

Island Plan interim review (1)

H1(8): Longueville Nurseries, St Saviour

Planning status

Arising from discussion on Day 2 of the Examination in Public at the session related to those sites proposed for rezoning to provide affordable homes, the Inspectors sought further information about the planning history of the Longueville Nursery site. This note sets out factual information relating to the planning history of the site and provides further information about the planning status of the site derived from correspondence about a development enquiry.

Longueville Nurseries was established by Mr Hamon in the early 1980's as a nursery for the production of trees and shrubs for sale by retail and wholesale and for the purposes of Mr Hamon's landscape gardening activity.

Several planning applications have been made by Mr Hamon over the years to improve and extend Longueville Nurseries in which the applicant has consistently described the use of the land as a 'nursery' or 'nursery and garden centre'. Although retailing has taken place within the garden centre structure it is clearly integral to the nursery and, therefore, ancillary to the approved nursery use. A nursery / garden centre use is not listed as a 'shop' use in the Use Class Order (Planning & Building Law (General Development) (Jersey) Order 2011, nor was the term used in any earlier version of the planning law, accordingly the use is regarded as sui generis.

In 2004, Mr Hamon wrote to the department giving a history of the business, stating that 'The very nature of garden centres has changed radically over the intervening period with far less plants being sold compared to assorted dry goods, gifts etc and in most cases all plants being bought in anyway.'

It is clear from Mr Hamon's description that his business model had changed and the use was predominantly retail, however, the original approved use of the land as a nursery / garden centre has not changed. Unlike the UK, the Jersey Planning Law makes no provision for established use and, therefore, the original approved use of the land still prevails.

A chronology of planning decisions made since the 1 January 1980 is attached in appendix A.

Recent advice provided by the Director of Development Control to the landowner's agent, MS Planning (see Appendix B,) in relation to a proposal to use the site for car sales, whilst supportive of the proposals, reinforces the view that the proposal would involve a change of use.

Appendix A

Since the 1 January 1980, the following decisions have been issued by the Minister for Planning and Environment:

Planning permission was granted in March 1980 for 'Part demolition of glasshouse and repair remaining, construct three bedroomed two-storey house' at 'Field 729, New York Lane, St Saviour'.

The following condition was among those attached to the approval:

That this approval is granted subject to main drainage being achieved to the satisfaction of the technical departments concerned.

Planning and building permission was granted in January 1981 for 'Demolish shed and erect sectional timber hut on existing foundation' at 'Field 729, New York Lane, St Saviour'.

Work was completed in February 1981.

Planning permission was granted in August 1981 for 'Erect 7 polythene tunnels each approximately 65' x 14'. Renovate glasshouse, form potting shed, service yard and access track onto Rue Messervy' at 'Field 729, New York Lane, St Saviour'.

The following condition was among those attached to the approval:

That details of surface water disposal are to be submitted to the Island Development Committee.

That in the event of the units falling into disrepair or disuse then they shall be removed from the site and the land reinstated to conventional agriculture use.

Planning permission was granted in February 1987 for 'Sectional timber shed as temporary office next to existing shop' at 'Field 729 & 740, New York Lane, St Saviour'.

The following conditions were among those attached to the approval:

That this permission is granted for a temporary period of two years only.

That should the shed fall into disuse or disrepair, then it shall be removed from the site.

Planning permission was granted in March 1988 for 'Erect five foot high timber fence and create single parking space on south side of garden' at 'Field 741A, New York Lane, St Saviour'.

A planning application for 'Demolish existing greenhouses and shed. Construct new nursery building with sales, stores, hire department and shop' at 'Longueville Nurseries, Fields 729 & 741A, New York Lane, St. Saviour' was refused in August 1989.

The following reason for refusal was attached to the decision notice:

That the proposal is contrary to Policy CO4 of the approved Island Plan because it involves a substantial extension to commercial premises in the Green Zone.

A planning application for 'Demolition of 2 existing sheds and construction of glass building to house garden centre including office and toilets' at 'Longueville Nurseries, Fields 729 & 741A, New York Lane, St. Saviour' was refused in July 1990.

The following reason for refusal was attached to the decision notice:

The proposed garden centre building is contrary to Policy CO4, of the Island Plan as it involves a substantial extension to the commercial premises in the Green Zone.

Planning permission was granted in October 1990 and planning and building permission was granted in April 1991 for 'Construct glass building to house garden centre including office and toilets' at 'Longueville Nurseries, New York Lane, St. Saviour' but was then superseded by a revised permit in July 1992 with the addition of revised plans showing 'Resiting of glasshouse. Office and W.C. layout revised'.

The following conditions were among those attached to the approval:

That should the glass garden centre building fall into disuse or disrepair, it shall be removed from the site and the land restored to the satisfaction of the Island Development Committee.

If any trees and shrubs planted in accordance with the approved landscaping scheme fail to survive within five years of planting they are to be replaced in the next planting season after failure with trees and shrubs of similar size and species to the satisfaction of the Planning and Environment Committee.

