

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: Change of use of agricultural land to domestic garden (946sqm).

LOCATION: Le Feugre, Route de Jerbourg, St. Martins.

APPLICANT: Mr & Mrs P Nicholson

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: 12/06/2024

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 14/12/2023 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: G.E. Le Friec: 2023 / Curt 1 & Curt 2

Application Ref: FULL/2023/2427

Property Ref: J01634B000

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 shall be begun within 3 years from the date of grant of this permission.

Reason - This condition reflects section 18(1) of the Land Planning and Development (Guernsey) Law, 2005 which states that planning permission ceases to have effect unless development is commenced within 3 years of the date of grant (or such shorter

period as may be specified in the permission).

3. 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.

4. Prior to 31st December 2024, all ancillary horticultural/agricultural structures and remnants, including 'the shed' as shown on drawing reference 2023 / Curt 1 & Curt 2, sited on agricultural land shall be removed from the site in its entirety.

Reason - To ensure clearance of all ancillary horticultural/agricultural structures and remnants in order to improve the landscape character and quality of the land. The application also seeks to remove this structure as noted on 2023/Curt.1 which is to be replaced by a timber garden structure (subject to separate planning permission and consideration).

5. Prior to the 31st December 2024, full details of the biodiversity landscaping scheme set out on drawing 2023/Curt.1 and 2023/Curt.2, including native tree and hedge planting setting out planting schedules, noting the species, sizes, numbers and densities of plants shall be submitted to and agreed in writing by the Development & Planning Authority.

Reason - To ensure that the planting scheme is appropriate given the close proximity between the application site and the adjoining Site of Special Significance, and to accord with the aims of the adopted Strategy for Nature (Supplementary Planning Guidance), 2020.

6. The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of the above condition, in the first planting season following the date of this decision, by 31st March 2025. 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 - To ensure that the biodiversity enhancement planting scheme is carried out in a suitable timeframe in order to accord with the aims of the adopted Strategy for Nature (Supplementary Planning Guidance), 2020.

7. Notwithstanding the provisions of the Land Planning and Development (Exemptions) Ordinance, 2023 (or any other Ordinance replacing or re-enacting that Ordinance), no walls, fences, sheds, greenhouses, garages, outbuildings exempt within Class 1 of the Land Planning and Development (Exemptions) Ordinance, 2023, shall be erected or constructed within the approved garden extension to which this permission relates.

Reason - The carrying out of development of this type has the potential to cause harm to the landscape character and openness of the area, particularly when viewed from the north of the site.

Expiry Date: This permission will cease to have effect on 12/06/2027 unless development is commenced by that date.

ADVICE AND OTHER REMARKS:-

Your attention is drawn to the Animal Welfare (Guernsey) Ordinance 2012 and the local Strategy for Nature and the need to comply with their provisions. The existing building may be used by bats or other wildlife for roosting and nesting. Measures may therefore need to be taken (including consideration of the timing of the works and provision to support wildlife in the long term) to ensure that protected species are not impacted by the works. It is recommended that you contact La Société Guernesiaise for advice or to arrange a site visit. La Société can be contacted on 07781 166924 or email societe@cwgsy.net.

Your attention is brought to the issue of avoidable light pollution and its effects on the natural environment and associated wildlife, in particular bats. The existing landscape is not currently subject to extensive artificial lighting and it is therefore requested that external lighting be avoided or kept to a minimum as much as possible.

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/2023/2427
Property Ref: J01634B000
Valid date: 14/12/2023
Location: Le Feugre Route de Jerbourg St. Martins Guernsey GY4 6BH
Proposal: Change of use of agricultural land to domestic garden (946sqm).

Applicant: Mr & Mrs P Nicholson

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 shall be begun within 3 years from the date of grant of this permission.

Reason - This condition reflects section 18(1) of the Land Planning and Development (Guernsey) Law, 2005 which states that planning permission ceases to have effect unless development is commenced within 3 years of the date of grant (or such shorter period as may be specified in the permission).

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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.

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Reason - To ensure clearance of all ancillary horticultural/agricultural structures and remnants in order to improve the landscape character and quality of the land. The application also seeks to remove this structure as noted on 2023/Curt.1 which is to be replaced by a timber garden structure (subject to separate planning permission and consideration).

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Reason - To ensure that the planting scheme is appropriate given the close proximity between the application site and the adjoining Site of Special Significance, and to accord with the aims of the adopted Strategy for Nature (Supplementary Planning Guidance), 2020.

6. The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of the above condition, in the first planting season following the date of this decision, by 31st March 2025. 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 - To ensure that the biodiversity enhancement planting scheme is carried out in a suitable timeframe in order to accord with the aims of the adopted Strategy for Nature (Supplementary Planning Guidance), 2020.

