

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: Erect storage and processing building and tasting room with pergola, including excavation and retaining wall, landscaping and hardstanding for operation of winery.

LOCATION: La Seigneurie, Rue Des Valniquets, Torteval.

APPLICANT: Mr J Cherry

I refer to the application referred to below received as valid on 24/12/2024 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 20/03/2025

Drawing Nos: Proposed Site Plan
Processing Building: Ground Floor Plan, Roof Plan, North Elevation, East Elevation, South Elevation, West Elevation, Section A-A, Materials
Tasting Area: Ground Floor Plan, Roof Plan, East and North Elevations, South and West Elevations, Section B-B, Materials.

Application Ref: FULL/2024/2052

Property Ref: G005410000

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 proposal is not for new glasshouses, extensions, alterations, rebuilding or other works to existing glasshouses or buildings. It has not been demonstrated that the buildings, in the form proposed, would comprise ancillary or ordinarily incidental development associated with an existing commercial horticultural holding or that, on cessation of use, the structures would be removed and the land restored. The proposal does not meet the terms of Policy OC6 (Horticulture Outside of the Centres).
2. The proposed development, by virtue of the siting and scale of the buildings proposed, would result in the loss of open and undeveloped land and would have a significant unacceptable impact on the open landscape character of the area, contrary to Policy GP1 (Landscape Character and Open Land) and GP8c (Design).

3. The application does not include sufficient information to demonstrate that the development would not have unacceptable impacts on the amenities of neighbouring properties, contrary to Policy GP9b) (Sustainable Development).

4. The application does not include sufficient information to fully assess the number and type of vehicle movements which would be generated by the proposed development and the ability of the road network to cope with any increased demand. The proposals do not therefore meet the requirements of Policy IP9 (Highway Safety, Accessibility and Capacity) or the material considerations in respect of roads.

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/2024/2052
Property Ref: G005410000
Valid date: 24/12/2024
Location: La Seigneurie Rue Des Valniquets Torteval Guernsey GY8 0QP
Proposal: Erect storage and processing building and tasting room with pergola, including excavation and retaining wall, landscaping and hardstanding for operation of winery.
Applicant: Mr J Cherry

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The proposal is not for new glasshouses, extensions, alterations, rebuilding or other works to existing glasshouses or buildings. It has not been demonstrated that the buildings, in the form proposed, would comprise ancillary or ordinarily incidental development associated with an existing commercial horticultural holding or that, on cessation of use, the structures would be removed and the land restored. The proposal does not meet the terms of Policy OC6 (Horticulture Outside of the Centres).
 2. The proposed development, by virtue of the siting and scale of the buildings proposed, would result in the loss of open and undeveloped land and would have a significant unacceptable impact on the open landscape character of the area, contrary to Policy GP1 (Landscape Character and Open Land) and GP8c) (Design).
 3. The application does not include sufficient information to demonstrate that the development would not have unacceptable impacts on the amenities of neighbouring properties, contrary to Policy GP9b) (Sustainable Development).
 4. The application does not include sufficient information to fully assess the number and type of vehicle movements which would be generated by the proposed development and the ability of the road network to cope with any increased demand. The proposals do not therefore meet the requirements of Policy IP9 (Highway Safety, Accessibility and Capacity) or the material considerations in respect of roads.
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OFFICER'S REPORT

Site Description:

The application site comprises a 2 acre field, falling within the same ownership as adjacent fields to the south, east and south-east, and the farmhouse located to the

south-east of those fields. Adjacent fields within the ownership are located to the south-west.

The site is bounded by established vegetation to all boundaries, with access to the field to the south at the west end of the dividing boundary and to the field to the east at the north end of the dividing boundary. There is no direct access to the field from the surrounding roads, however there is access to the field to the east in the north boundary, immediately adjacent to the boundary shared with the application site, and there is further road access to the field to the south, at the southern end of the west boundary of that field.

The site is located on the Pleinmont headland in the south-west of the Island, at the juncture between the upland plateau and clifftops and at the top of the coastal escarpment and an inland valley as set out in the Landscape Character Assessment forming Annex V of the Island Development Plan. The land slopes away steeply across the field towards the south-east. The topography of the area tends to screen the site from the lanes extending away from the site immediately to the south and east, however views are available across the valley from Rue de la Trigale to the south and Rue du Camp D'Ebat to the east, and longer views are available from the coast road, from the northern section of Route de la Lague and along the coast road until L'Eree headland.

The Rue du Banquet runs along the north boundary of the site, at a lower level than the site. The boundary is formed by a c2m high earthbank from the roadside, the top of which is approximately level with ground level within the site. Open fields are located to the north-west of the site, allowing views of the site from Rue de la Mare to the north-west. A substantial dwellinghouse known as Seascape is located to the north of the site, at a lower level than the site.

The Rue de la Cloture runs along the west boundary, approximately at a level with the land within the application site. The intervening boundary is formed by a bank and planting. The land on the other side of the road comprises an open field and a derelict glasshouse site.

The site is located Outside of the Centres and within an Agriculture Priority Area as designated within the Island Development Plan. The site is set away from designated Areas of Biodiversity Importance and Sites of Special Significance in the wider area.

Relevant History:

Pre-application enquiry regarding construction of a tasting room – Advised to submit as part of a comprehensive pre-application enquiry for the whole operation. No further pre-application enquiry was received.

Existing Use(s):

Agricultural Use Class 28

Brief Description of Development:

Permission is sought to erect a processing and storage building along the west boundary of the field, with a further building described as a “tasting room” located to the south-east. Hardsurfacing is proposed to the east of the processing and storage building, around the tasting area and on an area between the two buildings.

The supporting information states that the buildings would be accessed via the existing access from Rue de la Cloture serving the field to the south, with an access drive formed across that field, finished in gridforce/gravel. The submitted plans state the existing agricultural gate as retained, however the position of the access is shown c35m to the south of the boundary of the field in which the buildings would be located, whereas it appears that the access is c73m from that boundary.

