

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 (2833sqm).

LOCATION: Clos du Gain, Rue Du Gains, St. Pierre Du Bois.

APPLICANT: Mr & Mrs C Foulds

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: 17/02/2022

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 26/08/2021 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Direct Architectural Solutions Clos du Gain-BP-01.

Application Ref: FULL/2021/1909

Property Ref: F009820000

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 fence, wall, gate or flagpole shall be erected, constructed or placed on any part of the hereby approved extended domestic land.

Reason - In view of the sensitive nature of the site, the erection of such structures as 'exempt development' may have an adverse visual impact. This condition is imposed to make sure that any proposals can be properly considered.

Expiry Date: This permission will cease to have effect on 16/02/2025 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/2021/1909
Property Ref: F009820000
Valid date: 26/08/2021
Location: Clos du Gain Rue Du Gains St. Pierre Du Bois Guernsey GY7 9BS
Proposal: Change of use of agricultural land to domestic garden (2833sqm).
Applicant: Mr & Mrs C Foulds

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. Notwithstanding the provisions of the Land Planning and Development (Exemptions) Ordinance, 2007 (or any other Ordinance replacing or re-enacting that Ordinance), no fence, wall, gate or flagpole shall be erected, constructed or placed on any part of the hereby approved extended domestic land.

Reason - In view of the sensitive nature of the site, the erection of such structures as 'exempt development' may have an adverse visual impact. This condition is imposed to make sure that any proposals can be properly considered.

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 Guernesiaisie 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 southern section of the site contains a detached dwelling and associated domestic land. The remainder of the site, measuring 2,833sqm, is recognised as agricultural land and is laid to grass and gently slopes downwards to the south-west and west. The site is an irregular shape and follows a series of bends in the highway, Rue du Gains, which wraps around and bounds the site to the west and north.

The site is situated on the west coast escarpment, inland from Rocquaine and which slopes upwards from the coast towards the east. The site forms part of a cluster of residential properties stepping up the escarpment but it is set within a wider area which is predominantly of a rural character.

The site is situated Outside of the Centres as designated in the Island Development Plan.

Relevant History:

01/08/2016 – FULL/2016/1586 – Permission granted to erect shed /store to north-west elevation of property.

21/06/2016 – FULL/2016/0929 – Permission granted to demolish front lean-to and erect replacement two storey extension to include glazed gable and balcony, extend dwelling on north-east side, raise roof height, change existing window and door openings, include new roof lights and extend existing terrace to north-west and north-east. Demolish existing garage/outbuilding and erect replacement to include double garage, workshop and home office.

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 2,833sqm to a domestic garden in association with the dwelling Clos du Gain.

The application is accompanied by a letter from the agent referring to Policy GP15 and setting out comments in support of the application.

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

Policy OC5(B): Agriculture Outside of the Centres – outside the Agriculture Priority Areas

Policy GP1: Landscape Character and Open Land

Policy GP15: Creation and Extension of Curtilage

Representations:

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

- It is not a reasonable expectation that such a large area of agricultural land be converted to domestic curtilage. This is not a small piece of land.
- Losing such a large area of land would be contrary to the requirements to protect open land and agricultural land from development.
- The proposal was received before 1st September 2021 and 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. This potentially jeopardizes the native wildlife. As neither the IDP or the 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.
- The proposal would be contrary to parts (a) and (b) of GP15. This would be exacerbated by the sites location in a rural parish and the large area of land to be lost.
- There are no proposals included for biodiversity net gain as required from the 1st of September 2021.
- The application states that there are no existing trees, plants, animals or insects of any special interest. This would indicate a study has been made of the flora and fauna, it would be interesting to see the species list that has been compiled.
- The existing curtilage is described as small for a property of this size, this is due to an increase in the size of the property.
- Concerns raised about the loss of open and undeveloped land. The land makes a positive contribution to the landscape character of the area.
- Concerns raised that should the domestic curtilage be granted, further development may then take place.
- To ensure the required positive enhancement of this agricultural land a comprehensive landscaping scheme would be beneficial.

- It is requested that the usual exemptions for pools and outbuildings are rescinded to safeguard the future local landscape.
- A representation on behalf of the National Trust of Guernsey registers concern over the proposed change of use. It is noted that the area being requested is nearly twice the area of an already significant domestic curtilage. 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.

Consultations:

None

Summary of Issues:

The main issue in deciding this application is the impact on the landscape character and openness of the 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 extend the domestic curtilage falls to be considered principally under Policies GP15 and GP1 of the Island Development Plan.

The site is not within an Area of Biodiversity Importance or an Agriculture Priority Area. 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.

The immediate surroundings comprise of a cluster of detached dwellings stepping up the escarpment and are bordered to the west, north-west and south-east by Rue du Gains and to the south-west by Rue du Hurel and Rue de La Folie. Within this area, the land the subject of this application and the adjoining field to the south-east are the only remaining parcels of undeveloped/agricultural land. The remainder of the land comprises domestic properties and their associated curtilages, some of which have substantial domestic gardens.

The land the subject of this application is clearly visible in views along sections of the adjacent public highway from the west and north-west. However, from these viewpoints the site appears to be surrounded by neighbouring residential properties to the east, south-east and south-west and the land does not form part of a wider area of open land. Due to the layout and extent of neighbouring residential properties, the land the subject of this application could be seen to be associated with the existing residential properties and does not project unduly into an area of open and undeveloped land. Whilst the change of use of the land to domestic would continue the gradual suburbanisation of the landscape, considering that the existing landscape character of the immediate surroundings are heavily influenced by domestic properties, the proposal would not cause sufficient harm as to have an unacceptable detrimental impact on the landscape character of the area.

However, to minimise the potential impact on the open and undeveloped nature of the land, it would be appropriate to exercise a degree of control over the forms of domestic developments that could usually be undertaken without the need for planning permission as exempt development. Due to the highway wrapping around the site the land is forward of the dwelling and the majority of it is over 30 metres from the dwelling which would limit the potential exemptions rights (including no exemptions for outbuildings and swimming pools). Of those that would apply, it is considered that only those relating to the erection of walls, fences, gates and a flagpole would have the potential to detract from the character of the site and surrounding area.

With these restrictions in place, and considering the siting and extent of residential properties and the domestic character of land in the immediate surroundings, the proposed change of use of the land is unlikely to have a significant adverse effect on the landscape character of the area, in accordance with Policies GP15 and GP1.

Notwithstanding the representations received, the application was submitted before the requirement to provide additional information covering the enhancement of biodiversity on the site (before September 2021) as set out in the Strategy for Nature, 2020, and it would therefore be unreasonable to impose conditions requiring specific planting to be undertaken. An informative will be added to the decision notice to encourage the applicant to consider opportunities to enhance biodiversity within the site.

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.

It is recommended that the application is approved.

Date: 14/02/2022

