

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 (3,228sqm).

LOCATION: La Cloche, Les Traudes, St. Martin.

APPLICANT: Mr & Mrs O Kandili

I refer to the application referred to below received as valid on 07/09/2022 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 28/11/2022

Drawing Nos: A7 Design Limited: 22-1404-P1/PD-01.

Application Ref: FULL/2022/1688

Property Ref: J003160000 + J00316A000

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 land the subject of this application forms part of a large swathe of open and undeveloped land which extends to the east and south. The proposal would result in a significant incursion beyond the extent of the majority of existing residential properties into the wider open landscape and would have a detrimental impact on the landscape character of the area. In addition, there are concerns that the domestication/suburbanisation of this land would adversely affect the landscape character and openness of the area, for example through the introduction of domestic paraphernalia. 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. The proposal is contrary to Policies GP15(a) and GP1.

2. The site is situated within an Agriculture Priority Area designated in the Island Development Plan. The land is largely flat with its own access onto Les Traudes. The application site is surrounded to the east and south by other agricultural land and it forms part of a large area of contiguous agricultural land. No information has been submitted to demonstrate that the land could not be used for commercial agriculture.

The land the subject of this application could be used for commercial agricultural use in conjunction with the remainder of the field and potentially adjoining fields and its loss would represent the unacceptable loss of agricultural land within the Agriculture Priority Area. It has not been 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 therefore the proposal is contrary to Policies GP15(c) and OC5(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/2022/1688
Property Ref: J003160000 + J00316A000
Valid date: 07/09/2022
Location: La Cloche Les Traudes St. Martin Guernsey
Proposal: Change of use of agricultural land to domestic garden (3,228sqm).
Applicant: Mr & Mrs O Kandili

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The land the subject of this application forms part of a large swathe of open and undeveloped land which extends to the east and south. The proposal would result in a significant incursion beyond the extent of the majority of existing residential properties into the wider open landscape and would have a detrimental impact on the landscape character of the area. In addition, there are concerns that the domestication/suburbanisation of this land would adversely affect the landscape character and openness of the area, for example through the introduction of domestic paraphernalia. 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. The proposal is contrary to Policies GP15(a) and GP1.

2. The site is situated within an Agriculture Priority Area designated in the Island Development Plan. The land is largely flat with its own access onto Les Traudes. The application site is surrounded to the east and south by other agricultural land and it forms part of a large area of contiguous agricultural land. No information has been submitted to demonstrate that the land could not be used for commercial agriculture. The land the subject of this application could be used for commercial agricultural use in conjunction with the remainder of the field and potentially adjoining fields and its loss would represent the unacceptable loss of agricultural land within the Agriculture Priority Area. It has not been 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 therefore the proposal is contrary to Policies GP15(c) and OC5(A).

OFFICER'S REPORT

Site Description:

The property known as 'La Cloche' is a late Victorian two storey dwelling, which has been added to over the years. The dwelling is located to the south-east of Les Traudes which runs from the north to the west of the dwelling. The vehicular entrance and parking area for La Cloche are situated to the north of the dwelling. There are gardens to the west and immediately south of the property, with agricultural land in the same ownership beyond the garden. To the east is agricultural land in the form of open fields. The property is located Outside of the Centres and is within an Agriculture Priority Area (APA) defined in the Island Development Plan.

Relevant History:

FULL/2022/1784 – Raise roof height, extend and alter at 2nd floor level to east side elevation – Pending.

FULL/2022/1138 - Erect one and a half storey detached garage to the northeast boundary – Approved August 2022.

CURT/2021/1715 – Definition of curtilage – August 2021.

Existing Use(s):

Residential use class 1: dwelling house.

Agricultural use class 28: agriculture.

Brief Description of Development:

This application is for a change of use of 3,228sqm of agricultural land to domestic garden.

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

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:

There have been two letters of representation and the issues are;

- The agent states that "*The existing planting within the site and along the site boundaries offer a wildlife refuge and considerable biodiversity benefits for both the site and the surrounding area*". No information is given as to the species involved either of the flora or fauna to justify this statement.
- The owner has stated that they will sow an area of wild flower meadow of 382 square metres, this is just 11.8% of the total possible curtilage extension. Foreign seed mixes such as Kings basic wildflower mix (K83) should not be used on island, advice should be sought as to any seed used, locally collected seed would be preferable, local expertise should be sought.

