

**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 (1,960sqm) (Revised Scheme).

**LOCATION:** Le Douit Marin, Les Poidevins, St. Andrew.

**APPLICANT:** Mr & Mrs N Barton

I refer to the application referred to below received as valid on 11/06/2024 regarding the above proposals as described more fully in the application and drawings referred to below.

**Date of refusal of permission:** 04/10/2024

**Drawing Nos:** Jason Hobbs Architectural Services Ltd: 6096/A/2

**Application Ref:** FULL/2024/0810

**Property Ref:** K002890000

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 land the subject of this application comprises a natural area of open and undeveloped land which positively contributes to the landscape character and amenity of the area and is visually prominent from public vantage points, particularly along Les Mauxmarquis and Route de St. André.

The proposal would result in an obvious and significant incursion beyond the extent of the existing residential property, accentuated by the change in ground level between the recognised domestic curtilage and agricultural land. The proposal would in effect close the existing gap between the ribbon development of properties along Route de St. André and Les Mauxmarquis to the detriment of the landscape character and amenity of the area, which currently provides a visual break and an important 'breathing space' in the landscape and therefore increases the importance and value of this undeveloped parcel of land.

The domestication of this land would adversely affect the landscape character and openness of the land, for example through the introduction of domestic paraphernalia. In this case the requirements to ensure the protection of open and

undeveloped land and the landscape character outweighs the reasonable aspirations of the landowner to incorporate additional land into the curtilage of their dwelling. The proposal is therefore 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/2024/0810  
**Property Ref:** K002890000  
**Valid date:** 11/06/2024  
**Location:** Le Douit Marin Les Poidevins St. Andrew Guernsey GY6 8TZ  
**Proposal:** Change of use of agricultural land to domestic garden (1,960sqm) (Revised Scheme).  
**Applicant:** Mr & Mrs N Barton

**RECOMMENDATION - Refusal with Reasons:**

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**REASONS FOR REFUSAL**

1. The land the subject of this application comprises a natural area of open and undeveloped land which positively contributes to the landscape character and amenity of the area and is visually prominent from public vantage points, particularly along Les Mauxmarquis and Route de St. André.

The proposal would result in an obvious and significant incursion beyond the extent of the existing residential property, accentuated by the change in ground level between the recognised domestic curtilage and agricultural land. The proposal would in effect close the existing gap between the ribbon development of properties along Route de St. André and Les Mauxmarquis to the detriment of the landscape character and amenity of the area, which currently provides a visual break and an important 'breathing space' in the landscape and therefore increases the importance and value of this undeveloped parcel of land.

The domestication of this land would adversely affect the landscape character and openness of the land, for example through the introduction of domestic paraphernalia. In this case the requirements to ensure the protection of open and undeveloped land and the landscape character outweighs the reasonable aspirations of the landowner to incorporate additional land into the curtilage of their dwelling. The proposal is therefore contrary to Island Development Plan Policies GP15(A) and GP1.

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**OFFICER'S REPORT**

**Site Description:**

The application site comprises an area of agricultural land located outside of the Centres and in an Agriculture Priority Area designated in the Island Development Plan (IDP). Due to the topography of the land, which is lower than the road and the adjacent dwelling-house known as Le Douit Marin, the agricultural land is visible from multiple vantage points along Les Mauxmarquis, Route de St. André and Les Poidevins.

The recognised domestic curtilage of Le Douit Marin is elongated in shape and is sited parallel to Les Poidevins. There is a steep grassed bank between the house and the agricultural land. External amenity space is located to the north of the property, with car parking provision to the south.

Planning permission was refused in 2023 to change the use of agricultural land to domestic garden. The land in question equated to approximately 2,380sqm as noted on the application form.

The application was refused for the following reasons:-

*1. The land the subject of this application comprises an area of open and undeveloped land which positively contributes to the amenity of the area and is visually prominent from public vantage points, particularly along Les Mauxmarquis and Route de St. André. The proposal would result in an obvious and significant incursion beyond the extent of the existing residential property, accentuated by the change in ground level between the recognised domestic curtilage and agricultural land. The proposal would in effect close the existing gap between the ribbon development of properties along Route de St. André and Les Mauxmarquis to the detriment of the landscape character and amenity of the area, which currently provides a visual break and an important 'breathing space' in the landscape and therefore increases the importance of this undeveloped parcel of land. The domestication of this land would adversely affect the landscape character and openness of the land, for example through the introduction of domestic paraphernalia. In this case the requirements to ensure the protection of open and undeveloped land and the landscape character outweighs the reasonable aspirations of the landowner to incorporate additional land into the curtilage of their dwelling. The proposal is therefore contrary to Island Development Plan Policies GP15(A) and GP1.*

