

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 glasshouse, change of use of outbuilding to a dwelling and associated works.

LOCATION: Entre Nous, Route Du Braye, St. Sampson.

APPLICANT: Mr & Mrs P Rouget

I refer to the application referred to below received as valid on 07/11/2024 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 13/01/2025

Drawing Nos: Chris Workman & Co - PR:24:06 01A & 02.

Application Ref: FULL/2024/1866

Property Ref: B01078A000

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. Whilst no longer required in connection with the original business operated by the applicant which has been sold, the application submission has not demonstrated that the home-based business building is no longer required or capable of being used for its current or last known purpose particularly given that the applicant has formed a new business which could utilise this existing home-based business building. As a result the scheme fails to comply with Policy GP16(A) criterion a). to demonstrate that the building is redundant.

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/2024/1866
Property Ref: B01078A000
Valid date: 07/11/2024
Location: Entre Nous Route Du Braye St. Sampson Guernsey GY2 4RD
Proposal: Demolish glasshouse, change of use of outbuilding to a dwelling and associated works.
Applicant: Mr & Mrs P Rouget

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. Whilst no longer required in connection with the original business operated by the applicant which has been sold, the application submission has not demonstrated that the home-based business building is no longer required or capable of being used for its current or last known purpose particularly given that the applicant has formed a new business which could utilise this existing home-based business building. As a result the scheme fails to comply with Policy GP16(A) criterion a). to demonstrate that the building is redundant.

OFFICER'S REPORT

Site Description:

Entre Nous is a detached bungalow located to the north of Braye Road. An access driveway serving the dwelling and agricultural land beyond is situated adjacent to the east site boundary. The outbuilding that is the subject of this application is located adjacent to the west site boundary. The building has a rendered exterior and pitched, slate roof. The main entrance is to the north whilst patio doors face out onto the garden of Entre Nous to the south. A first-floor window also faces towards Entre Nous whilst a glazed gable window is situated in the north elevation, facing the open agricultural land beyond.

Ambridge is a dwelling located to the west of the application site and a detached pitched roof outbuilding is situated to the rear of this adjoining property and adjacent to the boundary with Entre Nous. The building is one and a half storeys in height with an external staircase to the rear/north.

The site is located Outside of the Centres. The domestic garden of Entre Nous falls outside an Agriculture Priority Area however land to the north of the site is situated within an Agriculture Priority Area.

Relevant History:

FULL/2018/1042 - Construct one and a half storey home office building to rear of dwelling (Residential Use Class 5) and change of use of agricultural land (use class 28) to domestic garden and parking (residential use class 1) – granted (conditions relating to landscaping and obscure glazed first floor window)

Existing Use(s):

05 home-based business
28 agriculture

Brief Description of Development:

The application relates to the change of use of the outbuilding used in connection with the applicant's business from office accommodation to a unit of residential accommodation comprising an open plan lounge/dining room, separate kitchen and a shower room on the ground floor. A bedroom is proposed at first floor level. A hedge is proposed to form the new boundary between the proposed dwelling and Entre Nous and parking for two cars is indicated to be provided to the north of the dwelling. Although the drawings refer to the removal of a packing shed this was carried out in connection with the 2018 approval and is not applicable in this case.

The submission has been accompanied by a covering, supporting letter and subsequent emails. The letter highlights that as the building falls within the existing domestic garden area of Entre Nous no biodiversity enhancement proposals will be required. The proposal does however, include a new boundary hedge (that was a requirement of the original permission for this building) between the garden of the proposed dwelling and agricultural land beyond. Information provided by the agent refers to the applicant retiring however, the applicant has confirmed the business operating from the site has been sold but also indicates that a new business has been formed by the site/previous business owner.

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

Island Development Plan policies:
OC1: Housing Outside of the Centres
GP16(A): Conversion of Redundant Buildings
GP8: Design
GP9: Sustainable Development
IP6: Transport infrastructure and support facilities
IP7: Private and Communal Car Parking
IP9: Highway Safety, Accessibility and Capacity

Representations:

None.

Consultations:

Office of Environmental Health and Pollution Regulation – no comments received at point of determination.

