

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 (Use Class 28) to storage of vehicles (Use Class 22) (290sqm), install 3 skips and 1 container (Retrospective). Install 1 container and erect fence to landscape buffer adjacent to north boundary.

LOCATION: Auto Collision Repair, Forest Road, St. Martin.

APPLICANT: Mr Rowe

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: 14/02/2023

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 20/07/2022 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: PF+A Ltd - 5795-02 B1C

Application Ref: FULL/2022/1403

Property Ref: J002230000

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 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.

3. Within two months of the date of this permission a landscaping scheme, to include full details of new tree and hedge planting incorporating planting schedules, noting the species, sizes, numbers and densities of plants shall be submitted to and approved in writing by the Authority.

The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of the above condition, in the first planting season following the first occupation of any part of the development or completion of development whichever is the sooner, 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 make sure that a landscaping scheme for the site is agreed, in order to help assimilate the development into its surroundings and to provide meaningful biodiversity enhancements on the site in line with the aims of the Strategy for Nature, 2020.

4. The land that is the subject of this application shall be used only for the parking of vehicles associated with the auto collision repair centre operating from the site and for no other purpose including any other purpose in Storage and Distribution Use Class 22 of the Land Planning and Development (Use Classes) Ordinance, 2017, or in any provision equivalent to that Use Class in any Ordinance revoking or re-enacting that Ordinance.

Reason - Permission has been granted on the basis that the use will be limited to that outlined above. Any other use is likely to raise different planning policy considerations.

5. No outside storage on the site other than that hereby approved shall be carried out on site.

Reason - In the interests of visual amenity and the amenities of the occupiers of the neighbouring residential properties.

Expiry Date: This permission will cease to have effect on 13/02/2026 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/2022/1403
Property Ref: J002230000
Valid date: 20/07/2022
Location: Auto Collision Repair Forest Road St. Martin Guernsey
GY4 6UE
Proposal: Change of use of agricultural land (Use Class 28) to storage of vehicles (Use Class 22) (290sqm), install 3 skips and 1 container (Retrospective). Install 1 container and erect fence to landscape buffer adjacent to north boundary.
Applicant: Mr Rowe

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 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.

3. Within two months of the date of this permission a landscaping scheme, to include full details of new tree and hedge planting incorporating planting schedules, noting the species, sizes, numbers and densities of plants shall be submitted to and approved in writing by the Authority.

The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of the above condition, in the first planting season following

the first occupation of any part of the development or completion of development whichever is the sooner, 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 make sure that a landscaping scheme for the site is agreed, in order to help assimilate the development into its surroundings and to provide meaningful biodiversity enhancements on the site in line with the aims of the Strategy for Nature, 2020.

4. The land that is the subject of this application shall be used only for the parking of vehicles associated with the auto collision repair centre operating from the site and for no other purpose including any other purpose in Storage and Distribution Use Class 22 of the Land Planning and Development (Use Classes) Ordinance, 2017, or in any provision equivalent to that Use Class in any Ordinance revoking or re-enacting that Ordinance.

Reason - Permission has been granted on the basis that the use will be limited to that outlined above. Any other use is likely to raise different planning policy considerations.

5. No outside storage on the site other than that hereby approved shall be carried out on site.

Reason - In the interests of visual amenity and the amenities of the occupiers of the neighbouring residential properties.

OFFICER'S REPORT

Site Description:

The application site comprises a detached industrial building situated to the east of Rue Sans Nom. Surrounding the site the area comprises residential properties to the south, a hotel to the west and agricultural fields to the north. A shed and container exist on the land that is the subject of this application. A detached dwelling is situated to the east of the application site with detached garage/outbuilding adjacent to the common boundary with the application site. The domestic garden of this neighbouring dwelling has not ever been formally established by the Development & Planning Authority. The land to the west of La Croix-Guillon was agricultural land for which permission has been granted for the change of use of agricultural land to domestic garden.

The site is situated Outside of the Centres and within the Eastern Airport Public Safety Zone as designated in the Island Development Plan (IDP).

