

James Le Gallez
Strategic Planning & Property Ltd.
Digital Greenhouse
No.2 Market Square
St Peter Port
GY1 1HB

07781 425513
james@legallez.gg

Mr A J Rowles
Director of Planning Services
Development & Planning Authority
Sir Charles Frossard House
La Charroterie
St Peter Port
GY1 1FH

30 September 2020

Re: Planning Application Request
Property: Redundant vinery at Videcocq Road, St. Peters
Applicant: Mr & Mrs M W Watt
Cadastre No: F013200000

1. Introduction

- 1.1. Please accept this correspondence as a planning application under s.7 of the Land Planning and Development (General Provisions) Ordinance, 2007 (**General Provisions**).
- 1.2. The planning application description is suggested as, *“Clear redundant vinery, convert packing shed to dwelling with associated domestic land and install air source heat pump”*.
- 1.3. This application has been amended following Notification of Refusal of Planning Permission FULL/2019/0975 issued on 1 August 2019 which refused, *“Convert packing shed to dwelling with associated domestic land. Install air source heat pump”* (**Refusal**).
- 1.4. I have added the words *“clear redundant vinery”* as that is a fundamental part of this planning application request as the clearance of redundant glasshouses is a primary aim of the Strategic Land Use Plan (2011) (**SLUP**).
- 1.5. Those aims were designed to offer incentives to landowners to clear redundant glasshouse sites and have been filtered into the combined policy gateway of policies OC3 and OC7 of the Island Development Plan (2016) (**IDP**).
- 1.6. That incentive is also demonstrated in the range of land uses that Policy OC7 would potentially allow.
- 1.7. Those policies are also supported by the *“Defining Redundant Glasshouse Sites”* Supplementary Planning Guidance December 2018 (**SPG**).

2. The Property

- 2.1. The Applicant purchased the following description of the Property by registered Conveyance dated 9 November 1989 (**1989 Conveyance**), "... multi span glasshouses, the remainder of twin span glasshouses, four wooden glasshouses, oil tank and a building..." and as shown on registered plan no. 11361 Image 1).

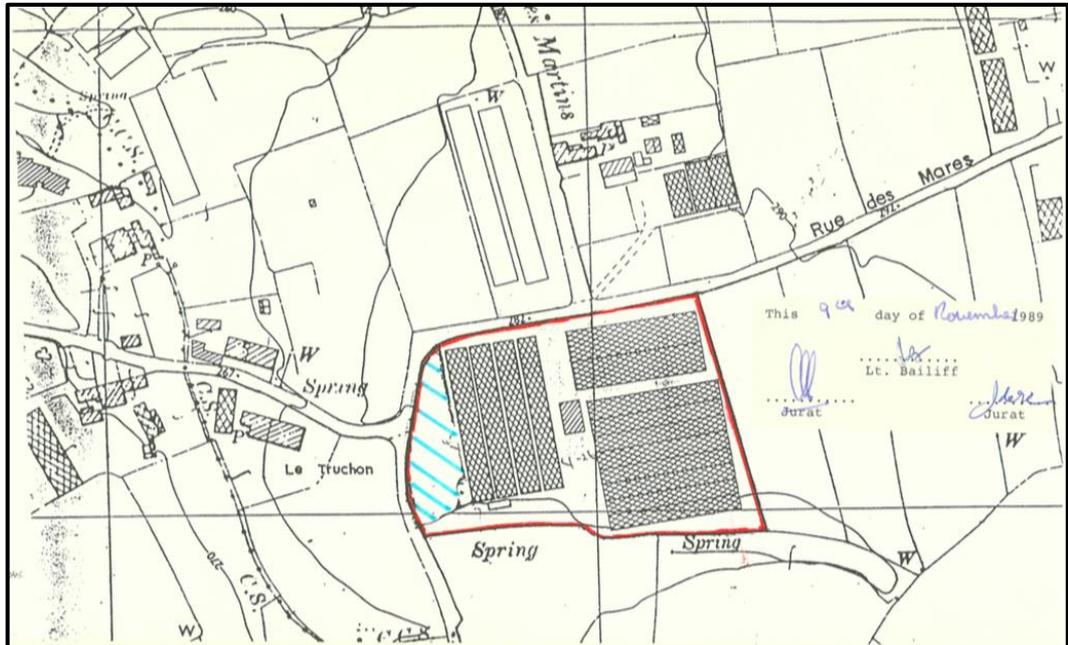


Image 1: Plan No.11361 from the 1989 Conveyance (not to scale)

- 2.2. The whole site is registered under one Cadastre number F013200000 and is approximately 11,226m² in area (6 Vergee and 34 Perch). Only a small amount of this area is being used to achieve this development and the remainder is being returned to fields/open land. That area will be approximately 6 vergee (nearly 3 acres).
- 2.3. The Property is entirely located Outside of the Centres and within an Agricultural Priority Area (**APA**) of the IDP, and is not within any other land zoning of the IDP or adjacent to any Conservation Area or protected building for such issues to be considered 'material consideration' (Image 2).
- 2.4. The boundary features of the Property are as set out in the 1989 Conveyance are as follows and are all being retained:
- 2.4.1. **North** by Rue du Vidcocq (embankment between);
 - 2.4.2. **East** by a field with a hedge between;
 - 2.4.3. **South** by land/field with a hedge and embankment between; and
 - 2.4.4. **West** by Route de Pleinmont (embankment between).

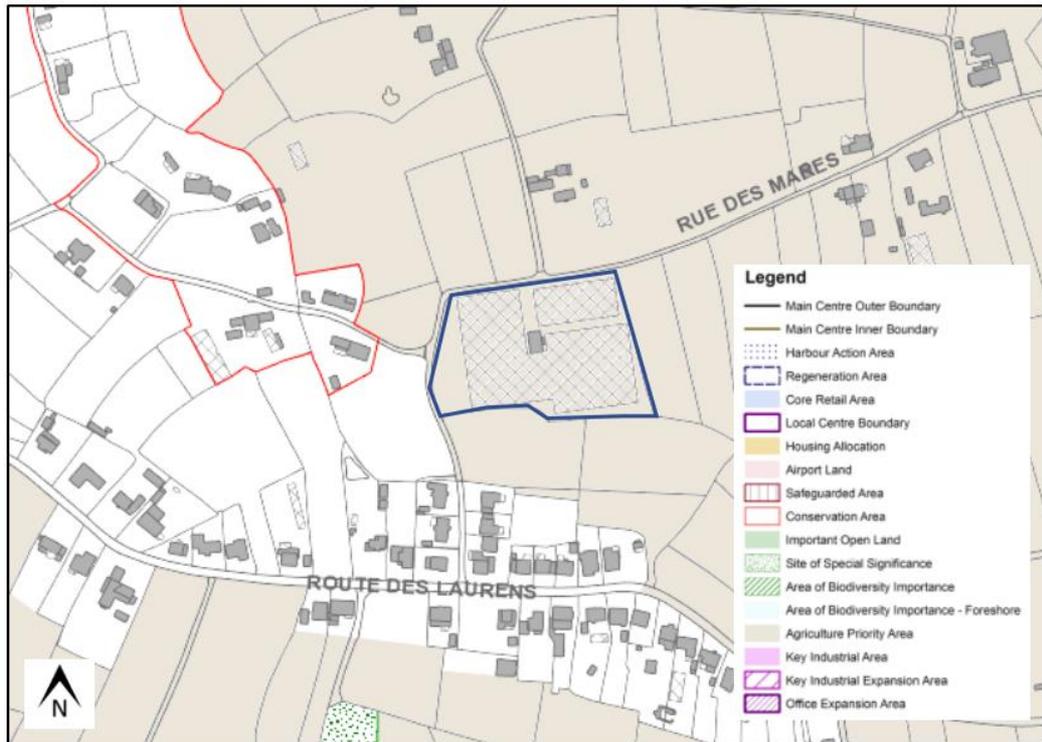


Image 2: Extract of IDP map (2016) (not to scale) (site shown in blue)

