

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: Conversion of packing shed to dwelling with associated garden and parking.

LOCATION: Site at, Hougues Magues Lane, St. Sampson.

APPLICANT: Mr & Mrs A Leadbeater

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: 05/03/2025

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 31/07/2024 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: The Drawing Room: 369 C1D & C2A

Application Ref: FULL/2024/1326

Property Ref: B013340000

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. (i) Prior to the breaking of any ground (including for the implementation of the landscape scheme required under Condition 5 below) there shall be submitted to and approved in writing by the Authority:

(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 the Authority,

(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 the Authority,

(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) If determined to be required, within the timeframe set out in Condition 9 there shall be submitted to the Authority verification by a competent person approved under the provisions of subsection (i)c of this condition that any remediation scheme required and approved under the provisions of subsection (i)c of this condition has been implemented fully in accordance with the approved details (unless varied with the written agreement of the Authority in advance of implementation). Unless otherwise agreed in writing by the Authority such verification shall comprise:

- a) as built drawings of the implemented scheme;
- b) photographs of the remediation works in progress;
- 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 subsection (i)c of this condition.

Reason - To make sure that the site, when developed is free from contamination, in the interests of public health and safety.

5. Prior to the undertaking of any landscaping, a landscaping scheme, to include those details specified below, shall be submitted to and agreed in writing by the Authority:

- i) full details of earthbank construction;
- ii) full details of tree and hedge planting; and
- iii) planting schedules, noting the species, sizes, numbers and densities of plants.

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

6. The earthbanks forming the north and south boundaries of the domestic curtilage hereby approved shall be fully completed, in accordance with the details agreed under the terms of Condition 5, prior to the first occupation of any part of the development or completion of development whichever is the sooner.

Reason - To secure the satisfactory enclosure of the domestic curtilage and to protect the agricultural land.

7. Prior to construction of the new earthbank along the south boundary of the domestic curtilage hereby approved, a new field access to serve the agricultural land to the south of that curtilage shall be formed and made available for use, in accordance with details approved to discharge the conditional appeal decision granted under PAP/011/2023.

Reason - To ensure the retention of access to the agricultural land.

8. Prior to construction of the new earthbank along the north boundary of the domestic curtilage hereby approved, the new field access to serve the agricultural land to the north of the curtilage shall be formed and made available for use. The new access shall thereafter be retained in perpetuity.

Reason - To ensure the retention of access to the agricultural land.

9. The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of Condition 5, 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, to help assimilate the development into its surroundings and to meet the requirements of the Strategy for Nature.

10. No cladding shall be brought to the site until such time as details of the type, texture and colour of the cladding materials 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.

11. Prior to installation, full details of the electric vehicle charge points shall be submitted to and approved in writing by the Authority. The approved charge points shall be installed and made operational prior the dwelling hereby approved being occupied.

Reason - In the interests of sustainable development, these features having been proposed to address the requirements of Island Development Plan Policy GP9.

12. No part of the dwelling hereby permitted shall be used or occupied until the cycle storage detailed on the approved plans has been made available. The provision for cycle storage shall be retained at all times.

Reason - To encourage the use of bicycles as an alternative to the car.

13. Notwithstanding the provisions of the Land Planning and Development (Exemptions) Ordinance, 2023 (or any other Ordinance replacing or re-enacting that Ordinance), no fence or wall shall be erected or constructed within or along the boundaries of the domestic curtilage hereby approved and no hardsurfacing (other than any hereby expressly permitted) shall be laid.

Reason - In view of the open nature of the site, the erection of such structures as 'exempt development' may have an adverse visual impact. This condition is imposed to make sure that any proposals can be properly considered.

Expiry Date: This permission will cease to have effect on 04/03/2028 unless development is commenced by that date.

ADVICE AND OTHER REMARKS:-

With reference to condition 4 a desktop study shall be the very minimum standard accepted. Pending the results of the desktop study, the applicant may have to satisfy the requirements of criteria (b) and (c) of that condition, however, this will all be confirmed in writing.

