

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 (330sqm), demolish existing dwelling and relocate and erect replacement dwelling and associated works.

LOCATION: The Chalet, Les Prins Estate, Portinfer Road, Vale.

APPLICANT: Mrs M Le Cras

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: 06/06/2024

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 03/05/2024 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Strategic Planning & Property Ltd - 464.080, 090, 100, 300, 310,

Application Ref: FULL/2024/0776

Property Ref: C02395A000

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.The dwelling hereby approved shall not be occupied until such time as the existing dwelling, currently known as The Chalet, has been demolished, as shown on the approved plans, and all ancillary materials, works and structures have been removed from the site.

Reason - For the avoidance of doubt and to clarify the extent of the permission having regard to the requirements of the Island Development Plan and the limits this imposes on new residential development Outside of the Centres.

5.The development hereby permitted shall be constructed in accordance with the details set out in Appendix I: Policy GP9 Update (pages 6 and 7) received on 24/04/2024 and in accordance with the details shown on the approved plans regarding solar panels and permeable hardstanding to the front/south of the dwelling. There shall be no occupation any dwelling until the solar panels hereby approved have been installed and made operational.

Reason - In the interests of sustainable development.

6.No occupation of the dwelling shall take place until such time as the parking, turning and cycle storage facilities shown on the approved plan have been completed in accordance with the submitted details.

Reason - To make sure vehicles can enter and leave the site in a forward direction, to provide off-street parking and to encourage travel by alternative modes of transport.

7.Prior to the commencement of any work in connection therewith a landscaping scheme, to include those details specified below, shall be submitted to and agreed in writing by the Authority:

- i) full details of tree and hedge planting
- ii) planting schedules, noting the species, sizes, numbers and densities of plants; and;
- iii) finished levels or contours.

Reason - In order to help assimilate the development into its surroundings and having regard to the Strategy for Nature SPG.

8.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 first occupation of any part of the development or completion of development whichever is the sooner, or in accordance with a programme previously agreed in writing by the Authority. 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 - In order to help assimilate the development into its surroundings and having regard to the Strategy for Nature SPG.

9.Notwithstanding the submitted details and prior to the commencement of any work in connection therewith details of the location, extent, height and appearance of the post and rail fencing to define the approved domestic garden area from the retained agricultural land shall be submitted to and agreed in writing by the Authority. No occupation of the dwelling hereby permitted shall begin until the agreed scheme for boundary treatment has been fully completed.

Reason - In order to clearly define the extent of domestic garden.

10.Notwithstanding the provisions of the Land Planning and Development (Exemptions) Ordinance, 2023 (or any other Ordinance replacing or re-enacting that Ordinance), no gate, fence, wall or other means of enclosure more than 0.9m high (other than those expressly approved under condition 9 above) shall be erected, constructed or placed along the east boundary of the domestic garden hereby approved.

Reason - In view of the location of the site in relation to wider areas of open and undeveloped land, the erection of such structures as 'exempt development' may have an adverse impact on the character and appearance of the locality. This condition is imposed to make sure that any proposals can be properly considered.

11.The development hereby permitted shall be carried out in accordance with the Site Waste Management Plan submitted as part of this application, and no part of the development shall be occupied or brought into use until there has been submitted to the Authority a report providing verification that the development has been carried out fully in accordance with the agreed Site Waste Management Plan. Where there has been any variation from the Site Waste Management Plan as originally submitted,

the report shall highlight and detail the reasons for this.

Reason: To ensure that the development is managed to minimise waste during the demolition of any existing buildings or structures or during construction, that existing materials are reused, recycled or disposed of either on or off site, and that residual waste will be dealt with appropriately, in accordance with the aims and objectives of Policy GP9.

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

ADVICE AND OTHER REMARKS:-

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/2024/0776
Property Ref: C02395A000
Valid date: 03/05/2024
Location: The Chalet Les Prins Estate Portinfer Road Portinfer Road Vale
Guernsey GY6 8HH
Proposal: Change of use of agricultural land to domestic garden
(330sqm), demolish existing dwelling and relocate and erect
replacement dwelling and associated works.
Applicant: Mrs M Le Cras

RECOMMENDATION - Grant: Planning Permission with Conditions:

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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. The dwelling hereby approved shall not be occupied until such time as the existing dwelling, currently known as The Chalet, has been demolished, as shown on the approved plans, and all ancillary materials, works and structures have been removed from the site.

