

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 garden (3,566sqm).

LOCATION: L'Oree du Bois, Rue Des Valniquets, Torteval.

APPLICANT: Mr N Sheppard & Mrs M Sanchez Del Pozo Fernandez

I refer to the application referred to below received as valid on 10/02/2022 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 15/09/2022

Drawing Nos: Site Location Plan & Block Plan

Application Ref: FULL/2022/0214

Property Ref: G005250000+G005260000

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 undeveloped land and is visible from the public highways to the west. The size of the land parcel together with its naturalised woodland appearance is a distinctive feature in the landscape which positively contributes to the landscape character and appearance of the area. The proposal would result in a significant incursion beyond the extent of existing residential properties into a large swathe of undeveloped and naturalised landscape, and amounts to the unnecessary loss of undeveloped land to the detriment of the wider landscape character of the area.

In addition, there are concerns that the domestication of this land would adversely affect the landscape character 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.

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/2022/0214
Property Ref: G005250000+G005260000
Valid date: 10/02/2022
Location: L'Oree du Bois Rue Des Valniquets Torteval Guernsey GY8 0QP
Proposal: Change of use of agricultural land to domestic garden (3,566sqm).
Applicant: Mr N Sheppard & Mrs M Sanchez Del Pozo Fernandez

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The land the subject of this application forms part of a large swathe of undeveloped land and is visible from the public highways to the west. The size of the land parcel together with its naturalised woodland appearance is a distinctive feature in the landscape which positively contributes to the landscape character and appearance of the area. The proposal would result in a significant incursion beyond the extent of existing residential properties into a large swathe of undeveloped and naturalised landscape, and amounts to the unnecessary loss of undeveloped land to the detriment of the wider landscape character of the area.

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OFFICER'S REPORT

Site Description:

The application property comprises of a detached dwelling and associated domestic land situated to the east of and bordering Rue Des Valniquets and an area of agricultural/ undeveloped land to the north-east comprising of a largely tree covered valley side.

The site is located in a rural area comprising of large swathes of open and undeveloped land interspersed with isolated dwellings along highways. The site is located Outside of the Centres and within the Agriculture Priority Area as defined by the Island Development Plan.

Relevant History:

01/02/2019 – FULL/2018/2357 – Permission granted to remove section of roadside hedge (retrospective) and install a timber field gate.

Existing Use(s):

Agricultural use class 28
Residential use class 1

Brief Description of Development:

Planning permission is requested for the change of use of a parcel of agricultural/undeveloped land measuring 3,566sqm to domestic land associated with the dwelling L'Oree du Bois.

The application is accompanied by a Biodiversity Statement which includes reference to Policy GP15 and sets 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:

One letter of representation was received on behalf of La Société Guernesiaise as set out below:

“La Société remains concerned over the reclassification of agricultural land to domestic curtilage. However, as the Island Development Plan currently permits the consideration of such applications, we seek to optimize ecological gains in such cases wherever possible.

We note that the land is designated an Agricultural Priority Area. The area in question is one of the most extensive applications of this type at 3,566sqm.

We do not have good knowledge of the site but the biodiversity measures included in the application are welcome as they include appropriate land management principles. If these are applied, they would likely lead to net biodiversity gains on the site. We note that the applicant states that they will be consulting with La Société although we have not yet been contacted.

The information does not provide any details of the particular species to be planted, numbers or stock size. The Planning Service may deem the principles outlined in the Biodiversity Statement to be sufficient although as a minimum, we would ask that the applicant submit a species list of trees and shrubs which would be adhered to. We are aware that recent planting on the site has included a roadside hedge of Griselinia and/or

Euonymus and we would not recommend similar non-native and amenity species being planted across the site as this would not support local biodiversity.

We would like to highlight that the biodiversity measures could be introduced without the need to reclassify this land from Agricultural Priority Area (APA) to domestic curtilage. However, if this application is subsequently approved, we would request that suitable planning conditions be applied in order to prevent any future development of the land in the long term.

La Société can be contacted on 07781 166924 or by emailing info@societe.org.gg.

Consultations:

None

Summary of Issues:

The main issues in deciding this application are the impact on the landscape character 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 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 and no changes to the existing boundaries are proposed. The siting, relationship and elevated nature of the land relative to the adjoining neighbouring property has the potential to result in some adverse effects on the amenities of neighbouring residents. However, provided that a suitable boundary is maintained along the north-west boundary, the proposed use of the land for domestic purposes is unlikely to have any significant adverse effects on neighbouring residents.

The application is accompanied by a Biodiversity Statement which sets out proposed land management principles and an indication of additional planting to be undertaken. This includes retaining existing trees whilst thinning out sapling trees and undertaking additional boundary tree and hedge planting comprising of native species. It is advised that La Société Guernesiaise will be consulted regarding appropriate species and practical solutions to secure long term biodiversity gains.

La Société Guernesiaise advise that the biodiversity measures are welcomed as they include appropriate land management principles which if applied would likely lead to

net biodiversity gains on the site. La Société Guernesiaise note that no details of species to be planted are provided and that the proposed biodiversity measures could be introduced without the need to change the use of the land.

Overall further information including species of trees and hedges to be planted would be required 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 is largely within a valley subzone but also partly forms the western plateau subzone.

The land the subject of this application forms part of a large swathe of undeveloped land and comprises of a steep sided valley predominantly covered with broadleaved woodland which extends to the north and south and is bounded to the east by a large expanse of open and undeveloped agricultural land forming part of the western plateau. The size of the land parcel together with its naturalised woodland appearance is a distinctive feature in the landscape which positively contributes to the landscape character and appearance of the area and which in turn increases the importance and protection of this feature from inappropriate and/or unnecessary development.

The land is visible from the public highways Rue Des Valniquets and Rue Du Banquet to the west. The proposal would result in a significant incursion beyond the extent of existing residential properties along the highway into a large swathe of undeveloped and naturalised landscape, and amounts to the unnecessary loss of undeveloped land to the detriment of the wider landscape character of the area. Allowing the change of use of land to a domestic use is likely to create an unusual and disproportionate relationship between the dwelling-house and its associated garden, and a significant sized extension of domestic curtilage. The justification for the change of use is unconvincing as many of the desires and aspirations of the applicant can be achieved without planning permission and without a change of use of the land.

In addition, there are concerns that the domestication of this land would adversely affect the landscape character of the area, for example through the introduction of domestic paraphernalia and the planting of formal domestic landscaping. 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 this otherwise undeveloped and naturalised rural landscape.

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 land forms part of an Agriculture Priority Area. La Société Guernesiaise raise concerns about the reclassification of agricultural land to domestic curtilage and note that the area in question is one of the most extensive applications of this type within an Agriculture Priority Area.

However, the nature of the site, comprising of a steep sided valley, would limit the potential use of the majority of the land for commercial agricultural purposes. In addition, the substantial number and distribution of trees on the land results in the land being unable to be practicably used for commercial agriculture without unacceptable adverse environmental impacts through the clearance of existing trees. In this instance, the proposed change of use of the agricultural land would not conflict with part (c) of Policy GP15.

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 GP15 and GP1 and it is recommended that the application is refused.

Date: 14/09/2022