

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 (1004sqm).

LOCATION: La Saisine, Route De Pleinmont, Torteval.

APPLICANT: Mr & Mrs C McKane

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: 26/01/2022

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 11/11/2021 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Sexton Green SGL225-01A.

Application Ref: FULL/2021/2325

Property Ref: G001210000

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.Notwithstanding the provisions of the Land Planning and Development (Exemptions) Ordinance, 2007 (or any other Ordinance replacing or re-enacting that Ordinance), no gate, fence, wall or other means of enclosure shall be erected, constructed or placed along the southwest and southeast boundary of the domestic garden hereby approved.

Reason - In view of the location of the site in relation to adjoining open and undeveloped agricultural land, the erection of such structures as 'exempt development' may have an adverse impact on the character and appearance of the locality. This condition is imposed to make sure that any proposals can be properly considered.

5.The landscaping scheme shall be fully completed, in accordance with the details shown and approved on drawing SGL225 - 01 revision A, in the first planting season following the change of use of agricultural land to domestic garden, 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 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 ensure that the development provides adequate and appropriate biodiversity enhancements in line with the aims of the adopted Strategy for Nature, 2020.

Expiry Date: This permission will cease to have effect on 25/01/2025 unless development is commenced by that date.

ADVICE AND OTHER REMARKS:-

Please ensure that you notify the Planning Service in writing of the date on which the change of use takes place. Once the change has been made the land will be classified as shown above. Failure to notify the Planning Service as required may lead to delay in any future property search or use class enquiry resulting from incorrect classification of the site.

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/2021/2325
Property Ref: G001210000
Valid date: 11/11/2021
Location: La Saisine Route De Pleinmont Torteval Guernsey GY8 0LP
Proposal: Change of use of agricultural land to domestic garden (1004sqm).

Applicant: Mr & Mrs C McKane

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. Notwithstanding the provisions of the Land Planning and Development (Exemptions) Ordinance, 2007 (or any other Ordinance replacing or re-enacting that

Ordinance), no gate, fence, wall or other means of enclosure shall be erected, constructed or placed along the southwest and southeast boundary of the domestic garden hereby approved.

Reason - In view of the location of the site in relation to adjoining open and undeveloped agricultural land, the erection of such structures as 'exempt development' may have an adverse impact on the character and appearance of the locality. This condition is imposed to make sure that any proposals can be properly considered.

5. The landscaping scheme shall be fully completed, in accordance with the details shown and approved on drawing SGL225 - 01 revision A, in the first planting season following the change of use of agricultural land to domestic garden, 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 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 ensure that the development provides adequate and appropriate biodiversity enhancements in line with the aims of the adopted Strategy for Nature, 2020.

INFORMATIVES

Please ensure that you notify the Planning Service in writing of the date on which the change of use takes place. Once the change has been made the land will be classified as shown above. Failure to notify the Planning Service as required may lead to delay in any future property search or use class enquiry resulting from incorrect classification of the site.

OFFICER'S REPORT

Site Description:

La Saisine, Route De Pleinmont is a detached one and a half storey dwelling set back from the road behind a hedge. Off-road parking is situated to the front of the property served by an in and out drive. A fence and gate is situated to the east of the dwelling and provides access to the land that is the subject of this application.

The agricultural land is situated to the east of the dwelling, the roadside boundary is marked by a granite wall with hedge planting and a bank exists to the east and south boundaries, enhanced by hedge and tree planting. Various trees exist within the site, parallel to the east boundary and the south eastern corner of the site has a number

of shrubs and other plants situated below the tree canopy. A granite well cover is located on the land.

The site is located Outside of the Centre and within the Agriculture Priority Area as designated in the Island Development Plan.

Relevant History:

1976 – 1981 – preliminary declaration repeatedly granted for one dwelling on the site (floor area not exceeding 1200 sqft., to be erected on the site of the water tower in the northwest corner of the property, be of a good standard of very traditional architecture and design and the derelict glasshouse demolished and the land restored to agricultural purposes.

July 1984 – permission granted to construct a granite well head and close opening in roadside hedge at La Saisine

PAPP/2005/3757 – create parking area and erect a fence – refused – the area of hardsurfacing and fencing would be outside the recognised curtilage of the dwelling and would have a detrimental impact on the character and visual amenity of the area.

PAPP/2006/2294 – demolish lean-to, extend and alter dwelling and construct first floor balcony – granted with informative note relating to the extent of curtilage

PAPP/2007/2488 – variations to works previously approved – install enlarged dormer window (retrospective) – granted with informative note relating to the extent of curtilage

PAPP/2007/3756 – demolish existing sheds and erect new shed – granted, no informative note regarding the extent of curtilage (entire site outlined in red)

PAPP/2008/0246 – variations to works previously approved – enlarge dormer window – granted with informative note relating to the extent of curtilage

Existing Use(s):

01 dwellinghouse
28 agriculture

Brief Description of Development:

The application relates to the change of use of agricultural land to domestic garden (1004sqm). The application has been accompanied by supporting information regarding the change of use of land within the Agriculture Priority Area (APA), in relation to Policy GP9 and GP15 and a biodiversity statement has been produced by Sexton Green Ltd. Revised plans including biodiversity landscaping and a revised

biodiversity statement was submitted following the deferral of the application by the Planning Service.

