

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: Extend and alter roof to create first floor extension, erect single storey extensions to west (rear) and south (side) elevations, alterations to fenestration, erect detached garage/store to south of dwelling and change of use from agricultural land to domestic garden (1,592qm).

LOCATION: Le Clos D'Hy, Les Mourants Road, St. Martin.

APPLICANT: Mr & Mrs M Le Patourel

I refer to the application referred to below received as valid on 05/07/2023 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 08/11/2023

Drawing Nos: ArcTECH Freelance Architecture: MM-23-1127-02B, 03B & 04

Application Ref: FULL/2023/1219

Property Ref: J007550000

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 information has been submitted to demonstrate that the land could not be used for commercial agriculture. The land the subject of this application could be used for commercial agricultural use, potentially in conjunction with adjoining fields and its loss would represent the unacceptable loss of agricultural land within the Agriculture Priority Area. It has not been demonstrated that the land cannot positively contribute to the commercial agricultural use of an Agriculture Priority Area or cannot practicably be used for commercial agriculture within an Agriculture Priority Area without unacceptable adverse environmental impacts and therefore the proposal is contrary to Policies GP15(c) and OC5(A).

2. The proposal includes limited additional planting and little information is provided about the ongoing management of the land. The submitted information does not clearly set out how the proposed change of use of this sizeable parcel of land will result

in proportionate enhancements to biodiversity. The proposal does not accord with the 2020 Strategy for Nature Supplementary Planning Guidance.

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/2023/1219
Property Ref: J007550000
Valid date: 05/07/2023
Location: Le Clos D'Hy Les Mourants Road St. Martin Guernsey GY4 6TW
Proposal: Extend and alter roof to create first floor extension, erect single storey extensions to west (rear) and south (side) elevations, alterations to fenestration, erect detached garage/store to south of dwelling and change of use from agricultural land to domestic garden (1,592qm).
Applicant: Mr & Mrs M Le Patourel

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. No compelling information has been submitted to demonstrate that the land could not be used for commercial agriculture. The land the subject of this application could be used for commercial agricultural use, potentially in conjunction with adjoining fields and its loss would represent the unacceptable loss of agricultural land within the Agriculture Priority Area. It has not been demonstrated that the land cannot positively contribute to the commercial agricultural use of an Agriculture Priority Area or cannot practicably be used for commercial agriculture within an Agriculture Priority Area without unacceptable adverse environmental impacts and therefore the proposal is contrary to Policies GP15(c) and OC5(A).
 2. The proposal includes limited additional planting and little information is provided about the ongoing management of the land. The submitted information does not clearly set out how the proposed change of use of this sizeable parcel of land will result in proportionate enhancements to biodiversity. The proposal does not accord with the 2020 Strategy for Nature Supplementary Planning Guidance.
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OFFICER'S REPORT

Site Description:

The eastern section of the site comprises of a traditional detached cottage with associated domestic land and detached agricultural barns/outbuildings. The western section of the site comprises an area of agricultural land. The site is located within an Agriculture Priority Area and is Outside of the Centres.

Relevant History:

29/01/2015 – FULL/2014/3328 – Permission granted to demolish section of existing shed and erect additional shed for storage of agricultural machinery.

26/09/2014 – FULL/2014/1992 – Application refused to extend curtilage and erect a building for the storage of agricultural contracting machinery, linked to the existing tractor and implement shed, and demolish part of existing shed.

05/02/2010 – FULL/2009/3814 – Permission granted to erect machinery store.

Existing Use(s):

Eastern section of site - Residential use class 5: use of part of dwelling for business purposes

Western section of site – Agriculture use class 28

Brief Description of Development:

Planning permission is requested to extend and alter the roof to create a first-floor extension to the rear (west) involving a double pitched roof with a flat roof infill, erect single storey extensions to the rear (west) and side (south) elevations and alterations to fenestration. Permission is also sought to erect a 1½ storey detached pitched roof garage and store to the south of the dwelling and to change the use of the western section of the site measuring approximately 1,592sqm from agricultural land to domestic land associated with the dwelling Le Clos D’Hy.

