

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: Convert and extend barn (Use Class 28: Agriculture) to form dwelling (Use Class 1: dwelling house) (revised scheme).

LOCATION: Outbuilding At, Rue Paysans A La Pomare, St. Pierre Du Bois.

APPLICANT: Mrs J M Rouget

I refer to the application referred to below received as valid on 23/01/2024 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 04/03/2024

Drawing Nos: Drawings: 2119 / 2 & / 3

Application Ref: FULL/2024/0102

Property Ref: F005280000

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 conversion of the agricultural barn to a dwelling, by virtue of the size of the existing building, would result in residential accommodation below the minimum standards set down in the Building (Guernsey) Regulations, 2012 and the practical guidance on those requirements in the associated Guernsey Technical Standards. The floor area of the building is such that the scheme would not accord with Policy OC1 of the Island Development Plan as an extension is necessary to achieve the conversion to a residential unit.
2. The application has not been accompanied by appropriate supporting information that demonstrates that the building is no longer required or capable of being used for its current or last known purpose, as an agricultural building. The scheme is therefore contrary to Policy GP16(A) a. of the Island Development Plan.

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/2024/0102
Property Ref: F005280000
Valid date: 23/01/2024
Location: Outbuilding At Rue Paysans A La Pomare St. Pierre Du Bois
Guernsey
Proposal: Convert and extend barn (Use Class 28: Agriculture) to form
dwelling (Use Class 1: dwelling house) (revised scheme).
Applicant: Mrs J M Rouget

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The conversion of the agricultural barn to a dwelling, by virtue of the size of the existing building, would result in residential accommodation below the minimum standards set down in the Building (Guernsey) Regulations, 2012 and the practical guidance on those requirements in the associated Guernsey Technical Standards. The floor area of the building is such that the scheme would not accord with Policy OC1 of the Island Development Plan as an extension is necessary to achieve the conversion to a residential unit.
 2. The application has not been accompanied by appropriate supporting information that demonstrates that the building is no longer required or capable of being used for its current or last known purpose, as an agricultural building. The scheme is therefore contrary to Policy GP16(A) a. of the Island Development Plan.
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OFFICER'S REPORT

Site Description:

The site comprises a single storey granite barn located to the east side of Rue de L'Ardaine, and to the south-east of the junction of that road with Rue de la Pomare and Rue des Paysans a la Pomare. The land immediately to the north of the building is at a higher level and that to the east comprises the remains of a ruined farmhouse, with a stream running across the site. The land rises steeply to the east of the site and falls away to the west on the opposite side of the Rue de L'Ardaine.

The site is located within an Agriculture Priority Area, Outside of the Centres in the Island Development Plan.

Relevant History:

FULL/2022/0553 - Convert and extend barn (single-storey shower room extension and first floor catslide dormer extension) (Use Class 28: Agriculture) to dwelling (Use Class 1: dwellinghouse) – refused (building of insufficient size to be converted to a dwelling and not demonstrated as being redundant)

FULL/2019/2578 - Erect single storey extension to east (side) elevation, install dormer and external steps to north (rear) elevation serving dormer and install rooflights to south (front) elevation of barn – refused (There is not an existing farmstead or agricultural holding at the site, and there is no reasonable prospect of such a holding being formed. The principle of development at this site would not therefore meet the terms of Policy OC5(A) (Agriculture Outside of the Centres - within the Agriculture Priority Areas)).

The application site, along with the barn building, has previously been recognised as agricultural, falling within Agricultural Use Class 28 in the Land Planning and Development (Use Classes) Ordinance, 2017.

Existing Use(s):

Agricultural Use Class 28

Brief Description of Development:

The application relates to the change of use of an agricultural building to a unit of residential accommodation incorporating a single-storey mono-pitch roof extension to the east and a catslide dormer to the north elevation.

