

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: Change of use of agricultural land to domestic garden (2,503sqm).

LOCATION: Janick, La Route De La Charruee, Castel.

APPLICANT: Mr & Mrs N Vining

I refer to the application referred to below received as valid on 03/08/2021 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 23/02/2022

Drawing Nos: Torode drawing no: 5076-06A

Application Ref: FULL/2021/1556

Property Ref: D017260000

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. The land the subject of this application forms the western half of a larger field which provides a break in the ribbon development of properties along the highways and is visually prominent from the public highway to the south, west and north-east. The proposal would result in a significant incursion beyond the extent of the existing residential properties along Route de La Charruee and would in effect close the existing gap between the ribbon development of properties along Route de La Charruee to the east and west and between properties along Route de La Charruee and properties along Ruelle des Forfaitures to the north, to the detriment of the landscape character of the area. In addition, there are concerns that the domestication of this land would adversely affect the landscape character and openness, for example through the introduction of domestic paraphernalia. In this case the requirements to ensure the protection of open land and landscape character outweighs the reasonable expectations of the landowner to incorporate additional land into the curtilage of the adjoining dwelling. The proposal is contrary to Policies GP15(a) and GP1.

2. The land is gently sloping to the north and north-east with a suitable vehicular access for agricultural vehicles. Together with adjoining agricultural land to the east the application site provides a link between two large swathes of agricultural land to the north-east and south-west. No information has been submitted to demonstrate that the land could not be used for commercial agriculture. The loss of this parcel of land would have a detrimental effect on the potential use of the remaining eastern half of the field and it would fragment and separate the large swathes of agricultural land to the north-east and south-west from one another. The land could be used for commercial agricultural use by itself or in conjunction with adjoining agricultural land. It has not been 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 therefore the proposal is contrary to Policies GP15(c) and OC5(A).

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

Application No: FULL/2021/1556
Property Ref: D017260000
Valid date: 03/08/2021
Location: Janick La Route De La Charruee Castel Guernsey GY5 7XP
Proposal: Change of use of agricultural land to domestic garden (2,503sqm).
Applicant: Mr & Mrs N Vining

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The land the subject of this application forms the western half of a larger field which provides a break in the ribbon development of properties along the highways and is visually prominent from the public highway to the south, west and north-east. The proposal would result in a significant incursion beyond the extent of the existing residential properties along Route de La Charruee and would in effect close the existing gap between the ribbon development of properties along Route de La Charruee to the east and west and between properties along Route de La Charruee and properties along Ruelle des Forfaitures to the north, to the detriment of the landscape character of the area. In addition, there are concerns that the domestication of this land would adversely affect the landscape character and openness, for example through the introduction of domestic paraphernalia. In this case the requirements to ensure the protection of open land and landscape character outweighs the reasonable expectations of the landowner to incorporate additional land into the curtilage of the adjoining dwelling. The proposal is contrary to Policies GP15(a) and GP1.

2. The land is gently sloping to the north and north-east with a suitable vehicular access for agricultural vehicles. Together with adjoining agricultural land to the east the application site provides a link between two large swathes of agricultural land to the north-east and south-west. No information has been submitted to demonstrate that the land could not be used for commercial agriculture. The loss of this parcel of land would have a detrimental effect on the potential use of the remaining eastern half of the field and it would fragment and separate the large swathes of agricultural land to the north-east and south-west from one another. The land could be used for commercial agricultural use by itself or in conjunction with adjoining agricultural land. It has not been 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 therefore the proposal is contrary to Policies GP15(c) and OC5(A).

OFFICER'S REPORT

Site Description:

The application site contains a former barn which has recently been converted into a dwelling in the south-east corner and faces onto Route de La Charruee to the south. The remainder of the site, measuring 2,503sqm, is recognised as agricultural land and is laid to grass and gently slopes downwards to the north and north-east. The exterior of the dwelling is a protected building. The site forms the corner of the junction between Route de La Charruee and Ruelle des Forfaitures.

The agricultural land forms part of a larger field which appears to have been subdivided through separate ownership although there is no physical boundary dividing the field. The area is predominantly of a semi-rural character with considerable ribbon developments and pockets of residential properties along Route de La Charruee which are interspersed by undeveloped/agricultural land. Smaller lanes in the area also include ribbon developments of residential properties but they have a higher proportion of undeveloped/agricultural land which gives a more rural feel along the smaller lanes.

The site is situated Outside of the Centres and within the Agriculture Priority Area as designated in the Island Development Plan.

Relevant History:

29/06/2016 – FULL/2016/1277 – Permission granted to erect garage to front of property (revised).

30/03/2015 – FULL/2014/3522 – Permission granted to convert and extend existing barn into dwelling.

Existing Use(s):

Agricultural use class 28

Residential use class 1: dwelling house

Brief Description of Development:

Planning permission is requested to change the use of a parcel of agricultural land measuring 2,503sqm to domestic garden in association with the dwelling Janick.

The application is accompanied by a letter from the agent which advises that their client has tried to rent out the field for agricultural use with no interest. It is advised that the field is too small for viable agricultural use, much of it is marshland at its northern end during the winter months and the grass is cut only 3 times a year and is becoming unsightly.

