

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 (1,318 sq.m.).

LOCATION: Le Coudre, Route Du Coudre, St. Pierre Du Bois.

APPLICANT: Mrs E M Saunders

I refer to the application referred to below received as valid on 20/12/2023 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 08/03/2024

Drawing Nos: 2303/1 & 2303/2

Application Ref: FULL/2023/2488

Property Ref: F006180000+F00618A000

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. 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. Consequently, the proposal would represent the unacceptable loss of agricultural land within the Agriculture Priority Area and therefore is contrary to Island Development Plan Policies GP15(c) and OC5(A).

The land is predominantly flat in a north-to-south direction with a limited slope in an east-to-west direction, and features a suitable vehicular access located to the north boundary of the site which could be used for agricultural machinery, vehicles and/or cattle. The land parcel forms part of a broader area of contiguous agricultural land extending to the west, with good connectivity to agricultural land to the north and east of the site, separated by a rural lane. The land in question has the potential to be used for commercial agricultural use on its own, or could potentially be amalgamated with the adjoining field to the west, or be used in association with nearby fields to the north and east of the site.

2. The land the subject of this application forms part of a large swathe of open and undeveloped land which extends to the north, east and west and is visible from the public highway to the north and east of the site along Rue Du Bordage, Rue Du Coudre and Rue De La Rocque Crespel. The proposal would unnecessarily encroach into the rural environment, thus resulting in the suburbanisation of the countryside to the detriment of the wider open and undeveloped landscape character and the appearance of the area.

The domestication of this land would be likely to adversely affect the landscape character and openness of the area, for example through the introduction of domestic paraphernalia, without the need for planning permission. In this case the requirements to ensure the protection of open land and landscape character outweigh the reasonable expectations of the landowner to incorporate additional land into the curtilage of the dwelling-house. The proposal is contrary to Island Development Plan 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/2023/2488
Property Ref: F006180000+F00618A000
Valid date: 20/12/2023
Location: Le Coudre Route Du Coudre St. Pierre Du Bois Guernsey GY7 9HZ
Proposal: Change of use of agricultural land to domestic garden (1,318 sq.m.).
Applicant: Mrs E M Saunders

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

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dwelling-house. The proposal is contrary to Island Development Plan Policies GP15(a) and GP1.

OFFICER'S REPORT

Site Description:

The application site consists of a detached dwelling-house and features a number of outbuildings to the north and east of the property, one of which is understood to be a stable. The property is served by a large rectangular shaped garden to the west which is elevated above the road. Car parking is located to the south-east corner of the site.

The property forms the corner plot between Route Du Coudre and Route Du Bordage. An area of agricultural land lies to the north of the house, the subject of this application. A large granite wall defines the recognised domestic curtilage and the agricultural land to the north. The agricultural field is elevated above the dwelling-house and is bounded by a hedgebank along the roadside boundary. The field is served by an agricultural gate to the north.

The property is located Outside of the Centres and in an Agriculture Priority Area designated in the Island Development Plan (IDP).

Relevant History:

None germane to this application.

Existing Use(s):

Residential Use Class 1 – Le Coudre (dwelling-house and garden to the west of the property).

Agricultural Use Class 28 – Agricultural land located to the north of the dwelling.

Brief Description of Development:

Planning permission is sought to change the use of agricultural land to domestic garden associated with the dwelling. The area of land measures 1,318sqm, as noted on the application form.

The application is accompanied by a letter from the agent addressing the relevant planning policies 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

Representations:

Two letters of representation were received from La Societe Guernesiaise and the National Trust of Guernsey. The main points are as follows:

- The application will result in at least 50% loss of the agricultural field. This would most probably render the remaining field unviable for agriculture. The loss of agricultural land is therefore effectively nearly double the stated area (2,420sqm).
- The proposal would lead to degradation of the environment and a significant erosion of the stock of viable agricultural land.
- The extent of the proposed wildflower area is not clearly defined. Much of the land is presumed to be maintained simply as a lawn which would host negligible botanical or biodiversity value.
- Much of the proposal could be undertaken without the need for the extension of curtilage, which raises questions of the future of use the land for domestic purposes.

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.

The objectives set out in Section 1(2) of The Land Planning and Development (Guernsey) Law, 2005, 'the Law', have been considered and this report forms part of the assessment, with policy issues set out in Section 2 below.

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

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 proposed use of the land for domestic purposes would have no significant adverse effect on the amenities of neighbouring residents.

The application is required to demonstrate a biodiversity enhancement scheme to accompany the application. The proposal would include a new hedgerow to demarcate between the proposed extension of domestic curtilage and a portion of agricultural field to the north, and a tree planting scheme (indicated as 5 new Silver Birch trees to the east of the site).

Overall, the application would provide a degree of biodiversity enhancement as a result of the proposal. However the proposal would not provide appropriate demarcation between the proposed extension of domestic curtilage and the remaining area of agricultural land (wildflower zone) to the west. This in turn is likely to result in the expansion of the curtilage across the entire width of the site.

If the application were to be recommended for approval, this aspect of the development would need to be addressed.

Loss of agricultural land within the 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 considered for such proposals. It is noted that *‘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 field covers an area of approximately 2,473sqm. The domestic curtilage extension is just over half the size of the total area of the field (1,318sqm, as noted in the application form).

The agent’s main points in support of the application are set out in their letter dated 18th December 2023, and focus on Policy GP15, Policy OC5(A) and the Strategy for Nature SPG: Retention and Contribution.

Limited information has been submitted by the agent to demonstrate that the land could not be used for commercial agriculture. It is noted that none of the points made, including the *‘inaccessibility and poor-quality land’*, have been substantiated by any independent professional advice which could give further weight to the claims made.

