

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 (1,253 sq.m.).

LOCATION: Maison De La Guerre, Route De La Marette, St. Saviour.

APPLICANT: Mr & Mrs M Allez

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: 10/12/2024

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 11/09/2024 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: PF+A Ltd - 6317-03 B1B & B2C and Justification Report (2020 Strategy for Nature section).

Application Ref: FULL/2024/1500

Property Ref: E005380000+E008470000

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 landscaping scheme shall be fully completed, in accordance with the details shown on the approved plan and in accordance with the information provided in the 2020 Strategy for Nature section of the Justification Report (ref: 6317-03), by the 31/03/2026. 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 biodiversity enhancements are provided in accordance with the aims of the Strategy for Nature Supplementary Planning Guidance.

4. Notwithstanding the provisions of the Land Planning and Development (Exemptions) Ordinance, 2023 (or any other Ordinance replacing or re-enacting that Ordinance), no development ordinarily falling within Class 1 of the Schedule of Exempt Development (relating to 'Development within the curtilage of a dwelling-house') shall be carried out, erected or constructed on the land to which this permission relates without the express prior written permission of the Development & Planning Authority.

Reason - To ensure that any proposed operational development on this land is subject to planning control in the interests of the character and visual amenity of the locality. This condition is imposed to make sure that any proposals can be properly considered.

5. Within three months of the date of this permission, details of a gate to the gap in the west boundary of the domestic garden area hereby approved shall be submitted to and agreed in writing by the Authority. The development shall be carried out only in accordance with the agreed details and the gate shall be erected as part of the agreed landscaping scheme, by 31/03/2026.

Reason - To ensure that the extent of domestic garden is clearly defined and to avoid the spill of domestic activity and paraphernalia onto the retained agricultural land.

Expiry Date: This permission will cease to have effect on 10/12/2027 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/2024/1500
Property Ref: E005380000+E008470000
Valid date: 11/09/2024
Location: Maison De La Guerre Route De La Marette St. Saviour Guernsey GY7 9XB
Proposal: Change of use of agricultural land to domestic garden (1,253 sq.m.).

Applicant: Mr & Mrs M Allez

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. The landscaping scheme shall be fully completed, in accordance with the details shown on the approved plan and in accordance with the information provided in the 2020 Strategy for Nature section of the Justification Report (ref: 6317-03), by the 31/03/2026. 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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house') shall be carried out, erected or constructed on the land to which this permission relates without the express prior written permission of the Development & Planning Authority.

Reason - To ensure that any proposed operational development on this land is subject to planning control in the interests of the character and visual amenity of the locality. This condition is imposed to make sure that any proposals can be properly considered.

5. Within three months of the date of this permission, details of a gate to the gap in the west boundary of the domestic garden area hereby approved shall be submitted to and agreed in writing by the Authority. The development shall be carried out only in accordance with the agreed details and the gate shall be erected as part of the agreed landscaping scheme, by 31/03/2026.

Reason - To ensure that the extent of domestic garden is clearly defined and to avoid the spill of domestic activity and paraphernalia onto the retained agricultural land.

OFFICER'S REPORT

Site Description:

The land to the west of the extension is sloping with a partly retaining wall around the extension and associated hardstanding.

Maison De La Guerre is visible in the approach to Fort Richmond and in long views from the coast, against the rising land. The headland has a mixed character. The Rue du Marette runs along the centre of the headland, flanked by residential properties to the north of the application site, whilst the land to the west and north-west is more rural in aspect, comprising open scrub land falling away towards the coast. The Fort Richmond property has been converted to a single dwelling house and permission has been granted for development within the curtilage of this property. A polytunnel has been situated adjacent to the proposed west boundary of domestic garden area, falling on agricultural land. At the time of the officer site visit this was not being used for growing in line with current exemptions and the matter was referred to Planning Enforcement.

The approved curtilage line follows a change in ground level, along the line of a previous bank/vegetated strip and would be appropriately located in terms of the surrounding landscape. The curtilage was defined, offering mitigation of the development through the provision of an earth mound against the north-east of the casement and an extension of the earth mound to the south of the structure around the parking area.

The site is located Outside of the Centres as designated in the Island Development Plan. The property is a protected building.

Relevant History:

FULL/2015/2924 - Convert existing bunker and extend to form new dwelling (Revised) – granted (variation subsequently approved under ref: FULL/2026/2855)

FULL/2024/0348 - Erect single storey extension to south (side) elevation (Protected Building) (Revised Scheme) – granted

Patris

FULL/2021/0622 - Change of use of agricultural land to domestic garden (1,200sqm) – granted

FULL/2024/0774 - Erect single storey extension to south (side) elevation (Revised Scheme) – granted

Fort Richmond

FULL/2019/0385 - Change of use to residential use (Use Class 1) of former Barracks Building. Erect 2nd floor flat roof extension, create 1st floor window to west elevation, and door to 1st floor east elevation. Alterations to fenestration and internal alterations. Install bridge over moat to 1st floor. (Protected Monument and Building) – granted

FULL/2020/2337 - Create driveway and parking area (Protected Monument) – granted

FULL/2022/1689 - Erect outbuilding/store to east boundary (Protected Monument) – granted

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. The land that is the subject of this application is situated to the west of the existing dwelling.