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

Policy OC5(A): Agriculture Outside of the Centres – within the Agriculture Priority Areas

Policy GP1: Landscape Character and Open Land

Policy GP15: Creation and Extension of Curtilage

Representations:

Two letters of representation were received, main points as follows:

- A representation on behalf of the National Trust of Guernsey raises objections to such a large area of agricultural land being changed to domestic curtilage. It is noted that the land in question sits immediately adjacent to a similarly sized plot of agricultural land to the east and is strongly associated by proximity to the large field to the south. The intention of the policy in the IDP was to facilitate the 'tidying up' of redundant glasshouse land and isolated agricultural holdings that did not form viable entities and could not be amalgamated or linked with other holdings to make them so. The current pattern appears to be the general parcelling up of agricultural land for the expansion of gentrified gardens, which is leading to the erosion of the stock of viable agricultural land, contrary to the intentions of the IDP and the Strategic Land use Plan.
- A representation on behalf of La Société Guernesiaise advises that they accept that the area of land is not viable for commercial agriculture. They note that the Planning Service has recently introduced a requirement for applications to demonstrate net ecological gains and if such information has been provided it is recommended that it is independently assessed in order to ensure that it is accurate, feasible and appropriate. It is recommended that should the application be approved, planning conditions are applied to prevent any development of the land in the long term.

Consultations:

None

Summary of Issues:

The main issues in deciding this application are the impact on the landscape character and openness of the area and the loss of agricultural land within an Agriculture Priority Area.

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 proposal to change the use of the land to a domestic use falls to be considered principally under Policies OC5(A), GP15 and GP1 of the Island Development Plan.

The site is not within an Area of Biodiversity Importance and the application was submitted prior to September 2021 and is therefore not required to demonstrate an ecological enhancement. No changes to the existing boundaries are proposed and the proposed use of the land for domestic purposes would have no adverse effects on neighbouring residents.

Impact on the landscape character and openness of the area

Paragraph 19.16.3 of Policy GP15 refers to the intentions of the Strategic Land Use Plan, where it is considered that whilst the domestication of the landscape generally runs counter to the desire to preserve the local character of our landscapes, “minor shifts in the management style of small parcels of land not forming part of larger areas of open land and not visually prominent will not fundamentally alter the character of the Island”.

Paragraph 19.16.7 acknowledges that “competition for land can occur when a residential use adjoins an open area of land and the householder would like to incorporate some of that open land within the domestic curtilage of the residential property” and that “in these instances there will be a balance to be struck between ensuring the reasonable protection of open land and the requirements of the agricultural industry and the reasonable expectations of landowners to add new or additional land to the curtilage around a building. An assessment of proposals will take into account the impact on the wider areas of open landscape and Agriculture Priority Areas”.

Paragraph 19.16.8 states that “the character and openness of the landscape can be affected by the introduction or intensification of ancillary fixtures and features, such as car parking, bin storage areas or boundary treatments. It can also change as a result of physical change to landscape features, such as hedges or earth banks. Care should be taken to ensure that proposals to create or extend a curtilage do not result in the removal or introduction of features that would detract from the character or distinctiveness of an area”.

With regards to the impact on the landscape character and openness of the area, Policy GP1 also requires consideration as to whether the proposal would result in the unnecessary loss of open and undeveloped land, which would have an unacceptable impact on the open landscape character of the area; whether the proposal respects the landscape character type within which it is set; and whether the proposal would result in the unacceptable loss of distinctive features that contribute to the wider landscape character and local distinctiveness of the area.

Paragraph 19.2.12 of Policy GP1 sets out that “care will be taken to ensure that development does not result in the unnecessary loss of open space or erosion of the character of the particular landscape of the locality concerned”. It goes on to state that “the value of the landscape and open and undeveloped land will be required to be assessed in a wider context rather than in terms of the impact development might have on an individual site. Development that affects landscape character or distinctive

natural or built features will be considered in the wider context of the landscape value of a particular locality. In assessing development proposals, the Authority will balance the character of the locality concerned with the aspirations for development as set out above”.

With regards to the loss of distinctive features that contribute to the wider landscape character and the local distinctiveness of the area, paragraph 19.2.5 sets out that “an important contribution to the landscape character of an area is made by the particular features within them. Such distinctive features include boundary treatments, historic field patterns, trees and natural landscaping and are important elements in defining an area’s local distinctiveness”.

In this case, the land the subject of this application is located within the Lowland Central Plain landscape character type as identified in Annex V of the Island Development Plan. Annex V sets out that the Central Plain “forms something of an intermediate level between the Wetland areas to the north and east, and the Upland Plateau of the high parishes to the south. The character of the area is of gently undulating landforms with some fairly densely wooded tracts, but has been considerably impacted on by mid-to-late twentieth century development”.