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 condition that the applicant has reference to Land Contamination risk management available at <https://www.gov.uk/guidance/land-contamination-risk-management>.

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

PLANNING APPLICATION REPORT

Application No: FULL/2024/1326
Property Ref: B013340000
Valid date: 31/07/2024
Location: Site at Hougues Magues Lane St. Sampson Guernsey GY2 4WA
Proposal: Conversion of packing shed to dwelling with associated garden and parking.
Applicant: Mr & Mrs A Leadbeater

RECOMMENDATION - Grant: Planning Permission with Conditions:

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.

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(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 the Authority,

(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 the Authority,

(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) If determined to be required, within the timeframe set out in Condition 9 there shall be submitted to the Authority verification by a competent person approved under the provisions of subsection (i)c of this condition that any remediation scheme required and approved under the provisions of subsection (i)c of this condition has been implemented fully in accordance with the approved details (unless varied with the written agreement of the Authority in advance of implementation). Unless otherwise agreed in writing by the Authority such verification shall comprise:

- a) as built drawings of the implemented scheme;
- b) photographs of the remediation works in progress;
- 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 subsection (i)c of this condition.

Reason - To make sure that the site, when developed is free from contamination, in the interests of public health and safety.

5. Prior to the undertaking of any landscaping, a landscaping scheme, to include those details specified below, shall be submitted to and agreed in writing by the Authority:

- i) full details of earthbank construction;
- ii) full details of tree and hedge planting; and
- iii) planting schedules, noting the species, sizes, numbers and densities of plants.

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

6. The earthbanks forming the north and south boundaries of the domestic curtilage hereby approved shall be fully completed, in accordance with the details agreed under the terms of the Condition 5, prior to the first occupation of any part of the development or completion of development whichever is the sooner.

Reason - To secure the satisfactory enclosure of the domestic curtilage and to protect the agricultural land.

7. Prior to construction of the new earthbank along the south boundary of the domestic curtilage hereby approved, a new field access to serve the agricultural land to the south of that curtilage shall be formed and made available for use, in accordance with details approved to discharge the conditional appeal decision granted under PAP/011/2023.

Reason - To ensure the retention of access to the agricultural land.

8. Prior to construction of the new earthbank along the north boundary of the domestic curtilage hereby approved, the new field access to serve the agricultural land to the north of the curtilage shall be formed and made available for use. The new access shall thereafter be retained in perpetuity.

Reason - To ensure the retention of access to the agricultural land.

9. The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of Condition 5, 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, to help assimilate the development into its surroundings and to meet the requirements of the Strategy for Nature.

10. No cladding shall be brought to the site until such time as details of the type, texture and colour of the cladding materials 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.

11. Prior to installation, full details of the electric vehicle charge points shall be submitted to and approved in writing by the Authority. The approved charge points shall be installed and made operational prior the dwelling hereby approved being

occupied.

Reason - In the interests of sustainable development, these features having been proposed to address the requirements of Island Development Plan Policy GP9.

12. No part of the dwelling hereby permitted shall be used or occupied until the cycle storage detailed on the approved plans has been made available. The provision for cycle storage shall be retained at all times.

Reason - To encourage the use of bicycles as an alternative to the car.

13. Notwithstanding the provisions of the Land Planning and Development (Exemptions) Ordinance, 2023 (or any other Ordinance replacing or re-enacting that Ordinance), no fence or wall shall be erected or constructed within or along the boundaries of the domestic curtilage hereby approved and no hardsurfacing (other than any hereby expressly permitted) shall be laid.

Reason - In view of the open nature of the site, the erection of such structures as 'exempt development' may have an adverse visual impact. This condition is imposed to make sure that any proposals can be properly considered.

INFORMATIVES

With reference to condition 4 a desktop study shall be the very minimum standard accepted. Pending the results of the desktop study, the applicant may have to satisfy the requirements of criteria (b) and (c) of that condition, however, this will all be confirmed in writing.

