

**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:** Change of use of agricultural land to domestic garden (1,724 sq.m.).

**LOCATION:** Le Douit, Rue Du Vallet, St. Pierre Du Bois.

**APPLICANT:** Mr & Mrs S Ronaldson

I refer to the application referred to below received as valid on 15/08/2023 regarding the above proposals as described more fully in the application and drawings referred to below.

**Date of refusal of permission:** 12/10/2023

**Drawing Nos:** Torode Architects: 6313-01

**Application Ref:** FULL/2023/1305

**Property Ref:** F003960000

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 in conjunction with the remainder of the field and potentially 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 land the subject of this application forms part of a large swathe of undeveloped land and is partly visible from the public highway to the west. The size of the land parcel together with its partly naturalised woodland appearance and the remainder of the land which forms a large expanse of open land is a distinctive feature in the landscape which positively contributes to the landscape character and appearance of the area. The proposal would result in a significant incursion beyond the extent of existing residential properties into a large swathe of undeveloped and naturalised

landscape, and amounts to the unnecessary loss of undeveloped land to the detriment of the wider landscape character of the area.

In addition, there are concerns that the domestication of this land would adversely affect the landscape character of the area, for example through the introduction of domestic paraphernalia. In this case the requirements to ensure the protection of open land and landscape character outweighs the reasonable expectations of the landowner to incorporate additional land into the curtilage of the adjoining dwelling. The proposal is contrary to Policies GP15(a) and GP1.

#### **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/2023/1305  
**Property Ref:** F003960000  
**Valid date:** 15/08/2023  
**Location:** Le Douit Rue Du Vallet St. Pierre Du Bois Guernsey GY7 9EX  
**Proposal:** Change of use of agricultural land to domestic garden (1,724 sq.m.).  
**Applicant:** Mr & Mrs S Ronaldson

**RECOMMENDATION - Refusal with Reasons:**

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**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 in conjunction with the remainder of the field and potentially 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 land the subject of this application forms part of a large swathe of undeveloped land and is partly visible from the public highway to the west. The size of the land parcel together with its partly naturalised woodland appearance and the remainder of the land which forms a large expanse of open land is a distinctive feature in the landscape which positively contributes to the landscape character and appearance of the area. The proposal would result in a significant incursion beyond the extent of existing residential properties into a large swathe of undeveloped and naturalised landscape, and amounts to the unnecessary loss of undeveloped land to the detriment of the wider landscape character of the area.

In addition, there are concerns that the domestication of this land would adversely affect the landscape character of the area, for example through the introduction of domestic paraphernalia. In this case the requirements to ensure the protection of open land and landscape character outweighs the reasonable expectations of the landowner to incorporate additional land into the curtilage of the adjoining dwelling. The proposal is contrary to Policies GP15(a) and GP1.

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## **OFFICER'S REPORT**

### **Site Description:**

The application property comprises of a detached traditional dwelling fronting onto Rue du Vallet and associated tiered domestic garden in the south-west section of the site, the remainder of the land to the north-east comprises of an area of agricultural/undeveloped land, with substantial tree planting along and inside the north-west and north-east boundaries.

The site is located in a rural area comprising of large swathes of open and undeveloped land interspersed with tree lined valleys and isolated or small groups of dwellings along highways. The site is located Outside of the Centres and within the Agriculture Priority Area as defined by the Island Development Plan.

### **Relevant History:**

None

### **Existing Use(s):**

Agriculture use class 28

### **Brief Description of Development:**

Planning permission is requested to change the use of an area of undeveloped/agricultural land measuring approximately 1,724sqm to domestic land associated with the dwelling Le Douit.

### **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 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 whilst the application includes broad biodiversity measures, it does not provide the details which would enable us to consider the suitability of any planting, especially of trees and shrubs. We would also highlight that the field is within an Agricultural Priority Area.

In considering the existing curtilage, we would question whether this extension to curtilage might be considered excessive for a single dwelling. We would further suggest that the landowner could continue to manage the land in its current form if the area was to retain its agricultural land classification.

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 the loss of agricultural land within an Agriculture Priority Area and the impact on the landscape character and openness of the area.

**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(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.

**Loss of agricultural land within an Agriculture Priority Area**

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 agricultural land reduce in size from 3,642sqm to 1,918sqm. The agent advises that the field has been driven over for many years making the ground very hard and compacted and that it has a noticeable slope from north to south and east to west. The agent concludes that taking all of these factors together renders the land incapable of being farmed effectively and that the land is too small to be a viable area of agricultural land.

However, no compelling reason has been submitted as to why the modest slope of the land would prevent it from being used for commercial agriculture, and the gradient of

the field is similar to or shallower than other fields in the area which are in active agricultural use. The application site is bounded to the north-east and south-east by other agricultural land and it forms part of a large area of contiguous agricultural land within the immediate locality. Whilst part of the land may have become compacted due to use by vehicles, it is likely that the condition of the soil could be improved through appropriate land husbandry. The application relates to the change of use of an area of land measuring 1,724sqm. However, it would enclose and fragment the remaining agricultural land and would in effect result in the loss of the entire area of agricultural land measuring 3,642sqm from commercial agricultural use. The size of the field as a whole is similar to other fields in the vicinity which are in active agricultural use.

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 in conjunction with the remainder of the field and potentially 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).

#### Impact on the landscape character and openness of the area

The site is located within the Escarpment Upland landscape as identified in Annex V of the Island Development Plan and is within the West Coast Scarp.

The land the subject of this application forms part of a large swathe of undeveloped land and forms a transition from a wooded valley to the more open plateau to the north and east. The size of the land parcel together with its partly naturalised woodland appearance and the remainder of the land which forms a large expanse of open land is a distinctive feature in the landscape which positively contributes to the landscape character and appearance of the area.

The land is partially visible from Rue du Vallet to the west. The proposal would result in a significant incursion beyond the extent of existing residential properties along the highway into a large swathe of undeveloped and naturalised landscape, and amounts to the unnecessary loss of undeveloped land to the detriment of the wider landscape character of the area. Allowing the change of use of land to a domestic use would create an unusual and disproportionate relationship between the dwelling-house and its associated garden.

In addition, there are concerns that the domestication of this land would adversely affect the landscape character of the area, for example through the introduction of domestic paraphernalia or the creation of a domestic driveway and the parking of vehicles on the land. Whilst revoking exemption rights would provide a degree of control over ancillary domestic structures and buildings, ancillary domestic structures and paraphernalia associated with a domestic use of the land (such as parked vehicles, garden furniture, ornamental landscaping and boundary treatments) would result in the

suburbanisation of the land and would cause unacceptable harm to this otherwise undeveloped and naturalised rural landscape.

In this case the requirements to ensure the protection of open land and landscape character outweighs the reasonable expectations of the landowner to incorporate additional land into the curtilage of the adjoining dwelling. The proposal is contrary to Policies GP15(a) and GP1.

#### Other Matters

The application sets out measures to enhance biodiversity including creating a small pond, indigenous planting and implementing management practices for part of the land. However, the information is limited, it lacks detail and it is not proportionate to the area of land the subject of this application. Further information would be required to ensure that the proposal would result in biodiversity enhancements but as the application does not otherwise accord with policy this information has not been requested at this stage.

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

As set out above, the proposal does not accord with Policies OC5(A), GP15 and GP1 and it is recommended that the application is refused.

**Date:** 09/10/2023