

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 (retrospective) (372 sq.m.), erect a shed and patio area.

LOCATION: Cleveland, La Route Des Blanches, St. Martin.

APPLICANT: Mr & Mrs C & S O'Leary

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: 06/07/2022

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 31/05/2022 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Application Site Location Plan, Application Block Layout Plan, UK Garden Buildings drawing and Environment Guernsey Ltd Biodiversity Enhancement Statement dated March 2022.

Application Ref: FULL/2022/1000

Property Ref: J017490000

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.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 east boundary of the domestic garden hereby approved.

Reason - In view of the location of the site in relation to wider areas of open and undeveloped 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.

5.The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of this permission and the Biodiversity Enhancement Statement dated March 2022, in the first planting season following the grant of this planning permission, 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 ensure that positive biodiversity enhancements are provided to address the aims of the Strategy for Nature (2020) Supplementary Planning Guidance.

Expiry Date: This permission will cease to have effect on 05/07/2025 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/2022/1000
Property Ref: J017490000
Valid date: 31/05/2022
Location: Cleveland La Route Des Blanches St. Martin Guernsey GY4 6AG
Proposal: Change of use of agricultural land to domestic garden (retrospective) (372 sq.m.), erect a shed and patio area.

Applicant: Mr & Mrs C & S O'Leary

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. 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 east boundary of the domestic garden hereby approved.

Reason - In view of the location of the site in relation to wider areas of open and undeveloped 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.

5. The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of this permission and the Biodiversity Enhancement Statement dated March 2022, in the first planting season following the grant of this planning permission, 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 ensure that positive biodiversity enhancements are provided to address the aims of the Strategy for Nature (2020) Supplementary Planning Guidance.

OFFICER'S REPORT

Brief Description of the site:

Cleveland is an end of terrace house to the east of La Route Des Blanches. The front boundary is marked by a wall and the frontage area hardsurfaced for parking. To the rear of the property, the south boundary is marked by a combination of hedge and fencing and the north boundary by a fence and bank. A gate has been installed to the rear site boundary providing access to the agricultural land beyond. A domestic greenhouse is situated adjacent to the north boundary just at the point the site widens.

The application relates to the change of use of agricultural land to domestic garden, the erection of a shed and patio. The application has been accompanied by a letter that sets out that the land has been used as garden for many years but that it is considered unviable as agricultural land due to its size. Furthermore, there are access restrictions (through conveyancing documents) limiting access to the site which will further affect its suitability for agricultural purposes. A Biodiversity Enhancement Statement has also been provided and proposes native hedge planting, Silver birch trees to be planted and for the retention and enhancement of the wild area along the east boundary as this offers a wildlife refuge to be enhanced with further planting. Although Monterey Pines along the south boundary are to be

removed they will be replaced with native hedge plants. The existing grass area will be retained albeit with a new patio and shed installed along the north boundary. Fertilizer, herbicides and biocides are not to be used on the lawn area and the existing pond will be retained.

The application is retrospective in part because the land has been used as domestic garden for some time, including the formation of a pond.

The site is located Outside of the Centres as designated in the Island Development Plan.

Relevant History:

FULL/2022/0298 - Demolish extension, erect single storey extension, enlarge existing dormer window and install rooflights to north-east (rear) elevation and install rooflights to south-west (front) elevation – granted

Pre-application advice was sought in this case.

Existing Use(s):

01 dwellinghouse

28 agriculture

Assessment: *(Tick as appropriate)*

no representation	☒	visual amenity acceptable	☒
accords with policy	☒	no material neighbour impact	☒
within curtilage	☒	traffic not affected	☒
design acceptable	☒		

Policies considered most relevant:

Island Development Plan policies:

OC5(B): Agriculture Outside of the Centres – outside the Agriculture Priority Areas

GP1: Landscape Character and Open Land

GP15: Creation and Extension of Curtilage

GP8: Design

GP9: Sustainable Development

GP13: Householder Development

Conclusion/Brief comment:

Change of use of agricultural land to domestic garden

The IDP sets out that there is support for the loss of an existing farmstead, agricultural building or land where the new use accords other relevant planning policies in the Island Development Plan. This provides a policy gateway for the change of use proposed.

The area of land is well associated with the existing dwelling, Cleveland, and is not located within an Agriculture Priority Area. The outer boundaries of the site are clearly delineated and the surrounding land is in separate ownership to Cleveland and the agricultural land that is the subject of this application. The application does not require any established boundary features to be removed in connection with the change of use of the land and the land is not identified as being situated within an Area of Biodiversity Importance.

The Island Development Plan recognises there is a balance between protecting open and agricultural land and other legitimate uses Outside of the Centres. The designation of the Agriculture Priority Area represents the Island's most valuable agricultural area. In this instance, given that the land is outside of the Agriculture Priority Area, the balance would not be towards protecting this land for agricultural purposes.

With regard to the impact on neighbouring properties, the proposal involves a change of use of an area of land to be included and managed as part of the residential curtilage and given the location of the land in relation to neighbouring residential properties and that adequate boundary screening separates the land from the neighbouring properties, the proposed change of use would not of itself have an adverse impact on or affect their amenities.

It is considered that the change of use would accord with Policy GP15 a)- e) and provided that the proposal accords with all other relevant policies of the IDP, the principle of change of use to domestic curtilage is considered to be acceptable in this particular location.

The Biodiversity Statement demonstrates that consideration has been given to the Strategy for Nature, 2020, which has been adopted as Supplementary Planning Guidance. The scheme satisfactorily shows enhancements to biodiversity that will be incorporated should planning permission be granted and the implementation of this Strategy can be controlled by planning condition.

Given the established site boundaries the proposal would not undermine the wider landscape character or the openness of the area in accordance with Policy GP1.

As a domestic garden normal householder exemption rights would apply and it is reasonable to consider whether it is necessary to remove any householder

exemption rights in this case. Given the location of the site amongst other development controlling boundary treatments to the north and south boundaries would not be appropriate. A high fence or wall along the east boundary could impact on the wider open landscape and it is reasonable therefore to impose a condition to manage the means of enclosing/securing this boundary. Given the existing and proposed buildings on the site any further outbuildings would also require permission.

In view of the above it is recommended that planning permission is granted for the change of use of land proposed.

Shed and patio

Having established that the change of use of agricultural land to domestic garden accords with the aims of the Island Development Plan there is scope for domestic development on the land.

The proposed shed and patio will represent a good standard of design that will not have a detrimental impact on the character and appearance of the locality nor on the amenities enjoyed by the occupiers of surrounding dwellings.

Conclusions

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.

In view of the above, it is recommended planning permission is granted for the change of use of land, erection of a shed and proposed area of hardstanding as set out in the application. A condition should be imposed relating to biodiversity enhancements.

Recommendation:

Grant with Conditions



Date: 05 July 2022

