

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 (550sqm) and erect outbuilding/office/hobby room to south-west of site.

LOCATION: Maison D'Aval, Rue Des Issues, St. Saviour.

APPLICANT: Mr & Mrs P Duchemin

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: 21/07/2022

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 22/03/2022 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Block Plan, Floor Plan, Facade 1-2, Facade C-A, Facade 2-1, Facade A-C, Section A-A (All dated 22/03/2022); Biodiversity Enhancement Statement

Application Ref: FULL/2022/0452

Property Ref: E001820000

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.The landscaping scheme shall be fully completed, in accordance with the details set out in the submitted Biodiversity Enhancement Statement, in the first planting season following the first use of the land for domestic purposes, 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 - 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 (other than any hereby expressly permitted) shall be erected, constructed or placed on any part of the site.

Reason - In view of the sensitive nature of the site, the erection of such structures as 'exempt development' may have an adverse visual impact. This condition is imposed to make sure that any proposals can be properly considered.

Expiry Date: This permission will cease to have effect on 20/07/2025 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/2022/0452
Property Ref: E001820000
Valid date: 22/03/2022
Location: Maison D'Aval Rue Des Issues St. Saviour Guernsey GY7 9FP
Proposal: Change of use of agricultural land to domestic garden (550sqm) and erect outbuilding/office/hobby room to south-west of site.

Applicant: Mr & Mrs P Duchemin

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. The landscaping scheme shall be fully completed, in accordance with the details set out in the submitted Biodiversity Enhancement Statement, in the first planting

season following the first use of the land for domestic purposes, 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 - 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 (other than any hereby expressly permitted) shall be erected, constructed or placed on any part of the site.

Reason - In view of the sensitive nature of the site, the erection of such structures as 'exempt development' may have an adverse visual impact. This condition is imposed to make sure that any proposals can be properly considered.

OFFICER'S REPORT

Site Description:

The property known as 'Maison D'Aval' is a pre-1900 two storey stone farmhouse which is situated on the corner of Rue des Issues and Rue Cevecq. The boundary along Rue des Issues is made up of a retaining wall and trees and planting, as the land is some 2m lower than the highway. The property is located Outside of the Centres, but is within the Agriculture Priority Area as defined in the Island Development Plan.

Relevant History:

CURT/2022/0186 – Definition of Curtilage – Given 31/01/2022

FULL/2020/0069 – Repairs to retaining wall on northeast boundary – Approved 26/02/2020

Existing Use(s):

Residential use class 1: dwelling house.
Agricultural use class 28: Agriculture.

Brief Description of Development:

This application is to change the use of 550sqm of agricultural land into domestic curtilage and to erect an outbuilding/home office/hobby room in the southwest corner of the 550sqm area of land adjacent to the domestic curtilage.

At present the domestic curtilage is an 'L' shape and the area of land proposed to change would create a square, with the rest of the site remaining agricultural land.

The application as originally submitted includes a covering letter that seeks to address Policy GP15 for the creation and extension of curtilage, however the application did not provide sufficient details to address concerns relating to the loss of agricultural land within the Agriculture Priority Area and did not provide a Biodiversity Statement.

Additional information was submitted on 6 June 2022, a Biodiversity Statement written by Environment Guernsey, which is a report covering the biodiversity enhancement for the proposed area.

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

OC5(A): Agriculture Outside of the Centres – within the Agriculture Priority Areas

GP1: Landscape Character and Open Land

GP8: Design

GP9: Sustainable Development

GP13: Householder Development

GP15: Creation and Extension of Curtilage.

Representations:

There have been two letters of representation, one from Guernesiaise Societe:

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

We note that the applicant has provided a summary of measures which have been undertaken in recent years and which may have led to some ecological gains since the land was cleared of horticultural infrastructure. However they have not provided any additional measures to enhance biodiversity as part of this current application as required by the Planning Service.

We would also ask whether alternative sites for the outbuilding exist within the landowner's current domestic curtilage and further, whether this outbuilding might lead to further development in the future, perhaps as a new dwelling. If the application is approved therefore, we would request that planning restrictions be

imposed to provide safeguards against further development of the land or of the outbuilding itself.”