- 2.5. The outbuilding the subject matter of this planning application (**Building**) is located centrally within the Property and surrounded by glasshouses, as shown centrally within the red line of Image 1, the blue line in Image 2 and the red rectangle in Image 3.
- 2.6. The driveway and access to the Building is within the north boundary and in a direct line to the Building.
- 2.7. The location of the Building, the access, driveway and extent of parking does not alter and is as shown in Image 4.

3. The Refusal

3.1. The Refusal cited one reason of Refusal as follows:

“The application site is located within an Agriculture Priority Area and appears capable of contributing to the commercial agricultural use of that area with no adverse environmental impacts. Once cleared, the application site would clearly contribute positively to the wider area of open land within which it is located. Furthermore, it has not been demonstrated that the site meets the definition of a redundant glasshouse site. For these reasons the application is contrary to the clear aims and objectives of Policy OC7”. (Reason)

3.2. The Planning Officer’s Report (POR) of the Refusal cited the following policy framework from the IDP:

- OC1 – Housing Outside of the Centres
- OC7 – Redundant Glasshouse Sites Outside of the Centres
- GP5 – Protected Buildings
- GP8 – Design
- GP9 – Sustainable Development
- GP16(A) – Conversion of Redundant Buildings
- GP17 – Public Safety and Hazardous Development
- IP9 – Highway Safety, Accessibility and Capacity

3.3. There is no mention of Policy OC5(A): Agriculture Outside of the Centres – within the Agricultural Priority Areas.

3.4. The POR suggests that before assessing other policies, such as GP16(A), “the starting point” is whether the site is a redundant glasshouse site under the scope of Policy OC7.

3.5. The POR relies on the appeal tribunal case known as *Re: Dolphins Vinery*. The SPG was drafted following that decision and defines the term ‘redundant glasshouse site’.

3.6. The POR suggests that to meet the SPG definition of a redundant glasshouse site that “firstly” proof of no longer required uses is required and “secondly” tangible/visible evidence of structures must exist.

3.7. A conclusion of the POR is that the second test was met i.e. there are tangible and visible structures on the land but the first test was not because:

“... a number of representations have been received which claim that the site has been in use up until recently for the production of soft fruit such as raspberries and strawberries (something borne out by observations made during the planning officer’s site visit), and that despite clarification having been requested from the applicant no further information has been received on this issue”.

3.8. A further conclusion of the POR was that the Building and driveway could be cleared to contribute to agriculture in the APA and that position being “reinforced” by a “high likelihood that some or all of the hardstanding material would need to be removed and replaced in order to mitigate any risks to future occupants” and “...that it has not been demonstrated that the site cannot positively contribute to the commercial agricultural use of an identified Agricultural Priority Area or cannot practically be used for commercial agricultural use without adverse environmental impacts, and the application is therefore contrary to criterion a) of Policy OC7”.

- 3.9. The remaining issues in the POR are summarised as follows:
- 3.9.1. The context that “if cleared” the whole site would “*undoubtedly contribute to the wider area of open land, being visible from Rue des Mares itself, Route des Laurens, and Rue des Corbinets in particular*” contrary to limb (b) of Policy OC7 (relying on *Re: Dolphins Vinery*);
 - 3.9.2. Reliance on *Re: Portholme* (as cited in *Re: Dolphins Vinery*) due to the “conflict” of limbs (a) and (b) of Policy OC7 and that a s.12(2) departure was not requested; and
 - 3.9.3. “Other matters” which had “*not been the subject of a full and detailed assessment*” and “*they do not form the basis for any additional reasons for refusal does not mean that this application is acceptable in those respects*” with regards to Policies GP8, GP9, GP16(A), GP17 and IP9.
- 3.10. These issues are addressed below but the summary is:
- 3.10.1. The Property does contain tangible structures for the purposes of the SPG but proof of “no longer required” has not been proven because of evidence of growing “*raspberries and strawberries*”;
 - 3.10.2. It appears that the Property can make a positive contribution to agriculture in an APA;
 - 3.10.3. Impact on openness and reliance on *Re: Dolphins Vinery*;
 - 3.10.4. Policy gateway issue and reliance on *Re: Portholme*; and
 - 3.10.5. “other matters” – policies GP8, GP9, GP16(A), GP17 and IP9.
- 3.11. These matters are addressed below by reviewing the various definitions of glasshouses, glasshouse land and redundant glasshouse sites, and provide the missing evidence (and further justifications) to address the Refusal.

4. Glasshouse Land and Glasshouses – the position in Law

- 4.1. The starting point is the Land Planning and Development (Guernsey) Law, 2005 (**Law**) and its various Ordinances.
- 4.2. “Glasshouse Land” is defined under the Land Planning and Development (Special Controls) Ordinance, 2007 (**Special Controls**) and provides:

“Glasshouse land etc.

45A. In this Law and in any Plan or Brief, land of the following descriptions, except for land used as a garden (other than a market garden) shall be treated as land used for agriculture

–

(a) land used or, with the application of good husbandry, capable of being used, for –

(i) dairy farming,

(ii) production, rearing or maintenance of livestock, or

(iii) market gardening or the outdoor cultivation of flowers, bulbs or nursery stock,

(b) land which is covered by a glasshouse, or

(c) land which was covered by a glasshouse and falls within paragraph (a)."

4.3. The "Plan" referred to in this legal definition includes the IDP (as the current 'Development Plan' under the Law).

4.4. The Land Planning and Development (Use Class) Ordinance, 2017 (**Use Classes**) defines Agricultural land as,

"Agricultural use class 28: 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"

And

"agriculture" includes 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".

And

"(2) For the avoidance of doubt, the following uses of land, except for land used as a garden (other than a market garden), are treated as land used for agriculture falling within use class 28, in accordance with section 45A of the Law, whether or not they also fall within the definition of agriculture in subsection (1) –

(a) land used or, with the application of good husbandry, capable of being used for –

(i) dairy farming,

(ii) production, rearing or maintenance of livestock, or

(iii) market gardening or the outdoor cultivation of flowers, bulbs or nursery stock,

b. land which is covered by a glasshouse, or

c. land which was covered by a glasshouse and falls within paragraph (a)."

4.5. The Land Planning and Development (Exemptions) Ordinance, 2007 (**Exemptions**) defines "glasshouses" as,

"glasshouse" means a structure made predominantly of glass or other transparent or translucent material, which is not attached to a dwelling- house, and which is designed and used for growing plants,"

4.6. Class 10 of the Exemptions provides:

"Demolition of a shed, glasshouse, temporary or garden structure, fence, gate or exempt structure.

