

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, extend and alter building to create dwelling and associated works. Change of use of agricultural land to domestic garden (500sqm).

LOCATION: Petite Lande, Rue Des Monts, Forest.

APPLICANT: Mr M Sullivan

I refer to the application referred to below received as valid on 16/12/2024 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 05/03/2025

Drawing Nos: Arch+ Ltd: 151-3-301B, -302B, -303, -304 & -305.

Application Ref: FULL/2024/1901

Property Ref: H005330000

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 existing building falls within the recognised domestic curtilage of the property and is not considered to be redundant for the purposes of Policy GP16(A).

Whether the building is no longer required for its current or last known use requires a broader and more objective assessment than simply whether the building is no longer required at a specific point in time due to the particular personal circumstances of the current occupiers in order to limit development Outside of the Centres to accord with the overall Spatial Strategy.

The facilities provided by the building remain useful to serve the dwelling and the building is clearly capable of being used for this purpose. It has 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).

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/2024/1901
Property Ref: H005330000
Valid date: 16/12/2024
Location: Petite Lande Rue Des Monts Forest Guernsey GY8 0BB
Proposal: Convert, extend and alter building to create dwelling and associated works. Change of use of agricultural land to domestic garden (500sqm).
Applicant: Mr M Sullivan

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The existing building falls within the recognised domestic curtilage of the property and is not considered to be redundant for the purposes of Policy GP16(A).

Whether the building is no longer required for its current or last known use requires a broader and more objective assessment than simply whether the building is no longer required at a specific point in time due to the particular personal circumstances of the current occupiers in order to limit development Outside of the Centres to accord with the overall Spatial Strategy.

The facilities provided by the building remain useful to serve the dwelling and the building is clearly capable of being used for this purpose. It has 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).

OFFICER'S REPORT

Site Description:

The application site known as 'Petite Lande' consists of a detached dwelling-house which is located to the west of La Rue Des Monts. The property is served by two access points, both of which are located to the east of the site. The property is in an Agriculture Priority Area, borders a Conservation Area to the north and east, and is situated Outside of the Centres as defined on the Island Development Plan Proposals Map.

To the rear of the dwelling lies an outbuilding which appears to have been erected at the same time as the dwelling, as both structures are shown on the 1963 aerial photograph. In addition, 4 spans of glass are also located to the south and west of the dwelling, with two additional spans of glass added to the south of the site by 1979. The glass was cleared from the site sometime between 1979 and 1990. It would appear that a small

domesticated size glasshouse was erected adjacent to the south-west corner of the existing outbuilding, sometime around 1979 and was subsequently removed by 2016 (based on orthophotographs).

Planning permission was granted in 1992 to erect a conservatory to the rear of the house (PAPP/1992/1744), which included the outbuilding within the domestic curtilage. It is noted in the officer's report that the conservatory included encroachment into the 'Developed Glass' i.e. the application involved a change of use of land to the south of the house. This change of use spanned to the west boundary of the site. It would appear that the roof of the outbuilding was replaced sometime between 2006 and 2009 based on aerial photographs.

In 2017, a Property Search was carried out by the applicant. The recognised domestic curtilage was defined and had been taken from the approved plans in 1992 as part of the approved conservatory to the rear of the house (PAPP/1992/1744). It is also understood that an extension was built off the north-west elevation of the dwelling in the late 1980s and initially served as a dower unit, but was later converted to self-catering. As part of pre-application enquiry (PREA/2017/1979) it is understood that the self-catering unit has ceased operations.

