

THE LAND PLANNING AND DEVELOPMENT (GUERNSEY) LAW, 2005

AND SECTION 19 OF THE LAND PLANNING AND DEVELOPMENT (GENERAL PROVISIONS) ORDINANCE, 2007

NOTIFICATION OF REFUSAL OF PLANNING PERMISSION

PROPOSALS: Change of use of agricultural land to domestic land (6,000 sqm) and erect earth bank to north-east boundary.

LOCATION: La Pointe Farm, Rue De Lorier, St. Pierre Du Bois.

APPLICANT: Mr & Mrs K Gallichan

I refer to the application referred to below received as valid on 08/12/2021 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 27/05/2022

Drawing Nos: Direct Architectural Solutions - 1420-BP-01

Application Ref: FULL/2021/2562

Property Ref: F001370000

The Development & Planning Authority has decided to refuse your application under the provisions of section 16 of the Land Planning and Development (Guernsey) Law, 2005 for the following reasons:-

1. The land the subject of this application forms part of a large swathe of open and undeveloped land extending to the east and west and is visually prominent from the public highway to the west. The proposal would result in a significant incursion beyond the extent of the existing residential property and would in effect close the existing gap between the ribbon development of properties along Route des Paysans to the north and south to the detriment of the wider open landscape and the landscape character of the area. In addition, there are concerns that the domestication of this land would adversely affect the landscape character and openness of the area, for example through the introduction of domestic paraphernalia. In this case the requirements to ensure the protection of open land and landscape character outweighs the reasonable expectations of the landowner to incorporate additional land into the curtilage of the adjoining dwelling. The proposal is contrary to Policies GP15(a) and GP1.

2. The information submitted does not demonstrate that the land could not be used for commercial agriculture. No evidence has been submitted that the soil quality is unsuitable for agricultural purposes and a suitable access to the agricultural land could

be provided. The land the subject of this application covers a large area, particularly when combined with the remaining agricultural land under the applicant's ownership, it is bounded to the east by a large swathe of agricultural land, it is well related to a large swathe of agricultural land to the south-west and consequently it forms part of a large area of contiguous agricultural land. The land the subject of this application could be used for commercial agricultural use by itself or in conjunction with the remainder of the agricultural land under the applicant's ownership and potentially adjoining fields. The proposal would represent the unacceptable loss of agricultural land within the Agriculture Priority Area. It has not been 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 and therefore the proposal is contrary to Policies GP15(c) and OC5(A).

OTHER REMARKS:-

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, against a decision to refuse an application for planning permission or outline planning permission to the Planning Tribunal on the merits. 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.

Copy of representations made

In reaching this decision the Development & Planning 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 to the Authority under section 11 will be included with this decision in accordance with section 19 of the Ordinance.

A J ROWLES

Director of Planning
Planning Service

PLANNING APPLICATION REPORT

Application No: FULL/2021/2562
Property Ref: F001370000
Valid date: 08/12/2021
Location: La Pointe Farm Rue De Lorier St. Pierre Du Bois Guernsey GY7 9JU
Proposal: Change of use of agricultural land to domestic land (6,000 sqm) and erect earth bank to north-east boundary.
Applicant: Mr & Mrs K Gallichan

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The land the subject of this application forms part of a large swathe of open and undeveloped land extending to the east and west and is visually prominent from the public highway to the west. The proposal would result in a significant incursion beyond the extent of the existing residential property and would in effect close the existing gap between the ribbon development of properties along Route des Paysans to the north and south to the detriment of the wider open landscape and the landscape character of the area. In addition, there are concerns that the domestication of this land would adversely affect the landscape character and openness of the area, for example through the introduction of domestic paraphernalia. In this case the requirements to ensure the protection of open land and landscape character outweighs the reasonable expectations of the landowner to incorporate additional land into the curtilage of the adjoining dwelling. The proposal is contrary to Policies GP15(a) and GP1.

