

THE LAND PLANNING AND DEVELOPMENT (GUERNSEY) LAW, 2005

AND SECTION 19 OF THE LAND PLANNING AND DEVELOPMENT (GENERAL PROVISIONS) ORDINANCE, 2007

NOTIFICATION OF REFUSAL OF PLANNING PERMISSION

PROPOSALS: Demolish glasshouse, convert, extend and alter building, create dwelling and associated works, change of use of agricultural land to domestic garden (1,030sqm).

LOCATION: Kintyre Vinery, Hougues Magues Lane, St. Sampson.

APPLICANT: Mr & Mrs P Le Page

I refer to the application referred to below received as valid on 23/06/2025 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 16/09/2025

Drawing Nos: 2425 / 2, 3, 4

Application Ref: FULL/2025/1022

Property Ref: B01333C000

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 fails to demonstrate that the site, following the clearance of glasshouses and all ancillary structures, would not make a positive contribution to a wider area of open land. The scheme therefore fails to comply with Policy OC7 (b) of the Island Development Plan.

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/2025/1022
Property Ref: B01333C000
Valid date: 23/06/2025
Location: Kintyre Vinery Hougues Magues Lane St. Sampson Guernsey
GY2 4WA
Proposal: Demolish glasshouse, convert, extend and alter building, create
dwelling and associated works, change of use of agricultural
land to domestic garden (1,030sqm).
Applicant: Mr & Mrs P Le Page

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The application fails to demonstrate that the site, following the clearance of glasshouses and all ancillary structures, would not make a positive contribution to a wider area of open land. The scheme therefore fails to comply with Policy OC7 (b) of the Island Development Plan.

OFFICER'S REPORT

Site Description:

The site, Kintyre Vinery, is situated to the east of Hougues Magues Lane. Vehicular access is to the north of the site, adjacent to the boundary with the adjoining residential neighbour, Lyndon. The north boundary wall is marked by a granite wall with, in part, a blockwork wall above. The west, roadside wall is marked by a granite wall and to the south, between the existing glasshouses, the boundary is marked by a chain link fence. There are three glasshouses that remain on the site, one, timber framed glasshouse, to the west, adjacent to the road, and two towards the east of the site, they are significantly overgrown with broken/missing glass although the frames generally appear in reasonable condition.

An oil tank, packing shed, timber shed and the building that is the subject of this application are situated to the north of the pair of glasshouses. The area of open land in between the greenhouses was formerly covered in glass but is now open with various trees (some young/new and others more established) across that part of the site. There are views of the site from Le Grande Fort Road to the north.

The subject building is single-storey with a pitched roof and rendered finish. The clearstory of windows to the south elevation have been boarded over. The entrance

door in the south elevation is made from PVCu. A rudimentary lean-to extension has been built to the east end which is in poor condition.

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

Relevant History:

Pre-application advice was sought in this case which highlighted the expectation that on the clearance of glass and ancillary structures the land will revert to other, non-horticultural types of agricultural use and that where glasshouses or ancillary structures are capable of being used for a purpose that accords with other relevant policies in the IDP there is not a specific requirement for them to be removed. At the enquiry stage it was highlighted that the clearance of glass and ancillary structures would enable the land to contribute to a wider area of open land (to the north and east). The matter of whether the building is/would be redundant was also raised with reference to the Hougue Magues planning appeal. Potential conflict with Policies OC7 b., GP16(A) f. and GP1 were highlighted within the advice.

Existing Use(s):

28 agriculture

Brief Description of Development:

The application proposes the conversion and extension of the existing packing shed building, situated in the northeast corner of the site at Kintyre Vinery, to a dwelling. Much of the existing glasshouses would be removed, with two spans retained within the proposed area of domestic garden. Tree and hedge planting is shown to be provided, with hedge planting to the boundaries of the proposed domestic garden and existing and proposed trees within the curtilage area and on the retained agricultural land to the south.

The scheme proposes the erection of a single-storey extension to the south elevation of the building providing new fenestration to provide the entrance door, kitchen windows and bedroom windows (south and west elevations). A new opening is proposed to be formed in the west elevation of the building to create doors into the garden area from the proposed lounge along with a new window opening to the east elevation, serving an en-suite bathroom. An existing store to the west and WC to the east are both shown to be demolished. The proposed dwelling would have a rendered exterior, double glazed windows and doors and a profiled sheet roof.

