

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: Convert and extend barn (Use Class 28: Agriculture) to dwelling (Use Class 1: dwellinghouse).

LOCATION: Outbuilding At, Rue Paysans A La Pomare, St. Pierre Du Bois.

APPLICANT: Mrs J M Rouget

I refer to the application referred to below received as valid on 07/04/2022 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 17/05/2022

Drawing Nos: Drawing: 2119 / 1

Application Ref: FULL/2022/0553

Property Ref: F005280000

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 conversion of the agricultural barn to a dwelling, by virtue of the size of the existing building, would result in residential accommodation below the minimum standards set down in the Building (Guernsey) Regulations, 2012 and the practical guidance on those requirements in the associated Guernsey Technical Standards. The floor area of the building is such that the scheme would not accord with Policy OC1 of the Island Development Plan as with the extension being necessary to consider the conversion to a residential unit it would be tantamount to the creation of a new unit, contrary to this policy.

2. The application has not been accompanied by appropriate supporting information that demonstrates to the satisfaction of the Development & Planning Authority that the building is no longer required or capable of being used for its current or last known purpose, as an agricultural building. The scheme is therefore contrary to Policy GP16(A) a. of the Island Development Plan.

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/2022/0553
Property Ref: F005280000
Valid date: 07/04/2022
Location: Outbuilding At Rue Paysans A La Pomare St. Pierre Du Bois
Guernsey
Proposal: Convert and extend barn (Use Class 28: Agriculture) to dwelling
(Use Class 1: dwellinghouse).
Applicant: Mrs J M Rouget

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The conversion of the agricultural barn to a dwelling, by virtue of the size of the existing building, would result in residential accommodation below the minimum standards set down in the Building (Guernsey) Regulations, 2012 and the practical guidance on those requirements in the associated Guernsey Technical Standards. The floor area of the building is such that the scheme would not accord with Policy OC1 of the Island Development Plan as with the extension being necessary to consider the conversion to a residential unit it would be tantamount to the creation of a new unit, contrary to this policy.
 2. The application has not been accompanied by appropriate supporting information that demonstrates to the satisfaction of the Development & Planning Authority that the building is no longer required or capable of being used for its current or last known purpose, as an agricultural building. The scheme is therefore contrary to Policy GP16(A) a. of the Island Development Plan.
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OFFICER'S REPORT

Site Description:

The site comprises a single storey granite barn located to the east side of Rue de L'Ardaine, and to the south-east of the junction of that road with Rue de la Pomare and Rue des Paysans a la Pomare. The land immediately to the north of the building is at a higher level and that to the east comprises the remains of a ruined farmhouse, with a stream running across the site. The land rises steeply to the east of the site and falls away to the west on the opposite side of the Rue de L'Ardaine.

The site is located within an Agriculture Priority Area, Outside of the Centres in the Island Development Plan.

Relevant History:

FULL/2019/2578 - Erect single storey extension to east (side) elevation, install dormer and external steps to north (rear) elevation serving dormer and install rooflights to south (front) elevation of barn – refused (There is not an existing farmstead or agricultural holding at the site, and there is no reasonable prospect of such a holding being formed. The principle of development at this site would not therefore meet the terms of Policy OC5(A) (Agriculture Outside of the Centres - within the Agriculture Priority Areas).)

The application site, along with the barn building, has previously been recognised as agricultural, falling within Agricultural Use Class 28 in the Land Planning and Development (Use Classes) Ordinance, 2017.

Existing Use(s):

Agricultural Use Class 28

Brief Description of Development:

The application relates to the change of use of an agricultural building to a unit of residential accommodation incorporating a single-storey mono-pitch roof extension to the east and a catslide dormer to the north elevation.

The application has been accompanied by a letter dated 18 February 2022 which sets out:

- The existing floor area of the building is 27 sqm
- A minor extension is proposed to increase the floor area of the building to 32.2 sqm
- The proposed dwelling will meet the standards for a single occupancy dwelling
- The application will provide a viable use for the building representing efficient and effective use of land
- The building is structurally sound as evidenced by photographs, on site and could be confirmed by the States' Building Control Inspectors through internal consultation
- The Planning Tribunal specify the scope of "extensive" works and this scheme falls well within these parameters – east gable extension, north elevation dormer, internal insulation
- The site cannot make any sustainable contribution to the Agriculture Priority Area and is redundant and conversion to residential would preserve its character
- This is a sustainable conversion reducing waste, excavation and materials
- The scheme meets current Building Regulations (light, ventilation, drainage and access)
- The roofslopes could accommodate photovoltaics
- Car parking can accommodate electric charging points

- The electrical system will be pressure tested to run at off-peak hours encapsulating airtight windows and doors and which can be connected to alternative energies
- All accesses have level thresholds and are fully disabled compliant
- There is no conflict with Policy GP15 because the site boundaries remain unchanged and there is no impact on residential amenity
- Access, turning and parking are retained with scope for cycle parking and electric charging points

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

Island Development Plan:

OC1: Housing Development Outside of the Centres

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

GP1: Landscape Character and Open Land

GP8: Design

GP9: Sustainable Development

GP15: Creation and Extension of Curtilage

GP16(A): Conversion of Redundant Buildings

Representations:

La Societe Guernesiaise - question whether it meets Policy GP16(A): Conversion of Redundant Buildings, in particular -

C) The existing building is of sound and substantial construction and is capable of conversion without extensive alteration or rebuilding.

