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THE LAND PLANNING AND DEVELOPMENT (GUERNSEY) LAW, 2005

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

NOTIFICATION OF GRANT OF PLANNING PERMISSION

PROPOSALS: Change of use of agricultural land to domestic garden and erect gate.

LOCATION: Santa Maura, Rue Des Crabbes, St. Saviour.

APPLICANT: Mr I McKellar

This permission is granted under the terms of Sections 15 and 16 of the Land Planning and Development (Guernsey) Law, 2005 (the 'Law').

Date of Grant of Permission: 18/06/2019

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 13/05/2019 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Lovell Ozanne & Partners - AA19-10287-S1-11 Rev A.

Application Ref: FULL/2019/0935

Property Ref: E011430000

Conditions and reasons:-

1.All development authorised by this permission must be carried out and must be completed in every detail in accordance with the written application, plans and drawings referred to above. No variations to such development amounting to development may be made without the permission of the Authority under the Law.

Reason - To ensure that it is clear that permission is only granted for the development to which the application relates.

2.The development hereby permitted shall be begun within 3 years from the date of grant of this permission.

Reason - This condition reflects section 18(1) of the Land Planning and Development (Guernsey) Law, 2005 which states that planning permission ceases to have effect unless development is commenced within 3 years of the date of grant (or such shorter

period as may be specified in the permission).

3.Notwithstanding the provisions of the Land Planning and Development (Exemptions) Ordinance, 2007 (or any other Ordinance replacing or re-enacting that Ordinance), no gate, fence, wall or other means of enclosure (other than earth banks) shall be erected, constructed or placed along the north and west boundaries of the domestic garden hereby approved.

Reason - In view of the location of the site in relation to wider areas of open and undeveloped land, the erection of such structures as 'exempt development' may have an adverse impact on the character and appearance of the locality. This condition is imposed to make sure that any proposals can be properly considered.

Expiry Date: This permission will cease to have effect on 17/06/2022 unless development is commenced by that date.

ADVICE AND OTHER REMARKS:-

Effect of planning permission:

Section 18 of the Land Planning and Development (Guernsey) Law, 2005 ('the Law') defines the effect of the planning permission hereby granted, namely:

(1) Planning permission ceases to have effect unless the development permitted by it is commenced within a period of three years immediately following the date on which it is granted (or such shorter period as may be specified in the permission).

(2) Planning permission enures for the benefit of the land concerned and of every person for the time being having an interest in it.

(3) Any conditions subject to which planning permission is issued are enforceable in accordance with the provisions of Part V of the Law.

(4) Planning permission for the erection of a building is only permission to use it for the purpose specified in the permission or, subject to any restriction so specified, for any other purpose for which it is designed.

(5) Planning permission is only permission to carry out the development specified in it (subject to any conditions so specified), and does not imply the giving of any other approval or consent required under this Law or any other enactment or under any rule of law.

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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, on the merits against a decision to grant planning permission subject to conditions (except a building condition), to the Planning Tribunal, which is independent of the States of Guernsey. 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. The official Appeal Notice Forms are available on the States of Guernsey website at www.gov.gg/planningpanel and must be completed with all enclosures in multiples as requested and received within the six months deadline.

Copy of representations made:

In reaching this decision the 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 under section 11 will be included with this decision in accordance with section 19 of the Ordinance.

Other Remarks:

Please note that any work which abuts or affects the public highway requires prior approval by Traffic and Highway Services. Please contact Traffic & Highway Services (highways@gov.gg) for further advice. You must also ensure that any access/es to the development are constructed to meet the existing road/footway levels in accordance with their requirements.

This document is not a Building Licence and confers no approval under the Building Regulations.

A separate Building Control Licence may be required and it is the responsibility of the developer to ensure that ALL necessary consents are obtained and that any pre-commencement conditions are discharged prior to development being commenced.

A J ROWLES
Director of Planning
Planning Service

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States of Guernsey
Planning Service

PLANNING APPLICATION REPORT

Application No:	FULL/2019/0935
Property Ref:	E011430000
Valid date:	13/05/2019
Location:	Santa Maura Rue Des Crabbes St. Saviour Guernsey GY7 9QL
Proposal:	Change of use of agricultural land to domestic garden and erect gate.
Applicant:	Mr I McKellar

RECOMMENDATION - Grant: Planning Permission with Conditions:

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1. All development authorised by this permission must be carried out and must be completed in every detail in accordance with the written application, plans and drawings referred to above. No variations to such development amounting to development may be made without the permission of the Authority under the Law.