1. *The demolition of any shed, freestanding glasshouse, temporary structure, garden structure, fence, gate or exempt structure provided that-*

(a) the structure is not substantially constructed before 1900,

(b) the demolition work would not create a vehicular access to premises,

(c) in the case of partial demolition, the remaining structure is made good,

(d) the structure to be demolished is not a wall or an earthbank which forms a field boundary or adjoins a highway,

(e) the structure to be demolished is not within a site of special significance,

and in this paragraph "exempt structure" means a structure or other feature the erection, creation or installation of which would be exempt development pursuant to this Schedule."

4.7. S.6 of the General Provisions provides:

*“Operations **not** constituting development.*

6. Notwithstanding section 13 of the Law [i.e. “development”] or any provisions of this Ordinance, the following operations shall not constitute development -

....(c) 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, or...”

4.8. S.13 of the Law provides:

“Meaning of “development”.

13. (1) Subject to the provisions of this section, “development” means –

(a) the carrying out of building, engineering, mining or other operations in, on, over or under land, and

(b) the making of any material change in the use of land.

(2) The following operations are included in subsection (1)(a) -

(a) the demolition of the whole or part of -

(i) a building....”

4.9. In summary:

4.9.1. The Special Controls and Use Classes define ‘Glasshouse Land’ as land which is/was covered by glasshouses where the land can be used for farming, livestock or cultivation;

4.9.2. The definition of Agriculture under the Use Classes means both agriculture and horticulture for land that may or may not contain glasshouses;

4.9.3. The Exemptions refer to ‘glasshouses’ and that ‘glasshouses’ can be removed from land without planning consent;

4.9.4. The General Provisions state that operations that do not constitute development include the use of “*any building occupied together with land*” for agriculture; and

4.9.5. The Law states that ‘development’ includes “*the demolition of the whole or part of - a building...*” and “*... any material change in use of the land*”.

4.10. Therefore, the Law does make a clear distinction between ‘land’ and ‘building’.

4.11. Therefore, the Applicant could clear the glasshouses without planning consent, but the demolition of the Building and the change in use of part of the land to curtilage would require planning permission.

4.12. The outcome would result in a character of the locality being open agricultural land with the Building (a) left as it is, (b) used for agriculture under the Exemptions or (c) converted to a dwelling (or other use) via Policy GP16(A) (as an incentive under Policy OC7).

- 4.13. The presumption of the Law within the first paragraph of Policy OC7 is a presumption that requires an incentive. That incentive is the scope of works allowed under Policy OC7 in order to have redundant glasshouses cleared.
- 4.14. The incentives offered for clearance must constitute development or why else have Policy OC7.
- 4.15. This is a confusing scenario but the key points are that Policy OC7 is an incentive based policy drafted under the SLUP and that the Law makes a clear distinction between land and buildings.
- 4.16. This may affect the weight/application of *Re: Dolphins Vinery* because that case did not involve any buildings on the land (only redundant glasshouse remnants located just above and below ground).

5. Redundant Glasshouse Sites

- 5.1. The SPG broadens the legal definitions of glasshouses where their “redundancy” includes ancillary structures – not just glasshouses.

- 5.2. The SPG definition of a redundant glasshouse site (from the IDP) is:

‘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. Often the condition of such structures will deteriorate over time through lack of use and management to leave only partial remnants of structures.’

- 5.3. The SPG also provides (my emphasis), “...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. This must include a glasshouse or substantial part of the above ground structure (superstructure) of a glasshouse, which may or may not be in a state of disrepair. Visible substantial superstructures will be assessed on a case by case basis but will generally include above ground glasshouse walls and frames. The presence of solely ancillary buildings and structures above or below ground is not sufficient to constitute a redundant glasshouse site. Where some visible substantial glasshouse superstructures remain but some have been cleared the extent of the redundant glasshouse site will be assessed on a case by case basis.”

- 5.4. The SPG was published after *Re: Dolphins Vinery* and is footnoted as follows:

“This SPG is issued by the Development & Planning Authority to assist understanding of the provisions of the Island Development Plan (2016) and, where applicable, relevant legislation, by offering detailed guidance but is not intended to be exhaustive or a substitute for the full text of legislation or the policies within the Island Development Plan (2016). This SPG does not form part of the Island Development Plan (2016). It represents the Development & Planning Authority’s interpretation of certain provisions of States of Guernsey policy or legislation. The guidance is indicative of the Development & Planning Authority’s likely approach to development proposals in relation to the site in question and is not binding on the Development and Planning Authority. This SPG does not prejudice the Development & Planning Authority’s discretion to decide any particular case differently according to its merits and it does not relieve the Development & Planning Authority of any obligation, restriction or liability imposed by or under the Land Planning and Development (Guernsey) Law, 2005.”

5.5. Notwithstanding that the SPG is not part of the IDP, it is Guidance for the purposes of s.82 of the Law¹ and recognises that:

- *“Owners are understandably reluctant to spend money on the maintenance and repair of unused glasshouses or to make the substantial investments required to clear former horticultural sites of glasshouses and ancillary structures when the value of land as agricultural land may not make this viable.”*
- *“Policy LP13 of the SLUP encourages the removal of redundant glasshouse structures and promotes the use of land to make a positive contribution to agriculture and/or open land in the first instance.”*
- *“IDP policy flows from, and reflects, the SLUP and the legal context. The IDP also recognises that across the island there are a number of redundant glasshouses and associated structures that impact upon landscape character and openness.”*
- *“The presence of small or unsubstantial remnants of structures above or below ground level, is not sufficient to be considered a redundant glasshouse site for the purposes of the IDP Policies. The main purpose of the policy is to secure the clearance of substantial redundant glasshouses, improving the landscape quality and reducing the negative impact on visual amenity.”*

5.6. The SPG maintains that each redundant glasshouse circumstance is a case-by-case basis and that the IDP policy “flows” from the SLUP (and as an explicit ‘term’ from the *Re: Dolphins Vinery* judgement).

5.7. The judgement of *Re: Dolphin’s Vinery* stated:

- *“IDP Policy OC7 flows from, and reflects, the SLUP. It sets out the presumption that when a horticultural use ceases, the site will be cleared of glasshouses and ancillary structures and returned to agricultural use... where agriculture is not a viable option and where the site does not contribute positively to a wider area of open land, the policy then offers limited support for other specified forms of development provided all proposals would secure the demolition and removal from the site of all glasshouses and ancillary structures, or remnants thereof.”*
- *The intention of this approach is clear. In supporting limited development on redundant glasshouse sites, it aims to address the legacy of dilapidated and deteriorating glasshouses throughout the Island by securing their removal and enhancing the Island’s countryside with appropriate alternative, mainly open space-type uses.”*

¹ 82. The Department may issue such guidance as it considers appropriate in connection with the administration of this Law and any matter relating to it.

(2) In particular, but without limitation, guidance under this section may give examples - Guidance.

(a) of matters which in the opinion of the Department require planning permission or any other consent under this Law,

(b) of the time when development is in the opinion of the Department to be taken as occurring where two or more matters taken together constitute a change of use,

(c) of the circumstances in which the Department is or is not likely to grant any permission or consent,

(d) of the conditions or limitations subject to which any permission or consent is likely to be granted in any particular circumstances, and

(e) of the measures which may be required by any compliance notice.

