

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 (3,000sqm).

LOCATION: Le Courtil D'Emet, Rue De La Masse, Castel.

APPLICANT: Mrs S M Le Moignan

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: 27/06/2024

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 13/05/2024 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Chris Workman & Co Ltd - SB:21:17 09C

Application Ref: FULL/2024/0783

Property Ref: D011560000

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. (i) Prior to the undertaking of any planting approved as part of this application, or any other development on the land, there shall be submitted to and approved in writing by the Authority:

(a) A desktop study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Land Contamination Risk Management (LCRM) and BS10175:2001+A2:2017 - Investigation of Potentially Contaminated Sites - Code of Practice;

and unless otherwise agreed in writing by the Authority,

(b) a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS10175;

and, unless otherwise agreed in writing by the Authority,

(c) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include nomination of a competent person to oversee the implementation of the works.

(ii) If determined to be required the development hereby permitted shall not be occupied or brought into use until there has been submitted to the Authority verification by a competent person approved under the provisions of subsection (i)c of this condition that any remediation scheme required and approved under the provisions of subsection (i)c of this condition has been implemented fully in accordance with the approved details (unless varied with the written agreement of the Authority in advance of implementation). Unless otherwise agreed in writing by the Authority such verification shall comprise:

a) as built drawings of the implemented scheme;

b) photographs of the remediation works in progress;

c) certificates demonstrating that imported and/or material left in situ is free from contamination.

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under subsection (i)c of this condition.

Reason - To make sure that the site, when developed is free from contamination, in the interests of public health and safety.

4. Prior to the 31st December 2024, details of the new planting, including species, sizes, numbers and densities of plants and the preparation of the pollinator patch area and seed mixes to be sown, shall be submitted to and agreed in writing by the Authority.

Reason - To ensure that the development provides adequate and appropriate biodiversity enhancements in line with the aims of the adopted Strategy for Nature, 2020.

5. Prior to the 31st December 2024, a landscape management plan, including maintenance schedules for all landscape areas, shall be submitted to and agreed in writing by the Authority. The agreed landscape management plan shall then be fully implemented.

Reason - To ensure that the development provides adequate and appropriate biodiversity enhancements in line with the aims of the adopted Strategy for Nature, 2020.

6. The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of the above conditions, 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 development provides adequate and appropriate biodiversity enhancements in line with the aims of the adopted Strategy for Nature, 2020.

Expiry Date: This permission will cease to have effect on 27/06/2027 unless development is commenced by that date.

ADVICE AND OTHER REMARKS:-

In respect of the preparation of the pollinator patch, please find attached recommendations from Agricultural, Countryside and Land Management.

With reference to condition 3 a desktop study shall be the very minimum standard accepted. Pending the results of the desktop study, the applicant may have to satisfy the requirements of criteria (b) and (c) of that condition, however, this will all be confirmed in writing.

The phased risk assessment should be carried out also in accordance with the procedural guidance and UK policy.

The site is known to be or suspected to be contaminated. Please be aware that the responsibility for the safe development and secure occupancy of the site rests with the developer.

It is strongly recommended that in submitting details in accordance with the above condition that the applicant has reference to Land Contamination risk management available at <https://www.gov.uk/guidance/land-contamination-risk-management>.

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/2024/0783
Property Ref: D011560000
Valid date: 13/05/2024
Location: Le Courtil D'Emet Rue De La Masse Castel Guernsey GY5 7PJ
Proposal: Change of use of agricultural land to domestic garden (3,000sqm).

Applicant: Mrs S M Le Moignan

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).

3. (i) Prior to the undertaking of any planting approved as part of this application, or any other development on the land, there shall be submitted to and approved in writing by the Authority:

(a) A desktop study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Land Contamination Risk Management (LCRM) and BS10175:2001+A2:2017 - Investigation of Potentially Contaminated Sites - Code of Practice;

and unless otherwise agreed in writing by the Authority,

(b) a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS10175;

and, unless otherwise agreed in writing by the Authority,

(c) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include nomination of a competent person to oversee the implementation of the works.

(ii) If determined to be required the development hereby permitted shall not be occupied or brought into use until there has been submitted to the Authority verification by a competent person approved under the provisions of subsection (i)c of this condition that any remediation scheme required and approved under the provisions of subsection (i)c of this condition has been implemented fully in accordance with the approved details (unless varied with the written agreement of the Authority in advance of implementation). Unless otherwise agreed in writing by the Authority such verification shall comprise:

- a) as built drawings of the implemented scheme;
- b) photographs of the remediation works in progress;
- c) certificates demonstrating that imported and/or material left in situ is free from contamination.