Reason - For the avoidance of doubt and to clarify the extent of the permission having regard to the requirements of the Island Development Plan and the limits this imposes on new residential development Outside of the Centres.

5. The development hereby permitted shall be constructed in accordance with the details set out in Appendix I: Policy GP9 Update (pages 6 and 7) received on 24/04/2024 and in accordance with the details shown on the approved plans regarding solar panels and permeable hardstanding to the front/south of the dwelling. There shall be no occupation any dwelling until the solar panels hereby approved have been installed and made operational.

Reason - In the interests of sustainable development.

6. No occupation of the dwelling shall take place until such time as the parking, turning and cycle storage facilities shown on the approved plan have been completed in accordance with the submitted details.

Reason - To make sure vehicles can enter and leave the site in a forward direction, to provide off-street parking and to encourage travel by alternative modes of transport.

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- i) full details of tree and hedge planting
- ii) planting schedules, noting the species, sizes, numbers and densities of plants; and;
- iii) finished levels or contours.

Reason - In order to help assimilate the development into its surroundings and having regard to the Strategy for Nature SPG.

8. 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 first occupation of any part of the development or completion of development whichever is the sooner, or in accordance with a programme previously agreed in writing by the Authority. 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.

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Reason - In order to clearly define the extent of domestic garden.

10. Notwithstanding the provisions of the Land Planning and Development (Exemptions) Ordinance, 2023 (or any other Ordinance replacing or re-enacting that Ordinance), no gate, fence, wall or other means of enclosure more than 0.9m high (other than those expressly approved under condition 9 above) shall be erected, constructed or placed along the east boundary of the domestic garden hereby approved.

Reason - In view of the location of the site in relation to wider areas of open and undeveloped land, the erection of such structures as 'exempt development' may have an adverse impact on the character and appearance of the locality. This condition is imposed to make sure that any proposals can be properly considered.

11. The development hereby permitted shall be carried out in accordance with the Site Waste Management Plan submitted as part of this application, and no part of the development shall be occupied or brought into use until there has been submitted to the Authority a report providing verification that the development has been carried out fully in accordance with the agreed Site Waste Management Plan. Where there has been any variation from the Site Waste Management Plan as originally submitted, the report shall highlight and detail the reasons for this.

Reason: To ensure that the development is managed to minimise waste during the demolition of any existing buildings or structures or during construction, that existing materials are reused, recycled or disposed of either on or off site, and that residual waste will be dealt with appropriately, in accordance with the aims and objectives of Policy GP9.

OFFICER'S REPORT

Site Description:

The Chalet, Les Prins Lane, Portinfer Road is a pitched and flat roof building situated to the north of the site, immediately adjacent to the west site boundary with the dwelling currently known as Judalia.

The application submission highlights an area that is proposed to be domestic garden and vehicular access for the property and neighbouring dwelling to the west and an area of agricultural land to be retained.

The site is located Outside of the Centres as designated in the Island Development Plan.

Relevant History:

CLU/2021/0049 - Regularise use of property as a single dwelling house (Residential Use Class 1) – granted

FULL/2022/1982 - Change of use of agricultural land to domestic garden (part retrospective) (1,980sqm). Remove french doors to south (rear) elevation, infill and install door and erect shed (retrospective) – withdrawn

CLU/2023/0128 - Regularise use of land as a domestic garden (1980 sqm) (Residential Use Class 1) – refused

The 2021 Certificate of Lawful Use application sets out that *“no consideration has been given to whether The Chalet has a domestic curtilage/garden, and should a Certificate of Lawful Use be granted it will not confer any approval in relation to the residential use of land associated with The Chalet”*. A subsequent CLU application in 2023 was also refused in relation to the use of agricultural land as domestic garden.

The Planning Service does not therefore, recognise any area of land around the building as being domestic garden/curtilage. It is apparent that an area of land around the existing dwelling is utilised as domestic garden and in this respect the application is retrospective.

Existing Use(s):

01 dwellinghouse
28 agriculture

Brief Description of Development:

The application relates to the change of use of agricultural land to domestic garden at The Chalet (part-retrospective), the demolition of the existing dwelling and construction of a replacement dwelling within the proposed area of domestic garden.