(3) Guidance under this section -

(a) must be taken into account by the Department in exercising its functions under this Law but, unless the guidance provides otherwise -

(i) it is not binding on the Department or on any other person,

(ii) it is merely indicative of the Department's likely approach to any particular issue,

(iii) it does not prejudice the Department's discretion to decide any particular case differently according to its merits, and

(iv) it does not relieve any person of any obligation, restriction or liability imposed by or under this Law, and

(b) may, subject to the limitations set out in paragraph (a), be received in proceedings under this Law.

- *“The definition is written in the present tense, requiring glasshouses - or the partial remnants of such structures - to be present on the site if it is to fall within the definition of a “redundant glasshouse site”, even if such structures (or the remnants thereof) are no longer required or capable of being used for their authorised purpose. This is to ensure that the visual/environmental benefits of clearing and removing all debris from such site can be secured as part and parcel of permitting new development which meets the relevant policy requirements.”*

5.8. The appeal tribunal in *Re: Dolphins Vinery* then went on to state that:

“Policy OC7 sets out a “cascade” approach to appropriate alternative uses for redundant glasshouse sites. The first consideration is whether a site is located within or adjoining an Agricultural Priority Area where, once cleared, it is expected that the land will be used for agricultural purposes, unless there are good viability or environmental reasons why this would not be possible or desirable.

Paragraph 17.5.6 of the IDP 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) which only supports proposals to develop redundant glasshouse sites where the site would not contribute positively to a wider area of open land.”

- 5.9. The latter statement is unclear because it implies that only redundant glasshouse sites that are not surrounded by a wider area of open land can be cleared.
- 5.10. If so, that scenario acts an estoppel to Policy OC7. Especially where the Exemptions could be applied to remove the glasshouses and retain the Building and directly engage with Policy GP16(A).
- 5.11. Policy OC7 was designed to facilitate and encourage the presumption in the Law and the SPG recognises that presumption on a case by case basis.
- 5.12. That presumption is not directly enforceable and requires an incentive that can be controlled within the planning process and where any site (as a whole) can fall under the scope of reasonable, proportionate and enforceable planning conditions.
- 5.13. If that was not the case then the outcome would be retention of redundant glasshouse sites and the aim of Policy OC7 would be undermined.
- 5.14. That position was supported by the Inspectorate during the adoption of the IDP where they stated:

“Policy OC7 is challenged on the grounds that, notwithstanding Policy LP13 of the SLUP, no incentive is provided to encourage glasshouse clearance and the restoration of the land to agriculture. Policy LP13 refers to the need for the draft IDP to introduce policies that will facilitate the removal of redundant glasshouses. In response the Environment Department points out that under section 45A of the Land Planning and Development (Guernsey) Law, 2005² redundant glasshouse sites and any ancillary structures are treated as agricultural land and on clearance of the structures the land is expected to revert to agricultural use. The

² “45A. In this Law and in [any Development Plan, Subject Plan or Local Planning Brief], land of the following descriptions, except for land used as a garden (other than a market garden) shall be treated as land used for agriculture –
 (a) land used or, with the application of good husbandry, capable of being used, for –
 (i) dairy farming,
 (ii) production, rearing or maintenance of livestock, or
 (iii) market gardening or the outdoor cultivation of flowers, bulbs or nursery stock,
 (b) land which is covered by a glasshouse, or
 (c) land which was covered by a glasshouse and falls within paragraph (a).”

Environment Department argues that while other Departments may be able to provide different incentives the IDP, as a planning document that has to comply with the 2005 Law, can only include a limited range of incentive policies. The Environment Department suggests that Policy IP1 relating to renewable energy production and Policy OC7 relating to redundant glasshouse sites go as far as is acceptable in a planning document. To provide some additional incentive the Environment Department is suggesting an amendment to Policy IP7 to clarify the position regarding acceptable renewable energy infrastructure. While we have some sympathy with the argument that the IDP does not contain adequate incentives we accept that the scope for the IDP to offer incentives is limited and consider that the policies with the suggested amendment go as far as they reasonably can.”³

“...we agree with the Environment Department’s proposal to amend the definition of glasshouses to include the phrase “are no longer required or capable of being used for their authorised purpose” as this increases the incentives offered by the draft IDP.”⁴

5.15. “Policy LP13 of the SLUP related to ‘REDUNDANT GLASSHOUSE SITES’ and stated that:

“The Development Plan will identify redundant glasshouse sites that, if cleared, are capable of making a positive contribution to open space/agricultural land provision within the Island and will introduce policies that facilitate their removal.”

5.16. The SLUP policy intention recognises that if sites were cleared that such clearance is based on any positive contribution made in terms open space or agricultural land provision i.e. the regaining of land.

5.17. Therefore, we result back to the intention and meaning of Policy OC7 in its truest sense and on a case by case basis.

5.18. In essence, many sites can achieve both objectives in being cleared to the greater good of openness and allowing limited development as an incentive for that clearance.

5.19. This is why each glasshouse site is addressed as a case by case basis under the IDP and that *Re: Dolphins Vinery* was unique on its facts and does not apply or holds less weight to every glasshouse site planning application.

6. Policy OC7

6.1. This is referred to within the POR as the ‘gateway’ policy. The conclusion being that as Policy OC7 is not met then there is no ‘gateway’ and *Re: Portholme* could apply.

6.2. *Re: Portholme* was a case that went all the way up to the Court of Appeal (sat by three Queens Council Judges) and based on the concept of “limited” development within the scope of a policy.

6.3. That was the true meaning of a policy gateway i.e. a policy has to exist. Not having a policy gateway and not meeting a policy gateway are two very different things.

6.4. Here, the policy is explicit – Policy OC7: Redundant Glasshouse Sites Outside of the Centres.

³ APPENDIX 5: REPORT OF THE PLANNING INSPECTORS APPOINTED TO CONDUCT THE INDEPENDENT PLANNING INQUIRY, MARCH 2016. Para 140.

⁴ *Ibid*: Para 147.

- 6.5. *Re: Portholme* actually assists this application as it was a leading case on the 'literal rule'⁵ of the presumption of policy wording. Here, Policy OC7 states that, "*Proposals to develop redundant glasshouse sites will be supported...*"
- 6.6. That is mirrored within the wording of the Reason because it implies certain matters were not addressed to meet the scope of the policy.
- 6.7. The explicit wording of Policy OC7 provides (in full):

"Policy OC7: Redundant Glasshouse Sites Outside of the Centres

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.