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 condition that the applicant has reference to Land Contamination risk management available at <https://www.gov.uk/guidance/land-contamination-risk-management>.

OFFICER'S REPORT

Site Description:

The application site comprises a 6333sqm area of agricultural land located to the east of Hougues Magues Lane. The site access is located centrally in the west boundary, serving an area of hardcore, a small store and the packing shed which

forms the subject of this application. A further small store is located to the north of the site.

The site is located Outside of the Centres in the Island Development Plan.

Relevant Planning History:

An application for the erection of a packing shed was approved in 1990. Work was lawfully commenced on the implementation of that permission. Case Law has established that planning permission, once commenced, cannot be abandoned and therefore it was agreed 07/09/2022 that works could continue to implement the permission, on the understanding that the building could only be used as a packing shed in association with an agricultural use of the land. No additional planning application was made or required in respect of these works and there was therefore no requirement or mechanism to allow for public comment. The works simply comprised the continued implementation of an extant planning permission.

An application to vary the previously approved plans (ref FULL/2023/0037), altering the fenestration to all elevations, was approved in retrospect 09/03/2023. This application was advertised in the normal manner.

The completed building has been built in accordance with the plans approved in 1990, with the exception of the doors and windows, which have been completed in accordance with the 2023 approved plans. Building Control issued a completion certificate 07/03/2023, confirming that the building works had been inspected and, as far as could be ascertained from a visual inspection, the requirements of the Building Regulations had been satisfied.

A subsequent application (ref FULL/2023/0994) for conversion of the packing shed into a dwelling with associated landscaping and parking was refused 18/08/2023 for the following reasons:

- 1. The facilities provided by the building remain useful in association with the use of the land. The building has recently been constructed and is clearly capable of being used for its authorised purpose. It has therefore not been demonstrated that the building is no longer required or capable of being used for its current or last known purpose. The proposal is contrary to part (a) of Policy GP16(A).*
- 2. The creation of domestic curtilage as proposed would result in the suburbanisation of undeveloped land, resulting in unacceptable harm to the character and openness of the landscape. The proposal would therefore fail to comply with part (f) of Policy GP16(A), part (a) of Policy GP15 and the requirements of Policy GP1. As the proposal fails to comply with the relevant policies of the Island Development Plan the proposal would also fail to meet the requirements of Policy OC5(B).*

3. There is insufficient information to properly assess the proposal in respect of the creation of a new access in the south-west boundary, and it is not therefore demonstrated that the creation of a new access would meet the requirements of Policies GP1, parts a), b) or c) of GP8 or part b) of GP9.

This decision was appealed under PAP/011/2023. The Tribunal allowed the appeal insofar as it related to the construction of a new vehicular access, subject to the conditions set out below, but dismissed it in relation to all other development, including the conversion of the existing building into a dwelling and the creation of a related curtilage.

1. All development authorised by this decision must be carried out and must be completed in every detail in accordance with the written application and the plans submitted with it, insofar as applicable to the development hereby permitted. No variations to such development amounting to development may be made without the permission of the Authority under the Law.

2. All development hereby permitted shall be begun within 3 years from the date of grant of this permission.

3. Prior to commencement of the development hereby permitted, full details of the new access to be formed in the west site boundary to serve the agricultural land to the south of the existing main access to the site shall be submitted to and agreed in writing by the Authority. The new access shall be formed in accordance with the approved details and may thereafter be used to serve the agricultural land only.

Existing Use(s):

Agricultural Use Class 28

Brief Description of Development:

This application comprises a revised scheme to convert the existing packing shed to a two-bed dwelling.

The central section of the site adjacent to the east boundary would form the domestic curtilage for the new dwelling, extending along the driveway to the roadside at a narrower width. The land to the north and south would be retained as agricultural and separated from the site by earthbanks and planting. Access to the land to the north would be retained through the domestic curtilage. Access to the land to the south would be through a new access in the south-west corner, allowed through the appeal cited above.

Access to the dwelling would be via the existing access in the west boundary, finished in gravel with reclaimed granite setts adjacent to the road.