To accommodate the development, land levels would be altered, excavating 3m from the south-west corner of the storage and processing building tapering towards the east over a distance of c30m and over the footprint of the building to the north. A retaining wall would be constructed along the west and south sides of the storage and processing building, 3m to the west and tapering down to 2m to the south. Timber sleepers would be installed as a kerb/retaining feature to the hardsurfaced area, approach to and across the front of the tasting area. It is difficult to be clear from the submitted plans, however it appears levels would be raised in the area of the tasting room. Any surplus soil is stated to be used on site for regrading.

Four new trees are proposed to the north of the processing and storage building and additional planting is shown to the south of that building and west of the access drive, and to the south of the tasting area.

The processing and storage building would be 31m x 15.75m x 8.2 (high), constructed with a reclaimed brick plinth and green metal standing seam walls and roof, the latter incorporating 30no rooflights. A 6m² timber effect sliding door unit and pedestrian door would be installed in the east elevation and an arched window would be incorporated to the north elevation. A covered lean-to would be formed to the south side of the building, extending 21.5m across the elevation, projecting 4.75m with a peak of 5.5m reducing to 4.5m.

The processing space is to provide parking for a pallet truck, forklift, compact tractor and harvester and is to include:

- Continuous still;
- Hot-water pressure wash;
- Pneumatic press;
- Shaker sorting table;
- De-stemmer/crusher;
- Hopper/auger.

The storage space is to include:

- Stacked barriques;

- Capacity tanks on pallets;
- Bottling machine;
- Labelling machine;
- Stacked bottle stillages.

The covered lean-to is proposed to be used for stacked pallet bins.

The “tasting room” building is to comprise a 7m by 4m structure, with double pitched roof finished in standing seam green metal to a height of 4m, with attached accessible WC. Part of that structure would be enclosed with timber clad walls and large folding serving hatches to form a tasting room, with the remainder used as a covered seating area. Oak frame pergolas would extend 4m to either side of the covered seating area, also at a height of 4m, to provide an extension to that area. Solar panels are to be incorporated to the roof.

Supporting documentation has been provided as part of the application and, in particular, the following points are noted:

- The agricultural holding includes 8 fields, a total area of c13.4 acres, 7 of which are located adjacent or very close to the application site;
- A Location Feasibility Study has been provided, noting other potential locations within the ownership which were considered for the buildings and why they have been dismissed (JGA submission);
- No buildings existing on the holding or in the area that could be repurposed to provide the facilities required;
- No vines have yet been planted however lime has been ploughed into the fields and 6375 vines have been purchased and are due to be planted across 3.92 acres of land in April 2025. The first harvest would be Summer 2028, with the first sales being in 2031. A variety of vines will be planted to establish the best suited to this environment. This quantity of vines could produce 7,000-18,000 bottles in the first year following harvest;
- Planting is intended to be expanded by 1-3 acres each year, with all 13.4 acres planted by 2028 and producing c60,000 bottles a year with potential for expansion beyond that point on other land;
- The scale of the building is designed to accommodate the maximum planting with no need for future expansion;
- Grapes will be processed, vinified, matured and bottled on site;
- There is a strong correlation between proximity of the winery to the vineyard and the quality of the wine produced, due to grape breakage and fermentation in transit;
- Proximity to the vineyard would also limit traffic movements;
- This will largely be a one-person operation, limiting traffic movements;
- In the future a lorry or van may be required to move bottles in bulk once or twice a year;
- The continuous still is 5.5m tall, driving the height of the building, together with the efficiencies of stacking barriques and wine stillages;

- Each stillage holds 450 bottles, is 1m³ and stackable five high. 130 stillages would be required to accommodate ultimate maximum production, with sufficient space for forklifts to manoeuvre;
- The storage space requires an automated climate-controlled system, including air conditioners;
- Partially sinking the structure will reduce visual impacts, whilst also improving the thermal efficiencies of the building;
- The structure is insulated to maximise energy efficiency and the entire roof of the structure will be covered in solar panels;
- Water will be sourced from an existing borehole and waste water will be collected in a cesspit. Easy access to the cesspit has partially driven the selected location;
- Processing will only occur for one month of the year, after harvest, is odourless and noise from the equipment is limited;
- Only grapes grown on the associated land will be processed;
- The site would not be open for adhoc public attendance. Small groups of 6-10 individuals will be brought to the site in a designated vehicle for pre-booked tours/tasting events, including other local produce, and to purchase wine on site;
- Wine would also be marketed to local restaurateurs.
- The business aligns with the directions set out in the States of Guernsey Revive and Thrive recovery strategy and the Government Work Plan, providing investment in to the local economy;
- UK Planning Guidance, drawing from the UK Supreme Court case of *Millington v Secretary of State for the Environment, Transport and the Regions* (1999), defines the making and selling of wine, including tours and tastings, as ancillary agricultural activities, where the growing of grapes is the primary use.

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

OC6	Horticulture Outside of the Centres
GP1	Landscape Character and Open Land
GP8	Design
GP9	Sustainable Development
IP7	Private and Communal Car Parking
IP9	Highway Safety, Accessibility and Capacity

Representations:

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

- The site is prime agricultural land;
- There is no established business or proof that such a business would be a success, other ventures of this type have failed in Guernsey and Sark due to the exposed location;
- The area is very wet for grape production;
- There is no need for these buildings to be located on a green field site, they could be located elsewhere on the Island or at least less prominently on the site;

- The proposed buildings will fundamentally alter the fabric and degrade the natural beauty and character of rural Pleinmont enjoyed by many, on the skyline and highly visible within the local and wider area;
- If the wine business ends the costs of returning the field to open land would be prohibitive and the proposal will result in the irreversible major destruction of the green fields;
- The headland is of significant biodiversity value. No Environmental Impact Assessment has been undertaken, nor any assessment of existing species;
- The field which has been ploughed was the sole known site of the Green-winged Orchid in the Island, and the lack of protection for this species highlights the general failing in respect of surveying and protecting the Island's flora and fauna;
- The proposal is to extend the ploughing to the whole land ownership, extending the impacts;
- The vineyard will badly affect raptor species which have established small breeding populations locally;
- Vineyards require excessive treatment of insecticides/pesticides which will contaminate the water table;
- No details of how traffic will be minimised and monitored, any increase in the small lanes must have an impact and there is no capacity for lorries and large vehicles;
- Additional noise generated by the operation, including opening to the public, will adversely impact on the character of the area, wildlife and neighbour amenity;
- Light pollution;
- The business would not be a big employer for the Island;
- The proposal would set a precedent for development on the Island's most sensitive land.

