ONLINE VERSION

THE LAND PLANNING AND DEVELOPMENT (GUERNSEY) LAW, 2005

AND SECTION 19 OF THE LAND PLANNING AND DEVELOPMENT (GENERAL PROVISIONS) ORDINANCE, 2007

NOTIFICATION OF REFUSAL OF PLANNING PERMISSION

PROPOSALS: Extend domestic curtilage and erect a double garage.

LOCATION: Le Grand Pre, St Andrews Road, St. Andrew.

APPLICANT: Mr & Mrs P Retz

I refer to the application referred to below received as valid on 19/02/2016 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 06/07/2016

Drawing Nos: ArcTech Freelance Architecture: PR-16-743-02C & 03

Application Ref: FULL/2016/0276

Property Ref: K00518A000

The Development & Planning Authority has decided to refuse your application under the provisions of section 16 of the Land Planning and Development (Guernsey) Law, 2005 for the following reasons:-

1. Rural Area Plan Policy RCE6 - Creation or extension of curtilages, criterion b) states that development to create or extend a curtilage will only be acceptable where it can be clearly demonstrated that the creation or extension of that curtilage would make a positive contribution to the visual quality, landscape character and environmental value of the area.

Although the change of use of the land to domestic curtilage is, with imposition of appropriate further controls, considered on balance to be potentially acceptable in principle, the siting of the proposed double garage within this open area of land to the north of the existing dwelling would result in a significant impact on the rural character and visual amenity of the area and the effective loss of an existing undeveloped and open area of land that makes a positive contribution to the character and visual amenity of the rural location.

Despite the proposed excavation and relatively shallow roof pitch, the proposed garage would be a substantial structure, with a footprint of 8m by 7m, and because of the topography of the land would be of greatest scale and impact on its two most prominent elevations, to the east and north, facing St Andrews Road. Hence, to the

north, the garage would rise by up to 4.2m above ground level to the ridge of the pitched roof, and to the east elevation, which is most prominent in public views, the roof ridge would be 4.4m above ground level.

Despite the proposed excavation, the positioning of the garage opposite (north) and detached from the main house on the highest part of the land emphasises its bulk and massing. The garage would be in an open area and not related closely to any existing built form. The erection of a garage in this location would as such be overly evident within its setting having a detrimental impact on visual amenity.

It is not considered that either the roof design or proposed landscaping would be adequate to successfully mitigate the detrimental visual impact of the proposed garage structure in the location proposed. The justification for the development in this location as submitted by the applicants and their advocate is not considered so compelling to outweigh the significant harm that would occur to the visual amenity and landscape character of the area.

The proposal is therefore considered contrary to Policy RCE6 (b) of the Rural Area Plan and unacceptably detrimental to the visual amenity and rural landscape character of the locality.

OTHER REMARKS:-

Right of appeal against planning decisions

Your attention is drawn to the provisions of Section 68(1) of the Land Planning and Development (Guernsey) Law 2005, which provides a right of appeal, against a decision to refuse an application for planning permission or outline planning permission to the Planning Tribunal on the merits. An appeal to the Planning Tribunal under section 68 of the Law against this decision must be made before the expiry of the period of six months beginning with the date on which the Authority made this decision.

Copy of representations made

In reaching this decision the Development & Planning Authority took into account any written consultations made under Section 11(1) of the Land Planning and Development (General Provisions) Ordinance, 2007 ('the Ordinance'). A copy of any consultation responses made to the Authority under section 11 will be included with this decision in accordance with section 19 of the Ordinance.

A J ROWLES
Director of Planning
Planning Service

States of Guernsey
Planning Service

PLANNING APPLICATION REPORT

Application No: FULL/2016/0276
Property Ref: K00518A000
Valid date: 19/02/2016
Location: Le Grand Pre St Andrews Road St. Andrew Guernsey GY6 8UL
Proposal: Extend domestic curtilage and erect a double garage.
Applicant: Mr & Mrs P Retz

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. Rural Area Plan Policy RCE6 - Creation or extension of curtilages, criterion b) states that development to create or extend a curtilage will only be acceptable where it can be clearly demonstrated that the creation or extension of that curtilage would make a positive contribution to the visual quality, landscape character and environmental value of the area.

Although the change of use of the land to domestic curtilage is, with imposition of appropriate further controls, considered on balance to be potentially acceptable in principle, the siting of the proposed double garage within this open area of land to the north of the existing dwelling would result in a significant impact on the rural character and visual amenity of the area and the effective loss of an existing undeveloped and open area of land that makes a positive contribution to the character and visual amenity of the rural location.

