

**REPLY BY THE MINISTER OF THE ENVIRONMENT DEPARTMENT  
TO QUESTIONS ASKED PURSUANT TO RULE 6 OF THE  
RULES OF PROCEDURE BY DEPUTY LYNDON TROTT**

**Question**

*Am I correct in my understanding that the temporary storage of timber waste resulting from tree management work carried out by a arboriculturist, or tree surgeon, on the Island and its subsequent limited processing into logs for fuel and chippings for use as mulch is considered by the Environment Department to be an industrial activity rather than one falling within the broad definition of Agriculture, Horticulture and Forestry within Use Class 44?*

**Answer**

By way of background, a recent planning appeal considered the unauthorised change of use of part of a vinery site at Osmonds Lane, St Sampsons to a storage yard for a tree surgeon's business. Following refusal of planning permission, the Department had issued a Compliance Notice in respect of the unauthorised activities. An appeal against this by the operator of the business has been dismissed by the Planning Appeals Panel and the Compliance Notice was upheld.

That appeal hearing confirmed in that instance that the appellant's operation was not an agricultural use within Use Class 44 (see in particular paragraph 26 of the appeal decision notice). It was also confirmed during the appeal hearing that the storage use being carried out was not temporary (see in particular paragraph 34 of the appeal decision notice).

**Question**

*Do you agree that this service provided by the Island's arboriculturists is a necessary and valuable part of the Island's broader economy and that the utilisation of the waste material generated as fuel and mulch, rather than waste material requiring disposal, is a good example of sustainable environmental management that helps towards reducing CO2 emissions?*

**Answer**

The Department supports the provision of such services provided they are operated from legitimate, authorised sites.

**Question**

*Do you accept that the nature of the activity involved, with its low impact into terms of neighbour amenity, is one that can be readily assimilated into a relatively rural/agricultural or undeveloped location rather than within a designated industrial site?*

**Answer**

Any proposal for change of use would be considered on its merits having regard to the Planning Law and policies of the relevant Development Plan. Clearly, as part of these considerations the impact of the proposed use on neighbour amenity would be taken into account. Although described by you as 'low impact', such an activity could potentially be intrusive and raise amenity issues.

**Question**

*Do you accept that, given the limited areas of land allocated for industrial development, it is naïve to expect such a low impact, relatively low value, process to compete with more conventional intensive industrial and/or storage activities on a free market basis?*

**Answer**

Although land in Guernsey is limited as you say, and some low-value uses may struggle to find an appropriate site, it would however be unfair on law abiding operators for the Department to allow such an unauthorised use to continue in breach of planning Law.

**Question**

*Are you aware that, in reality, there are apparently no suitable sites available for this kind of activity and what dialogue, if any, has taken place between your Department and the Commerce and Employment Department to address this problem?*

**Answer**

The Department is working with the Commerce and Employment Department on the issue of land for industry; research has been carried out into the availability of land for small businesses and no clear evidence has been found to substantiate claims that no suitable sites are available. Existing planning policies allow the development of small workshops and yards on a range of appropriate sites in both the Urban and Rural Areas. The 2010 revisions to the Rural Area Plan specifically allocated three sites in the Rural Area for small workshops and yards, of which to date only one has been taken up. The other two allocated sites remain available and would be suitable for such use. In addition, many vacant or underused industrial or storage premises currently exist particularly within the Urban Area. The affordability or otherwise of a particular site is of course a matter for the private company or industry concerned.

**Question**

*Would you agree that the creation of a specific use class for this type of quasi-agricultural/ horticultural/forestry activity would be effective in 'ring fencing' land from more conventional industrial sites, better suited to higher value industrial activities.*

**Answer**

There is no evidence to suggest that the introduction of a specific use class for tree surgeons would be justified or beneficial. The Department's approach to review of the present Use Classes Ordinance is to reduce the number of classes in the interests of reducing bureaucracy and facilitating greater movement of business within the economy rather than creating new classes which could act as a barrier to economic movement and diversification. The Department will however consider any views expressed when it goes out to consultation on proposed changes to the present Use Classes Ordinance.

**Question**

In the interim period prior to these issues being fully addressed and resolved, would you not agree that a more pragmatic and responsive approach for your Department to take would be to allow such activities to take place on appropriate existing marginal agricultural or horticultural sites by the granting of planning consent on a temporary basis, as a minor departure to the existing Land Use Plans, subject to appropriate conditions restricting the use of the site to these specific types of low impact activities?

**Answer**

Temporary consents should not be used as a way of circumventing adopted planning policy. Without relevant and significant change in circumstances such consents once granted cannot be 'turned off' and would become permanent by default. The Department can consider minor departures from the Development Plans, however in cases such as the recent appeal case, where the evidence showed that the proposed use was fundamentally contrary to policy, they would not constitute a minor policy departure.

**Date of Receipt of the Question:** 12<sup>th</sup> June 2013

**Date of Reply:** 19<sup>th</sup> June 2013