Relevant History:

PRCN/2006/4127 - Operation of car body repair shop independently of residential occupation of adjoining dwelling (rescind condition of permission); block up existing access and create new vehicle access, create additional vehicle access and erect timber fence – granted subject to conditions

PAPP/2007/0098 - Variations to works previously approved (PRCN/2006/4127) – Install gates to the rear car park north of the workshop and erect a 1.8m high smooth rendered blockwork wall across the site (east to west) and close off access between the dwelling and the workshop (rather than a 1.5m wall extending part way across the site allowing access) at San Miguel, Forest Road – granted

Existing Use(s):

Car body repair shop (sui generis)
Agricultural land (28)

Brief Description of Development:

As originally submitted the application referred to the change of use of agricultural land north of the Auto Collision Repair centre to allow for the storage of vehicles in connection with the repair centre. The application was retrospective because the land is currently being used for the parking/storage of vehicles associated with the business along with the storage of salvaged parts and the submission argued that this demonstrated consideration for sustainability as these parts could be reused and not dumped.

A letter from the applicant sets out that the land is not suitable to be used as garden being part of a commercial property and that the demands of the business means that more vehicles are taken off the road (a requirement of insurance) before they are repaired. Occasionally there are more vehicles than can be accommodated in the parking area which exists to the front and rear of the building and these spill into the green area.

The application was accompanied by a statement to address policy GP15 of the IDP and addressing biodiversity enhancements and a proposed landscape buffer to the north of the site.

The application was deferred due to conditions imposed as part of PRCN/2006/4127 which had not been complied with. Condition 5 of that permission set out that there should be no outside storage on the site without prior express permission and that any such storage should be screened in accordance with details agreed by the Department. Skips, a shed and container (and vehicles) exist on the wider site

without the benefit of permission, and it was recommended by the Planning Service that these (where appropriate) were incorporated into this submission. Clarification was also sought regarding the use of the land to be used for vehicle storage as there was a discrepancy between the agent and applicant details. A more detailed landscape buffer plan was also invited to address the aims of the Strategy for Nature and incorporating means to prevent the spill over of ancillary storage into the buffer zone.

The application was amended in order to address the points above and as amended relates to the change of use of agricultural land to the storage of vehicles (Use Class 22) This would represent a storage use in connection with the overall mixed, sui-generis use of the site. In addition, the application proposes to install 3 skips and 1 container. The change of use of land, skips and 1 container are retrospective. Furthermore, the application includes the installation of 1 container and the erection of a fence to the landscape buffer adjacent to the north site boundary.

A further letter from the planning agent sets out that the scheme has been amended to include external siting of skips to the north of the building, south of the open land included in the application and two containers on the land to be incorporated into curtilage. These are shown adjacent to the roadside/west boundary. An existing shed adjacent to the east boundary is shown to be removed along with a second shed in the northeast corner of the site (within proposed landscape buffer). The submission clarifies that a car wash bay, courtesy car parking and cars waiting to be repaired are generally contained within the hardsurfaced area to the immediate north of the industrial building and that overspill parking for two cars on the existing grassland towards the north of the site is proposed. A sleeper fence 0.75m high is proposed to separate the landscape buffer to the north of the site from the proposed storage area.

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

Island Development Plan policies:

GP1: Landscape Character and Open Land

GP15: Creation and Extension of Curtilage

OC3: Offices, Industry and Storage and Distribution Outside of the Centres

Representations:

One letter of representation was submitted commenting on the application as originally submitted. A second letter was submitted following the amendment of the application reiterating the points below and confirming that the area is not suitable for industrial use:

- There is already a significant amount of parking to the front and immediate rear of the garage and staff are able to use the car park of the former Forest Lodge Hotel

- The change of use would see more cars and parts stored on the site – it will become a dumping ground and the area of biodiversity will not hide this
- There is vermin already on site
- Boundary treatments have not been replaced resulting in some damage
- The neighbouring garden is impacted by the large Leylandii hedge which the neighbour has requested be cut back but an agreement has not been reached
- The parking area north of the building is used for cleaning, within chemicals allowed to soak into the ground

Consultations:

Office of Environmental Health and Pollution Regulation - have reviewed the proposed plans for the change of use from agricultural land to storage of vehicles, installation of three skips and one container (retrospective), plus the installation of a further container.

OEHPR note no business activity other than the parking of vehicles is being proposed on the extended site and therefore do not wish to raise any objections to the proposal.