The application has been accompanied by a letter dated 08/01/2024 which sets out:

- The original floor has been reinstalled through a building control approval (FP/2022/0856)
- The floor area of the building is 27 sqm with an extension of just 5.2 sqm (below the 20% threshold) which meets the requirements of Part G7 of the Technical Standards therefore reason for refusal 1 is addressed
- There is no conflict with OC5(A) because the property and land cannot make any contribution to commercial scale agriculture or part of a wider holding because of its size and topography (highlighted in the 2019 refusal) however, the 2022 refusal set out that the building could still serve a useful purpose without being part of a commercial holding therefore would be contrary to Policy GP16(A)
- The barn was originally affiliated to a dwelling described in the submission as “the ruins of a house” and it is argued that without the dwelling and smaller scale agricultural uses being very limited there is no requirement under OC5(A)
- Access and turning are highlighted as being very limited – only suitable for domestic level vehicles/cars and on foot
- The submission reiterates that the topography (being sloping) and size of land are too small for any sustainable agricultural industry
- The whole site is too small and inaccessible with no direct link to other land or property
- There has never been any long term established agricultural use of the site

- As a result the submission argues that there is no conflict with Policy GP16(A) and reason for refusal 2 is addressed

Other points raised

- This is a sustainable conversion reducing waste, excavation and use of materials
- Insulation, light, ventilation, glazing, drainage and access will meet and exceed the Building Regulations, 2012
- The balance of hard and soft landscaping is within the existing envelope of the site and will not alter
- Roof slopes can be used for photovoltaics
- Electrical system will be pressure tested and run at off-peak times with air tight windows and doors
- EV charging points can be accommodated
- All water systems will be non-drip water efficient systems
- All accesses have level thresholds
- No conflict with Policy GP15 – as per the 2022 refusal
- Cycle storage in or around the building
- Other similar developments have been granted permission since 2022

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

Island Development Plan:

OC1: Housing Development Outside of the Centres

OC5(A): Agriculture Outside of the Centres – within the Agriculture Priority Areas

GP1: Landscape Character and Open Land

GP8: Design

GP9: Sustainable Development

GP15: Creation and Extension of Curtilage

GP16(A): Conversion of Redundant Buildings

Representations:

Two letters of representation have been submitted objecting to the application and raising the following points:

- Previous, recent applications have been rejected and there have been no material changes in design or planning policies
- The building is not sufficient in size to be converted to a dwellinghouse
- It is not part of any domestic curtilage, it is an agricultural building on a 'green' agricultural plot
- The development would result in overlooking of neighbours
- The barn would be useful for people who actively grow in the area, other similar sized barns are used by smallholders and a previous attempt to use the building (rent or sale) for agricultural purposes was rejected by the, then, owner
- The barn should be used for agricultural purposes in the APA – it was used as such when the representee moved to the area 30 years ago
- The adjoining 'ruin' has not been used as a dwelling since before WWII – it has no entire walls and should not be considered in any application

- Building works would result in long closure of Rue de L'Ardaine – there are no services to the building at present
- NB. Site notice displayed on 05/02/2024

La Societe Guernesiaise – commented on the previous application raising queries about Policy GP16(A), whether the building is of sound and substantial construction capable of conversion without extensive alteration or rebuilding and the impact of the development on the character and openness of the landscape. La Societe also highlighted the use of buildings such as this by roosting bats.

Consultations:

States Archaeologist - Commented on the 2019 application associated with this building: As a building of historic interest I would be grateful if the developers could alert me or my colleagues if they uncover any features of possible archaeological interest, for example during the excavation of footings trenches.

Summary of Issues:

The key issues in this case relate to the principle of the proposed development including the change of use of agricultural land to domestic garden and the living environment of future occupiers.

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 Spatial Policy of the Island Development Plan (IDP), expressed through Policy S1 (Spatial Policy), is to, "concentrate the majority of new development in the Main Centres and the Main Centre Outer Areas to maintain the vitality of these areas...and to allow for development Outside of the Centres in identified specific circumstances, in accordance with the Strategic Land Use Plan (SLUP)".

The approach to development set out within the SLUP and the Spatial Policy of the IDP is reinforced through Policy S4 (Outside of the Centres) and the introduction to Part 3 of the IDP Policies for Outside of the Centres which, whilst acknowledging that the Plan makes provision for certain types of development Outside of the Centres, states that proposals for new housing will not generally be supported Outside of the Centres.

In exceptional circumstances, in relation to housing, the IDP does however recognise the potential opportunity to convert and reuse redundant buildings. The balance in terms of housing provision outside of the centres is however to protect the physical

environment and to ensure that the spatial strategy of the Plan is not undermined. To this end, any proposal to create housing must comply with a series of rigorous tests, summarised in Policy OC1 (Housing Outside the Centres) and encapsulated in Policy GP16(A) (Conversion of redundant buildings) in the IDP.

Policy O5(A) makes provision for development not related to a farmstead/existing agricultural holding where all other relevant policies are satisfied and Policy GP16(A) of the Island Development Plan requires an application submission to demonstrate to the satisfaction of the Authority that the building is no longer required or capable of being used for its current or last known purpose.

