

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: Retrospective permission to change the use of agricultural land to domestic garden (6,234 sq.m.).

LOCATION: La Croute Sandre, Rue Poudreuse, St. Martin.

APPLICANT: Mr & Mrs Henry

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: 16/04/2024

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 12/07/2023 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Jason Hobbs Architectural Services - 6381/A/1; Guernsey Gardens Drawing: 001-004-2024 & Guernsey Garden Landscape Management Plan and Maintenance Schedule (date stamped received 25/03/2024)

Application Ref: FULL/2023/1183

Property Ref: J005430000

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. Notwithstanding the details shown on drawing No. 6381/A/1, the landscaping scheme and biodiversity enhancements shall be fully completed only in accordance with the details shown on the Guernsey Garden drawing reference 001-004-2024 and in the written Guernsey Garden Landscape Management Plan document (both date stamped received 25/03/2024), by the end of the planting season following the grant of consent (by 31st March 2025). Thereafter the landscaping scheme and biodiversity enhancements shall be maintained in accordance with the Guernsey Garden Maintenance schedule and 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 biodiversity interest having regard to the Strategy for Nature SPG.

Expiry Date: This permission will cease to have effect on 16/04/2027 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/2023/1183
Property Ref: J005430000
Valid date: 12/07/2023
Location: La Croute Sandre Rue Poudreuse St. Martin Guernsey GY4 6NL
Proposal: Retrospective permission to change the use of agricultural land to domestic garden (6,234 sq.m.).

Applicant: Mr & Mrs Henry

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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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 biodiversity interest having regard to the Strategy for Nature SPG.

OFFICER'S REPORT

Site Description:

La Croute is a relatively large detached property with a domestic garden area situated immediately to the south of the dwelling. The property is accessed along an existing track that links to Rue Poudreuse to the east. Surrounding the site, the area comprises residential properties to the east, northeast, southeast and west, with agricultural fields to the south and north. Beyond the agricultural land to the south residential properties are situated and to the west is a disused vinery.

The site is located Outside of the Centres as designated in the Island Development Plan.

Relevant History:

FULL/2017/2306	Demolish existing shed and erect double garage with first floor storage to north of dwelling.	Granted 22/11/2017
FULL/2015/1077	Demolish shed and erect double garage.	Granted 28/05/2015
FULL/2014/1464	Remove existing shed and erect double timber garage to front (north) of property.	Granted 18/06/2014
FULL/2011/2516	Erect single storey extensions at rear and side (east); remove section of hedge at side (west); extend domestic curtilage to west; remove chimney, and alter fenestration.	Granted 28/09/2011

Existing Use(s):

Residential Use Class 1 – Property and garden area;
Agriculture – Land surrounding and the subject of this application

Brief Description of Development:

Initially planning permission was sought to extend the domestic garden area associated with the property to include all of the land in the applicant's ownership (the land situated to the south and west of the property).

Following a visit to the site as part of the application process and following a review of aerial imagery for the site, it appeared that between the years 2013 and 2016 the land to the north of the site the subject of this application was altered, with the creation of raised earthbanks, mounds and pathways. In 2019 this remained pretty much the same and by 2022 additional works had taken place to create what appeared to be a BMX/mountain bike track. A pond was also created in the northeast corner. Furthermore, given the extent of curtilage extension proposed as part of the initial application the biodiversity enhancements proposed were deemed to be insufficient to satisfy the requirements of the Strategy for Nature Supplementary Guidance Note.

The application was subsequently deferred, and the applicant's agent requested that the application be considered in retrospect and paid the additional fee required. Additional information and a landscaping scheme/biodiversity enhancement plan including future management and maintenance has also been provided to address the concerns raised.

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

GP1: Landscape Character and Open Land

GP15: Creation and Extension of Curtilage

Representations:

In total two letters of representation were received, one on behalf of La Societe Guernesiaise and one from a member of the public.

La Societe Guernesiaise made the following comments:

“La Societe remains concerned over the reclassification of agricultural land to domestic curtilage. However, as the Island Development Plan currently permits the consideration of such applications, we seek to optimize ecological gains in such cases wherever possible.

We would suggest that this proposed extension to curtilage is excessive and believe the landowner could continue to maintain much of the property in its existing state if its current agricultural land classification was retained. We wonder if this application is a precursor to future development of the field.

