via a gateway) along with a wild privet hedge to the west of proposed dwelling which may also contribute to the biodiversity measures for this site.

The existing building would house two bedrooms and a bathroom along with an open plan living, kitchen and dining room. The proposed single-storey flat roof extension to the north would contain a store, utility room, hot water cylinder cupboard, entrance to the dwelling and a separate WC. This extension is shown to have a timber effect clad exterior.

External alterations to the existing buildings relate to the partial infilling of a door in the east elevation, infilling of a window in the south elevation and installing a new window in the south elevation. A new rooflight is proposed in the existing roof covering (southern roofslope). It is noted that an existing window in the south elevation and the west elevation were inserted without planning permission.

The existing packing shed in the northeast part of the site is shown to be retained as a bike and bin store. The plans do not appear to make reference to the removal of the lorry body that is also situated adjacent to the north boundary and is shown (although not labelled) on the application drawings.

The application has not been accompanied by a structural survey or report but is accompanied by various letters that seek to address and justify the proposals having regard to the relevant planning policies in the Island Development Plan.

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

Island Development Plan:

OC1: Housing Outside of the Centres

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

OC7: Redundant Glasshouses 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

IP7: Private and Communal Car Parking

Defining Redundant Glasshouse Sites SPG (December 2018)

Strategy for Nature SPG (2020)

Representations:

Forest Constables – at the Douzaine meeting it was unanimously agreed to object to the application because the land and greenhouse are still of economic use.

Consultations:

Office of Environmental Health and Pollution Regulation – raise a number of issues of concern. It is noted that the greenhouse has essentially been used to store vehicles and a boat since at least 2006 and concerns exist regarding contaminated land as it is unlikely the vehicles have been depolluted. Also, the greenhouse was heated which also generates concerns for land contamination that may have arisen and from the horticultural/ agricultural industry in general. Furthermore, the greenhouses once spanned the entire land parcel. The concerns relate primarily to metals, hydrocarbons and pesticides but are not limited to just these types of contamination. A full

contaminated land condition is recommended along with a Discovery Strategy condition and appropriate informative notes.

Summary of Issues:

The key issues in this case:

- Whether this represents a redundant glasshouse site
- Whether the land, once cleared of glasshouses would contribute to a wider area of open land
- The principle of the conversion of an outbuilding to residential accommodation
- The impact of the proposed development, including change of use of land, on the locality and residential amenity
- Whether the building is suitable for conversion and the building is of sound and substantial construction without substantial rebuilding/extension
- Whether the proposed extension is modest
- Whether the scheme makes satisfactory provision for biodiversity enhancements having regard to the adopted Supplementary Planning Guidance

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.

Redundant Glasshouse Site

Policy OC7 promotes, in the first instance, the return of land into open agricultural use following the clearance of glasshouses, 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. The SLUP states that the IDP will identify those redundant glasshouse sites which, if cleared, are capable of making a positive contribution to open space or agricultural land provision within the Island. Outside of 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. Often the condition of such structures will deteriorate over time through lack of use and management to leave only partial remnants of structures".

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 remaining on the site, the clearance of which will have a positive impact on visual amenity and landscape quality and character.

Policy OC7 also clearly directs that should the preceding policy (a) – (h) criteria be satisfied there would be other matters that must be addressed, including iv. which specifies that the proposals 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 policies in the Island Development Plan.

In this case glasshouse superstructures are present on the site and are not being used for commercial horticulture. Their condition is however, such that they would be capable of being used for horticultural purposes, as set out by the applicant, although not on a commercial basis and the applicant intends to introduce growing, for self-sufficiency purposes, in future. This site qualifies as a redundant glasshouse site because the superstructures exist but are not used in connection with commercial horticulture. 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, ancillary structures and returned to agricultural use.

This policy has previously been considered by the Planning Tribunal in relation to La Mare Vinery (FULL/2020/2136/PAP/007/2021) where it concluded that “Proposals to develop redundant glasshouse sites are supported subject to 8 criteria. The key criteria to consider primarily are (a) and (b), which have to be met, irrespective of the remainder which relate to alternative forms of acceptable development”.

In this case, the site is not within but is adjacent to an Agriculture Priority Area (this being situated just the other side of Rue Perrot to the east). It is appropriate therefore, to consider whether the site could, if cleared of glass and ancillary structures, contribute to the commercial agricultural use of the APA. There would be reasonable links with the adjoining APA just across the road although the area of APA land is somewhat restricted by existing residential properties to the southeast in New Road.

It is also necessary for the second part of criterion (a) to be addressed before other aspects of the policy are considered. The Tribunal in the above case explained that this gives support to development where the cleared redundant glasshouse site cannot practically be used for commercial agricultural use without adverse environmental impacts. The removal of the glasshouses from the site, would readily allow the land to be used for agricultural purpose and without adverse environmental impacts and does not therefore comply with this aspect of (a) of Policy OC7. The final part of criterion (a) is not relevant as the development does not relate to renewable energy provision.

