

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 (842sqm). Erect retaining gabions to west of site.

LOCATION: La Perelle, Route De La Marette, St. Saviour.

APPLICANT: Mr & Mrs D De La Mare

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: 07/12/2022

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 03/10/2022 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: DLM: 1212_ 2, 4_B & 6.

Application Ref: FULL/2022/1840

Property Ref: E005570000

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. Prior to the demolition of the glasshouse a landscaping scheme, to include those details specified below, has been submitted to and agreed in writing by the Authority:

- i) full details of tree and hedge planting including planting schedules, noting the species, sizes, numbers and densities of plants (including gabion planting);
- ii) all existing trees, hedges and other landscape features, indicating clearly those to be removed; and
- iii) any screen walls or other boundary features.

Reason - In order to help assimilate the development into its surroundings having regard to the Strategy for Nature, 2020 and in the interests of residential amenity.

4. 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 removal of the glasshouse and 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 help assimilate the development into its surroundings, in the interests of biodiversity enhancements and in the interests of residential amenity.

5. 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 (other than earth banks) shall be erected, constructed or placed along the north boundary 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. Notwithstanding the provisions of the Land Planning and Development (Exemptions) Ordinance, 2007 (or any other Ordinance replacing or re-enacting that Ordinance), no shed, other outbuilding or greenhouse shall be erected, constructed or placed on any part 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.

7. Within four months of the date of this permission, the glasshouse shall be removed from the site.

Reason - Permission for the change of use of agricultural land to domestic garden requires the clearance of existing glasshouse structures in order to comply with Policy OC7 of the Island Development Plan.

Expiry Date: This permission will cease to have effect on 06/12/2025 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 site.

In developing a detailed landscaping scheme consideration should be given to:

1. limited mowing of grassland - the frequency and timings of these cuts and confirmation that cuttings would be removed from the land to prevent smothering.
2. the introduction of native or naturalised species as the hedging species selected are not native and support limited native wildlife.
3. gabions - planting native species as species selection will determine the biodiversity supported by this aspect of the scheme.

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/2022/1840
Property Ref: E005570000
Valid date: 03/10/2022
Location: La Perelle Route De La Marette St. Saviour Guernsey GY7 9XB
Proposal: Change of use of agricultural land to domestic garden (842sqm). Erect retaining gabions to west of site.

Applicant: Mr & Mrs D De La Mare

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.

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- i) full details of tree and hedge planting including planting schedules, noting the species, sizes, numbers and densities of plants (including gabion planting);
- ii) all existing trees, hedges and other landscape features, indicating clearly those to be removed; and
- iii) any screen walls or other boundary features.

Reason - In order to help assimilate the development into its surroundings having regard to the Strategy for Nature, 2020 and in the interests of residential amenity.

4. 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 removal of the glasshouse and 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 help assimilate the development into its surroundings, in the interests of biodiversity enhancements and in the interests of residential amenity.

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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.

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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.

7. Within four months of the date of this permission, the glasshouse shall be removed from the site.

Reason - Permission for the change of use of agricultural land to domestic garden requires the clearance of existing glasshouse structures in order to comply with Policy OC7 of the Island Development Plan.

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.

In developing a detailed landscaping scheme consideration should be given to:

1. limited mowing of grassland - the frequency and timings of these cuts and confirmation that cuttings would be removed from the land to prevent smothering.
2. the introduction of native or naturalised species as the hedging species selected are

not native and support limited native wildlife.

3. gabions - planting native species as species selection will determine the biodiversity supported by this aspect of the scheme.

OFFICER'S REPORT

Site Description:

La Perelle is a detached one and a half-storey dwelling situated to the west of Route De La Marette. A glasshouse, containing household domestic storage, is situated to the immediate rear of the dwelling and a timber fence is situated to the west of the glasshouse. To the west and north of this are the footings/pathways associated with horticultural growing. A bank exists to the west of the site and steps provide access to the beach.

The extent of existing domestic garden has been identified as being the house, driveway to the north and extending west to the front of the glasshouse.

The site is located Outside of the Centres as designated in the Island Development Plan.