It is also noted in the agent’s letter that the Soil and Land Evaluation of Guernsey report suggests *“poor quality, sloped soil and that drains quickly towards the main residential dwelling”*. In fact, the Classification Map used in association with the Soil and Land Evaluation of Guernsey report indicates that the land in question is of ‘very good quality’ (Grade 2) with a minor degree of limitation, contrary to the statements made. It is therefore considered that this area of agricultural land should be retained for agricultural purposes unless there is convincing evidence to demonstrate otherwise.

With regards to the general characteristics and observations of the site, the land is predominantly flat in a north-to-south direction with a limited slope in an east-to-west direction. The field features a suitable vehicular access located to the north boundary of the site which could be used for agricultural machinery, vehicles and/or cattle. The land parcel forms part of a broader area of contiguous agricultural land extending to the west, with good connectivity to agricultural land to the north and east of the site, separated by a rural lane.

Moreover, there is potential to create a limited sized opening in the west boundary of the site which would physically link and create a much larger parcel of agricultural land, thus forming part of a larger area of contiguous agricultural land. This larger piece of agricultural land could be used on a commercial basis and potentially make a more meaningful and viable contribution to the APA. This in turn is likely to have a minor environmental impact and would be similar to other punctuated earthbanks or hedgebanks seen across the Island which often provide the connectivity of agricultural fields and holdings.

The land in question has the potential to be used for commercial agricultural use on its own, or could potentially be amalgamated with the adjoining field to the west, or be used in association with nearby fields to the north and east of the site. This is a typical example of the style of farming practice on Guernsey which is made up of a patchwork of fields which individually and cumulatively contribute, or have the capability to contribute, to the Island's commercial agricultural industry. This style of operational use of smaller sized parcels is reflected in the preceding text of Policy OC5(A) (paragraph 17.3.2):

"...agriculture plays a relatively small part in Guernsey's economy it has a valuable land management function, protecting and enhancing the countryside and providing visual access to open space. Farmers operate across a scattered pattern of generally small fields, the result of a history of dairy farming, which can constrain viability but which typifies the traditional, small scale and intricate landscape. In seeking to facilitate a viable rural economy, the farming industry should be protected as much for the role it plays in land management as for its produce."

Overall, the level of information submitted does not provide convincing evidence to satisfactorily demonstrate 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.

If approved, the proposal would represent the unacceptable loss of agricultural land within the Agriculture Priority Area and is therefore contrary to Policies GP15(c) and OC5(A).

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 whilst the domestication of the landscape generally runs counter to the desire to preserve the local character of our landscapes, *"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 acknowledges 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 Area.”

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 regards 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, which would have an unacceptable impact on the open landscape character of the area. Consideration is also afforded to whether the proposal respects the landscape character type within which it is set; and whether the proposal would result in the unacceptable loss of distinctive features that contribute to the wider landscape character and local distinctiveness of the area.

In this case, the land the subject of this application is located within the Upland Plateau landscape as identified in Annex V of the Island Development Plan and the character of the area is most akin to the Western Plateau subzone.

Annex V describes the characteristics of the Upland Plateau as:

“is a web of hedges, banks, hedgerow trees and tree-lined lanes, which enclose numerous small pastures. Interspersed through this field pattern are a series of small scattered settlements, usually in lower sheltered ground and surrounded by mature trees...In places, former green lanes have been upgraded to roads, but even the main roads are often no more than 14ft wide. A number of pastures have been replaced by glasshouses and residential development but the landscape fabric of hedges, banks and tree-lined lanes generally keeps views short, except in the more open west”.

Annex V.29 describes the characteristics of the Western Plateau as:

“The Western Plateau is generally less affected by mid-to-late twentieth century development. The landscape consists of a series of broad erosion platforms stepping gradually down to the west and is much dissected by the deeply cut valleys. Open fields, divided by low earth banks, are interspersed with established farmsteads surrounded by mature trees. The open farmland on higher ground provides views out to the Western Bays and across the sub-zones from one church spire to the next.”

The land forms part of a large swathe of open and undeveloped land which extends to the north, east and west. The land parcel is also visible from the public highway to the north and east of the site along Rue Du Bordage, Rue Du Coudre and Rue De La Rocque Crespel. The boundary treatment along Rue Du Coudre at present, allows glimpsed views towards the treelined valley and out to sea beyond.

A large granite wall bounds the southern edge of the agricultural land which acts to both visually screen, and distinguish, the domestic use of the property, and the open and undeveloped agricultural land to the north. By allowing the proposed change of use, domestic use would encroach into the rural environment resulting in the suburbanisation of the countryside to the detriment of the wider open and undeveloped landscape character and the appearance of the area.

The domestication of this land would be likely to adversely affect the landscape character and openness, particularly through the introduction of domestic paraphernalia. Whilst revoking exemption rights would provide a degree of control over ancillary domestic structures and buildings, this could not control ancillary domestic structures and paraphernalia associated with a domestic use of the land that does not need planning permission, such as garden furniture, children's play equipment, clothes drying or ornamental landscaping. This in turn would create an air of domesticity in an area visually unrelated from the dwelling-house, thereby accentuating 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 outweigh 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.

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.

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

In addition to the consideration of policy issues, Section 13 of the Land Planning and Development (General Provisions) Ordinance, 2007 identifies other material planning considerations which could be relevant. These include; the appropriateness of the development in relation to its surroundings in terms of design, layout, scale, siting and materials; the likely effect on the character and amenity of the locality; any possible fall-back position by way of extant planning permissions or exempt development; the likely effect on the reasonable enjoyment of neighbouring properties. These issues where relevant are considered above.

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

The proposal would have no adverse impact on protected trees, buildings or sites.

Date: 08/03/2024