Despite the proposed excavation and relatively shallow roof pitch, the proposed garage would be a substantial structure, with a footprint of 8m by 7m, and because of the topography of the land would be of greatest scale and impact on its two most prominent elevations, to the east and north, facing St Andrews Road. Hence, to the north, the garage would rise by up to 4.2m above ground level to the ridge of the pitched roof, and to the east elevation, which is most prominent in public views, the roof ridge would be 4.4m above ground level.

Despite the proposed excavation, the positioning of the garage opposite (north) and detached from the main house on the highest part of the land emphasises its bulk and massing. The garage would be in an open area and not related closely to any existing built form. The erection of a garage in this location would as such be overly evident within its setting having a detrimental impact on visual amenity.

It is not considered that either the roof design or proposed landscaping would be adequate to successfully mitigate the detrimental visual impact of the proposed garage structure in the location proposed. The justification for the development in this location as submitted by the applicants and their advocate is not considered so compelling to

outweigh the significant harm that would occur to the visual amenity and landscape character of the area.

The proposal is therefore considered contrary to Policy RCE6 (b) of the Rural Area Plan and unacceptably detrimental to the visual amenity and rural landscape character of the locality.

OFFICER'S REPORT

Site Description:

The application site is situated to the south of and rises above St. Andrews Road. Part of the site is occupied by a detached dwelling. A steep drive leads up to the dwelling which is positioned on the southern part of the land. This property has limited garden area as agricultural land to the north of the site separates the domestic property from the road.

The application site is within a non-designated area as defined within the Rural Area Plan.

Relevant History:

PREA/2015/2743	Erect double garage.	Pre-app meeting 04/11/2015
PREA/2011/0856	Define domestic curtilage as identified under application number PAPP/2005/2157.	14/03/2011
PAPP/2005/2157	Extend and alter dwelling.	Permitted 01/08/2005

Existing Use(s):

Residential use class 1 and agricultural use class 44

Brief Description of Development:

The application is for the extension of domestic curtilage and the erection of a double garage within the enlarged curtilage. It is proposed to change the use of the whole of the agricultural land to the north to domestic curtilage, and the garage is proposed within this area.

The application was deferred following concerns in relation to the impact of the proposal on visual amenity and the open character and appearance of the land to the front, north, of the dwelling, between the dwelling and the road. The applicant was advised to re-consider the siting of the garage to a position either to the east or west of the dwelling or, if wishing to pursue the current proposal, to provide drawings of long sections through the garage and adjoining land to show the extent of

underbuilding/earthworks that would be required given the steeply sloping characteristics of this part of the land.

Additional section plans were received on 24th May along with a supporting letter. The letter states that the relocation of the garage from the position presently proposed is not possible and that the current proposed siting of the garage was carefully considered to take account of the context and topography of the site.

The letter, written by the applicants' advocate, notes the presence of the existing garage to the east of the dwelling but states that it is their client's intention to apply in the future to convert this to a dower unit and that in any case the size of the existing garage is limited. The site to the west, they note is the only flat area of amenity space for the house and location of the proposed garage in this position would negatively impact on the enjoyment of the property and result in the owner having to drive in front of the dwelling to access the garage. Furthermore, and although this is not a material planning consideration, reference is made to a covenant restricting the building of any structure north of the southern wall of the adjacent dwelling to the west formerly known as Le Courtil du Milieu.

The letter proceeds to state that on the basis of this, long section plans have been submitted and the garage has been located at a much lower with excavated ground level and a shallow pitched roof to follow the topography of the land when viewing the site from the public highway.

The letter highlights the main views as north-east/south-westerly direction and the design of the garage has been considered to respect the changes in level and height of existing structures. It is therefore concluded on behalf of the applicant that the development meets the required Rural Area Plan policies RGEN5, RGEN6, RCE1, RCE2 and RCE12.

Relevant Policies of any Plan, Subject Plan or Local Planning Brief:

RGEN6	Design
RCE6	Creation or extension of curtilages
RCE1	Protecting open land and avoiding unnecessary development
RH6	Extension and alterations to existing dwellings

Representations:

None

Consultations:

Commerce and Employment (Agriculture) - The area of land to the north of the dwelling house is clearly undeveloped open land. The total area of land is about 1 vergee 20 perch. The existing curtilage of the dwelling house appears to be about 20 perch and the area of agricultural land about 1 vergee in extent.