Whether the building is no longer required for its current or last known use requires a broader and more objective assessment than simply whether the building is no longer required at a specific point in time due to the particular personal circumstances of the current owners/occupiers. For example, both personal circumstances and ownership can change resulting in changing needs over time. A broader objective assessment is required to test the redundancy of a building in order to limit development Outside of the Centres to accord with the overall Spatial Strategy. This approach aligns with the conclusions of the Appeals Tribunal in respect of La Pomare Farm (ref PAP/010/2019), where the Tribunal concluded that, as a matter of principle, the demonstration of redundancy of a building relates not simply to the needs or wishes of the present owner of the property, but to redundancy of the building in its present or former use more generally.

The submission argues that the barn was last associated with a dwelling however, there has not been another building on the site for a considerable length of time. Another building is shown on the 1898 map but appears to have been removed by the time of the 1938 map. For planning purposes the land has, since that time, been recognised as being agricultural in use and any historic residential activity on the site is not relevant to the assessment of this application.

The application asserts that the property and land cannot make any contribution to commercial scale agriculture. As previously set out in the 2019 decision the DPA concluded “that the building cannot make any commercial contribution to an APA”. This means that the site is not part of an existing agricultural holding and there is no reasonable prospect of one being formed. It remains the case however, that it does not automatically follow that this means a building is redundant for its last known or current purpose, as an agricultural building for the purposes of Policy GP16(A) a. As set out as part of the 2022 refusal, a building can still serve a useful agricultural purpose without being part of a commercial agricultural holding.

The submission seeks to reiterate, as per the 2022 submission that the land parcel and topography of the site does not lend itself to agricultural use and that the site is not connected to other agricultural land. Although this is true there are many examples of sites or buildings separated from other agricultural land by roads/lanes and which remain in agricultural use. Furthermore, the issue in this case is not whether the land contributes to the commercial function of the APA but whether the building could be put to an agricultural use. The submission does not directly address this but relies on the

size and topography of the agricultural land and the fact there has been no long-term agricultural use of the site to demonstrate that the building is no longer required or capable of being used for its current or last known purpose. The fact remains that the building, whether used in association with this or other agricultural land could be used for agricultural purposes, which appears to be demonstrated by way of interest from local residents who have commented on the application.

Based on the application submission the scheme fails to demonstrate that the building (not land) is no longer required or is not capable of being used for agricultural purposes and does not accord with GP16(A) a.).

Paragraph 19.17.8. of the IDP states:

Proposals to convert an existing building may be accompanied by a modest extension provided that the extension is not of such scale that it forms a significant part of the new unit, in effect creating a new building contrary to this policy.

Policy OC1 of the Island Development Plan sets out in paragraph 16.1.16 that the relevant requirements of the Building (Guernsey) Regulations, 2012 and the practical guidance on those requirements in the associated Guernsey Technical Standards will need to be taken into account in determining whether a proposed unit offers an adequate standard of accommodation. This means that the accommodation must be capable of meeting the current Building Regulations without extension. The building, with a combined existing ground and first floor area of less than 30 sqm would not meet the minimum requirements for the creation of a one person dwelling. The extensions proposed are required, not only to provide a shower room not accommodated within the existing building but also to meet the minimum accommodation sizes set out in Table 2 of Part G of the Building (Guernsey) Regulations, 2012.

Part G, as a footnote to Table 3 states that “*A bedsit is defined as accommodation where the bedroom and sitting room are combined and may also include cooking and washing facilities.*” The layout of the accommodation is such that it cannot be recognized as a bedsit and therefore, the building, despite the reintroduction of the first floor, is not of sufficient size to create a residential unit without extension so there is conflict with Policy OC1 in this regard.

Implications of *The Island Development Committee v Portholme* [2002]

In *The Island Development Committee v Portholme* [2002], the Court of Appeal held that “... *if a plan allows for development only in certain identified circumstances, by necessary inference, development out with those circumstances is not to be allowed.*”

Section 12(1) of The Land Planning and Development (General Provisions) Ordinance, 2007, is also clear that where the Authority has regard to any relevant Plan in determining an application for planning permission for development which would involve a departure from such a Plan then it must refuse the application (unless the applicant has requested that the application be considered as a minor departure), and it

need not take into account any other matter to which it is required to have regard under the Law.

Given the identified conflict with OC1 and GP16(A), the only lawful decision that can be reached is that planning permission be refused.

