

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 (780sqm).

LOCATION: Courtil De Fermain, Calais Lane, St. Martin.

APPLICANT: Ms S Wright

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: 30/03/2023

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 16/01/2023 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Application Site Location Plan and Application Block Layout Plan.

Application Ref: FULL/2023/0045

Property Ref: J016680000

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.Within six weeks of the date of this permission a block plan shall be provided showing the location of the 10 x holly bushes, 7 x Elaeagnus to be planted on the site, the position of the bird and bat boxes that have been installed and clarifying the extent of the mowing regime (all or part of the land) as set out in the application submission (letter dated 24/02/2023).

The landscaping details above shall be fully completed, in accordance with the details agreed under the terms above, in the first planting season following the grant of permission. 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 - To ensure the landscaping scheme for the site provides biodiversity enhancements in line with the Strategy for Nature, 2020.

Expiry Date: This permission will cease to have effect on 29/03/2026 unless development is commenced by that date.

ADVICE AND OTHER REMARKS:-

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/2023/0045
Property Ref: J016680000
Valid date: 16/01/2023
Location: Courtil De Fermain Calais Lane St. Martin Guernsey GY4 6AT
Proposal: Change of use of agricultural land to domestic garden (780sqm).

Applicant: Ms S Wright

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. Within six weeks of the date of this permission a block plan shall be provided showing the location of the 10 x holly bushes, 7 x Elaeagnus to be planted on the site, the position of the bird and bat boxes that have been installed and clarifying the extent of the mowing regime (all or part of the land) as set out in the application submission (letter dated 24/02/2023).

The landscaping details above shall be fully completed, in accordance with the details agreed under the terms above, in the first planting season following the grant of permission. 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 - To ensure the landscaping scheme for the site provides biodiversity enhancements in line with the Strategy for Nature, 2020.

OFFICER'S REPORT

Site Description:

Courtil De Fermain, Calais Lane is a detached dwelling situated to the south of the lane with agricultural land to the south and east of the dwelling. A glasshouse exists

to the south of the dwelling which falls within the domestic curtilage/garden of the property. A vegetable plot is situated to the east of the greenhouse and sits on agricultural land.

The site is located Outside of the Centres and within the Agriculture Priority Area (APA) as designated in the Island Development Plan. Land to the north of Calais Lane and to the northwest of the site to the south of Calais Lane fall outside the APA.

Relevant History:

Aerial photographs

1979 – modest glasshouse situated to the south of the dwelling with evidence of ploughing/growing its east/on some of the land east of the dwelling

1990 – modest glasshouse remains in situ. Land to east open grassland

1996 – glasshouse remains. Land to east of dwelling appears brown/parched whereas land to the north of the dwelling adjacent to Calais Lane remains green

2001 – glasshouse remains. No visible difference in the mowing regime etc, all land east of the dwelling is open and grassed

2004 – greenhouse in situ. Vehicle parked to the immediate east of the dwelling on the land that is the subject of this application

2006 – greenhouse in situ. No visible difference in the mowing regime etc, all land east of the dwelling is open and grassed

2009 - No visible difference in the mowing regime etc. Vegetable beds created to the immediate east of the glasshouse

2013 – greenhouse in situ. No vegetable beds visible. Land to north and east of dwelling mown

2016 - greenhouse in situ. No vegetable beds visible. Land to north and east of dwelling mown, with no visible difference in the mowing regime

2019 – greenhouse in situ. Land to north and east of dwelling mown

2022 - No visible difference in the mowing regime etc. Vegetable bed created to the immediate east of the glasshouse. Trampoline partially visible under tree canopy, situated adjacent to east boundary

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 and specifically relates to the area of land to the side/east of the dwelling. The land to the rear/south of the site would remain as agricultural land.

The application was deferred to enable the application to provide information to address the Strategy for Nature, 2020 Supplementary Planning Guidance and block plans were provided to enable the location of new planting to be annotated.

