

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 (628sqm)
(on a site of Protected Building).

LOCATION: Springwood House, St. John's Road, St. Peter Port.

APPLICANT: Mr & Mrs Clegg

I refer to the application referred to below received as valid on 29/07/2024 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 31/10/2024

Drawing Nos: JG Architecture Ltd - 02.01A

Application Ref: FULL/2024/1256

Property Ref: A109360000

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 proposal would result in the unnecessary loss of open and undeveloped land which would have an unacceptable impact on the open landscape character of an area, contrary to Policy MC1 (Important Open Land), GP1 (Landscape Character and Open Land) and GP15(a) (Creation and Extension of Curtilage).
2. The proposal does not demonstrate that the biodiversity interest of the site has been considered and taken into account, that the biodiversity interest of the area has been protected and, where possible, enhanced, or that any negative impacts can be appropriately and proportionately mitigated and is contrary to Policy GP3 (Areas of Biodiversity Importance) and GP15(b) (Creation and Extension of Curtilage).

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/2024/1256
Property Ref: A109360000
Valid date: 29/07/2024
Location: Springwood House St. John's Road St. Peter Port Guernsey GY1 1WZ
Proposal: Change of use of agricultural land to domestic garden (628sqm) (on a site of Protected Building).
Applicant: Mr & Mrs Clegg

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The proposal would result in the unnecessary loss of open and undeveloped land which would have an unacceptable impact on the open landscape character of an area, contrary to Policy MC1 (Important Open Land), GP1 (Landscape Character and Open Land) and GP15(a) (Creation and Extension of Curtilage).
 2. The proposal does not demonstrate that the biodiversity interest of the site has been considered and taken into account, that the biodiversity interest of the area has been protected and, where possible, enhanced, or that any negative impacts can be appropriately and proportionately mitigated and is contrary to Policy GP3 (Areas of Biodiversity Importance) and GP15(b) (Creation and Extension of Curtilage).
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OFFICER'S REPORT

Site Description:

The application site comprises a substantial dwellinghouse located within the domestic curtilage between St John's Road to the north and Rope Walk Lane to the south. The strip of land between the boundary of the domestic curtilage and Rope Walk Lane does not form part of the recognised curtilage. The site ownership also extends to the south of Rope Walk Lane, to the boundary with Beau Sejour Leisure Centre to the south and it is the strip of land to the rear of the existing curtilage and the land immediately to the south which forms the subject of this application. The domestic curtilage is bounded by domestic properties to the west and east, while the land to the south is bordered by similar undeveloped land.

The whole of Springwood House, together with the gate entrance, is protected.

The whole of the application site and associated land is located within a Main Centre Outer Area and Conservation Area, whilst the land to the south of Rope Walk Lane is

also designated as an Area of Important Open Land and Area of Biodiversity Importance in the Island Development Plan.

Relevant History:

Application site

FULL/2013/3592 Erect two sheds to rear of property, to the north-east of Rope Walk Lane (retrospective) Approved 05/12/2013

A109330000 Mount Pleasant

No curtilage established, application report for FULL/2013/0659 (relating to the erection of a shed at that property) noted the land to the north-east of Rope Walk Lane appears to be residential, whilst the land to the south-west appears semi-natural.

Existing Use(s):

Residential Use Class 1
Agricultural Use Class 28

Brief Description of Development:

Permission is sought to change the use of the strip of land to the north of Rope Walk Lane and part of the land to the south of that lane to extend the domestic curtilage associated with Springwood House.

In addition the submitted plans state that an existing tent/storage structure on the land to the south of the lane would be retained. This structure does not have the benefit of planning permission and is not referenced on the application form, nor has a fee been paid for its retention.

The plans also indicate the retention of existing sheds to the north of the lane. Those structures were previously approved under FULL/2013/3592 and permission would not be required for their retention.

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

MC1 Important Open Land in Main Centres and Main Centre Outer Areas
GP1 Landscape Character and Open Land
GP3 Areas of Biodiversity Importance
GP4 Conservation Areas
GP5 Protected Buildings
GP15 Creation and Extension of Curtilage

Strategy for Nature Supplementary Planning Guidance

Representations:

One letter of representation received noting that the proposal could harm the Town by removing an area of beauty, diminishing the green belt and setting a precedent for neighbours.

Consultations:

Agriculture Countryside and Land Management Services comment as follows:

We note the area of land to which the requested change of use relates is designated an Area of Biodiversity Importance (ABI) and forms part of the Rope Walk ABI. The site was formerly a Site of Nature Conservation [Importance] within the Urban Area Plan and it was recognised for its importance for nesting and foraging birds (Approach to the Designation of Areas of Biodiversity Importance, 2014). During a review of the site in 2019 (Review of Areas of Biodiversity Importance, 2019) it 'scored' lowly on all criteria and was recommended for delisting. This in part was explained to be due to lack of historic data for the site and low bird activity during the survey. The recommendation to delist the site was rejected by the Authority during the 2024 Island Development Plan (IDP) review (IDP Focused Review, 2024).