The scheme relates to the erection of a single-storey flat roof dwelling with a render and timber clad exterior containing open plan living, kitchen and dining area, a bathroom and two bedrooms (neither sufficient in size to be recognised as double bedrooms for Building Control purposes) plus an element of storage. External off-road parking and turning for two cars is proposed along with cycle and bin storage.

Solar panels are shown on the roof of the dwelling and the boundary between the domestic and agricultural land is indicated to be marked by a post and rail fence.

The Strategy for Nature has also been addressed through the submission with new planting to the north and west boundaries proposed along with an area of wild flower planting to the north of the dwelling.

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

Island Development Plan policies:

OC5(B): Agriculture Outside of the Centres – outside the Agriculture Priority Areas

GP1: Landscape Character and Open Land

GP8: Design

GP9: Sustainable Development

GP13: Householder Development

GP15: Creation and Extension of Curtilage

Representations:

None.

Consultations:

ACLMS - There has been no assessment of existing biodiversity value of the site. It appears to be permanent grassland and in 2010 was classified as semi-improved grassland, a habitat of conservation importance in the Island. Proposal to remove existing trees/vegetation. Don't appear to describe the species or ecological value of these. It is not possible to determine whether there will be a net enhancement in biodiversity until the current value and the impacts of the proposed development are understood.

Request a preliminary ecological assessment (or similar) to assess the biodiversity value of the existing site and the potential impacts of the proposed development. Proposals should be revised to apply the mitigation hierarchy (i.e., avoid impacts wherever possible) and incorporate recommendations of the PEcA.

Office of Environmental Health and Pollution Regulation – have now looked at this application and the site history. Whilst I can see there was once a large greenhouse on the site, Cadastre records show that this was not heated. Therefore, I confirm we do not have any land contamination concerns regarding the development of this site.

I have no further comments or objections to make regarding the application.

Summary of Issues:

The key issues in this case relate to the change of use of agricultural land to domestic garden, the principle of erecting a replacement dwelling on the site and whether a dwelling in the revised location shown is justified and acceptable along with matters relating to residential amenity and the Strategy for Nature Supplementary Planning Guidance.

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.

Policy context

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. As outlined below however, the Plan does make some, limited provision for housing Outside of the Centres, through the subdivision of existing dwellings and the conversion and reuse of 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.

The IDP sets out that there is support for the loss of an existing farmstead, agricultural building or land where the new use accords other relevant planning policies in the Island Development Plan. This provides a policy gateway for the change of use proposed.

Change of use of agricultural land to domestic garden and biodiversity enhancement

The first matter to consider is the proposed change of use of land to domestic garden as without the principle of this change of use being established there would be no scope for the replacement dwelling proposed given its location on the site.

The IDP sets out that there is support for the loss of an existing farmstead, agricultural building or land where the new use accords other relevant planning policies in the Island Development Plan. This provides a policy gateway for the change of use proposed.

The area of land is well associated with the existing dwelling, The Chalet and is not located within an Agriculture Priority Area. An access track serving properties off Prins Lane is located to the north of the site, a field access track is to the south both these boundaries, and the east boundary are clearly defined by a bank and/or hedgerow. The surrounding land is in separate ownership to The Chalet and the agricultural land that is the subject of this application. The application does not require any established boundary features to be removed in connection with the change of use of the land and the land is not identified as being situated within an Area of Biodiversity Importance.

The Island Development Plan recognises there is a balance between protecting open and agricultural land and other legitimate uses Outside of the Centres. The designation of the Agriculture Priority Area represents the Island's most valuable agricultural area. In this instance, given that the land is outside of the Agriculture Priority Area, the balance would not be towards protecting this land for agricultural purposes.

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 and given the location of the land in relation to neighbouring residential properties and that adequate boundary screening separates the land from the neighbouring properties, the proposed change of use would not of itself have an adverse impact on or affect their amenities.

It is considered that the change of use would accord with Policy GP15 a)- e) and provided that the proposal accords with all other relevant policies of the IDP, the principle of change of use to domestic curtilage is considered to be acceptable in this particular location.

The proposed change of use alone would not undermine the wider landscape character or the openness of the area in accordance with Policy GP1.