La Societe Guernesiaise note they have not been formally consulted on the plans and express the following concerns:

- Whether the building can be considered an agricultural building, or whether it is industrial;
- The building would be highly visible on the skyline in many views of the area and there are other sites within the ownership which would be less impactful;
- The ploughing and liming of the fields within the ABI has led to complete loss of biodiversity on that land;
- Considering recent management it is likely all fields within the ownership would meet the criteria for ABI designation but have not been assessed;
- Planting of the fields as proposed, and already undertaken, would destroy the semi-improved grassland and it would take several decades to recover to its current nature conservation value. Approval of this application would effectively endorse the continued destruction of permanent grassland;
- The site has not been assessed in terms of biodiversity or habitats and the Strategy for Nature is not addressed;
- The area is an undeveloped rural landscape, the new development would not be respectful of that landscape;

- Pleinmont has been identified as having potential to qualify for Important Bird Area designation under national criteria. Research has shown that vineyards damage farmland bird populations (BirdGuides, 2016);
- The use of UV light treatment requires artificial lighting within the crop, potentially including reflective devices to ensure the light is adequately spread and La Societe is strongly opposed to use of artificial light in landscapes which are important for wildlife and are currently exposed to relatively little light pollution. This is an experimental treatment and ultimately viticultural chemicals may need to be used, which are known to be highly detrimental to the natural environment;
- A vineyard does not contribute to food security in any meaningful way.

Consultations:

Agriculture, Countryside and Land Management Services comment as follows:

We are writing in response to the proposal to erect a winery and the associated works at La Seigneurie, Torteval.

It is our understanding that the building for which the application relates would be considered industrial rather than agricultural, and therefore would constitute a change in use of agricultural land. Therefore, the following advice is based on the assumption that, in line with the 2021 policy decision of the Authority, such an application is required to evidence a biodiversity enhancement.

The available information suggests that the field selected for the building of the winery potentially has a high biodiversity value that could be significantly impacted as a result of the proposed development. The planning application document describes the soil of the field to have a low pH, low nutrient value, and having previously been sensitively managed for the cutting for hay. This information, in addition to analysis of aerial photography, suggests that the field could currently be supporting an extensive, species rich permanent grassland. Permanent grasslands are a habitat of high conservation and ecological value due to their scarcity and historic losses in Guernsey. Based on the available information, it is likely that the grassland at this site is akin to a lowland acid grassland (due to its “*average PH of 5.1*”) which is a Priority Habitat under the UK Biodiversity Action Plan¹, highlighting its importance. The loss of an area of this habitat for the development of the winery, without mitigation, would therefore result in a net loss to biodiversity on site rather than enhancement of biodiversity.

We also note that the site chosen for the winery building is in close proximity to a Site of Special Significance (SSS), with only a narrow road in between the field and the SSS boundary. We welcome the consideration of proximity to the SSS through the location feasibility assessment however there are potential impacts to the SSS which have not been fully considered within the current application. Without mitigation, impacts during construction, such as light, noise and dust pollution could extend beyond the boundaries of the development on site. Should the Authority approve this application, we recommend that a Construction Environmental Management Plan be requested, detailing how these impacts will be mitigated to ensure that the “*proposed development*”

will have no negative impact on [the SSS]” as set out in the planning application. Post-construction, we note that the application refers to “minimal artificial lighting to be installed”. Due to the proximity to the SSS, we recommend that any external lighting scheme conforms to the bat friendly light guidance, published by the Bat Conservation Trust² which the Authority may wish to secure through a suitably worded condition.

Furthermore, the Client Business Vision document refers to “*returning [wastewater] to the island’s general supply.*” We would welcome further clarity on this statement to ensure that aquatic ecosystems are not going to be negatively impacted. The Authority may wish to consider consulting with the Office of Environmental Health and Pollution Regulation to ensure compliance with the Environmental Pollution laws.

¹ UK BAP Priority Habitat description: Lowland dry acid grassland

² Guidance Note 8: Bats and artificial lighting at night, Bat Conservation Trust (2023)

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

I have reviewed the proposed plans to erect agricultural buildings for the processing and operation of a winery which were received by email on 24th December 2024 and there are a number of issues of concern that I must raise.

There is currently insufficient information for me to be able to comment on this application. I am concerned about the potential for noise, odour, and fly nuisance and I would welcome the following information to enable me to comment:

1. Confirmation of the proposed operating hours for:
 - a. Machinery
 - b. Wine tasting area
 - c. Transportation of bottles from the site.
2. Details on the proposed arrangements for the handling of putrescible waste and other waste arising from commercial operation.
3. Measures put in place to reduce the potential for odour nuisance.
4. Details of any measures to mitigate the potential for fly and insect nuisance.
5. I also have concerns for noise nuisance arising from the proposals. I note that the applicant’s covering letter and Appendix B suggest that noise will be mitigated by positioning the processing area entrance away from neighbouring properties and by planting quick-growing trees, I remain concerned that these measures may not be sufficient to prevent noise nuisance. I would therefore request further details on the equipment to be used within the processing and storage area to determine whether additional noise mitigation measures would be necessary.
6. Any further measures put in place to reduce the potential for noise nuisance arising from:

- a. Vehicle noise on site, such as forklift reversing
 - b. Any proposed open-air music in tasting area.
7. There is reference on page 10 of Appendix B that sterile waste water could be returned to the island's general supply. Further details are required in relation to these proposals as I have concerns that this practice presents a risk of water pollution. I would also like to bring the applicant's attention to the fact that should trade effluent be discharged from the site, a licence or exemption would be required under the Environmental Pollution (Water Pollution) Ordinance, 2022.