The dwelling would comprise an open plan kitchen, living and dining area, an en-suite bedroom and a separate WC accessed from the open plan accommodation. The north elevation of the building is shown to remain blank, with fenestration focused primarily to the south and west.

Vehicular access is from the west from Hougues Magues Lane and runs along the north site boundary with an area of off-road parking and turning provided to the west of the

dwelling and incorporating an EV charging point. The main garden area is situated to the west/southwest of the dwelling, between the proposed dwelling and the road. Covered cycle storage is proposed to the west of the dwelling, on the north site boundary and would be formed of a low, timber store structure. Refuse storage is shown to the east of the proposed extension, to the rear of the site. Access is proposed to the retained agricultural land via the existing access and through the proposed domestic garden.

The application is accompanied by a covering letter setting out that the property is a former commercial vinery which, historically, was twice the size than it is today. Since the aerial photographs taken in 2022 two of the five spans of glass have been removed. The application building is a former packing shed (45sqm) which has been redundant for some time since the cessation of commercial horticultural activity on the site. The submission highlights other planning applications that have been considered by the DPA in relation to the conversion of redundant buildings and Policy GP16(A) and that the building is of sound and substantial construction capable of conversion without extensive alteration or rebuilding with the existing asbestos roof covering removed and replaced for both health and safety and insulation reasons. The scheme incorporates a modest extension that does not exceed 20% of the existing and would provide a one-bedroom, two person dwelling (53.2sqm in size) with a proposed curtilage of 1030sqm which is considered comparable with other properties in the vicinity and without adverse impact on the character of the locality.

The submission outlines that the wider site is used on a non-commercial recreational basis for growing fruit and vegetables with extensive planting having been undertaken in recent years with significant environmental and ecological benefits. The scheme therefore proposes a proportionate additional biodiversity enhancement to be achieved through additional native hedge and tree planting around and within the proposed domestic curtilage/garden.

The submission has also been accompanied by a Structural Report which sets out that this is a concrete block structure with door and windows in the south elevation. The report notes the asbestos clad roof offering a weathertight roof covering and rendered walls which look straight and plumb without structural cracking. The outhouse to the east gable is considered to have no structural robustness and described as a "DIY level add on" but noting also that this is shown to be removed as part of the scheme.

Confirmation has been provided that foundations have capacity to support the side and gable walls with upgraded roof and ceiling finishes following conversion but reiterating also that there is no indication of any structural movement to the walls which would have suggested that the foundations were inadequate or that the ground conditions were less stable.

An inspection of the roof construction was gained via the loft space but noted that a supporting trimmer was covered during inspection so the section size of this is unknown although there are no indications that it is undersized although the condition of the timber will need to be assessed by a timber specialist. The roof frame is capable of supporting an upgraded, insulated roof with a new lightweight covering without the need to strengthen or install additional timbers, subject to the timbers being assessed

by a timber specialist. The ceiling joists will have capacity to support the ceiling finishes and attic loadings as it does currently, as long as the joists end condition are sound. The Structural Report does not confirm that the structural integrity of roof and ceiling timbers are sound as this would require them to be inspected by a timber and damp specialist.

It is also noted that the application drawings state “existing corrugated roof replaced with Dove Wing Grey profiled sheeting strengthened existing pitched roof structure” and “existing roof structure retained as existing.”

The floor that was possible to inspect was free from damage, level and intact and the loadings of a packing shed would be equivalent to those of a domestic dwelling and so no more onerous.

Confirmation has been received that the proposed development has been designed to take into account matters of energy efficiency and current Building Regulations in accordance with Policy GP9.

