

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 works (revised scheme).

LOCATION: ALP Flowers, Douit Lane, Vale.

APPLICANT: Mr A Le Poidevin

I refer to the application referred to below received as valid on 24/01/2024 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 28/05/2024

Drawing Nos: PF+A Ltd 7556-01 B1,B2,B3,B4,

Application Ref: FULL/2024/0164

Property Ref: C019600000

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 overarching principle of Policy OC7 is the removal of all glasshouses and ancillary structures to allow the land to return to agricultural use, and the application does not address this seeking to retain all glass and structures. This means that the application is contrary to the general aims of Policy OC7 and iv) in particular by seeking to retain all structures. In addition, the application site is located adjacent to the Agriculture Priority Area and appears capable of contributing to the commercial agricultural use of that area with no adverse environmental impacts. If cleared, the application site would also clearly contribute positively to the wider area of open land adjacent. For these reasons the application is contrary to the clear aims and objectives of Policy OC7.

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/2024/0164
Property Ref: C019600000
Valid date: 24/01/2024
Location: ALP Flowers Douit Lane Vale Guernsey GY6 8AA
Proposal: Convert outbuilding to residential dwelling with associated works (revised scheme).
Applicant: Mr A Le Poidevin

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The overarching principle of Policy OC7 is the removal of all glasshouses and ancillary structures to allow the land to return to agricultural use, and the application does not address this seeking to retain all glass and structures. This means that the application is contrary to the general aims of Policy OC7 and iv) in particular by seeking to retain all structures. In addition, the application site is located adjacent to the Agriculture Priority Area and appears capable of contributing to the commercial agricultural use of that area with no adverse environmental impacts. If cleared, the application site would also clearly contribute positively to the wider area of open land adjacent. For these reasons the application is contrary to the clear aims and objectives of Policy OC7.

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 spans of glasshouse across the centre of the site, two buildings to the north of the site, accessed via Douit Lane, with a separate building close to the road (Landes du Marche) to the south-west corner 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) – Granted 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 – Granted August 2022.

FULL/2023/1034 - Convert outbuilding to residential dwelling with associated landscaping and parking- Refused 26/07/2023.

Existing Use(s):

Packing shed

Brief Description of Development:

This application is for the conversion of 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.

The previous application for the conversion of the existing packing shed (FULL/2023/1034) was refused for the following reason:

The overarching principle of OC7 is the removal of all glasshouses and ancillary structures to allow the land to be returned to agricultural use. The application does not address this seeking to retain glass and structures, and as such the proposal fails the overarching ethos of Policy OC7. Furthermore should the application propose the removal of the glass and structures, it is considered that the land could positively contribute to adjacent APA land and would positively contribute to a wider area of open land, contrary to criteria a) and b) of Island Development Plan Policy OC7.

The scheme now under consideration is the same proposal, with no change to the proposed plans, but with added justification and information in relation to Policy GP16(A).

In consideration of the current application, Policy OC7 promotes the return of land into open agricultural use following the clearance of glasshouses with the presumption that when the horticultural use ceases the site will be cleared of glasshouses and ancillary structures. Where viable and practical, 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 the applicant has stated that they are not being used for commercial horticulture. As part of the site visit, it was noted that approx. 60% of the glasshouses is currently in use for growing, and the applicant states that this is for domestic purposes only. The remaining 40% appears to be either empty or in use for the storage of crates, machinery/equipment, seasoned wood, building equipment, and domestic paraphernalia. The authorised purpose was for commercial horticulture and the glasshouses are clearly no longer in this use. In addition, the existing glasshouses are large and prominent in the local landscape, and

their removal would result in a significant improvement in the appearance and quality of the landscape.

This site, therefore qualifies as a redundant glasshouse site and Policy OC7 provides a gateway to consider development on this site, with the presumption that the site would be cleared of glasshouses and ancillary structures and returned to agricultural use.

However, as with the previous refusal, 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. Although there is a storage and distribution use occupying the existing building and car park to the north of the existing glasshouses, there remains an approx. 30m wide link to the APA land to the rear of the site, and this would allow views into the open, undeveloped countryside when viewed from Landes du Marche to the south, and Douit Lane to the west given the largely flat topography of the site. The removal of the glasshouses would therefore contribute a significant enhancement to the visual amenity of the area. As a result it is not considered that the scheme would then satisfy criterion (b) of Policy OC7.

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.

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.

As the principle of the proposal is unacceptable due to the failure to meet Policy OC7 of the IDP, and in accordance with the *Portholme* appeal decision, 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: 24/05/2024