I would encourage the applicant to contact a Food Officer directly to discuss food hygiene requirements in relation to the winery operation and tasting area, as well as the use of a borehole water source in the production of wine and in the general facilities of the site.

The application also highlights the requirements for a climate control system to operate at the site. I note that the air handling units have been omitted from these proposals and we would expect to see a separate application submitted should planning consent be granted for the site.

Summary of Issues:

Whether the planting of vines comprises an agricultural activity;
Whether the processing, bottling, storage and marketing of wine comprises a use ancillary to the primary agricultural activity of the land;
Whether the principle of the development complies with planning policy;
Impact on landscape character and open land;
Impact on roads and highways;
Impact on neighbour amenity.

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).**

Use of land for growing vines.

Significant concerns have been raised in representation regarding the environmental and ecological impacts associated with the use of large tracts of land for the growing of vines and, in particular, citing the impacts of ground preparation works which have been undertaken on the fields located within an Area of Biodiversity Importance as designated in the Island Development Plan and ongoing impacts associated with the management of the vineyard.

The land in question comprises agricultural land, the use of which falls within Use Class 28 of the Land Planning and Development (Use Classes) Ordinance, 2017, which is described as; *Use of land for agriculture or forestry (including afforestation), including, for the avoidance of doubt, use for any of those purposes of any building occupied together with land so used.*

Agriculture is defined within that Ordinance as including; *“dairy farming, livestock breeding and keeping, horticulture, fruit growing, seed growing, the use of land as an orchard or as grazing land, osier land, meadow land, market gardens and nursery grounds”.*

Development is defined within Section 13 of the Land Planning and Development (Guernsey) Law, 2005, however Part 1, Section 6 of the Land Planning and Development (General Provisions) Ordinance, 2007 sets out exclusions to these definitions, identifying specific operations which do not constitute development, including; *the use of any land for agriculture, horticulture or forestry (including afforestation) and the use, for any of those purposes, of any building occupied together with land in such use except where such land or building is in a site of special significance or within the curtilage of a protected monument.*

The use of the land for the growing of vines would fall within the definition of agriculture as set out above and would not therefore comprise development as defined within the Law. The planting of vines therefore falls outside of the control of planning law and would not require planning permission.

In respect of environmental and ecological impacts of this planting, the Island Development Plan includes the designation of the Island’s most important sites for biodiversity as Sites of Special Significance (SSS), which have been identified against robust criteria as having outstanding botanical, scientific or zoological interest and, within those areas, the Land Planning and Development (General Provisions) Ordinance, 2007 Part I, Section 4 extends the definition of development to ensure protection of the special interest. The Island Development Plan also includes designated Areas of Biodiversity Importance (ABI), comprising areas which were not found to have sufficient interest to be designated a SSS but nevertheless contribute significantly to the biodiversity of the Island. The ABI designation provides a mechanism to offer some protection and enhancement of such sites when development proposals are being considered, however is not subject to any extended definition of development. Therefore, whilst it is noted that some of the fields proposed to be used for the viticulture enterprise forming the subject of this application are designated Areas of Biodiversity Importance, the use of the land for the growing of vines would not comprise development as defined within Law and, as planning permission is not required to undertake agricultural operations on that land, there is no planning mechanism to control the operation or to offer protection to the land.

In respect of the use of the UV light treatment proposed for the vines, no details are specified within the application, however research indicates this is undertaken through attaching specialised equipment to a tractor or other motorised vehicle and would not involve installing lighting throughout the vines. The submitted information does state that this treatment is undertaken during daylight hours. Provided this is the case, this would not fall within the remit of planning law, nor would it result in excessive light pollution.

In summary, the use of land falling within the ownership of the applicant for the growing of vines would not amount to development and would not therefore fall within the control of planning law, notwithstanding any environmental or other impacts which could arise from the operations. The matters to be considered under this application are therefore limited to the works set out within the description of development above, namely the erection of buildings and undertaking of associated works.

Planning policy gateway

The definition of agriculture is set out above, including horticulture and fruit growing. Horticulture is further defined within the Island Development Plan as: *“The intensive growing of plants for food, medicinal or decorative purposes, such as in glasshouses or plant nurseries”*. It is considered that viticulture comprises an outdoor horticultural form of agricultural practice.

The introductory text to Agriculture Outside of the Centres in the Island Development Plan states: *“Certain agricultural land, which is horticultural land or a redundant glasshouse site, will be considered against the specific policies relating to this particular type of agricultural land because of the particular land planning issues it raises, i.e. horticultural or redundant glasshouse sites Outside of the Centres in this Plan (see Policy OC6: Horticulture Outside of the Centres)”* (IDP Paragraph 17.3.1).

Taking the above into account, Policy OC6 (Horticulture Outside of the Centres) would form the policy gateway to consider the proposed development.

The principle of development

Policy OC6 supports proposals for new glasshouses, extensions, alterations, rebuilding or other works to existing glasshouses or buildings, or ancillary or ordinarily incidental development, associated with an existing commercial holding, where specified criteria are met.

In this case the proposal is not for new glass, or works to existing buildings, and can therefore only be considered where the proposals comprise ancillary development associated with an existing commercial holding.

