

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 (700 sqm).
(revised scheme)

LOCATION: Les Loriers, Rue De Rougeval, Torteval.

APPLICANT: Mr & Mrs N Le Marchant

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: 13/06/2023

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 11/04/2023 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Hunt Brewin: Proposed Site & Block Plans stamped 11.04.23 and Environment Guernsey Biodiversity Statement completion date: January 2023

Application Ref: FULL/2023/0736

Property Ref: G003660000+G00364A000

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 on or before 31 March 2024.

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. The landscaping scheme set out in the Biodiversity Statement shall be fully completed, in accordance with the details set out in the approved Biodiversity Statement, in the first planting season following the change of use of agricultural land to domestic garden. The land shall be managed in accordance with the maintenance provided in the approved Biodiversity Statement. 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 order to help assimilate the development into its surroundings and to ensure that the proposed biodiversity enhancements are provided, in line with the requirements of the Strategy for Nature.

Expiry Date: This permission will cease to have effect on 12/06/2026 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/2023/0736
Property Ref: G003660000+G00364A000
Valid date: 11/04/2023
Location: Les Loriers Rue De Rougeval Torteval Guernsey GY8 OPE
Proposal: Change of use of agricultural land to domestic garden (700 sqm). (revised scheme)

Applicant: Mr & Mrs N Le Marchant

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 on or before 31 March 2024.

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. The landscaping scheme set out in the Biodiversity Statement shall be fully completed, in accordance with the details set out in the approved Biodiversity Statement, in the first planting season following the change of use of agricultural

land to domestic garden. The land shall be managed in accordance with the maintenance provided in the approved Biodiversity Statement. 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 order to help assimilate the development into its surroundings and to ensure that the proposed biodiversity enhancements are provided, in line with the requirements of the Strategy for Nature.

OFFICER'S REPORT

Site Description:

Les Loriers is a detached dwelling situated to the south of Rue De Rougeval. Residential properties exist to the east and west whilst land to the south is open and undeveloped agricultural land. Vehicular access to the field south of the dwelling is via an access to the west of the house.

The dwelling is situated Outside of the Centres as designated in the Island Development Plan. The field is situated in an Agriculture Priority Area as designated in the Island Development Plan.

Relevant History:

Pre-application advice was sought in this case and drew attention to Policy GP15 with particular reference to c) relating to the Agriculture Priority Area and the condition of the land/flooding. Attention was also drawn to the visibility of the site from the wider area (GP15 a.). It was recommended, without prejudice to consideration of an application, that the vehicular access be excluded from the proposed change of use of land but rather should be retained as agricultural land for access to the field to the south. The two sheds on the agricultural land were noted to be unlawful.

FULL/2022/0547 - Change of use of agricultural land to domestic garden (700 sqm) – refused

1. The proposal, if permitted, would result in the loss of an agricultural field access which could preclude future access to the retained field which falls within the Agriculture Priority Area and which would contribute to the commercial function of the Agriculture Priority Area. The scheme therefore fails to comply with Policy GP15 c. of the Island Development Plan.

2. The scheme fails to provide sufficient information to demonstrate that the proposed change of use of agricultural land to domestic garden would incorporate meaningful biodiversity enhancements in accordance with the Strategy for Nature, 2020, Supplementary Planning Guidance.

Existing Use(s):

01 dwellinghouse
28 agriculture

Brief Description of Development:

The application relates to the change of use of an area of agricultural land to the south of Les Loriers to domestic garden and this revised scheme retains the vehicular access to the west of the proposed garden as agricultural land to maintain access to the retailed field to the south.

The covering letter from the planning agent highlights that the land has been within the same ownership for approximately 25 years but that it has not been leased for agricultural use for 21 years.

A biodiversity statement has been produced to accompany this submission to address the requirements of the Strategy for Nature.

The original application refused permission indicated that the area of garden would represent less than 15% of the total area of the field and would not therefore, impact on the viability of the remainder of the land. It is also noted that the land is prone to extensive flooding on a regular basis which means it cannot practically be used for commercial agricultural use.