We would suggest that the fact that the land is not currently used for commercial agriculture does not, in itself, justify conversion to domestic curtilage. The property adjoins commercially farmed fields to the south and west.

We note that the application includes just one biodiversity measure – a token gesture of four new trees. This is clearly not sufficient in respect of the very large curtilage extension.

If this application is considered further, we wish to advise that La Societe would be able to assist with drawing up 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 means of appropriate native planting and ongoing maintenance.”

The member of the public made the following comments:

“This property is surrounded by agricultural land, its status as being undesignated should not be used as an excuse to increase the nearby property’s curtilage. It is strange that the agent doesn’t consider this as important open land because it is surrounded by trees and bushes. Under these proposals little regard has been taken of the Strategy for Nature ‘net gain’ principal, and considerably more biodiversity enhancement is required.”

Consultations:

None

Summary of Issues:

The main issues in deciding this application relate to the principle of the change of use of the land, the impact on the landscape character and openness of the area and whether the proposal would result in biodiversity enhancements.

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 proposal to change the use of the land to a domestic use falls to be considered principally under Policies OC5(B), GP15 and GP1 of the Island Development Plan.

The site is not within an Area of Biodiversity Importance (ABI) or an Agriculture Priority Area (APA), no existing boundaries are proposed to be removed and the use of the land for domestic purposes is unlikely to have any significant adverse effects on neighbouring residents.

The site is located within the South Eastern Plateau landscape character area as identified in Annex V of the Island Development Plan. The general character of the South Eastern Plateau is described as being *“of established development interspersed with open fields and large mature gardens, all with a complementary cover of garden, hedgerow and roadside trees. Ribbon development has an impact in some areas, although the overall character of much of the area remains intrinsically rural”*.

The land the subject of this application forms part of a larger area of agricultural/ undeveloped land which extends to the north and southwest. By virtue of the well-established vegetation along the north and east boundaries of the site, the land the subject of this application is not currently visible from Rue Poudreuse to the east or La Rue De La Corbinerie to the north. In addition, due to its relationship with the existing dwelling to the east and neighbouring properties to the northeast, east, southeast, and west the land the subject of this application could be argued to appear relatively well associated with existing built development, as opposed to forming a significant part of the larger area of agricultural/ undeveloped land to the north and south. Provided that the open and undeveloped nature of the land is retained, the change of use of the land results in a large mature garden which would not be out of character with the general landscape character of the South Eastern Plateau and the proposal is unlikely to have a significant adverse effect on the landscape character of the area, in accordance with Policies GP15 and GP1.

In line with the 2020 Strategy for Nature, which has been adopted as Supplementary Planning Guidance, the Development and Planning Authority has directed that from 1st 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 comments and concerns of La Société are also duly noted.

The application as originally submitted had not addressed the 2020 Strategy for Nature or included meaningful environmental benefits that would be implemented on site should planning permission be granted for the retrospective change of use of the land. The agent in this case was invited to provide further details of biodiversity enhancements as a result of the development. In response a landscaping/biodiversity enhancement scheme has been produced by Guernsey Gardens, which includes the retention of all trees and hedges on site, together with additional tree planting, native hedge planting, the creation of wildflower meadows, 6 no. bird boxes and 5 hedgehog houses. The scheme states that the former BMX/mountain bike track has already been replaced with substantial planting all of which are detailed on the drawing and will be retained as part of the scheme. In addition, details of the management and maintenance of the biodiversity enhancements has also been provided.

The landscaping/biodiversity scheme as proposed offers good opportunities for biodiversity enhancements. Subject to planning conditions to ensure that these measures are created on site in a timely manner, the matter of biodiversity and the

aims of the Strategy for Nature have been proportionately addressed in relation to this change of use application.

It is recommended therefore that the landscaping/biodiversity enhancements as proposed are conditioned to be completed by the end of the planting season which follows the grant of permission, in this case 31st March 2025. This is to ensure that the biodiversity enhancements approved as part of the retrospective application are carried out within a reasonable timeframe.

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 application is acceptable in relation to the above policies and other material planning considerations and it is recommended that planning permission is granted.

Date: 09/04/2024

