

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 (4,187 sq.m.).

LOCATION: Chanson De La Mer, Rue Mahaut, St. Saviour.

APPLICANT: Mr S Moherndl

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

Date of refusal of permission: 09/02/2023

Drawing Nos: Drawing No: 1030 - 01 B1.

Application Ref: FULL/2022/1990

Property Ref: E004570000

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 information provided with the application submission regarding soft landscaping and biodiversity enhancements across this large site does not demonstrate that the soft landscaping will make a positive contribution to the visual quality of the environment nor includes specific and detailed information demonstrating environmental benefits in respect of biodiversity that will be incorporated should planning permission be granted. As a result the scheme does not accord with the Strategy for Nature Supplementary Planning Guidance nor Policy OC7 v. of the Island Development Plan.

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/2022/1990
Property Ref: E004570000
Valid date: 10/10/2022
Location: Chanson De La Mer Rue Mahaut St. Saviour Guernsey GY7 9XF
Proposal: Change of use of agricultural land to domestic garden (4,187 sq.m.).
Applicant: Mr S Moherndl

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The information provided with the application submission regarding soft landscaping and biodiversity enhancements across this large site does not demonstrate that the soft landscaping will make a positive contribution to the visual quality of the environment nor includes specific and detailed information demonstrating environmental benefits in respect of biodiversity that will be incorporated should planning permission be granted. As a result the scheme does not accord with the Strategy for Nature Supplementary Planning Guidance nor Policy OC7 v. of the Island Development Plan.

OFFICER'S REPORT

Site Description:

Chanson De La Mer is a detached two-storey house with hipped roof and balcony to the rear. A stone boundary wall is situated to the north site boundary with Beachbrook and to the west boundary with Route De La Marette. A swimming pool exists to the rear/west of the dwelling.

A single, long span of glass was erected on land to the south of the dwelling between 1898 and 1938. Two further spans of glass were constructed between 1938 and 1963 along with the house. The southern two glasshouses were replaced with a three-span glasshouse by 1990 and a final glasshouse was added by 1979, to the rear/west of the dwelling and adjacent to the north site boundary. All the glass remained in-situ until around 2013 by which time the two glasshouses to the north of the site/west of the site had been removed. The three-span glasshouse remained at the time of the 2019 aerial photograph.

The land to the west (from the eastern edge of the glasshouses now removed) and south of the dwelling (covered by glass) is recognised as agricultural land for planning purposes. The south and west site boundaries are marked by a granite wall.

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

Relevant History:

Beachbrook (immediately north of the application site) – FULL/2019/1499 - Change of use of agricultural land to domestic garden – granted

Villa Du Haut Route De La Marette (north of Beachbrook and fronting the road to the west) – FULL/20221/2679 - Change of use of agricultural land to domestic garden (2,908sqm) – refused

La Perelle Route De La Marette (northwest of Beechroyd and fronting east onto Route De La Marette) – Change of use of agricultural land to domestic garden (842sqm). Erect retaining gabions to west of site - granted

Existing Use(s):

01 dwellinghouse

28 agriculture

Brief Description of Development:

The application relates to the change of use of agricultural land to domestic garden.

The application was deferred to seek further information regarding biodiversity enhancements having regard to the Strategy for Nature, 2020. Given the scale of the area of land to be given over to domestic garden a more comprehensive landscaping scheme was sought to ensure that a proportionate level of biodiversity enhancements was provided in line with the Strategy for Nature. The applicant confirmed that the application should be determined based on the information provided from the outset, with little further information provided other than to confirm their commitment to wildlife and biodiversity during and after the clearance of glass from the site.

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

Island Development Plan policies:

OC5(B): Agriculture Outside of 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

Strategy for Nature Supplementary Planning Guidance

Representations:

One letter of representation has been submitted welcoming the removal of the redundant greenhouse but stating that insufficient information has been provided

regarding net gain under the Strategy for Nature. The application states that the boundaries consist of natural species but there is often confusion about what is native and what is not. It is suggested that advice be sought and instead of laying a lawn, that a coastal grassland is formed. Salt in the earth would not be a problem for this habitat.

La Societe Guernesiaise – remain concerned over the reclassification of agricultural land to domestic curtilage however as the IDP currently permits the consideration of such applications, La Societe seeks to optimise ecological gains in such cases wherever possible.