Relevant History:

PAPP/1999/4029 - Erect a glasshouse for commercial bulb growing (Residential Use Class 5) – permission granted

Historically, a large glasshouse ran the length of the south site boundary, before the dwelling was constructed between 1963 and 1979, following which a smaller glasshouse was retained along the south boundary. By 1996 concrete pathways between planting beds had been laid to the north of the glasshouse. By 2009 the western end of the glasshouse had been removed (halving its size) with the concrete footings/paths retained on site and the situation has remained unchanged since that time.

Existing Use(s):

- 01 Dwelling houses
- 28 Agriculture

Brief Description of Development:

The application relates to the change of use of the agricultural land to the west and north of La Perelle to domestic garden (the land excludes the bank/foreshore to the western end of the site).

The submission sets out that the size of domestic land is, at present, disproportionately small for a family home, that the land is, due to its size and the ground condition of exposed rock along with its proximity to the sea/exposed weather, unsuitable for commercial agriculture. The submission also outlines that the land is currently used and maintained as domestic garden, will not impact on residential amenity and as a result there will be no change in landscape character. The submission also seeks to address the requirements of the Strategy for Nature following consultation with La Societe Guernesiaise.

The application was amended following queries being raised in relation to the clear extent of the proposed domestic garden, the retention of the greenhouse and the relationship of the proposed gabions on the foreshore.

Reassurance has also been provided in relation to the impact of the development on the foreshore, confirming that no excavation works are proposed nor any damage to the bank (which was reconstructed in circa. 2010).

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

Island Development Plan policies:

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

OC7: Redundant Glasshouse Sites Outside of the Centres

GP1: Landscape Character and Open Land

GP15: Creation and Extension of Curtilage

Representations:

One letter of representation has been submitted raising the following points:

- Extending the hedge on the southern boundary would severely restrict the access required along the side of the greenhouses, this is essential for continued repairs and maintenance
- Any hedge more than 1.1m high would cause loss of light and obscure views to the side windows of the neighbouring dwelling

Paroisse de Saint Sauveur – the entire site and all of the surrounding land is not located within an Agriculture Priority Area however when Douzaine representatives met with the department in the spring of 2019 they were informed that:

Should owners of agricultural land which adjoin their properties choose to mow, plant shrubs and trees and effectively use it as their garden amenity, then Planning has no powers to stop them from doing so

Therefore the Douzaine sees no reason why this land should be rezoned as domestic curtilage and ask that the zoning remains as it is currently. If it is rezoned then it is requested that appropriate restrictions are put in place to limit the extent of development on this land for the duration of the IDP.

National Trust of Guernsey – register concern over the proposed change of use. The proposal seeks to change the use of a viable, accessible piece of agricultural land to domestic curtilage. The area appears to be nearly three to four times larger than the existing domestic curtilage. 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 the stock of viable agricultural land, contrary to the intentions of the IDP and SLUP.

Consultations:

Biodiversity Officer - The existing habitats at the site are predominantly amenity grassland and are not of conservation importance. The shingle, which would be on the seaward side of the proposed gabions, appears to be unvegetated and so is not likely to be of conservation importance either, however it does have the potential to support species of conservation importance, such as the scaly cricket (*Pseudomogoplistes vicentae*). The site is not near an SSS or Ramsar site, nor do I believe there to be any route by which the development could cause impacts to any sites in the vicinity (e.g. Lihou Island Ramsar Site). Therefore, I am of the opinion that it is not likely to cause a significant environmental impact in the short term.

In the longer term, the installation of defences may lead to ‘coastal squeeze’ of intertidal and upper shore habitats following sea level rise. As this is not a hard defence, and is being installed beyond the existing shingle ridge, this impact may not be realised until the much longer term and is also not considered to be a pertinent consideration for the ecological impact of this development.