There is not presently an existing commercial holding at the site. It is however noted that preparatory ground works have commenced and a significant number of vines are on order, to be planted in the next two months. Whilst no evidence has been presented to substantiate the vine order, on site the preparatory works were evident, and a multitude of stakes have been set out within the ABI fields. Given the scale of the operation, the initial works that have been undertaken, and the level of investment which has been secured for and already made in the business, subject to the provision of evidence of the vine order, it can be accepted as an existing commercial holding in this case.

The proposed development is for the erection of a storage and processing building, enabling the storage of equipment associated with the growing of grapes, the processing, fermentation and bottling of grapes once harvested and the storage of the bottled wine, together with the erection of a tasting room to enable the marketing of the wine.

In considering the processing of agricultural produce, there is debate whether there is a distinction between handling and packaging the original product and the processing of that product to create a new product, which includes other forms of operation which may not be considered agricultural in themselves. There is no local case law in respect of this matter, however it has been established that UK case law can be persuasive in such cases. The determining UK Case Law in this matter is the Supreme Court case of *Millington v Secretary of State for the Environment, Transport and the Regions* (1999). That case, drawing from other previous cases, found that a use can be considered ancillary to the primary agricultural use, even where the use may not be considered agricultural in itself, where the use results in the direct furtherance of the agricultural activity and is solely in connection with the agricultural use of the land. The processing and storage of grapes to make wine, and the on site sale of that wine, was therefore regarded as ordinarily incidental to the growing of grapes for wine, included in the general term of agricultural, ancillary to normal farming activities, and reasonably necessary to make the product marketable or disposable to profit.

These findings parallel the definition of use and ancillary activities within the Guernsey Land Planning and Development (Use Classes) Ordinance, which states:

- 1.(2) Subject to sections 2 to 4, where a building or other land is used for a purpose of any numbered class specified in Schedule 1, the use of that building or other land for any other purpose of the same numbered class shall not be taken to constitute development.*
- 2. Where the principal use of any premises falls within a use class, any other use of those premises (or of adjacent premises used as part of the same undertaking) for a purpose which is ancillary or ordinarily incidental to that principal use is to be regarded as also falling within that use class, notwithstanding that such other use might (if carried on independently of the principal use) have fallen within a different use class.*

The provision of buildings for the uses proposed under this application could therefore be considered ancillary to the horticultural use of the land for growing of grapes. In the *Millington* case, it is however noted that there may come a stage where the operations can no longer reasonably be said to be consequential on the agricultural operations of producing the crop, and may not therefore be considered ancillary.

In this case, the storage and processing building would have an enclosed footprint of 488sqm (additional storage is provided in the open lean-to to the side of the structure). The proposed processing space would comprise c120sqm and the indicative layout shown on the submitted plans appears to maximise the use of that space. The storage space is shown to be c330sqm, including stacked barriques, capacity tanks, bottling and labelling machines, and stacked bottle stillages. The combined areas of these uses, as stated on the submitted plans, is 35.5sqm. This does not however take into account the maximum stillage storage, which would be c26sqm, increasing the required space (excluding circulation space) to c52sqm and enabling storage of c60,000 bottles. Whilst it is appreciated that circulation space would be required for a forklift, given the difference between the stated storage floorspace requirements (52sqm) and the proposed floor space for the storage area (330sqm), a more detailed layout would be required to demonstrate that the size of the building is required to service the proposed uses.

In addition to the above, the submitted information does not fully address the need for all of the above activities to be undertaken on site. The need for on site storage of equipment relating to the maintenance and management of the vineyard is accepted as an ancillary function to the agricultural operations, as is the processing of the grapes, and the supporting information identifies that this activity is required on site due to the potential for damage to and fermentation of grapes in transit were the processing element off site. No explanation has however been provided to demonstrate why the bottled wine could not be stored off site, particularly given the volume of bottles cited, and in fact the submitted material states that any surplus stock produced in the future which exceeds the capacity of the on site storage could be stored off site. Whilst it is appreciated that a limited amount of storage on site could be considered ancillary, incidental and a reasonable requirement of the operation, the scale of storage proposed is significant and makes a notable contribution to the size of the proposed building.

In respect of the proposed tasting room, whilst it is accepted that there is scope for the provision of such a space as an ancillary activity to the agricultural operations, the scale of the building proposed appears disproportionate to the level of activity suggested within the submitted documentation (groups of 6-10). Furthermore, approval of such a building in advance of any planting on site and given the projected first marketable date of the wine in 2031, appears premature.

In light of the above, the application has not satisfactorily demonstrated that the development, in its current form, could be considered ancillary or ordinarily incidental development associated with an existing commercial horticultural holding and Policy OC6 (Horticulture Outside of the Centres) could not therefore form a policy gateway for the development.

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 otherwise required to have regard under the Law.

As established above, the use of the site would fall within the definition of outdoor horticulture, however, given that the proposal is not demonstrated to comprise one of the forms of development supported under the relevant policy for such development, the only lawful decision that can be reached is that planning permission be refused.

Notwithstanding this conclusion, for completeness, further assessment of the other relevant matters pertaining to this application is set out below.

In relation to ancillary use, two other points relevant to the consideration of the current proposal are made within the judgement on the Millington case; that the processing elements can only be considered ancillary where the product being processed is grown

on land which forms part of the agricultural use and that any tasting room/retail element could only be considered ancillary where the sale is of that product. The processing or sale of products imported from outside of the holding would not be ancillary to the agricultural use of the land. Reference is made within the submitted documents to the potential for other start up businesses to utilise the processing elements of the business. In light of the above this would have to be very carefully considered to ensure the use of any proposed building did not go beyond the definition of ancillary and, were the application to be approved, a condition would be recommended to ensure no such use could occur without prior reference to the Authority. Reference is also made within the submitted documents to the sale of other local products within the tasting area to complement the wine offering. It is appreciated that this would be beneficial to both the offering on site and other local enterprises, and is a matter that has been given consideration in respect of Farm Shops. This matter would however also need to be carefully managed to ensure the use remained ancillary and it would also be recommended that this element be controlled by planning condition.

