

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: Erect single storey agricultural store to west of outbuilding.

LOCATION: The Lock Up, Rue De La Trappe, St. Pierre Du Bois.

APPLICANT: Mr M Guille

I refer to the application referred to below received as valid on 13/07/2023 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 19/01/2024

Drawing Nos: Jason Hobbs Architectural Services Ltd: 6350/A/3.

Application Ref: FULL/2023/1132

Property Ref: F007960000 + F00796A000

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. No compelling reason has been submitted as to why the existing building could not be used to store the limited amount of equipment and tools required to maintain and manage the land. As such the proposal does not comply with Policy OC5(A).
2. It has not been demonstrated that a building, and particularly a building of this size, meets a recognised demand and is ancillary or proportionate to the nature and scale of the use of the land for informal leisure and recreation purposes (in this case for the growing of fruit and vegetables). In addition, considering the size and construction of the existing building on the site and the potential to use the existing building for the proposed storage use, it is questionable whether an additional building is necessary at all. The proposal is contrary to section 18.1.7 and part (i) of Policy OC9.
3. The existing utilitarian building forms an isolated feature which detracts from the rural landscape. The increase in mass of the building along the boundary with the highway would further detract from the rural landscape character of the area, contrary to Policies OC9, GP1 and GP8.

4. The site is within an Agriculture Priority Area. The extended building is intended to be ancillary to the wider use of the land for leisure and recreation uses and it would in effect lead to the loss of the entire site from potential commercial agricultural use. No evidence has been submitted to demonstrate that the land cannot positively contribute to commercial agricultural use and consequently the proposal is contrary to part (iii) of Policy OC9.

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/2023/1132
Property Ref: F007960000 + F00796A000
Valid date: 13/07/2023
Location: The Lock Up Rue De La Trappe St. Pierre Du Bois Guernsey
Proposal: Erect single storey agricultural store to west of outbuilding.
Applicant: Mr M Guille

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. No compelling reason has been submitted as to why the existing building could not be used to store the limited amount of equipment and tools required to maintain and manage the land. As such the proposal does not comply with Policy OC5(A).
 2. It has not been demonstrated that a building, and particularly a building of this size, meets a recognised demand and is ancillary or proportionate to the nature and scale of the use of the land for informal leisure and recreation purposes (in this case for the growing of fruit and vegetables). In addition, considering the size and construction of the existing building on the site and the potential to use the existing building for the proposed storage use, it is questionable whether an additional building is necessary at all. The proposal is contrary to section 18.1.7 and part (i) of Policy OC9.
 3. The existing utilitarian building forms an isolated feature which detracts from the rural landscape. The increase in mass of the building along the boundary with the highway would further detract from the rural landscape character of the area, contrary to Policies OC9, GP1 and GP8.
 4. The site is within an Agriculture Priority Area. The extended building is intended to be ancillary to the wider use of the land for leisure and recreation uses and it would in effect lead to the loss of the entire site from potential commercial agricultural use. No evidence has been submitted to demonstrate that the land cannot positively contribute to commercial agricultural use and consequently the proposal is contrary to part (iii) of Policy OC9.
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OFFICER'S REPORT

Site Description:

The application site comprises a small field and a single storey building, which has the appearance of a domestic garage, and which are bounded by Rue de la Fontenelle and Rue de la Trappe to the north and south respectively.

Archive maps indicate that a building of similar footprint to that which exists today was first erected at some point in the period 1938 to 1963. That building appears to have either been re-clad/re-roofed or replaced at some point between 2001 and 2004.

The site is Outside of the Centres and within an Agriculture Priority Area.

Relevant History:

22/11/2021 – CLU/2020/1450 – Application refused for a Certificate of Lawful Use to regularise use of building/land for storage of car and 3 motorcycles (Use Class 22).

May 2019 to March 2023 – Enforcement investigation into storage of items on land and use of building.

Existing Use(s):

Agricultural use class 28

Brief Description of Development:

Planning permission is requested to erect a single storey pitched roof store measuring 3.5m by 5.1m to the west gable of the existing building. The extension would be finished with rendered walls and a corrugated metal roof to match the existing building. The extension is proposed to be used to store equipment and tools to maintain and manage the land, including growing fruit and vegetables.

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

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

Policy OC9: Leisure and Recreation Outside of the Centres

Policy GP1: Landscape Character and Open Land

Policy GP8: Design

Policy GP9: Sustainable Development

Representations:

None

Consultations:

None

Summary of Issues:

The main issues in deciding this application are:

1. Whether the principle of the development is acceptable.

2. The design and impact of the development on the landscape character and appearance of the area.
3. Whether the land cannot positively contribute to commercial agricultural use.

