

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 (Use Class 28) and equestrian related activities (sui-generis) to domestic garden (Residential Use Class 1) (680 sq.m.).

LOCATION: Longmeadow, (formerly Sayonara), Rue Du Belial, St. Saviour.

APPLICANT: Mr & Mrs S Galpin

I refer to the application referred to below received as valid on 05/01/2023 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 17/02/2023

Drawing Nos: 1:500 Block Layout Plan

Application Ref: FULL/2023/0084

Property Ref: E00277A000+E00277A001

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 change of use of agricultural land to domestic garden would result in the loss of agricultural land that could contribute to the commercial function of the Agriculture Priority Area (APA) given its siting and access arrangements, surrounded by other open and undeveloped agricultural land Outside of the Centres and within the APA. The proposal therefore fails to accord with the aims of Policy GP15 c) 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/2023/0084
Property Ref: E00277A000+E00277A001
Valid date: 05/01/2023
Location: Longmeadow (formerly Sayonara) Rue Du Belial St. Saviour
Guernsey GY7 9TE
Proposal: Change of use of agricultural land (Use Class 28) and equestrian
related activities (sui-generis) to domestic garden (Residential
Use Class 1) (680 sq.m.).
Applicant: Mr & Mrs S Galpin

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The proposed change of use of agricultural land to domestic garden would result in the loss of agricultural land that could contribute to the commercial function of the Agriculture Priority Area (APA) given its siting and access arrangements, surrounded by other open and undeveloped agricultural land Outside of the Centres and within the APA. The proposal therefore fails to accord with the aims of Policy GP15 c) of the Island Development Plan.

OFFICER'S REPORT

Site Description:

Longmeadow (formerly Sayonara) is a dwelling situated on the corner of Rue Du Belial and Rue Cevecq. Vehicular access to the site is via an in and out drive off Rue Du Belial.

An annotated aerial photograph accompanies the submission. The existing extent of domestic garden relates to the house itself and the driveway to the west of the dwelling (1) along with an area of land adjacent to the south boundary and to the immediate east of the dwelling (3) and a small vegetable garden north of the dwelling (2). The fields to the north and northeast of the dwelling remain in agricultural use (4b and 4c) (Use Class 28) whilst the stables and yard adjacent to the north site boundary (4a) are recognised as being used for equestrian related activities (sui-generis).

The site falls Outside of the Centres and within the Agriculture Priority Area as designated in the Island Development Plan.

Relevant History:

CLU/2022/1774 – Regularise use of part of land as a domestic garden (Residential Use Class 1) and use of part of land for equestrian related activities (sui-generis) - Granted in part for the use of part of the land as domestic garden and the stables/yard adjacent to the north site boundary as being used for equestrian related activities (sui-generis).

Existing Use(s):

01 dwellinghouse
28 agriculture

Brief Description of Development:

The application relates to the change of use of agricultural land (Use Class 28) and the stables/yard (equestrian related activities, sui-generis) to domestic garden (Residential Use Class 1).

The application has been accompanied by a Biodiversity Statement.

An accompanying letter sets out that should permission be granted a traditional earthbank will be constructed to define the extent of curtilage along with extensive tree and shrub planting. The letter sets out that Policies OC5(A), OC9 GP15 and GP1 are all relevant in this case. Attention is drawn to comments of the Guernsey Farmers' Association in relation to a different application site where the conclusion was that the land would be better managed as domestic garden and it is argued that the same conclusion could be drawn here due to its size, irregular shape, relationship to dwellinghouses, constrained access and existing equestrian subdivision.

A request for a minor departure to be considered should the Authority feel constrained by any relevant policy in the IDP accompanies the application, although It does not specify a policy to which the requested minor departure should relate.

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

Representations:

None.

Consultations:

Guernsey Farmers' Association - None received at time of determination.

Summary of Issues:

The key issues in this case relate to the principle of the proposed change of use of land, its impact on the character and openness of the area, on residential amenity and securing biodiversity enhancements.

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 site is located in the Agriculture Priority Area (APA) 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 site sits within the APA and is surrounded by open and undeveloped agricultural land, it has good connectivity to other agricultural land in the vicinity. Although the applicant may not wish or intend to use the land for commercial agricultural purposes the land could contribute to the agricultural function of the Agriculture Priority Area. Furthermore, consideration must be given to the needs of the agricultural industry in perpetuity, or until new evidence emerges or a policy decision is made that less land, or land of a different type, is needed for the future requirements of the agricultural industry.

Although the submission asserts that the Guernsey Farmers' Association would be likely to conclude that change of use of this land within the APA would not undermine the commercial function of the APA given comments made in relation to another application site it must be noted that no two sites are exactly the same and each application must be considered on its own merits. In any event, information provided by the Guernsey Farmers' Association is for advice only and cannot outweigh the planning policies in place in relation to the consideration of such proposals.