Consideration against the criteria of Policy OC6

Were the proposals demonstrated to be ancillary or ordinarily incidental to an existing horticultural holding, the proposals would be assessed against the criteria of Policy OC6 as follows:

a. The site forms part of an existing commercial holding which is in operation, or one which although disused could be brought back into operation for commercial horticulture without requiring the erection of significant areas of new glass;

As addressed above, subject to the provision of additional evidence, it could be accepted that there is or will shortly be a commercial holding at and associated with the site.

b. The holding is considered to make, or be capable of making, a material contribution to the horticultural industry and is likely to continue to do so for the foreseeable future by virtue of its suitability for commercial operations;

The submitted information sets out in detail the proposed initial stages and expansion of the holding, together with the anticipated production from the site and estimated turnover, including likely taxes payable to the States. The information satisfactorily demonstrates that the operation can become a commercial enterprise, capable of making an ongoing material contribution to the horticultural industry as the business becomes established. Whilst concerns have been raised regarding the potential for vines to become established and thrive in the local climate, this is well considered within the application material. The applicant proposes to plant a variety of vines in the first tranche of planting to establish the best variety for this locality. Whilst it is suggested that it may have been preferable to establish this prior to embarking on a commercial enterprise, it does demonstrate an awareness of the tolerances of the varieties and improve the probability of establishment.

c. It can be demonstrated that any areas of new commercial glasshouses are required to sustain the viability of the existing commercial operation;

No glass is proposed as part of this submission and it is not indicated that any glass would be required to support this operation.

d. On cessation of use, or when no longer required, any new structures permitted under this policy shall be totally removed and the land restored to other types of agricultural use or a use acceptable under the policies of the Island Development Plan;

This matter has not been addressed in the submitted material. The proposed buildings are substantial, and the construction includes significant ground works. It is debatable that the removal of these buildings and restoration of the land would be realistically achievable in terms of physical works or financial requirements. It would not therefore be reasonable to impose a condition requiring removal without the written consent of the applicant.

Impact on open land, landscape character and the character of the area

Policy GP1 states that proposals will not be supported if they would result in the unnecessary loss of open and undeveloped land which would have an unacceptable impact on the open landscape character of an area, and states that development must, inter alia, respect the relevant landscape character type within which it is set.

Reinforcing this approach, Policy GP8 requires, inter alia, that development achieves a good standard of design and respects the character of the local built environment or the open landscape concerned.

The application site is located at the higher end of a large sloping field, at the juncture between the Upland Plateau landscape character type and the clifftops, at the top of the Coastal Escarpment and an Inland Valley, as identified in Annex V: Landscape Character of the IDP. The land falls away to the north and east of the site, appearing as a well-wooded slope in views from the coast and across the valley, giving way to open fields and scrub boundaries on the plateau above. This rural landscape is interspersed with a few scattered buildings, predominantly of a domestic scale, although the skyline is dominated by the transmitter mast at La Rue Du Chemin Le Roi and the Pleinmont Observation Tower. The application site sits in a break amongst the trees, below the transmitter mast, and is visible in long views both from along the coast, from the northern end of Route de la Lague northwards, and from Rue du Camp D'Ebat across the valley.

The topography of the area, wooded areas and field boundaries tend to screen the site in shorter views from Rue des Valniquets and the lower part of Rue du Banquet to the south-east, and from Rue de la Rocque a L'Or to the south, which are set lower on the valley side. Views are however available across the fields and associated boundaries from Rue de la Trigale further to the south and Rue de la Mare to the north-west.

Immediately adjacent to the site, the Rue du Banquet runs along the north boundary, approximately 2m below the level of field, with the boundary formed by a high earth bank topped with scrub hedging. The Rue de la Cloture runs along the west boundary of the site, at a closer level to the field and is also separated from the site by a bank and more robust planting. The landscape in this area is predominantly open fields with scrub boundaries, although the scattered development observed above remains evident and there is a derelict glasshouse site located to the south-west of the application site.

The proposed storage and processing building would comprise a substantial building, 31m in width, 15.75m in depth and measuring 8.2m to the ridge when viewed from the east. To the west, the building is to be built into the rising land, with levels excavated c3m, and the building would rise c5.2m above ground level from that direction. The form and appearance of the building would be agricultural/industrial, with a green metal standing seam finish.

Given the relative ground levels and boundary treatments, there are not significant views into the site from the roads immediately adjacent to the site boundaries, nor from the north-west. The proposed development is however to be located in close proximity to the north and west site boundary and, notwithstanding the proposed excavation, the building would be visible above the boundary treatment in these views, and would comprise a dominant and alien feature within the rural landscape. The tasting room, by virtue of the lesser scale and positioning on the site, both in respect of the site boundaries and the proposed storage building, would be of negligible impact in these views.

In views from across the valley to the east, the full height of the storage building would be visible, across its full width, located prominently at the top of the green field and potentially rising above the background vegetation to break the skyline (Digimap spot heights record the field levels at 61-64m at the site of development and give a ridge elevation of 66.28m for the dwelling known as La Mare which can be seen in the background in these views, located fractionally below the skyline). Both the storage building and the tasting room would be prominent, intrusive and discordant features within the rural setting in these views, notwithstanding the proposed excavation or finish colour of the building.

In views from Rue de la Trigale to the south, and generally across the open landscape to the south and south-west of the site, the field to the south is more prominent with levels at the application site falling away from the shared boundary. The ridge of the proposed storage building would however project above that shared boundary and be visible in those views, with the same resultant impacts as identified in other views above.

Views from the coast are distant, however the proposed building would still comprise an obvious feature, sitting on the skyline and visible amongst the surrounding open land and wooded areas. Whilst, as identified above, there is scattered development across the escarpment and low level coastal development is also visible in these views, the introduction of a building of the form and scale proposed, and located on the skyline, would still have a detrimental impact on the landscape in these views.