That any new or replacement signs shall be subject of a separate application.

Work was completed in May 1993.

Planning permission was granted in January 1993 for '2 illuminated signs' at 'Longueville Nurseries, New York Lane, St. Saviour'.

The following conditions were among those attached to the approval:

That all existing signs to the southern boundary of the site are removed prior to the erection of the new signs.

That the directional sign marked sign C on the plans is not approved due to its size and prominence within the Green Zone.

Planning permission was granted in February 1993 for '1 non-illuminated sign' at 'Longueville Nurseries, New York Lane, St. Saviour'.

The following condition was among those attached to the approval:

That the existing directional sign board is removed.

Planning permission was granted in February 1998 for 'Erection of single span polytunnel clad in polythene' at 'Field 729, New York Lane, St. Saviour'.

The following condition was among those attached to the approval:

That should the polytunnel fall into disuse or disrepair, it shall be removed from the site and the land restored to the satisfaction of the Planning and Environment Committee.

Planning and building permission was granted in July 1998 for 'Convert garage to study and existing bedroom to bathroom. Add balustrade to garage roof and new access to provide 1st floor balcony' at 'New York House, New York Lane, St. Saviour'.

The following condition was among those attached to the approval:

That all external materials to be used in the development shall match the appearance of those of the existing building to the satisfaction of the Planning and Environment Committee.

Work was completed in September 1999.

Planning permission was granted in March 1999 for 'Demolish existing shade canopy. Construct new shade canopy and five covered walkways' at 'Longueville Nurseries, New York Lane, St. Saviour'.

The following condition was among those attached to the approval:

Prior to the commencement of the development hereby permitted, a sample of the material to be used to cover the canopies shall be submitted to and agreed in writing with the Planning and Environment Committee.

Appendix B

Recent advice provided by the Director of DC to the landowner's agent MS Planning on proposed alternative use for the sale of motor vehicles.

Email from Mr P. Le Gresley, Director Development Control to Mr M Stein, MS Planning dated 11 April 2013.

'It is possible for the applicant to construct a case for the future use of the site for an alternative retail use. However, it will require careful justification in terms of the Island Plan policies and I think it would justify a full planning statement to accompany any planning application.

As you know the site lies within the green zone, wherein there is a general presumption against development. I know that you are familiar with the terms of policy NE7 so I will not repeat them here. The policy does contain some support for the re-use of existing buildings, notable at paragraphs 6 and (c). These paragraphs are not, however, specifically targeted at the type of development which you now propose (they more comfortably relate to uses which support the rural economy), but they do point to a principle which is helpful; that is, that existing buildings can be re-used. This is perhaps something you could refer to in your supporting planning statement, particularly if a change of use application were to show significant landscape improvements. The site does offer the potential to be tidied up and a package of measures could be an attractive catalyst for a different use of the site.

Also set out in the plan is policy ER10. Which presumes against the setting up of new retail uses outside the built-up area. No doubt you would seek to argue that the use for the sale of cars would not be 'new' but in fact a replacement for the existing garden centre use. This then goes to the heart of the other main hurdle to development on this site – the issue of the 'disuse and disrepair' condition on planning permission 9327/k. You will recall that I raised this with you in my email of 12th March this year. Although we somewhat skirted the matter during our site meeting, I think that this does represent an important issue which needs to be disposed of. Your client does have some choices in this matter. He could, for instance, seek to dispose of the condition by applying to remove it from the permit. Alternatively, he could deal with it as part of a larger application for a change of use to car retailing.

Regrettably at the time the condition was imposed, the department did not give reasons for the imposition of conditions on planning permissions. This leaves us in the position of having to guess at the reason for the Committee of the day adopting such a position. One could assume that, because the site was located in the Green Zone (in 1992, just as it is today), the Committee did not wish to see a permanent building located there. This assumption is further supported by the use of glass as the dominant material in the structure – it could have been used to give a temporary feel to the development, and one which is constructed of relatively low-cost material, appropriate to the use of the site as a garden centre. Whatever the reason, you will need to build a case that the existing building can still be used for a different purpose (other than a garden centre) and that this is appropriate on this site.

In terms of other Island Plan policies, your statement will need to demonstrate that the proposed use complies with policy E1 and also tackles the amenity considerations raised in policy GD1. You mention traffic in your email and I think it is sensible to provide some acknowledgment of that, which is also mentioned in paragraph 5 of policy GD1. Some assessment of traffic generation will be required. Finally, you should advise us of any change in surface material or landscaping which will be employed in the new use of the site.

In summary, and entirely without prejudice to the Minister's later consideration of a formal planning application, I can be cautiously optimistic of success for this proposal. There are two main issues which require careful justification and a well-argued supporting statement is a pre-requisite for an application such as this. There is some risk, of course, that the arguments put forward will not be successful and Mr Hamon should be cognisant of that before he takes the plunge. However, with the right package of environmental and landscape benefits, I think that there is potential for |Mr Hamon to move forward positively'.

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