7. Notwithstanding the provisions of the Land Planning and Development (Exemptions) Ordinance, 2023 (or any other Ordinance replacing or re-enacting that Ordinance), no walls, fences, sheds, greenhouses, garages, outbuildings exempt within Class 1 of the Land Planning and Development (Exemptions) Ordinance, 2023, shall be erected or constructed within the approved garden extension to which this permission relates.

Reason - The carrying out of development of this type has the potential to cause harm to the landscape character and openness of the area, particularly when viewed from the north of the site.

INFORMATIVES

Your attention is drawn to the Animal Welfare (Guernsey) Ordinance 2012 and the local Strategy for Nature and the need to comply with their provisions. The existing building may be used by bats or other wildlife for roosting and nesting. Measures may therefore need to be taken (including consideration of the timing of the works and provision to support wildlife in the long term) to ensure that protected species are not impacted by the works. It is recommended that you contact La Société Guernesiale for advice or to arrange a site visit. La Société can be contacted on 07781 166924 or email societe@cwgsy.net.

Your attention is brought to the issue of avoidable light pollution and its effects on the natural environment and associated wildlife, in particular bats. The existing landscape is not currently subject to extensive artificial lighting and it is therefore requested that external lighting be avoided or kept to a minimum as much as possible.

OFFICER'S REPORT

Site Description:

Le Feugre consists of a large dwelling-house which was recently replaced on a one-for-one basis and is still under construction. The dwelling is served by a large garage to the west of the site.

The property is set back from the road on the north side of Route du Jerbourg. The land falls away from the road towards a cliff path, accessible to the public, located to the north of the site.

The property is bounded by residential properties to the east and west.

The application site focuses on a rectangular shaped area of agricultural land located to the west of the replacement dwelling, which extends up to the cliff path to the north of the site. The agricultural land adjoins neighbouring land to the west, which is all recognised as falling under the domestic curtilage associated with La Bouvee.

The site is located Outside of the Centres under the Island Development Plan.

Relevant History:

FULL/2021/0277	Demolish existing and erect replacement dwelling and detached 1 1/2 storey garage (revised scheme)	Granted
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Existing Use(s):

'Le Feugre' (dwelling-house) – Residential use class 1

Agricultural land to the north-west of Le Feugre - Agricultural use class 28

Brief Description of Development:

As part of planning permission FULL/2021/0277 it was noted as an informative that *no permission has been sought or granted for the change of use of any land recently or shortly to be purchased by the applicant.*

Following said permission FULL/2021/0277, planning permission is now sought to change the use of agricultural land to domestic garden. The land contains a derelict shed which has been in situ for decades. The land slopes downwards in a south-north direction and features mature planting around the perimeter.

It is noted on the application form that the area in question equates to approx. 946sqm.

The application was deferred to request biodiversity enhancements to take into account the Strategy for Nature and concerns were raised with regards to erecting a 2m high timber fence along the west boundary.

The agent has subsequently submitted revised plans noting bio-diversity enhancements, including tree planting to the north of the site (indicative of 8 fruit trees) and a new native hedgerow along the west boundary of the site. Vegetable and herb boxes are also shown, together with an orchard, and the existing shed is to be demolished and replaced by a garden building, subject to separate consent.

The revised application has also been supported by a letter from Collas Crill. Examples of change of use of agricultural land to domestic garden are provided, so too are references to UK case law. The letter seeks to justify the loss of agricultural land, extension of domestic curtilage, and erecting a fence to the north-west boundary of the site.

Despite justification for the 2m high fence along the west boundary, the Planning Service's concerns remained. Consequently, the agent has agreed to omit the 2m high timber fence along the west boundary.

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

OC5(B)	Agriculture Outside of the Centres – outside the Agriculture Priority Areas
GP1	Landscape Character and Open Land
GP2	Sites of Special Significance
GP15	Creation and Extension of Curtilage

Representations:

The Authority has received six letters of representation from six parties objecting to the original proposal and the revised scheme, one of which was from La Societe Guernesiaise. Grounds for objection principally relate to the following issues:-

- The loss of agricultural land. Unnecessary development due to the size of the existing curtilage.
- No protection of wildlife.
- No demonstration of bio-diversity enhancements regarding the Strategy for Nature.
- Lacking detail of bio-diversity enhancements.
- The site adjoins a SSS and any new landscaping on the wider SSS should be considered.
- Light pollution.
- The proposed fence should be omitted from the scheme as it suburbanises the countryside, and is unnecessary. Due the change in ground levels, the installation of a fence would need to be engineered, and therefore would be inappropriate. The neighbouring property is more than 60m away from the proposed area of garden.
- Future designation of land adjacent of a SSS should be recognised as an ABI.

The Authority has received one letter of support from one party.

Consultations:

None.

Summary of Issues:

Whether the change of use from agricultural land to domestic garden is acceptable.