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

SPG – Strategy for Nature

Representations:

One letter of representation has been submitted objecting to the change of use of the land to garden/light industrial use. Previous complaints to Planning are highlighted in terms of changing landscaping in the field, the fact the entrance to the field has become a driveway and the erection of large sheds on the land that was previously used by farmers. Light industrial activities take place on the site with cars

regularly being serviced/worked on and the noise level is high (welding, banging and drilling). The objection relates to the increased noise level that would result from the change of use and more buildings to be erected along with a loss of natural habitat (the site is constantly trimmed and power washers used). Concerns also exist regarding a loss of privacy.

La Societe Guernesiaise – commented on the refused scheme and advised “that La Societe would be able to assist with the associated biodiversity measures, for example to arrange surveys of the existing site and to provide suitable recommendations on how the land could be enhanced in terms of its ecological value by appropriate native planting and ongoing maintenance.

If this application is subsequently approved, we would request that suitable planning conditions be applied in order to prevent any future development of the land in the long term”.

Consultations:

Agriculture, Countryside and Land Management Services – commented on the refused scheme:

Note that the scheme would result in the loss of 14.6% of the area of the field. The only access to the field is via the proposed domestic garden and it is unlikely that the remaining agricultural land will be rented to farmers due to the limited access (a further loss of the remaining 4,100 sqm). The location of the site sits within the Agriculture Priority Area (APA) and forms part of a larger block of agricultural land to the south of Rue de Rougeval Road and the surrounding fields all appear to be used, as of 2017, for the dairy industry and by three separate farmers. The land has also been classified as good in the 2010 land and soil classification.

The change of use proposed should not be supported because, as per section c of Policy GP15 the proposal cannot demonstrate that the land no longer contributes positively to agriculture. The field forms part of a larger network of fields on agricultural land that has been graded as good and has fields immediately surrounding it all being used for dairy farming purposes which indicates that the fields are economically viable for use in the agricultural industry. The Strategic Land Use Plan notes the requirement to protect agriculturally viable land from development and in this case, absorption into domestic curtilage.

Part of the rationale behind the application is that the top of the field is prone to flooding which makes the land unviable for use in an agricultural setting. The description of flooding appears to be only temporary however, during the wetter months. This would not preclude the land being used in the summer months. Fields that are wetter are often found to be valuable as they retain water and can be more useful during times of drought, where fields with better drainage may lose their usefulness for agriculture. In situations where flooding is likely to have an impact on the economic viability of the field there are solutions such as installation of under

drainage if necessary (The Soil and Land Classification of Guernsey, 2010). It is important that this land is protected for potential use in future, where wet land may become more important due to increasing occurrences of summer droughts due to climate change.

Suggestions for incorporating biodiversity are not restricted by the change of use and could be incorporated into the agricultural land. The submission does not set out whether native species will be used in the new planting scheme. Garden variety species can be invasive and can spread onto the surrounding countryside. It is encouraging that an area of wetland will be retained, as both seasonal and standing water have benefit to species and are to be supported. Further information would be required however, to determine if the wetland would be beneficial to wildlife as ornamental ponds do not provide the same wildlife value and the species mentioned have complex lifecycles. Sensitive agricultural use can promote species rich grasslands and the application has made no mention of management practises that will promote native floral species.

The submission makes reference to the intention to re-instate a shed on the property by way of a separate proposal and such outbuildings can disrupt open vistas of the countryside and is an example of urban creep.

Photographs available and provided depicting the flood events show the presence of parked vehicles on the land that is currently designated as agricultural. Although this could demonstrate that the field is not necessarily excessively wet for large portions of the year as presumably these vehicles are required for use by the landowners and do not get bogged down but also demonstrates inappropriate use of the land in its current designation.

Guernsey Farmers Association – commented on the refused scheme:

It is agreed that the flooding in question is not something that isn't experienced during wet spells on many other fields used commercially and is more likely a result of poor drainage which could be improved through subsoiling to open up the lower soil structure and would therefore not be prohibitive from a farming aspect.

When looking at the application it would appear this is more a clerical change of use, with the current buildings on the agricultural to domestic area proposed. Taking this into account and the balance between retaining the rest of the site as agricultural use, the loss to the APA is therefore minimal and therefore the GFA does not oppose this balance.

