

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: Variation to previously approved plans for change of use of agricultural land to domestic curtilage (2,173 sq.m.) - Extend curtilage to north (79.6 sq.m.) (retrospective).

LOCATION: Chateau Le Pham, Camp De L'Eglise, St. Saviour.

APPLICANT: Ms T Pham, Ms N Pham & Ms T Pham

I refer to the application referred to below received as valid on 21/10/2022 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 01/02/2023

Drawing Nos: Soup Architects - 437P.03, .04, & .05

Application Ref: FULL/2022/1984

Property Ref: E006720000+E006710000

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 proposed extension of curtilage comprises an unnecessary projection into open and undeveloped land that does not respect the landscape character of the area. The proposal would be contrary to the requirements of Policies GP1 (Landscape Character and Open Land) and GP15(a) (Creation and Extension of Curtilages).
2. The submitted information does not satisfactorily demonstrate that the land cannot positively contribute to the commercial agricultural use of the Agriculture Priority Area or cannot be used for commercial agriculture without unacceptable adverse environmental impacts. The proposal would be contrary to the requirements of Policy GP15(c) (Creation and Extension of Curtilages).

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/2022/1984
Property Ref: E006720000+E006710000
Valid date: 21/10/2022
Location: Chateau Le Pham Camp De L'Eglise St. Saviour Guernsey GY7 9FG
Proposal: Variation to previously approved plans for change of use of agricultural land to domestic curtilage (2,173 sq.m.) - Extend curtilage to north (79.6 sq.m.) (retrospective).
Applicant: Ms T Pham, Ms N Pham & Ms T Pham

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The proposed extension of curtilage comprises an unnecessary projection into open and undeveloped land that does not respect the landscape character of the area. The proposal would be contrary to the requirements of Policies GP1 (Landscape Character and Open Land) and GP15(a) (Creation and Extension of Curtilages).
 2. The submitted information does not satisfactorily demonstrate that the land cannot positively contribute to the commercial agricultural use of the Agriculture Priority Area or cannot be used for commercial agriculture without unacceptable adverse environmental impacts. The proposal would be contrary to the requirements of Policy GP15(c) (Creation and Extension of Curtilages).
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OFFICER'S REPORT

Site Description:

The application site comprises a corner plot, the whole of which has recently been recognised as domestic curtilage, and the adjacent agricultural field to the north. The residential plot is bounded to the south and east by the Camp de L'Eglise, and that road continues along the east boundary of the field. Residential properties are located to the west of the residential plot, and across the road to the south-east of that plot and to the east of the field. The St Saviour's Community Centre is located to the west of the field and open land extends to the north.

The site is located within an Agriculture Priority Area, Outside of the Centres in the Island Development Plan.

Relevant History:

FULL/2022/1790 Demolish existing dwelling and erect replacement dwelling, erect 2 storey detached garage/office/gym to south-east boundary. Install swimming pool, gate to existing access and create additional vehicle access. Pending.

FULL/2021/2063 Change of use of agricultural land to domestic garden (2,173sqm). (retrospective). Approved 02/11/21

Existing Use(s):

Residential Use Class 1
Agricultural Use Class 28

Brief Description of Development:

Permission is sought in retrospect to vary the previous approval to extend the domestic curtilage of the property, to include a projection into the field to the north, level with the rear of the approved domestic curtilage.

A section of boundary earthbank has been removed and the adjacent area has been raised, levelled and surfaced with hardcore and is proposed to be enclosed with hawthorn and blackthorn hedging.

In support of the application it is noted that there are concrete tanks below this area and ground levels have been changed by years of the former owner dumping green waste.

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

OC5(A) Agriculture Outside of the Centres – within the Agriculture Priority Area
GP1 Landscape Character and Open Land
GP15 Creation and Extension of Curtilage

Representations:

Two letters of representation received raising the following points:

- The field is located within greenbelt;
- The ancient public right of way through the field has been blocked;
- The information provided is not accurate: The tanks were removed several years ago and were made of corrugated iron, all that remains are the concrete pads on which those tanks stood. These could be removed easily and the land returned to use as part of the field;
- A vehicle turning point is not required, there is plenty of space within the site to provide a turning area;
- The boundary with the property to the west is not accurate.