Relevant History:

PREA/2024/1252	Convert former packing shed into dwelling	Pre-application enquiry
PREA/2017/1979	Erect single storey flat roof extension (north-west elevation), alter fenestration and install flue.	Pre-application enquiry
PS/2017/00020	Property Search	
PAPP/1997/0527	Change of use of dower unit to self-catering holiday unit	Granted
PAPP/1992/1744	Erect conservatory	Granted
1988	Erect extension (dower unit)	Approval
1985	Replace windows/doors	Approval
1982	Convert packing shed to residential unit	Refusal
1976	Convert packing shed to self-catering unit	Refusal
1971	Erect 2 glasshouses (100 x 28ft)	Granted

Existing Use(s):

Residential - Use Class 1

Agricultural - Use Class 28

Brief Description of Development:

Planning permission is sought to convert, extend and alter an outbuilding to the rear of the property to create a 2-bedroom dwelling-house. The application also includes a

porch to the front (east) of the proposed dwelling and a change of use of agricultural land to the south of the outbuilding to domestic garden.

The application was deferred to clarify the proposed extension of domestic garden as the original plans did not accurately show the recognised domestic curtilage. The agent has shown the recognised curtilage and proposed extension of curtilage on the revised plans. The proposed extension of curtilage would equate to approximately 500sqm.

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

Island Development Plan

S1 – Spatial Policy

S4 – Outside of the Centres

OC1 – Housing Outside of the Centres

OC5(A) - Agriculture Outside of the Centres – within the Agriculture Priority Areas

GP8 – Design

GP9 – Sustainable Development

GP13 – Householder Development

GP15 – Creation and Extension of Curtilage

GP16(A) – Conversion of Redundant Buildings

IP7 – Private and Communal Car Parking

Annex I – Amenities

Supplementary Planning Guidance

- Parking Standards and Traffic Impact Assessments.
- Strategy for Nature - Supplementary Planning Guidance (2020).

Planning Service's online guidance:

- Development within Agriculture Priority Areas which is not for agriculture purposes.
- Conversion of a redundant building – making an application for conversion of a redundant building.

Representations:

The Authority has received two letters of representation, one from La Societe Guernesiaise and the other from Forest Constables, both objecting to the proposal. Grounds for objection principally relate to the following issues:-

- Loss of agricultural land and increased land value.
- Concerns over the scale and appropriateness of biodiversity measures in relation to the size of the curtilage extension.
- Vagueness of existing curtilage.
- Landscaping scheme to include native planting.

Consultations:

None.

Summary of Issues:

- Whether the principle of residential conversion is supported under Policy.
- Whether the existing building is redundant for the purposes of Policy GP16(A).
- Whether the design of the proposed dwelling, and impact of the development on the character and appearance of the area is acceptable.
- Whether the proposal would have any detrimental impacts on the amenities afforded to the occupiers of neighbouring properties.
- Whether the loss of agricultural land within the Agriculture Priority Area is acceptable.

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).**

The purposes of the Land Planning and Development (Guernsey) Law, 2005, are to protect and enhance, and to facilitate the sustainable development of, the physical environment of Guernsey.

Section 13 to Part IV of The Land Planning and Development (General Provisions) Ordinance, 2007, sets out a number of general material considerations, the following of which are considered to be relevant in this instance:

- (b) the character and quality of the natural and built environment which is likely to be created by the development,
- (c) the appropriateness of the development in relation to its surroundings in terms of its design, layout, scale, siting and the materials to be used,
- (d) the likely effect of the development on the character and amenity of the locality in question,
- (i) the likely effect of the development on the reasonable enjoyment of neighbouring properties.

The Spatial Policy of the IDP, expressed through Policy S1, is to, *“concentrate the majority of new development in the Main Centres and the Main Centre Outer Areas to maintain the vitality of these areas, and to make provision for limited development in the Local Centres to support and enhance them as sustainable settlements and community focal points and to allow for development Outside of the Centres in identified specific circumstances, in accordance with the Strategic Land Use Plan.”*

Policy S4 goes on to state that, *“Policies exist that seek to protect and manage the built and natural environment while facilitating a viable rural economy and enabling small business development and infrastructure, where appropriate...Outside of the Centres,*

support will be given for development that meets the requirements of the relevant specific policies of the Island Development Plan.”