The extended dwelling is proposed to be finished with a mix of rendered and timber clad walls, aluminium fenestration and a natural slate roof.

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 GP1: Landscape Character and Open Land

Policy GP8: Design

Policy GP9: Sustainable Development

Policy GP13: Householder Development

Policy GP15: Creation and Extension of Curtilage

Representations:

One letter of representation was received on behalf of La Société Guernesiaise:

“La Société 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 note that the field is within an Agricultural Priority Area.

La Société acknowledges that the plans outline a range of biodiversity measures. Whilst we welcome this, we would also point out that we have previously seen near-identical information 'copied and pasted' on other applications in the past and that it refers to species of wildlife that are not found locally. This particular application quotes information which is irrelevant and ultimately misleading. For example -

1. The quoted benefits of certain shrub species do not apply outside of their native range, especially where plants from the southern hemisphere are planted in the northern hemisphere.
2. The fact that Alder seeds are eaten by 'deer, sheep, hares' is of little importance when the species is planted in Guernsey.
3. The details regarding Silver Birch growing in association with Blaeberry and Cowberry and supporting birds such as Tree Pipit, Willow Warbler, Nightingale, Woodcock, Redpoll and Green Woodpecker are irrelevant as those plants are not found locally and none of the birds are breeding species.

In addition, the proposal to plant Creeping Thistle within the taller grassland is not advised as it is a listed noxious weed.

As with previous uses of this information, some of the wording is nonsensical, for example, 'suitable canopy plumage to balance ground floor grass types'.

The 'short', 'medium' and 'tall' grassland areas are not shown on the plan and there are no details on how those habitats would be managed.

Ultimately, it appears that the biodiversity measures have been assembled by parties which do not have the required expertise in ecological matters. Sadly, we have no confidence in the proposals being undertaken in a manner which optimises opportunities to enhance biodiversity. For example, we cannot be sure the proposed bird and bat boxes will be aimed at species found locally, or that they would be installed in appropriate positions.

We wish to advise that La Société would be able to assist with matters relating to 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".

Consultations:

None

Summary of Issues:

The main issues in deciding this application are:

1. Design and impact of the development on the appearance, landscape character and openness of the area.

2. The loss of agricultural land within an Agriculture Priority Area.
3. 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).**

During the course of consideration the application was deferred due to concerns about the siting of the extension and patio which was partly located outside of the recognised domestic curtilage, the siting of the garage and the design and detailing of the gables of the first-floor flat roof extension. Revised plans were subsequently submitted which proposed to extend the domestic curtilage of the dwelling to include the entire site, the garage was relocated so that it is positioned behind the dwelling and further information was provided about the design and detailing of the gables.

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

The site is not within an Area of Biodiversity Importance, no changes to the existing boundaries are proposed and the use of the land for domestic purposes is unlikely to have any significant adverse effects on neighbouring residents.

The Island Development Plan 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.

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.

In order to protect Guernsey's best agricultural land, where appropriate, proposals for development which would result in the loss of an existing farmstead or agricultural holding in the Agriculture Priority Areas will only be supported where it is demonstrated that the farmstead, building or land is no longer required for agricultural purposes and any proposed new use accords with the other relevant policies of the Island Development Plan. The policies place the onus on the applicant to demonstrate that this is the case.

The Authority has published non-exhaustive guidance on matters that could be taken into account when assessing if a particular site or land parcel can make a positive contribution to the commercial agricultural use of an identified Agriculture Priority Area, the following matters could be taken into account:

- *What the requirements of the agricultural industry are at the time;*
- *The condition of the land (e.g. the grade and depth of the soil, any contamination, whether it is able to be used for agriculture or if not what may be required to make it available for cultivation or grazing);*
- *Whether the land can be used for agriculture without adverse environmental impacts;*
- *The size of the site/piece of land;*
- *How the site/piece of land relates to existing agricultural holdings;*
- *Access;*
- *Topography (including slope, gradient, etc);*
- *Flooding/Drainage;*
- *The nature of the proposed use (will the proposed use allow the long-term use of the land for agriculture to remain).*

The land forms part of an Agriculture Priority Area. The proposed change of use of agricultural land to domestic land would see the loss of a parcel of agricultural land measuring approximately 1,592sqm. The agent advises that the land has not been used for agricultural purposes since 1999 and their client was unaware that the land was recognised as agricultural land. In addition, the agent raises concerns about the access to and the size of the agricultural land and the lack of a physical boundary between the domestic and agricultural land and concludes that for these reasons the land could not practically be used for commercial agriculture.