Assessment against:

1 - Purposes of the law.

The objectives of the Law, as set out in Section 1(2), have been considered and this forms part of the assessment of policy issues as set out in 2 below.

2 - Relevant policies of any Plan, Subject Plan or Local Planning Brief.

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.

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 (APA).

The IDP states that Outside the Agriculture Priority Areas support will be given to existing agricultural operations but this is balanced with the flexibility to allow other legitimate development which would accord with the policies of the Island Development Plan. The IDP recognises domestic curtilage as an acceptable use of land where the land is not required for agriculture within the APA.

The section of land which forms the subject of this application is not within an Agriculture Priority Area (APA).

Policy OC5 (B) (Agriculture Outside of the Centres – outside the Agriculture Priority Areas) states that *"Proposals for development which would result in the loss of an existing farmstead, agricultural buildings or land will be supported where the proposed new use accords with the other relevant policies of the Island Development Plan"*.

Policies GP15 (Creation and Extension of Curtilage) and GP1 (Landscape Character and Open Land) and GP2 (Sites of Special Significance) are also relevant in assessing this application and are set out below.

Policy GP15 relates to Creation and Extension of Curtilage. Taking each criterion of Policy GP15 in turn:

A proposal to create or extend curtilage will be supported where:

- a. it would not have an unacceptable detrimental impact on the landscape character;*

From a spatial perspective, the land backs onto the public cliff path to the north as aforementioned above, and is flanked by domestic curtilage to the east, south and west. Consequently, the change of use of land would not have an unacceptable detrimental effect on the landscape character from a spatial analysis. Consideration has also been afforded to the reasonable aspirations of the property owner,

particularly as the dwelling already has a large area of curtilage associated to the front and rear of the property.

Despite the size of the proposed domestic curtilage and the existing size of domestic curtilage associated with the property, a fine balance has been struck in favour of the householder in this case. By way of explanation, the proposed extension of curtilage would be flanked by the domestic curtilage associated with Le Feugre to the east, and the recognised domestic curtilage of La Bouvee, and therefore when taking into account the wider spatial pattern of development, allowing this change of use would be congruent with the context of the surrounding area.

With regards to a visual assessment of the change of use, the proposed extension of domestic garden is located to the side (west) of the dwelling, and is not highly prominent from public vantage points immediately adjacent to the north of the site, albeit it is visible in distant views. This is due to the noticeable change in ground level between the application site and the cliff path which wraps around the north boundary of the site. The land is more visible when viewed from the opposite side of the valley, located to the north of the site. Although, due to the extent of vegetation towards the north boundary of the site, visibility of the land parcel is not easily achievable, and is only visually accessible from certain vantage points. It is recognised however that existing landscaping is subject to change and so could the visibility of the site over time.

Paragraph 19.16.7 of Policy GP15 states that:

“...where landscape character is particularly open and undeveloped and where it is considered that ancillary development within a proposed extended curtilage that would otherwise be exempt would have an unacceptable impact on open character, the Authority may decide to remove the ability to carry out development without planning permission under the Land Planning and Development (Exemptions) Ordinance, 2007”.

In light of this, careful consideration has been given to development permitted under Class 1 of the Land Planning and Development (Exemptions) Ordinance (2023). Given the openness and undeveloped nature of the land which is visible from public vantage points, it is reasonable to remove certain exemption rights afforded to the householder that could potentially harm the landscape character and visual amenity of the area, such as fences, walls, outbuildings etc. The proposal would satisfy the provisions of Policy GP15 a).

It is considered that the 2m high fence along the west boundary of the site as shown on the original plans would unnecessarily suburbanise the undeveloped nature of the countryside and be an inappropriate boundary treatment in this rural context that is likely to be visible from public vantage points. Policy GP15 and the Strategy for Nature seeks to request appropriate ‘soft’ landscaping as part of extension of curtilage applications, therefore the inclusion of a ‘hard’ boundary treatment would

be at odds with this premise, particularly as it is 2m high and extends circa 40m. Paragraph 19.16.8 of Policy GP15 reinforces this point:

“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.”

In addition, the introduction of the fence would also adversely affect the outlook from neighbouring property to the west, intercepting views of backdrop of the mature woodland and beyond. It is more suitable that a native hedge be planted which will mature over time ensure a satisfactory boundary treatment between both land parcels. The justification for the fence in this location is not considered to be reasonably justified, particularly when other more natural boundary treatments can carry out the same function, and that the land parcels in question are not likely to be used intensively. Consequently, the agent has agreed that the fence be omitted from the scheme.

b. *it would not have an unacceptable impact on the biodiversity interest of an Area of Biodiversity Importance or, where negative impacts are unavoidable, they can be acceptably mitigated in accordance with a scheme to be agreed with the Authority;*

The application site is not located in an Area of Biodiversity Importance therefore criterion b) of Policy GP15 is not relevant in this case.

c. *it is 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 application site is not located in an Agriculture Priority Area therefore criterion c) of Policy GP15 is not relevant in this case.

d. *it is demonstrated that it would not involve an unacceptable loss of established boundary features that contribute positively to the character of an area, unless the new or replacement boundary treatment makes an equal or enhanced positive contribution to the character of the area.*

Based on the drawings and information submitted, the proposal does not result in the loss of existing boundary treatments.

