

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 (758 sq.m.).

LOCATION: La Jaoniere, Rue Du Bordage, St. Pierre Du Bois.

APPLICANT: Mr & Mrs J Webster

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: 10/02/2022

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 20/12/2021 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: The Drawing Room - 316 B2

Application Ref: FULL/2022/0029

Property Ref: F00795A000

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. Prior to the commencement of any work in connection therewith a landscaping scheme, to include full details of all new planting setting out planting schedules, noting the species, sizes, numbers and densities of plants and all existing trees, hedges and other landscape features, indicating clearly those to be removed shall be submitted to and agreed in writing by the Authority.

Reason - To make sure that a landscaping scheme for the development is agreed, in order to provide biodiversity enhancements on the site.

4. The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of the above condition, in the first planting season following the first occupation of any part of the development or completion of development whichever is the sooner, 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 make sure that a landscaping scheme for the development is agreed, in order to provide biodiversity enhancements on the site.

5. 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 north and west 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.

Expiry Date: This permission will cease to have effect on 09/02/2025 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/2022/0029
Property Ref: F00795A000
Valid date: 20/12/2021
Location: La Jaoniere Rue Du Bordage St. Pierre Du Bois Guernsey GY7 9DW
Proposal: Change of use of agricultural land to domestic garden (758 sq.m.).
Applicant: Mr & Mrs J Webster

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. Prior to the commencement of any work in connection therewith a landscaping scheme, to include full details of all new planting setting out planting schedules, noting the species, sizes, numbers and densities of plants and all existing trees, hedges and other landscape features, indicating clearly those to be removed shall be submitted to and agreed in writing by the Authority.

Reason - To make sure that a landscaping scheme for the development is agreed, in order to provide biodiversity enhancements on the site.

4. The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of the above condition, in the first planting season following the first occupation of any part of the development or completion of development whichever is the sooner, 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 make sure that a landscaping scheme for the development is agreed, in order to provide biodiversity enhancements on the site.

5. 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 north and west 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.

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 Jaoniere is a detached dwelling that occupies a corner plot with Rue Du Bordage to the east and Rue Du Coudre to the south. Residential development exists to the east in Rue Du Bordage whilst land to the south, west and north is open and undeveloped.

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

Relevant History:

None.

Existing Use(s):

01 dwellinghouse
28 agriculture

Brief Description of Development:

The application relates to the change of use of agricultural land (758sqm) from agricultural land to domestic garden as the northernmost part of the site currently lies outside the recognised garden of La Jaoniere. The application as originally submitted includes a covering letter that seeks to address Policy GP15 for the creation and extension of curtilage and the 2020 Strategy for Nature however the application did not provide sufficient details to address concerns relating to the loss of agricultural land within the Agriculture Priority Area.

Additional information was submitted on 28 January 2022 regarding Policy GP15 setting out that the land, due to its topography and size is unlikely to be suitable for the agricultural industry to use because the land is spilt into two parcels due to the change in site levels. The lower field being 389 sqm and the upper field being 369 sqm. The letter also indicates that shrubs etc have become established on the land which would need to be removed in order for the land to be used for agricultural purposes which could disturb wildlife habitats, contrary to the Strategy for Nature.

The letter acknowledges possible links to the wider APA and existing agricultural holdings however there is a small boundary between the site and adjoining land making it impractical as an additional area of usable land. The removal of established boundary planting to provide access (not across domestic land) would also have a negative environmental impact and be detrimental to biodiversity. The letter also notes that the adjoining agricultural land in the APA, to the north, is overgrown and not suitable for commercial agricultural use.

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
GP15: Creation and Extension of Curtilage
GP1: Landscape Character and Open Land

Representations:

None.

Consultations:

None.

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.

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;*

The land which forms the subject of this application is terraced across two levels and although each parcel is not steeply sloping the terraced nature of the site does not lend itself to agricultural purposes. The land is situated to the north of La Jaoniere, between the domestic garden of the house, a treed area to the north, road to the east and open land to the west. The change of use of agricultural land to domestic garden in this instance would not have a significant impact on the landscape character or openness of the area.

Nonetheless, it is considered necessary to consider the removal of exemption. High fences and walls along the west and north site boundaries permitted under Class 1 of the Land Planning and Development (Exemptions) Ordinance, 2007 may have an urbanising effect which could be detrimental to the openness and the character of the area. With regard to the west boundary however, such exemption rights exist for the existing area of garden and it would be unreasonable to remove them in relation to the small section of new garden west boundary alone. The provision of these exempt works along the north boundary may have a negative effect on the character of the area and it is therefore considered that planning permission should be required in order to carefully assess any impact. A condition would be appropriate in this instance.

- 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 application sets out that the site would offer biodiversity benefits including fruit tree planting, compost heaps, a pollinator and wildflower area along with bird boxes to existing trees. 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, access arrangements and potential adverse environmental impacts necessary for the land to be made available

for agricultural purposes. due to its access across domestic land. Given these combined factors, particularly the terraced nature of the site which reduces the usable area of land for agriculture, the proposed change of use would not have an unacceptable impact on commercial agriculture within an Agriculture Priority Area.

- 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 which could 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 in close proximity to the boundary with the gardens of adjoining dwellings to the north and south. The change in use of the land is however unlikely to result in a significantly different impact on the amenity of the adjoining property.

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 and accords with the aims of Policy GP1.

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: 09 February 2022

