

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 (4,187sqm) (revised scheme).

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

APPLICANT: Mr S Moherndl

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: 24/07/2023

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 25/05/2023 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: 1030-01 B1A and Biodiversity Statement (completion date May 2023)

Application Ref: FULL/2023/0988

Property Ref: E004570000

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 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.

3.The landscaping scheme hereby approved shall be fully completed, in accordance with the approved drawing and Biodiversity Statement, in the first planting season following the grant of this permission or by the 31/03/2024. 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 visual amenity and biodiversity.

Expiry Date: This permission will cease to have effect on 23/07/2026 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/2023/0988
Property Ref: E004570000
Valid date: 25/05/2023
Location: Chanson De La Mer Rue Mahaut St. Saviour Guernsey GY7 9XF
Proposal: Change of use of agricultural land to domestic garden
(4,187sqm) (revised scheme).

Applicant: Mr S Moherndl

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 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.

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Reason - In the interests of visual amenity and biodiversity.

OFFICER'S REPORT

Site Description:

Chanson De La Mer is a detached two-storey house which sits to the north-east of the application site.

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

Application site

FULL/2022/1990 - Change of use of agricultural land to domestic garden (4,187 sq.m.) – refused

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 including the removal of existing glasshouses and most ancillary structures. One existing store, adjacent to the dwellinghouse is proposed to be retained.

The application incorporates information relating to biodiversity enhancements on the site having regard to the Strategy for Nature, SPG and the previous reason for refusal. The scheme indicates that the existing grassland habitat on the site will be maintained and following the clearance of glass from the site an area to the immediate south of this will also be developed into a grassland habitat having regard to the Wildflower Meadow guidance published by the Authority. Informal hawthorn hedgerow planting is proposed following the clearance of the glasshouse along the south boundary around existing hedging. Further hedge planting (hawthorn, elder, tamarisk and grey willow) is proposed to the west boundary as a shelterbelt and to the front roadside boundary (evergreen spindle/Euonymus japonicas) for privacy.

The applicant has requested a minor departure from Policy OC7 in relation to the retention of an existing store on the land.

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:

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, 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 in the immediate area. 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 Douzaine still 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 now 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 the majority of the exemptions 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 seeks to provide meaningful enhancements to soft landscaping/land management which can make a positive contribution to biodiversity in line with the adopted SPG, Strategy for Nature.

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: 13/07/2023