The further information sets out that the grassed areas (agricultural and domestic) are old lay (40+ years) and have a vast array of small wildflowers and herbs. In November 2021 the applicant was part of the native hedge scheme (hawthorn, hazel and beech) which have been planted randomly around the entire land perimeter as well as the constant addition, over the years, of various fruit trees, including replacement of trees affected by honey fungus. Honey fungus and German Ivy are both problems on the site. In the 32 years of living at the property the land has been thoughtfully and conscientiously maintained and added to the beauty and biodiversity of the area with planting of fruit trees and ash trees, native plants, trees and shrubs without the use of pesticides/weedkillers. Attention is drawn in the submission to wildlife on the land including slowworm, hedgehogs, bees, rabbits, pheasants and small birds.

The submission sets out that additional planting will be carried out including:

- 10 x holly bushes
- 7 x Elaeagnus

For shelter and berries for wild birds

- Bird nesting boxes have been installed
- Mowing regime alternating between leaving grass cuttings lying and collecting to add to the existing mulch area in the east corner of land

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

Island Development Plan policies:

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

GP1: Landscape Character and Open Land

GP15: Creation and Extension of Curtilage

Strategy for Nature, 2020, SPG

Representations:

One letter of representation has been submitted commenting on the application and raising the following points:

- The permanent trampoline structure overlooks the neighbouring property given its position adjacent to the boundary
- The applicant stated in relation to the redevelopment of the neighbouring property that they were opposed to the loss of agricultural land – the application was rejected by the DPA and it was necessary for the dwelling on the adjoining site to be revised/repositioned
- If they are allowed to extend the curtilage by 780sqm so should the neighbour

Consultations:

None.

Summary of Issues:

The key issues in this case relate to the principle of the change of use of land and the proposed biodiversity enhancement measures proposed to address the requirements of the SPG.

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.

The IDP 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 (APA).

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 (Policy OC5A).

Policy GP15 makes provision for the extension and creation of curtilages to serve both domestic and non-domestic buildings, subject to compliance with a number of criteria which are addressed in turn below:

- a. it would not have an unacceptable detrimental impact on the landscape character; and,*

The land is situated to the side/east of the existing dwelling and between the frontage residential development to the south of Calais Lane. The land rises from the north to the south. The north site boundary is marked by a bank and mature planting substantially screening the site from public view. The application does not propose any built development on the site and the change of use of land proposed would not have a detrimental impact on landscape character or the openness of the area.

Given the various existing outbuildings on the site and the position of part of the land in relation to the road (forward of an elevation of the dwellinghouse facing a highway) it is not considered reasonable or necessary to remove exemption rights relating to buildings. It would however, be reasonable to remove exemption rights relating to high, domestic boundary treatments to the south boundary between the application site and agricultural land beyond because a high fence or wall would be likely to have an urbanising effect in this rural location.

The southern line of the vegetable patch currently forms a boundary between the two areas of land with access maintained adjacent to the east site boundary. It would however, be reasonable to require a new boundary feature, with access gateway retained, to be introduced to provide clear delineation between the domestic and agricultural land. This is a matter that can be managed by condition.

- 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;*

The application site is not located within or adjacent to an Area of Biodiversity Importance it is therefore concluded b) of Policy GP15 is not relevant in this case.

- 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,*

The site is located in the Agriculture Priority Area and Policy GP15 seeks to retain agricultural land that could contribute positively to the commercial agricultural use of the APA. IDP paragraph 19.16.7 recognises that competition for land can occur when a residential use adjoins open land and the householder would like to incorporate some of that land within the domestic curtilage/garden of the dwelling, nonetheless there is a requirement to protect open land and agricultural land from development to ensure the open character of the areas can be maintained. There is a “balance to be struck between ensuring the reasonable protection of open land and the requirements of the agricultural industry and the reasonable expectations of landowners to add new or additional land to the curtilage around a building”.

The proximity of fields in relation to domestic properties is rather a matter of choice, necessity or by historic arrangement and the choice of a land owner not have livestock on the land does not mean that the land could not be used for agricultural purposes if under different ownership/management.