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

Island Development Plan policies:

OC5(B): Agriculture Outside of the Centres – outside the Agriculture Priority Areas

OC7: Redundant Glasshouse Sites Outside of the Centres

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

Defining Redundant Glasshouse Sites SPG

Strategy for Nature SPG

Representations:

One letter of representation has been submitted commenting on the application and raising the following points:

- The progressive deterioration of the site has been detrimental to the adjoining occupier and family, restricting use of the outside space associated with Chalfont Bungalow
- Should this application be granted it should be a requirement that the unsafe glasshouses that remain are removed first
- The packing shed is currently used to pack flowers that are for sale on the roadside

- Reference is made to the packing shed being used as a domestic store but there has been no application/ permission for this
- Although the removal of the glass and improved maintenance of the site is welcomed concerns exist regarding the loss of another piece of horticultural land and future developments
- planting proposed for additional biodiversity has already happened
- boundaries have generally been poorly maintained and these should be repaired and maintained appropriately going forward
- boundaries have been officially measured
- the wall to Hougue Magues Lane has been crumbling and is aggravated by vegetation,
- Trees planted too close to the boundary are causing problems/damage and should be removed
- the road infrastructure is struggling and will become worse.

Consultations:

Office of Environmental Health and Pollution Regulation – raise a number of issues of concern. As there were heated greenhouses on the site concerns are raised regarding hydrocarbon contamination and contamination caused by the horticultural/agricultural use of the greenhouses, specifically but not limited to pesticides and heavy metals. In addition, there has also been historic burning on the site so there are concerns for contamination caused by this burning. A full contaminated land condition should be applied should permission be granted. The discovery strategy condition is also recommended.

The development is also in close proximity to a douit and it is the responsibility of the applicant to ensure water pollution does not occur and refer them to the Environmental Pollution (Guernsey) Law, 2004 and Environmental Pollution (Water Pollution) Ordinance, 2022.

Summary of Issues:

The key issues in this case relate to the contribution the site, once cleared of glass and other ancillary structures would have on an area of open land, the principle of the conversion of the existing building to a unit of residential accommodation, the level of extension and alteration proposed, the retention of an element of the existing glasshouses and the matter of residential amenity in terms of those for future occupiers and the neighbours of the development.

Assessment against:

1 - Purposes of the law.

The objectives set out in Section 1(2) of The Land Planning and Development (Guernsey) Law, 2005, 'the Law', have been considered and this report forms part of the assessment, with policy issues set out in Section 2 below.

2 - Relevant policies of any Plan, Subject Plan or Local Planning Brief.

Policy context

The Spatial Policy of the Island Development Plan (IDP), expressed through Policy S1 (Spatial Policy), is to, *“concentrate the majority of new development in the Main Centres and the Main Centre Outer Areas to maintain the vitality of these areas...and to allow for development Outside of the Centres in identified specific circumstances, in accordance with the Strategic Land Use Plan (SLUP)”*.

The approach to development set out within the SLUP and the Spatial Policy of the IDP is reinforced through Policy S4 (Outside of the Centres) and the introduction to Part 3 of the IDP *Policies for Outside of the Centres* which, whilst acknowledging that the Plan makes provision for certain types of development in these areas, states that proposals for new housing will not generally be supported. As outlined below however, the Plan does make some, limited provision for housing Outside of the Centres, through the subdivision of existing dwellings and the conversion and reuse of redundant buildings. The Spatial Policy also helps to protect the countryside from unacceptable forms of development in order to avoid unnecessary urbanisation of the Island’s undeveloped areas (IDP paragraphs 15.1.4 and 15.1.11). The balance in terms of housing provision outside of the centres is to protect the physical environment and to ensure that the spatial strategy of the Plan is not undermined.

The overall aim, plan objectives and policies of the IDP, as directed by the Strategic Land Use Plan, 2011 (SLUP), is not to drive the re-development of all/every redundant building, but rather to allow for the re-use of some redundant buildings where they can be demonstrated to be capable and suitable for conversion to the use proposed. The IDP makes provision for all necessary housing land within the Centres and does not allow for new build housing Outside of the Centres (with the exception of those developments permitted through Policy OC1: Housing Outside of the Centres). This approach follows the strategic requirement to focus housing within the Centres and is also in recognition of the negative impact housing development can have on the landscape character Outside of the Centres. The exception to allow for conversion of buildings to residential use is not therefore required or intended to make a contribution to housing land supply or to drive the creation of more dwellings Outside of the Centres

It is important to note that the individual policies or paragraphs of the IDP Written Statement should not be read in isolation or out of context and the IDP should be read as a whole including all relevant policies, preceding text, Annexes and the Proposals Map as well as reference to any relevant Supplementary Planning Guidance published by the Authority (IDP paragraph 1.4.14). All proposals are expected to be consistent with the Plan Objectives relevant to the specific proposals. As such, in considering proposals for potentially redundant buildings located Outside of the Centres, IDP Policy GP16 (A) should not be read in isolation and a number of other policies of the IDP, and Supplementary Planning Guidance, will also be applicable and, as outlined above, set the context for that policy.