In line with the States' Strategy for Nature, 2020 which has been adopted as Supplementary Planning Guidance, the Development and Planning Authority has directed that from 01 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. The application drawings highlight the planting of tree and shrub planting to the north and west site boundaries along with wildflower planting within the garden area proposed. Reference is made in the covering letter to a Landscape Report and the provision of boundary mitigation. The report has been produced by Richard Lloyd and subject to

conditions relating to the planting being carried out in accordance with a detailed landscaping scheme and in accordance with the recommendations of this report, the scheme will meet the requirements of the Strategy for Nature.

Replacement dwelling

Replacement dwellings on a one for one basis must be assessed against Policy GP13 of the Island Development Plan, this is irrespective of the size of the existing or proposed replacement dwelling. Policy GP13 clearly sets out that a comparison should not be made between the impacts of the existing dwelling compared with the impact of the new and the Plan must balance public interest and individual choice but should protect and where possible enhance the built and natural environment. Outside of designated areas there is more flexibility with regard to new development.

The existing single-storey has evolved over time and has a mix of pitched and flat roofs. Its position, tucked in the western corner of the site also means that it is largely screened from view from Les Prins Lane to the southwest dwelling. The proposed dwelling would be larger and more prominently positioned in its proposed plot and therefore would be more visible from the adjoining lanes to the north and southwest of the site. The dwelling is however, single-storey and has been designed with a flat roof. It will generally be viewed in the context of the existing cluster of development and will not result in undue harm to the open landscape character of the area. Overall, the development will not alter either visual or physical access to open land given that this is private land with open views across it at present.

Being single-storey only the development cannot be argued to make the most efficient and effective use of land as this is not multi-storey development however, the site is situated on the periphery of built development in this area, with open and undeveloped land to the east and south. To introduce multi-storey development in the position indicated for the replacement dwelling would likely have a greater impact on the open landscape concerned and may be contrary to Policy GP1. In this case therefore, when balancing efficient and effective use of land and respect for the open landscape concerned (GP8 d.) the proposed development is considered satisfactory.

The application site is located in an area where development is varied in terms of its height and design and the single-storey, flat roof of the proposed dwelling will help reduce the height, scale and bulk of the building. There is no uniform design or palette of materials in the local area and the dwelling achieves a good standard of design that respects the character of the local built and open landscape. It is concluded that the replacement dwelling proposed will not appear visually intrusive, out of keeping nor have an unacceptable adverse impact on the character or quality of the built environment or the character and amenity of the locality and therefore the aims of Policies GP13 and GP8 of the Island Development Plan have been satisfactorily addressed in this respect.

The siting and layout of the dwelling is such that it will not result in overshadowing, loss of sunlight/daylight or overlooking of any adjoining dwelling and therefore satisfactorily considers the health and well-being of neighbours of the development. The external space provided to serve the dwelling is adequate for a two-bedroom dwelling as shown. Overall, the proposal would provide an adequate living environment, in accordance with Policy GP8(d) and Annex I: Amenities having regard to the health and well-being of occupiers of the development.

The one level, open plan layout proposed is such that the accommodation would be accessible to all. The accommodation could be used in a different way to that shown on the application drawings and the property could also be extended. Overall, the scheme therefore demonstrates accessibility to and within the building for people of all ages and abilities, offering flexible and adaptable accommodation that can respond to people's needs over time in accordance with Policy GP8.

The scheme proposes adequate off-road parking to serve the development along with on-site turning to enable vehicles to turn and exit the site in a forward gear. Provision has been made for cycle storage and the scheme is considered to comply with Policies IP6, IP7 and IP9 of the IDP.

The application has been accompanied by a Waste Management Plan setting out information relating to the recycling and disposal of waste arising from demolition on the site. It is concluded that further information in connection with a Site Waste Management Plan can be controlled by planning condition and therefore Policy GP9 has been satisfied in this respect.

Confirmation has been received that the proposed development has been designed to take into account matters of energy efficiency and current Building Regulations in accordance with Policy GP9. The proposal indicates that solar panels will be installed to the roof of the development with gravel for the parking and turning area both of which can be managed by condition and will contribute towards sustainable design for the purposes of Policy GP9.

In view of the above it is recommended permission is granted for the proposed development subject to appropriate planning conditions. This must include a condition relating to the demolition of the existing dwelling given the policy constraints regarding new residential development in locations such as this, Outside of the Centres.

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: 06/06/2024

