

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 (242sqm).

LOCATION: Elmwood, Le Friquet, Castel.

APPLICANT: Mr & Mrs P Serafin

I refer to the application referred to below received as valid on 04/10/2022 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 13/04/2023

Drawing Nos: Direct Architectural Solutions drawing no: 1433-BP-01

Application Ref: FULL/2022/1854

Property Ref: D01694A000&D016910000

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 subject of this application is within an Agriculture Priority Area (APA). The land parcel forms part of a broader area of contiguous agricultural land extending to the north and east, and could be used for commercial agricultural use on its own, or be amalgamated with the adjoining field to the north and east, without unacceptable environmental impacts.

It has not been satisfactorily 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. Consequently, the application would represent an unacceptable loss of agricultural land within the Agriculture Priority Area and therefore 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/2022/1854
Property Ref: D01694A000&D016910000
Valid date: 04/10/2022
Location: Elmwood Le Friquet Castel Guernsey GY5 7ST
Proposal: Change of use of agricultural land to domestic garden (242sqm).

Applicant: Mr & Mrs P Serafin

RECOMMENDATION - Refusal with Reasons:

CONDITIONS/REASONS FOR REFUSAL

1. The land subject of this application is within an Agriculture Priority Area (APA). The land parcel forms part of a broader area of contiguous agricultural land extending to the north and east, and could be used for commercial agricultural use on its own, or be amalgamated with the adjoining field to the north and east, without unacceptable environmental impacts.

It has not been satisfactorily 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. Consequently, the application would represent an unacceptable loss of agricultural land within the Agriculture Priority Area and therefore is contrary to Policies GP15(c) and OC5(A).

OFFICER'S REPORT

Site Description:

The application site comprises a semi-detached, two storey property which fronts onto Le Friquet. The property features an area of hard surfacing to the front (west), side (north) and rear (east) of the property. The property is served by an extension, patio area and shed to the rear which backs onto agricultural land beyond.

The agricultural land to the rear of the property, the subject of this application is accessible to the north of the dwelling-house.

The agricultural land is bounded by earth banks and vegetation on both the north and east boundaries. A mix of fences and stone walls make up the south and west boundaries. The parcel of agricultural land backs onto larger fields to the north and east.

The agricultural land in question is located in an Agriculture Priority Area and is Outside of the Centres as designated in the Island Development Plan.

Relevant History:

None pertinent to this application.

Existing Use(s):

Elmwood (Dwelling-house) – Residential Use Class 1.

Agricultural land to the east of Elmwood - Agricultural Use Class 28.

Brief Description of Development:

Planning permission is sought to change the use of agricultural land to domestic garden. The area proposed equates to 242sqm. The area in question forms part of a larger section of agricultural land. The remaining section of land equates to circa. 1,984sqm as set out in the agent's letter dated 6th September 2022.

The proposed area of domestic curtilage extension will feature a new glasshouse and a 5x4m timber garden shed to store a tractor (in addition to the existing shed). The proposed domestic curtilage extension will be used as a 'vegetable patch' to enable the applicant to grow fruit and vegetables. The application is accompanied by a biodiversity enhancement scheme which includes new hedges along the southwest boundary of the application site.

The biodiversity enhancement scheme also extends onto land within the applicant's ownership, although is outside of the focus of the proposed change of use. Proposed enhancements includes various tree and hedge planting, together with a shallow pond.

No demarcation is proposed between the proposed area of garden and the agricultural land to the rear, such as a new hedgerow or an earthbank, to define and separate both uses.

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:

None received.

Consultations:

None

Summary of Issues:

The main issues in deciding this application are centred on:

1. The impact on and the loss of agricultural land within the Agricultural Priority Area (APA).
2. The impact of the development on the openness and landscape character of the area.

Assessment against:

- 1 - Purposes of the law.**
- 2 - Relevant policies of any Plan, Subject Plan or Local Planning Brief.**
- 3 - General material considerations set out in the General Provisions Ordinance.**
- 4 - Additional considerations (for protected trees, monuments, buildings and/or SSS's).**

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.

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.

The proposal to change the use of the land to a domestic use are considered principally under Policies OC5(A), GP15 and GP1 of the Island Development Plan.

The site is not within an Area of Biodiversity Importance.

No noticeable changes to the existing boundaries are proposed, apart from reducing dead and dying Elms along the north boundary and new hedge planting along the west boundary of the proposed domestic curtilage extension.

