

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, extend and alter outbuilding/garage to form dwelling with associated works and create vehicle access to north boundary.

LOCATION: La Vrangue Farm, Rue De La Vrangue, Forest.

APPLICANT: Ms A Dance

I refer to the application referred to below received as valid on 25/07/2024 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 29/11/2024

Drawing Nos: CCD Ltd - 3794 PL10A, PL11A & PL12.

Application Ref: FULL/2024/1140

Property Ref: H003270000

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 application has failed to satisfactorily demonstrate that the existing domestic garage at La Vrangue Farm is no longer required or capable of being used for its current or last known purpose, as a domestic outbuilding serving the residential dwelling and wing, on the site. The scheme therefore fails to comply with Policy GP16(A) criterion 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/2024/1140
Property Ref: H003270000
Valid date: 25/07/2024
Location: La Vrangue Farm Rue De La Vrangue Forest Guernsey GY8 0HS
Proposal: Convert, extend and alter outbuilding/garage to form dwelling with associated works and create vehicle access to north boundary.
Applicant: Ms A Dance

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The application has failed to satisfactorily demonstrate that the existing domestic garage at La Vrangue Farm is no longer required or capable of being used for its current or last known purpose, as a domestic outbuilding serving the residential dwelling and wing, on the site. The scheme therefore fails to comply with Policy GP16(A) criterion a. of the Island Development Plan.

OFFICER'S REPORT

Site Description:

The application site comprises a detached property situated to the south of La Rue de la Vrangue. It is understood that part of the existing building has been historically subdivided from the main dwelling and is separately occupied as 'The Wing'.

Surrounding the site, the area comprises of agricultural fields with some residential development in the wider area.

The site is situated Outside of the Centres and within the Agriculture Priority Area as designated in the Island Development Plan. The building is also pre-1900.

Relevant History:

FULL/2024/1139- Subdivide existing dwelling to form 2 dwellings (Use Class 1) and 1 self-catering unit (Use Class 8) and demolish section of wall to create additional vehicle access. (This application is currently under consideration.)

Existing Use(s):

01 Dwelling houses

Brief Description of Development:

The application proposes the change of use of the existing domestic garage into a two-bedroom unit of accommodation with new external staircase up to first floor area converted to storage area. A small flat roof extension provides a new porch to the east elevation.

The accompanying letter from the planning agent sets out that the building is unused for the storage of cars or domestic items, the shower room is no longer required as the pool has been removed and is therefore now redundant.

The application has not been accompanied by a Structural Engineer's Report, but aerial photographs indicate that the garage was constructed between 2006 and 2009 which means it is of modern construction. It was observed during the site visit that the garage is of sound and substantial construction. To convert to a dwelling, the garage would require little/no structural alteration or rebuilding.

In terms of sustainable development the submission highlights thermal upgrading works through external insulation.

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

OC1: Housing Outside of the Centres
GP8: Design
GP9: Sustainable Development
GP16(A): Conversion of Redundant Buildings
IP6: Transport infrastructure and support facilities
IP7: Private and Communal Car Parking
IP9: Highway Safety, Accessibility and Capacity

Representations:

None

Consultations:

None

Summary of Issues:

The key issues in this case relate to the principle of the proposed change of use from an ancillary domestic outbuilding to a dwelling.

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 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.

The submission sets out "The garage is therefore redundant, as it is not required for domestic storage which was its last known use. The garage is not used for parking cars as there is plenty of space available for car parking. A shower room in the building was used when a swimming pool was located in the garden, but this pool has been removed and the shower room is not required".

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.

Although it could therefore be argued that the garage is redundant as it is no longer presently in use, the fact remains that it is an existing domestic outbuilding which is of good condition, and modern construction and so could be put to any number of associated domestic purposes serving the existing main dwelling or the existing separate wing accommodation. The only other outbuilding present, appears to lie outside the residential curtilage of the main dwelling and comprises a 4m by 6m shed, lacking vehicular access.

A small element of domestic storage was witnessed at the time of the officer site visit in October 2024 with garden equipment and furniture being stored adjacent to the internal staircase. It cannot be satisfactorily demonstrated therefore, that the building is redundant for any ancillary domestic purpose associated with La Vrangue Farm and the proposal does not therefore, meet the requirements of Policy GP16(A) in this regard.

Application FULL/2024/1139 which proposes to subdivide the existing dwelling to form 2 dwellings (Use Class 1) and 1 self-catering unit (Use Class 8) and demolish a section of wall to create additional vehicle access, was submitted alongside this application and is currently under consideration. The determination of application FULL/2024/1139 is not considered to have a material impact on the decision on this application, although, if approved, it would arguably increase the potential future use of the garage due to an additional unit of accommodation on the site.

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 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.

The scheme incorporates the erection of a single-storey flat roof extension (approximately 9.9 square metres) to the side/east of the building. The existing building has an internal floor area of approximately 87.5 square metres at ground floor level. The existing building has an internal staircase which is proposed to be removed and an external staircase added to access storage over.

The existing building would exceed the floor area for a two-bedroom dwelling, exceeding the Guernsey Technical Standards and also exceeding the best practice guidance set out in the DCLG space standards for a two-bedroom, four-person single storey unit of accommodation.

The size and quality of the outdoor space would be good and although the light levels within/outlook from bedrooms is slightly limited by the position adjacent to the existing dwelling and boundary fence, there would be a good outlook from the open plan kitchen/dining/living area. Overall the proposed dwelling could provide an adequate living environment, in accordance with Policy GP8(d) and Annex I: Amenities.

The extensions and alterations to the existing garage are considered to be in keeping with the existing building and represent a good standard of architectural design that respect the character of the local built environment. The building is set adjacent to the existing residential neighbour to the west, and land to the east of the garage is open and undeveloped agricultural land. The proposed works will not result in any change to existing overshadowing, and will not result in significant overlooking of neighbouring properties.

The accessibility of the unit is also reasonably good due to the level access and single storey design.

The scheme will offer satisfactory living accommodation for future occupiers having regard to the requirement of Annex I and offers flexible and accessible accommodation in terms of Policy GP8.

The level of off-road parking is considered satisfactory having regard to Policy IP7 and the new vehicular access, would not have a detrimental impact on highway safety in line with the aims of Policy IP9. Cycle storage is not indicated but the garden is sufficient for this to be located, and if the scheme were acceptable in all other respects however, this matter could have been dealt with by planning condition.

Exempt development such as additional hardstanding or outbuildings could also be controlled by condition, if necessary, in order to manage such development and its impact on the character of the wider area.

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: 27/11/2024

