

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 two-storey pitched and flat roof extensions to north (rear) elevation with associated balcony to side (west) elevation and erect first floor pitched roof extension over existing single-storey flat roof dwelling to create first floor accommodation

LOCATION: Mira (formerly Wyland), Les Rouvets Road, Vale.

APPLICANT: Mr J Herve

I refer to the application referred to below received as valid on 02/07/2026 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 17/08/2026

Drawing Nos: Arch+ 230-3-301B, 303B, 304B, 305B

Application Ref: FULL/2026/0962

Property Ref: C02039B000

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. In *The Island Development Committee v S. Lainé and L. Lainé* [2003], the Court of Appeal held that unauthorised development was not a springboard by which further development might be authorised. In this case, a pre-commencement condition has not been discharged and the building has not been completed fully in accordance with the plans approved under previous planning permission FULL/2025/1449.

The building is not currently wind and watertight in accordance with the definition adopted by the Development & Planning Authority. It therefore does not currently comprise a dwelling house and until the building is recognised as a dwelling Policy GP13: Householder Development would not apply. Under Policy GP16(B) to redevelop a building previously granted permission to be converted to a dwelling the policy sets out that the redeveloped scheme must be of broadly the same floor space and volume as the approved conversion scheme. Even though the floorspace and volume of the redevelopment proposals were not significantly different from the approved conversion scheme this application to erect a two-storey and first floor extension

would far exceed anything that could be considered "broadly the same" and fails to comply with Policy GP16(B) b. Consequently, there is no policy gateway or basis on which to approve the current proposal.

In *The Island Development Committee v Portholme* [2002], the Court of Appeal held that "... if a plan allows for development only in certain identified circumstances, by necessary inference, development out with those circumstances is not to be allowed." Section 12(1) of The Land Planning and Development (General Provisions) Ordinance, 2007, is also clear that where the Authority has regard to any relevant Plan in determining an application for planning permission for development which would involve a departure from such a Plan then it must refuse the application (unless the applicant has requested that the application be considered as a minor departure), and it need not take into account any other matter to which it is required to have regard under the Law.

As a result, the only decision which can lawfully be made is to refuse the application.

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/2026/0962
Property Ref: C02039B000
Valid date: 02/07/2026
Location: Mira (formerly Wyland) Les Rouvets Road Vale Guernsey GY6 8NH
Proposal: Erect two-storey pitched and flat roof extensions to north (rear) elevation with associated balcony to side (west) elevation and erect first floor pitched roof extension over existing single-storey flat roof dwelling to create first floor accommodation
Applicant: Mr J Herve

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. In *The Island Development Committee v S. Lainé and L. Lainé* [2003], the Court of Appeal held that unauthorised development was not a springboard by which further development might be authorised. In this case, a pre-commencement condition has not been discharged and the building has not been completed fully in accordance with the plans approved under previous planning permission FULL/2025/1449.

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OFFICER'S REPORT

Site Description:

Mira (formerly Wyland) is a recently constructed single-storey flat roof building situated adjacent to the west site boundary. The site is located to the rear of frontage residential development in Les Rouvets Road. There is another backland property at the site (also known as Wyland) served of the same access track from Les Rouvets Road.

The dwelling as constructed has a felt roof covering and a waterproof membrane to the walls which has been overlaid with a hit and miss timber finish, in between the timbers the waterproof membrane is visible. All window/door openings have glazing installed. The timber cladding as constructed complies with the Building Regulations as an external finish for a dwellinghouse.

The site is located Outside of the Centres as designed in the Island Development Plan. An Area of Biodiversity Importance is situated to the east and a number of Protected Buildings are situated to the northwest and southwest. Part of the proposed entrance driveway falls within a Conservation Area.

Relevant History:

FULL/2025/1449 - Demolish existing building, erect dwelling and bike store and associated works, change of use of agricultural land to domestic garden (1,400sqm) (revised scheme) – granted subject to conditions:

4. full contaminated land condition – not discharged
5. installation of solar panels which are to be operational prior to the dwelling being occupied
6. cycle store provided prior to first occupation
7. landscaping scheme
8. waste management plan

As approved the dwelling incorporated a variety of finishes incorporating:

- 'Prefa' or equal approved standing seam aluminium roof panels
- Rendered north and east elevations
- Stone clad porch north and east elevations
- Timber vertical cladding with aluminium coping to parapet west elevation

The approved dwelling comprises two double bedrooms, a family bathroom, a separate WC and an open plan kitchen, living area along with an attached porch.

Existing Use(s):

Brief Description of Development:

The application relates to the erection of a first floor pitched roof extension over the existing single-storey dwelling and the erection of a two-storey pitched roof and flat roof extensions to the north elevation and incorporating a balcony to the west/side elevation.

The two bedrooms either side of the entrance hallway would remain unchanged from the approved scheme whilst the approved living area is shown to form a third bedroom and the kitchen altered to form a utility. The open plan living, kitchen dining area would be moved into the proposed extension incorporating a staircase to a first floor living room and a large master suite.

The scheme proposes solar panels to the roof of the dwelling as extended.