The owners of the property state that they purchased the land in 1988 and that it has not been used for agricultural purposes since that time. However, that might not necessarily have been the case if the property had been in another ownership. Whilst this area of agricultural land would not necessarily be suitable for mechanised agriculture it is of suitable size and quality to be used as grassland for small scale livestock, for horses, as an orchard or for vegetable growing, etc. Therefore, in different circumstances it could have been fenced and used for an agricultural purpose, such as the keeping of horses.

The land was not surveyed when the Soil and Land Evaluation of Guernsey was undertaken in 1988 but the land immediately adjacent to it was surveyed at that time and found to be Deep Loamy Soil and was classified as Grade 1 Excellent Quality Land in the Agricultural Land Classification. By extrapolation this land is also most likely to be excellent quality land.

Mr and Mrs Retz appear to suggest that a change of use and subsequent development of part of the land as a site for a large double garage building would provide a 'positive contribution to the visual quality, landscape character and environment'. They also suggest that there is a clear functional need for the provision of a new garage although there seems to have been a garage on the domestic curtilage of this property for many years. I could find no justification for these comments and would suggest that retaining the area as open undeveloped land, whether or not used at this time for agricultural purposes, is likely to be of greater merit than the development of a building on the site.

As a matter of policy the Commerce and Employment Department attempts to protect open agricultural land from development. As a consequence, the Agriculture and Rural Environment Section of Commerce and Employment could not support this application.

Summary of Issues:

Loss of agricultural land
Impact on visual amenity
Form, location, scale, design of the proposed garage
Impact on residential amenity

Assessment against:

1 - Purposes of the law.
2 - Relevant policies of any Plan, Subject Plan or Local Planning Brief.
3 - General material considerations set out in the General Provisions Ordinance.
4 - Additional considerations (for protected trees, monuments, buildings and/or SSS's).

The application is for two principal elements, the extension of the domestic curtilage to the north and east of the site and the erection of a detached double garage.

Extension of domestic curtilage

Rural Area Plan Policy RCE6 – Creation or extension of curtilages states: "*Proposals for development to create or extend a curtilage will only be permitted where there is a clear functional need and where they:*

a) would not result in the unacceptable loss or fragmentation of agricultural land or have an adverse effect on the viability of an agricultural holding;
b) can clearly be demonstrated to make a positive contribution to the visual quality, landscape character and environmental value of the area;
c) would not involve the unacceptable loss or repositioning of established boundary features; and,
d) would not adversely affect the reasonable amenity expectations of neighbouring residents."

The applicant has submitted a letter in support of the application for the extension of the domestic curtilage. It states that the title deeds for the property incorporate the land to the north, east and south-east. The topography of the land, proximity to the main road and its access has meant that the land has never been or will be used for agricultural purposes. The applicant notes that no changes have been made to boundary treatments or the land since their purchase of the property in 1988 and the current proposals would not involve the removal of any definitive boundary.

Whilst there is no issue in respect of the ownership of the land to the north, east and south-east by the applicants, the land is recognised as agricultural land within use class 44 and not domestic curtilage. The domestic curtilage of the property was clearly identified under application number PAPP/2005/2157 and is limited to the south east corner of the overall plot and the access driveway from St Andrew's Road. The remaining area of land within the applicants' ownership is recognised as agricultural land.

As part of the application process, consultation was carried out with the former Commerce and Employment Department and whilst it was noted by the Agriculture and Environment Adviser for that Department that the applicants may not have used the land for agricultural purposes since owning the site, this doesn't preclude the potential use of the site for agricultural purposes. Although acknowledged that the land would be unsuitable for mechanised agriculture it is of a suitable scale to accommodate livestock, for horses or as an orchard or for vegetable growing. The former Commerce and Employment Department noted the applicants' comments that the application for change of use and the erection of a large double garage would provide a 'positive contribution to the visual quality, landscape character and environment' but concluded that the statement is unjustified and that retaining the area as open undeveloped land, whether or not used for agricultural purposes, would likely be of greater merit than the development of a building on site. As such, and given the policy to protect open agricultural land from development, the application was not supported by the former Commerce and Employment Department.

However, from the land use planning perspective, and having regard to the views of the former Commerce and Employment Department on the application, it is the proposed building of a substantial double garage structure on the land which raises the most

concerns in respect to the erosion of the open character and appearance of the land, and not *per se* the loss of agricultural land.

