

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



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

ENFORCEMENT 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 40 of the Planning and Building (Jersey) Law 2002 because it appears that a breach of development controls has occurred 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:**

Without Planning Permission.

3.1 Hardstanding created and used for the parking of vehicles within the approved plant hardening field edged blue on the attached plan and indicated on Approved Drawing B from P/2007/1194.

3.2 Storage of landscaping materials, including a mound of topsoil, gravel, pallets, IBC containers and bags of soil within the approved plant hardening field edged blue on the attached plan and indicated on Approved Drawing B from P/2007/1194.

3.3 Polytunnels 1 and 3, as indicated on the attached Enforcement Notice plan are being used for the parking and/or storage of vehicles.

3.4 Hardstanding laid within polytunnel 1 and 2, as indicated on the attached Enforcement Notice Plan.

3.5 Siting of a blue shipping container within the approved plant hardening field edged blue on the attached plan and indicated on Approved Drawing B from P/2007/1194.

3.6 The siting of a storage container in between polytunnel 1 and 2, as indicated on the attached Enforcement Notice Plan.

4. **Reasons for Issuing this Notice:** It appears that the above Breaches of Development Controls have occurred within the last 8 years.

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.”

Upon discovery of the unauthorised works, the Department sought to engage with the landowner, in order to regularise a number of issues which represented a breach of the Planning and Building (Jersey) Law 2002.

The landowner engaged with an agent and after a joint visit between the Department, the landowner and his agent, the Department wrote to the landowner, stating the matters which amounted to a breach of development controls. It was agreed with the landowner that a retrospective application would be submitted, in order to attempt to regularise the breaches. A deadline of the 15th of February 2021 was set for this application to be submitted. No such application has been received by the Department.

Given the above, there is no planning consent in place for the matters which constitute the current breach of development controls.

The site was approved for use by a hard and soft landscaping business; however, the use of the site has changed over the years and has now been sub-let to other contractors. As a result of this, the current use of the site is considered to have exceeded its permitted limit and this different use is having an unreasonable and harmful impact upon the residential amenities of neighbouring properties and the character of the area. Additionally, the poor visibility afforded to vehicles exiting the site is considered to be a risk to the safety of highway users.

The Policy basis for the inclusion of each breach within this Notice is stated below.

- 4.1** The site is located within the Green Zone, wherein Policy NE7 sets a strong presumption against all forms of development, including the change of use of agricultural land and the laying of hardstanding to form parking for commercial and personal vehicles. Policy ERE1 also sets a presumption against the loss of agricultural land for any other purpose than agriculture. Policy GD1 seeks to protect the natural environment and ensure that development does not adversely impact the character of the countryside. For these reasons, this breach of development controls is considered to fail to satisfy the requirements of the relevant Policies of the 2011 Island Plan (Revised 2014).
- 4.2** The approved use of the area of field in question is for the raising and hardening of plants only. The site is located within the Green Zone, wherein Policy NE7 sets a strong presumption against all forms of development, including the change of use of agricultural land to provide commercial storage for waste materials and materials involved in the operation of a commercial landscaping business. Policy GD1 also seeks to protect the natural environment and ensure that development does not adversely impact the character of the countryside. In addition to the above, Policy ERE1 sets a presumption against the loss of agricultural land for any other purpose than agriculture. For these reasons, this breach of development controls is considered to fail to satisfy the requirements of the relevant Policies of the 2011 Island Plan (Revised 2014).
- 4.3** Polytunnel 1 on ‘Approved Drawing B’ of planning consent P/2007/1194 is approved for the storage of hard landscaping materials. Polytunnel 3 is only approved to be retained for the growing of crops. Given that the site is located within the Green Zone, Policy NE7 sets a strong presumption against all forms of development, including the change of use of land for the parking and/or storage of either commercial or personal vehicles. Policy ERE1 sets a presumption against the loss of agricultural land for any other purpose than agriculture. Policy GD1 also seeks to protect the natural environment and ensure that development does not adversely impact the character of

the countryside. Policy ERE7 also sets a presumption against the redevelopment of any derelict and redundant glasshouses. Whilst the polytunnels aren't completely redundant, they are in an unauthorised use and plainly are now redundant to agriculture/horticulture.