The land forming the subject of this application is a parcel of undeveloped/agricultural land which slopes gently downwards to the north and north-east and forms the western half of a larger field which appears to have been subdivided through separate ownership although there is no physical boundary dividing the field. By itself and in conjunction with other neighbouring fields, the land forms a break in the ribbon development of properties along the highways. By virtue of the low earth banks bordering the application site to the south and north-east and the relative ground levels of the land and the adjacent highway which enables brief viewpoints over the wall in sections along the west boundary, the land is visually prominent from the public highway to the south, west and north-east, with views extending across the site and across the adjoining undeveloped/agricultural land to the east.

The proposal would result in a significant incursion beyond the extent of the existing residential properties along Route de La Charruee and would in effect close the existing gap between the ribbon development of properties along Route de La Charruee to the east and west and between properties along Route de La Charruee and properties along Ruelle des Forfaitures to the north, to the detriment of the landscape character of the area. In addition, there are concerns that the domestication of this land would adversely affect the landscape character and openness, for example through the introduction of domestic paraphernalia. Whilst revoking exemption rights would provide a degree of control over ancillary domestic structures and buildings, ancillary domestic structures and paraphernalia associated with a domestic use of the land (such as garden furniture, children’s play equipment, ornamental landscaping and boundary treatment) would result in the suburbanisation of the land and would cause unacceptable harm to the landscape character and openness of the area.

Notwithstanding the agents’ comments, the limited cutting of grass up to 3 times a year is not unsightly but is a common method of managing agricultural/undeveloped land

with the infrequent cutting of grass having the potential to support biodiversity. However, the siting of vehicles, building materials and other non-agricultural items inside the south boundary of the field is unsightly and it is recommended that enforcement action is considered to clear this from the agricultural land.

In this case the requirement to ensure the protection of open land and landscape character outweighs the reasonable expectations of the landowner to incorporate additional land into the curtilage of the adjoining dwelling. The proposal is contrary to Policies GP15(a) and GP1.

Loss of agricultural land within an Agriculture Priority Area

The Island Development Plan 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.

Whilst the policy approach is to generally support development for agricultural purposes in the Agriculture Priority Areas, these areas have been broadly drawn and include areas of land and sites which are not currently used for agricultural purposes and could not be expected to contribute positively to commercial agriculture in the future. The Agriculture Priority Areas are not intended to safeguard the land for agricultural use if it is not appropriate or is not required for that use or where the inclusion of an area of land into a larger land parcel for agricultural purposes would have a negative environmental impact. The Island Development Plan policies therefore allow for other forms of development within the identified Agriculture Priority Areas provided that they accord with all the other relevant policies of the Island Development Plan.

In order to protect Guernsey's best agricultural land, where appropriate, proposals for development which would result in the loss of an existing farmstead or agricultural holding in the Agriculture Priority Areas will only be supported where it is demonstrated that the farmstead, building or land is no longer required for agricultural purposes and any proposed new use accords with the other relevant policies of the Island Development Plan. The policies place the onus on the applicant to demonstrate that this is the case.

The Authority has published non-exhaustive guidance on matters that could be taken into account:

When assessing if a particular site or land parcel can make a positive contribution to the commercial agricultural use of an identified Agriculture Priority Area, the following matters could be taken into account:

- *What the requirements of the agricultural industry are at the time;*

- *The condition of the land (e.g. the grade and depth of the soil, any contamination, whether it is able to be used for agriculture or if not what may be required to make it available for cultivation or grazing);*
- *Whether the land can be used for agriculture without adverse environmental impacts;*
- *The size of the site/piece of land;*
- *How the site/piece of land relates to existing agricultural holdings;*
- *Access;*
- *Topography (including slope, gradient, etc);*
- *Flooding/Drainage;*
- *The nature of the proposed use (will the proposed use allow the long term use of the land for agriculture to remain).*

The land forms part of an Agriculture Priority Area. The application proposes the change of use of an area of agricultural land measuring 2,503sqm. However, the land forms the western half of a larger field measuring approximately 4,500sqm which appears to have been subdivided through separate ownership although there is no physical boundary dividing the field. Although the agent advises that their client has tried to rent out the field for agricultural use with no interest, no details have been provided with the application. In addition, aerial photographs suggests that the field as a whole was potentially in use for agricultural purposes in 2016.

The land is gently sloping to the north and north-east with vehicular access in the south-east corner via the domestic access. The application site forms the western half of a larger agricultural field, there is other adjoining agricultural land to the east and together these areas provide a link between two large swathes of agricultural land to the north-east and south-west. No information has been submitted to demonstrate that the land could not be used for commercial agriculture. The loss of this parcel of land would have a detrimental effect on the potential use of the remaining eastern half of the field and it would fragment and separate the large swathes of agricultural land to the north-east and south-west from one another. The land could be used for commercial agricultural use by itself or in conjunction with adjoining agricultural land. The proposal would represent the unacceptable loss of agricultural land within the Agriculture Priority Area. It has not been 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 therefore the proposal is contrary to Policies GP15(c) and OC5(A).

All material considerations as set out in the Land Planning and Development (Guernsey) Law, 2005 and the Land and Planning (General Provisions) Ordinance 2007 have been taken into account in the assessment of this application.

As set out above, the proposal does not accord with Policies OC5(A), GP15 and GP1 and it is recommended that the application is refused.

Date: 23/02/2022