The works proposed to facilitate the conversion are as follows:

- Addition of external insulation and cedar cladding to external walls;
- Replacement of existing windows and doors in existing openings (existing windows being formed by rigid plastic sheeting);
- Installation of 2no dormer windows to west roofslope;
- Installation of 2no rooflights to east roofslope;
- Installation of door canopy;
- Installation of internal insulation to the roof;
- Installation of partitions and stair.

A sustainability statement has been provided.

In support of the application the following documents have been provided:

- Email from applicant to agent dated 26/07/2024 confirming advert has been running continuously in Guernsey Press from 2 January 2024 and two enquiries were received in first week of January, both looking to store tractors, and the door size and floor construction would preclude such use. It is stated that no further enquiries have been received.
- Extract from Guernsey Press (dated 11/01/2024) showing advertisement of site;
- Letter from the President of the Committee for Economic Development noting that the Committee has responsibility for horticulture but not for agriculture and, in respect of horticulture, the personal view of the President is that it is highly unlikely that a small site such as this would have any particular merit as part of any Horticultural Strategy.
- Email from Chateaux Estate Agency dated 09/07/2024 noting unable to find prospective tenant or purchaser subsequent to site visit on 09/03/2024.

Following deferral the following additional information has been provided:

- A letter from the House of Green relating to the contamination of the land, noting this parallels advice given by the Office for Environmental Health and Pollution Regulation in respect of other former vinery sites;
- An email from Chateaux Estate Agency dated 13/11/2024 expanding on their previous email noting the property was not advertised but was suggested to likely clients;
- Emails from Cranfords Estate Agents and Cooper Brouards dated 08/11/2024 noting demand has decreased and declining to advertise;
- The land is let to a tenant farmer, who is based off site, and who crops the site for grass and keeps the hedging maintained. This arrangement has been ongoing, with various persons, since at least 2010;
- The building has been advertised without land due to the above ongoing agreement, and concerns regarding contamination of the land;

- Two further enquiries have been received in October 2024, for a non-agricultural use, which would not be appropriate, and for an agricultural use but this was not followed up.

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

S1	Spatial Policy
S4	Outside of the Centres
OC1	Housing Outside of the Centres
OC5(B)	Agriculture Outside of the Centres – outside of the Agriculture Priority Areas
GP1	Landscape Character and Open Land
GP8	Design
GP9	Sustainable Development
GP15	Creation and Extension of Curtilage
GP16(A)	Conversion of redundant buildings
IP6	Transport Infrastructure and Support Facilities
IP7	Private and Communal Car Parking
IP9	Highway Safety, Accessibility and Capacity

Supplementary Planning Guidance:
Parking Standards and Traffic Impact Assessment
Strategy for Nature

Representations:

Four letters of representation have been received raising the following points:

- The process to enable the construction of the current building is a farce and an attempt to obscure the primary objective of building a house;
- The building was advertised in isolation, without land or toilet, unsurprising no one would rent;
- The building intrudes onto valuable green space and results in the loss of agricultural land;
- The small lane is two way with no pavements, used by many vulnerable road users, particularly school children, and the proposal will increase traffic;
- The application form incorrectly states that no new access would be formed, when the plans clearly state new access to the field. That access appears to cross land outside of the ownership of the applicant, and there is no permission for such access. There is no evidence that this access previously existed;
- Land contamination has not been addressed, as this is an old vinery site;
- Biodiversity has not been thought through, earthbanks have previously been removed and fruit trees are an unusual choice on a site that “no longer benefits being of horticultural use”;
- It was understood that the appeal decision was final;

- This disingenuous approach to development leads to the conclusion that there will be further development at the site, as does a re-categorisation of the land under this application.

Consultations:

The Office for Environmental Health and Pollution Regulation comment as follows:

I have reviewed the proposed plans for the conversion of a packing shed to a dwelling with associated garden and parking at the above site. There is an issue of concern that I must raise.

