

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 (2,140 sq.m.)

LOCATION: Le Marais, Rue Du Marais, Vale.

APPLICANT: Mr A Smith & Miss S McHenry

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: 14/10/2021

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 13/09/2021 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Jason Hobs Architectural Services - 6192/A/1

Application Ref: FULL/2021/1900

Property Ref: C01520B000+C015200000

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. The development hereby permitted and all the operations which constitute or are incidental to that development must be carried out in compliance with all such requirements of The Building (Guernsey) Regulations, 2012 as are applicable to them, and no operation to which such a requirement applies may be commenced or continued unless (i) plans relating to that operation have been approved by the Authority and (ii) it is commenced or, as the case may be, continued, in accordance with that requirement and any further requirements imposed by the Authority when approving those plans, for the purpose of securing that the building regulations are complied with.

Reason - Any planning permission granted under the Law is subject to this condition as stated in section 17(2) of the Land Planning and Development (Guernsey) Law, 2005.

Expiry Date: This permission will cease to have effect on 13/10/2024 unless development is commenced by that date.

ADVICE AND OTHER REMARKS:-

Please be aware of the Supplementary Planning Guidance note: Strategy for Nature, 2020 which can be found at www.gov.gg/planningpolicy. In line with this guidance, The Development & Planning Authority would encourage you to consider enhancing the biodiversity of the application site, for instance through the planting of trees, introduction of animal habitats etc. You are advised to contact La Société Guernesiaise for further information on the most appropriate method to maximise biodiversity of the land the subject of this application. La Société can be contacted on 07781 166924 or email societe@cwgsy.net.

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.

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



PLANNING APPLICATION REPORT

Application No: FULL/2021/1900
Property Ref: C01520B000+C015200000
Valid date: 13/09/2021
Location: Le Marais Rue Du Marais Rue Du Marais Vale Guernsey GY3 5AQ
Proposal: Change of use of agricultural land to domestic garden (2,140 sq.m.)
Applicant: Mr A Smith & Miss S McHenry

RECOMMENDATION - Grant: Planning Permission with Conditions:

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. The development hereby permitted and all the operations which constitute or are incidental to that development must be carried out in compliance with all such requirements of The Building (Guernsey) Regulations, 2012 as are applicable to them, and no operation to which such a requirement applies may be commenced or continued unless (i) plans relating to that operation have been approved by the Authority and (ii) it is commenced or, as the case may be, continued, in accordance with that requirement and any further requirements imposed by the Authority when approving those plans, for the purpose of securing that the building regulations are complied with.

Reason - Any planning permission granted under the Law is subject to this condition as stated in section 17(2) of the Land Planning and Development (Guernsey) Law, 2005.

INFORMATIVES

Please be aware of the Supplementary Planning Guidance note: Strategy for Nature, 2020 which can be found at www.gov.gg/planningpolicy. In line with this guidance, The Development & Planning Authority would encourage you to consider enhancing the biodiversity of the application site, for instance through the planting of trees, introduction of animal habitats etc. You are advised to contact La Société Guernesiaise for further information on the most appropriate method to maximise biodiversity of the land the subject of this application. La Société can be contacted on 07781 166924 or email societe@cwgsy.net.

OFFICER'S REPORT

Site Description:

The property known as 'Le Marais' is a pre-1900 two and a half storey detached dwelling which is set back from and faces west onto Rue du Marais, the whole of which and the roadside wall are a protected building. To the rear there is a detached pool house and along the south boundary a detached garage. To the east is the land subject of this application, which is in the same ownership. There is a footpath running along the south and east boundaries of the property and the land, with residential neighbours beyond. To the north of the land is a vinery site, and to the north of the property other residential neighbours. The property is located Outside of the Centres and within a Conservation Area as defined in the Island Development Plan (IDP).

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 a change of use of agricultural land to domestic garden (2140sqm).