Reason - To ensure that it is clear that permission is only granted for the development to which the application relates.

2. The development hereby permitted shall be begun within 3 years from the date of grant of this permission.

Reason - This condition reflects section 18(1) of the Land Planning and Development (Guernsey) Law, 2005 which states that planning permission ceases to have effect unless development is commenced within 3 years of the date of grant (or such shorter period as may be specified in the permission).

3. Notwithstanding the provisions of the Land Planning and Development (Exemptions) Ordinance, 2007 (or any other Ordinance replacing or re-enacting that Ordinance), no gate, fence, wall or other means of enclosure (other than earth banks) shall be erected, constructed or placed along the north and west boundaries of the domestic garden hereby approved.

Reason - In view of the location of the site in relation to wider areas of open and undeveloped land, the erection of such structures as 'exempt development' may have an adverse impact on the character and appearance of the locality. This condition is imposed to make sure that any proposals can be properly considered.

OFFICER'S REPORT

Site Description:

Santa Maura is a detached dwelling located to the north of Rue Des Crabbes. A large glasshouse is situated to the north of the dwelling and land to the east and west is open and undeveloped agricultural land.

The site is located Outside of the Centres as designated in the Island Development Plan. An Agriculture Priority Area is situated to the south of Rue Des Crabbes.

Relevant History:

Pre-application advice was sought in this case.

Existing Use(s):

01 dwellinghouse
28 agriculture

Brief Description of Development:

Planning permission is sought for the change of use of agricultural land to domestic garden. This includes the removal of the existing glasshouse and the inclusion of an area of land to the north, west and east within the garden of Santa Maura. A planting zone is proposed along the north boundary of the proposed domestic garden.

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

Island Development Plan policies:

OC5(B): Agriculture Outside of the Centres – Outside the Agriculture Priority Areas
GP15: Creation and Extension of Curtilage
GP1: Landscape Character and Open Land

Representations:

Paroisse de Saint Sauveur – comment as follows:

- It is positive that a derelict greenhouse will be removed and that soft landscaping will be introduced
- There are numerous streams in the area that are not noted on the plans and Guernsey Water may have comments to make concerning the impact of the proposal on the streams

- The change of use of land appears excessive and there is concern regarding future development on the land. It is requested that appropriate planning conditions are imposed to limit future development

Two letters of representation has been submitted objecting to the application on the grounds that the proposal is a pity, farming is hard enough without the loss of a usable area (8 vergees) of agricultural/grazing land and the proposal would be contrary to the focus on protecting wildlife habitats. Concerns were also raised regarding this setting a precedent for other, similar applications.

Consultations:

None.

Summary of Issues:

The key issues in this case relate to principle of the proposed change of use of land and its likely effect on the character and amenity of the locality and the potential impact on residential amenity.

Assessment against:

1 - Purposes of the law.

The objectives set out in Section 1(2) of The Land Planning and Development (Guernsey) Law, 2005, 'the Law', have been considered and this report forms part of the assessment, with policy issues set out in Section 2 below.

2 - Relevant policies of any Plan, Subject Plan or Local Planning Brief.

Policy OC5(B): Agriculture Outside of the Centres – Outside the Agriculture Priority Areas sets out that there is support for the loss of an existing farmstead, agricultural building or land where the new use accords other relevant planning policies in the Island Development Plan. This provides a policy gateway for the change of use proposed.

The IDP recognises that agriculture plays a relatively small part in Guernsey's economy but is valuable for its land management function protecting and enhancing the countryside and providing visual access to open space.

The Strategic Land Use Plan requires a balance to be made between the protection of land for agriculture for the industry's current and future needs and recognising the role it plays in countryside management with ensuring land is available to meet other legitimate development requirements. The Island Development Plan has therefore identified large areas of contiguous agricultural land, and other areas well related to established agricultural operations, which represent Guernsey's most

valuable agricultural land. These have been identified as Agriculture Priority Areas (APA).