Proposals to develop redundant glasshouse sites will be supported where:

- a. the site is not within or adjacent to an Agriculture Priority Area, unless it is demonstrated that the site cannot positively contribute to the commercial agricultural use of an identified Agriculture Priority Area or cannot practically be used for commercial agricultural use without adverse environmental impacts or where proposals are for renewable energy infrastructure and the design would allow agricultural activity to continue on the site; and,*
- b. the site would not contribute positively to a wider area of open land; and...*
- f. the proposal is for the conversion of a redundant ancillary structure in accordance with Policies GP16(A): Conversion of Redundant Buildings and GP16(B): Conversion of Redundant Buildings - Demolition and Redevelopment; or..."*

And providing that in all cases:

- i there would be no unacceptable adverse effect on the living conditions of neighbouring occupiers including by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit or significant visual intrusion; and,*
- ii. the proposals would not jeopardise highway safety and the free flow of traffic on the adjoining highway; and,*
- iii. the site will be laid out to achieve the most effective and efficient use of the land and the least negative visual and amenity impacts with buildings, materials, parking, access and open storage areas designed to respect the character of the area; and,*
- iv. the proposal includes the demolition and removal from the site of all glasshouses and ancillary structures which are not capable of being used for a use in accordance with the relevant policies of the Island Development Plan; and*
- v. the proposal includes details of an appropriate soft landscaping scheme which will make a positive contribution to the visual quality of the environment and which will sufficiently screen the activities on the site and mitigate impacts; and,*

⁵ the words are given their natural or ordinary meaning and applied without the decisionmaker seeking to personally interpret those words or seek to make sense of personally interpret of the policy or law in question.

vi. *the proposal accords with all relevant policies of the Island Development Plan.*”

- 6.8. Limbs c, d, e, g and h do not apply.
- 6.9. The Reason states that limb (a) is not met because the application site is located within an APA and appears capable of contributing to the commercial agricultural use of that area with no adverse environmental impacts.
- 6.10. That appearance of capability was due to the evidence of the growing of certain fruits within parts of the glasshouses. No explanation was provided within the Refusal.
- 6.11. I asked the Applicants to explain and they stated as follows:

“We have owned the site since 1989 and made our livelihood in the growing industry, which had declined into the mid to late 2000’s. About 3 years ago we hired someone to be on site to maintain the site and keep the site safe and clear of overgrowth. In return, that single person wanted to use an area to grow some fruit, so we allowed him to use a couple of glasshouse areas in exchange for clearing it and a bit of maintenance owing to the overgrown conditions i.e. to maintain the site given its condition. The agreement was only verbal. This was for a small area for about 18 months. Prior to that the site had been unused for approximately 10 years since about 2008. We last spoke to the tenant in Jan/Feb 2018. Later he was nowhere to be found and we later found out that he had left Guernsey in early 2018. We have never seen or heard from him again. He did not even pick some of the fruit he had planted. He only used part of the vinery and the growing was not on a commercial scale. Our site has not been touched since 2008. Many of the glasshouses are damaged and not safe for human entrance/uses. In summary, the growing of fruit was minimal, not a commercial scale and for a short term as part consideration to maintain our site which has been falling into a worse condition since the uses ceased in 2008”.

- 6.12. Therefore, the scale of the growing of fruits was not a long-term solution and the glasshouses and Building have not been used for viable agricultural purposes for in excess of 12 years.
- 6.13. Notwithstanding this, the SPG definition of a redundant glasshouse site recognises whether or not the glasshouses *“may or may not be in a state of disrepair”*. The judgement of *Re: Dolphins Vinery* also recognised that distinction by reference to *“...dilapidated and deteriorating glasshouses”*.
- 6.14. That addresses the first part of the Reason in that the growing was not on a commercial scale. However, if the glasshouses were cleared (given their condition) then the land could contribute to an APA on a commercial scale as a 6 hectare contribution on its own merits as a small holding or form part of a wider holding of small holdings (which is very common in Guernsey and within this surrounding locality for open growing and/or livestock).
- 6.15. The second part of the Reason relies on *“no adverse environmental impacts”* and is presumed to mean if the site was cleared then would the act of clearance cause environmental impacts and/or, if sustainable, would the continuation of agricultural uses within the glasshouses mean that their removal is unnecessary because that is a contribution to agriculture within an APA and rebuts the presumption in Policy OC7.
- 6.16. That is quite a confusing scenario. The fact is that this site meets the redundant glasshouse criterion and the clearance of the glasshouses would result in the return of a significant area of agricultural land as fields. Such actions would significantly contribute to commercial agriculture in the APA.
- 6.17. Policy OC7 is silent on distinguishing glasshouse land and/or open land (fields) on which has the higher contribution to agricultural uses.

- 6.18. For the purposes of Policy OC7, the commercial agricultural use of an identified APA would increase and be sustained with open fields. As set out above, that would be the same outcome if the Exemptions were applied. Such actions would also not change the use of the land for the purposes of the Use Classes.
- 6.19. To secure that use (as a balance of the incentives of Policy OC7) the curtilage is demarcated around the driveway and Building only and all other open land is demarcated as “fields”. Such a promise is protected under any standard Condition 1.
- 6.20. Limb (b) of Policy PC7 is also met on that basis as the site appears much more ‘open’ without the glasshouses and no more or less open than if the Exemptions were applied in removing the glasshouses and the Building remained.
- 6.21. Also, there is a question over the facts of *Re: Dolphin’s Vinery* in whether the appeal tribunal meant “if already cleared” or “if the site were to be cleared”. Either way, the site contains visible and tangible glasshouses that if cleared would make a significant contribution to openness and contribute to agricultural land in an APA, whilst retaining the Building.
- 6.22. As set out above, a distinguishing fact of *Re: Dolphins Vinery* is that is contained remnants of substructures but no buildings.
- 6.23. The environmental impacts would be site clearance and return to open agricultural fields. That is an expectation on the presumption of the incentive to clear redundant glasshouse sites and that would be the same if the site was cleared under the Exemptions.
- 6.24. If site clearance and/or contamination of land is a concern, then appropriate planning conditions can be applied and/or an Environmental Impact Assessment requested or, at the very least, a Screening Opinion as the site exceeds 1 hectare⁶.
- 6.25. The above is the true balance of Policy OC7 in achieving its presumption under the intentions of the SLUP.
- 6.26. The alternative is to clear the glasshouses under the Exemptions and leave the Building erected and apply for conversion under Policy GP16(A).
- 6.27. The only issue then would be fulfilling Policy GP16(A) and assess the level of domesticity of the conversion under Policy GP1 and its landscape character. However, this is a conversion working with the Building and using the same driveway and parking, and as set out below.
- 6.28. That secondary gateway under Policy GP16(A) is explicitly recognised under limb (f) of Policy OC7 as one of the potential permitted developments once glasshouses are cleared.
- 6.29. That is addressed below and a further evidence that Policy OC7 recognises that the incentive of glasshouse clearance is to allow limited forms of development. One of those limited forms is conversion of the Building to a dwelling under Policy GP16(A).
- 6.30. That development allowance is facilitated by the planning gain principles of Policy OC7 in following best practice planning and land use management and the strategic aims of the SLUP.

⁶ The Land Planning and Development (Environmental Impact Assessment) Ordinance, 2007 – Schedule 2(a) any development project, not falling within Schedule 1, including any business parks or industrial estates or retail or leisure development, where the area of the development exceeds 1 hectare. NB. The statement says “including” and not explicitly excluding other uses.

7. Policy GP16(A): Conversion of Redundant Buildings

7.1. Policy GP16(A) has eight conjunctive limbs (a) to (h) and is a 'positive' policy where conversion of an existing building will be supported where:

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

7.2. The scope of Policy GP16(A) has now been set by two recent planning appeals:

7.2.1. PAP/008/2019 "Re: Rue Coutance" (October 2019) appeal decision scrutinised the extent of Policy GP16(A) and Policy OC1 (**Rue Coutance**).

7.2.2. PAP/010/2019 "Re: Pomare Farm" (December 2019) appeal decision (as the more recent decision) scrutinised limbs (a), (c) and (g) of Policy GP16(A) and the "design" concept under Policy GP8 (**Pomare Farm**).