I have interrogated Guernsey Historic Maps, Historic Orthophotos, and Cadastre Registry of Land which show that there were once heated greenhouses at the site. There is consequently the potential for the land to be contaminated and I note that the proposed plans include the planting of apple trees as part of the domestic garden. I would therefore recommend that the following condition is attached to any consent granted for this application:

Potential Land Contamination:

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

(i) No development shall commence on site (including demolition and site works) until there has been submitted to and approved in writing by the Authority:

(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 the Authority,

(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 the Authority,

(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) If determined to be required the development hereby permitted shall not be occupied or brought into use until there has been submitted to the Authority

verification by a competent person approved under the provisions of subsection (i)c of this condition that any remediation scheme required and approved under the provisions of subsection (i)c of this condition has been implemented fully in accordance with the approved details (unless varied with the written agreement of the Authority in advance of implementation). Unless otherwise agreed in writing by the Authority such verification shall comprise:

- a) as built drawings of the implemented scheme;
- b) photographs of the remediation works in progress;
- 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 subsection (i)c of this condition"

Informative/Advice Notes

With reference to condition X a desktop study shall be the very minimum standard accepted. Pending the results of the desktop study, the applicant may have to satisfy the requirements of criteria (b) and (c) of that condition, however, this will all be confirmed in writing.

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 condition that the applicant has reference to Land Contamination risk management available at <https://www.gov.uk/guidance/land-contamination-risk-management>.

Summary of Issues:

Whether the proposal meets the terms of policy, specifically:

- Whether the building is no longer required or capable of being used for its current or last known purpose (Policy GP16(A)a));
- The creation of a curtilage for the new building and associated impacts on the character and openness of the landscape (Policy GP1, GP15, GP16(A)f)&h) & OC5(B)).

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).

Conversion of the existing building at this site was previously considered under application reference FULL/2023/0994, and the assessment of that application found that there was a policy gateway for the proposed development under the policies set out above and, principally, through Policy GP16(A).

Assessment of the previous application found that the proposed conversion complied with criteria b), c), d), g) and h), insofar as it relates to the amenities of neighbouring properties, of Policy GP16(A). It was also found that the development would comply with criterion e), subject to the alteration of the paving material from block paving to a more informal surface, as now proposed. The current application matches that previously submitted in all details relevant to the consideration of these criteria, and it is not therefore proposed to revisit these criteria as part of the assessment of this application. To ensure an appropriate finish and in the absence of a detailed specification it is however recommended that any decision issued require details of the proposed exterior cladding.

In addition, considerations in respect of residential amenity and the sustainability, accessibility and adaptability of the proposed development were found to be met under the previous application, and the amendments made under the current application would not alter that conclusion. The sustainability statement has been resubmitted as part of the current application and it is recommended that the decision be conditioned to ensure provision of the proposed EV charge points.

The remaining matters related primarily to the reasons for refusal and are addressed below.

Whether the building is no longer required or capable of being used for its current or last known purpose (Policy GP16(A)a)

In determining the appeal in relation to the previous application for conversion of this building (ref PAP-011-2023), the Planning Tribunal concluded that the current purpose of the building is agricultural and that the previous application did not include weighty evidence to show that the building is not required or capable of being used for its current purpose. The Tribunal did however recognise the rapid and prolonged decline in the agricultural and horticultural sectors in the Island and indicated that *“the provision of a business plan or details of efforts to market a site can be used as a means of demonstrating that is no longer required”*, together with *“a professional report addressing such matters as the quality and depth of soil, drainage and so forth, and an assessment of whether any shortcomings could reasonably be rectified”*. It was also noted that there was no evidence to show that the building itself is incapable of being used for agricultural purposes, given that the planning permission does not limit the use of the building to the land on which it stands.