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under subsection (i)c of this condition.

Reason - To make sure that the site, when developed is free from contamination, in the interests of public health and safety.

4. Prior to the 31st December 2024, details of the new planting, including species, sizes, numbers and densities of plants and the preparation of the pollinator patch area and seed mixes to be sown, shall be submitted to and agreed in writing by the Authority.

Reason - To ensure that the development provides adequate and appropriate biodiversity enhancements in line with the aims of the adopted Strategy for Nature, 2020.

5. Prior to the 31st December 2024, a landscape management plan, including maintenance schedules for all landscape areas, shall be submitted to and agreed in writing by the Authority. The agreed landscape management plan shall then be fully implemented.

Reason - To ensure that the development provides adequate and appropriate biodiversity enhancements in line with the aims of the adopted Strategy for Nature, 2020.

6. The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of the above conditions, 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 development provides adequate and appropriate biodiversity enhancements in line with the aims of the adopted Strategy for Nature, 2020.

INFORMATIVES

In respect of the preparation of the pollinator patch, please find attached recommendations from Agricultural, Countryside and Land Management.

With reference to condition 3 a desktop study shall be the very minimum standard accepted. Pending the results of the desktop study, the applicant may have to satisfy the requirements of criteria (b) and (c) of that condition, however, this will all be confirmed in writing.

The phased risk assessment should be carried out also in accordance with the procedural guidance and UK policy.

The site is known to be or suspected to be contaminated. Please be aware that the responsibility for the safe development and secure occupancy of the site rests with the developer.

It is strongly recommended that in submitting details in accordance with the above condition that the applicant has reference to Land Contamination risk management available at <https://www.gov.uk/guidance/land-contamination-risk-management>.

OFFICER'S REPORT

Brief Description of the site:

The application site relates to an existing dwellinghouse, known as Le Courtil D'Emet, and adjacent agricultural land located to the north-east of Rue de la Masse. The dwellinghouse and associated curtilage are bounded by residential properties to the north-west and south-east, and a school is located across the road to the south-west. The agricultural land is located behind the roadside dwellinghouse and abuts further agricultural land to the north-west, north-east and south-east. A gravelled track runs along the length of the south-east boundary of the site, within the cadastre parcel, and is used for parking by teachers at the adjacent school. Whilst it is not clear whether this is an authorised use, aerial photograph regression shows that the use has been ongoing for more than 10 years therefore no action would be taken.

The agricultural land was formerly under glass, however the glass was substantially removed by 2004, with only one small section remaining adjacent to the north boundary, immediately to the rear of the dwelling and within the recognised domestic curtilage. The site would not therefore meet the definition for a Redundant Glasshouse Site as set out within the Island Development Plan and associated Supplementary Planning Guidance.

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

Relevant History:

FULL/2023/0482 Change of use of agricultural land to domestic garden (3,000sqm).
Approved 19/07/2023

Existing Use(s):

Residential Use Class 1
Agricultural Use Class 28

Assessment: *(Tick as appropriate)*

no representation
accords with policy
within curtilage
design acceptable

X
X
X

visual amenity acceptable
no material neighbour impact
traffic not affected

X
X
X

Policies considered most relevant:

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

Strategy for Nature

Representation:

La Societe Guernesiaise previously commented as follows:

La Societe remains concerned over the reclassification of agricultural land to domestic curtilage. However, as the Island Development Plan currently permits the consideration of such applications, we seek to optimize ecological gains in such cases wherever possible.

We would highlight at this early stage that this proposed extension is relatively large and all of the land to the northeast of Rue De La Masse is an Agricultural Priority Area.

Consultation responses:

Agriculture Countryside and Land Management Services comment as follows:

No assessment of existing ecological value. Aerial photographs suggest it's permanent grassland, potential for high ecological value.
Brief mention of enhancement measures - native hedging, trees and 'pollinator patch'. Would like to see a species list and method statement for the 'pollinator patch'. Potential for detrimental impact given potential for grassland to support high species diversity.

Recommendation:

Additional information provided on species and method statement for 'pollinator patch'. Applicant may wish to consider sensitive management with inter-planting rather than rotovation and sowing in order to prevent impact on ecological feature and deliver an enhancement. Consider undertaking a baseline survey.

