

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: Change of use of agricultural building (Use Class 28) to a dwelling (Use Class 1) with associated works, install hardstanding to form agricultural track (adjacent to south site boundary).

LOCATION: Edgebaston Vinery, Saints Road, St. Martins.

APPLICANT: Mr & Mrs Dyke

I refer to the application referred to below received as valid on 17/12/2024 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 02/05/2025

Drawing Nos: Lovell Ozanne & Partners Ltd: AA9-10203-S1-20

Application Ref: FULL/2024/1986

Property Ref: J01047B000

The Development & Planning Authority has decided to refuse your application under the provisions of section 16 of the Land Planning and Development (Guernsey) Law, 2005 for the following reasons:-

1. The application has not been accompanied by appropriate supporting information that demonstrates that the building is no longer required or capable of being used for its current or last known purpose, as an agricultural building. The scheme is therefore contrary to Policy GP16(A) a. of the Island Development Plan.

2. The land that is the subject of this application is located within an Agriculture Priority Area (APA) where the loss of an existing farmstead, agricultural building or land would only be supported where it is demonstrated that the land cannot contribute positively to the commercial agricultural use of the APA or cannot practicably be used for commercial agriculture within the APA without adverse environmental impacts.

The proposed change of use of agricultural land for a substantial domestic curtilage serving a one bedroom dwelling has not been satisfactorily justified in this case. The proposal, if permitted, would result in the unacceptable loss of agricultural land which

would prejudice the wider APA. The proposal would not accord with the requirements of Policy GP15c) and OC5(A) of the Island Development Plan.

3. The information provided with the application submission regarding the proposed area of domestic garden does not demonstrate that the proposals will offer identified environmental benefits in respect of biodiversity that would be incorporated should planning permission be granted. As a result the scheme does not accord with the Strategy for Nature Supplementary Planning Guidance.

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/2024/1986
Property Ref: J01047B000
Valid date: 17/12/2024
Location: Edgebaston Vinery Saints Road St. Martins Guernsey
Proposal: Change of use of agricultural building (Use Class 28) to a dwelling (Use Class 1) with associated works, install hardstanding to form agricultural track (adjacent to south site boundary).
Applicant: Mr & Mrs Dyke

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The application has not been accompanied by appropriate supporting information that demonstrates that the building is no longer required or capable of being used for its current or last known purpose, as an agricultural building. The scheme is therefore contrary to Policy GP16(A) a. of the Island Development Plan.

2. The land that is the subject of this application is located within an Agriculture Priority Area (APA) where the loss of an existing farmstead, agricultural building or land would only be supported where it is demonstrated that the land cannot contribute positively to the commercial agricultural use of the APA or cannot practicably be used for commercial agriculture within the APA without adverse environmental impacts.

The proposed change of use of agricultural land for a substantial domestic curtilage serving a one bedroom dwelling has not been satisfactorily justified in this case. The proposal, if permitted, would result in the unacceptable loss of agricultural land which would prejudice the wider APA. The proposal would not accord with the requirements of Policy GP15c) and OC5(A) of the Island Development Plan.

3. The information provided with the application submission regarding the proposed area of domestic garden does not demonstrate that the proposals will offer identified environmental benefits in respect of biodiversity that would be incorporated should planning permission be granted. As a result the scheme does not accord with the Strategy for Nature Supplementary Planning Guidance.

OFFICER'S REPORT

Site Description:

The application site relates to a field to the east of a residential development on Rue Jehannet. The pitched roof, timber clad building is adjacent to the east site boundary adjacent to Saints Road. The land forms part of an 'L' shape parcel of land to the east and north of the development in Rue Jehannet and currently falls within the same ownership and control as a vinery, Edgebaston Vinery, to the northwest of the site and adjacent to La Rue Des Escaliers.

The site is located Outside of the Centres and within the Agriculture Priority Area as designated in the Island Development Plan.

Relevant History:

Pre-application advice has been sought in this case.

