

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 from agricultural land to domestic garden (690 sq.m.).

LOCATION: La Madeleine, Ruelle De La Madeleine, St. Pierre Du Bois.

APPLICANT: Mr & Mrs Patterson

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: 21/09/2022

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 25/08/2022 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: CCD Ltd - 3697 PL01A & PL03A.

Application Ref: FULL/2022/1541

Property Ref: F003550000

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 south and east boundaries 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.Prior to the change of use of land hereby approved full details of hedge and other planting to include planting schedules, noting the species, sizes, numbers and densities of plants shall be submitted to and approved in writing by the Authority.

The earthbanks and landscaping scheme shall be fully completed, in accordance with the details agreed under the terms above, in the first planting season following the change of use of land hereby approved, 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 help assimilate the development to its surroundings and to provide biodiversity net gain on the site having regard to the Strategy for Nature, 2020.

Expiry Date: This permission will cease to have effect on 20/09/2025 unless development is commenced by that date.

ADVICE AND OTHER REMARKS:-

Please ensure that you notify the Planning Service in writing of the date on which the change of use takes place. Once the change has been made the land will be classified as shown above. Failure to notify the Planning Service as required may lead to delay in any future property search or use class enquiry resulting from incorrect classification of the site.

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/2022/1541
Property Ref: F003550000
Valid date: 25/08/2022
Location: La Madeleine Ruette De La Madeleine St. Pierre Du Bois
Guernsey GY7 9EW
Proposal: Change of use from agricultural land to domestic garden
(690 sq.m.).

Applicant: Mr & Mrs Patterson

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 south and east boundaries 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. Prior to the change of use of land hereby approved full details of hedge and other planting to include planting schedules, noting the species, sizes, numbers and densities of plants shall be submitted to and approved in writing by the Authority.

The earthbanks and landscaping scheme shall be fully completed, in accordance with the details agreed under the terms above, in the first planting season following the change of use of land hereby approved, 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 help assimilate the development to its surroundings and to provide biodiversity net gain on the site having regard to the Strategy for Nature, 2020.

INFORMATIVES

Please ensure that you notify the Planning Service in writing of the date on which the change of use takes place. Once the change has been made the land will be classified as shown above. Failure to notify the Planning Service as required may lead to delay in any future property search or use class enquiry resulting from incorrect classification of the site.

OFFICER'S REPORT

Site Description:

La Madeleine, Ruelle De La Madeleine is a detached dwelling with Ruelle De La Madeleine to the west, a neighbouring dwelling, field and Rue Des Vinaires to the north, field and Rue de la Madeline to the south and a field behind the roadside development to Route des Paysans to the east. The dwelling is substantially surrounded by open and undeveloped agricultural land. The agricultural land to the

east of La Madeleine benefits from a vehicular access in the southern boundary from Rue de la Madeleine. A number of trees separate the area of actively used agricultural land from the agricultural land immediately adjacent to the dwellinghouse. The trees were introduced onto the agricultural land between 2001 and 2004. There is approximately 1.5m difference in land levels between the land proposed to be garden and the field, and the land continues to rise to both the south and east.

The site is located Outside of the Centres and within the Agriculture Priority Area as designated in the Island Development Plan. La Madeleine De Bas adjacent to the application site is a Protected Building.

Relevant History:

None relevant

Existing Use(s):

01 dwellinghouse
28 agriculture

Brief Description of Development:

The application relates to the change of use of agricultural land to the southeast, east and northeast of the dwelling comprising an area of 690 sqm.

The submission sets out that the house has been extended over time and now there is a small domestic garden serving it, the application is to provide a better balance of garden in relation to the size of the house. The submission sets out that the topography of the land means that it is not used for agricultural purposes and the change of use of land would not encroach into the field which is currently used for agricultural purposes.

The scheme proposes a combination of earthbanks and fencing to mark the extent of the proposed domestic garden along with the removal of a wall which marks the existing extent of garden. The earthbank is to be constructed in accordance with the guidance provided in Conservation Advice Note 3: Earthbanks in Guernsey.

The application includes supporting information in relation to biodiversity enhancement and the States' Strategy for Nature, 2020, which has been adopted as Supplementary Planning Guidance.

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

Island Development Plan policies:

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

GP1: Landscape Character and Open Land

GP15: Creation and Extension of Curtilage

Representations:

None.

Consultations:

None.

Summary of Issues:

The key issues in this case relate to the principle of the proposed change of use and its impact on the commercial function of the Agriculture Priority Area and landscape character of the area.

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.

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 (APA).

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 (Policy OC5A).

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 which forms the subject of this application would be largely screened from the west by the dwelling and associated trees and landscaping. Although field boundary planting exists along the southern field boundary this does not prevent views of the land from the south. The application does not propose any built development on the proposed garden area and the change of use of land proposed is not considered to have a significant impact on the landscape character or openness of the area in line with Policy GP15 a. and GP1.

It is considered appropriate to remove exemption rights relating to boundary treatments because a high wall or fence could have an unacceptable urbanising effect on this rural location.

The application site is not located within or adjacent to an Area of Biodiversity Importance. It is therefore concluded b) of Policy GP15 is not relevant in this case. A letter dated 23/08/2022 was submitted to demonstrate environmental benefits in respect of biodiversity that will be incorporated should planning permission be granted in line with the States' Strategy for Nature, 2020. The submission acknowledges the biodiversity benefit of the existing trees, to be retained, and proposes the removal of a wall and its replacement with a traditional earthbank with native hedging for "significant biodiversity enhancement in the future" and the use of indigenous plants will "support local insect and animal life". Subject to a condition relating to the implementation of such works and a detailed landscaping scheme in relation to the proposed planting this would satisfactorily address the requirements of the Strategy for Nature.

The land forms part of an Agriculture Priority Area and the submission asserts that "the natural topography of this area of land means it is not used for agricultural purposes". A site visit did not demonstrate that the land is steeply sloping and there is no evidence to demonstrate that the land could not be used by grazing animals. The existing trees create a buffer between the agricultural land and domestic property and currently mitigate the impact of the existing high walls and boundary enclosures around La Madeleine. Nonetheless, the land that is the subject of the application is in close proximity to boundary walls to the dwellinghouse which could make manoeuvring large machinery difficult in connection with the agricultural use of the land and the loss of the existing trees in connection with the agricultural use of the site would have an adverse environmental impact. Furthermore, the proposed change of use would not undermine the use of the remaining field for agricultural purposes and does not interfere with the existing field access to the south boundary. The land does not currently contribute to the commercial function of the APA and for the reasons outlined above, in this case the proposed change of use would not

therefore impact on commercial agriculture within an Agriculture Priority Area in this instance in line with the aims of GP15 c.

The proposal would not result in the removal of any boundary features as existing trees are shown to be retained and a new earthbank with low post and rail fencing inside the proposed domestic boundary would not have a detrimental impact on the character of the area and open landscape concerned in line with GP15 d.

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. The scheme therefore complies with Policy GP15 e.

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

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: 21 September 2022

