

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 (47.38 sq.m.), demolish existing outbuilding and erect single storey outbuilding/garage/store to south-west boundary.

LOCATION: Les Fontaines, Rue Du Rocher, Torteval.

APPLICANT: Mr & Mrs T Vance

I refer to the application referred to below received as valid on 03/08/2022 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 07/11/2022

Drawing Nos: Direct Architectural Solutions Ltd - 1421-SK-01C & 02.

Application Ref: FULL/2022/1111

Property Ref: G004990000+G00476B000

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 change of use of land to domestic garden and the introduction of a garage of a domestic nature of this size and in this location would disrupt the undeveloped nature of the land, it would not respect the landscape character of the area and it amounts to the unnecessary loss of open and undeveloped land. The proposal is contrary to IDP Policies GP1 and GP15(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/2022/1111
Property Ref: G004990000+G00476B000
Valid date: 03/08/2022
Location: Les Fontaines Rue Du Rocher Torteval Guernsey GY8 0PU
Proposal: Change of use of agricultural land to domestic garden (47.38 sq.m.), demolish existing outbuilding and erect single storey outbuilding/garage/store to south-west boundary.
Applicant: Mr & Mrs T Vance

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The change of use of land to domestic garden and the introduction of a garage of a domestic nature of this size and in this location would disrupt the undeveloped nature of the land, it would not respect the landscape character of the area and it amounts to the unnecessary loss of open and undeveloped land. The proposal is contrary to IDP Policies GP1 and GP15(a).

OFFICER'S REPORT

Site Description:

The application site is located to the north of the applicant's residential property across the road, Rue du Rocher. The site slopes from west up to the east and comprises open undeveloped land with shrubs and trees all around a level middle section. Rue des Villains runs along the western boundary, woodland bounds the north boundary and there is a residential property and Rue de la Rocque bound the eastern boundary. There is a single storey flat roof single garage/store built into the sloping land at the southern end of the site which faces onto the road. The site is located Outside of the Centres as defined in the Island Development Plan. Although not in the APA, the land is classed as Agricultural.

Relevant History:

FULL/2015/2150 – Use of building for domestic purposes – Approved September 2015

FULL/2015/2880 – Alter building to incorporate first floor storage area – Approved December 2015.

Both these applications were assessed under the previous Development Plan and were therefore subject to a different set of policies.

Existing Use(s):

Agricultural use class 28: agriculture

The Garage/store is allowed to be used for domestic purposes.

Brief Description of Development:

This application is for a change of use of 47.38sqm of agricultural land to domestic curtilage and to demolish the existing single garage and erect a one and a half storey double garage.

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

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

GP1: Landscape Character and Open Land

GP15: Creation and Extension of Curtilage

Representations:

None

Consultations:

None

Summary of Issues:

- Design of the development.
- Impact of the development on the character and appearance of the area.
- Impact of the development on neighbouring properties.

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.

The proposal to change the use of the land to a domestic use falls to be considered principally under Policies OC5(B), 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”.

In this case 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 swathe of undeveloped land and comprises the side of a valley predominantly covered with shrubland and woodland which extends to the north and south and is bounded to the east by a domestic property and Rue de la Rocque with Agriculture Priority Area land beyond forming part of the western plateau. The size of the land parcel together with its naturalised undeveloped 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 value and importance of protection of this feature from inappropriate and/or unnecessary development.

The land is visible from the public highways Rue Des Villains and Rue Des Portelettes to the west and southwest and the existing store is a very prominent feature along this section of road. The proposal would result in a significant incursion beyond the extent of existing residential properties to the south 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, located across Rue du Rocher to the south.

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 and replace the existing single storey garage with a one and a half storey double garage. 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 application site is not within an Agriculture Priority Area, although it is adjacent. The application land slopes up from west to east with a middle section of level land that is too small to be use for agricultural purposes.

- 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(B), GP15 and GP1 and it is recommended that the application is refused.

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: 04/11/2022