

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 (1,000 sq.m.) (revised scheme).

LOCATION: La Belle Vie, Route Des Houguets, St. Saviour.

APPLICANT: Mr J Sarre & Ms A-L Petit

I refer to the application referred to below received as valid on 28/03/2022 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 19/08/2022

Drawing Nos: Matts Architectural Technology - 20-157-05B

Application Ref: FULL/2022/0769

Property Ref: E00469B000

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 which extends to the east, south, west and north. By virtue of the low earth banks bordering the application site and adjoining undeveloped/agricultural land, the land is visually prominent from the public highways to the east and south, with views extending across the site and across the adjoining undeveloped/agricultural land. The proposal would result in a significant incursion beyond the extent of the majority of existing residential properties into the wider open landscape and would have a detrimental impact on the landscape character of the area. In addition, there are concerns that the domestication/suburbanisation 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 land is largely flat with direct access onto Rue Coliche Effard. The application site is surrounded to the east, south and west by other agricultural land and it forms part of a large area of contiguous agricultural land. No information has been submitted to demonstrate that the land could not be used for commercial agriculture. The land the subject of this application could be used for commercial agricultural use in conjunction with the remainder of the field and potentially adjoining fields and its loss 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/2022/0769
Property Ref: E00469B000
Valid date: 28/03/2022
Location: La Belle Vie Route Des Houguets St. Saviour Guernsey GY7 9UJ
Proposal: Change of use of agricultural land to domestic garden (1,000 sq.m.) (revised scheme).
Applicant: Mr J Sarre & Ms A-L Petit

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 which extends to the east, south, west and north. By virtue of the low earth banks bordering the application site and adjoining undeveloped/agricultural land, the land is visually prominent from the public highways to the east and south, with views extending across the site and across the adjoining undeveloped/ agricultural land. The proposal would result in a significant incursion beyond the extent of the majority of existing residential properties into the wider open landscape and would have a detrimental impact on the landscape character of the area. In addition, there are concerns that the domestication/suburbanisation 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 land is largely flat with direct access onto Rue Coliche Effard. The application site is surrounded to the east, south and west by other agricultural land and it forms part of a large area of contiguous agricultural land. No information has been submitted to demonstrate that the land could not be used for commercial agriculture. The land the subject of this application could be used for commercial agricultural use in conjunction with the remainder of the field and potentially adjoining fields and its loss 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 consists of a detached dwelling and associated outbuildings, garden and parking in the south-east corner. The remainder of the site, measuring 6,166sqm, comprises of an open agricultural field laid to grass. The south-western section of the site was a former horticultural site, the glasshouses were cleared by 2016 and the land is now laid to grass, a brick chimney and a small tin clad shed remain.

The site is located in a rural area comprising of large swathes of open and undeveloped agricultural land, separated by low earth banks, and interspersed with isolated dwellings and intermittent ribbon development of residential properties along highways. The site is located Outside of the Centres and within an Agriculture Priority Area as designated in the Island Development Plan.

Relevant History:

31/08/2021 – FULL/2021/0902 – Application refused for the change of use of agricultural land to domestic garden (2,325 sqm).

28/01/2021 – PREA/2021/0121- Pre-application advice regarding the change of use of agricultural land to domestic garden.

Existing Use(s):

Agriculture use class 28 – field/land the subject of this application
Residential use class 1 – adjoining dwelling house

Brief Description of Development:

Planning permission is requested for a revised scheme to change the use of a parcel of agricultural land measuring approximately 1,000sqm to domestic land associated with the dwelling.

The application is accompanied by a letter from the agent referring to the reasons for the refusal of a previous application for the change of use of a parcel of agricultural land measuring 2,325sqm to domestic garden (FULL/2021/0902), and provides comments in support of the revised application with the aim of addressing the reasons for the refusal of the previous 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 (APAs)

Policy GP1: Landscape Character and Open Land

Policy GP15: Creation and Extension of Curtilage

Representations:

Two letters of representation were received, main points as follows:

- Reference is made to schedule one and appendix one relating to biodiversity net gain but details cannot be found.
- Proposed use of short and medium grasses gives the impression of ornamental grasses which may have little wildlife value.
- Plan indicating nearby curtilages and reference to previously approved application is irrelevant.
- One representation on behalf of La Société Guernesiaise advises that they missed the opportunity to view the plans online but that they can be contacted if advice on biodiversity is required.

Consultations:

St Saviour's Constables, 10/05/2022

"This application to extend domestic curtilage relates to an area of land at the property known as La Belle Vie. The extent of the application asks for 1,000 sq. m. to be changed from agricultural land to domestic curtilage.

The entire site and all of the surrounding land is located within an Agriculture Priority Area (APA) of the Island Development Plan (2016) (IDP) and it had not been demonstrated that the land cannot positively contribute to the commercial or practical agricultural use.

When Douzaine representatives met with your department in the spring of 2019 they were informed that; -

"Should owners of agricultural land which adjoins their properties choose to mow, plant shrubs and trees and effectively use it as their garden amenity, then Planning had no powers to stop them from doing so".

Therefore, the Douzaine sees no reason as to why this land should be rezoned as domestic curtilage and we would ask that the zoning remains 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".

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).**

Planning permission was refused to change the use of a parcel of agricultural land measuring 2,325sqm to domestic garden in August 2021 (FULL/2021/0902). The application was refused on account of its detrimental impact on the landscape character of the area and it had not been demonstrated that the land could not positively contribute to the commercial agricultural use of an Agriculture Priority Area or could not practicably be used for commercial agriculture within an Agriculture Priority Area without unacceptable adverse environmental impacts.

