

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 (1,450sqm).

LOCATION: Notre Maison, Route Du Tertre, Castel.

APPLICANT: Mr & Mrs D Crouse

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: 21/12/2022

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 05/08/2022 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: JGA drawing no: 02.01A and Biodiversity Statement by Environment Guernsey

Application Ref: FULL/2022/1607

Property Ref: D01116A000&D01116A001

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 north 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.

6.The landscaping scheme shall be fully completed, in accordance with the details shown in the Biodiversity Statement and on the approved plan, in the first planting season following change of use of land. 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 the biodiversity enhancements proposed under condition 5 are implemented and retained.

Expiry Date: This permission will cease to have effect on 20/12/2025 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 land.

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/2022/1607
Property Ref: D01116A000&D01116A001
Valid date: 05/08/2022
Location: Notre Maison Route Du Tertre Castel Guernsey GY5 7JN
Proposal: Change of use of agricultural land to domestic garden (1,450sqm).

Applicant: Mr & Mrs D Crouse

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 north 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.

6. The landscaping scheme shall be fully completed, in accordance with the details shown in the Biodiversity Statement and on the approved plan, in the first planting season following change of use of land. 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 the biodiversity enhancements proposed under condition 5 are implemented and retained.

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 land.

OFFICER'S REPORT

Site Description:

Notre Maison, Route Du Tertre is a detached one and a half-storey dwelling with pitched roof garage to the north. Substantial areas of hardstanding exist to the front of the dwelling including an area of hardsurfacing adjacent to the north boundary with the adjoining agricultural land. This adjoining agricultural land was once covered in two glasshouses with associated packing shed, the packing shed remains and now sits within the existing domestic garden/curtilage of Notre Maison. The glass was gradually cleared between 1996 and 2016.

The house and adjoining agricultural land are situated Outside of the Centres as designated in the Island Development Plan. The field itself is situated immediately adjacent to the Agriculture Priority Area and this is situated to the north and east of the site.

Relevant History:

None.

Existing Use(s):

01 dwellinghouse

28 agriculture

Brief Description of Development:

The application relates to the change of use of agricultural land to domestic garden. The field to the north of the property is the subject of the application. The submission also shows the introduction of planting for biodiversity benefit to the west, east and a small part of the north site boundary.

The application was deferred to seek further information regarding biodiversity enhancements and a Biodiversity Statement was submitted covering a mixed species of wildlife friendly native hedging, planting to offer early and late nectar and pollen for wildlife and new trees for mammals, insects and birds as well as log and leaf piles and long grass for hedgehogs and other creatures. Reference is also made to habitat boxes for birds, bats and dormice (although dormice are not found on Guernsey).

Given the scale of the area of land to be given over to domestic garden a more comprehensive landscaping scheme was sought to ensure that a proportionate level of biodiversity enhancements were provided and revised plans and an additional, Biodiversity Statement, was provided.

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

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

Representations:

One letter of representation has been submitted stating:

We are told that the applicants wish to extend their curtilage for the improved event of biodiversity, then go on to say that they do not want limitations on the permission, if granted. The reference to the Strategy for Nature is far from comprehensive and I would point out that Buddleia and Lavender are not native species. This application requires considerably more detail. Surely improvements for biodiversity are possible without rezoning.

La Societe Guerneslaise –remains concerned over the reclassification of agricultural land to domestic curtilage. However, as the Island Development Plan currently permits the consideration of such applications, La Societe seek to optimize ecological gains in such cases wherever possible.

Firstly, La Societe would question why the applicant is applying for an extension to the existing domestic curtilage as the current land classification (as agricultural land) has not prevented the development of the land as domestic garden. Further, it is noted that the application outlines biodiversity measures but does not include full details relating to these. Reference is given to a proposed landscaping scheme but La Societe cannot assess the application at this stage.

National Trust – the intention of the policy in the IDP was to facilitate the ‘tidying up’ of redundant glasshouse land and isolated agricultural holdings that did not form viable entities and could not be amalgamated or linked with other holdings to make them so. The current pattern appears to be the general parcelling up of agricultural land for the expansion of gentrified domestic gardens, which is leading to the erosion of stock of viable agricultural land, contrary to the intentions of the IDP and SLUP.

No further comments were received following the submission of a more detailed landscaping scheme and Biodiversity Statement.

Consultations:

None.

Summary of Issues:

The key issues in this case relate to the principle of the proposed development, its impact on the character of the area, residential amenity and biodiversity.

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 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. Although comments received through the public consultation process indicates that it should not be necessary to implement a change

of use of land in order to offer biodiversity enhancements the Planning Service must consider the application submitted.

The area of land is well associated with the existing dwelling, Notre Maison, and is not located within an Agriculture Priority Area. The outer boundaries of the site are clearly defined although there is no boundary demarcation between the existing garden/curtilage of Notre Maison and the land which forms the subject of this application. The surrounding land is in separate ownership to Notre Maison 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 land is situated adjacent to Route Du Tertre but is separated from it by a hedge which would be enhanced in connection with the change of use proposed.

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.

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 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 land adjacent to open and undeveloped agricultural land, to the north and east, it is reasonable to control, by condition, any high walls, gates or fences to these boundaries to avoid an unacceptable urbanising effect on the rural landscape. As much of the land would be forward of an elevation of the dwellinghouse facing a highway and the existence of the detached garage and packing shed it is not considered necessary to remove exemption rights relating to outbuildings etc.

In line with the States' Strategy for Nature, 2020, which has been adopted as Supplementary Planning Guidance, the Development and Planning Authority has directed that from 01 September 2021 all applications involving the change of use of agricultural land to domestic garden must be accompanied by information demonstrating environmental benefits in respect of biodiversity that will be incorporated should planning permission be granted. The submission, as amended, satisfactorily addresses this matter which can further be managed by planning condition.

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 that planning permission is granted for the change of use of land proposed.

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: 20 December 2022