With regards to a commitment to Biodiversity Net Gain I would like to make the following two comments:

1. The proposal includes a commitment to ‘*limit mowing*’ of the grassland in order to ‘*offer a greater diversity of wildlife*’. Without details regarding the frequency and timings of these cuts, and assurances that arisings would be removed, it is not possible to be assured that the proposed grassland would be enhanced for biodiversity. Ideally, the grassland would be cut once per year, however cutting no more than once every 2 months would be sufficient to allow the floral diversity of the grassland to be enhanced. The arisings from each cut should be removed from the grassland to prevent smothering.
2. The proposal does not specify species selected for planting within the gabions. Species selection will determine the biodiversity supported by this scheme. We would recommend that only native species are planted within the gabions, and the species list should be agreed prior to development with either ACLMS or La Societe Guernesiaise. The hedging species selected, whilst hardy, are not native and support very limited

native wildlife. Whilst I recognise the challenges associated with planting near the coast, zones 1 and 2 are likely to be sufficiently sheltered and at a far enough distance from the sea that planting does not need to be restricted to only those non-native species detailed. I recommend that native or naturalised species are planted in their place.

Summary of Issues:

The key issues in this case relate to the principle of the change of use proposed and the impact of the change of use on the character of the area 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.

Redundant glasshouse site

Policy OC7 promotes the return of land into open agricultural use following the clearance of glasshouses in the first instance, where viable and practical and the Island Development Plan policies seek to maintain and protect large contiguous areas of agricultural land by prioritising agricultural use.

Within the Island Development Plan a 'Redundant glasshouse site' means: 'a glasshouse or glasshouses together with ancillary structures and land where the glass and ancillary structures are no longer required or capable of being used for their authorised purpose.' It is not disputed that the glasshouse is used on a domestic scale however, this glasshouse once formed part of a larger horticultural site with larger area of glasshouses. The remaining glasshouse does not represent a commercial horticultural site and in this respect is redundant for the purposes of the Island Development Plan.

There are two elements to this definition. First, there must be a clear indication that glasshouses are no longer required or capable of being used for their authorised purpose for a site to be considered a redundant glasshouse site. Second, the purpose of the policy is to secure improvements in the physical appearance and quality of the landscape. To be able to fulfil the purpose of the policy a redundant glasshouse site must be one where there is visible evidence of substantial superstructures still remaining on the site, the clearance of which will have a positive impact on visual amenity and landscape quality and character.

In this case a glasshouse superstructure is present on the site and is not being used for commercial horticulture. The application submission confirms that under previous ownership inside the greenhouse was paved and the roof replaced with polycarbonate. Nonetheless, for planning purposes this site qualifies as a redundant glasshouse site and Policy OC7 provides a gateway to consider development on this site, although there remains a presumption that when a horticultural use ceases the site will be cleared of glasshouses and ancillary structures and returned to agricultural use.

The site forms part of the Coastal, Western Bays, Headland landscape character as set out in Annex V of the IDP. The headlands are characterised by rocky, exposed land that juts into the Atlantic and each one is marked by a fortification (Napoleonic, German or both). There is pedestrian access to the inter-tidal rocks and beaches, car parks and viewing points on the headlands. Except the car parks and isolated clusters of development, which are characteristic of Richmond, the headlands still retain a rough, semi-natural and exposed character.

The site falls outside the Agriculture Priority Area (OC7 criterion a) and although the submission makes reference to the size and condition/makeup of the parcel of land in terms of its usefulness for commercial agriculture this makes no consideration to other agricultural land in the vicinity which could provide links to a wider network of agricultural land. Nonetheless, as the site falls outside the APA criterion a. of Policy OC7 is not relevant in this case. Nor are criteria c. (industry/storage and distribution), e. (renewable energy production), f. (conversion of a redundant building), g. (campsites) or h. (an outdoor formal recreation/informal leisure and recreation use).

The site is on the Richmond Headland and has a low density of development in an exposed position on the coast. Residential development exists to the south of the site and to the east of Route de la Marette and there are a number of sizable glasshouses (former horticultural sites) across the headland setting. The site to the rear/west of the dwelling does represent a redundant glasshouse site for the purposes of the IDP. Where a site, once cleared of glass, would not make a positive contribution to the wider area of open land other forms of development may be accepted which includes the incorporation of land into the curtilage/garden of a building (OC7 criterion d) subject to satisfying the requirements of Policy GP15: Creation and Extension of Curtilage.