Consultations:

None undertaken.

Summary of Issues:

Whether the proposal would have an unacceptable detrimental impact on landscape character;
Whether the land could positively contribute to the commercial agricultural use of an Agriculture Priority Area;
Whether the loss of boundary features would be mitigated by the proposed replacement boundary features;
Whether the proposal would result in the unnecessary loss of open and undeveloped land.

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).**

Policy OC5(A) states that proposals for development which is not related to a farmstead or existing agricultural holding will be supported provided that they accord with all the relevant policies of the Island Development Plan.

Policy GP1 states that proposals will not be supported where they would result in the unnecessary loss of open and undeveloped land which would have an unacceptable impact on the open landscape character of an area.

Policy GP15 states that a proposal to create or extend curtilage will be supported where:

- a. it would not have an unacceptable detrimental impact on the landscape character; and,
- 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; and,
- 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,
- 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,
- e. it would not adversely affect the reasonable amenities of neighbouring residents.

The site forms part of the Plateau landscape type, as defined in Annex V of the IDP. That landscape type is described as being characterised by a web of hedges, banks, hedgerow trees and tree-lined lanes, which enclose numerous small pastures interspersed with small scattered settlements. The field which forms the subject of this application is characteristic of this landscape type, and links with the wider open landscape which falls away to the north. The field is defined by a strong boundary line to the south, which separates the open land from the built development along the north side of Camps De L'Eglise.

The proposed extension of curtilage, while limited in extent, breaks the strong boundary to the built development to the south of the site and projects into open land, visible across the field from the Camps De L'Eglise to the east and north-east.

The submitted information infers that the area in question was already raised in height above the level of the field, however this is not evident in previous site photographs, and certainly not to the extent which is now seen on site. The increased height above the level of the field further emphasises the break in the boundary line. The application does not clarify the purpose of the extended curtilage, however the area has been surfaced in gravel and appears to comprise an extension of the driveway at the site. Any structures or vehicles placed upon that land would further intrude into the openness of the landscape to the north of the former boundary.

Overall therefore, whilst the proposed encroachment is relatively limited, it does comprise an encroachment into open land which, through the disruption of the strong boundary line to the south of that land, does not respect the landscape character within which it is set. There is no evidenced requirement for this incursion, as the property is served by a generous domestic curtilage, and no explanation has been provided of the proposed use.

The land is not located within an Area of Biodiversity Importance.

The land is located within an Agriculture Priority Area. In support of the application the agent contends that there are subterranean tanks in the proposed location which would preclude the use of this part of the field for agricultural purposes. The submitted information does not however include any substantive evidence of those tanks and aerial photograph regression shows that the tanks in this location were above ground, and were removed from the site between 2006-2009. This aligns with the comments made in the letters of representation. In the absence of evidence that the concrete on which those tanks stood is of greater depth than a simple concrete pad, it is considered that this could be easily removed and reverted to part of the field.

Notwithstanding the claims made in the submission, from aerial and site photograph evidence it appears that a small earthbank has been removed to facilitate the development. Whilst this section of bank does not, in itself, form a significant feature, as set out above, it forms part of a strong boundary line demarking the southern extent of the field. In terms of biodiversity value, it is acknowledged that the proposed replacement bank and planting would make an equal or enhanced positive contribution,

however the disruption to the boundary line is considered to be detrimental to landscape character.

The proposal would not have any adverse impact on the amenity of adjoining properties.

Overall it is concluded that the proposed extension of curtilage comprises an unnecessary projection into open and undeveloped land that does not respect the landscape character of the area. Furthermore it has not been satisfactorily demonstrated that the land cannot positively contribute to the commercial agricultural use of the Agriculture Priority Area or cannot be used for commercial agriculture without unacceptable adverse environmental impacts. Overall the proposal would therefore be contrary to the requirements of Policies GP1 and GP15 and it is recommended that the application be refused.

Date: 30/01/2023