OEHPR cannot see any proposals for lighting within the plans and understand any proposal for lighting would be subject to a further planning application and would be grateful to be consulted on any such proposals.

Summary of Issues:

The key issues in this case relate to the principle of the proposed change of use of land and its potential impact on the character of the locality and on residential amenity.

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 OC5(B) of 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.

Policy OC3 supports applications for extensions and alterations to existing industrial and storage and distribution premises.

Change of Use of Land

The area of land is well associated with the existing industrial unit, Auto Collision Repair, and is not located within an Agriculture Priority Area. The outer boundaries of the site are clearly defined with established hedgerow, although some breaks in the hedge allow some views into the site. The house, San Miguel, to the south of the site falls within the same ownership as the application site.

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 land is situated adjacent to Rue Sans Nom to the west and Les Mouilpieds to the north but is separated from the roads by mature hedge planting.

In line with the States' Strategy for Nature, 2020, which has been adopted as Supplementary Planning Guidance, the application has been accompanied by information demonstrating environmental benefits in respect of biodiversity that will be incorporated should planning permission be granted. The application proposes a landscape buffer which would sit outside the extended curtilage associated with the industrial use but on land within the applicants ownership and control. Given the revised information provided the creation and retention of the landscape buffer can be managed by planning condition and in this case the requirements of the Strategy for Nature have been addressed.

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.

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.

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 is considered to be acceptable in this particular location.

Skips and Containers

Given that the change of use of land is deemed acceptable, there is scope for the placing of containers on the land as also proposed by this application. It should also be noted that as agricultural land other development is not precluded by planning policy.

The skips are situated adjacent to the east site boundary and although are visible from the west site access given the narrow nature of Rue Sans Nom glimpse views

only are possible when passing the accessway alone. There is an existing hedge to the north and east of these skips and overall there is no undue harm to the character and appearance of the area associated with them being placed on the site.

Impact on Residential Amenity

The scheme relates to the use of land for storage purposes, specifically in relation to the storage of 2 vehicles (a matter that can be managed by condition) and two containers which are set away from the east site boundary with an adjoining residential property. Adequate boundary screening separates the land from the neighbouring properties and gardens and as a result, the proposed change of use would not of itself have an adverse impact on or affect their amenities. The siting of containers and skips on the land would not result in harm to amenity with regard to overshadowing/overlooking. The skips have been situated on the land for a number of years without any complaints relating to noise/nuisance associated with their use to either the Planning Service or the Office of Environmental Health and Pollution Regulation. There is also a substantial hedge along the east site boundary which offers screening and a sound buffer to the use of the skips which will occur during daytime business hours.

Given the location of the site adjacent to residential properties it remains reasonable to control external storage to the extent of this approval. Any further external storage would then require a further application to the Planning Service for consideration.

Other Matters

Many of the comments raised through the public consultation process do not relate directly to the proposed change of use of land but rather in relation to the current use and operation of the site and its relationship with the adjoining residential property. Ultimately these are private civil matters and cannot influence the determination of this application.

Through the application for redevelopment of the site, planning permission was granted for a wall separating the dwelling at the site, San Miguel, from the workshop (PAPP/2007/0098) and this has been constructed. A review of the planning history has not however revealed that planning permission has been sought or granted for works to other boundary walls, including that to the adjoining dwelling to the east. If a wall has been removed without planning permission, and the demolition of that wall did not comprise exempt development, this could be pursued through the enforcement process, however there is no recourse to address that work through the current application.

The High Hedges (Guernsey) Law, 2016 ("the Law") came into effect on Monday 2nd October 2017. This provides a remedy for when neighbours disagree on what should be done about a high hedge. The Law enables people experiencing significant problems with high hedges causing a barrier to light, and who have not been able to

resolve their dispute through discussion with their neighbour. There would not however be any justification to require works to the hedge as part of the current application.

Planning Enforcement and the Office of Environmental Health may be contacted to investigate the site to ensure the development is being carried out in accordance with the relevant planning permissions, and associated planning conditions, and in line with Environmental Health legislation.

Conclusions

In view of the above, it is recommended planning permission is granted for the proposed change of use of land subject to conditions.

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: 10 February 2023