FULL/2019/0891 – Demolish existing and erect replacement shed – granted

FULL/2015/2744 – Clos Barbier Phase 2 - A residential development was granted planning permission on 23 May 2016 in Rue Jehannet, to the west of the application site, and the approved plans showed the land that is the subject of this current planning application as forming retained horticultural land, with land to the north of the residential development identified as a landscape buffer. The plans approved on 23 May 2016 showed the field retained and with a bank and hedge to be planted along the boundary between the field and landscape buffer, with no breaks in the boundary treatment for access.

The landscaping scheme was approved on 05 June 2017 for this site which included a gap for access in the boundary between the retained field and landscape buffer. A Landscape Management Plan for the landscape buffer was submitted by the applicant and approved on 29 May 2018 which set out that the land owner will manage the landscape buffer and the equipment required will depend on the task to be undertaken in connection with land maintenance/management.

Existing Use(s):

28 agriculture

Brief Description of Development:

The application relates to the change of use of the agricultural building to a dwelling with associated external alterations and formation of domestic garden and for the provision of hardstanding to provide a tractor track to the retained agricultural land.

The submission as originally submitted was accompanied by a supporting letter which also addresses relevant planning policies and a Structural Report dated September 2024 showing only a small tractor/mower stored in the building. The letter sets out that the original horticultural packing shed which was used in relation to the greenhouses that occupied the site was replaced by the current building. The glasshouses have been replaced by the GHA housing development. The building was used to store equipment required to maintain the land to the immediate north of the GHA houses but the

management of this land has now been passed to a contracted garden services company and so there is no purpose or use of the existing building. The submission indicates that equipment stored is in the process of being removed/sold/passed on etc. and so the building is not required for its historic use or current or last known purpose.

The application was deferred in relation to matters regarding:

- the extent of land ownership, having regard to the glasshouses that fell within the ownership and control of the applicant at the time of the original application in 2019
- the date on which the building was completed
- a management contract associated with the landscape buffer for the adjoining housing development, which is no longer the responsibility of the applicant in this case.

Further information has been provided which states that although the glasshouses are within the same ownership as the current site the two land parcels are separate with the glasshouses only accessible from La Rue des Escaliers as there is no access across the buffer zone which falls outside the applicant's ownership. The current circumstances of the applicant is such that they have passed management of land within their ownership to a company and so they no longer have land management equipment. The letter concludes by stating: "The shed is therefore redundant for the purpose for which it was originally granted permission, the management of the 'buffer zone' and its historical use in connection to the horticultural glasshouses now developed by the GHA for housing". It is also confirmed that the building was occupied in the summer of 2023 noting the delays in construction due to the Covid lockdowns. The submission has been accompanied by various invoices from the company involved with the management of the land which is no longer undertaken by the applicant:

- January 2025 – quote to maintain top shed and field, strimming where needed (every three weeks if needed)
- June 2024 – invoice for 2 days work and two lorry loads of rubbish
- August 2022 – invoice for labour, digger, green waste, mixed rubbish to dump, lorry charges, mini-digger
- August 2022 – invoice for 2 days unspecified works
- November 2022 – invoice for labour, hardcore removal, lorry charges and digger hire
- August 2020 – quote to cut back hedges including lopping where necessary, level some of the areas, build a new bank, screening of needed soil, remove part of existing driveway, planting new bank, sowing field, planting trees and shrubs.

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

OC7: Redundant Glasshouses Sites Outside of the Centres

GP1: Landscape Character and Open Land
GP8: Design
GP9: Sustainable Development
GP15: Creation and Extension of Curtilage
GP16(A): Conversion of Redundant Buildings
IP6: Transport infrastructure and support facilities
IP7: Private and Communal Car Parking
IP9: Highway Safety, Accessibility and Capacity

Strategy for Nature SPG

Parking Standards and Traffic Impact Assessment SPG

Representations:

One letter of representation has been submitted and raises the following points:

- As greenfield land development is not permitted
- The development may lead to further development
- Display period of site notice

Consultations:

None.