2. The information submitted does not demonstrate that the land could not be used for commercial agriculture. No evidence has been submitted that the soil quality is unsuitable for agricultural purposes and a suitable access to the agricultural land could be provided. The land the subject of this application covers a large area, particularly when combined with the remaining agricultural land under the applicant's ownership, it is bounded to the east by a large swathe of agricultural land, it is well related to a large swathe of agricultural land to the south-west and consequently it forms part of a large area of contiguous agricultural land. The land the subject of this application could be used for commercial agricultural use by itself or in conjunction with the remainder of the agricultural land under the applicant's ownership and potentially adjoining fields. The proposal would represent the unacceptable loss of agricultural land within the Agriculture Priority Area. It has not been 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 and therefore the proposal is contrary to Policies GP15(c) and OC5(A).

OFFICER'S REPORT

Site Description:

The site comprises of a group of buildings in the south-west corner which includes a traditional two storey dwelling and a series of detached barns and outbuildings which have a variety of uses including self-catering accommodation and stables. To the east and north of this is a large hard surfaced parking area with amenity space to the north and west of the buildings. The entire south-west corner of the site is recognised as forming the domestic curtilage of the property, amounting to approximately 3,200sqm.

The remainder of the site to the north and east of the domestic land is recognised as agricultural land although along the eastern boundary there is a single storey building which was originally constructed during World War II in connection with a gun battery and is currently unused. The total area of land under the applicant's ownership measures approximately 3.98 hectares.

The site is located to the east of Route des Paysans and bounds La Houquette School to the north. The entire site is situated within an Agriculture Priority Area and is Outside of the Centres.

Relevant History:

None

Existing Use(s):

Agricultural use class 28

Residential use class 1: dwelling house

Visitor Economy use class 8: non-serviced visitor accommodation

Brief Description of Development:

Planning permission is requested to change the use of a parcel of agricultural land measuring approximately 6,000sqm (red and orange hatched areas on plan number 1420-BP-01) to domestic land associated with the dwelling and self-catering accommodation at La Pointe Farm and includes erecting an earth bank along the east boundary of the extended domestic land.

The application is accompanied by a Biodiversity Enhancement Statement dated November 2021 by Environment Guernsey and 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(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:

None

Consultations:

None

Summary of Issues:

The main issues in deciding this application are the impact on the landscape character and openness of the area and the loss of agricultural land within an Agriculture Priority 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 information submitted with the application inconsistently describes the area that is the subject of this application. However, the agent has subsequently confirmed that the proposed change of use of land to a domestic use includes the red and orange hatched areas on plan number 1420-BP-01 which are bounded by the proposed earth bank to the east. Notwithstanding the comments in the agent's covering letter, the area identified on the submitted plan as an existing sand school does not form part of the recognised domestic curtilage of La Pointe Farm.

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

The site is not within an Area of Biodiversity Importance, 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 application is accompanied by a Biodiversity Enhancement Statement which sets out that the east boundary would be delineated by an earth bank planted with hawthorn and that the management regime of the grassland on the northern half of the site would be amended to provide ecological enhancements including no use of fertilisers or herbicides and mowing would be reduced to once or twice a year. However, it is unclear if this amended management of the grassland is intended to apply to the entire northern half of the site as cutting the grass only once or twice a year may not be entirely compatible with the use of this land for domestic purposes. Further information would be required to define the area of grassland to be managed as stated

in the Biodiversity Enhancement Statement in order to ensure that the proposal would result in biodiversity enhancements.

Impact on the landscape character and openness of the area

The site is located within the Upland Plateau landscape as identified in Annex V of the Island Development Plan and the character of the area is most akin to the Western Plateau subzone.

The land the subject of this application forms part of a large swathe of open and undeveloped land extending to the east and west and it provides a break in the ribbon development of properties along Route des Paysans. By virtue of the low bank and hedging bordering the application site to the west, the land is visually prominent from the public highway to the west, with views extending across the site and across the adjoining undeveloped/agricultural land to the east. The proposal would result in a significant incursion beyond the extent of the existing residential property and would in effect close the existing gap between the ribbon development of properties along Route des Paysans to the north and south to the detriment of the wider open landscape and the landscape character of the area.

In addition, there are concerns that the domestication of this land would adversely affect the landscape character and openness of the area, for example through the introduction of domestic paraphernalia and the further planting of formal domestic landscaping, as has already occurred in part. Whilst revoking exemption rights would provide a degree of control over ancillary domestic structures and buildings, ancillary domestic structures and paraphernalia associated with a domestic use of the land (such as garden furniture, children's play equipment, ornamental landscaping and boundary treatments) would result in the suburbanisation of the land and would cause unacceptable harm to the landscape character and openness of the area.