In recent years, the property has been developed to a significant degree so that it already resembles a dwelling, along with associated amenity land. Without access to the online Planning webmap, it is not possible to determine whether any of these works were subject to the relevant planning permissions. We would therefore suggest that the current appearance of the building may not be of relevance if works to date were not subject to the normal planning processes.

F) The conversion and any ancillary development associated with it can be implemented without having any unacceptable adverse impacts on the character and openness of the landscape.

The barn had been derelict for several decades until it was gradually upgraded in recent years. The surrounding landscape is rural and relatively undisturbed in nature, dominated by a largely undeveloped steep escarpment comprised of Guernsey Elm woodland and associated dense scrub. Converting the barn into a dwelling would introduce residential development into an area which does not have any such development along it, apart from two isolated houses set back from the road and accessed by private tracks: there is no development at all on the north and east side of Rue de L'Ardaine.

We note that the site has been partly cleared and managed as a garden. If the barn was to become a dwelling it is likely that the owner would subsequently apply for a formal

extension to domestic curtilage, or would simply manage an increasing proportion of the adjoining land as garden. This would impact the wildlife which currently inhabits the immediate area resulting in a net ecological loss.

We would highlight that a recent application to develop part of an ABI (in St Peter Port) was rejected as the area in question had been cleared of its natural habitats prior to the formal planning application. We would therefore ask the Planning Service to similarly consider this aspect in relation to these proposals.

We would also point out that older buildings of this type can be used by roosting bats. This likelihood can increase when the property is located within a variable landscape with habitats such as farmland or woodland nearby. If the application is subsequently approved, we would request that any site clearance be undertaken outside of the main bird breeding season (March-July inclusive) and that the site is inspected for possible use by roosting bats prior to any further works. This would reduce the risk of disturbing or destroying animals which are protected under the Animal Welfare Ordinance 2012.

Consultations:

States Archaeologist - Commented on the previous application associated with this building:

As a building of historic interest I would be grateful if the developers could alert me or my colleagues if they uncover any features of possible archaeological interest, for example during the excavation of footings trenches.

Summary of Issues:

The key issues in this case relate to the principle of the proposed development including the change of use of agricultural land to domestic garden and the future living environment of future occupiers.

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.

Policy O5(A) makes provision for development not related to a farmstead/existing agricultural holding where all other relevant policies are satisfied and Policy OC1 makes provision for housing Outside of the Centres where the scheme is achieved through the conversion of a redundant building. Policy GP16(A) supports the conversion of a redundant building where the conversion would result in a residential use. These policies therefore offer a gateway for the proposed residential development.

The submission argues that “the site is not and cannot form an agricultural holding for the APA” and sets out that the 2019 Refusal establishes “that the building cannot make any commercial contribution to an APA”. The reason for refusal does identify that the site is not part of an existing agricultural holding and there is no reasonable prospect of one being formed. It does not automatically follow however, that this means a building is redundant for its last known or current purpose, as an agricultural building for the purposes of Policy GP16(A) a. A building can still serve a useful agricultural purpose without being part of a commercial agricultural holding and as a result the scheme does not accord with GP16(A) a.

The existing building has a ground floor area of 20 sqm and there is currently no first floor within the building. As proposed, a first floor would be installed to offer bedroom accommodation described on the plans as being “7 sqm between 1.5m height lines”. This indicates that the existing building is insufficient in size to meet the current Building Regulations regarding the formation of a unit of residential accommodation.

Policy OC1 of the Island Development Plan sets out in paragraph 16.1.16 that the relevant requirements of the Building (Guernsey) Regulations, 2012 and the practical guidance on those requirements in the associated Guernsey Technical Standards will need to be taken into account in determining whether a proposed unit offers an adequate standard of accommodation. This means that the accommodation must be capable of meeting the current Building Regulations without extension. The floor area of the building is such that the scheme would not accord with Policy OC1 of the Island Development Plan as with the extension being necessary to consider the conversion to a residential unit it would be tantamount to the creation of a new unit, contrary to this policy.

In light of the above, the principle of the proposed change of use and extension would not meet the terms of policy and it is not necessary to continue to assess the proposal against other relevant policy criteria.

Implications of *The Island Development Committee v Portholme* [2002]

In *The Island Development Committee v Portholme* [2002], the Court of Appeal held that “... if a plan allows for development only in certain identified circumstances, by necessary inference, development out with those circumstances is not to be allowed.”

