

**QUESTIONS ASKED OF THE PRESIDENT OF THE DEVELOPMENT & PLANNING
AUTHORITY
PURSUANT TO RULE 14 OF THE
RULES OF PROCEDURE BY DEPUTY RICHARD GRAHAM**

The Strategic Land Use Plan (2011) and Island Development Plan (2016) policies aim to balance the protection of land for agriculture for the industry's current and future needs and recognising the role it plays in countryside management with ensuring land is available to meet other legitimate development requirements (OC5A: Agriculture Outside of the Centres – within the Agriculture Priority Areas and OC5(B): Agriculture Outside of the Centres – outside the Agriculture Priority Areas). In relation to horticulture, the emphasis of SLUP and IDP policy is to support existing horticultural businesses whilst managing the general decline of that industry and the resultant redundant glasshouse sites. The policies from the IDP referred to below are set out in full as an appendix to these answers, for information, and the Annual Monitoring Report 2018 provides further analysis of data for the period ending December 2018 in the Agriculture and Horticulture Thematic Report.

Agricultural land is taken as the legal definition, where land, other than that used as a garden, is considered as agricultural where it is used, or is capable of being used (with the application of good husbandry), for dairy farming, livestock or market gardening, and includes land that is or was covered by a glasshouse. Accordingly, the planning applications included in this analysis cover a range of land that technically falls under the agricultural definition and is assessed as such, but it does not suggest that all (or any) of this land was actively farmed.

Policies in the IDP set out the criteria against which changes from agricultural land and buildings to other uses will be supported. These include the extension of curtilage (Policy GP15: Creation and Extension of Curtilage), the conversion of redundant agricultural and horticultural buildings (Policy GP16(A): Conversion of Redundant Buildings) and relevant appropriate uses as set out in the Outside the Centres section of the IDP. Whilst redundant glasshouse sites are expected to revert to agricultural use, there are provisions in policy to allow for other uses under certain circumstances (Policy OC6: Horticulture Outside of the Centres and Policy OC7: Redundant Glasshouse Sites Outside of the Centres).

As part of the planning application process for development within the APA, applicants must demonstrate that the land in question meets certain criteria which ensures that only land that has been demonstrated to be no longer required for agricultural purposes or cannot make a positive contribution to an identified APA can change to other uses away from agriculture.

For all sites, consideration is given to the impact on the landscape character type, local distinctiveness and the open landscape of proposed changes of use of agricultural land to domestic garden (GP1: Landscape Character and Open Land).

For clarity, data is not currently collected for change of use of agricultural land within the Centres, and the information set out below relates to sites Outside of the Centres only.

Question 1

Since the coming into force of the Island Development Plan in November 2016, how many applications were made to the Authority for the extension of domestic curtilage, how many of those applications were approved and how many remain to be decided?

Answer

Since the coming into force of the Island Development Plan (IDP) in November 2016 until 30th July 2020, a total of 360 applications have been made for the change of use of land Outside of the Centres to domestic curtilage. This includes both extensions to existing domestic curtilage and the creation of domestic curtilage associated with the conversion of redundant buildings. Of these 360 application, 314 have been determined and 287 of these were approved. 46 applications remain to be decided.

Question 2

Of the total of such applications and approvals, how many were related to:

- a. agricultural land and – separately - horticultural land within Agricultural Priority Areas (APAs);
- b. agricultural land and – separately - horticultural land outside the APAs.

Answer

Since the coming into force of the IDP in November 2016 until 30th July 2020, of the 314 applications for the extension or creation of domestic curtilage that have been determined:

a. 84 applications have been determined (67 of these approved) on agricultural land within the APAs; 8 applications have been determined (4 of these approved) on horticultural land within the APAs.

b. 194 applications have been determined (190 of these approved) on agricultural land outside the APAs; 28 applications have been determined (26 of these have been approved) on horticultural land outside the APAs.

Question 3

Of the total of such applications and approvals, how many were retrospective under each of the above two classifications?

Answer

Within the APAs, 4 applications determined were retrospective and of these 4 were approved.