Other matters

For the reasons set out above, other matters that would ordinarily be relevant to the determination of this application have not been the subject of a full and detailed assessment. For completeness' sake however, those matters that would be relevant are set out below, although it should be noted that the fact they do not form the basis for any additional reasons for refusal does not mean that this application is acceptable in those respects.

The onus is on the applicant to demonstrate that a building is of sound and substantial construction (GP16(A) c.) and recent appeals considered by the Planning Tribunal have indicated that such proposals should be accompanied by an appropriate Structural Survey. Such a survey has not been provided in this case. A visual inspection of the exterior of the building in connection with this application along with a view, from outside, of the recently instated first floor structure, suggests that the building is in generally good condition. It would be unreasonable to request a survey with the associated expense because this would represent abortive work given that the application is unsatisfactory in other respects however, the application has not sought to address the need for a survey to demonstrate that the building is of sound and substantial construction.

The scheme does not relate to a Protected Building therefore Policy GP16(A) d. is not relevant in this case. The extension is of itself 'modest' in size (GP16(A) g.). As recognised as part of the earlier refusal scheme, the building is visible in views along the Rue de la Pomare, Rue des Paysans a La Pomare and Rue de L'Ardaine. In this case, the proposed extension would be of appropriate form, design and materials and would be discreetly located away from the roadside. The proposed dormer to the north roofslope would not have significant visual impacts, particularly taking into account the change in levels to that side of the building and the design and appearance of the proposed alterations would meet the aims of Policy GP8.

The proposals would not have an adverse impact on this building of character and its impact on the character and appearance of the area and nor would the proposals have an unacceptable adverse impact on the character and openness of the landscape (GP16(A) e. and f.). There are also no immediate residential neighbours and the development would not have a detrimental impact on residential amenity (GP16(A) h and GP9 b.).

The scheme considers the health and well-being of future occupiers by providing accommodation with adequate natural light and ventilation along with access to external amenity space, albeit not screened from the lane. Although the garden would be visible from the lane it is a road only lightly trafficked and additional landscaping

could be incorporated to provide further privacy if future occupiers deemed it necessary and therefore the scheme addresses Policy GP8 d.

Although the converted and extended building would meet the current Building Regulations the development would just meet the Regulations and not exceed them. In the interests of good design the Authority encourages development that strives to meet the DCLG Internal Space Standards which, for a single person/one bedroom unit would be 37 sqm so the existing building, even as extended would fall short of this although Policy GP16(A) would not permit more than a modest extension to enable the existing building to meet or exceed the DCLG standards.

The scheme incorporates information relating to sustainable development, including charging points and photovoltaics. The information provided demonstrates how the scheme can address the requirements of Policy GP9 and if the scheme was considered acceptable in all other respects a condition could be imposed requiring details of and the installation of panels and a charging point to meet the aims of Policy GP9.

Policy IP9 requires consideration to be given to the existing public road network's ability to cope with any increased demand as a result of the development and the access requirements of people of all levels of mobility and health. Given the scale of the existing building and likely number of associated vehicle movements if it were used for agricultural purposes, and that a single one-bedroom dwelling is proposed, it is unlikely that there would be any significant adverse impact on the existing road network, or that acceptable access could not be provided.

Should the building be converted to a dwelling an area of domestic garden would be appropriate to ensure that the property is served by an area of external amenity space. The land shown in the application submission to be used as garden is within the APA. It is limited in size and not readily accessible for agricultural purposes given the tight vehicular access to the site. Whilst a new access could be formed into the site the land is elevated above road level making this difficult to accommodate. The land cannot therefore, 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 change of use does not require any established boundary features to be removed, would not have an unacceptable detrimental impact on the landscape character nor on the amenities of surrounding residents in accordance with Policy GP15.

The site is not located within an Area of Biodiversity Importance and a new bank and hedge is proposed which could demonstrate environmental benefits in respect of biodiversity should planning permission be granted. This is necessary to address the requirements of the States' Strategy for Nature, 2020, which has been adopted as Supplementary Planning Guidance. Subject to appropriate conditions relating to the construction of the bank and further details of hedge planting this would represent a proportionate approach to environmental benefits on site to address the Strategy for Nature SPG.

Conclusions

Notwithstanding the above, the scheme does not comply with Policies OC1 and GP16(A), and by extension Policy OC5(A), as the scheme does not accord with all other relevant policies, of the Island Development Plan and is recommended for refusal.

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: 04/03/2024