8. Re: Rue Coutance key issues are:

- 8.1. Any structural engineers report must be a structural engineers report (not a summary) and include detailed images, explanations and full justification of the existing nature of any building;
- 8.2. That report must match an accurate set of survey drawings;
- 8.3. Building Control should be consulted; and
- 8.4. The conversion hinges on three fundamental questions:
 - 8.4.1. Is the building structurally sound? – can be visually obvious but needs to be clear in the structural engineer's report and mirrored onto a clear set of survey drawings (with Building Control to be consulted) ("**Step 1**");
 - 8.4.2. Is the building capable of conversion without rebuilding? – part of Q1; and
 - 8.4.3. Is the building capable of conversion without 'extensive alterations'? All alterations should be documented, shown on any proposal drawings and (where necessary) referred to within the engineer's report. ("**Step 2**").

8.5. Are there any other issues? Curtilage, access, parking, boundaries, landscape character, landscaping, trees and neighbour amenity (amongst others).

9. Re: Pomare Farm key issues are:

9.1. Is the building “no longer required or capable of being used for its current or last known purpose” as being “fundamental to the subject of the policy”, which applies specifically to “redundant buildings” (“**Step 3**”).

9.2. Is the building of “sound and substantial construction” and “capable of conversion without extensive alteration or rebuilding”? as “two separate requirements that will be considered individually” (very similar to **Step 1** and **Step 2**).

9.3. Does the Conversion include a “modest extension”? If so, is it modest and does it create an independent unit. NB. The gross external footprint in Pomare Farm was 44.3m², “of which the extension would occupy 6.5m², or about a 17.2% increase” and was considered “modest in scale”.

10. Evidence

10.1. To address Step 1, we enclose a full structural engineers report dated 16 March 2020 from CBL which concludes that “...it [the Building] shows no evidence of distress, damage, or distortion and there is no evidence of any differential movement between the external walls and the interior” (**Engineer’s Report**), and the details of the Engineer’s Report have been mirrored onto PF+A survey drawings 7159-01 A1 & A2A (**Survey Drawings**).

10.2. In terms of Step 3, PF+A have colour coded plans 7159-01 B1A & B2B to prove that the minimal amount of works are being undertaken to fulfil the conversion (**Conversion Drawings**).

10.3. Steps 1, 2 & (more particularly) 3 are addressed below.

11. Step 1: The Existing Building

11.1. Under *Re: Rue Coutance* the Appeal Tribunal listed a set of non-exhaustive questions regarding ‘Step 1’. I have listed them below with answers for each (Q.1 to 8).

11.2. List for Step 1: Existing Building Evidence:

1. What are the foundations?

As set out in the Engineers Report and shown on the Survey Drawings - the foundations are at a depth which would be considered adequate, and wide enough for a modern two storey construction. These are at between 800 and 1000mm deep with a projection varying from 225 to 300mm from the base of the walls”. Trial holes were dug and measured calculations were taken and as set out in the Engineer’s Report.

2. What are the location and thickness of each and every beam within the building?

As set out in the Engineers Report and shown on the Survey Drawings – the purlins are 50 x 100mm spanning 1.225m between rafters at 125 x 62mm forming part of a tied frame.

3. Are all existing window and door orifices measured and located accurately?

As shown on the Survey Drawings.

4. What are the existing services to the building and where are they located?

Electricity and telecommunications and the driveway has roadside access for new services such as water. The Building also has a reinforced 2 load cesspit .

5. What are the current gutter and water management systems?

As shown on the Survey Plans – all gutters and downpipes exist.

6. Has there been any lateral movement with the building?

No, and as set out in the Engineer's Report.

7. Is there access to each and every element of the building?

Yes. The Building can be accessed internally and externally for all elevations.

8. The latter part of Step 1 provides a 'check list' as follows:

- 8.1. Do all of the structural engineer's report details match the survey drawings?

Yes. The Survey Drawings match the findings of the Engineer's Report.

- 8.2. Do the survey drawings accurately show each and every element of the building to scale and location?

Yes. They are even alphabetically coded A to F to assist the reader.

- 8.3. Is the building empty for full inspection?

Yes. The Building is completely empty and fully accessible.

- 11.3. In the opinion of the Appeal Tribunal, the above list **must be** "matched" between the structural engineer's report and the surveys drawings.

- 11.4. Step 1 **must be** met before Step 2 or the application fails Policy GP16(A).

- 11.5. *Re: Pomare Farm* took a very similar approach to Step 1.

- 11.6. Step 1 is met.

12. Step 2: The Proposed Building

- 12.1. The Appeal Tribunal listed a set of non-exhaustive questions regarding 'Step 2' to narrow down the definition of "extensive" (based on reasonable fact and degree) in order to establish a full list of alterations i.e. every detail of what is required to become habitable, but without crossing the threshold of "extensive". *Re: Pomare Farm* took a very similar approach to Step 2.

- 12.2. The **priority** is to list every single thing required to make the building habitable but not go beyond the scope of "extensive" and not alter the fabric for the true nature of conversion.

- 12.3. Respectfully, this is also balanced against the discretion of the Authority as it is fundamentally their decision under their policies.

- 12.4. The 28 Questions continue from Q.9 to Q.22:

9. What type of damp-proof membrane is required?

Apply self-adhesive waterproofing membrane to existing walls up to cill and lapped with self-adhesive DPM bonded to existing concrete slab. i.e. the absolute minimum and as applied in other conversion cases.

10. What is the floor insulation methods?

Provide 50mm Ecoscreed flowing floor screed on polythene separation layer on 70mm Kingspan Kooltherm K103 insulation on self-adhesive DPM bonded to existing concrete slab.

11. Is an eco-screed required?

Yes but only 50mm and on an existing slab.

12. Is the slab weight sufficient for residential purposes?

Yes and as set out on the Engineer's Report which concludes that, "*ground bearing pressure are approximately 28kN/sq meter, which is low. Typical ground pressure on this type of soil would normally be in the region of 75-100 kN/sq metre for new build constructions....and the existing loadings are lower than for domestic construction*".

13. Are any 'works' required to the roof beams whatsoever? e.g. replacement, addition, support, treatment etc.

No. Only insulation is added and as set out below.

14. Does the conversion require any 'gluing and screwing' of any boarding whatsoever?

No, only 72.5mm Kingspan Kooltherm K118 insulated plasterboard to form ceiling finish, with integral foil backed vapour barrier and skim finish. This is a minimum insulation method for residential purposes as 'insulation' under Policy GP16(A).

15. Walls – internal – insulation, performance and moisture – what do we need to do – in full detail? e.g. thin timber frame and insulate?

As shown on the Survey Drawings which state, "*Internally install proprietary metal frame wall lining system to external walls (where shown). Internally finish with 72.5mm Kingspan Kooltherm K118 insulated drylining board with integral foil backed vapour barrier. Thermal upgrade and vapour barrier installed internally*" and "*100 x 50mm treated softwood studs at 400mm centres with 100mm Isover APR 1200 acoustic quilt between. 100 x 50mm treated softwood sole plate on DPC and head plate, noggins as required. Line each side with 1 layer 12.5mm plasterboard and skim finish*".

These are the minimal requirements for internal insulation under Policy GP16(A) and as permitted under other conversion cases.