The low scoring during the assessment in 2019 suggests that the site is not in 'good' condition and therefore would benefit from enhancement and/or restoration in order to support the level of biodiversity it was described as supporting in the Urban Area Plan.

The impact of disturbance on nesting birds is well documented, and therefore it is possible that the 'enjoyment' of the area as a garden may result in detrimental impacts on nesting birds in the area.

Furthermore, we note that section 19.4.6 of the IDP describes that policy GP3 will not apply to householder development within the curtilage of a dwelling, and therefore the change of use to domestic curtilage will remove the protections afforded to the biodiversity of the site from GP3.

We would therefore recommend that this application is not granted permission.

Summary of Issues:

Impact on Important Open Land;
Impact on landscape character;
Impact on the character of the Conservation Area;
Impact on an Area of Biodiversity Importance;
Impact on biodiversity and provision of a scheme of mitigation.

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).

Permission is requested to change the use of a strip of land to the north and part of the land located to the south of Rope Walk Lane, measuring approximately 628sqm, to domestic land for use in association with Springwood House to the north. Springwood House benefits from access and parking from St John's Road to the north and a terraced rear amenity space of approximately 412sqm accessed from Rope Walk Lane to the south. It is stated that the change of use is to allow use of the land for domestic garden and to enable retention of the existing domestic storage.

Policy MC1 forms the gateway policy for development within areas identified as Important Open Land, and the policy text states that development is only permitted where the development would not have a significant adverse impact on the open character, visual quality or landscape character of the Important Open Land *and* where it relates to new outdoor formal recreation or informal leisure and recreation or it relates to the rebuilding, extension or alteration of existing buildings or structures (emphasis added). The pre-facing text to that policy, which carries equal weight, however states that new development will only be supported where there is no significant impact on the openness, visual quality or landscape character of the Important Open Land *or* where it relates to the development of outdoor formal recreation or informal leisure and recreation-related development, or works to existing development (emphasis added). There is therefore a discrepancy in the approach between the policy and pre-facing text. It is however clear throughout that the primary emphasis within these areas is ensuring there is no significant impact on the openness, visual quality or landscape character of these areas and, provided that is the case, it is considered that this policy could allow, in principle, for an extension of domestic curtilage on to areas of Important Open Land.

The requirement contained within MC1 to avoid significant adverse impacts on the openness, visual quality and landscape character of an area, is also reflected in Policies GP1, which seeks to resist the unnecessary loss of open and undeveloped land which would have an unacceptable impact on the open landscape character of an area, GP4, which seeks to conserve and enhance the special character of the Conservation Area, and GP15 and requires consideration under Section 38 of the Land Planning and Development (Guernsey) Law, 2005.

The application site falls within the Upland Landscape Character type, as identified within Annex V Landscape Character in the Island Development Plan. The site is located on the northern escarpment, forming part of the swathe of wooded land extending to include the Beau Sejour Leisure Centre grounds to the north-west and Les Cotils grounds to the south-east, rising above the lower parishes to the north. This land forms a distinctive landscape feature and provides a soft backdrop to the development below, contributing to the character of the Conservation Area in both short and long views and resulting in its designation as Important Open Land. Rope Walk Lane forms a distinct and obvious definition between the developed lower sections of the escarpment and the wooded land above.

The site itself comprises a strip of grassland to the north of Rope Walk Lane and two terraced areas of grassland divided by a line of small trees and bushes located to the south of and elevated above Rope Walk Lane and is surrounded by wooded land to the north-west, south and south-east. The site is located towards the base of the wooded escarpment and there has been some form of clearing in that location since the early 2000s. Current management of the land to the south of the lane, maintaining the terraces as open areas of short grass, is out of character with the wider landscape character area and there is no evidence of consent for the steps accessing the terraces. The submitted statement notes that this form of management will be continued under the proposed change of use. The strip of land to the north of the lane is positioned against and read as part of the developed area in that direction, and the maintenance of that area as managed grass aligns with that character.

The application states that Rope Walk Lane is a private track and it appears to access only one further property after the application site. The lane would not therefore comprise a public place for the purposes of planning law. It is also acknowledged that this particular area of land is of limited, if any, visibility in long views, screened by the substantial buildings along the south of St John's Road and wider development. The proposal would not therefore result in notable impact on the special character of the wider Conservation Area, and would accord with Policy GP4 and the statutory duty set out under Section 38 of the Law.