*2. The land is largely flat, with moderate agricultural land quality, and is served by separate vehicular access to the south-east corner of the site. Notwithstanding the points made in the application, 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, and therefore the proposal conflicts with Island Development Plan Policies GP15(c) and OC5(A).*

*3. In line with the 2020 Strategy for Nature, which has been adopted as Supplementary Planning Guidance, the Authority has directed that from 1<sup>st</sup> 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. This application has not addressed the 2020 Strategy for Nature nor included any proposals for environmental enhancement that would be implemented on site should planning permission be granted for the change of use of the land. The proposal therefore does not accord with the 2020 Strategy for Nature Supplementary Planning Guidance.*

**Relevant History:**

|                |                                                                      |                         |
|----------------|----------------------------------------------------------------------|-------------------------|
| FULL/2023/1358 | Change of use of agricultural land to domestic garden (2,380 sq.m.). | Refused                 |
| PREA/2020/2591 | Extend domestic curtilage.                                           | Pre-application enquiry |

**Existing Use(s):**

Agricultural use class 28

Residential use class 1: dwelling house

**Brief Description of Development:**

Following the refused application (FULL/2023/1358), a revised application has been submitted to change the use of a parcel of agricultural land to domestic curtilage. The land in question equates to approximately 1,960sqm as noted on the application form and is explained in the agent's letter dated 7th June 2024 (approximately 420sqm less than the previous scheme).

The application is accompanied by a letter from the agent setting out comments in support of the application, in attempt to overcome the reasons for refusal.

The application has been supported by survey drawings from a chartered land surveyor, and a letter from an arboriculturist setting out the limits of commercial agricultural on the land and proposed landscaping measures to address Supplementary Planning Guidance (SPG) Strategy for Nature (2020). None of the proposed ecological improvements have been shown on a drawing.

**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

Strategy for Nature (2020) Supplementary Planning Guidance

**Representations:**

The Authority has received representation from La Societe Guernesiaise. The main points are as follows:

- Concerns raised over the reclassification of agricultural land to domestic curtilage.
- Some biodiversity measures are welcomed, but these do not include sufficient details such as the numbers of trees to be planted or the proportions of different hedging species.

- Measures proposed are quite sparse and that there may be scope to provide further enhancements on a curtilage extension of this size.
- La Societe is able to assist in matters in terms of its ecological value by appropriate native planting and ongoing maintenance.

### **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.**
- 2 - Relevant policies of any Plan, Subject Plan or Local Planning Brief.**
- 3 - General material considerations set out in the General Provisions Ordinance.**
- 4 - Additional considerations (for protected trees, monuments, buildings and/or SSS's).**

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 proposal would have no adverse effects on neighbouring residents.

### **Impact on the landscape character and openness of the area:**

As set out in the previous Decision Notice (FULL/2023/1358), paragraph 19.16.3 of Policy GP15 refers to the intentions of the Strategic Land Use Plan, where it is considered that:-

*“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 states 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 Areas.”*

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 regard 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, and states that:

*“the value of the landscape and open and undeveloped land will be required to be assessed in a wider context rather than in terms of the impact development might have on an individual site. Development that affects landscape character or distinctive natural or built features will be considered in the wider context of the landscape value of a particular locality. In assessing development proposals, the Authority will balance the character of the locality concerned with the aspirations for development as set out above”.*

The application site straddles both the Upland Valleys and Plateau landscape as identified in Annex V of the Island Development Plan.

With regards to the revised application, the description and characteristics of the site have not changed since the refused application (FULL/2023/1358), therefore the following observations remain pertinent to this application:

*In this case, the area of land in question positively contributes to the character and visual amenity of the area and is visually prominent from public vantage points, particularly along Les Mauxmarquis and Route de St. André. The encroachment onto the agricultural land would be obvious and significant when considering the prominence of the site, which is accentuated by the change in ground level between the recognised domestic curtilage and agricultural land.*

*The proposal would in effect infill an existing gap between the ribbon development of properties along Route de St. André and Les Mauxmarquis and would be detrimental to the landscape character and amenity of the area, when taking into account the wider context of the site. The area of agricultural land currently provides a visual break and an important ‘breathing space’ in the landscape, which in turn, increases the importance of this open and undeveloped parcel of land.*