16. Walls – external - are any replacement windows or doors "cut into" the building? i.e. existing windows or doors 'holes' extended or new 'holes' introduced?

All windows and doors on the Proposed Drawings are reusing the existing openings as shown on the Survey Drawings. There are no new openings.

17. What is the current and new roof loading?

The Engineer's Report concludes that the current and new roof loading is "broadly similar to a modern insulated composite system, which would provide a similar, if not greater restraint" and as set out in the kN/sq metre figures above.

18. What is the width and location of every single current and proposed rafter?

As shown on the Proposed Plans and mirroring the Survey Plans.

19. Is any other 'engineered' solution required for the masonry/block to remain erected? i.e. if the building is taller than a single storey.

No, the Proposed Plans work with the current building form.

20. Does the new internal layout meet the Building Control Regulations? and the amenity space guidance?

Yes. The internal areas meet and exceed the Building (Guernsey) Regulations, 2012 and all relevant Technical Standards and the DCLG Guidelines referred to by the Authority.

21. Do not exceed three bedrooms – housing demand.

No. This is a two-bedroom unit.

22. Allocate an accurate curtilage that does not alter any existing boundary features.

Yes. The allocated curtilage includes the existing driveway and parking for the Building and a small area around the driveway and Building which is demarcated by an indigenous hedge (which could be planted without planning permission). The curtilage is proportionate yet minimal.

- 12.5. The design of the conversion meets the scope of Step 2.

13. Step 3: Re: Pomare Farm – No longer required or capable of conversion

- 13.1. The conclusion reached by the Appeal Tribunal that "no longer required or capable of being used for its current or last known purpose" is "fundamental to the subject of the policy", which applies specifically to "redundant buildings" raised the following final 6 of the 28 Questions (Q.23 to Q.28).

- 13.2. To assist, I asked these specific question to Mr & Mrs Watt and their answers are included below:

23. How was the building "created?"

It is a structurally sound building that formed part of the vinery when we purchased in in 1989.

24. Is the building within an existing domestic curtilage?

No.

25. What is the present purpose of the building?

A former packing/store/staff building.

26. What was the last known purpose of the building?

A former packing/store/staff building for the operations of the glasshouses.

27. Is the building capable of being used for its present or last known purpose?

No, as it was used for the purposes of the glasshouses that are now redundant of their uses since 2008.

28. Could the building have any viable use (for "private interests") to any future occupier?

No, as the land is not domestic, it is agricultural and not annexed to any nearby residential property.

13.3. Q.27 and 28 are subjective and based on the policy test being "practically difficult" because the IDP contains no guidance. However, the Appeal Tribunal in *Re: Pomare Farm*, stated that "taking into account more than private interests is necessary" as a "broader interpretation" to merely "personal circumstances". However, that was based on a building on domestic land.

13.4. Notwithstanding that, the Tribunal explored the "spirit" of other policies of the IDP in proving "negative statements" where "*frequently commercial factors will apply, or objective technical, market or financial evidence can be brought to bear in evidence*" where "*redundancy of a building relates not simply to the needs or wishes of the present owner of the property, but to redundancy of the building in its present or former use more generally*".

13.5. That included, "*Under Policy OC7, the owner may have to show that a glasshouse cannot positively contribute to commercial agricultural use, irrespective of their personal circumstances or whether they individually wish to use it in that way.*" and that, "*...It seems to us reasonable that this principle should also apply to cases considered under Policy GP16(A)*".

13.6. This further enhances why the SPG deals with each glasshouse case on a case by case basis.

13.7. If the question is "could" the Building be used for other uses, then the answer is no unless planning permission was granted. The only use without planning permission could be agricultural under the General Provisions and with or without glasshouses.

13.8. The facts here are that the last known use of the Building was its use with the glasshouses and that ceased over 12 years ago and the Building has sat empty since that time.

13.9. This application strikes a fair balance under Policy OC7 in incentivising the clearance of a redundant glasshouse site in return for the conversion of the Building which could only be demolished with planning permission.

13.10. That was the conclusion reached in other conversion cases under the IDP and where two recent conclusions of a conversion approvals stated,

"... the proposal would result in the removal of a large amount of redundant glasshouses from the site its return to agricultural land (and which would benefit from a separate access), and a small section to be converted into the domestic curtilage of the converted out-building. The proposal is in accordance with the criteria of this policy [OC7], however a condition requiring that the glasshouses be carefully dismantled and all glass be completely cleared from the site before the new dwelling could be occupied would be reasonable and enforceable."

And

"the land which would be used for domestic purposes is restricted to that immediately surrounding the building, and predominantly comprising an area of hard surfacing."

The curtilage would comprise a relatively modest area of land, and is well screened in public views and the proposal would not impact on openness in those views. The proposed earthbank and hedging along the boundary of the curtilage would effectively delineate the curtilage, preventing further encroachment into the open land and providing landscape enhancement.

...in light of this physical separation from the agricultural land and the extent of hardsurfacing within the proposed curtilage, it is unlikely that the land could be used for commercial agricultural purposes.

The proposed creation of curtilage would support the conversion of an existing redundant building, and, in light of the above, the proposal would not have a significant impact on openness or the commercial agricultural use of an Agriculture Priority Area.”

- 13.11. These were two different cases and again reemphasise the case by case nature of these types of planning applications.
- 13.12. Please note that, as with case referred to above, the new open agricultural fields already have a separate access from Rue Des Mares.
- 13.13. To assist the ‘openness’ issue, two montage images have been provided in the enclosed PF+A Policy GP9 statement which show the site ‘as is’ with glasshouses and what the site would look like if the conversion of the Building was approved.

14. Other Policy

- 14.1. **Policy OC1** supports creation of new dwellings via conversion under Policy GP16(A) and supports the spatial aims of the SLUP in allowing limited forms of development Outside of the Centres to contribute to housing numbers, the effective and efficient use of land and in accordance with the incentive of glasshouse clearance under Policy OC7.
- 14.2. **Policy OC5(A)** and **Policy OC6** are referred to because, whilst they may hold less weight to this application, they are part of the whole IDP as an indicator of how Agriculture within APAs and Outside of the Centres and Horticulture Outside of the Centres are considered. This follows the “spirit” ethos of *Re: Pomare Farm*.
- 14.3. On this basis, please note that the application site is in a state of disrepair and would require a significant investment sum to return the glasshouses back to a usable standard.
- 14.4. On the basis that the Spatial Policy is to concentrate the majority of new development in the Main Centres and to only all allow for development Outside of the Centres in identified specific circumstances, (in accordance with the SLUP), Policy OC5(A) is naturally restrictive in allowing new farmsteads and resists the loss of land for agriculture in APAs i.e. its purpose is to retain open agricultural farming land.
- 14.5. Policy OC6 also supports that position as *“The establishment of new commercial horticultural holdings will not be permitted”*. So, if the glasshouses were not already on this land, they would not be allowed to be erected.
- 14.6. Also, if this application site were to become a viable horticultural holding, much of the glasshouse would need significant repair and re-erecting, there is no evidence that there is a foreseeable future for commercial growing in Guernsey, this site is not part of a viable and sustainable commercial glasshouse operation and the site is not an existing holding. Also, if it was a permitted holding under Policy OC6, then limb (d) of that policy encourages site clearance on cessation of such uses.

