

Regulation
Infrastructure Housing and Environment
Po Box 228
Jersey
JE4 9SS
www.gov.je



Compliance Case Ref: CMP/2019/00111
ENF/2021/00008

BREACH OF CONDITION NOTICE

Planning & Building (Jersey) Law 2002

THIS NOTICE TAKES IMMEDIATE EFFECT ON THE DATE IT IS ISSUED

1. **This Notice:** is issued pursuant to the powers conferred under Article 47 of the Planning and Building (Jersey) Law 2002 because it appears that there has been a failure to comply with a condition subject to which planning or building permission was granted at the Land stated below. Article 5 of the above Law defines the meaning of development and Article 7 of that Law states that Land shall not be developed without planning permission.
2. **The Land to which this Notice relates:** Field No. G506A shown 'edged in RED' on the attached plan.

3. **The Matters which appear to constitute the Breach of Development Controls:**

Contrary to conditions of planning consent P/2007/1194;

- 3.1 Disuse and disrepair of Polytunnel 3, contrary to condition 7
- 3.2 The external storage of waste materials and materials used in the commercial operation of the landscaping business, contrary to condition 2 of P/2007/1194
- 3.3 Operating outside of the hours of 0800 to 1800 on Monday to Friday, 0900 to 1300 hours on Saturdays, and not at all on Sundays, Bank Holidays or other public holidays, contrary to condition 5.

4 **Reasons for Issuing this Notice:**

In July 2004 a retrospective planning permission (ref: P/2004/0743) was approved for the "Change of use of multispan polytunnel to storage of landscape garden materials. Creation of screened outdoor storage area. Erection of screened fence". This permission was granted on a temporary 4 year basis and was due to expire on the 2nd of July 2007.

Subsequently on the 17th of September 2007 a planning application (Ref: P/2007/1194) was approved for the "Change of use for hard and soft landscaping business. Provide Vehicle access."

This permission contained several conditions, which are detailed on the attached Decision notice for P/2007/1194. This notice relates specifically to three of those conditions on the permit, which have been breached and are considered to cause unreasonable harm, as set out in the points below.

- 4.1 The site lies within the Green Zone wherein there is a high level of protection and a general presumption against development that would result in harm to landscape character. The land is designated as agricultural land, which is protected by Policy ERE1 which sets a presumption against the loss of agricultural land for development or any other purposes, including parking. These structures were originally approved because of an agricultural need. Given that Polytunnel 3 has fallen into a long term disuse in terms of agriculture and that it has fallen into a state of disrepair, the Department is now seeking to remove the structure to ensure the rural character of the area is protected.
- 4.2 The site is located within the Green Zone, wherein Policy NE7 sets a strong presumption against all forms of development that would result in harm to landscape character. The storage of hard and soft landscaping materials (other than for the approved purposes of plant hardening), the parking of vehicles and the general untidiness of the site result in unreasonable harm to the visual amenity and general character of the area.
- 4.3 Condition 5 was implemented to ensure that nearby neighbouring properties and land users were not unreasonably affected by the commercial operation of the landscaping business approved on site. Policy GD1 sets a general presumption against any form of development that would result in unreasonable harm to the amenities of neighbouring properties by virtue of emissions including noise, vibrations, dust or problems arising due to unacceptable traffic generation.

5 Steps Required to Rectify the Breach: (what you are required to do):

- 5.1 Remove the polytunnel structure marked No. 3 on the attached plan within 3 months and restore the land to agriculture. Remove any waste material, rubble or debris and ensure that the land has a minimum of 300mm topsoil.
- 5.2 Remove from the external areas of the site any waste materials or materials used in the commercial operation of any business operating on the site within 3 calendar months.
- 5.3 Immediately cease the operation from the site outside of the hours specified in point 3.3.

6 Time for Compliance:

- 6.1 Within 3 calendar months from the date of the service of this notice, as specified in point 5.1
- 6.2 Within 3 calendar months from the date of the service of this notice, as specified in point 5.2
- 6.3 Immediately from the date of the service of this notice, as specified in point 5.3

7. Date of Issue:

Signed: [REDACTED] .Date
(Authorising Officer)

For and on behalf of the Chief Officer;

Peter Le Gresley

Head of Development and Land

Infrastructure Housing and Environment, Development Control, Philip le Feuvre House,
La Motte Street, St. Helier, Jersey JE4 8PE

Enclosures.

1. Enforcement Notice Plan
2. Aerial photograph timeline
3. Decision notice for P/2007/1194
4. Approved Drawing B from P/2007/1194

Informative. Any other item or issue not specified in this enforcement notice may be subject of a separate enforcement notice.