Change of Use of Agricultural Land in the APA

The land forms part of an Agriculture Priority Area and was last used for grazing horses which does not represent a material change of use away from agriculture, the site is currently unused and the stables empty. The existing, unauthorised post and rail fencing across the site could be removed in order to enable better access to and connectivity to the adjoining field in the applicants' ownership/control for use for agricultural purposes, including larger areas for grazing. Its presence on the site is not considered to represent sufficient justification for the change of use of land.

The land that is the subject of this application 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. Furthermore, no such designations are found adjacent to the site. The removal of the post and rail fence would provide greater connectivity to the applicants' own field to the east. It should also be noted that although permission would be required to widen the field accesses on the site there would be scope in policy terms to allow for such works without undue harm to the character and appearance of the area. The IDP acknowledges that farmers operate across a scattered pattern of generally small fields which typifies the traditional, small scale and intricate landscape. The size of the site, as part of a wider block of open land that is accessible and not isolated by boundary features or topography would not preclude agricultural use.

The land is situated to the rear/north of Longmeadow, east of the neighbouring dwelling La Sauterelle and with open and undeveloped land between the site and the residential properties Le Poulain, Cienfuegos and Neuf Clos. A horticultural glasshouse site exists to the immediate north of the site albeit currently separated from the application site by a timber close boarded fence. Vehicular access exists in the south boundary of the field to the immediate east of the application site with an existing narrow field access between these two fields. The field subject of this application connects to the agricultural land to the east (within the applicants' ownership and control), further fields to the east and further open and undeveloped agricultural land exists to the south of Rue Cevecq, west of Rue du Belial and northeast of the site.

Criterion c. of Policy GP15 and IDP paragraph 19.16.11 provide an unambiguous statement of policy without any reference to exceptional circumstances. The SLUP and IDP requirement to find a reasonable balance is provided for, in relation to APA land, by allowing APA land that can be demonstrated not to be able to contribute to commercial agriculture to change use, or where its contribution can be demonstrated that there would be unacceptable adverse environmental impacts. Whilst it could be argued that there would be no significant impacts on the achievement of strategic policies (IDP 19.16.4) there would be a cumulative impact should many smaller areas of APA land be converted to garden. This would then undermine the objectives of the SLUP and IDP for the most valuable agricultural land.

In view of the above, it is clear that the land could positively contribute to the commercial agricultural use of the APA and could practicably be used for commercial agriculture within the APA without unacceptable adverse environmental impacts. The

scheme does not provide overriding justification for the change of use proposed that would meet the requirements of policy. The scheme does not therefore, meet the aims of GP15 c) of the Island Development Plan. In the above circumstances, the proposal does not constitute a minor departure from this policy.

Other Matters

The site is located in the Upland Plateau, Western Plateau, as identified in Annex V: Landscape Character of the Island Development Plan.

The land is currently divided by post and rail fencing (unauthorised) and incorporates a stable yard area (equestrian related, sui-generis development). The application does not propose any built development. The removal of post and rail fences would conserve the landscape character of the area as would the provision of earthbanks and additional planting. The site overall makes a positive contribution to a wider area of open land however, the change of use of agricultural land to domestic garden would not have an unacceptable detrimental impact on the landscape character (Policy GP15 a) and GP1 of the IDP).

The application does not require any established boundary features to be removed in connection with the change of use of the land. The scheme proposes new planting along with new earthbanks which would address the requirements of criterion d.

The proposal would extend the curtilage in close proximity to the boundary with the residential property known as La Sauterelle. The change in use of the land is however unlikely to result in a significantly different impact on the amenity of the adjoining property.

The application has been accompanied by a Biodiversity Statement in order to address the requirements of the Strategy for Nature, 2020 and an earthbank is proposed to the east boundary of the domestic garden and to divide the garden to the east of the dwelling from the domestic garden proposed to the north. A mowing regime is also proposed along with fruit trees in the east field and native shrub planting. A condition could be imposed on the permission regarding the implementation of the landscaping scheme in order to secure the biodiversity benefits proposed should the scheme be supported in principle.

The expectations of any one property owner and how they may wish to use the land is not a material planning consideration and providing a dwelling with a “reasonable” curtilage given its size or because an applicant chooses to significantly extend the dwelling thereby reducing the available garden are not reasons given in the Island Development Plan to support the change of use of agricultural land to domestic garden.

None of these matters however, outweigh the reason to refuse planning permission.

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. Where relevant these are considered above.

4 - Additional considerations (for protected trees, monuments, buildings and/or SSS's).

The proposal would not impact on any protected buildings, trees, monuments or on any SSS's.

Date: 17 February 2023