- There are concerns over the reclassification of agricultural land to domestic curtilage, why is the applicant applying for an extension to the existing domestic curtilage as the current land classification (as agricultural land) has not prevented the use of this land.
- This property is situated within an Agriculture Priority Area (APA) with commercially farmed land immediately to the south and east. One of the island's largest farms also lies just 100m to the NE.
- The biodiversity measures are inadequate for an extension of this large scale; the planting of just four new trees are proposed and only 12% of the site is earmarked for a meadow area.
- Further, it is feasible that the removal of the existing turf to create a wildflower meadow may in fact lead to a loss of biodiversity by destroying long-established grassland habitat. Many grasslands can be enhanced by implementing sympathetic management regimes and in some cases, by over sowing with local native wildflowers, rather than removing them entirely and replanting. It is therefore essential to determine the botanical value of a site prior to considering such measures.

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 property and all the land are within an Agriculture Priority Area (APA), with farmed fields to the east and south of the application site. The field within the same ownership as La Cloche lies directly south of the house and garden and is subject of this application for a change of use to domestic garden.

The Island Development Plan focuses on maintaining and protecting the most important large areas of contiguous agricultural land and other areas well related to established agricultural operations, identified as being of value to the industry whilst ensuring that land is available for other legitimate land uses.

The land has its own entrance to the west of the existing outbuilding, which is a 'right of way' over the neighbour's drive from Les Traudes. It would also be easy to make a new entrance along the eastern boundary to link to the adjacent field. To the northeast is one of Guernsey's largest working farms.

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

With regards to the loss of distinctive features that contribute to the wider landscape character and the local distinctiveness of the area, paragraph 19.2.5 sets out that “an important contribution to the landscape character of an area is made by the particular features within them. Such distinctive features include boundary treatments, historic field patterns, trees and natural landscaping and are important elements in defining an area’s local distinctness”.

In this case, the land the subject of this application is located within the Upland Plateau landscape as identified in Annex V of the Island Development Plan and the character of the area is most akin to the South Eastern Plateau subzone. Annex V sets out that the Upland Plateau “is characterised by a web of hedges, banks, hedgerow trees and tree-lined lanes, which enclose numerous small pastures”. “The South Eastern Plateau extends from St Peter Port to include St Martin. The general character of this plateau area is of established development interspersed with open fields and large mature gardens, all with a complementary cover of garden, hedgerow and roadside trees. Ribbon development has an impact in some areas, although the overall character of much of the area remains intrinsically rural.”

The land forming the subject of this application is a parcel of undeveloped/agricultural land which is largely flat and is situated to the south of the dwelling. Although partially bounded by residential properties fronting onto Les Traudes, the land forms part of a large swathe of open and undeveloped land which extends to the east and south. The proposal would result in a significant incursion beyond the extent of the majority of existing residential properties into the wider open landscape and would have a detrimental impact on the landscape character of the area. In addition, there are concerns that the domestication of this land would adversely affect the landscape character, for example through the introduction of domestic paraphernalia. Whilst revoking exemption rights would provide a degree of control over ancillary domestic structures and buildings, ancillary domestic structures and paraphernalia associated with a domestic use of the land (such as children’s play equipment, garden furniture, ornamental landscaping and boundary treatments) would result in the suburbanisation of the land and would cause unacceptable harm to the landscape character and openness of the area.

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. 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 Island Development Plan recognises that agriculture plays a relatively small part in Guernsey's economy but is valuable for its land management function protecting and enhancing the countryside and providing visual access to open space.

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.

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.

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 forms part of an Agriculture Priority Area. The land is largely flat with its own access onto Les Traudes in the northwest corner. The application site is surrounded to the east and south by other agricultural land and it forms part of a large area of contiguous agricultural land. Notwithstanding the comments in the letter from the agent, no information has been submitted to demonstrate that the land could not be used for commercial agriculture. The land the subject of this application could be used for commercial agricultural use in conjunction with the adjoining fields and its loss would represent the unacceptable loss of agricultural land within the Agriculture Priority Area. It has not been 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 therefore the proposal is contrary to Policies GP15(c) and OC5(A).

- 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(A), 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: 28/11/2022