Paragraph 15.1.10 of the IDP states that *“the vast majority of the Island’s agricultural land is located Outside of the Centres and dairy farming in particular plays an important role in the management of open land within the Island. As a result, the Island Development Plan identifies Agriculture Priority Areas on the Proposals Map. The policies of the Island Development Plan support agricultural activities within these areas to support the agricultural industry. They have been broadly drawn to include other non-agricultural uses and, as a result, the policies relating to these areas allow for other forms of development where this would not unacceptably prejudice commercial agriculture (see Policy OC5(A): Agriculture Outside of the Centres - within the Agriculture Priority Areas).”*

The land that is the subject of this application has a land classification of Grade 3a Good as specified on the Agricultural Land Classification map. It could be used for agriculture without the need to remove any banks, hedgerows, trees, etc and is not designated as a Site of Special Significance or Area of Biodiversity Importance nor are they found adjacent to the site. The land is situated on the northern edge of the APA and is accessed via the existing domestic access driveway in the northwest corner of the site. This access also serves the fields to the south of the site associated with Courtil De Fermain. The land itself is approximately 13m wide and has connectivity to the APA land to the south, southwest and east. The APA is however, constrained by Baugy Estate to the south, Route De Jerbourg to the west and the cliffs to the east and the land is situated on the edge of this broadly drawn land designation, between two domestic properties/gardens.

The loss of this agricultural land would not change the access arrangements to the fields to the south which are already across domestic garden and would not preclude the retained agricultural land from agricultural use (currently used for pony grazing). The proposed change of use would not impact on commercial agriculture within an Agriculture Priority Area in this instance in accordance with Policy GP15 c.

- 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,*

The proposal would not result in the removal of any boundary features. The northern, western and eastern boundaries of the site are already demarcated.

- e. it would not adversely affect the reasonable amenities of neighbouring residents.*

The concerns raised through the public consultation process regarding the effect of the change of use on residential amenity and privacy are noted. The proposal would extend the curtilage in close proximity to the boundary with the residential property known as Marsden Cottage, to the east but is not an uncommon arrangement with frontage ribbon development (i.e. it is uncommon for agricultural land to separate the gardens of residential properties). The change of use of the land itself is unlikely to result in a significantly different impact on the amenity of the adjoining property. The placing of a trampoline on domestic garden land cannot be prevented by the Authority and the change of use of land, particularly given existing established boundary treatments would not result unacceptable overlooking or loss of privacy to the dwelling/garden to the east.

Policy GP1 relates to the Landscape Character and Open Land. The change of use would not have a negative effect on the surrounding landscape character or remove any distinctive features. While the proposed domestic garden extension is within undeveloped land, the resultant effect on the open landscape character of the wider area is not considered to be significant, or result in the unacceptable loss of distinctive features that contribute to the landscape character providing that planning exemption rights are removed as identified above. It is concluded that the proposal would satisfy the provisions of Policy GP1.

Biodiversity

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.

Although the site is not located in an Area of Biodiversity Importance, in line with the Strategy for Nature, 2020, the change of use of agricultural land to domestic garden must provide meaningful biodiversity enhancements on the land. The application includes various written statements which address the Strategy for Nature. The site has, and proposes to be, managed with regard to biodiversity in line with the Strategy for Nature. A planning condition can be imposed relating to details of the landscaping planting proposed (10 x holly bushes and 7 x Elaeagnus), details regarding land management and the siting of bird/bat boxes that have been installed and this information would ensure that the requirements of the Strategy for Nature are satisfactorily addressed in this case.

Other matters

The public consultation has highlighted that planning permission was not forthcoming for the change of use of adjoining land from agricultural to domestic garden however, no two sites are the same and each must be considered on its own merits. The outcome of this application would not set a precedent or offer any certainty that a further application for adjoining land (in separate ownership) to be brought within domestic garden.

Conclusion

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

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. These issues where relevant have been considered in the assessment of this application.

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: 24 March 2023