In support of the revised application the agent advises that the reduction in the size of the proposed curtilage extension to 1000sqm would be similar to other unspecified recently approved applications, biodiversity enhancement landscaping is proposed along the north and west boundaries and it is suggested that exemption rights are removed. In addition, it is advised that an area of 1000sqm is too small an area to form an individual holding and the size of the remaining agricultural land, 5000sqm, would be an appropriate size for a single holding or as part of a wider holding.

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.

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*

Paragraph 19.16.3 of Policy GP15 refers to the intentions of the Strategic Land Use Plan, where it is considered that whilst the domestication of the landscape generally runs counter to the desire to preserve the local character of our landscapes, “minor shifts in the management style of small parcels of land not forming part of larger areas of open land and not visually prominent will not fundamentally alter the character of the Island”.

Paragraph 19.16.7 acknowledges that “competition for land can occur when a residential use adjoins an open area of land and the householder would like to incorporate some of that open land within the domestic curtilage of the residential property” and that “in these instances there will be a balance to be struck between ensuring the reasonable protection of open land and the requirements of the agricultural industry and the reasonable expectations of landowners to add new or additional land to the curtilage around a building. An assessment of proposals will take into account the impact on the wider areas of open landscape and Agriculture Priority Areas”.

Paragraph 19.16.8 states that “the character and openness of the landscape can be affected by the introduction or intensification of ancillary fixtures and features, such as car parking, bin storage areas or boundary treatments. It can also change as a result of physical change to landscape features, such as hedges or earth banks. Care should be taken to ensure that proposals to create or extend a curtilage do not result in the removal or introduction of features that would detract from the character or distinctiveness of an area”.

With regards to the impact on the landscape character and openness of the area, Policy GP1 also requires consideration as to whether the proposal would result in the unnecessary loss of open and undeveloped land, which would have an unacceptable impact on the open landscape character of the area; whether the proposal respects the landscape character type within which it is set; and whether the proposal would result in the unacceptable loss of distinctive features that contribute to the wider landscape character and local distinctiveness of the area.

Paragraph 19.2.12 of Policy GP1 sets out that “care will be taken to ensure that development does not result in the unnecessary loss of open space or erosion of the character of the particular landscape of the locality concerned”. It goes on to state that “the value of the landscape and open and undeveloped land will be required to be assessed in a wider context rather than in terms of the impact development might have on an individual site. Development that affects landscape character or distinctive natural or built features will be considered in the wider context of the landscape value of a particular locality. In assessing development proposals, the Authority will balance the character of the locality concerned with the aspirations for development as set out above”.

With regards to the loss of distinctive features that contribute to the wider landscape character and the local distinctiveness of the area, paragraph 19.2.5 sets out that “an important contribution to the landscape character of an area is made by the particular features within them. Such distinctive features include boundary treatments, historic field patterns, trees and natural landscaping and are important elements in defining an area’s local distinctness”.

In this case, the land the subject of this application 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. Annex V sets out that the Upland Plateau “is characterised by a web of hedges, banks, hedgerow trees and tree-lined lanes, which enclose numerous small pastures”. “The Western Plateau is generally less affected by mid-to-late twentieth century development. The landscape consists of a series of broad erosion platforms stepping gradually down to the west and is much dissected by the deeply cut valleys. Open fields, divided by low earth banks, are interspersed with established farmsteads surrounded by mature trees. The open farmland on higher ground provides views out to the Western Bays and across the sub-zones from one church spire to the next”.

The land forming the subject of this application is a parcel of undeveloped/agricultural land which is largely flat and is situated to the west of the dwelling. Although partially

bounded by residential properties fronting onto Route Des Houguets, the land forms part of a large swathe of open and undeveloped land which extends to the east, south, west and north. By virtue of the low earth banks bordering the application site and adjoining undeveloped/agricultural land, the land is visually prominent from the public highways to the east and south, with views extending across the site and across the adjoining undeveloped/ agricultural land. The proposal would result in a significant incursion beyond the extent of the majority of existing residential properties into the wider open landscape and would have a detrimental impact on the landscape character of the area. In addition, there are concerns that the domestication of this land would adversely affect the landscape character, for example through the introduction of domestic paraphernalia. 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 children's play equipment, garden furniture, 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.

- 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 that part (b) of Policy GP15 is not relevant in this case.

- c. it is 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,*

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 land forms part of an Agriculture Priority Area. The proposed change of use of agricultural land to domestic land would see the field reduce in size from 6,166sqm to 5,166sqm.

The land is largely flat with direct access onto Rue Coliche Effard in the south-west corner. The application site is surrounded to the east, south and west by other agricultural land and it forms part of a large area of contiguous agricultural land. Notwithstanding the comments in the letter from the agent, no information has been submitted to demonstrate that the land could not be used for commercial agriculture. Despite the reduction in the area of land when compared to the previously refused scheme, it remains the case that the land the subject of this application could be used for commercial agricultural use in conjunction with the remainder of the field and potentially adjoining fields and its loss 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).

- 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; and,*

No existing boundaries are proposed to be removed.

- e. it would not adversely affect the reasonable amenities of neighbouring residents.*

Given the location of the land in relation to neighbouring residential properties, the proposed change of use would not of itself have an adverse impact on or affect the amenities of neighbouring residents.

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: 16/08/2022