Summary of Issues:

The key issues in this case relate to the principle of the proposed change of use and whether the building is redundant, whether the site forms part of a redundant glasshouse site, the impacts on agricultural land, provision of biodiversity enhancements, the future living environment of occupiers and the effect of the development on 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.

Conversion of a redundant building

The application site historically formed part of a larger glasshouse site. The only structures that remain from its former horticultural use however appear to be a water tower and the remnants of another building to its immediate north. These alone would

not represent sufficient remnants to comprise a redundant glasshouse site for the purposes of Policy OC7 and the proposal would not therefore trigger that policy.

The creation of new dwellings Outside of the Centres is supported where it is achieved (as proposed) through the conversion of an existing redundant building (Policies OC1 and GP16(A) b.).

For a scheme to comply with Policy GP16(A) it must however be demonstrated that the building is no longer required or capable of being used for its current or last known purpose. In this respect, the details of the 2019 application for the construction of the building and its approval are significant.

The 2019 application was assessed and determined on the basis that the building was required primarily for storage in association with the agricultural land at the site and other structures, glasshouses and agricultural land within the applicant's ownership and control, including the vinery to the north-west, and for incidental storage relating to the maintenance of the landscape buffer to the adjacent residential development approved under FULL/2015/2744 (see Relevant History above).

The building was only completed and occupied in 2023, approximately 2 years ago. The application cites the changing circumstances of the applicant as rendering the building redundant, stating it is no longer required for the maintenance of the landscape buffer.

The application includes provision of invoices demonstrating the employment of a gardening company to manage the land at the site. Reviewing the date of the invoices provided relative to the completion date of the building, it appears that the building was used for a period of approximately 2 years before the services of the gardening company were engaged. It has only been since this application was deferred that a regular contract for ongoing maintenance has been drawn up between the applicant and management company. The information provided does not clearly specify the areas of the site that would fall under this management regime, although it appears to cover the field around the building in question, there is no specific reference to the landscape buffer for which the building also offered storage of equipment.

As noted above, in addition to maintenance of the land and landscape buffer on this site, the original permission was granted to enable items/tools stored in the greenhouses to the north-west of the site to be relocated to a dedicated storage building. This current application, however, seeks to argue that the two sites are entirely separate and unconnected, despite the information contained in the 2019 submission. Whilst it is acknowledged that the sites are not physically connected, the 2019 application did not highlight the lack of physical connection between the two sites as an issue, or a reason why the building could not be used in association with the glasshouses to the northwest of the site (which were and continue to be within the same ownership and share the same name).

In summary, the application seeks to demonstrate that the building is not currently required to serve the needs of the current landowner in relation to the agricultural land on which it is situated however, it has not been demonstrated that the building could

not be useful to serve the agricultural land, the purpose for which it was constructed. It has not been demonstrated therefore that the building is redundant for its current purpose, as an agricultural building on agricultural land. The scheme therefore fails to comply with Policy GP16(A) a. of the Island Development Plan.

Other aspects of GP16(A)

Consideration must also be given to the proposed alterations and whether these represent substantial alterations for the purposes of Policy GP16(A) c. The scheme indicates that the roof would be recovered from a fibre cement profiled roof to a pantile roof. The translucent GRP roofing sheets would also be removed and three new rooflights installed in the west roofslope. Existing windows and doors in the west and north elevations are also proposed to be replaced in existing openings. Internally insulation is proposed to the floor and walls and a new ceiling is proposed. Work necessary to bring the building fabric up to current Building Regulation standards in terms of freedom from damp and thermal and sound insulation, together with the installation of internal partitions, are known to be a common feature of schemes involving the conversion of buildings and therefore such works are considered to be neutral in terms of their impact on the objectives of Policy GP16(A). The remaining works itemised above are not considered to amount to extensive alteration or rebuilding. The proposal would therefore comply with Policy GP16(A) c.