For these reasons, this breach of development controls is considered to fail to satisfy the requirements of the relevant Policies of the 2011 Island Plan (Revised 2014).

- 4.4** Polytunnel 1 on 'Approved Drawing B' of planning consent P/2007/1194 is approved for the storage of hard landscaping materials. Polytunnel 2 is approved for the storage and maintenance of machinery. Whilst it may be reasonable to expect that these approved uses may require some hardstanding, the laying of this concrete floor is not approved neither do the provisions of the Planning and Building (Jersey) General Development (Jersey) Order 2011 allow for this work to be carried out without express planning consent. Since the Department has neither received nor approved any such application, its removal is sought within this Enforcement Notice.
- 4.5** The siting of a shipping container within this area of field is not approved. The site is located within the Green Zone, wherein Policy NE7 sets a strong presumption against all forms of development, including the siting of shipping containers within agricultural land. Policy ERE1 also sets a presumption against the loss of agricultural land for any other purpose than agriculture. Policy GD1 seeks to protect the natural environment and ensure that development does not adversely impact the character of the countryside. The appearance of the container is considered to cause unreasonable harm to the visual amenity of the area. For these reasons, this breach of development controls is considered to fail to satisfy the requirements of the relevant Policies of the 2011 Island Plan (Revised 2014).
- 4.6** The siting of a shipping container within this area of field is not approved. The site is located within the Green Zone, wherein Policy NE7 sets a strong presumption against all forms of development, including the siting of shipping containers within agricultural land. Policy ERE1 also sets a presumption against the loss of agricultural land for any other purpose than agriculture. Policy GD1 seeks to protect the natural environment and ensure that development does not adversely impact the character of the countryside. The appearance of the container is considered to cause unreasonable harm to the visual amenity of the area. For these reasons, this breach of development controls is considered to fail to satisfy the requirements of the relevant Policies of the 2011 Island Plan (Revised 2014).

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

- 5.1** Remove from the land all the material used to construct the hard surfaced area to a minimum depth of 300mm. Cover the area with top soil levelled to the same gradient as the surrounding ground surface.
- 5.2** Within the area edged in blue on the attached Enforcement Notice Plan, remove all of the items specified above in point 3.2 and any other waste materials or materials used in the commercial operations of any of the operators of the site, other than plants which are being hardened.
- 5.3** Cease the unauthorised use of polytunnels 1 and 3 for the parking and storage of both commercial and private motor vehicles.
- 5.4** Remove from the land any materials used to construct the hard surfaced area that has been laid within polytunnels 1 and 3. Re-surface with topsoil so that the land may once again be used for agricultural or horticultural purposes in the future.

5.5 Remove from the site the blue storage container, located within the area edged in blue and remove any materials/ hardstanding that it may be sited upon.

5.6 Remove from the site the storage container that is located in between polytunnel 1 and 2, as indicated on the attached Enforcement Notice Plan.

6 Time for Compliance: You are required to have complied with this notice by the end of 3 calendar months commencing from the day that this notice is issued.

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.

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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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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APPROVED