Policy OC1 provides for new residential development Outside of the Centres only, *“where this is achieved through the subdivision of an existing dwelling or the conversion of an existing redundant building.”* The policy text goes on to clarify that proposals for the conversion of redundant buildings to dwellings will be considered under policies GP16(A) and GP16(B).

As this application proposes the creation of a new dwelling through the conversion of an existing outbuilding, then it is acceptable in principle provided that the proposal complies with Policy GP16(A) and other relevant policies.

Policy GP16(A) is as follows:

The conversion of an existing building will be supported where:

- a. it is demonstrated that the building is no longer required or capable of being used for its current or last known purpose; and,*
- b. the conversion will result in the establishment of either residential, social and community, industrial, storage and distribution, convenience retail in coastal locations in accordance with Policy OC4, visitor accommodation or office use or provide facilities for outdoor formal recreation or informal leisure and recreation uses; and,*
- c. the existing building is of sound and substantial construction and is capable of conversion without extensive alteration or rebuilding; and,*
- d. the proposals would have no adverse impacts on the special interest of a protected building and that such interest is appropriately and proportionately preserved and, where possible, enhanced; and,*
- e. the proposals would have no unacceptable impacts on the contribution a building of character makes to the character and appearance of the area; and,*
- f. the conversion and any ancillary development associated with it can be implemented without having any unacceptable adverse impacts on the character and openness of the landscape; and,*
- g. the conversion would not require more than modest extension to the existing building for it to be achieved; and,*
- h. the proposal would have no unacceptable adverse impacts on the amenities and enjoyment of neighbouring properties and the surrounding area.*

All proposals for conversion of a redundant building resulting in a net increase of 20 or more dwellings are required to provide a proportion of affordable housing in accordance with Policy GP11: Affordable Housing.

In all cases, proposals will need to accord with all other relevant policies of the Island Development Plan.

Proposals for development under Policy GP16(A) must satisfy all of the policy criteria in order to be considered acceptable.

The overarching question is whether the proposal complies with criterion a) of Policy GP16(A), namely whether it has been demonstrated that *‘the building is no longer required or capable of being used for its current or last known purpose’*.

By way of background, the Explanation to the Outside of the Centres policies states at paragraph 15.1.11 that:

Owing to the Strategic Land Use Plan seeking to concentrate development within and around the edges of the urban centres of St Peter Port and St Sampson/Vale, with some limited development within and around the edges of the other main parish or local centres, the Island Development Plan will generally not support new housing Outside of the Centres. This is to accord with the Spatial Policy and to ensure community growth and the reinforcement of sustainable centres within appropriate locations, and to ensure that open and undeveloped land is not inappropriately used for a form of development adequately provided for elsewhere. The exception to this is in generally supporting the conversion of redundant, structurally sound buildings and the subdivision of existing dwellings. This will not unduly impact upon the open character of land Outside of the Centres and will not undermine the spatial strategy of the Strategic Land Use Plan, but will allow consideration to be given to the reuse of buildings and making the best use of the existing housing stock, in accordance with the Strategic Land Use Plan.

The preceding explanation to Policy OC1 states at paragraph 16.1.4 that:

The conversion of redundant buildings to create residential units will be assessed against the Conversion of Redundant Buildings policies, Policies GP16(A): Conversion of Redundant Buildings and GP16(B): Conversion of Redundant Buildings - Demolition and Redevelopment. This will require, amongst other things, that the structure to be converted is redundant, is structurally sound and is capable of conversion without significant extension or alteration.