ADVISORY NOTES

What will happen if this Notice is not complied with: If you fail to comply with the requirements of this Notice you may be liable to prosecution under the appropriate Article of the Planning and Building (Jersey) Law 2002.

Your Rights of Appeal: In accordance with Article 109 of the above Law, you may appeal against this Notice by writing to the Greffier no later than 28 days beginning with the date this Notice is issued.

Field G506A Aerial images

1997



2003



2006



2008



2011



2014



2017



2018



2019



2020



Planning Application Number P/2007/1194

Planning Permit

PLANNING AND BUILDING (JERSEY) LAW 2002

IMPORTANT NOTICE

This notice gives permission under Article 19 of the Planning and Building (Jersey) Law 2002, as amended. The development stated below may also require Building consent under Article 34, for which a separate application will need to be made. If you are in any doubt as to whether building permission is required please telephone the Building Applications Team on 448407 who will be pleased to help.

The Minister for Planning & Environment, having considered your application hereby GRANTS PERMISSION TO DEVELOP LAND¹ under Article 19 of the Planning and Building (Jersey) Law 2002.

Change of use for hard and soft landscaping business. Provide vehicle access.

To be carried out at:

Field 506A, Les Sablons Nurseries, La Rue de Fauvic, Grouville.

REASON FOR APPROVAL: Permission has been granted having taken into account the relevant policies of the approved Island Plan, together with other relevant policies and all other material considerations, including the consultations and representations received.

Subject to compliance with the following conditions and approved plan(s):

Standard Condition

- A. If the development hereby permitted has not commenced within five years of the decision date, this permission shall cease to be valid.

¹ CAUTION

This decision is purely permissive and in no way absolves the parties concerned from obtaining, nor does it overrule, any other permission that may be required under any other law. In addition, it does not overrule any private property rights, nor does it absolve an applicant from the need to obtain the permission of the owner of the land to which a permission relates.

(P1; P/2007/1194; Page 1)

APPROVED

Planning Permit

PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2007/1194

Reason: The Minister for Planning & Environment reserves the right to reconsider this proposal consequent on any future change of circumstances or policy.

Condition(s):

1. The development hereby approved shall be carried out entirely in accordance with the plans approved under this permit. No variations shall be made without the prior written approval of the Minister for Planning and Environment.
2. All storage relating to this use shall be contained within the areas designated on Plan B and the external area shall be used only for the hardening of plants and for no other use whatsoever.
3. Within 28 days of the date of this decision notice the details of the security measures, including fencing for the proposed parking area, are to be submitted to the Minister for Planning and Environment. The details are to be implemented within 28 days of their approval and thereafter maintained.
4. Within 28 days of the date of this decision notice the details of any surfacing works, including to the plant hardening area, are to be submitted to the Minister for Planning and Environment. The details are to be implemented within 28 days of their approval and thereafter maintained.
5. The use of the site (including for the receipt of goods, operation of machinery, the moving of equipment and loading of vehicles) shall operate only between 0800 to 1800 hours on Monday to Friday, 0900 to 1300 hours on Saturdays, and not at all on Sundays, Bank Holidays or other Public Holidays.
6. There shall be no retailing or wholesaling from the site whatsoever.
7. In the event that the polytunnels hereby approved falls into disuse or disrepair they shall be removed from the site and the land restored to agricultural use.
8. The polytunnels shall be maintained in a clean and tidy condition, to the satisfaction of the Minister for Planning and Environment, and may not be

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(P1; P/2007/1194; Page 2)

APPROVED

Planning Permit

PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2007/1194

replaced by any other structures.

9. Only the applicants own vehicles, associated with Augres Landscape and Property Services Limited, may be maintained on the site. No other vehicles (including those of any staff) may be maintained on the site.
10. Within 28 days of the date of this permission, proposals shall be received from the applicant to further landscape the western boundary of the site adjacent to the two residential properties to the west. In addition, these landscaping works, once agreed by the Minister for Planning and Environment, shall be implemented within a further 28 days from the date that the scheme is agreed.
11. Measures shall be undertaken by the applicant to prevent the site becoming contaminated either by the parking or maintenance of any fleet vehicles on the site.

Reason(s):

1. To ensure the development is carried out and completed in accordance with the details approved by the Minister for Planning and Environment.
2. In the interests of the amenity of the area.
3. In the interests of the visual amenity of the area, as submitted details of security works are indicative only.
4. In the interests of the visual amenity of the area, as details of surfacing are not shown on the submitted drawings.
5. In the interests of the general amenity of the area.
6. The introduction of such a use in this location will be damaging to the character of the area.
7. These structures were originally permitted because of an agricultural need. In the event of a long term disuse or disrepair the Minister will seek to ensure that the rural character of the area is protected by requiring these structures to be removed.