Summary of Issues:

The key issues in this case relate to the principle of the proposed change of use, the introduction of a new unit of residential accommodation in this location, the future living environment of occupiers and the amenities of neighbours of the development.

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.

Policy OC1 sets out that the creation of new dwellings Outside of the Centres will only be supported where it is achieved through the subdivision of an existing dwelling (not applicable here) or the conversion of an existing redundant building. Policy GP16(A) requires a building to be demonstrated as no longer required or capable of being used for its current or last known purpose. The original submission set out that the applicant is in the process of selling their business as they are retiring and that the existing building will therefore become redundant for its current use.

The building was granted permission in 2018 for use for home-based employment under Policy GP14 of the IDP. There was no conditions attached to the permission either:-

- a) limiting the use of the building to the business use proposed at the time; and/or
- b) requiring the building to revert to domestic use following the cessation of the approved business use. Nonetheless, the Land Planning and Development (Exemptions) Ordinance, 2023 sets out that permission is not required for the change of use from home-based business (Class 5 of the 2017 Exemptions Ordinance) to part of the existing dwelling therefore permission would not be required for the building to be used for purposes ancillary and incidental to the enjoyment of the main dwelling, Entre Nous.

In this case, the applicant has confirmed that one part of the business has been sold however, a new business has been formed by the applicant. As a result, this new business could make use of the home-based employment use that relates to Entre Nous and it has not been demonstrated that the building is redundant for home-based business use operated and owned by the occupiers of Entre Nous.

As a result the application does not accord with Policy GP16(A) of the Island Development Plan and the application is recommended for refusal on this basis.

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.

Other matters

The building exists on site and does not result in unacceptable overshadowing or loss of light to either the main house or any other surrounding dwelling.

The first-floor obscure glazed window is not the only fenestration serving the proposed first-floor bedroom, with the Juliet balcony facing north and rooflights to both roofslopes. The retention of obscure glazing would not have an unacceptable impact on aspect and outlook for future occupiers. The window was required to be obscure glazed in terms of the amenities of occupiers of Ambridge and their associated external amenity space and this condition would remain appropriate in this regard and is now also deemed necessary in order to protect the amenities of future occupiers of Entre Nous itself (GP8 and GP9). This matter could be controlled by condition if the scheme had complied with all aspects of Policy GP16(A).

The scheme would alter the relationship between Entre Nous and the application building although it is noted that a hedge is proposed to separate the two garden areas. If the scheme were acceptable in all other respects additional boundary screening would be appropriate given that the boundary hedge will take time to mature (GP8 and GP9). The hedge, in addition to associated screening would be necessary to offer privacy to the amenity space for properties and a planning condition would have been appropriate if the matter of redundancy had been satisfactorily addressed.

The retained amenity space to serve Entre Nous and proposed amenity space, following the demolition of the existing domestic glasshouse, would be sufficient for the enjoyment of future occupiers in line with the aims of Policy GP8 and Annex I of the IDP. If the application were to be approved, it would be reasonable to require the glasshouse to be removed prior to first occupation to ensure the amenity space for the proposed dwelling is provided.

Overall, the proposed dwelling would meet Annex I of the IDP in relation to aspect/outlook, sunlight/daylight and internal space provision exceeds Part G of the Building Regulations and the best practice DCLG guidance for internal space provision. The distance between Entre Nous and the proposed dwelling is such that the proposed accommodation will not suffer from an unacceptable degree of overlooking or loss of privacy.

As part of the original scheme in 2018 four parking spaces were indicated to exist serving the existing house. The application proposes two off-road parking spaces for the proposed dwelling which is considered appropriate for a dwelling of the size indicated in a location where parking provision is assessed on a case-by-case basis. The scheme does not make provision for secure and covered cycle storage in line with IP6 however, householder exemption rights would apply and there is ample space around the property to provide this without undermining the amenity space or parking provision. Details of a cycle store could have been required by condition if the application were recommended for approval.

Although no comments have been received from OEHPR it is noted that the glasshouse to be removed falls within the recognised curtilage of Entre Nous and a Discovery Strategy condition regarding possible unknown contaminants would have been reasonable should the application had been supported.

None of these matters however, outweigh the reason to refuse planning permission.

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: 09/01/2025