The proposed use of the land for domestic purposes would have no significant adverse effect on the amenities of neighbouring residents due to existing boundary treatments and proposed planting.

The application was submitted after September 2021 and therefore it is required to demonstrate a biodiversity enhancement scheme to accompany the application. As set out above, the biodiversity enhancement scheme proposes a new hedgerow along the southwest boundary of the proposed extension of domestic curtilage. A comprehensive biodiversity enhancement scheme extends onto land within the applicant's ownership but is outside of the proposed change of use. Being within the red edge of the site as

identified on drawing number 1433-BP-01 and as annotated by the agent on the same plan as such, this area is still controllable by condition as it is within the application site and within the applicant's ownership.

Loss of agricultural land within the Agriculture Priority Area

The land forms part of an Agriculture Priority Area. The field covers an area of circa 2,226sqm (as set out in the application form). The proposed change of use of agricultural land to domestic garden would see the agricultural land reduce in size by circa. 242sqm, leaving an area of circa 1,984sqm (as noted in the application form).

The agent's main points in support of the application are set out in the agent's letter of 6th September 2022 which seeks to address policies GP1 and GP15. No reference is made in relation to Policy OC5(A). These points are summarised and paraphrased as follows:

- There would be no change to the relevant landscape character type as the site is surrounded by earth banks and planting or hedges on top, together with the introduction of additional native planting.
- The proposed extension of domestic curtilage is not within an open area of land and the boundaries provide a distinct separation between the area of land proposed as domestic curtilage associated with the existing residential property known as Elmwood.
- The site boundaries would remain unchanged and therefore would be no change to the relevant landscape character type and there are no specific distinctive features that contribute to a wider landscape character and local distinctiveness.
- The proposal only seeks to extend a small part of the existing field.
- The land is very wet and suffers from quite a lot of surface flooding in the autumn, winter and spring months which means the land is not able to be accessed, and prohibits the land from being used for agricultural purposes i.e. planting of commercial crops and /or the planting of livestock feed.
- The existing retained area of the existing agricultural field is really at best only able to be used as grazing areas for sheep during a few of the summer months which has been recommended by La Societe Guernesiaise.
- The only access into the site is via the existing driveway to the north of Elmwood which is too tight for any modern machinery access.
- The current preference for commercial agriculture is for larger open fields either for cultivation, grass to feed livestock or grazing livestock. Where a field is to be used for grazing livestock it is preferable to be adjacent to other larger open fields to enable transfer between fields and allow pastures to rejuvenate.
- The loss of this small section of agricultural land will have no impact on wider areas of open land.
- There will be no effect on neighbouring residents due to site boundaries.
- The existing domestic curtilage extent is small compared to the size of the building. It would be reasonable to extend the curtilage by the amount proposed.

The Island Development Plan has identified large areas of contiguous agricultural land which represent Guernsey's most valuable agricultural land. These have been identified as Agriculture Priority Areas and 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.

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 Authority has published non-exhaustive guidance on matters that could be considered for such proposals. It is noted that *'When assessing if a particular site or land parcel can make a positive contribution to the commercial agricultural use of an identified Agriculture Priority Area, the following matters could be taken into account:*

- *What the requirements of the agricultural industry are at the time;*
- *The condition of the land (e.g. the grade and depth of the soil, any contamination, whether it is able to be used for agriculture or if not what may be required to make it available for cultivation or grazing);*
- *Whether the land can be used for agriculture without adverse environmental impacts;*
- *The size of the site/piece of land;*
- *How the site/piece of land relates to existing agricultural holdings;*
- *Access;*
- *Topography (including slope, gradient, etc);*
- *Flooding/Drainage;*
- *The nature of the proposed use (will the proposed use allow the long term use of the land for agriculture to remain)."*

In light of the factors above, limited information has been submitted by the agent to attempt to demonstrate that the land could not be used for commercial agriculture, either on its own, or as part of a wider area of agricultural land. However, It is noted that this justification does not include information regarding the farming history of the site, together with the use of the surrounding fields, as part of the submission. It is however acknowledged at the time of the site visit (December 2022), the immediate area beyond the recognised domestic curtilage was partially waterlogged.