In relation to a requirement for the building in association with an agricultural use of the application site, it is noted that the land has been managed by off site tenants since at least 2010 and those tenants have no requirement for any buildings on this site. Whilst the land has been cropped for animals, a letter has been submitted identifying a high likelihood of contaminants in the soil given the experience of the author on other similar sites in the Island. Whilst this assessment does not include an analysis of the soil from this particular site, and cannot be treated as entirely independent given the relationship of the author to the applicant, the statements made do align with comments made by the Office for Environmental Health and Pollution Regulation, not only in relation to former vinery sites more generally, but also in respect of this site, as set out above. It is therefore accepted that any use of this land for food crops would likely require remediation of the land.

In relation to a wider requirement for the building, since January 2024 an advert has been placed in the local newspaper advertising the building for rent. Whilst this advert is small and is not positively worded to encourage contact, it is factual and has resulted in some limited interest. That interest has however been for uses that are not agricultural, has not been followed through or has found that the building is not suitable. This aligns with written responses from local Estate Agents, who confirm little demand for such premises and have declined to advertise.

On balance, taking into account the additional information provided, it is considered that it has been satisfactorily demonstrated that there is no requirement for the building, either in association with the agricultural use of the land at this site, or in association with any other off site agricultural purpose.

In respect of being capable of use for agriculture, the Tribunal noted that not only is the building newly constructed and in good condition, but its capability to be used for agricultural purposes was borne out by comments made in a previous application on the site (ref FULL/2023/0037). Notwithstanding this conclusion, taking into account the assessment above, it cannot be reasonably concluded that there is capacity for the building to be used for agricultural purposes.

In light of the above, it is found that the proposal as put forward under this application complies with Policy GP16(A)a).

The creation of a curtilage for the new building and associated impacts on the character and openness of the landscape (Policy GP1, GP15, GP16(A)f)&h) & OC5(B))

The previous application found that Policies OC5(B) and GP15(A) could provide for the creation of a curtilage associated with the proposed dwelling, subject to meeting the terms of Policies GP1, GP15(A)a), GP16(A)f)&h) and the Strategy for Nature. Criteria b), c) & d) of Policy GP15 were concluded to be not relevant, and e) was found to be met. The revisions proposed under the current application would not change this assessment, and the outstanding issues in respect of these policies would therefore be the impact of the development on the character and openness of

the landscape and the provision of biodiversity enhancements under the Strategy for Nature.

In respect of the character of the area, the appeal decision made the following comments: *The character of the immediate locality is semi-rural, combining groups of buildings and individual scattered houses within a partly undeveloped setting, including the site, which is fully open to view from Hougues Magues Lane. Indeed it is this openness which is its principal characteristic. In contrast, only a short way to the north, is a dense cluster of development. Partial views of some larger buildings are obtainable at a distance, and some floodlights, but they do not dominate the locality visually.*

The curtilage as proposed under the previous application was located in the centre of the site, measuring c30m in width across the site and extending from the rear (east) site boundary to the roadside (west) boundary. Both the application assessment and the appeal decision concluded that the introduction of a curtilage in this manner would result in a suburbanising influence and have a significant adverse visual effect on the surroundings, including on the openness of the wider site. Furthermore, located roughly central to the area of the land comprising the application site, the proposal was considered to fragment the site by splitting it into two small fields, thereby diminishing its usefulness and suitability for agricultural purposes.

The current application proposes a reduced curtilage, concentrated around the proposed dwelling and pulled back from the roadside. This amended proposal would concentrate domestic items to the rear of the site, away from the roadside and would therefore reduce the visual impact. Under the previous application it was proposed to form a biodiversity area along the roadside, which the appeals tribunal noted could provide mitigating screening to the domestic land, however this has been omitted from the current proposals. The proposals now submitted however include the planting of native hedging along the roadside boundary to the south of the proposed curtilage, extending along the new earthbanks to either side of that curtilage, and the planting of native and fruit trees. On balance, and subject to a detailed planting scheme, the extent of planting proposed would address the requirements of the Strategy for Nature, and the location of that planting would provide screening to any domestic paraphernalia within the domestic curtilage. There are some concerns regarding the location of the trees to either side of the proposed curtilage, in terms of the location on agricultural land and the creation of a formal avenue-like effect. The precise location of these trees can however be managed by planning condition. Consideration would also need to be given to any impacts of the proposed roadside hedging on the visibility splays from the existing and new accesses on to Hougues Magues Lane.