[†] CAUTION

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(P1; P/2007/1194; Page 3)

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Planning Permit

PLANNING AND BUILDING (JERSEY) LAW 2002

Planning Application Number P/2007/1194

8. The structures were originally permitted as polytunnels and should remain in a proper condition in order not to harm the amenity of the area.
9. To avoid weekend working on vehicles not associated with the Company.
10. To improve the planting screen along the western boundary of the site.
11. To prevent the contamination of the soil, which is officially agricultural land.

FOR YOUR INFORMATION:

The following plan(s) has/have been approved:

- A: Location Plan
- B: Site Plan

If written representations were made on this application this permission shall not have effect for a period of 28 days from the date of this notice, in order to allow for the lodging of any 'third party' appeal against the decision under Article 114 of the Law of the Planning and Building (Jersey) Law 2002.

If during this period a person appeals in accordance with Article 114 of the Law, the decision shall not have effect until either the appeal is withdrawn or is determined. When any such appeal is determined the decision shall have effect, if at all, in accordance with that determination.

17 September 2007

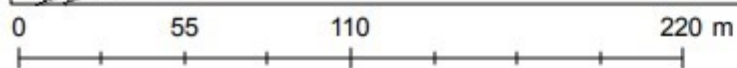
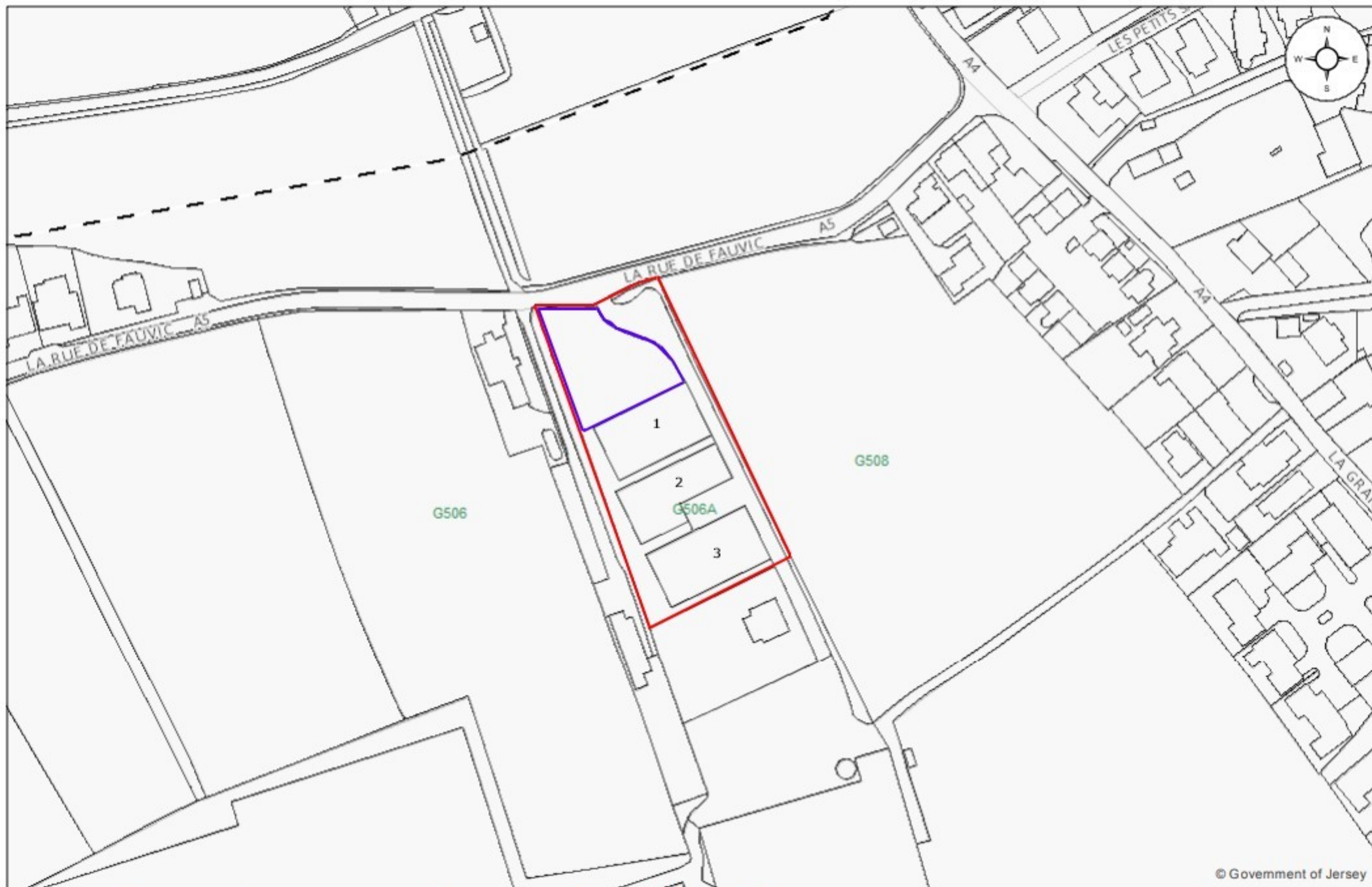
Director