In relation to the impact on the APA the application sets out that the site does not benefit from its own access point and can only be entered via the adjoining domestic garden, the land is not used for agricultural purposes and given its site it would be difficult to expect it to contribute positively to commercial agriculture in the future. There is scant knowledge of when it was last used for agricultural purposes.

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

Island Development Plan policies:

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:

La Societe Guernesiaise – commented on the application as originally submitted and highlight that the biodiversity proposals do not offer any measures which would lead to net biodiversity gain - the Application Statement reads as follows:

‘The application seeks change of use permission for a parcel of land measuring circa 1004m² from ‘Agriculture’ to ‘Domestic Garden’. The application does not seek to alter the existing land in any way, nor does it indicate the removal of any existing Tree, Hedge or boundary planting/feature. The existing Biodiversity contained within the site and the associated ecological habitats are to remain untouched and their resilience unaffected.’

It is accepted that the current maintenance of the land might be reasonable and the existing habitats might be of some ecological value, principles 5-7 of ‘Biodiversity Net Gain – Good practice principles for development’ do not appear to have been met.

Potentially suitable additional biodiversity measures for this site could include committing to a less intensive mowing regime for the existing grassland (including removal of cuttings), avoiding the use of fertilizers or herbicides, or leaving a perimeter strip which is cut only 1-2 times per year, or is cut on rotation e.g. in two halves at different times.

As with all sites, there is a risk that changes to long-established land management practices can quickly lead to a net loss of biodiversity. With this in mind, it is recommended that the applicant contact La Société Guernesiaise for further advice on the existing site and any additional measures to enhance biodiversity.

At the time of preparing this report no further comments had been received from La Societe Guernesiaise in relation to the revised plans.

Consultations:

None.

Summary of Issues:

The key issues in this case relate to the principle of the proposed change of use of land and its potential impact on the character and appearance of the locality.

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).

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 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) and 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 area of land is well associated with the existing dwelling, La Saisine, adjacent to Route De Pleinmont with a wall to the roadside boundary. The surrounding land is in separate ownership to La Saisine and the agricultural land that is the subject of this

application. The site does not form part of an existing agricultural holding. The outer boundaries of the site are clearly defined and the application does not require any established boundary features to be removed in connection with the change of use of the land.

With regard to the impact on neighbouring properties, the proposal involves a change of use of an area of land to be included and managed as part of the residential curtilage and given the location of the land in relation to neighbouring residential properties and that adequate boundary screening separates the land from the neighbouring properties, the proposed change of use would not of itself have an adverse impact on or affect their amenities.

The site is not located within an Area of Biodiversity Importance but has been accompanied by a Biodiversity Statement and drawings to show areas of enhancement across the site in line with the adopted Strategy for Nature.

The site is also located within the Agriculture Priority Area where it must be demonstrated that the land cannot make a positive contribution to the commercial function of the APA without unacceptable adverse environmental impacts. The application indicates that the site is unsuitable for agricultural purposes given there is no independent access to the site other than across the domestic land associated with La Saisine and to provide an independent access would require part of the roadside boundary to be removed and lost. As noted in the Planning History, a direct access from the field to the road did exist but has been infilled. The existing access arrangements using the southerly driveway access at La Saisine would allow access to the agricultural land and there may be scope to create an independent access to the land by demolishing a section of roadside wall. It is unlikely that this would result in significant environmental impacts and harm to the character and appearance of the area.

Although the topography of the site is largely flat for agricultural purposes the site is separated from the glasshouse site to the southwest by a bank and trees and from the field to the northeast by Route De Pleinmont. To the northwest and southeast are residential properties. The modest sized field to the southeast of La Saisine is not well connected to an existing agricultural holding nor other agricultural land within the APA. The size and detached nature of the site is such that the land would not make a positive contribution to the commercial function of the APA and in this instance the change of use of land of agricultural land to domestic garden is accepted.

It is considered that the change of use would accord with Policy GP15 a)- e) and provided that the proposal accords with all other relevant policies of the IDP, the principle of change of use to domestic curtilage is considered to be acceptable in this particular location.

Although the site is undeveloped, given its setting, with established site boundaries the proposal would not undermine the wider landscape character or the openness of the area.

The site is largely open and visible from the wider area and the construction of high fences and walls within domestic garden would ordinarily not require planning permission. Such works to the southwest and southeast boundaries could have an unacceptable impact on the landscape character of the area and should therefore be fully considered as part of the assessment of a planning application should the site owners consider such alterations necessary.

In view of the above it is considered that the proposal would accord with the aims of Policy GP1 of the Island Development Plan.

It is recommended, therefore, that planning permission is granted for the change of use of land from agriculture to domestic garden.

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: 21 January 2022

