

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 (4,752sqm).

LOCATION: Le Juge Vent, Le Villocq Lane, Castel.

APPLICANT: Mr & Mrs Bromley

I refer to the application referred to below received as valid on 19/08/2021 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 12/10/2021

Drawing Nos: Block plan dated 19th August 2021

Application Ref: FULL/2021/1718

Property Ref: D01682B000

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 proposal does not comply with Island Development Plan Policy GP15 because it has not been demonstrated that the land cannot positively contribute to and be used for the commercial agricultural use of land within an Agriculture Priority Area.
2. The proposal does not accord with Island Development Plan Policy GP1 or Policy GP15 as it 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.

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



PLANNING APPLICATION REPORT

Application No: FULL/2021/1718
Property Ref: D01682B000
Valid date: 19/08/2021
Location: Le Juge Vent Le Villocq Lane Castel Guernsey GY5 7SE
Proposal: Change of use of agricultural land to domestic garden (4,752sqm).
Applicant: Mr & Mrs Bromley

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The proposal does not comply with Island Development Plan Policy GP15 because it has not been demonstrated that the land cannot positively contribute to and be used for the commercial agricultural use of land within an Agriculture Priority Area.
 2. The proposal does not accord with Island Development Plan Policy GP1 or Policy GP15 as it 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.
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OFFICER'S REPORT

Site Description:

The property known as 'Le Juge Vent' is an early 20th century bungalow, which is set back from and faces northeast onto Le Villocq Lane. There is an agricultural building and land to the northwest with residential neighbours beyond and residential neighbours across the road to the northeast. To the east and southeast are open agricultural fields and an agricultural field to the southwest, which is the application site within the same ownership. The property is located Outside of the Centres as defined in the Island Development Plan. The application site is within the Agriculture Priority Area as defined in the Island Development Plan.

Relevant History:

There is no relevant history pertaining to this application.

Existing Use(s):

Agricultural use class 28: agriculture
Residential use class 1: dwelling house.

Brief Description of Development:

This application is for the change of use of agricultural land to domestic garden (4752sqm).

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

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

Representations:

There has been one letter of representation as follows;

"I would like to make the following points with regard to this application. We have received no information regarding the present management regime. If it is cut occasionally then this could be a piece of land that does have biodiversity value as "improved grassland" this type of habitat has great benefit to insects and for small mammals such as the Guernsey Vole which in turn may be predated by Barn or Long Eared Owls. We do not know what the owners intend to do in the future, but I would suggest that bearing in mind the Strategy for Nature and how the land has been described by the owners there is little need for its inclusion in the curtilage of the house. Any approval should safeguard the area from development in the future. I would also point out that there has been development and several applications for change of use in the area already."

Consultations:

None

Summary of Issues:

- Impact of the change of use on the landscape character and appearance of the area.
- Loss of agricultural land in Agriculture Priority Area.

Assessment against:

1 - Purposes of the law.

The objectives of the Law, as set out in Section 1(2), have been considered and this forms part of the assessment of policy issues as set out in 2 below.

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

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.

Policy OC5(A) states that “Proposals for development which is not related to a farmstead or existing agricultural holding will be supported provided that they accord with all the relevant policies of the Island Development Plan.”

Policy GP15 makes provision for the extension and creation of curtilages to serve both domestic and non-domestic buildings, subject to compliance with a number of criteria which are addressed in turn below:

a. it would not have an unacceptable detrimental impact on the landscape character

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 is also engaged.

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 distinctness.”

In this case, the land subject of this application is located within the Lowland landscape as identified in Annex V of the Island Development Plan (IDP) and the area is most akin to the Central Plain subzone. Annex V sets out that the area 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. Across the south of the Central Plain, including Saumarez Park, Le Villocq and Foote’s Lane, the land is generally very flat.

The land in question is flanked on either side by other open fields and there are good views of the site from Rue du Candie, a track which runs along the southwest boundary and from Ruelle du Courtil Simon, a lane which runs along the southeast of the neighbouring field. Due to the flat topography of the area there are also views of the site from the rear gardens of all the neighbouring properties to the northwest and southwest, and from some to the southeast. The land as such forms one of the parcels of land within this area that are read together and contribute to the open landscape area within this area.

In addition, the trees and natural landscaping of the land contribute to defining the areas distinctiveness and to domesticate over 4000sqm of open and undeveloped land is considered to be a further unnecessary loss of open land.

In this case the requirements to ensure the protection of open land and landscape character as discussed above, 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.

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;

The application site is not located within or adjacent to an Area of Biodiversity Importance, it is therefore concluded that part (b) of Policy GP15 is not relevant in this case.

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;

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 land forms part of the Agriculture Priority Area. The proposed change of use of agricultural land to domestic curtilage would see 4,752sqm of land be lost from the APA.

The land is largely flat with access onto Rue du Candie in the south-west. The application site is surrounded to the northwest and southeast by other agricultural land and it forms part of a large area of contiguous agricultural land. Although up to half of the land has been planted with trees, no information has been submitted to demonstrate that the remainder of the land could not be used for commercial agriculture. Although the applicant notes the tree coverage on the site and considers this to be a hurdle to the land being used for agricultural purposes, it is not considered that this would preclude the use of the site for agricultural purposes. Therefore, it is considered that the land subject of this application could be used for commercial agricultural use in conjunction with the adjoining fields and its loss would represent the unacceptable loss of agricultural land within the Agriculture Priority Area. The fact that the applicant has not utilised the land in this way does not represent sufficient justification to support the change of use of the 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).

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,

No existing boundaries are proposed to be removed.

e. it would not adversely affect the reasonable amenities of neighbouring residents.

Given the location of the land in relation to neighbouring residential properties, the proposed change of use would not of itself have an adverse impact on or affect the amenities of neighbouring residents.

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

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. Where relevant the issues are considered in section 2 above.

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

The proposal would have no impact on Protected Buildings, Trees or Monuments or on SSS's.

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: 07/10/2021