Redundant glasshouse site

The Planning Law considers horticultural premises, including redundant glasshouse sites, and any ancillary structures to be agricultural land so, on clearance of the structures, the land is expected to revert to other non-horticultural types of agricultural use. Therefore, there is a presumption that when a horticultural use ceases the site will be cleared of glasshouses and ancillary structures and returned to agricultural use.

Within the Island Development Plan a 'Redundant glasshouse site' means: 'a glasshouse or glasshouses together with ancillary structures and land where the glass and ancillary structures are no longer required or capable of being used for their authorised purpose.'

There are two elements to this definition. First, there must be a clear indication that glasshouses are no longer required or capable of being used for their authorised purpose for a site to be considered a redundant glasshouse site. Second, the purpose of the policy is to secure improvements in the physical appearance and quality of the landscape. To be able to fulfil the purpose of the policy a redundant glasshouse site must be one where there is visible evidence of substantial superstructures still remaining on the site, the clearance of which will have a positive impact on visual amenity and landscape quality and character.

In this case glasshouse superstructures are present on the site and are not being used for commercial horticulture. Therefore, this site qualifies as a redundant glasshouse site and Policy OC7 provides a gateway to consider development on this site.

Planning permission is not required to clear glasshouses and restore the land they stand on so that it is capable of being used for agriculture. In this case however, the entirety of one glasshouse and the majority of the two other glasshouses would be removed. Two small sections of glass would be retained and would fall within the proposed domestic curtilage of the property. The submission refers to the possible need for a minor departure from the IDP in this regard. The scale of glass to be retained is not excessive for a domestic property and in this respect a minor departure from OC7 may be accepted in relation to the retention of a small element of existing glass only.

Paragraph 17.5.6 of the Island Development Plan states that where a redundant glasshouse site is located within or adjacent to a wider area of open land, it will be expected to contribute to the wider area of open land where capable of doing so positively. This is reflected in Policy OC7 b) of the Island Development Plan which only supports proposals to develop redundant glasshouse sites where the site would not contribute positively to a wider area of open land.

This site, once cleared of glasshouses and ancillary structures (e.g. packing shed), would be able to contribute to the wider open land particularly to the north and east of the site. As a result, the Island Development Plan does not support the retention of the packing shed for its conversion to a unit of residential accommodation and the scheme fails to comply with Policy OC7 b) of the IDP.

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.

Given the identified conflict with OC7 the only lawful decision that can be reached is that planning permission be refused.

Other Matters

Conversion of packing shed

In this case, the use of the site for commercial horticulture has long since ceased and so although the public consultation process has highlighted the use of the packing shed for roadside selling the building is redundant for its purpose as a packing shed in connection with the commercial use of this site. Recent domestic storage indicated in the submission is unauthorised.

The application has been accompanied by a report by Dorey Lyle & Ashman regarding the condition of the building and its capacity to be converted to a unit of residential accommodation. This demonstrates that the floor and walls are capable of accommodating the proposed development without substantial works although the scheme does propose to replace the existing roof in addition to inserting new window openings to the east and west elevations along with the erection of an extension to the south elevation involving the demolition of the existing south wall of the building to facilitate the internal arrangement of accommodation.

Whilst there may be other applications where permissions have been granted incorporating replacement roofs to buildings in connection with GP16(A) applications it is difficult to safely draw conclusions that what applies in one case will apply in the same way in another. Each case must be considered on its own merits and no two situations will be precisely the same.

In this case it is not clear whether the roof structure will require strengthening or not as the timbers have not been inspected by a timber and damp specialist. The combination of works proposed however, would, in the balance comply with the aims of Policy GP16(A) c.