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

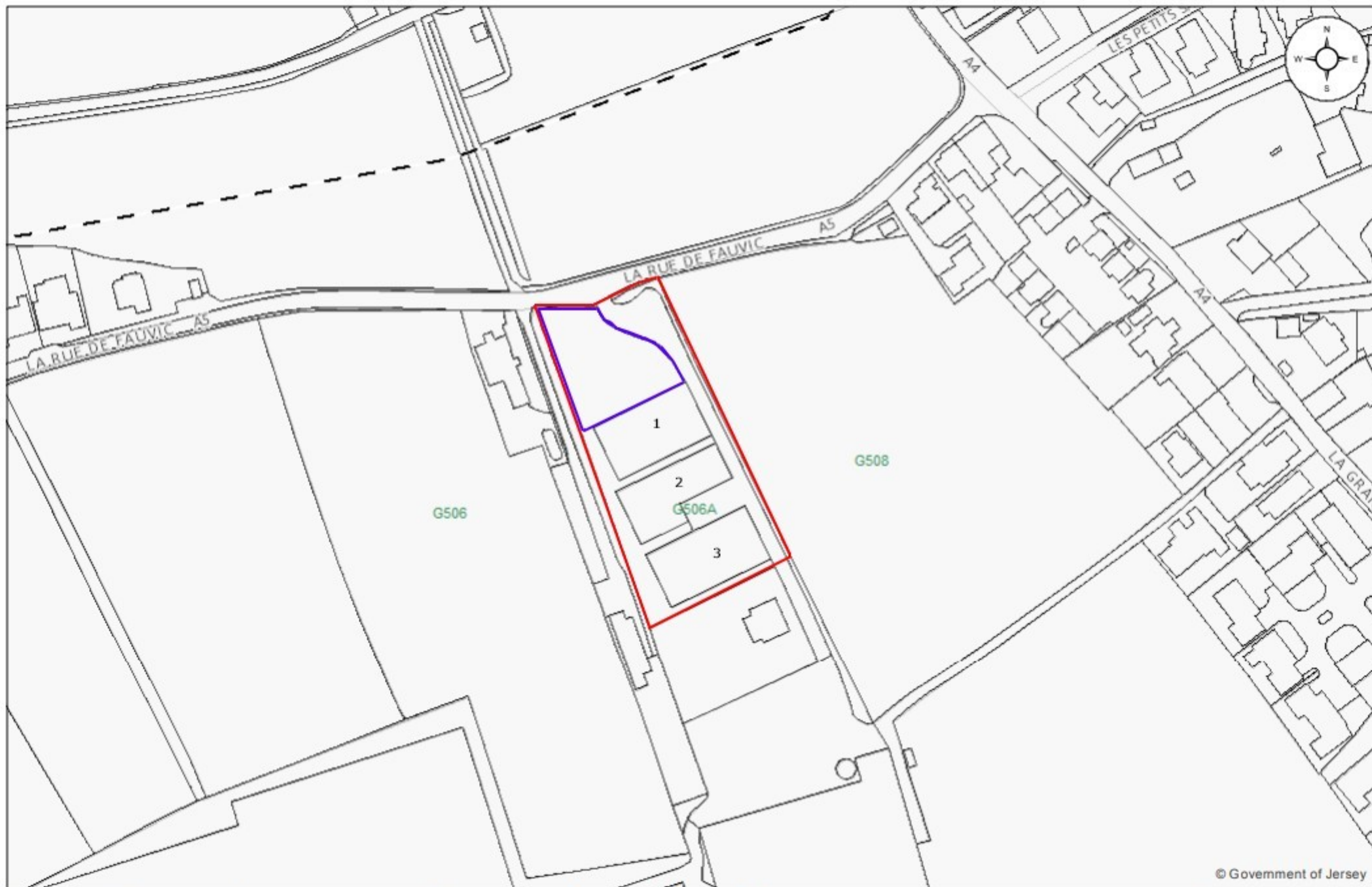
Director

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APPROVED



0 55 110 220 m

Date: 11/08/2021

Location Plan

SCALE 1:2,500

© Government of Jersey



Jersey
 Planning & Environment Department
APPROVED
 Date: 17 SEP 2007
 Application Type:
 Planning Permission
 TO CONDITIONS ENDORSED
 ON THE PERMIT

Application No. Drawing
P 2007 1194 B



B.Stne.

Poly-Tunnel 3

Retained for crop growing

Form new gated secure parking area.

Poly-Tunnel 2

Machinery Store and Maintenance

20,400

9,000

Dismantle existing poly-tunnel walls. (Shown dotted). Re-form new walls

Poly-Tunnel 1

Hard Landscaping Materials Storage

Field Soft Landscape Area - Only

Plant Hardening Area

Exit Rue de Fauvic


Existing Parking Area (Insecure)

A C C E S S R O A D

4,913

B.Stne.

Les Petits Sablons (Existing dwelling)

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	