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(P1; P/2007/1194; Page 4)

APPROVED



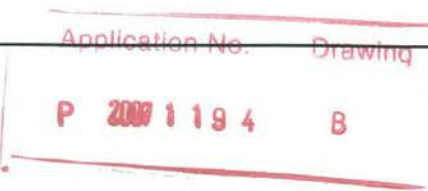
Date: 11/08/2021

Location Plan

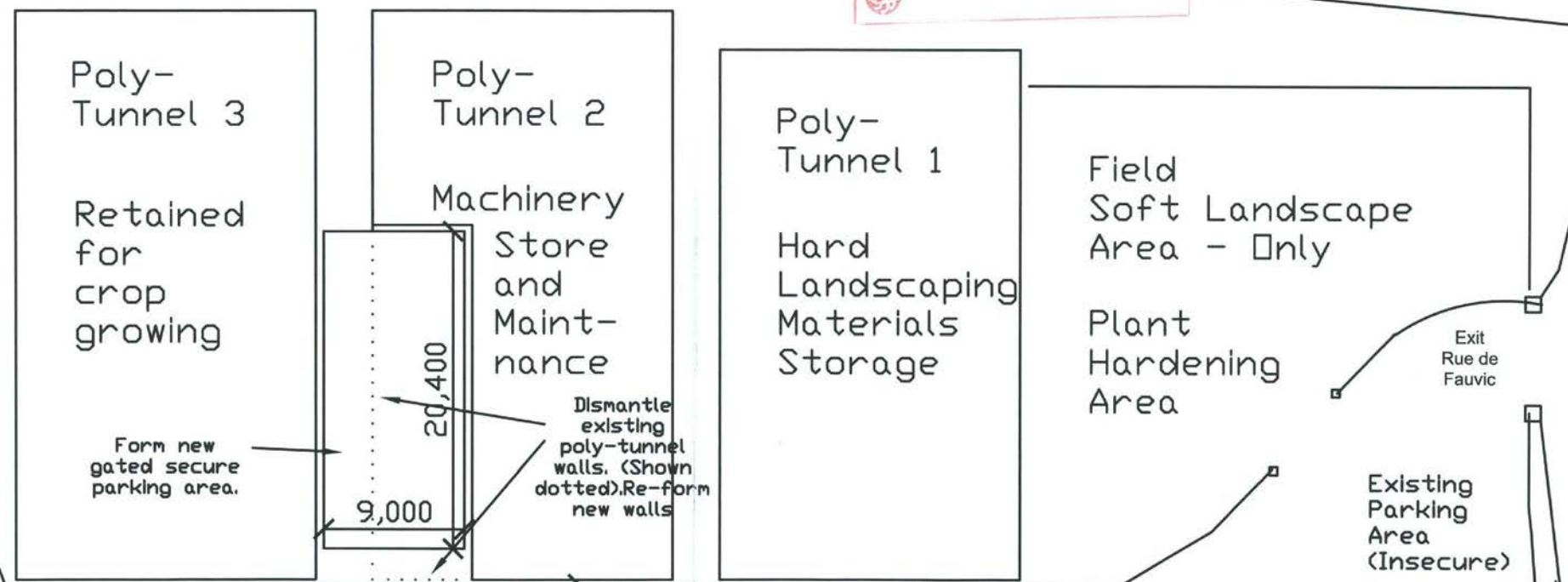
SCALE 1:2,500

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B.Stne.




Les Petits Sablons (Existing dwelling)

B.Stne.

A C C E S S R O A D

4,913

Itemref	Quantity	Title/Name, designation, material, dimension etc			Article No./Reference	
Designed by PJDR	Checked by	Approved by - date	File name	Date 20/04/2007	Scale 1:500 @ A3	
				Les Sablons Nurseries		
1				Edition 1	Sheet 1/1	