Consequently, Policy GP15 d) of the Plan has been satisfied in this case.

e. *it would not adversely affect the reasonable amenities of neighbouring residents.*

With regard to the impact on neighbouring properties, the proposal involves a change of use of an area of land to be included and managed as part of the residential curtilage. Due to the location of the land and relationship to neighbouring residential properties, the change of use itself would not result in any increased impact on the amenities of neighbouring residents to the west of the site. The proposed native hedge along the west boundary will mature overtime to limit any privacy concerns.

In addition, any future development within the proposed area of domestic curtilage that does not comply with the Land Planning and Development (Exemptions) Ordinance (2023), or features development that has been specifically omitted as noted above, would be assessed on its own merits, including the potential impact on neighbouring residents.

Consequently, Policy GP15 e) of the Plan has been satisfied in this case.

Policy GP1 relates to the Landscape Character and Open Land. Policy GP1 states that: *“proposals will not be supported if they would result in the unnecessary loss of open and undeveloped land which would have an unacceptable impact on the open landscape character of an area.*

Development will be supported where it:

- a. respects the relevant landscape character type within which it is set; and,*
- b. does not result in the unacceptable loss of any specific distinctive features that contribute to the wider landscape character and local distinctiveness of the area concerned; and,*
- c. takes advantage, where practicable, of opportunities to improve visual and physical access to open and undeveloped land; and,*
- d. accords with all other relevant policies of the Island Development Plan”.*

The impact on the landscape character and open land has been considered under the provisions contained within Policy GP15. In summary, the change of use would have an unacceptable impact on the landscape character and open land. The removal of the existing derelict shed through a planning condition would make a positive enhancement to the landscape character and quality of the land. The agent has also shown the shed to be removed on the drawings submitted. This is reinforced by the preceding text of Policy GP15 where it is noted that:

“the creation or extension of a curtilage can have a positive impact and meet strategic objectives through the removal of redundant or derelict glasshouses and/or associated structures or the improved management of abandoned areas of land (see Policy OC7: Redundant Glasshouse Sites Outside of the Centres). The removal of redundant glasshouses is otherwise unlikely to occur without there being some benefit to the landowner.”

For the avoidance of doubt, the application site is not a redundant glasshouse site, although contains a redundant agricultural/horticultural shed which has remained on

the site for a number of decades. Consequently, the removal of the derelict shed is considered to be a reasonable trade-off in order to allow the landowner to extend the domestic curtilage of their property under the provisions of Policy GP15. It is advised to attach an informative to the decision to highlight that the derelict structure could be used by bats and other wildlife for roosting and nesting, therefore the shed should be removed within a suitable timeframe in order to ensure that protected species are not impacted by the works.

In addition, the proposal would not result in the unacceptable loss of any specific distinctive features that contribute to the wider landscape character and local distinctiveness of the area. Consequently, the proposal is not considered to adversely affect the landscape character and open land. The development is compliant with Policy GP1.

With regards to Policy GP2 (Sites of Special Significance (SSS)), careful consideration has been afforded to the close proximity between the application site and the SSS to the north. Subject to the bio-diversity enhancements on site comprising native species to the British Isles, the proposal is not considered to affect the botanical interest of the adjoining site.

No lighting is proposed as part of the application, although it is reasonable to attach an informative to the decision to advise the applicant of the need to omit external light sources in close proximity to the SSS which could affect species such as bats. The removal of the shed should take place at a suitable time to take into account any protected species that might interact with the adjoining SSS as noted above. On this basis, the proposal is compliant with Policy GP2.

3 - General material considerations set out in the General Provisions Ordinance.

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. Where relevant the issues are considered in section 2 above.

In response to the letters of representation, the points raised regarding the loss of agricultural land and bio-diversity enhancement measures, and neighbour effects have been considered above in Section 2.

The potential designation of the site as part of a future Development Plan is not a material planning consideration and has no bearing or weight to the recommendation of this application under the current Island Development Plan.

4 - Additional considerations (for protected trees, monuments, buildings and/or SSS's).

The proposal would have no impact on Protected Buildings, Trees or Monuments. The effect on the SSS has been taken into account as set out above.

For the reasons set out within this report, it is recommended that planning permission be granted, subject to conditions.

Date: 10/06/24