Paragraph 17.5.6 of the Island Development Plan states 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 that area where capable of positively doing so. The submission seeks to argue that this would not be the case at Greensleeves Vinery. 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. In the case of Greensleeves Vinery there is visual access to the land from Rue Perrot to the northeast. Furthermore, open land exists to the immediate west, southwest and south (in part) and open land across the road to the east. As a result criterion (b) is not addressed by the proposed development to clear only a small section of glass, retain the store and a former packing shed (to be used as domestic storage) and for the store to be extended and converted to a dwellinghouse.

The conclusion is reflected in that given in the La Mare Vinery appeal case, that although development of redundant glasshouse sites for other purposes (including under Policy OC7(d) and (f) and GP16(A)(b)), “this is an exception to the underlying presumption of Policy OC7 for the clearance of glass and the use of the land for agricultural purposes (“only where this aim cannot be achieved”).

The scheme is therefore contrary to Policy OC7 criterion (a) as the site can practically be used for commercial agricultural use without adverse environmental impacts and (b) once cleared it would contribute positively to a wider area of open land.

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 OC7, the only lawful decision that can be reached is that planning permission be refused.

Other matters

OC7 (remaining criteria)

Policy OC7 c), e), g) and h) are not considered relevant in this case. i. – vi of Policy OC7 are assessed elsewhere in this report in connection with all relevant policies.

Conversion of a redundant building

As the site has not been cleared of glasshouses and could be used for horticultural purposes, it cannot be demonstrated that the store is redundant in connection with the authorised use of the site. Furthermore the position of the building, adjacent to the north site boundary would not preclude its use in connection with the agricultural use of the site if the land were cleared of glass and other structures. The scheme therefore fails to comply with criterion a) of Policy GP16(A).

The application has not been accompanied by a Structural Report which, as set out in the IDP is usually required. As indicated in the relevant history section above, the building was constructed, using blockwork, within the last 10 years or so. A visual inspection of the exterior of the building in connection with this application did not uncover any evidence that the building is not sound.

However, the building was not constructed in accordance with the plans approved in 2004 and two additional windows were installed as part of its construction. These works would now be immune from Enforcement action but they must be factored into, along with any other proposed alterations, the modifications required in connection with the proposed change of use as they are not lawful and cannot be used as a springboard for other development.

The store building is not of either architectural or historic interest. The change of use and other external works proposed would not have a detrimental impact on the building. It is of substantial form and construction, approved with a render finish but yet to be applied, and the building is in keeping with other, residential, properties in the vicinity. Although it is questionable whether the existing building makes a positive contribution to the character and appearance of the area, it is concluded that Policy GP16(A) e) would not be relevant in this case.

The proposed change of use of the store, single-storey extension and the change of use of agricultural land to domestic garden as indicated (between the building and highway) would not have an adverse impact on the character and openness of the landscape. This does not however, alter the fact that the wholesale clearance of the site would mean that it would contribute to a wider area of open land.

Paragraph 19.17.8 of the Island Development Plan states *“proposals to convert an existing building may be accompanied by a modest extension provided that the extension is not of such scale that it forms a significant part of the new unit, in effect creating a new building contrary to this policy.”* The proposed extension would not provide primary accommodation in order for the proposed conversion to function as a self-contained unit of residential accommodation and would be considered modest (less than a 20% increase to the existing floor area) and as such would accord with criterion g).

Design, impact on local character and residential amenity

The proposed development represents a good standard of design that would respect the character of the local built environment. The scheme also considers the health and well-being of occupiers of the development with no changes proposed to hardsurfacing. The building is set away from all neighbours and will not result in harm to residential amenity. Being single-storey only the scheme offers accessible accommodation that would be flexible and adaptable, able to respond to the needs of occupiers over time. Policy GP8, GP9 b. and GP16(A) h) would be satisfied in this case.

Change of use of agricultural land to domestic garden and biodiversity enhancement

It is accepted that some level of domestic curtilage will be required to facilitate the conversion of redundant buildings for residential purposes, as allowed by Policy GP16(A). The extent of the curtilage proposed is proportionate to the size of the dwellings proposed and is reasonable to support the conversion of a redundant building. The scheme therefore complies with Policy GP16(A) and GP15 in this respect.

It is noted however, that the majority of biodiversity enhancements proposed are outside the proposed domestic curtilage area and, if the enhancements on the application site were not considered sufficient the enhancements outside curtilage would not address the aims of the SPG and the requirement that such proposals fall within the application site itself.

Sustainable development

Confirmation has been received that the proposed development has been designed to take into account matters of energy efficiency and current Building Regulations in accordance with Policy GP9 and if the scheme were acceptable in all other respects paragraphs 3.14 and 3.15 of the covering letter relating to Policy GP9 could form the basis of a planning condition to ensure that the sustainability measures indicated are included during the conversion process.

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: 12/03/2024