Paragraph 19.17.8. of the IDP states:

Proposals to convert an existing building may be accompanied by a modest extension provided that the extension is not of such scale that it forms a significant part of the new unit, in effect creating a new building contrary to this policy.

Policy OC1 of the Island Development Plan sets out in paragraph 16.1.16 that the relevant requirements of the Building (Guernsey) Regulations, 2012 and the practical guidance on those requirements will need to be taken into account in determining whether a proposed unit offers an adequate standard of accommodation. Given that the packing shed is of sufficient size to create residential units without extension there is no conflict with Policy OC1 in this regard.

Policy GP16(A) criterion g. permits only a modest extension to an existing building, that an extension is modest in relation to the size of building to be converted and whether it forms a significant part of the new residential unit. The floorspace of the proposed extension in relation to the floor area of the original building represents an increase of just below 20%. The extension would be c. 8sqm in size and although the extension would, in part, house, primarily living accommodation, the building could accommodate a residential use without extension. In this regard the scheme is therefore compliant with Policy GP16(A) g.

Change of use of agricultural land to domestic garden and biodiversity enhancement

It is accepted that some level of domestic curtilage will be required to facilitate the conversion of redundant buildings for residential purposes, as allowed by Policy GP16(A). The extent of the curtilage proposed under the current application is considered to be proportionate to the size of the dwelling proposed.

The application drawings show the access to agricultural land via the proposed domestic curtilage although the line of domestic curtilage/driveway could be adjusted to ensure access to the retained agricultural land is not undermined by the proposed domestic use. This could have been addressed by way of a deferral if the scheme were acceptable in all other respects or possibly via planning condition.

The scheme would not result in the loss of boundary features and the land is not within an Area of Biodiversity Importance. New hedgerow and planting are proposed, matters that can be managed by planning condition (should permission have been forthcoming) and which would address the requirements of the Strategy for Nature SPG. Although elements of planting are proposed beyond the domestic curtilage area the level of planting within it is considered proportionate to the development. Informative notes as recommended through the consultation process may also be included.

Although the consultation process has highlighted planting that has already been undertaken none of this, whether native nor non-native species or whether the plants are horticultural in nature (i.e. for food/selling of flowers etc.) required planning permission and no breach of planning control has occurred in this regard.

Amenity (visual and residential (occupiers and neighbours))

New developments should be planned and built to support the health and well-being of occupants and users. Policies GP16(A) h., GP8 and GP9 seek to address matters relating to the amenities of surrounding residents, the health and well-being of future occupiers and the character and appearance of the built environment and open landscape.

The proposed development, alterations and extension represent a standard of design that is in keeping with the existing building, represents efficient use of land and an existing building and will not harm the built environment given the variety of residential properties in the local area. The works proposed will not result in harm to the character of the surrounding area nor result in harm to residential amenity in terms of overshadowing or overlooking.

The accommodation is satisfactory in terms of internal space provision, aspect, outlook, sunlight/daylight, privacy and access to external space. The scheme also offers flexible and accessible accommodation with regard to Policy GP8.

The proposed change of use of land would not of itself have an adverse impact on or affect neighbour amenities in line with Policies GP1 and GP15 of the IDP.

Traffic, parking and cycle parking provision

There is no evidence to demonstrate that this dwelling would result in an increased use of the access which currently/historically served a substantial commercial horticultural site where there would be unrestricted vehicle movements, including large vehicles for delivery/collection purposes. The development will not unreasonably intensify the use of the access nor add unduly to traffic on the local road network. The scheme therefore addresses the requirements of Policy IP9.

The scheme makes satisfactory provision for both cycle and vehicle parking having regard to the SPG and aims of the IDP policies IP6 and IP7.

Sustainable Development

The hardstanding for parking and turning on site is generous when considering sustainable development and the aims of Policy GP9. It is noted however, that the existing access driveway along the north of the site is hardsurfaced.

The scheme incorporates permeable paving and an EV charging point and internal insulation measures taking into account matters of energy efficiency and current Building Regulations in accordance with Policy GP9.

Contamination

The comments raised by Environmental Health are noted and would be included as conditions should permission have been granted.

Conclusions

In view of the above it is recommended permission is refused on the basis that it fails the gateway policy OC7.

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: 15/09/2025

