

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 (2,380 sq.m.).

LOCATION: Le Douit Marin, Les Poidevins, St. Andrew.

APPLICANT: Mr & Mrs N Barton

I refer to the application referred to below received as valid on 31/07/2023 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 09/11/2023

Drawing Nos: Jason Hobbs Architectural Services Ltd: 6096/A/1.

Application Ref: FULL/2023/1358

Property Ref: K002890000

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. The land the subject of this application comprises an area of open and undeveloped land which positively contributes to the amenity of the area and is visually prominent from public vantage points, particularly along Les Mauxmarquis and Route de St. André. The proposal would result in an obvious and significant incursion beyond the extent of the existing residential property, accentuated by the change in ground level between the recognised domestic curtilage and agricultural land. The proposal would in effect close the existing gap between the ribbon development of properties along Route de St. André and Les Mauxmarquis to the detriment of the landscape character and amenity of the area, which currently provides a visual break and an important 'breathing space' in the landscape and therefore increases the importance of this undeveloped parcel of land. The domestication of this land would adversely affect the landscape character and openness of the land, for example through the introduction of domestic paraphernalia. In this case the requirements to ensure the protection of open and undeveloped land and the landscape character outweighs the reasonable aspirations of the landowner to incorporate additional land into the curtilage of their dwelling. The proposal is therefore contrary to Island Development Plan Policies GP15(A) and GP1.

2. The land is largely flat, with moderate agricultural land quality, and is served by separate vehicular access to the south-east corner of the site. Notwithstanding the points made in the application, it has not been satisfactorily 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 conflicts with Island Development Plan Policies GP15(c) and OC5(A).

3. In line with the 2020 Strategy for Nature, which has been adopted as Supplementary Planning Guidance, the 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. This application has not addressed the 2020 Strategy for Nature nor included any proposals for environmental enhancement that would be implemented on site should planning permission be granted for the change of use of the land. The proposal therefore 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/2023/1358
Property Ref: K002890000
Valid date: 31/07/2023
Location: Le Douit Marin Les Poidevins St. Andrew Guernsey
Proposal: Change of use of agricultural land to domestic garden (2,380 sq.m.).
Applicant: Mr & Mrs N Barton

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The land the subject of this application comprises an area of open and undeveloped land which positively contributes to the amenity of the area and is visually prominent from public vantage points, particularly along Les Mauxmarquis and Route de St. André. The proposal would result in an obvious and significant incursion beyond the extent of the existing residential property, accentuated by the change in ground level between the recognised domestic curtilage and agricultural land. The proposal would in effect close the existing gap between the ribbon development of properties along Route de St. André and Les Mauxmarquis to the detriment of the landscape character and amenity of the area, which currently provides a visual break and an important 'breathing space' in the landscape and therefore increases the importance of this undeveloped parcel of land. The domestication of this land would adversely affect the landscape character and openness of the land, for example through the introduction of domestic paraphernalia. In this case the requirements to ensure the protection of open and undeveloped land and the landscape character outweighs the reasonable aspirations of the landowner to incorporate additional land into the curtilage of their dwelling. The proposal is therefore contrary to Island Development Plan Policies GP15(A) and GP1.

2. The land is largely flat, with moderate agricultural land quality, and is served by separate vehicular access to the south-east corner of the site. Notwithstanding the points made in the application, it has not been satisfactorily 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 conflicts with Island Development Plan Policies GP15(c) and OC5(A).

3. In line with the 2020 Strategy for Nature, which has been adopted as Supplementary Planning Guidance, the 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. This application has not addressed the 2020 Strategy for Nature nor included any proposals

for environmental enhancement that would be implemented on site should planning permission be granted for the change of use of the land. The proposal therefore does not accord with the 2020 Strategy for Nature Supplementary Planning Guidance.

OFFICER'S REPORT

Site Description:

The application site comprises an area of agricultural land located outside of the Centres and in an Agriculture Priority Area designated in the Island Development Plan (IDP). Due to the topography of the land, which is lower than the road and the adjacent dwelling-house known as Le Douit Marin, the agricultural land is visible from multiple vantage points along Les Mauxmarquis, Route de St. André and Les Poidevins.

The recognised domestic curtilage of Le Douit Marin is elongated in shape and is sited parallel to Les Poidevins. There is a steep grassed bank between the house and the agricultural land. External amenity space is located to the north of the property, with car parking provision to the south.

Relevant History:

PREA/2020/2591	Extend domestic curtilage.	Pre-application enquiry
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Existing Use(s):

Agricultural use class 28

Residential use class 1: dwelling house

Brief Description of Development:

Planning permission is requested to change the use of a parcel of agricultural land measuring approximately 2380sqm, to domestic garden associated with the dwelling. The application is accompanied by a letter from the agent setting out comments in support of the application.