The site has the potential to create a limited sized opening in the hedgebank along the north or east boundary of the site. This would physically link and create a much larger parcel of agricultural land and link other designated APA land with this parcel. This in turn is likely to have a minor environmental impact and would be similar to other

punctuated hedgebanks seen across the island which often provide the connectivity of agricultural fields and holdings.

From a spatial analysis perspective, the total size of the field in question would be smaller than the size of other fields in the immediate locality of the Agriculture Priority Area (APA). Although whilst the parcel of land is smaller in comparison to the adjoining fields, this style of farming practice on Guernsey, which is made up of a patchwork of contiguous fields (of different sizes) are able to contribute to the Island's commercial agricultural industry, either on an individual basis, cumulatively, or have the capability to do so in the future.

With regards to the topography of the site, the land is relatively flat. The field in question is accessed through the domestic curtilage of the property. The agricultural land quality is regarded as 'moderate' according to the Guernsey Soil and Land Classification map commissioned in 1988. It is therefore considered that this area of agricultural land should be retained for agricultural purposes unless there is convincing evidence to demonstrate otherwise. It is also shown on the Guernsey Soil and Land Classification map that the parcel of land forms part of a cluster of fields that make up a wider area of agricultural land, all recognised as being 'moderate agricultural land quality'.

The agent's statement that the existing agricultural land would not be practical to be used for commercial agricultural uses by virtue of being very wet, and suffering from surface water flooding, is then somewhat conflicted by noting that that it is only able to be used for a small period of time (during the summer months) for the grazing of sheep. This is also reflected on the drawings submitted. In particular, the grazing of sheep during the summer months could have a commercial economic benefit and therefore weakens the argument that the land cannot be used for commercial agricultural practice.

It is also noted in The Soil and Land Evaluation of Guernsey (2010) under 'Land Fragmentation' notes that the use of smaller land parcels of agricultural land that are either in commercial use or not, also have a benefit to Guernsey's agricultural industry by alleviating pressures of larger fields. It is noted that:

"Large fields are particularly valuable for modern commercial agriculture but small fragmented fields are also valuable for smallholding and for the grazing of horses...Small area of land might be great value for the grazing of young cattle or for horses. For smallholders who farm part-time, or for the cultivation of vegetables. The use of paddocks by smallholders, allotment keepers and horse owners takes 'pressure' of the use of larger fields that might be more valued for large scale arable farming and is immensely valuable in the island context."

Overall, the level of information submitted does not provide convincing evidence to satisfactorily demonstrate 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. Without overwhelming evidence, the proposal would

represent an unsatisfactory encroachment of agricultural land within the Agriculture Priority Area and is therefore contrary to Policies GP15(c) and OC5(A).

Impact on the landscape character and openness of the area

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.”*

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.

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 Central Plain as identified in Annex V of the Island Development Plan, in which recognises that the land is generally flat with some areas experiencing poor drainage. It is however shown on the Island Development Plan Proposals Map that a modest area within the Central Plain is occupied by APA land.

With regards to the proposed development, mature vegetation features along the east boundary of the site, together with ribbon development to the south, views of the land from along Les Baissieres are not easily achievable. Although, the site is more exposed and visible in public views along Le Friquet, particularly towards Le Friquet Hotel and looking in a south-east direction.

The land itself contributes to a wider area of undeveloped land. The larger field in the foreground together with the land in question can be ‘read’ together. Although it is recognised in certain angles, the backdrop to these views is comprised by the rear elevation of ribbon development that fronts onto Les Baissieres. In addition, the land in question is distinctive from the larger field in the foreground (north of the application site) due to planting along the north, although some of this planting is not mature which allows views into the site and beyond.

Whilst it is recognised that only a proportion of the agricultural land is being proposed as domestic curtilage, the proposal could set an undesirable precedent for similar

development on the site in time, and therefore would result in an extension of suburbanisation. This is particularly the case as the proposed pond would make commercial agriculture even less practical. It is however noted that such an extension of suburbanisation as proposed would not be to the detriment of the wider open landscape and the rural character of the area given that this land parcel is largely seen as a separate field due to the north boundary being relatively well defined.

Overall, the contribution that this parcel of land contributes to the general openness of the surrounding area is positive, but is not substantial enough to warrant grounds for refusal in order to safeguard it from development.

Conclusion:

As set out above, the proposal does not accord with Policies OC5(A) and GP15 in terms of the loss of agricultural land within the Agriculture Priority Area and therefore must be refused.

Date: 31/03/23