Assessment against:

- 1 - Purposes of the law.**
- 2 - Relevant policies of any Plan, Subject Plan or Local Planning Brief.**
- 3 - General material considerations set out in the General Provisions Ordinance.**
- 4 - Additional considerations (for protected trees, monuments, buildings and/or SSS's).**

The agent advises that their client intends to use the land for agricultural purposes, including the growing of fruit and vegetables, similar to an allotment or hobby farm. In order to maintain and manage the land it is advised that a limited amount of equipment and tools are required including a lawnmower, rotavator, wheel barrow and garden tools such as a spade, fork and rake etc..

The site does not form part of an existing farmstead or agricultural holding. Policy OC5(A) supports development which is not related to a farmstead or agricultural holding provided that it accords with all the relevant policies of the Island Development Plan.

Although the agent advises that the intended use of the land is for agricultural purposes to grow fruit and vegetables, no details have been provided about the scale and nature of the proposed operation although it is advised that the use would be similar to an allotment or hobby farm. The site includes an existing building which is described as a garage and is currently used to store vehicles personal to the applicant. Notwithstanding the agent's comments about the cleanliness of the existing building and concerns about introducing dirty agricultural equipment and the associated mess, no compelling reason has been submitted as to why the existing building could not be used to store the limited amount of equipment and tools required to maintain and manage the land. As such the proposal does not comply with Policy OC5(A).

Policy OC9 supports new facilities for informal leisure and recreation uses where development proposals are designed to meet a recognised demand providing that any ancillary built development is proportionate to the nature and scale of the informal leisure and recreation use; the visual impacts can be mitigated to respect the character of the locality; and where the site falls within an Agriculture Priority Area the land cannot positively contribute to commercial agricultural use or cannot practically be used as such without adverse environmental impacts.

The proposed form of development, to construct a building to maintain and manage the land including the growing of fruit and vegetables, is not specifically identified as an informal leisure and recreation use. However, informal leisure and recreation uses include allotments and it could be argued that if the proposed building was clearly ancillary and essential to the use of the site for growing fruit and vegetables, the use would be similar in nature to an allotment use. As such it is considered that Policy OC9 could provide a gateway for the proposal.

However, the information submitted does not provide details about the scale and nature of the proposed growing element, other than making reference to an intention to grow fruit and vegetables. Without clear details of the nature and scale of the proposed use of the land for growing, it has not been demonstrated that the building, and particularly a building of this size, meets a recognised demand and is ancillary or proportionate to the nature and scale of the use of the land for informal leisure and recreation purposes (in this case for the growing of fruit and vegetables). In addition, considering the size and construction of the existing building on the site and the potential to use the existing building for the proposed storage use, it is questionable whether an additional building is necessary at all. The proposal is contrary to section 18.1.7 and part (i) of Policy OC9.

The existing utilitarian building forms an isolated feature which detracts from the rural landscape. Whilst the extension would be partially screened in public views from the highway by the existing building and roadside earth bank, the resultant increase in mass along the boundary with the highway would further detract from the rural landscape character of the area, contrary to Policies OC9, GP1 and GP8. The visual impact of the development could be partially mitigated by additional planting along the roadside bank but as the proposal does not otherwise accord with policy the potential for planting to mitigate the visual impact of the development has not been explored further at this stage.

The land the subject of this application is within an Agriculture Priority Area where new leisure and recreation uses are only supported where the land cannot positively contribute to commercial agricultural use or cannot practically be used as such without adverse environmental impacts. Due to the relatively modest footprint of the extended building and together with its siting between the existing building and the boundaries of the site, the area of land the extended building would be situated on is likely to have limited potential for commercial agricultural use. However, the extended building is intended to be ancillary to the wider use of the land for leisure and recreation uses and it would in effect lead to the loss of the entire site from potential commercial agricultural use. No evidence has been submitted to demonstrate that the land cannot positively contribute to commercial agricultural use and consequently the proposal is contrary to part (iii) of Policy OC9.

The agent requests that if the proposal cannot be justified under existing policies it is considered as a minor departure on the basis that it would not undermine the aims and objectives of the plan. However, the proposal does not meet multiple policies and parts of policies and the requirements for built development to be proportionate to the nature and scale of the use of the land and to consider the use of existing buildings are important in order to ensure that development makes an effective and efficient use of land, it protects the natural environment and it meets the overall aims, objectives and Spatial Policy of the Island Development Plan. As a result the proposal is not considered to be a minor departure.

All material considerations as set out in the Land Planning and Development (Guernsey) Law, 2005 and the Land Planning and Development (General Provisions) Ordinance, 2007 have been taken into account in the assessment of this application.

The proposal is contrary to Policies OC9, GP1, GP8 and OC5(A) and it is recommended that the application is refused.

Notwithstanding the above, if the land is actively used for horticultural purposes there could be scope to erect a small shed not exceeding a base area of 6 square metres or a height of 2 metres if it meets all of the criteria set out in Class 6 Section 5 (Erection of other small-scale structures) of The Land Planning and Development (Exemptions) Ordinance, 2023.

Date: 18/01/2024