

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 (820 sq.m.)

LOCATION: Wailea, La Roberge Lane, Forest.

APPLICANT: Mr & Mrs C & K Trudgeon

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: 14/06/2022

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 12/10/2021 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: 1:500 scaled block layout plan (date stamped received 12/10/2021) & email dated 06th June 2022 relating to recent and proposed planting.

Application Ref: FULL/2021/1969

Property Ref: H00028A000+H00309B000

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.

4.Permission has been granted on the basis of the biodiversity improvements already planted and proposed at the site as stated within the email from the applicant dated 06th June 2022. The proposed planting outlined within that email shall be completed in accordance with a plan to be provided to show the exact location of the planting within 12 months of the change of use of the agricultural land to domestic garden hereby permitted, or in accordance with a programme previously agreed in writing by the Authority. Any trees or plants removed, dying, being severely damaged or becoming seriously diseased, within 5 years of planting (this includes those species already planted and those species proposed to be planted as per the email dated 6th June 2022) shall be replaced in the following planting season by trees or plants of a size and species similar to those originally required to be planted.

Reason - To make sure that the appearance of the completed development is satisfactory and to help assimilate the development into its surroundings and to ensure that the development provides adequate and appropriate biodiversity enhancements in line with the aims of the adopted Strategy for Nature, 2020.

5.No use of the area comprising the extended curtilage hereby permitted shall begin until such time as a scheme for the separation of the extended curtilage and the remaining agricultural land (between points A and B as shown in green on the approved 1:500 scaled block plan) have been submitted to and agreed in writing by the Authority and the agreed scheme has been fully completed. The agreed scheme shall remain in perpetuity thereafter.

Reason - To ensure that the extended curtilage is separated from the remainder of the agricultural land in an appropriate way that respect or enhances the landscape character of the area.

Expiry Date: This permission will cease to have effect on 13/06/2025 unless development is commenced by that date.

ADVICE AND OTHER REMARKS:-

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/2021/1969
Property Ref: H00028A000+H00309B000
Valid date: 12/10/2021
Location: Wailea La Roberge Lane Forest Guernsey GY8 0JL
Proposal: Change of use of agricultural land to domestic garden (820 sq.m.)

Applicant: Mr & Mrs C & K Trudgeon

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.

4. Permission has been granted on the basis of the biodiversity improvements already planted and proposed at the site as stated within the email from the

applicant dated 06th June 2022. The proposed planting outlined within that email shall be completed in accordance with a plan to be provided to show the exact location of the planting within 12 months of the change of use of the agricultural land to domestic garden hereby permitted, or in accordance with a programme previously agreed in writing by the Authority. Any trees or plants removed, dying, being severely damaged or becoming seriously diseased, within 5 years of planting (this includes those species already planted and those species proposed to be planted as per the email dated 6th June 2022) shall be replaced in the following planting season by trees or plants of a size and species similar to those originally required to be planted.

Reason - To make sure that the appearance of the completed development is satisfactory and to help assimilate the development into its surroundings and to ensure that the development provides adequate and appropriate biodiversity enhancements in line with the aims of the adopted Strategy for Nature, 2020.

5. No use of the area comprising the extended curtilage hereby permitted shall begin until such time as a scheme for the separation of the extended curtilage and the remaining agricultural land (between points A and B as shown in green on the approved 1:500 scaled block plan) have been submitted to and agreed in writing by the Authority and the agreed scheme has been fully completed. The agreed scheme shall remain in perpetuity thereafter.

Reason - To ensure that the extended curtilage is separated from the remainder of the agricultural land in an appropriate way that respect or enhances the landscape character of the area.

OFFICER'S REPORT

Site Description:

The eastern section of the application site comprises of a semi-detached dwelling with associated garden and parking. The western section of the site comprises of an open field laid to grass and is the subject of this application. The site forms the corner where La Roberge to the east meets Contree de Lorenches to the west/south which are both part of the rural lane network.

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

Relevant History:

None

Existing Use(s):

Residential
Agriculture

Brief Description of Development:

The application relates to the change of use of a section (820sqm) from agricultural land to domestic garden as the western part of the site currently lies outside the recognised garden of Wailea. The application as originally submitted includes a covering letter that seeks to explain that the site has not been used for agricultural purpose for some time and includes details as to why the site is not suitable for farming now and in the future.

No details were provided regarding the 2020 Strategy for Nature and biodiversity improvements proposed at the site. The application was deferred and additional information was submitted on 06th June 2022 confirming that the applicant had been taking advice from the president of Trees for life and the biodiversity officer to ensure that any planting proposed is appropriate and improves the biodiversity of the site. Confirmation of planting already completed at the site and additional planting proposed in the future was provided as part of the additional information.

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 Forest Constables by email dated 26th October 2021 confirmed that at their monthly meeting it was unanimously agreed to object to the application due to the loss of agricultural land and that the change of use is purely to raise the value of the property.

Consultations:**Guernsey Farmers Association**

By email dated 31st March 2022 the Guernsey Farmers association stated the following:

“Many thanks for the opportunity for the Guernsey Farmers Association to consult on this application and apologies for the delay in responding. I've looked through the consultations received and haven't come across it so apologies again.

With regards to this planning application it has been noted in the covering letter the land in question hasn't been used for commercial agriculture for many years and with its sloping nature and lack of top soil will be hard to use in modern agriculture and therefore the GFA have no opposition to this change of use.

