

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 (2,702 sq.m.) (site of a Protected Building).

LOCATION: Le Lorier Farm, Rue Du Lorier, St. Saviour.

APPLICANT: Mr & Mrs J Fenn

I refer to the application referred to below received as valid on 20/09/2022 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 14/06/2023

Drawing Nos: JG Architecture - 2055-1 02.01A

Application Ref: FULL/2022/1874

Property Ref: E009930000

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. 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 Island Development Plan 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/2022/1874
Property Ref: E009930000
Valid date: 20/09/2022
Location: Le Lorier Farm Rue Du Lorier St. Saviour Guernsey GY7 9JT
Proposal: Change of use of agricultural land to domestic garden (2,702 sq.m.) (site of a Protected Building).
Applicant: Mr & Mrs J Fenn

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. 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 Island Development Plan Policies GP15(c) and OC5(A).

OFFICER'S REPORT

Site Description:

Le Lorier Farm comprises of a traditional farmhouse with attached barn, 3 modern agricultural sheds, a slurry tank and an area of agricultural land measuring approximately 46,280 sqm.

The site is within an Agriculture Priority Area and is Outside of the Centres. The whole exterior of the house, wing and attached barn is a protected building.

Relevant History:

23/05/2014 – FULL/2014/0143 – Permission granted to replace windows and doors with wooden windows and doors, replace roof covering on east and west roof slopes with slates, re-construct chimney and form new openings and demolish farm buildings at rear (Protected Building).

23/05/2003 – PAPP/2003/1413 – Permission granted to erect a slurry store.

Existing Use(s):

Agriculture use class 28
Residential use class 1

Brief Description of Development:

Planning permission is requested to change the use of a parcel of agricultural land measuring approximately 2,702 sqm to domestic land associated with the dwelling.

The application was accompanied by a Biodiversity Statement dated February 2023 with a revised version dated May 2023.

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

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

Policy GP1: Landscape Character and Open Land

Policy GP15: Creation and Extension of Curtilage

Representations:

Two letters of representation were received in response to the original application, the main points as follows:

- The application is lacking in detail with only a brief reference to the Strategy for Nature. Any Strategy for Nature plans should include mitigation for the loss of any habitats.
- The land is zoned within an Agriculture Priority Area and it should remain as such. The agricultural zoning would not prevent the clearance of unwanted buildings.
- All buildings should be checked for bats and birds prior to the commencement of any work.
- The proposal seeks to change the use of a viable, accessible piece of agricultural land to domestic curtilage.
- Should the change of use be granted it would be desirable to require the demolition of the outbuildings and access must be retained to the surrounding agricultural land.
- The current pattern of the parcelling up of agricultural land for the expansion of gentrified domestic gardens is leading to the erosion of stock of viable agricultural land, contrary to the intentions of the Island Development Plan.
- This change of use would be one of the largest and most significant to date.

Consultations:

None

Summary of Issues:

The main issues in deciding this application are the impact on the landscape character and openness of the area and the loss of agricultural land within an Agriculture Priority 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).**

During the course of consideration the application was deferred due to concerns that it had not been demonstrated that the buildings and land cannot be used for commercial agriculture, there were concerns about the extent of the proposed extension of domestic land and there were concerns that the proposal would not create proportionate biodiversity enhancements.

In response revised plans and additional information was submitted which indicates that the modern agricultural sheds, slurry tank and areas of hardstanding are to be demolished and the land would be returned to natural grassland, the area of the proposed extended domestic land was reduced from approximately 4,861 sqm to 2,702 sqm and additional information was provided regarding the use of the land, the access to the remaining agricultural land and the proposed biodiversity enhancements.

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.

The site is not within an Area of Biodiversity Importance, no removal of existing boundaries are proposed and the proposed use of the land for domestic purposes would have no adverse effects on neighbouring residents.

The revised proposed extension to the domestic land has reduced the area of land involved from approximately 4,861 sqm to 2,702 sqm and is largely confined to the footprint of the existing modern agricultural buildings and the associated areas of hardstanding. The land the subject of this application forms a relatively isolated farmstead set within a large swathe of open and undeveloped agricultural land which extends to the east, south, west and north. The proposed removal of the modern agricultural sheds and slurry tank and the restoration of the land to natural grassland would enhance the landscape character and openness of the area.

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 policies place the onus on the applicant to demonstrate that this is the case.

The Authority has published non-exhaustive guidance on matters that could be taken into account:

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).*

The application relates to an area of land measuring approximately 2,702 sqm which forms part of an Agriculture Priority Area and comprises of a disused farmstead. The agent advises that the agricultural sheds are derelict and have been unused for over 15 years, the removal of the agricultural sheds was approved in 2014 under a separate permission (FULL/2014/0143) and that the demolition of the agricultural sheds would constitute exempt development. Access to the remaining fields will be retained via an entrance along Rue des Cinq Verges to the north as the road adjacent to the east of the existing domestic curtilage is too narrow for tractors and maintenance vehicles. The agent advises that the area of proposed domestic curtilage is of negligible significance to the agricultural needs of the island, being a non-working parcel of farm land. The

current farming facilities on the site are very antiquated and the cost to modernise the property would be prohibitively expensive. All of the remaining fields on the Le Lorier Farm site are made freely available all year to a local dairy farmer for hay and grazing and the proposal is not expected to affect this arrangement in the future.

Whilst the application references the condition of the existing agricultural buildings, the cost to modernise the property and the use of adjoining land under the applicant's ownership by a local dairy farmer, as a whole the application lacks detail and does not present a compelling case as to why the existing agricultural buildings and land cannot positively contribute to the commercial agricultural use of the Agriculture Priority Area or cannot practicably be used for commercial agriculture. The existing agricultural sheds could be demolished under Class 13 of The Land Planning and Development (Exemptions) Ordinance, 2023. However, the agricultural sheds exist and it has not been demonstrated that they cannot positively contribute to or practicably be used for commercial agriculture. In addition, if the agricultural sheds were demolished, it has not been demonstrated that the land could not be returned to commercial agricultural use. In this respect, the land the subject of this application forms part of and is set within a large swathe of agricultural land and the Guernsey Soil and Land Classification in 1988 indicated that the land was classed as Grade 3A Good.

Notwithstanding the agent's comments, 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).

Information has been submitted to demonstrate that the proposal would provide proportionate biodiversity enhancements by virtue of the clearance of buildings and hardstanding and their replacement with natural grassland, planting a hawthorn hedge along the west boundary and tree planting.

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) and GP15 and it is recommended that the application is refused.

Date: 14/06/2023