

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 (1217 sq.m.).

LOCATION: Le Rocher Cottage, Rue Du Rocher, Torteval.

APPLICANT: Mr P W Martel

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: 08/11/2021

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 24/08/2021 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Martel Design Ltd - 21-1036 01

Application Ref: FULL/2021/1904

Property Ref: G004790000

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.No sheds, outbuildings, fences and walls, exempt within Class 1(12), (14) and (16) of the Land Planning and Development (Exemptions) Ordinance, 2007 (or any other Ordinance replacing or re-enacting that Ordinance), shall be erected or constructed or positioned within the approved domestic land to which this permission relates. The works above would require a separate grant of planning permission.

Reason - The carrying out of development of this type may cause harm to the landscape character, visual amenity and openness of the area.

Expiry Date: This permission will cease to have effect on 07/11/2024 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.

The applicant is advised that the demolition of part of the roadside wall, which has had the effect of increasing the width of the vehicular access, is development requiring planning permission. The wall should be rebuilt, or a retrospective planning application submitted for the Authority's consideration. If the situation is not regularised then separate Enforcement action may be taken.

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/2021/1904
Property Ref: G004790000
Valid date: 24/08/2021
Location: Le Rocher Cottage Rue Du Rocher Torteval Guernsey GY8 0PQ
Proposal: Change of use of agricultural land to domestic garden (1217 sq.m.).

Applicant: Mr P W Martel

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).

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Reason - The carrying out of development of this type may cause harm to the landscape character, visual amenity and openness of the area.

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.

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OFFICER'S REPORT

Site Description:

The application site comprises of a detached dwelling-house located to the east of Rue Du Rocher, Torteval. The property is served by a detached garage on the opposite side of the road.

The recognised domestic garden lies to the west of the dwelling-house, with an area of agricultural land to the north and east of the dwelling.

The application site is set on a hillside which rises steeply from Rue Du Rocher, Torteval and extends up to the treeline to the north- east of the site, and includes a limited woodland area to the south-east of the site. Beyond this dense area of woodland lies a series of agricultural fields to the east of the application site.

The site in question is highly visible in public vantage points along Rue Du Rocher due to the topography of the surrounding area.

The site is located within an Agriculture Priority Area and is Outside of the Centres as defined in the Island Development Plan.

Relevant History:

PAPP/1995/3437	Erect timber shed in field	Granted
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Existing Use(s):

Agricultural use class 28 – Field

Residential use class 1 – Dwelling-house (Le Rocher Cottage)

Brief Description of Development:

Planning permission is requested for a change of use of agricultural land to domestic land.

The area of land in question measures 1217sqm, as confirmed in the application form.

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:

The Authority has received a letter of representation from one party objecting to the proposal. Grounds for objection principally relate to the following issues:

- The application is; contrary to Policy GP15 and the Strategic Land Use's policy of retaining biodiversity, not a reasonable expectation, and will adversely affect the character of the landscape.
- The application has not demonstrated that the proposal would lead to net ecological gains. 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.
- If approved, we would request that suitable planning conditions be applied in order to prevent development of the land in the long term.

La Societe Guernesiaise has also commented on the application, noting the Authority's recently introduced requirement for net ecological gains, that any information submitted in relation to that should be independently assessed, and that if planning permission is granted conditions should be imposed to prevent development of the land in the long term.

Consultations:

None

Summary of Issues:

Whether the change of use of agricultural land to domestic land would cause harm to the landscape character and openness of the area, the use of the Agriculture Priority Area and the amenities of neighbouring residents.

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).**

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.

The proposal to extend the domestic curtilage falls to be considered principally under Policies OC5(A), GP15 and GP1 of the Island Development Plan.

The site is located within an Agriculture Priority Area. The applicant's letter in support of the application sets out limitations with the use of the land for commercial agriculture against a number of considerations including, the condition and size of the land parcel, drainage, access and topography.

In addition, the applicant has also submitted a letter (dated 29th July 2021) by a local farmer which supports the applicant's application by explaining that agricultural land in question was historically used for domestic use only and is unsuitable for livestock or arable farming due to the steepness of the site and being elevated above the road.

Whilst some aspects of the justification submitted are limited and not supported by conclusive evidence to substantiate certain claims, including the top soil condition or the historical use of the site, it is considered that a sufficient level of demonstration has been provided when taking into account the steep slope and limited and problematic access to the agricultural land together with established boundary treatments to the east which limits any practical relationship to the wider expanse of the Agriculture Priority Area. In addition, the area of agricultural land in question is relatively small when compared to the size of adjacent fields to the east, together with existing landscaping and features on site. Overall, it is considered reasonable to conclude that the land in question cannot positively contribute to the commercial agricultural use of an Agricultural Priority Area for the purposes of criterion c) of Policy GP15.

Consequently, allowing the change of use of land to domestic garden in this particular instance is not considered to undermine the wider spatial pattern of development, landscape character, or open land that would be contrary to Policy OC5(A), and GP15.

No changes to the existing boundaries are proposed and the proposed use of the land for domestic purposes is unlikely to have any significant adverse effects on neighbouring residents.

The application is not located within a Site of Special Significance or Area of Biodiversity Importance.

The agricultural land in question is however highly visible in public views. The change of use of agricultural land to domestic garden alone is unlikely to have an adverse impact on the landscape character or open land. However works carried out under the Land Planning and Development (Exemptions) Ordinance (2007) within the proposed domestic land that would otherwise be exempt, have the potential to have a detrimental impact on the landscape character and visual amenity given that the proposed domestic land is relatively open and undeveloped.

It is therefore considered reasonable and necessary in this circumstance to remove the ability of the homeowner to carry out certain development within the proposed garden without planning permission, thereby removing in part some exemption rights permitted under Class 1 of the Land Planning and Development (Exemptions) Ordinance, 2007 to manage future development. It is recommended that a condition to this effect is attached.

‘Exempt development’ that occurs beyond 30 metres from the dwelling would require planning permission and would be assessed on its own merits. However, the majority of the proposed domestic land would be within 30m from the dwelling-house, therefore the following types of development set out under the Land Planning and Development (Exemptions) Ordinance, 2007, have the potential to have a detrimental effect on the landscape character including sheds, outbuildings, fences and walls.

All other forms of development that could be carried out on this area of land as set out under the Land Planning and Development (Exemptions) Ordinance, 2007, would not be so detrimental to the landscape character due to the criteria applied to each type of the development set out in the Land Planning and Development (Exemptions) Ordinance, 2007,

It is therefore considered necessary and reasonable to remove some of the exemption rights afforded to the householder. On this basis, the proposal would satisfy the provisions of Policy GP15 a).

Policy GP1 relates to the Landscape Character and Open Land. The impact on the landscape character and open land has been carefully considered under the provisions contained within Policy GP15. In summary, subject to conditions, the change of use would respect the landscape character and openness of the land. It would not result in the unacceptable loss of any specific distinctive features that contribute to the wider landscape character and local distinctiveness of the area.

In response to the letters of representation received, the application was received prior to September 2021 and therefore there is no requirement to submit additional information to take into account bio-diversity net gains as set out in the

Supplementary Planning Guidance – Strategy for Nature 2021. As set out above, the application is not sited within a Site of Special Significance or Area of Biodiversity Importance. All other matters outlined in the letters of representation have been noted and where appropriated, have been discussed above

Based on the above, the application is considered compliant with the relevant Island Development Plan policies; it is therefore recommended that planning permission be granted.

Date: 05/11/21