The application sets out that the proposal would not have a detrimental impact on the landscape character of the area and that the land is already managed and maintained as garden. Paragraph 19.16.3 of the IDP sets out that the SLUP outlines that “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 ... an acceptable solution to the clearing of some redundant glasshouses might be through the inclusion of such sites within the curtilage of adjoining properties.” Paragraph 17.5.6 of the Island Development Plan states that where a redundant glasshouse site is located within or adjacent to a wider area of open land, it will be expected to contribute to the wider area of open

land where capable of doing so positively. This is reflected in Policy OC7 b) of the Island Development Plan which only supports proposals to develop redundant glasshouse sites where the site would not contribute positively to a wider area of open land.

In this case, given the low scale and density of development across the headland the clearance of the glasshouse would enable the land to make a positive contribution to the wider area of open land with regard to Policy OC7 b. (open land) following the clearance of glass. The change of use of land to domestic garden would not in itself however, undermine visual access to the open land and the scheme satisfies the requirements of criterion b.

In terms of the other policy criteria associated with OC7 the change of use alone would not have an unacceptable adverse effect on the living conditions of neighbouring occupiers (criterion i.) nor on highway safety and the free flow of traffic (criterion ii). As no built development is proposed criterion iii is not considered relevant. Although concerns have been raised through the public consultation process in relation to the planting of a hedge this does not represent development for which planning permission is required. Nonetheless, the boundary between properties would be more open following the clearance of glass which could result in mutual overlooking and in order to manage this a boundary enclosure should be controlled by condition and planted/erected following the clearance of glass.

The scheme does seek to provide soft landscaping which can make a positive contribution to the visual quality of the environment (criterion v. and the Strategy for Nature SPG). It is noted that some non-native species are proposed however, further details relating to landscaping can be required and controlled by condition to provide greater enhancement to biodiversity as required.

Change of use of agricultural land to domestic garden

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. As outlined above, the land to the west of the dwelling represents a redundant glasshouse site and the aims of Policy OC7 have been met to enable Policy GP15 to be engaged.

The area of land is well associated with the existing dwelling, La Perelle, and is not located within an area of Biodiversity Importance and the application does not propose the removal of any established boundary features. With regard to the impact on neighbouring properties, the proposal involves the land to be included and managed as part of the residential curtilage. 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 their amenities. The change of use would accord with Policy GP15.

Policy GP1: Landscape Character and Open Land seeks to ensure that proposals do not result in the unacceptable loss of distinctive features that contribute to the wider landscape character and the local distinctiveness of the area. Although the site is undeveloped the proposal would not undermine the wider landscape character or the openness of the area. The application does not propose any built development on the site and the change of use of land proposed is not considered to have a significant impact on the landscape character of the area when considering Policy GP15 a) and GP1 of the IDP. The proposal does not relate to the removal of boundary features that make a positive contribution to the character of the area.

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. The land once cleared of glass is recognised as contributing towards an area of open land therefore it is reasonable to restrict the erection of outbuildings and high walls/boundary features to the site boundaries in order that such works are more fully assessed through a formal application because they may have a detrimental impact on the headland landscape (GP1).

Gabions

The erection of gabions within the domestic garden of the property would not have a detrimental impact on the open landscape and landscape character of the headland representing a good standard of design that would not have a detrimental impact on residential amenity. The gabions would also make a contribution to planting and biodiversity enhancements on the site and this aspect of the scheme accords with the aims of the IDP.

Strategy for Nature

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 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 application drawings set out that new infill planting will be carried out to the east site boundary with Route de la Marette and that the hedge to the southern boundary will be extended. The proposed gabions are also identified as being able to offer habitat for native flora and fauna. The consultation process highlighted that a lack of species for the gabions has been identified and that the scheme introduces species which are of limited biodiversity benefit/non-native. The scheme provides a commitment to addressing the Supplementary Planning Guidance, Strategy for Nature and a detailed landscaping scheme can be controlled by condition.

Conclusions

In view of the above it is recommended planning permission is granted 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: 30 November 2022