Outside the APAs, 36 applications determined were retrospective and of these 36 were approved.

Question 4

Since the coming into force of the Island Development Plan, what is the total area of land within each of the above two classifications that has been absorbed into domestic curtilage?

Answer

Land within the APA granted permission to change use to domestic garden = approximately 65,000m² (39.7 vergées) of which approximately 4,300m² (2.6 vergées) related to horticultural land.

Land outside the APA granted permission to change use to domestic garden = approximately 374,000m² (228 vergées) of which 66,000m² (40 vergées) related to horticultural land.

Question 5

When considering applications to approve the extension of domestic curtilage into land previously classed as agricultural or horticultural, how much regard does the Authority pay to the States Biodiversity Strategy approved in 2015?

Answer

The Authority fulfils its obligations concerning the Biodiversity Strategy when considering planning applications to extend residential curtilage by applying the requirements of the States' approved land use policies in the IDP which themselves accord with the Biodiversity Strategy. Furthermore, the Strategy for Nature has also been recently approved as Supplementary Planning Guidance and will be taken into account as part of the decision-making framework.

In relation to the Biodiversity Strategy, Policies GP15: Creation and Extension of Curtilage, Policy GP2: Sites of Special Significance and Policy GP3: Areas of Biodiversity Importance are the policies most relevant. The designations of Sites of Special Significance (SSS) and Areas of Biodiversity Importance (ABI) in the IDP are specifically highlighted in the Biodiversity Strategy as positive contributors.

The policies together apply a reasonable and proportionate level of control when considering proposals to extend curtilage that respects the exercise of personal choice in matters where there are no significant impacts on the achievement of States' priorities whilst ensuring that proposals do not result in an unacceptable negative impact on natural habitat. Proposals to extend curtilage will only be supported by the Authority, in accordance with the policies, where there would not be an unacceptable impact on the biodiversity interest of a SSS or ABI which cannot be successfully mitigated and where, in these areas, it has been demonstrated that biodiversity interest has been considered, protected and where possible enhanced. The relevant policies applied by the Authority when considering such proposals stipulate that the Biodiversity Strategy will be taken into account.

Date of Receipt of the Questions: 30 July 2020

Date of Reply: 13 August 2020

Appendix 1: Relevant Policies from the Island Development Plan (2016)

The following policies are set out in full below, for information:

- GP1: Landscape Character and Open Land
- GP2: Sites of Special Significance
- GP3: Areas of Biodiversity Importance
- GP15: Creation and Extension of Curtilage
- GP16(A): Conversion of Redundant Buildings
- OC5(A): Agriculture Outside of the Centres – within the Agriculture Priority Areas
- OC5(B): Agriculture Outside of the Centres – outside the Agriculture Priority Areas
- OC6: Horticulture Outside of the Centres
- OC7: Redundant Glasshouse Sites Outside of the Centres

Policy GP1: Landscape Character and Open Land

Proposals will not be supported if they would result in the unnecessary loss of open and undeveloped land which would have an unacceptable impact on the open landscape character of an area.

Development will be supported where it:

- a. respects the relevant landscape character type within which it is set; and,
 - b. does not result in the unacceptable loss of any specific distinctive features that contribute to the wider landscape character and local distinctiveness of the area concerned; and,
 - c. takes advantage, where practicable, of opportunities to improve visual and physical access to open and undeveloped land; and,
 - d. accords with all other relevant policies of the Island Development Plan.
- Proposals for development that is considered to be significant in terms of scale, setting and appearance will normally be required to include a landscaping scheme.

Policy GP2: Sites of Special Significance

Proposals for new development within a Site of Special Significance will only be permitted where it can be demonstrated that:

- a. they will not have an adverse impact on the special interest of a Site of Special Significance and the development accords with all other relevant policies of the Island Development Plan; or,
- b. where there is an adverse impact it can be successfully mitigated so that there is no net loss of the special interest in accordance with a scheme approved by the Authority; or,
- c. where there is an adverse impact any loss of habitat can be satisfactorily off set, either on or off the development site, in accordance with a scheme to be approved by the Authority; and,
- d. the development accords with all other relevant policies of the Island Development Plan.