However as with all planning applications of this type the GFA would like to see evidence of native planting of hedges and trees when the area is planted to ensure there is no net biodiversity loss from this change of use.

Summary of Issues:

The key issues in this case relate to the principle of the proposed change of use of land and the effect of the change of use of land on the functionality of the retained agricultural land.

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.

Policy OC5(A) – Agriculture Outside of the Centres – within Agriculture Priority Areas (APA) – provides scope for the creation of curtilage extensions such as extensions to domestic gardens within APA's. This Policy also requires consideration of other relevant policies which in this case would be Policy GP15 and GP1.

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 OC5(A)).

It is necessary therefore, for an application to satisfactorily demonstrate that the land to be lost from agriculture could not make a positive contribution to the commercial function of the APA (GP15 c.).

Contribution of the land to the commercial agricultural use of the APA

The land that is the subject of this application does fall within the APA but suffers from flooding during the winter months which significantly impacts on its usefulness for commercial agricultural purposes. The GFA have noted however, that drainage of the land could be improved to make the land more useful for farming. Nonetheless, the GFA acknowledge that the area of this flat site proposed to be used as garden is modest in size when considered against the overall field size, where over 4,000 sqm would be retained for agricultural purposes.

The change of use of land as proposed (excluding the vehicular access), where the land is particularly prone to flooding does, on balance, accord with the aims of Policy GP15 c. as the GFA do not oppose the modest change of use proposed.

Biodiversity

The application has been accompanied by a biodiversity statement which highlights tree planting that has been carried out on the land over recent years. A new earthbank is proposed to define the proposed garden area which also supports wildlife along with a bank maintenance regime of 2 – 3 cuts per year. Concerns raised through the consultation process regarding regular strimming have been noted. A planning condition would address the matter and ensure that the maintenance regime is adhered to. If it is not, the matter can be investigated by the Planning Service. New native hedge planting is also proposed along with a seasonal wetland/pond area given that the area is prone to flooding during the winter months and after heavy rainfall. The scheme also proposes the removal of a non-native hedge and its replacement with a native hedge of Hawthorn or evergreen Holly and has been supplemented with annotated photographs to clarify the position of new features such as a pond, hedge and earthbank. The proposals would represent biodiversity enhancements on the site in line with the Strategy for Nature and the matter can be managed by planning condition to ensure that the aims of the Strategy for Nature SPG are met.

The conditions include a condition limiting the period within which the development may be commenced, and the landscaping works proposed will be conditioned to be completed by the end of the planting season which follows the grant of permission, in this case 31st March 2024. This is to ensure that the biodiversity enhancements approved as part of the application are carried out within a reasonable amount of time after the implementation of the change of use, which is considered to occur in practical terms immediately after the grant of permission.

Other matters

The application specifies that there is no intention to remove or alter any of the existing boundary features. The site is not situated within an Area of Biodiversity Importance and the proposal would not undermine the wider landscape character or the openness of the area in accordance with Policies GP1 and GP15 a., b. and d.

The concerns raised regarding activities undertaken on the land such as car servicing etc are noted. Whether it is occasional car maintenance or more frequent activities, perhaps with a racing vehicle, would not amount to a material change of use to an industrial purpose but would represent a use incidental to the enjoyment of the dwellinghouse. Such activities could be undertaken on the front driveway of the property or within the existing curtilage area. Furthermore, for planning purposes light industrial uses represent those which can be undertaken in a residential area without undue harm to the amenities of surrounding residents. The proposal involves a change of use of an area of land to be included and managed as part of the residential garden and given the location of the land and boundary features in relation to neighbouring residential properties, the proposed change of use would not of itself have an adverse impact on or affect their amenities (GP15 e.).

The comments received regarding information provided and future applications have been noted. Any future planning application will need to be considered on its own merits based on the relevant planning policies in place at that time.

Conclusion

In view of the above it is recommended that planning 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 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; the effect of the proposed which the site could be put without further planning permission; 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 not impact on any protected buildings, trees, monuments or on any SSS's.

Date: 13 June 2023