- 14.7. In summary, the whole purposes of Policies OC5(A) and OC6 is to retain and return sites to “land”.
- 14.8. **Policy GP8** is the detailed design policy of the IDP and it contains an extensive preamble and seven conjunctive limbs (a) to (g) which are addressed as follows:
- a. The design is dictated by the scope of Policy GP16(A) and working as a conversion only and without extensive alteration. The design keeps within the form of the Building and utilises its existing access, driveway, turning and parking. The suggested curtilage is proportionate but minimal. The design contains two bedrooms and is well within the scope of the current housing demand and has been converted into a design that accords with the Building (Guernsey) Regulations, 2012 and Technical Standards, the DCLG guidelines and the 16 criterion of the Lifetime Homes standards⁷. Therefore, this is a good design and offers all necessary infrastructure and facilities;
 - b. “land” is the key term in this limb. Currently there is no ‘land’ and no contribution to effective and efficient use of that land or a redundant structurally sound Building. This application returns circa 6 verges of land back to open agricultural and converts a Building into a small dwelling. Both concepts are supported by the IDP as a whole and are a clear demonstration of effective and efficient use of land. The alternative, leave the site to continue to become more redundant with no incentive to do anything with it. The eyesore is not addressed – that would not be effective and efficient use of land.
 - c. The character of the locality is defined under Annex V of the IDP as, *“This landscape type is characterised by a web of hedges, banks, hedgerow trees and tree-lined lanes, which enclose numerous small pastures. Interspersed through this field pattern are a series of small scattered settlements, usually in lower sheltered ground and surrounded by mature trees. Many of these hamlets reflect traditional Guernsey architecture. The settlements tend to be clustered around a church, a spring or a lavoir (public washing area) and are sometimes connected by a network of narrow green lanes which wind around the field boundaries. In places, former green lanes have been upgraded to roads, but even the main roads are often no more than 14ft wide. A number of pastures have been replaced by glasshouses and residential development but the landscape fabric of hedges, banks and tree-lined lanes generally keeps views short, except in the more open west”*. This is the character of this application site and the removal of the glasshouses will contribute to that character
 - d. As set out in (a) above the design contains all relevant infrastructure and amenities. That includes each habitable room having ample natural light and set within a proportionate but minimal curtilage. The design is also over a single ground floor with level threshold doors, so is very accessible for all ages and abilities and as set out in the attached Policy GP9 statement produced by PF+A.
 - e. As set out in (c) above, the minimisation of landscaping features, return of open agricultural land and retention of definitive boundaries is the true character of this application site. The Building is being converted in its current form and retains the use of the existing access driveway and parking, and is enclosed by an indigenous hedgerow.
 - f. This is a single storey level door threshold conversion with ample room sizes for access, manoeuvrability and single level living. Therefore, the Building is fully accessible to all ages and abilities and in accordance with all of the regulations and guidelines referred to in limb (a) above.

⁷ (1) Parking (width or widening capability); (2) Approach to dwelling from parking (distance, gradients and widths); (3) Approach to all entrances; (4) Entrances; (5) Communal stairs and lifts; (6) Internal doorways and hallways; (7) Circulation Space; (8) Entrance level living space; (9) Potential for entrance level bed-space; (10) Entrance level WC and shower drainage; (11) WC and bathroom walls; (12) Stairs and potential through-floor lift in dwelling; (13) Potential for fitting of hoists and bedroom / bathroom; (14) Bathrooms; (15) Glazing and window handle heights; and (16) Location of service controls.

g. The design is single storey and contains two double bedrooms. The room sizes allow for ample manoeuvrability for any end users that are elderly and/or require more mobility space. That achieves a key IDP criterion in allowing people to age in their own homes. Alternatively this could provide a small family home where the bedroom sizes allow for desks, study areas and ample storage. The kitchen size and bathroom size would allow for either end user. The level insulation meets and exceeds the Building (Guernsey) Regulations 2012 and is fully sustainable within an air tight pressure tested design. Such a design can be serviced by a multitude of alternative energy types.

14.9. **Policy GP17** relates to public safety and any suggestion that any works could be 'hazardous' with any risk to public safety. If that is/was a concern of the Authority then this further highlight the redundancy of this application site and is one of the key reasons for the incentive to clear redundant glasshouse sites under Policy OC7. This is why I have referred to (Environmental Impact Assessment) Ordinance, 2007 at paragraph 6.24 above. Schedule 2(a) of that Ordinance refers to "any development project", not falling within Schedule 1, "including" certain uses where the area of the development exceeds 1 hectare. The use of the word "including" means not to mutually exclude other uses. This might be an extreme option but it would address this policy and can be conditional and/or requested during this planning process.

14.10. **Policy IP9** relates to highway safety, accessibility and capacity. The site accesses are retained and at its working capacity as a circa 6 vergee glasshouse site, this site could occupy up to 20+ staff and 6-8 vehicles and including packaging and delivery vehicles. That capacity and use is significantly reduced by this application.

15. Material Considerations – s.13 of the General Provisions

15.1. S.13(1) of the General Provisions set out the material consideration (a) to (i) which the Authority must have regard to in determining an application for planning permission.

15.2. I address these briefly as follows:

- a. The natural beauty and landscape quality of the locality will only be improved by the clearance of the glasshouses;
- b. The character of the natural environment will be brought into line with Annex V of the IDP and the built form is a conversion of an existing Building and that character follows other surrounding built forms as a standalone dwelling in a large area of open land;
- c. The application is appropriate in returning a vast area back to open land in return for the conversion of a Building in accordance with Policy GP16(A) and retaining its design, layout, scale, siting and external uses of materials;
- d. The character and amenity is returned to the description of Annex V of the IDP and returning 'land' back to open agricultural uses. That is a vast improvement as a positive effect;
- e. The use of the site from a traffic perspective would be reduced;
- f. If the site had to be reinvested for horticultural uses then it would conflict with Policy OC6. The clearance of the glasshouses could either be exempt and the Building retained and/or the application could be regulated under Policy OC7. Either way, the land is returned to open agriculture;
- g. We are happy to enter any covenants with regards site clearance and use of the Building;

- h. The likely effect on “fields” and the “open space” is a huge positive effect; and
 - i. There are no immediately adjacent neighbouring properties so there is no direct impact. However, on the broader amenity scale, the clearance of the glasshouses will significantly improve visual and landscape amenity in this locality.
- 15.3. These are nine conjunctive legal limbs all annexed by the word “and” and not “or” and there is no conflict with any of these material considerations.

16. Conclusion(s)

- 16.1. Over the last 3 years, dwelling conversion cases have become much more complicated. However, with regards to redundant glasshouse sites, the SPG recognises the case by case individual merits.
- 16.2. As with all planning cases, what a decision maker can only so (and indeed must do for the purposes of the Law) is apply the facts to the policies and laws.
- 16.3. Here, there is only a huge benefit in engaging an incentive provided by Policy OC7 as one policy in the whole IDP and as a direct reflection of the intentions of the SLUP.
- 16.4. There is no good reason to refuse this planning application and I welcome any open and transparent engagement during this planning process to reach a positive conclusion.

If you have any further queries or requirements for this Application please do not hesitate to contact us.

Your sincerely,



James Le Gallez

Director
07781425513
james@legallz.gg