Proposals for extension, alteration and redevelopment of existing uses within a Site of Special Significance will be supported where:

- i. they will not have an adverse impact on, and will, where possible, enhance, the special interest of a Site of Special Significance; or,
- ii. any adverse impact can be successfully mitigated in accordance with a scheme agreed by the Authority so that there are no significant impacts on the special interest of the Site of Special Significance; and,

iii. the development accords with all other relevant policies of the Island Development Plan.

Development which would have a negative and/or damaging impact on the special interest of a Site of Special Significance which cannot be satisfactorily mitigated or off set will not be supported.

The Authority will consider applying planning conditions or entering into a planning covenant to ensure the implementation of mitigation or off setting measures.

Where the special interest of a Site of Special Significance includes biodiversity, the Biodiversity Strategy, and details emerging from it, will be taken into account when making a decision on a planning application that may affect a Site of Special Significance.

Any agreed Supplementary Planning Guidance for the whole or part of a Site of Special Significance will be taken into consideration when considering proposals for development.

Policy GP3: Areas of Biodiversity Importance

Development within an Area of Biodiversity Importance will be supported provided that:

- a. proposals demonstrate that the biodiversity interest of the site has been considered and taken into account as part of the design and development process; and,
- b. the biodiversity interest of the area has been protected and, where possible, enhanced; or,
- c. any negative impacts can be appropriately and proportionately mitigated in accordance with a scheme to be approved by the Authority.

The Authority will consider applying planning conditions or entering into a planning covenant to ensure the implementation of mitigation measures.

The Biodiversity Strategy for Guernsey, and details emerging from it, will be taken into account when making a decision on a planning application that may affect Areas of Biodiversity Importance.

This policy does not apply to householder development within the curtilage of a dwelling.

Policy GP15: Creation and Extension of Curtilage

A proposal to create or extend curtilage will be supported where:

- a. it would not have an unacceptable detrimental impact on the landscape character; and,
- b. it would not have an unacceptable impact on the biodiversity interest of an Area of Biodiversity Importance or, where negative impacts are unavoidable, they can be acceptably mitigated in accordance with a scheme to be agreed with the Authority in accordance with Policy GP3: Areas of Biodiversity Importance; and,
- c. it is demonstrated that the land cannot positively contribute to the commercial agricultural use of an Agriculture Priority Area or cannot practicably be used for commercial agriculture within an Agriculture Priority Area without unacceptable adverse environmental impacts; and,
- d. it is demonstrated that it would not involve an unacceptable loss of established boundary features that contribute positively to the character of an area, unless the new or replacement boundary treatment makes an equal or enhanced positive contribution to the character of the area; and,
- e. it would not adversely affect the reasonable amenities of neighbouring residents.

The creation of new or extension of existing curtilages in Sites of Special Significance or Areas of Biodiversity Importance will only be supported where they are consistent with Policy GP2: Sites of Special Significance and Policy GP3: Areas of Biodiversity Importance and providing the requirements of this policy are met.

Policy GP16(A): Conversion of Redundant Buildings

The 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.

All proposals for conversion of a redundant building resulting in a net increase of 20 or more dwellings are required to provide a proportion of affordable housing in accordance with Policy GP11: Affordable Housing.

In all cases, proposals will need to accord with all other relevant policies of the Island Development Plan.

Policy OC5(A): Agriculture Outside of the Centres – within the Agriculture Priority Areas

Proposals for development relating to the agricultural use of an existing farmstead or existing agricultural holding, or for a purpose ancillary or ordinarily incidental to the existing principal agricultural use, will be supported where there are no other buildings or structures at the farmstead or on the agricultural holding which could, with or without reasonable adaptation, be otherwise used for the proposed purposes.

Proposals for the development of new farmsteads whether on existing or proposed holdings will be supported where:

- a. the resultant farmstead would meet an acknowledged need and where the requirement could not be reasonably, or practically, assimilated into an existing or former farmstead; and,
- b. the proposal does not involve the erection of a new dwelling house.