The other is from the Paroisse de Saint Sauveur:

“This application to extend domestic curtilage relates to an area of land at the property known as Maison D’Aval. The extent of the application asks for 550sqm to be changed from agricultural land to domestic curtilage. After consulting the block layout plan the area requested to be rezoned seems excessive given the size of the proposed building. The plan does also not show the other wooden structures currently on the land and is therefore not detailed enough.

Given that the land is currently already maintained in such a way that does not deprive the owner of the enjoyment of this area and it appears that they intend to make no significant changes to the layout or indeed improve the biodiversity further; the Douzaine therefore sees no reason for this land to be rezoned as domestic curtilage.

The Douzaine believe that this is an important area of open land which whilst having mature boundaries it forms part of a contiguous area of similar open space. This space is valuable to the rural aspect of the Parish, it provides a green corridor and its loss to formalised domestic curtilage would reduce natural habitat and apply additional pressure to wildlife.

The Douzaine therefore sees no sound reason as to why this land should be rezoned as domestic curtilage and we would ask that the zoning remain as it is currently. If DPA determine that this land is to be rezoned as domestic curtilage, the Douzaine hereby requests that appropriate restrictions be placed to limit the extent of development on this land for the duration of the current Island Development Plan.”

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 of the Law, as set out in Section 1(2), have been considered and this forms part of the assessment of policy issues as set out in 2 below.

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

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 a level area to the west of the domestic dwelling and has been laid to grass for the last 35 years. The land would square off the existing curtilage, located to the rear of that curtilage when viewed from Rue Cevecq to the south and behind the roadside development when viewed from Rue de la Neuve Maison to the west. The proposed change of use would not therefore project into the open land to the north and east, and would not impact on openness when viewed from the adjacent highways. The land situated to the north, within the same ownership, would remain agricultural, the land would not be physically altered, nor would any of the boundaries be changed. The change of use of agricultural land to domestic garden in this instance would not therefore have a significant impact on the landscape character or openness of the area.

Nonetheless, it is considered necessary to consider the removal of exemption rights for gates, fencing, walls and other enclosures due to the sensitive nature of the southwest and northwest boundaries. Any further development permitted under Class 1 of the Land Planning and Development (Exemptions) Ordinance, 2007 may effect the boundary, which could be detrimental to the openness and the character of the area. Should any further development work be proposed it is considered that planning permission should be required in order to carefully assess any impact. Therefore 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 native tree planting, compost heaps, bug hotels, bird feeders and extended long grass/wildflower area along with bird and bat boxes to existing trees. The scheme therefore satisfies the aims of the Supplementary Planning Guidance Note: Strategy for Nature, 2020. There is existing planting along the northwest boundary of the proposed curtilage, which would delineate the curtilage, and no further planting is required in this case.

- 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 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.

The property is located in a small valley, with a stream running along the western boundary and the land rises slowly to the east. The applicants supporting statement states that much of the site, the remaining agricultural land, is on a steep slope with poor soil quality, which is unsuitable for commercial planting or for animal grazing, plus access for machinery or vehicles is limited.

The land is not able to be incorporated into a larger land parcel with adjacent land due to the boundary constraints. The north is bounded by an ancient furze brake, the east and south are bounded by roads and the west is bounded by the stream.

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 if the land were to be made available for agricultural purposes, due to its access across domestic land. Given these combined factors, 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 closer to the boundary with the gardens of neighbouring dwellings to the west. The change in use of the land is however unlikely to result in a significantly different impact on the amenity of any 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.

The outbuilding is to be located along the west boundary just north of the existing sheds and gravelled area. It will be screened by mature trees to the south and west and it will face east onto the garden.

The scale and massing of the new outbuilding is not considered to have a detrimental effect on the character and amenity of the surrounding area, nor will it have any impact on either of the immediate neighbours.

Confirmation has been received that the development proposed has been designed to take into account matters of energy efficiency and current Building Regulations in accordance with Policy GP9.

The proposals are considered to conform to the above policies of the Island Development Plan and grant of permission is recommended, subject to conditions.

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

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. Where relevant the issues are considered in section 2 above.

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

The proposal would have no impact on Protected Buildings, Trees or Monuments or on SSS's.

Date: 21/07/2022