The Office for Environmental Health and Pollution Regulation comment as follows:

I have reviewed the proposed plans for a change of use of agricultural land to domestic garden and there are some issues of concern that I must raise about land contamination.

It is evident from the applicant's cover letter that land contamination is present at the site, as glass from historic greenhouse has been buried in a layer of topsoil. Additionally, I have interrogated the States' Digimap system and records, which show that heated glasshouses were historically located on the site and on neighbouring land parcels.

It is not clear from the records seen whether any contaminated land surveys have been carried out historically as part of any previous developments, that assess any risks posed by the historical heated glasshouse use. Without knowing this, there is the potential for further land contamination to be present and I have concerns that there could be contamination of metals, hydrocarbons and pesticides from this historic use. Other sources of contamination could also be present.

Regarding the known contamination of glass, it is recognised that this is an inert material and would be relatively straightforward to address. However, other sources of contamination could also be present that may require investigation. I would advise that the applicant is made aware of these risks, and due to the known

contamination of buried glass and the historic heated glasshouse use, I recommend that the following condition is attached to any granted permission:

- **Please note this is one condition with multiple sub-sections:**

(i) No development shall commence on site (including demolition and site works) until there has been submitted to and approved in writing by the Authority:

(a) A desktop study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Land Contamination Risk Management (LCRM) and BS10175:2001+A2:2017 - Investigation of Potentially Contaminated Sites - Code of Practice;

and unless otherwise agreed in writing by the Authority,

(b) a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS10175;

and, unless otherwise agreed in writing by the Authority,

(c) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include nomination of a competent person to oversee the implementation of the works.

(ii) If determined to be required the development hereby permitted shall not be occupied or brought into use until there has been submitted to the Authority verification by a competent person approved under the provisions of subsection (i)c of this condition that any remediation scheme required and approved under the provisions of subsection (i)c of this condition has been implemented fully in accordance with the approved details (unless varied with the written agreement of the Authority in advance of implementation). Unless otherwise agreed in writing by the Authority such verification shall comprise:

- a) as built drawings of the implemented scheme;
- b) photographs of the remediation works in progress;
- c) certificates demonstrating that imported and/or material left in situ is free from contamination.

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under subsection (i)c of this condition”

Informative/Advice Notes

With reference to condition X a desktop study shall be the very minimum standard accepted. Pending the results of the desktop study, the applicant may have to satisfy the requirements of criteria (b) and (c) of that condition, however, this will all be confirmed in writing.

The phased risk assessment should be carried out also in accordance with the procedural guidance and UK policy.

The site is known to be or suspected to be contaminated. Please be aware that the responsibility for the safe development and secure occupancy of the site rests with the developer.

It is strongly recommended that in submitting details in accordance with the above condition that the applicant has reference to Land Contamination risk management available at <https://www.gov.uk/guidance/land-contamination-risk-management>.

Conclusion/Brief comment:

Permission was previously granted 19/07/2023 to change the use of part of the agricultural land located to the rear of the dwellinghouse, measuring approximately 3000sqm, to domestic land for use in association with that dwelling. That permission was however limited to a time period of one year, which has now expired, and the permission has not been implemented. The current application seeks a reissue of that permission.

The submitted plans match those previously approved. The plans replicate the previous erroneous note, stating the existing curtilage is shaded red and the proposed blue, however it remains clear that the existing curtilage is shaded blue and that proposed to be curtilage under this application is the land shaded red.

There has been no subsequent change in policy or circumstances which would alter the previous assessment in respect of openness, visual amenity, character, agricultural land or neighbour amenity. Whilst additional comment has been made in respect of this application by Agriculture Countryside and Land Management in relation to the Strategy for Nature, the additional information requested by that service is reflected within the conditions applied to the previous decision and those would be reiterated as part of any decision issued under this application.

The Office for Environmental Health and Pollution Regulation (OEHPR) have however provided comment in respect of this application, not available at the time of consideration of the previous application. That office note the reference to known on site contaminants in the supporting information (glass) and the likelihood of additional contaminants being present on site, and request the application of a condition relating to land contamination.

Given the potential risks associated with land contamination it is considered necessary that the recommended condition is attached to any decision issued.

Subject to addition of the conditions attached to the previous decision, together with that recommended by the OEHPR, the proposal would therefore remain in compliance with the purpose of the Law, material considerations and relevant planning policies and approval is recommended.

Recommendation:

Grant with Conditions



Date: 21/06/2024

