

**THE LAND PLANNING AND DEVELOPMENT (GUERNSEY) LAW, 2005**

**AND SECTION 3 OF THE LAND PLANNING AND DEVELOPMENT (CERTIFICATES OF  
LAWFUL USE) ORDINANCE, 2019**

**NOTIFICATION OF REFUSAL OF A  
CERTIFICATE OF LAWFUL USE**

**DESCRIPTION OF USE:** Use of site for an existing building/joinery business, associated storage of equipment, materials and tools and the provision for secure parking of works vehicles.

**ADDRESS OR LOCATION OF LAND:** La Hurbede Hougues Magues Lane St. Sampson Guernsey GY2 4WA

**NAME AND ADDRESS OF APPLICANT:** Mr & Mrs A Leadbeater, 10 Maison Haro, Mont Plaisir, Green Lanes, St Peter Port GY1 1TG

I refer to the application referred to below received as valid on 14/05/2019 regarding the above proposals as described more fully in the application and drawings referred to below.

**Date of refusal of application:** 27/08/2019

**Drawing Nos:** Site Location plan scale 1:2500 (site blocked coloured in red)  
Block Plan scale 1:500 (site blocked coloured in red)  
Block Plan scale 1:500 with northern section of site including both outbuildings and driveway Block coloured in red and marked as 'General Builders Yard'

**Application Ref:** CLU/2019/1038

**Property Ref:** B013340000

**The Development & Planning Authority has decided to refuse your application under the provisions of section 3 of the Land Planning and Development (Certificates of Lawful Use) Ordinance, 2019 for the following reasons:-**

The sole piece of evidence that has been submitted in support of this application for a Certificate of Lawful Use is a copy of a Planning Appeal Decision Notice dated 4<sup>th</sup> September 2018 for an appeal with the case reference PAP/019/2017.

It is however clear from the face of that Appeal Decision Notice that the Appeal Tribunal, when considering the historic use of the land for vehicle parking/storage

and for the storage of building materials, found that there was insufficient evidence to demonstrate that these uses had been going on continuously for 10 years before the Compliance Notice that was being appealed was issued. The Tribunal found that rather than one continuous use, there had been a series of planning control breaches interspersed with periods when these unauthorised activities either ceased in response to earlier Compliance Notices, or reduced to the point where they were considered insignificant and therefore did not constitute a material change in the use of the land.

Under section 3 of the Land Planning and Development (Certificates of Lawful Use) Ordinance, 2019, the Authority must issue a Certificate of Lawful Use for the relevant use if it is satisfied that it has been provided with information satisfying it of the lawfulness of that use at the time of the application; in any other case it must refuse the application.

Having regard to the requirements of the Land Planning and Development (Certificates of Lawful Use) Ordinance, 2019, this application does not prove, on the balance of probabilities, that the use to which the application relates commenced more than ten years prior to the date of the application or more than four years since the Authority first knew about the change of use, and that the use has been operating continuously at the level claimed for the entirety of the ten/four year period.

As, for the reason set out above, the information submitted cannot be considered to satisfy the Authority of the lawfulness of the use at the time of the application, this application must be refused. The recognised lawful use of the land therefore remains within Agricultural Use Class 28.

#### **OTHER REMARKS:-**

#### **Right of appeal against planning decisions**

Your attention is drawn to the provisions of Section 68 of the Land Planning and Development (Guernsey) Law 2005, as amended, which provides a right of appeal against a decision to refuse an application for a Certificate of Lawful Use to the Planning Tribunal on the ground that the Authority made a material error as to the facts of the case. 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 three months beginning with the date on which the Authority made this decision.

**A J ROWLES**

Director of Planning  
Planning Service