*The domestication of this land would adversely affect the landscape character and openness of the land, for example through the introduction of domestic paraphernalia*

*such as washing lines, children's play areas and equipment, swimming pools, garden structures, ornamental gardens, etc. as set out in paragraph 19.13.1 of Policy GP15. Whilst revoking exemption rights would provide a degree of control over ancillary domestic structures and buildings, ancillary domestic structures and paraphernalia associated with a domestic use of the land (such as garden furniture, children's play equipment, ornamental landscaping and boundary treatment) would result in the suburbanisation of the land and would cause unacceptable harm to the landscape character and openness of the area.*

It is also noted in paragraph 19.16.9 that:

*"the management of land alone does not generally constitute development requiring planning permission. However, it is acknowledged that where, for example, there is a change of use of agricultural land to allow it to be incorporated into the curtilage of a dwelling this could result in the land being managed more regularly or in a more orderly way than if the land was used for agriculture or left as a natural area."*

The agent's letter of 19<sup>th</sup> June has been carefully considered in terms of justifying the development and its effect on landscape character and openness, with particular emphasis on Section 3.1.

The front of the house faces onto Les Poidevins, therefore the principal elevation faces east, with the rear of the property facing west. The significant change in ground level between the house and the agricultural land helps to visually define the domestic curtilage and the agricultural land. This distinction is visible from Route de St. André.

Whilst the wider context includes a cluster of properties, located to the north of Route de St. André and within the immediate vicinity of the application site, the contribution and value that this natural area makes to the landscape character by virtue of its undeveloped nature and visibility into the site from public vantage points, is important to protect for the public interest.

This is further reinforced by the arborculturist's report which concludes that the existing natural area is *"an area of tree and landscape planting, it has a high, positive contributing influence to the immediate..."*. This statement highlights the importance of this natural and undeveloped area which plays an important role and positively contributes to both the landscape character and visual amenity of the surrounding area.

Notwithstanding the justification submitted by the agent as part of this revised scheme, the requirements to ensure the protection of this undeveloped natural area of land, which is highly visible from public vantage points, and positively contributes to the landscape character and amenity of the area, outweighs 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.

### Loss of agricultural land within an Agriculture Priority Area

The land forms part of an Agriculture Priority Area. The land is largely flat, with 'moderate' agricultural land quality, and is served by a vehicular access adjacent to the south-east corner of the site (shown to be a right-of-way over neighbouring land). In this case, the agent advises that:

*"the area of land is too small to be viable to farm in a cost-effective manner...the land is poorly drained and generally waterlogged from November to March, diminishing any agricultural value....and that there is a doubt running along the south boundary."* It is also noted that the site features trees and hedges along the boundary and includes trees in the interior of the land.

In this case, the small size of the field, with 'moderate' soil quality (with a degree of limitation being 'moderate to severe'), susceptibility to localised flooding due to the topography of the site, which is bounded to the north and west by residential properties and by roads to the east and south of the site, and features a number of trees within the middle of the site which would make commercial activities impractical; all lead to the conclusion that this parcel of land could not reasonably positively contribute to the commercial agricultural use of the Agriculture Priority Area at a scale that would make a meaningful contribution to the agricultural industry. The Authority agrees with the agent's conclusion set out in paragraph 3.2.3.

The proposal therefore complies with Policies GP15(c) and OC5(A).

### Biodiversity:

In line with the 2020 Strategy for Nature, which has been adopted as Supplementary Planning Guidance, the Development and Planning Authority has directed that from 1<sup>st</sup> 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 revised scheme has set out environmental enhancements that could be achieved on site should planning permission be granted, to address the Strategy for Nature (2020). Whilst these recommendations are set out in the aboriculturist's report, these are not carried through onto the drawings submitted which would be required in order for those environmental enhancements to be precise and enforceable. That said, this could be achievable through attaching a planning condition to require additional plans to show the environmental measures proposed, should the application be recommended for approval.

### Conclusion:

All material considerations as set out in the Land Planning and Development (Guernsey) Law, 2005 and the Land Planning and Development (General Provisions) Ordinance, 2007 have been considered in the assessment of this application.

As set out above, the proposal does not accord with IDP Policies GP15(A) and GP1 and it is recommended that the application is refused.

**Date:** 04/10/2024