The works proposed will not have an unacceptable impact on the contribution of this building to the character of the area in line with criterion e. and the shed for cycle storage would represent ancillary development which will not have an adverse impact on the character and openness of the landscape concerned in line with criterion f. With regard to the impact of other paraphernalia associated with residential use such as washing lines, patio furniture etc., this is not considered to have a detrimental impact on the character of the area when considering that the roadside boundary is enclosed, proposed boundary treatments in connection with the proposed development and the character of the locality which is predominantly residential in nature. If the scheme were otherwise acceptable consideration could be given to whether it would be appropriate to remove any householder exemption rights.

As an existing building the proposed change of use, with alterations to the roof and fenestration, will represent a good standard of design that respects the local built environment in accordance with Policy GP8 and GP16(A) h. (surrounding area).

Change of use of agricultural land to domestic garden (APA)

In line with Annex I of the IDP and the prefacing text to Policy GP16, it is reasonable that a unit of residential accommodation provided through the conversion of a redundant building is served by access to external open space. In this case, an area of c. 1300sqm is proposed to be utilised as domestic garden associated with the proposed one-bedroom dwelling, comprising the eastern end of the site abutting Saints Road, and must comply with the requirements of Policies GP1 and GP15.

As set out above, the proposed residential development and associated use of land are not considered to result in significant impacts on openness or landscape character. The site is not located within or adjacent to an Area of Biodiversity Importance and no boundary features would be impacted upon.

The land is within the Agriculture Priority Area as defined in the IDP. Whilst identifying a need for a balance to be struck between the requirements of the agricultural industry and the reasonable expectations of landowners in relation to a proposed development, Policy GP15 seeks to retain agricultural land that could contribute positively to the commercial agricultural use of the APA. In this case, the land is relatively flat thereby making it generally suitable for either arable or livestock use. Although the landscape buffer limits connectivity to the APA land to the north it is not considered that this would preclude access being formed and it is considered that the land could contribute positively to the commercial agricultural use of the APA without unacceptable adverse environmental impacts. As submitted therefore, the scheme fails to comply with Policy GP15 in this regard.

Strategy for Nature

In line with the States' Strategy for Nature, 2020 which has been adopted as Supplementary Planning Guidance, the Development and Planning Authority directed that from 01 September 2021 all applications involving the change of use of agricultural land to domestic garden must be accompanied by information demonstrating environmental benefits in respect of biodiversity that will be incorporated should planning permission be granted. The scheme has not sought to address matters of biodiversity enhancement in connection with the proposed change of use.

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.

For the reasons given above and the identified conflict with Policies GP15 and GP16(A), the only lawful decision that can be reached is that planning permission be refused and no further assessment is required against the remaining relevant policies of the Plan. For completeness, those policies are however assessed below.

Other matters

Sustainable Development

The supporting letter outlines that the proposal includes the provision of photovoltaic cells to the west roofslope and it is noted that permeable paving is proposed for the parking and patio area and within the tractor access adjacent to the proposed domestic garden area. These matters could be addressed by planning condition and if a further commitment to sustainable development was considered appropriate, the application could have been deferred. This would however, have been abortive work in relation to the current proposals as the scheme fails to comply with the gateway planning policy.

Residential amenity

The building is situated away from all residential neighbours and will not result in overshadowing or overlooking of adjoining properties or gardens in line with the aims of Policy GP16(A) h., GP8 and GP9 of the IDP.

The development offers single-storey accommodation that provides access for people of all ages and abilities responding to the changing needs of occupiers. The accommodation would benefit from primarily single aspect accommodation but west facing thereby offering good levels of sunlight and daylight. The accommodation will look out across open proposed garden, offering good aspect and outlook for occupiers. The development will not be overlooked by surrounding properties in terms of the amenities of future occupiers and will provide good internal space provision as required by Policy GP8 and Annex I of the IDP.

Parking, cycle parking and access

Car and cycle parking provision is considered to comply with Policy IP6 and IP7 of the Island Development Plan. The proposed residential use on the site would not unacceptably intensify the use of the access (which is currently fenced off with Heras fencing) when considering Policy IP9.

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: 29/04/2025