Whilst of limited impact in wider views, the proposal would represent a notable incursion into the surrounding undeveloped land, projecting beyond the line of development defined by Ropewalk Lane and introducing a form of use alien to the prevailing landscape character. Whilst it is noted that rights to development permitted under the Land Planning and Development (Exemptions) Ordinance, 2023 (or any Ordinance revoking or replacing that Ordinance), could be withheld by planning condition, in considering such changes of use at other sites (ref PAP-008-2019 & PAP-011-2023), the Appeals Tribunal have found that the introduction of domestic forms of management and paraphernalia which would not, in itself, amount to development requiring planning permission, could impact on the landscape character of an area. It is considered that would be the case in respect of this site and, furthermore, that approval of the current proposal would set an undesirable precedent for further such encroachment along the Lane, resulting in contraction and fragmentation of the open land.

As noted above, the dwellinghouse at this site benefits from generous amenity space and it is not demonstrated that the change of use is necessary to the ongoing enjoyment of the dwelling. Taking into account the above, it is considered that the proposed change of use would comprise an unnecessary incursion into the open and undeveloped landscape and would have a detrimental impact on landscape character. The proposal would therefore fail to meet the terms of Policies MC1, GP1, and GP15a).

As noted above, the land to the south of Ropewalk Lane is also located within the Rope Walk Area of Biodiversity Importance (ABI), and Policy GP3 must also be considered, together with Policy GP15(b).

The Review of Areas of Biodiversity Importance compiled by Environment Guernsey in 2019, and published as part of the supporting documentation for the Island Development Plan review, included consideration of this area. The Review described the ABI as wooded slopes associated with adjacent parkland, including habitats of broadleaved woodland, parkland, amenity grassland, scrub and gardens. Notable species in the area were identified as nesting and foraging birds, and threats to the quality of the area were identified as over-management leading to the creation of amenity grassland underneath the tree canopy, human disturbance and development. The Review concluded that the area was of low value in terms of biodiversity, however suggested this could be enhanced through more sensitive management to encourage a more diverse understory. Whilst the Review recommended delisting this ABI, this was not taken forward as part of the draft proposals for the amended IDP and the recommendation is for the designation to remain. In considering the above, the consultation response from ACLMS suggests that the recommendations made in the Review stem from a paucity of historical data and low bird activity at the time of survey, and that the value of the site could be enhanced through enhancement and/or restoration.

The land to the south of Ropewalk Lane is itself identified within the 2018 Habitat Survey as semi-natural broadleaved woodland although, as noted above, the area is currently predominantly maintained grassland with some semi-mature vegetation. Both the findings of the Review and the consultation response however identify potential for this ABI to be regenerated to achieve good levels of biodiversity, and, as identified in the Review summary above, approval of an application for domestic use would be a threat to achieving such biodiversity, through the ongoing management of the ground level flora and the introduction of human disturbance to both flora and birdlife.

The application proposes limited planting in mitigation for the change of use, however that planting would not support or enhance the landscape character of the area or the key habitats of the ABI, identified above.

Overall the proposal fails to demonstrate that the biodiversity interest of the site has been taken into account, that the biodiversity interest of the area has been protected or enhanced or that any negative impacts, such as through human disturbance, could be appropriately managed. The proposal would not therefore accord with Policy GP3 or GP15(b).

Policy GP15 sets out three additional criteria which must be met for an application to be successful.

The application site is not located within or adjacent to an Agriculture Priority Area and no boundary features are to be removed, therefore criteria c) & d) are not relevant.

The proposed use of the land would be for domestic purposes, and, taking into account the proposed use and the relationship to surrounding residential property, the proposal would have no adverse effects on neighbouring residents and would comply with part e).

The Strategy for Nature Supplementary Planning Guidance would also be relevant to the consideration of this application, and seeks proposals to include measures to enhance the natural environment. As set out above, it is not considered that the measures proposed would achieve adequate enhancement relative to the harm associated with the incursion into the ABI.

The application site is set away from the protected building, predominantly on the opposite side of Rope Walk Lane, and the proposal would not have any significant impact on the setting of that building, in accordance with Policy GP5 and the statutory duties in respect of protected buildings.

In conclusion, the proposal would result in the unnecessary loss of open and undeveloped land which would have an unacceptable impact on the open landscape character of the area and would therefore fail to comply with Policies MC1 (Important Open Land), GP1 (Landscape Character and Open Land) and GP15(a) (Creation and Extension of Curtilage). In addition, the proposal does not demonstrate that the biodiversity interest of the site has been considered and taken into account, that the biodiversity interest of the area has been protected and, where possible, enhanced, or that any negative impacts can be appropriately and proportionately mitigated and is contrary to Policy GP3 (Areas of Biodiversity Importance) and GP15(b) (Creation and Extension of Curtilage). Consequently, the application must be recommended for refusal.

The application appears to be principally driven by the desire to retain the existing storage/tent shown on the submitted plans. The nature of this storage is not clear, beyond that it is for domestic purposes, however it is advised that there may be potential to consider relocation of the storage to within the domestic curtilage or, alternatively, to consider a revised application for a limited extension of curtilage to the north side of Ropewalk Lane and the relocation of the storage to that area.

Date: 29/10/2024