To explain this statement; the land rises steeply from the road and due to the topography, size and configuration of the land it would be limited in its practical use for most agricultural purposes. Additionally, access to the land is limited to the existing domestic driveway; roadside hedging and an earth bank separate the land from the road and it would be impractical to create an additional access from the main road. However, notwithstanding these comments, the site does have significant value in terms of its open character and contribution to providing visual relief within the rural environment before encountering the ribbon development of housing beyond, as such whilst there would, on balance, be no overriding objection in principle to the loss of this land for agricultural purposes and its change to domestic curtilage, were planning permission for such change of use granted it would inevitably be subject of specific controls over built development within this area, to protect the open and undeveloped character and appearance of the land.

In light of the significant contribution to the visual amenity of the area, therefore, conditions limiting exemption rights for structures, walls, fences and earth banks would be reasonable and justified.

Erection of the garage

As identified above, the undeveloped land to the north of the dwelling significantly contributes to the openness of the area and to the rural character of the locality. The land is particularly prominent in public views from St Andrews Road when travelling east to west due to the significant rise in ground level from the road.

The application proposes the erection of a detached double garage positioned adjacent to the existing driveway to the north of the dwelling. The front of the garage would be positioned on the highest part of the land, however given the changes in levels the ground under the rear of the garage drops away resulting in a 1.5m – 2m difference in ground levels between the front and rear elevations of the proposed garage. The additional section plans submitted in response to the deferral indicate that in order to overcome this substantial difference in ground level excavation would be undertaken to avoid providing a substantial underbuilding to the north section of the garage as previously proposed.

Although this solution would result in the ridge height of the building being lower than that previously proposed, in order to ensure that access to the garage is possible excavation would be required from the edge of the existing driveway into the site to the north culminating in a 1m lowering of the ground level and a significant change in the topography and contours of the existing landscape.

Although the garage would, with the proposed excavation, be 1m lower in height than that originally proposed, the structure would still project by at least 3.5m above the existing ground level and despite the roof being designed to slope away east to west, which the agent considers helps blend the development with the existing topography,

when viewed from outside of the site, the garage would be significantly prominent as a substantial and visually intrusive feature within the existing open area.

Despite the proposed excavation and relatively shallow roof pitch, the proposed garage would still be a substantial structure, with a footprint of 8m by 7m, and because of the topography of the land would be of greatest scale and impact on its two most prominent elevations, to the east and north, facing St Andrews Road. Hence, to the north, the garage would rise by up to 4.2m above ground level to the ridge of the roof, and to the east elevation, which is most prominent in public views, the roof ridge would be 4.4m above ground level.

Despite the proposed excavation, the positioning of the garage opposite (north) and detached from the main house therefore emphasises its bulk and massing. The garage would be in an open area and not related closely to any existing built form. The erection of a garage in this location would as such be overly evident within its setting having a detrimental impact on visual amenity.

It is noted that landscaping is proposed to the north and east elevations of the garage and the applicants and their agents state within their letters that the roof slope of the garage has been designed to accord with the gradient of the land so that the structure sits more sympathetically in its setting and that the topography provides sufficient shelter of the structure from public views. However, it is not considered that either the roof design or proposed landscaping would be adequate to successfully mitigate the detrimental visual impact of the proposed garage structure in the location proposed. The proposed garage due to its siting, scale, massing and form would result in the development of an otherwise open, prominent area of land which would be further emphasised by the significant changes in ground level. The erection of a garage in this location would therefore have a detrimental impact on the rural character and visual amenity of the area resulting from the development of this area of presently open, agricultural land.

Although the contents of the letter submitted by the agents are noted in relation to the revised siting of the garage, it is not considered that the justification for a garage to be located in this position is outweighed by the significant harm that would be caused to the visual amenity of the area and the impact on the landscape character through the unnecessary development of this open land. The siting of the garage to either the east or west of the dwelling would be feasible and although if sited to the west it would result in the need for additional hard standing and cars driving to the front of the house it is not considered that this is so detrimental to the applicants' amenity to outweigh the harm to character and amenity that would be caused through the current proposed siting. Additionally the loss of an area of existing amenity space would be mitigated through the granting of consent for an extension of the existing domestic curtilage, which would provide a much larger garden area for the property. The justification as submitted is therefore not considered so compelling to outweigh the significant harm that would occur to the visual amenity and landscape character of the area.

The application has been assessed in light of the relevant adopted planning policies, purposes of the Law and the relevant material planning considerations and whilst it is

considered, subject to controls on future development that the change of use of the land from agriculture to domestic curtilage could potentially and on balance be justified for the reasons described above, the erection of a garage in the position currently proposed is not considered acceptable as such development would have a detrimental impact on the rural character and visual amenity of the locality and result in the effective loss of an open and undeveloped area of land to the north of the existing dwelling. It is on this basis therefore that the application is recommended for refusal.

Date: 6th July 2016