Section 12(1) of The Land Planning and Development (General Provisions) Ordinance, 2007, is also clear that where the Authority has regard to any relevant Plan in determining an application for planning permission for development which would involve a departure from such a Plan then it must refuse the application (unless the applicant has requested that the application be considered as a minor departure), and it need not take into account any other matter to which it is required to have regard under the Law.

Given the identified conflict with OC1 and GP16(A), the only lawful decision that can be reached is that planning permission be refused.

Other matters

For the reasons set out above, other matters that would ordinarily be relevant to the determination of this application have not been the subject of a full and detailed assessment. For completeness' sake however, those matters that would be relevant are set out below, although it should be noted that the fact they do not form the basis for any additional reasons for refusal does not mean that this application is acceptable in those respects.

The onus is on the applicant to demonstrate that a building is of sound and substantial construction (GP16(A) c.) and recent appeals considered by the Planning Tribunal have indicated that such proposals should be accompanied by an appropriate Structural Survey. Such a survey has not been provided in this case but the application submission indicates that one could be produced and provided. A visual inspection of the exterior of the building in connection with this application suggested that the building, externally, is in generally good condition. It would however, be unreasonable to request a survey with the associated expense because this would represent abortive work given that the application is unsatisfactory in other respects.

The scheme does not relate to a Protected Building therefore Policy GP16(A) d. is not relevant in this case. The extension is considered to be modest (GP16(A) g.) As recognised as part of the earlier refusal scheme, the building is visible in views along the Rue de la Pomare, Rue des Paysans a la Pomare and Rue de L'Ardaine. In this case, the proposed extension would be of appropriate form, design and materials and would be discreetly located away from the roadside. The proposed dormer to the north roofslope would not have significant visual impacts, particularly taking into account the change in levels to that side of the building and the design and appearance of the proposed alterations would meet the aims of Policy GP8.

The proposals would not have an adverse impact on this building of character and its impact on the character and appearance of the area and nor would the proposals have an unacceptable adverse impact on the character and openness of the landscape (GP16(A) e. and f.). There are also no immediate residential neighbours and the development would not have a detrimental impact on residential amenity (GP16(A) h and GP9 b.).

The scheme considers the health and well-being of future occupiers by providing accommodation with adequate natural light and ventilation along with access to external amenity space, albeit not screened from the lane. Although the garden would be visible from the lane it is a road only lightly trafficked and additional landscaping could be incorporated to provide further privacy if future occupiers deemed it necessary and therefore the scheme addresses Policy GP8 d.

The limited size of the building is such that as existing, it does not offer flexible and adaptable accommodation that can respond to the needs of occupiers over time. It is acknowledged however, that should permission be forthcoming for its change of use to a unit of residential accommodation there would be scope to construct an extension(s) either under exemptions or following the grant of planning permission. The ground floor

would be on a single level to offer access to people of all ages and abilities however, the first floor bedroom space would not be easily accessible by all. The site, given its changing levels could also present challenges for people with mobility issues but should not preclude access to the proposed garden areas. On balance, the scheme would address the requirements of GP8 f. and g. given the limitations of the building and site.

The scheme incorporates information relating to sustainable development, including charging points and photovoltaics. The information provided demonstrates how the scheme can address the requirements of Policy GP9 and if the scheme was considered acceptable in all other respects a condition could be imposed requiring details of and the installation of panels and a charging point to meet the aims of Policy GP9.

Policy IP9 requires consideration to be given to the existing public road network's ability to cope with any increased demand as a result of the development and the access requirements of people of all levels of mobility and health. Given the scale of the existing building and likely number of associated vehicle movements if it were used for agricultural purposes, and that only a single one bedroom dwelling is proposed, it appears unlikely that there would be any significant adverse impact on the existing road network, or that acceptable access for people of all levels of mobility and health could not be provided.

Should the building be converted to a dwelling an area of domestic garden would be appropriate to ensure that the property is served by an area of external amenity space. The land shown in the application submission to be used as garden is within the APA. It is limited in size and not readily accessible for agricultural purposes given the tight vehicular access to the site. Whilst a new access could be formed into the site the land is elevated above road level making this difficult to accommodate. The land cannot therefore, 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.

The change of use does not require any established boundary features to be removed, would not have an unacceptable detrimental impact on the landscape character nor on the amenities of surrounding residents in accordance with Policy GP15.

The site is not located within an Area of Biodiversity Importance but neither has the application been accompanied by information demonstrating environmental benefits in respect of biodiversity that will be incorporated should planning permission be granted. This is necessary to address the requirements of the States' Strategy for Nature, 2020, which has been adopted as Supplementary Planning Guidance. As a result this aspect the proposal would not meet the aims of the SPG.

Conclusions

Notwithstanding the above, the scheme does not comply with Policies OC1 and GP16(A) of the Island Development Plan and is recommended for refusal.

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: 16 May 2022