Similarly the preceding explanation to policies GP16(A) and (B) notes at para. 19.17.1 that the SLUP, *“recognises the need to thoroughly explore opportunities to reuse previously developed land and convert, redevelop and reuse vacant buildings and accommodation where this would not undermine the spatial strategy of concentrating the majority of the Island’s development needs in the Centres”,* and at para. 19.17.2 that, *“Accordingly, the Island Development Plan makes provision for development Outside of the Centres where this is achieved through the conversion and reuse of redundant buildings and which would enable a use that would not otherwise be permitted through the carrying out of new-build development when assessed against the other relevant policies of the Island Development Plan.”*

Paragraph 19.17.4 goes on to clarify that, *“For an existing building to be converted to another use, the building must no longer be useful or reasonably capable of being used for its current or last known purpose and the proposal must represent an appropriate use of the building.”*

The outbuilding appears to have been built at the same time as the dwelling, as both structures are shown on the 1963 aerial photograph. Whilst not certain, there is a possibility that the outbuilding may have served a dual use, i.e. for domestic and commercial horticultural purposes in the mid-to-late 20th century. This is a possibility when considering its appearance, siting, layout and configuration, with a smaller domestic style garage door to the north of the outbuilding, and larger doors serving most of the structure, i.e. the packing shed. By virtue of its siting and layout, it could have possibly served both the glasshouses and the main dwelling. The agent suggests this too as noted on the existing drawings with references to both 'garage and packing shed' on the measured survey. Reference is also made to a packing shed in the Cadastre records.

The agent has set out in the application that the building has always been a packing shed and that no change of use has been granted to use the building for domestic purposes, and therefore it is redundant. However, following the removal of the glass, sometime between 1979 and 1990, the outbuilding as a whole has been used as an ancillary domestic outbuilding.

As set out earlier, planning permission was granted in 1992 to erect a conservatory to the rear of the house (PAPP/1992/1744), which included the outbuilding within the domestic curtilage. It is noted in the officer's report that the conservatory extended into the then 'Developed Glass' zoning, i.e. included a change of use of agricultural land to the south of the house to be used as garden. At that time (i.e. not long after the removal of the glasshouses), the outbuilding was regarded as falling within the domestic curtilage of the dwelling.

In 2017, a Property Search was carried out by the applicant. The recognised domestic curtilage was defined and had been taken from the approved plans in 1992 as part of the approved conservatory to the rear of the house (PAPP/1992/1744). It is noted that the domestic curtilage extent was not disputed in either 1992 or in 2017.

Whether the building is no longer required for its current or last known use requires a broader and more objective assessment than simply whether the building is no longer required at a specific point in time due to the particular personal circumstances of the current occupiers. For example, both personal circumstances and ownership can change resulting in changing needs over time. A broader objective assessment is required to test the redundancy of a building in order to limit development Outside of the Centres to accord with the overall Spatial Strategy. This approach aligns with the conclusions of the Appeals Tribunal in respect of La Pomare Farm (ref PAP/010/2019), where the Tribunal concluded that, as a matter of principle, the demonstration of redundancy of a building relates not simply to the needs or wishes of the present owner of the property, but to redundancy of the building in its present or former use more generally.

In respect of whether the building at the application site is no longer required, site visits were conducted on 07/01/25 and 12/02/25. The latter visit included an internal inspection of the outbuilding. It was observed that the outbuilding contained domestic paraphernalia which would be typical for a domestic property, including bins, bikes, a lawn mower, garden equipment, general householder items, and leisure equipment.

Outside the building a trampoline, kayak, raised vegetable planters, garden hose, oil tank, bins and cars were also visible, again reinforcing the character of the area immediately surrounding the outbuilding as having a domestic feel and appearance.

On this basis it is considered that the building and associated land surrounding the structure is in current and active domestic use incidental to enjoyment of the dwelling. Moreover, there remains a need for ancillary domestic storage, a function that the existing building could usefully serve.

Notwithstanding the agent's assertions, and that the outbuilding may have been historically used as a packing shed in the mid-late 20th Century, it is considered that the application has failed to satisfactorily demonstrate that the building is no longer required or capable of being used for its current or last known purpose. On that basis the application is contrary to the provisions of criterion a) of Policy GP16(A). It is therefore recommended that the application be refused.

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 GP16(A) of the IDP, and in accordance with the *Portholme* appeal decision, further consideration has not been given to details of the application (e.g. concerning loss of agricultural land within the Agriculture Priority Area, design, biodiversity enhancement, etc.).

Date: 24/02/2025