Paroisse De Saint Sauveur – this application relates to a significant area of land and a substantial proportion of this land is covered by a glasshouse and therefore in accordance with Policy OC7 such sites, when no longer used for horticulture, should be returned to agricultural use. The area of glasshouse along with the land area to the rear of Chanson De La Mer is, contrary to the statement in the applicant's letter [in point c], an area of land which is a significant and viable section of agricultural land that has been and could still be used commercially for agriculture. Also from their letter [point e] it is made clear that this land is adjacent to the south with other agricultural land and it therefore forms part of a larger contiguous area of agricultural land.

The application suggests that the removal of the glasshouses will improve the rural outlook and has the potential to improve biodiversity. The Douzaine agree that this may be true but this can be achieved by the demolition of the greenhouses without the need to rezone the land and thereby maintain it for agricultural use in accordance with OC7.

Given that the property has a significant existing domestic curtilage the Douzaine is of the view that the granting of this application would be a disproportionate domestic curtilage for the property as a whole. If the owner chooses to demolish the glasshouses and ancillary structures the area could be improved for the enjoyment of the owner without rezoning.

The applicant cites the rezoning of land at Beechbrook; however, this was a much smaller parcel of land. The Douzaine would therefore take this opportunity to cite the refusal of the more recent rezoning of agricultural land to domestic curtilage at Villa de la Haut. This area of land is also adjacent to the north of Beechbrook and forms part of the open corridor to the headland.

The Douzaine believe that this land at Chanson De La Mer is an important area of agricultural land which whilst having defined boundaries it forms part of a contiguous area of agricultural land. This space should the greenhouses be removed could further enhance the green corridor from the adjoining fields to the south right through to the headland. However, as previously stated this can be achieved without the need to rezone as domestic curtilage. The Douzaine therefore sees no sound reason as to why this land should be rezoned as domestic garden and ask that the zoning remain as it is currently. If planning permission is granted however, it is requested that appropriate restrictions be placed to limit the extent of development on this land for the duration of the current IDP.

Consultations:

None.

Summary of Issues:

The key issues in this case relate to the principle of the change of use of land and the impact of the development on the character and appearance of the locality.

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

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.'

In this case a glasshouse superstructure is present on the site and is not being used for commercial horticulture and for planning purposes this site qualifies as a redundant glasshouse site. 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 falls outside the Agriculture Priority Area (OC7 criterion a).

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. 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.

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. Policy OC7 v. requires a proposal for redundant glasshouse

sites to provide an appropriate soft landscaping scheme which will make a positive contribution to the visual quality of the environment and screen activities on site to mitigate their impacts. The level of information provided relating to landscaping on site is not considered to demonstrate that it will make a positive contribution to the visual quality of the environment.

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.

Change of use of agricultural land to domestic garden

The area of land is well associated with the existing dwelling, Chanson De La Mer and is not located within an Agriculture Priority Area. The outer boundaries of the site are clearly defined. The surrounding land is in separate ownership to Chanson De La Mer and the agricultural land that is the subject of this application. The application does not require any established boundary features to be removed in connection with the change of use of the land and the land is not identified as being situated within an Area of Biodiversity Importance. The land is situated at a lower level than the road to the west but between Route De La Marette to the west with a wall along the roadside boundary and Rue Mahaut to the east.

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.

With regard to the impact on neighbouring properties, the proposal involves a change of use of an area of land to be included and managed as part of the residential curtilage and given the location of the land in relation to neighbouring residential properties and that adequate boundary screening separates the land from the neighbouring properties, the proposed change of use would not of itself have an adverse impact on or affect their amenities.

It is considered that the change of use would accord with Policy GP15 a)- e) and provided that the proposal accords with all other relevant policies of the IDP, the principle of change of use to domestic curtilage is considered to be acceptable in this particular location.

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, given its size and setting the proposal would not undermine the wider landscape character or the openness of the area.

As Chanson De La Mer is situated between two roads and much of the land is more than 30m from the dwelling house the majority of the exemptions as set out in The Land Planning and Development (Exemptions) Ordinance, 2007 do not apply as development within the enlarged rear garden area proposed would be located forward of an elevation of the dwellinghouse that faces a highway.

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 from 01 September 2021 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 as originally submitted has not addressed the Strategy for Nature or meaningful environmental benefits that will be implemented on site should planning permission be granted for the change of use of land. The applicant in this case was invited to address the Strategy for Nature and provide a proportionate biodiversity statement/landscaping scheme for this sizable parcel of land however the applicant has opted to only reaffirm their general commitment to biodiversity. The submission does not therefore, satisfactorily address this matter.

The scheme does not clearly seek to provide meaningful enhancements to soft landscaping or land management which can make a positive contribution to biodiversity which is contrary to the adopted SPG, Strategy for Nature and as a result the application is recommended for refusal.

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: 8 February 2023