Whilst there is no direct opposition, it would be encouraging to see evidence or a plan that the loss of this land from agriculture will continue to provide and improve the biodiversity of the area and not become an over-manicured domestic garden."

Summary of Issues:

The key issue in this case relates to the principle of the proposed change of use as the land is situated within the Agriculture Priority Area and whether the proposal would impact on the landscape character of the surrounding area.

Assessment against:

1 - Purposes of the law.

The objectives set out in Section 1(2) of The Land Planning and Development (Guernsey) Law, 2005, 'the Law', have been considered and this report forms part of the assessment, with policy issues set out in Section 2 below.

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

The IDP 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 (APA).

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 (Policy OC5A). 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.

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;

With regard 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.

To the west, the topography of the site drops substantially. However, the site is well screened in this direction by trees along the western side of the site and by trees and planting within the neighbouring site forming part of the property Le Jardin D'amour. To the north, the site is well screened by a large wooded area and to the east by hedges and trees and neighbouring residential properties. The site is visible in glimpsed views immediately to the south from the corner of La Roberge, however this is seen in context with the existing property, a large hedge along the eastern boundary and large trees along the western boundary of the site. Furthermore, additional information has been provided by email dated 6th June 2022 confirming that additional planting has been completed at the site, which includes the provision of an 8m long roadside hedge comprising suitable species (12 field maple and 3 red berried holly plants). Once established the hedge/planting will further screen the site from the surrounding area.

In light of the above, it is considered that the change of use of agricultural land to domestic curtilage would not have an unacceptable detrimental impact on the landscape character of the area and would comply with criterion (a) of GP15 and Policy GP1 of the IDP.

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 b) of Policy GP15 is not relevant in this case. The applicant confirms in a supporting email dated 06th June 2022 that in accordance

with advice sought from the president of Trees for Life and the Biodiversity Officer, additional planting has been planted at the site. The planting includes:

- 12 field maple and 3 red berried holly along the southern roadside boundary;
- To the southwest and west of the site adjacent to trees along the boundary with the neighbouring property (Le Jardin D'amour) at approximately 2m intervals in a parallel line are 2 wild cherry, 2 hornbeam, 2 alder, 2 beech and 2 silver birch trees, which once established and when seen in context with the existing trees will create a small wooded area;
- The trees have all been planted in accordance with the Trees for Life scheme.

In addition to the above the applicant has confirmed that when funds allow additional planting will be completed which will include:

- More fruit trees to extend the existing orchard (possibly cherry, a pear and an apple tree);
- A section of top soil will be removed in the orchard area to allow the sowing of a wild flower meadow amongst the trees;
- Plant more daffodils around the base of trees (once established)
- Erect additional nesting boxes and feeders.

The scheme therefore satisfies the aims of the Supplementary Planning Guidance Note: Strategy for Nature, 2020 and a condition and an informative note could be placed on a planning permission regarding biodiversity enhancement.

c. it is demonstrated that the land cannot positively contribute to the commercial agricultural use of an Agriculture Priority Area (APA) or cannot practicably be used for commercial agriculture within an Agriculture Priority Area without unacceptable adverse environmental impacts;

The agricultural land forms part of the land parcel associated with La Jaoniere with boundaries defined to the west, north and east. There is no boundary separation between the existing garden and land that is the subject of this application.

The application sets out that the land cannot make a positive contribution to the commercial function of the APA due to its topography, surrounding wooded areas and access arrangements.

In order to determine whether the site could contribute to the commercial use of the APA the Planning Service sought the expert views of the Guernsey Farmer Association (GFA). In summary GFA considered that the land in question has not been used for commercial agriculture for many years and with its sloping nature and lack of top soil will be hard to use in modern agriculture and therefore the GFA has no opposition to this change of use.

Based on the above and the comments received from GFA, it is considered that the proposal would not have an unacceptable impact on commercial agriculture within an Agriculture Priority Area and complies with this criterion of policy GP15.

A section of agricultural land is to remain, and to ensure that the proposed residential curtilage extension is demarcated from the remaining agricultural land it is recommended that a condition is included on any permission to requests details of an appropriate boundary (Earthbank or hedge would be preferable) feature to be planted.

- 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;***

The proposal would not result in the removal of any boundary features and would not have an adverse impact on the character of the area.

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

The proposal would extend the curtilage to a point level with the existing residential curtilage associate with the property Wailea. It would not extend to the rear of any neighbouring properties to the east. Although a property exists to the west (Le Jardin D'amour) and the curtilage extension will extend towards the boundary with this property (which is situated at a lower level), a large band of trees exists along the boundary and further planting has been planted by the applicant (referred to above) since the application was submitted. The change in use of the land is therefore unlikely to result in a significantly different impact on the amenity of any of the adjoining property.

In view of the above it is recommended planning permission is granted for the proposed development.

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

In addition to the consideration of policy issues, Section 13 of the Land Planning and Development (General Provisions) Ordinance, 2007 identifies other material planning considerations which could be relevant. These include; the appropriateness of the development in relation to its surroundings in terms of design, layout, scale, siting and materials; the likely effect on the character and amenity of the locality; any possible fall-back position by way of extant planning permissions or exempt development; the likely effect on the reasonable enjoyment of neighbouring properties. These issues where relevant are considered above.

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

The proposal would have no adverse impact on protected trees, buildings or sites.

Date: 13/06/2022