In conclusion, in both short and long views of the site, the proposed development would comprise a significant and obtrusive incursion into the surrounding landscape, resulting in the loss of open and undeveloped land and having an unacceptable impact on the open landscape character of the area.

As discussed above, it is queried whether all of the proposed development is necessary to be located on site, having regard in particular to the amount of on site storage proposed to support the business. In addition, whilst it is acknowledged above that tasting facilities can comprise an ancillary function to the agricultural use, it is not clear that such facilities need to form a detached purpose built structure that in itself projects further into the open land. As proposed, by virtue of its scale and positioning on the site, the tasting room encroaches further onto the agricultural land and does not appear to make an efficient and effective use of that land. Furthermore, the submitted information states that groups attending the site will be of 6-10 persons, and the proposed building appears excessive to cater for such groups.

The application material states that the equipment stored within the building not required for the vinification process would be temporarily relocated onto the field during that process. No timeframe is set out for this storage, and no area is designated for it. It is also unclear if there is any outside storage of grapes required following harvest, or if they would be transferred immediately into the building, or how any waste generated would be managed. Outside storage could have further adverse impact on the character of the area. Were the application to be approved, further information would be sought in respect of these points and a condition may be applied to any decision issued restricting such storage.

In respect of the proposed access arrangements, as noted under the Description of Development above, this would require the laying of over 70m of track across the top of the adjacent field. On balance, this is likely to be preferable to opening a new access nearer to the proposed buildings, which would remove established boundary screening. There are however concerns that laying of a track could be intrusive and, were the application to be approved, the design of the track, method of laying and type of surfacing proposed might merit further clarification/consideration.

The submitted information includes a Location Feasibility Assessment, indicating three other locations within the holding which have also been considered for the development and dismissed for various reasons, including visibility within the surrounding area, provision of infrastructure and impacts on the main house within the holding. It is noted that there is insufficient information within the application to fully assess the indicated locations, and no consideration has been given to the field to the south-east of the site, however, irrespective of the findings of this assessment, the location proposed under this application would comprise the loss of open and undeveloped land which would have a significant unacceptable impact on the open landscape character of the area and, whilst it is acknowledged that some form of ancillary building is necessary, it has not been demonstrated that buildings of the scale proposed are required.

Taking into account the above, the proposal is found to be contrary to Policy GP1 (Landscape Character and Open Land) and GP8c) (Design).

The pre-facing text to Policy GP1 does acknowledge that protection of open and undeveloped land and the character of a locality must be balanced against development aspirations, and the importance of a proposal in terms of maintaining a viable rural economy. In respect of this point the covering letter from Collas Crill cites the States of Guernsey Revive and Thrive Strategy and the Government Work Plan as supporting innovative new businesses which can support the economy. The information submitted in support of the application does appear to indicate, as accepted above, that the business could make a positive contribution to the horticultural sector and potentially the wider economy, once established. As set out within this report, there is scope within planning policy to consider ancillary structure/s which could support the proposed business, however, in this case, the visual impacts of the erection of buildings of the scale and in the location proposed would be significant and would not be overridden by any potential economic benefits arising.

Policy GP8e) sets out an expectation for a proposal to include soft and hard landscaping where this reinforces local character and distinctiveness and/or mitigates the impacts of development. The proposal includes the planting of trees to the north of the proposed buildings, and planting to the south-west of the tasting room and north-west of the access track. The tree planting may soften the impact of the building in views from the north, and the other planting may reinforce existing planting and screening in short views from the south-west (although no details are proposed relating to the type of planting), however no planting, particularly in this location, is likely to achieve a height which would entirely screen the proposed storage building and, in the proposed locations, the planting would have no impact in the other views described above. Given the size of the building, the visibility of the building in views from a range of directions, the landscape character of the area and exposed location, it is not considered that any landscaping would have sufficient impact to overcome the visual impacts of the proposals.

Biodiversity

The proposals do not comprise Environmental Impact Assessment development as set out within Schedule 1 or 2 of the Land Planning and Development (Environmental Impact Assessment) Ordinance, 2007. An Environmental Impact Assessment cannot therefore be required in respect of this application. The site is set away from designated Areas of Biodiversity Importance and Sites of Special Significance in the wider area.

The comments supplied by Agriculture, Countryside and Land Management Services are based on the presumption that the proposal would comprise a change of use. As outlined above, for a proposal to be successful it would need to be demonstrated that it is an ancillary or ordinarily incidental use, and in such cases the Authority has determined that the Strategy for Nature Supplementary Planning Guidance would not be applicable. There would not therefore be any legal or policy framework to require consideration of impacts on biodiversity in this case, notwithstanding the likely high

biodiversity value of the land at present as identified in the Consultation Responses reproduced above.

Impact on roads and highways

The site would be accessed from Rue de la Cloture to the south-west, through an existing access on to the adjacent field. The roads extending away from the site to both the east and south-west are narrow, do not generally allow for two cars to pass, and are frequently used by walkers. The junction of Rue des Valinquets and Rue du Banquet to the south-east is particularly difficult to navigate when travelling towards the site, comprising a hairpin bend on steeply rising land. These roads are not therefore generally appropriate for large vehicles, either during the construction process or in association with the ongoing operation of the holding. The former could potentially be managed through a Construction Environmental Management Plan.

The submitted information describes the business as essentially a “one person operation” and state that the current proposals would enable equipment to be stored on site, with the need to use only a small section of Rue de la Couture to transit equipment to the fields to the south-west. The implication is therefore that vehicle movements into the wider road network would be limited. There is however insufficient information regarding how products required to maintain/manage the vineyard or support the processing of the grapes would be transferred, such as deliveries of pesticides, seaweed fertilizer, bottles, etc. or how the removal of any waste and despatch of the final product would be managed to enable a full understanding of the likely vehicle movements. Whilst it is noted in the submitted material that product would be sold through the group visits to the site, it seems unlikely that the quantities of wine stated to be produced would be entirely sold in this manner.

