

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 (1119sqm).

LOCATION: Rozel Cottage, Route De La Passee, St. Sampson.

APPLICANT: Mr R Brehaut

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: 06/03/2023

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 09/11/2022 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: App: Drawing No. RJR/01, letter dated 05/11/2022 and Biodiversity Statement

Application Ref: FULL/2022/2049

Property Ref: B018670000

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.The development hereby permitted and all the operations which constitute or are incidental to that development must be carried out in compliance with all such requirements of The Building (Guernsey) Regulations, 2012 as are applicable to them, and no operation to which such a requirement applies may be commenced or continued unless (i) plans relating to that operation have been approved by the Authority and (ii) it is commenced or, as the case may be, continued, in accordance with that requirement and any further requirements imposed by the Authority when approving those plans, for the purpose of securing that the building regulations are complied with.

Reason - Any planning permission granted under the Law is subject to this condition as stated in section 17(2) of the Land Planning and Development (Guernsey) Law, 2005.

4.Within three months of the date of this permission a landscaping scheme, to include those details specified below, shall be submitted to and agreed in writing by the Authority:

- i) full details of tree and hedge planting;
- ii) planting schedules, noting the species, sizes, numbers and densities of plants;
- iii) all existing trees, hedges and other landscape features, indicating clearly those to be removed; and
- iv) the number and location of all new hedgehog tunnels.

Reason - In the interests of biodiversity enhancements in line with the requirements of the Strategy for Nature, 2020.

5.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 the change of use of land hereby approved, or in accordance with a programme previously agreed in writing by the Authority. 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 - In the interests of biodiversity enhancements in line with the requirements of the Strategy for Nature, 2020.

Expiry Date: This permission will cease to have effect on 05/03/2026 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.

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/2022/2049
Property Ref: B018670000
Valid date: 09/11/2022
Location: Rozel Cottage Route De La Passee St. Sampson Guernsey GY2 4TL
Proposal: Change of use of agricultural land to domestic garden (1119sqm).
Applicant: Mr R Brehaut

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.

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. The development hereby permitted and all the operations which constitute or are incidental to that development must be carried out in compliance with all such requirements of The Building (Guernsey) Regulations, 2012 as are applicable to them, and no operation to which such a requirement applies may be commenced or continued unless (i) plans relating to that operation have been approved by the Authority and (ii) it is commenced or, as the case may be, continued, in accordance with that requirement and any further requirements imposed by the Authority when approving those plans, for the purpose of securing that the building regulations are complied with.

Reason - Any planning permission granted under the Law is subject to this condition as stated in section 17(2) of the Land Planning and Development (Guernsey) Law, 2005.

4. Within three months of the date of this permission a landscaping scheme, to include those details specified below, shall be submitted to and agreed in writing by the Authority:

- i) full details of tree and hedge planting;
- ii) planting schedules, noting the species, sizes, numbers and densities of plants;
- iii) all existing trees, hedges and other landscape features, indicating clearly those to be removed; and
- iv) the number and location of all new hedgehog tunnels.

Reason - In the interests of biodiversity enhancements in line with the requirements of the Strategy for Nature, 2020.

5. 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 the change of use of land hereby approved, or in accordance with a programme previously agreed in writing by the Authority. 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 - In the interests of biodiversity enhancements in line with the requirements of the Strategy for Nature, 2020.

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.

OFFICER'S REPORT

Brief Description of the site:

Rozel Cottage is a detached dwelling situated to the west of Rue Des Cottés. To the rear is a large 'L' shape garage/workshop and the west boundary of the domestic garden is marked by a granite wall. Steps provide pedestrian access down to the agricultural land to the rear/west of the site. Vehicular access to the land is via a track along the south boundary of the site. The agricultural land is enclosed by hedging and is largely open bar a few bushes, a compost area towards the southwest boundary. Limited evidence of domestic activity exists to the immediate south and west of the outbuilding with an oil tank, ladders and associated storage in this area.

The application relates to the change of use of agricultural land to the west of the property to domestic garden. The scheme has been accompanied by a letter setting out that the land is exposed due to its proximity to the coast which does not enable the land to be used for agricultural purposes. The letter includes a written description of proposed enhancements to biodiversity and highlights the benefits offered by the existing hedgerow on the site.

The application was deferred in order for a more detailed biodiversity statement/plan to be provided. This identifies that the site is short, species-poor improved Grassland. The submission refers to a mowing regime of 1 – 2 cuts per year with cuttings composted on site. New fruit trees are also proposed and hedgehog access tunnels to the south boundary.

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

Relevant History:

None.

Existing Use(s):

01 dwellinghouse
28 agriculture

Assessment: *(Tick as appropriate)*

no representation	☐	visual amenity acceptable	☒
accords with policy	☒	no material neighbour impact	☒
within curtilage	☐	traffic not affected	☒
design acceptable	☒		

Policies considered most relevant:

Island Development Plan policies:

OC5(B): Agriculture Outside of the Centres – Outside the Agriculture Priority Areas
GP1: Landscape Character and Open Land
GP15: Creation and Extension of Curtilage

Representation:

One letter of representation has been submitted stating that very scant details are given in the application regarding biodiversity net gain. More information is required

and it is suggested that local experts are consulted as to which flora would be suitable.

La Societe Guernesiaise – remain concerned about the reclassification of agricultural land to domestic curtilage but note that the IDP currently permits the consideration of such applications and La Societe seek to optimise ecological gains in such cases, where possible.

No further comments have been provided following the receipt of the Biodiversity Statement.

Conclusion/Brief comment:

The IDP sets out that there is support for the loss of an existing farmstead, agricultural building or land where the new use accords other relevant planning policies in the Island Development Plan. This provides a policy gateway for the change of use proposed.

The area of land is well associated with the existing dwelling, Rozel Cottage, and is not located within an Agriculture Priority Area or Area of Biodiversity Importance. The outer boundaries of the site are clearly defined, 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 set at a lower level than the existing garden area. The surrounding land is in separate ownership to Rozel Cottage and the agricultural land that is the subject of this application.

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.

Given the established site boundaries the proposal would not undermine the wider landscape character or the openness of the area in accordance with Policy GP1.

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. Given the location of the site amongst other development controlling boundary treatments to the east, west and north would not be appropriate. A fence or wall more than 90cm high along the south boundary would require planning permission in any event. Given the existing buildings on the site any further outbuildings would also require permission and development set behind the front wall of the dwellinghouse would not have an unacceptable adverse impact on the character and appearance of the area or on residential amenity. In this case therefore it is not necessary to remove any householder exemption rights in relation to the change of use of land proposed.

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 scheme, as amended shows a commitment to ecologically beneficial land management, habitat creation/facilitation and tree and other planting. Proportionately, the level of information provided is satisfactory to address the Strategy for Nature. A detailed landscaping scheme can be required by planning condition.

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.

In view of the above it is recommended that planning permission is granted for the change of use of land proposed.

Recommendation:

Grant with Conditions



Date: 28 February 2023