Proposals for development which would result in the loss of an existing farmstead or agricultural holding in the Agriculture Priority Area will only be supported where it is

demonstrated that the farmstead or land is no longer required for agricultural purposes and any proposed new use accords with the other relevant policies of the Island Development Plan.

Proposals for development which is not related to a farmstead or existing agricultural holding will be supported provided that they accord with all the relevant policies of the Island Development Plan.

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

Outside the Agriculture Priority Areas proposals for development relating to the agricultural use of an existing farmstead or existing agricultural holding, or for a purpose ancillary or ordinarily incidental to the existing principal agricultural use, will be supported provided that the development is ancillary or ordinarily incidental and essential to the proper running of the existing agricultural holding and there are no other buildings at the farmstead or on the agricultural holding which could, with or without reasonable adaptation, be otherwise used for the proposed purposes.

Proposals for the development of new farmsteads will not generally be supported unless:

- a. it is demonstrated that the development is essential for the proper running of an agricultural holding; and,
- b. the development is of a scale which is proportionate to the agricultural use of a holding; and,
- c. there are no other existing buildings on the holding which could with or without reasonable adaptation be otherwise used for the proposed purposes; and,
- d. the proposal does not involve the erection of a new dwelling house.

Proposals for development which would result in the loss of an existing farmstead, agricultural buildings or land will be supported where the proposed new use accords with the other relevant policies of the Island Development Plan.

Policy OC6: Horticulture Outside of the Centres

Proposals for new glasshouses, extensions, alterations, rebuilding or other works to existing glasshouses or buildings, or ancillary or ordinarily incidental development, associated with existing commercial horticultural holdings will be supported providing that:

- a. the site forms part of an existing commercial holding which is in operation, or one which although disused could be brought back into operation for commercial horticulture without requiring the erection of significant areas of new glass; and,
- b. the holding is considered to make, or be capable of making, a material contribution to the horticultural industry and is likely to continue to do so for the foreseeable future by virtue of its suitability for commercial operations; and,
- c. it can be demonstrated that any areas of new commercial glasshouses are required to sustain the viability of the existing commercial operation; and,
- d. on cessation of use, or when no longer required, any new structures permitted under this policy shall be totally removed and the land restored to other types of agricultural use or a use acceptable under the policies of the Island Development Plan; and,
- e. the development proposed is ancillary or incidental and essential to the operation of an existing holding.

Proposals to change the use of a horticultural site will be assessed under the other relevant policies of the Island Development Plan and/or the requirements of Policy OC7: Redundant Glasshouse Sites Outside of the Centres as appropriate.

The establishment of new commercial horticultural holdings will not be permitted.

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,
- c. the proposal is for small scale industrial or storage and distribution use and is in accordance with the requirements of Policy OC3: Office, Industry, Storage and Distribution Outside of the Centres; or,
- d. the proposal is for the change of use of glasshouse land so that it may be incorporated into the curtilage of a building in accordance with Policy GP15: Creation and Extension of Curtilage; or,
- e. the proposal is for the provision of infrastructure for the harnessing of renewable energy in accordance with the requirements of Policy IP1: Renewable Energy Production; or,
- 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,
- g. the proposal is for a campsite and is in accordance with Policy OC8(B): Visitor Accommodation Outside of the Centres – Campsites; or,
- h. the proposal is for outdoor formal recreation or informal leisure and recreation and is in accordance with Policy OC9: Leisure and Recreation Outside of the Centres.

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,
- vi. the proposal accords with all relevant policies of the Island Development Plan.

Where a site is included within a Site of Special Significance proposals that would unacceptably adversely affect the identified special interest of the area concerned will not be supported. Where a site is included within an Area of Biodiversity Importance proposals which adversely affect the biodiversity and natural habitat of the area concerned will not be

supported unless the adverse impacts can be successfully mitigated in accordance with a scheme approved by the Authority.

For the purposes of clarification, where redundant glasshouse sites lie within a Main Centre, Main Centre Outer Area or Local Centre, proposals for their development and reuse will be assessed under the relevant policies within the Main Centre, Main Centre Outer Area and Local Centres sections of the Island Development Plan.