In terms of public access to the site, it is stated that this will be only by pre-arranged group bookings of 6-10 people who will be collected from an off site location and brought to the site in a company vehicle. This is unlikely to give rise to significant vehicle movements and can be managed by planning condition.

Overall there is insufficient information to fully assess the number and type of vehicle movements which would be generated by the proposed development and the ability of the road network to cope with any increased demand. The proposals do not therefore meet the requirements of Policy IP9 (Highway Safety, Accessibility and Capacity) or the material considerations in respect of roads.

Impact on neighbour amenity

The site is set in an isolated location, and the only residential property in close proximity is Seascape, located approximately 40m to the north-east and at a lower level than the application site. Given the distance between the buildings, and the level and orientation of Seascape, the buildings in themselves would not have any adverse impacts on the amenities of that property.

In respect of noise, the applicant states that this will generally be limited to ordinary agricultural activity. Processing is stated to occur only for one month a year, immediately following harvest, and it is therefore contended that any noise arising from the storage and processing would be limited to that time. It is however noted that the equipment does not generate significant noise, the wine press and the still being silent. Given the generally low background noise level in this area, the Office for Environmental Health and Pollution Regulation have however requested additional information, as set out under Consultations above, to ensure that no noise nuisance occurs.

The application as initially submitted included air conditioning units, however these were omitted prior to validation of the application. Provision of climate controlled storage is however stated to form a critical part of the proposed development, and equipment to manage that storage must therefore form an integral part of the development proposals. As no details have been provided of this equipment, it is not possible to assess any impacts which might arise.

In respect of odours, the submitted information states that the processing of grapes to make wine is essentially an odourless process, as the wine is fermented and matured in sealed tanks or barrels, and fermentation only releases CO₂, which is odourless. The OEHPR have however also requested additional information in respect of potential odours arising, together with detail relating to waste management and potential for fly and insect nuisance.

Further information would also be required to fully understand potential vehicle movements, including forklift operations on site and potential movements of bottles.

As stated above, public access to the site is to be limited to small groups brought to the site in a shared vehicle, a matter which could be managed by planning condition. Reference is however made to corporate away days, which are likely to comprise larger groups, and, were the application to be approved, the number of attendees to the site would be managed by planning condition. The tasting room is orientated to face towards the nearby property, and it is possible that noise could travel to that property. Given the distance involved, orientation of the adjacent property and small size of the groups in question it is however considered that any impacts arising could be managed by conditions limiting the number of events held, hours of operation, size of the groups and preventing the playing of amplified music/speeches. Further information would however be required from the applicant to inform such conditions.

A Construction Environment Management Plan would be required to ensure no adverse impacts arising during the course of construction, and details of external lighting would be required to minimise any potential adverse impacts arising.

Overall there is insufficient information to demonstrate that the development would not have unacceptable impacts on the amenities of neighbouring properties, contrary to the requirements of Policy GP9b) (Sustainable Development).

Sustainable Development

The submitted statement notes that partially sinking the structure will improve the thermal efficiencies of the building, and that the structure is insulated to maximise energy efficiency. The supporting statements also note that the entire roof of the structure will be covered in solar panels, however this is not replicated on the submitted drawings. Solar panels are however proposed to the roof of the tasting room. All proposed external surfacing is in gridforce and gravel, achieving a permeable finish, and water to be used on site would be sourced from an on site borehole. Given the nature of the proposed development, and in the absence of further guidance, it is considered that this information would be adequate to address the requirements of Policy GP9a) (Sustainable Development). No details are however provided regarding the water provision, and if any additional works are required to link this to the site, or regarding the provision of a cess pit, and these matters would require further consideration.

The submitted information refers to returning waste water to the Island's general supply. Further information would be required in respect of this process to ensure no pollution events occur, either in respect to the public water supply or aquatic ecosystems.

Conclusion

The growing of vines on agricultural land comprises a horticultural form of agricultural activity and does not comprise development as defined with the Land Planning and Development (Guernsey) Law, 2005 and associated Ordinances. The processing of grapes grown on that land to make wine, and the bottling and storage of that wine, could be considered ancillary to that horticultural use, provided that those activities are proportionate to the size of the land holding.

Taking the above into account, Policy OC6 (Horticulture Outside of the Centres) can provide a policy gateway for the construction of a building/s for the purposes of processing grapes to make wine, and the bottling, storage and marketing of that wine. In this case however, it has not been demonstrated that the proposed buildings, in the form proposed, would comprise ancillary or ordinarily incidental development associated with an existing commercial horticultural holding or that, on cessation of use, the structures would be removed and the land restored. The proposal does not therefore meet the terms of Policy OC6 (Horticulture Outside of the Centres).

The proposed development, by virtue of the siting and scale of the buildings proposed, would result in the loss of open and undeveloped land and would have a significant unacceptable impact on the open landscape character of the area, contrary to Policy GP1 (Landscape Character and Open Land) and GP8c) (Design).

The application does not include sufficient information to demonstrate that the development would not have unacceptable impacts on the amenities of neighbouring properties, contrary to Policy GP9b) (Sustainable Development).

There is insufficient information to fully assess the number and type of vehicle movements which would be generated by the proposed development and the ability of

the road network to cope with any increased demand. The proposals do not therefore meet the requirements of Policy IP9 (Highway Safety, Accessibility and Capacity) or the material considerations in respect of roads.

Whilst the application could be deferred to seek additional information to address some of the issues raised, given the fundamental issues in relation to the size and location of the proposed buildings, it is not considered reasonable to defer the application in this case. Consequently, it is recommended that the application be refused.

Date: 19/03/2025