It is noted that any planting, and particularly any planting producing edible crops, would give rise to concerns regarding the likely land contamination identified above. It is therefore recommended that condition put forward by the Office for Environmental Health and Pollution Regulation is attached to any decision issued.

It is noted that the position of the building on the site would limit the provisions of the Land Planning and Development (Exemptions) Ordinance, 2023 available in this instance, and rights to any remaining provisions which might cause harm to the landscape character, e.g. the provision of fencing or other hard forms of boundary treatment, could be withdrawn by condition.

Traffic, access and parking provision (Policy IP6, IP7 & IP9)

The dwellinghouse would utilise the existing site access, shared with the retained agricultural land to the north. Whilst sightlines from that access towards the north would be impeded by an existing tree on the site boundary, the low level of the remainder of the site boundary would enable views along the road when approaching to exit. Furthermore, traffic movements associated with a single dwellinghouse would not result in a significant increase in vehicle movements through the access, or on the adjacent road network, and the proposal would therefore not give rise to road safety concerns, in accordance with Policy IP9 (Highway Safety, Accessibility and Capacity).

The earthbanks proposed to the south boundary of the domestic curtilage would prevent access to the agricultural land to the south, and there is currently no other access on to that land. Whilst the plans state “open up existing overgrown access” it was established through the appeal process that, whatever may have been the case in the past, there is presently no access at the point indicated and planning permission is required to form, or re-form, an access in that location. The appeal decision did allow for an access to be created, subject to the provision of details prior to any works commencing. No such details have been provided to date, and the access has not been formed. The submitted plans continue to show the access as on the previously submitted plans, and do not address previous concerns regarding the location of the site boundaries, relationship with a utilities box, width of the access, change in levels or visibility splays. It has been reiterated in the letters of representation that the access as shown on the submitted plans appears to be located on land falling outside of the ownership of the applicant and this would need to be addressed as part of any details submitted to discharge the condition attached to the appeal decision. Given that it is essential that access is retained to the agricultural land, it would be necessary to condition that the access is formed, in accordance with any approved details, prior to the earthbank being formed along the south side of the proposed domestic curtilage.

The proposed parking area would provide adequate parking for the new dwelling, in accordance with IP7 (Private and Communal Car Parking).

The smaller building to the west of the packing shed is proposed to be retained to provide storage associated with the dwelling, including for bicycles, in accordance with IP6 (Transport Infrastructure and Support Facilities).

Other matters

In relation to the appeal decision, that decision cannot be challenged. Planning Law does however allow for the submission of a new application, which attempts to address both the reasons for the previous planning application refusal and any issues highlighted within the appeal decision. The Authority has a duty to consider any application lawfully made and could not therefore refuse to consider the current application.

Concerns are raised in the letters of representation in respect of potential future development at the site. Any such proposal would need to be subject of separate application for planning permission, if proposed by the applicant, and would be subject to consideration on its own merits and against the planning policies in place at the time. Approval of the current application would not however alter the designation of the land within the Island Development Plan and the policies of that Plan as currently existing do not allow for new build residential development in this location. The only scope for residential development would be where a proposal comprises the conversion of an existing building, where that building is of sound and substantial construction and capable of conversion without extensive alteration or rebuilding, under the provisions of Policy GP16(A) (Conversion of Redundant Buildings). Whilst a future application cannot be predetermined, on the basis of the information available, there do not appear to be any other buildings at this site which would meet the provisions of Policy GP16(A), nor are there any other extant permissions for development at the site.

Conclusion

As set out above, the existing building at the site is lawful and the Authority has a duty to consider any application duly made. In this case, planning policy provides a gateway to consider the proposed development and, on balance, the revised proposals put forward as part of this application address the previous reasons for refusal and meet the criteria of all relevant policies. Consequently the application must be recommended for approval, subject to the conditions set out above.

Date: 04/03/2025