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

Strategy for Nature (2020) Supplementary Planning Guidance

Representations:

Two letters of representation were received, one of which was from La Societe Guernesiaise. The main points are as follows:

- No specific biodiversity measures.
- Excessive area of domestic curtilage extension.

Consultations:

None.

Summary of Issues:

The main issues in deciding this application are the impact on the landscape character and openness of the area, the loss of agricultural land within an Agriculture Priority Area and 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(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 proposal would have no adverse effects on neighbouring residents.

Impact on the landscape character and openness of the area:

Paragraph 19.16.3 of Policy GP15 refers to the intentions of the Strategic Land Use Plan, where it is considered that:-

“minor shifts in the management style of small parcels of land not forming part of larger areas of open land and not visually prominent will not fundamentally alter the character of the Island”.

Paragraph 19.16.7 of Policy GP15 states that:-

“competition for land can occur when a residential use adjoins an open area of land and the householder would like to incorporate some of that open land within the domestic curtilage of the residential property” and that “in these instances there will be a balance to be struck between ensuring the reasonable protection of open land and the requirements of the agricultural industry and the reasonable expectations of landowners to add new or additional land to the curtilage around a building. An assessment of proposals will take into account the impact on the wider areas of open landscape and Agriculture Priority Areas.”

Paragraph 19.16.8 of Policy GP15 states that:-

“the character and openness of the landscape can be affected by the introduction or intensification of ancillary fixtures and features, such as car parking, bin storage areas or boundary treatments. It can also change as a result of physical change to landscape features, such as hedges or earth banks. Care should be taken to ensure that proposals to create or extend a curtilage do not result in the removal or introduction of features that would detract from the character or distinctiveness of an area”.

With regard to the impact on the landscape character and openness of the area, Policy GP1 also requires consideration as to whether the proposal would result in the unnecessary loss of open and undeveloped land, and states that:

“the value of the landscape and open and undeveloped land will be required to be assessed in a wider context rather than in terms of the impact development might have on an individual site. Development that affects landscape character or distinctive natural or built features will be considered in the wider context of the landscape value of a particular locality. In assessing development proposals, the Authority will balance the character of the locality concerned with the aspirations for development as set out above”.

The application site straddles both the Upland Valleys and Plateau landscape as identified in Annex V of the Island Development Plan.

In this case, the area of land in question positively contributes to the character and visual amenity of the area and is visually prominent from public vantage points, particularly along Les Mauxmarquis and Route de St. André. The encroachment onto the agricultural land would be obvious and significant when considering the prominence of the site, which is accentuated by the change in ground level between the recognised domestic curtilage and agricultural land.

The proposal would in effect infill an existing gap between the ribbon development of properties along Route de St. André and Les Mauxmarquis and would be detrimental to the landscape character and amenity of the area, when taking into account the wider context of the site. The area of agricultural land currently provides a visual break and an important ‘breathing space’ in the landscape, which in turn, increases the importance of this open and undeveloped parcel of land.

The domestication of this land would adversely affect the landscape character and openness of the land, for example through the introduction of domestic paraphernalia. 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 garden furniture, children’s play equipment, ornamental landscaping and boundary treatment) would result in the suburbanisation of the land and would cause unacceptable harm to the landscape character and openness of the area.

Overall, the requirements to ensure the protection of open and undeveloped land and the landscape character outweighs the reasonable aspirations of the landowner to incorporate additional land into the curtilage of their dwelling. The proposal is contrary to Policies GP15(A) and GP1 of the IDP.

Loss of agricultural land within an Agriculture Priority Area

The IDP 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.

Whilst the policy approach of OC5(A) 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 land is largely flat, with 'moderate' agricultural land quality, and is served by separate vehicular access to the south-east corner of the site. In this case, the agent advises that:

"the area of land is too small to be viable to farm in a cost-effective manner...the land is poorly drained and generally waterlogged from November to March, diminishing any agricultural value....and that there is a doubt running along the south boundary." It is also noted that the site features trees and hedges along the boundary and includes trees in the interior of the land.

However, no evidence has been provided as part of the application to support the above statements or demonstrate how these factors would impact on the use of the land for agriculture. Based on the limited information submitted, it has not been satisfactorily 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. The proposal therefore conflicts with Policies GP15(c) and OC5(A).

Biodiversity:

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.

This application has not addressed the 2020 Strategy for Nature nor included any proposals for environmental enhancement that would be implemented on site should planning permission be granted for the change of use of the land. The proposal therefore does not accord with the 2020 Strategy for Nature Supplementary Planning Guidance.

Conclusion:

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 considered in the assessment of this application.

As set out above, the proposal does not accord with IDP Policies OC5(A), GP15 and GP1 or the 2020 Strategy for Nature Supplementary Planning Guidance and it is recommended that the application is refused.

Date: 08/11/2023