Policy GP15: Creation and Extension of Curtilage outlines that such proposals will be supported where the change of use will not have a detrimental impact on the landscape character of the area. The following criteria must each be considered in connection with an application for the change of use of land:

a. *it would not have an unacceptable detrimental impact on the landscape character; and,*
b. *it would not have an unacceptable impact on the biodiversity interest of an Area of Biodiversity Importance or, where negative impacts are unavoidable, they can be acceptably mitigated in accordance with a scheme to be agreed with the Authority in accordance with Policy GP3: Areas of Biodiversity Importance; and,*
c. *it is demonstrated that the land cannot positively contribute to the commercial agricultural use of an Agriculture Priority Area or cannot practicably be used for commercial agriculture within an Agriculture Priority Area without unacceptable adverse environmental impacts; and,*
d. *it is demonstrated that it would not involve an unacceptable loss of established boundary features that contribute positively to the character of an area, unless the new or replacement boundary treatment makes an equal or enhanced positive contribution to the character of the area; and,*
e. *it would not adversely affect the reasonable amenities of neighbouring residents.*

The area of land is well associated with the existing dwelling, Santa Maura, and is not located within an Agriculture Priority Area. The outer boundaries (west and east) of the site are clearly defined and new planting is proposed along the north boundary to define the area of domestic garden. This is a matter that can be controlled by planning condition. The application does not require or identify that any established boundary features are to be removed in connection with the change of use of the land and the land is not identified as being situated within an Area of Biodiversity Importance. The land is situated adjacent to Rue Des Crabbes with an earthbank and trees along the roadside boundary.

The Island Development Plan recognises there is a balance between protecting open and agricultural land and other legitimate uses Outside of the Centres. The designation of the Agriculture Priority Area represents the Island's most valuable agricultural area. In this instance, given that the land is outside of the Agriculture Priority Area, the balance would not be towards protecting this land for agricultural purposes.

With regard to the impact on neighbouring properties, the proposal involves a change of use of an area of land to be included and managed as part of the residential curtilage and given the location of the land in relation to neighbouring residential properties and that adequate boundary screening separates the land from the neighbouring properties, the proposed change of use would not of itself have an adverse impact on or affect their amenities.

It is considered that the change of use would accord with Policy GP15 a)- e) and provided that the proposal accords with all other relevant policies of the IDP, the principle of change of use to domestic curtilage is considered to be acceptable in this particular location.

Policy GP1: Landscape Character and Open Land seeks to ensure that proposals do not result in the unacceptable loss of distinctive features that contribute to the wider landscape character and the local distinctiveness of the area.

Although the site is undeveloped, given its setting, with established and proposed site boundaries the proposal would not undermine the wider landscape character or the openness of the area.

The comments and concerns regarding future development of the site are noted. As domestic garden normal householder exemption rights would apply and it is reasonable to assess whether it is appropriate for any exemption rights to be removed in order to preserve the character and appearance of the locality or to protect residential amenity.

The property currently benefits from a detached outbuilding to the east and a proportion of the land to the east and west of the property would be forward of an elevation of the dwellinghouse facing a highway and as a result it is not considered necessary to remove exemption rights relating to garden structures, sheds, garages/other outbuildings, or glasshouses. The erection of such exempt structures, set back from the road would not have an unacceptable adverse impact on the character and appearance of the locality and would not result in unacceptable harm to the amenities enjoyed by the occupiers of the dwelling to the east.

It is also concluded that the installation of hardstanding, a domestic fuel container, cesspit/soakaway, swimming or other pool, flag pole or caravan in accordance with the exemptions set out in The Land Planning and Development (Exemptions) Ordinance, 2007 would not have a detrimental impact on the character and appearance of the area or on residential amenity.

Land to the north and west of the site is largely open and visible from the wider area and the construction of high fences and walls along the north and west site boundaries within domestic garden would ordinarily not require planning permission. Such works could have an unacceptable impact on the landscape character of the area and should therefore be fully considered as part of the assessment of a planning application should the site owners consider such alterations necessary and as such this exemption right should be removed.

In view of the above it is recommended that planning permission is granted for the change of use of land proposed.

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3 - General material considerations set out in the General Provisions Ordinance.

In addition to the consideration of policy issues, Section 13 of the Land Planning and Development (General Provisions) Ordinance, 2007 identifies other material planning considerations which could be relevant. These include; the appropriateness of the development in relation to its surroundings in terms of design, layout, scale, siting and materials; the likely effect on the character and amenity of the locality; any possible fall-back position by way of extant planning permissions or exempt development; the likely effect on the reasonable enjoyment of neighbouring properties. These issues where relevant are considered above.

4 - Additional considerations (for protected trees, monuments, buildings and/or SSS's).

The proposal would have no adverse impact on protected trees, buildings or sites.

Date: 11 June 2019

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