It is unclear why the applicant would be unaware that the western section of the site is recognised as agricultural land as this was apparent during previous planning applications to erect outbuildings to store agricultural machinery in 2010, 2014 and 2015 and included plans submitted on behalf of the applicant which delineated the domestic and agricultural sections of the site. It is also unclear why the use of the existing domestic access would be unsuitable for commercial agricultural vehicles as the access is already used by commercial agricultural vehicles related to the agricultural contracting business which is operated by the applicant from the agricultural barns/outbuildings to the south of the site.

Whilst minor modifications may be required to provide access to the agricultural land and to physically delineate the agricultural and domestic uses more clearly, these

alterations are unlikely to be insurmountable. The Guernsey Soil and Land Classification in 1988 indicated the site and the surrounding agricultural land was classified as Grade 1 Excellent. The site is bounded to the west and south by other agricultural land and it forms part of a large area of contiguous agricultural land within the immediate locality. Whilst the site is smaller than adjoining agricultural fields, this would not in itself prevent the use of the land for commercial agriculture, including if it was used in conjunction with other agricultural land within the immediate vicinity.

Notwithstanding the comments from the agent, no compelling information has been submitted to demonstrate that the land could not be used for commercial agriculture. The land the subject of this application could be used for commercial agricultural use, potentially in conjunction with adjoining fields and its loss would represent the unacceptable loss of agricultural land within the Agriculture Priority Area. It has not been demonstrated that the land cannot positively contribute to the commercial agricultural use of an Agriculture Priority Area or cannot practicably be used for commercial agriculture within an Agriculture Priority Area without unacceptable adverse environmental impacts and therefore the proposal is contrary to Policies GP15(c) and OC5(A).

The site is located within the Plateau landscape as identified in Annex V of the Island Development Plan. The land the subject of this application forms part of a large swathe of agricultural/ undeveloped land extending to the west and south. However, the land is largely screened from public view by the existing dwelling and agricultural buildings to the east and by well-established planting along the site boundaries. In addition, due to its relationship with the existing dwelling to the east, the land the subject of this application could be argued to appear relatively well associated with the existing dwelling and it would not unduly project into the larger area of agricultural/ undeveloped land to the west and south. Provided that the open and undeveloped nature of the land is retained, the change of use of the land in itself 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.

With regards to biodiversity enhancements, the proposal involves planting 6 trees, installing a minimum of 10 bird and bat boxes and retaining existing planting. Other measures such as new grasses are discussed but are not translated onto the biodiversity plan and it is unclear if these proposals are specific to this site. The proposal includes limited additional planting and little information is provided about the ongoing management of the land. In addition, there are concerns about the accuracy and relevance of some of the biodiversity information submitted and the proposed retention or use of invasive non-native species, such as Russian Olive. The submitted information does not clearly set out how the proposed change of use of this sizeable parcel of land

will result in proportionate enhancements to biodiversity. The proposal does not accord with the 2020 Strategy for Nature Supplementary Planning Guidance.

The scale and design of the extended dwelling achieves a satisfactory standard of design and would have no significant adverse effects on the character and appearance of the area. However, the rear extension and patio area is not located entirely within the existing domestic curtilage and as set out above the proposed change of use of the agricultural land to domestic land does not accord with the relevant planning policies. The garage and store is subservient to the dwelling and its revised position to the rear of the dwelling has successfully addressed concerns previously raised.

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.

As set out above, the proposed change of use of the land does not accord with Policies GP15(c), OC5(A) and the 2020 Strategy for Nature and it is recommended that the application is refused.

Date: 07/11/2023