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

OC5(B): Agriculture Outside of the Centres – outside the Agriculture Priority Areas
GP1: Landscape Character and Open Land
GP4: Conservation Areas
GP5: Protected Buildings
GP13: Householder Development
GP15: Creation and Extension of Curtilage

Representations:

There has been one letter of representation and the issues are:

It is not a 'reasonable expectation' that such a large area of agricultural land (2,140 sqm) be converted to domestic curtilage. Losing such a large area of open land would also be contrary to the requirement to protect open land and agricultural land from development. The proposal is counter to 19.16.4 and 19.16.7 of the IDP.

Furthermore, the proposal, having been received before 1 September 2021, will not be subject to a planning covenant aimed at safeguarding wildlife and biodiversity as per the Strategy for Nature (Guernsey) and one of the primary objectives of the SLUP. The lack of covenant potentially (very likely) jeopardizes the native wildlife that constitutes the field borders and possibly also the field itself. As neither the IDP nor SLUP have changed to allow the use of a covenant, this demonstrates that such considerations should also be taken into account for applications received pre 1st September 2021, as is the case with this application.

The proposal may be contrary to policy GP15 where (a) it might have an unacceptable detrimental impact on the landscape character and (b) It might 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. Exacerbating this is the site's location in a rural parish.

Consultations:

None.

Summary of Issues:

- Impact of the change of use on the landscape character and appearance of the area.
- Impact of the change of use on neighbouring properties/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(B), GP15 and GP1 of the Island Development Plan.

Policy OC5(B) states that proposals which would result in the loss of an existing farmstead, agricultural buildings or land will be supported where the proposed new use accords with the other relevant policies of the Island Development Plan.

An application for a change of use of the land will not have any impacts on the special interest of the protected building, on its setting or on the special character of the Conservation Area. Therefore, the proposals are considered to comply with GP4 and GP5.

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 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 distinctness.”

In this case, the land subject of this application is located within the Lowland Wetland landscape as identified in Annex V of the Island Development Plan (IDP) and the area is most akin to the Marais subzone. Annex V sets out that the extensive Marais areas across the north of the Island are essentially freshwater marshes (with occasional small houghes) which have been drained, probably for many centuries, by man-made channels. These areas are physically of a low-lying horizontal form, existing development, and such tree cover that is established, can obscure much of their character which can now often only be fully appreciated from within the remaining areas of open meadow and in occasional views from surrounding higher land. Much of the development comprises horticultural structures, although there are considerable areas of residential development.

With the glasshouses of the vinery to the north and the footpath and domestic properties to the east and south and the application property to the west, the application site is on the periphery of the wider area of open land to the east.

The land is predominantly laid to grass with several mature trees throughout and mature boundaries on all sides. Planning permission would be required to remove or alter those boundaries and as the trees are not protected they could be removed at any time, regardless of whether this application is approved or not. Management of the land as domestic garden, as opposed to agricultural land as at present, is therefore unlikely to change its character in any materially significant way, and consequently the proposed change of use would not have an unacceptable detrimental impact on the landscape character of the area and is considered to comply with policies GP15(a) and GP1.

Given the distance to the main dwelling most domestic Exemptions would not apply, and given adjacent residential and horticultural development flanking the site, it is not considered necessary to remove any specific Exemption in this instance.

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 application site is not located within or is adjacent to an Agriculture Priority Area, it is therefore concluded that part (c) of Policy GP15 is not relevant in this case.

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.

With regards to the Strategy for Nature Supplementary Planning Guidance, the Development and Planning Authority introduced a requirement that all applications of this type submitted after 01 September 2021 must be supported by information demonstrating how ecological/biodiversity enhancements will be delivered. As this application was submitted prior to that date, that requirement does not apply. The objectives of the Strategy for Nature can however be brought to the applicants' attention.

The proposals are considered to conform to the above policies of the Island Development Plan and grant of permission is recommended, subject to conditions.

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.

Date: 13/10/2021