In this case the requirements to ensure the protection of open land and landscape character outweighs the reasonable expectations of the landowner to incorporate additional land into the curtilage of the adjoining dwelling. The proposal is contrary to Policies GP15(a) and GP1.

Loss of agricultural land within an Agriculture Priority Area

The Island Development Plan 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.

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 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.

In order to protect Guernsey's best agricultural land, where appropriate, 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. The policies place the onus on the applicant to demonstrate that this is the case.

The Authority has published non-exhaustive guidance on matters that could be taken into account:

When assessing if a particular site or land parcel can make a positive contribution to the commercial agricultural use of an identified Agriculture Priority Area, the following matters could be taken into account:

- *What the requirements of the agricultural industry are at the time;*
- *The condition of the land (e.g. the grade and depth of the soil, any contamination, whether it is able to be used for agriculture or if not what may be required to make it available for cultivation or grazing);*
- *Whether the land can be used for agriculture without adverse environmental impacts;*
- *The size of the site/piece of land;*
- *How the site/piece of land relates to existing agricultural holdings;*
- *Access;*
- *Topography (including slope, gradient, etc);*
- *Flooding/Drainage;*
- *The nature of the proposed use (will the proposed use allow the long term use of the land for agriculture to remain).*

The land forms part of an Agriculture Priority Area and the areas hatched red and orange on the submitted plan 1420-BP-01 measure approximately 6,000sqm. The agent advises that the land the subject of the application is not able to be used for agricultural use due to a combination of the poor quality of the soil which makes it unusable for the planting of commercial crops or the planting of livestock feed; the access via La Pointe Farm is tight for modern machinery which limits its possible agricultural use; and the preference for commercial agriculture is for large open fields which are adjacent to other large open fields to enable transfer between fields and to allow pastures to rejuvenate however the site does not fulfil any of these criteria.

No evidence has been submitted that the land is of poor quality soil making it unusable for agricultural use. The Guernsey Soil and Land Classification in 1988 indicated the land the subject of this application was not specifically tested at that stage as it was classed as agricultural buildings/glasshouses. However, the adjoining land to the east, which is also under the applicant's ownership was classed as Grade 3A Good, and the land to the south-west of Route des Paysans was classed as Grade 1 Excellent.

The concerns raised regarding the limitations due to the access are not compelling. The agricultural land can currently be accessed via the La Pointe Farm access in the south-west corner of the site or via an access from Rue des Cinq Verges in the north-east corner of the site. In addition, if neither of these accesses are deemed to be suitable for modern agricultural machinery there could be scope to create a new agricultural access within the western boundary of the site directly onto Route des Paysans. The proposed change of use of the land would dislocate the remaining agricultural land under the applicant's ownership from Route des Paysans and therefore if there are limitations with the existing access to the agricultural land, the proposed change of use would accentuate these issues and would reduce the potential to improve the existing access.

Notwithstanding the agent's comments, the land the subject of this application forms part of a large swathe of open agricultural land and is bounded by and set within an area consisting of other large swathes of agricultural land, particularly to the east and south-west.

In summary, the information submitted does not demonstrate that the land could not be used for commercial agriculture. No evidence has been submitted that the soil quality is unsuitable for agricultural purposes and a suitable access to the agricultural land could be provided. The land the subject of this application covers a large area, particularly when combined with the remaining agricultural land under the applicant's ownership, it is bounded to the east by a large swathe of agricultural land, it is well related to a large swathe of agricultural land to the south-west and consequently it forms part of a large area of contiguous agricultural land. The land the subject of this application could be used for commercial agricultural use by itself or in conjunction with the remainder of the agricultural land under the applicant's ownership and potentially adjoining fields. The proposal would represent the unacceptable loss of agricultural land within the Agriculture Priority Area. It has not been 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 and therefore the proposal is contrary to Policies GP15(c) and OC5(A).

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.

As set out above, the proposal does not accord with Policies OC5(A), GP15 and GP1 and it is recommended that the application is refused.

Date: 27/05/2022