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

Island Development Plan Policies:

OC1 Housing Outside of the Centres

GP1 Landscape Character and Open Land

GP8 Design

GP9 Sustainable Development

GP13 Householder Development

GP16(B) Conversion of Redundant Building: Demolition and Redevelopment

IP1 Renewable Energy Production

Representations:

One representation has been submitted objecting to the application and raising the following points:

- The original development, to convert the packing shed, was as a one-bedroom dwelling for the owner's daughter – objections were raised due to overlooking concerns
- On approval the site was sold and the next application was to demolish the existing and move it away from the boundary, the application reduced the scale of the development and did not generate overlooking of the neighbouring garden although the proposed patio appeared disproportionately large – following approval the new owners sold part of their property to form Mira
- The significant increase in scale of Mira will be detrimental to neighbouring properties
- It is designed to overlook the surrounding area and private gardens
- The 3D visuals give the impression that ground floor views are obscured by boundary fencing or similar which is not the case – this does not exist and has not been applied for

- The first-floor balcony will look directly down into the properties on the west boundary
- The first-floor bedroom has glazed gables resulting in overlooking
- The land is agricultural and surrounding properties have had to comply with restrictions this entails – this development changes the nature of the environment from agricultural to urban and the impacts on wildlife will be significant
- A larger property will increase the load on the cesspit emptying service.

Consultations:

None.

Summary of Issues:

The key issue in this case relates to whether the development is lawful and recognised as a unit of residential accommodation to which an extension may be constructed. Other issues relate to design, residential amenity and the character of the locality concerned.

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.

As outlined in the planning history above planning permission has previously been granted for a replacement dwelling on the site following an earlier grant of permission to convert an existing building to a unit of residential accommodation. Several planning conditions were attached to that permission, including a pre-commencement condition relating to contaminated land, relating to the entire application site outlined in red and not the footprint of the dwelling alone.

Details have been submitted in relation to condition 4 however these were not agreed prior to the commencement of work on site and so a breach of condition 4 has occurred. It should also be noted that the information submitted regarding condition 4 is not considered satisfactory by the Office of Environmental Health and Pollution Regulation in relation to condition 4 and further work is required before the condition may be discharged (in full or part).

The second issue in this case relates to the fact that the building has not been completed fully in accordance with the approved plans which represents non-compliance with condition 1 of the planning permission. This is because the entire building has been externally clad in vertical timber cladding, not a mixture of timber &

stone cladding and render finishes and the approved PREFA aluminium roofing system with associated aluminium copings have not been completed as the roof has a felt finish.

The building constructed on the site is therefore unlawful. In *The Island Development Committee v S. Lainé and L. Lainé* [2003], the Court of Appeal held that unauthorised (and therefore unlawful) development was not a springboard by which further development might be authorised.

Turning to the policy basis on which to consider the current proposal, a new dwelling house must be wind and watertight before it can benefit from planning exemptions under Class 1 of the Exemptions Ordinance or for planning permission to be sought and potentially considered favourably to extend such a building under Policy GP13: Householder Development.

To assist assessment of this, the Development & Planning Authority has published its definition of 'wind and watertight' as follows: -

The Development and Planning Authority defines that for a building to be wind and watertight it would need to include the completion of all external walls and roofs with their final external finish and the installation of all fully working windows and doors (including frames and glazing), in accordance with the approved scheme.

Until the building is recognised as a dwelling Policy GP13: Householder Development would not apply. In this case the building has not been completed fully in accordance with the plans approved under application reference FULL/2025/1449.

Under Policy GP16(B) to redevelop a building previously granted permission to be converted to a dwelling the policy sets out that the redeveloped scheme must be of broadly the same floor space and volume as the approved conversion scheme. Even though the floorspace and volume of the redevelopment proposals were not significantly different from the approved conversion scheme this application to erect a two-storey and first floor extension would far exceed anything that could be considered "broadly the same" and fails to comply with Policy GP16(B) b.

Consequently, there is no policy gateway or basis on which to approve the current proposal.

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.

As a result, the only decision which can lawfully be made is to refuse the application.

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.

However, for completeness having regard to comments and concerns raised through the public consultation process, the following matters have been considered.

In relation to the agricultural use of the land, this is its current recognised use but only until the residential development is completed as approved given that, as the planning history highlights, permission has been granted for a house on the land, with associated change of use of land to domestic garden. As part of those proposals, proportionate biodiversity enhancements were required and will need to be completed in the first planting season following the first occupation of the dwelling to comply with the planning approval. By this stage therefore, the land will no longer be considered agricultural but domestic garden under planning Use Class 1.

The potential for overlooking and loss of privacy has been highlighted through the public consultation process although it is noted that properties fronting Les Rouvets Road are set well away from the common boundary with the application site. Although no new boundary treatments are shown to be provided within the application submission ground floor fenestration can be screened by approved boundary landscaping as it matures or could be addressed by way of planning condition to help mitigate the impacts of these windows on properties to the west. It is also noted that principal outlook directed across the garden area of the residential development was approved.

In terms of first floor fenestration this is directed away from the neighbouring property Wyland to the southeast. A balcony is proposed to the west of the proposed extension which will afford views of adjoining properties/gardens. Given the siting of the dwelling further north in its plot the potential views into the garden of Claremont to the west/southwest is more restricted and oblique.

The boundary with the property to the west of the dwelling and proposed extension, La Retraite, is currently largely open and so the perception of overlooking from the proposed extension (ground and first floor accommodation) is likely to increase. From ground level views are possible across the garden area towards the house. It is noted however, that the garden of La Retraite is c. 60m long and so has ample space to protect the privacy of occupiers of this neighbouring dwelling.

4 - Additional considerations (for protected trees, monuments, buildings and/or SSS's).

The proposal would have no adverse impact on protected buildings, trees or sites.

Date: 17/08/2026