The application has been accompanied by a Justification Report and a landscaping plan. The application drawings note the extent of domestic garden of Patris to the north and Fort Richmond to the south of the application site.

The biodiversity landscaping proposals relate to three proposed alder trees with 6 new bird boxes, three bug hotels, a proposed compost heap and owl box and associated pole along with some planting, to match existing, (outside the area of proposed curtilage) and three areas of wildflower planting. It is noted that there are existing hedgerows within the site to be retained along with a sloped area which is wooded with mature trees.

Clarification and further information regarding the biodiversity enhancement proposals were requested during the course of the application along with adjustments to the proposed west boundary in relation to the existing shed on agricultural land.

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

Island Development Plan:

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

GP1: Landscape Character and Open Land

GP5: Protected Buildings

GP6: Protected Monuments

GP15: Creation and Extension of Curtilage

Strategy for Nature SPG

Representations:

La Societe Guerneslaise – commented on the application as originally submitted. 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 note that whilst the application includes measures aimed at improving biodiversity, which we welcome, we would highlight some issues with the proposals -

1. The new bird boxes are proposed for within the new trees. However newly-planted trees would either be of insufficient size to support boxes or, if larger stock is to be planted, we would suggest such specimens would struggle to establish on the exposed site.
2. The species of proposed Alder trees is not stated. Native COMMON Alder would support some wildlife but its suitability to this exposed location is questionable. Non-native species such as Italian Alder would host far less biodiversity.

3. The proposed removal of diseased trees may impact existing biodiversity. It is often preferable to retain standing dead wood or if removal is necessary, to retain the material on site as log piles.
4. It is feasible that the existing grassland areas could be enhanced rather than replaced with newly-sown wildflower mixes. We are aware that although Environment Guernsey is mentioned in regards to the supply of a seed mix, it has not been contacted for advice or asked to visit the site to ascertain the ecological value of existing habitats.

No comments were received following the receipt of further information.

Consultations:

Agriculture, Countryside and Land Management Services -

We are not in receipt of an assessment of the current ecological condition of the site, and so it is not possible to determine a baseline from which the impacts of works can be measured, however, we also recognise that the proposal explicitly states that no features will be removed, except for a number of 'diseased' trees, and therefore the likelihood of a reduction in the baseline ecological value is limited.

We welcome the proposed enhancement measures within the area of requested extension of domestic curtilage, notable the commitment to:

- Planting native trees,
- Retention of the material arising from felling of trees as a deadwood habitat,
- Enhancement of the existing grassland, rather than any proposal to cultivate and sow with seed, which is in line with the published wildflower meadow guidance.

We note that it may be several years before the bird boxes can be installed on the newly planted trees, and this is likely to be beyond the 5 years to which planning conditions relate. However, even if we discount the contribution of these bird boxes, we believe the scheme is likely to achieve a net enhancement in biodiversity.

We note that a number of proposed mitigations are outside of the boundary defining the area proposed to be converted to domestic curtilage, however as the enhancements proposed within the boundary appear sufficient and the enhancement measures will not negatively affect the use or biodiversity of the retained agricultural land, we do not wish to make representation against these.

Summary of Issues:

The issues in this case relate to the principle of the change of use of land and the effect of the change of use on the character and appearance of the locality (wider open landscape) and on the setting of the adjoining protected buildings/monument.

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 submission makes reference to the aim of providing a "reasonable" curtilage however, providing a dwelling with a "reasonable" curtilage given its size or because an applicant chooses to extend the dwelling thereby reducing the available garden are not reasons given in the Island Development Plan to support the change of use of agricultural land to domestic garden.

The matter of domestic garden was considered as part of the proposed conversion scheme from 2015 under the Rural Area Plan and as this plan has been superseded by the Island Development Plan there has been a material change to the policies against which an application must be assessed. It was acknowledged that there is a functional need for curtilage to be associated with a new dwelling and that the site is visible in long views from the coast. The impact of ancillary domestic structures, the domestication of the site arising from the domestic paraphernalia were also matters highlighted because they could impact on the setting of the protected buildings/monuments and in wider views. The permission was granted but the application report concluded that *"the domestication of the site can be mitigated to some extent by the removal of exemption rights for extensions, fencing, sheds and hardsurfacing, however the introduction of some domestic items falls outside of planning control."*

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 and is not located within an Agriculture Priority Area or Area of Biodiversity Importance. There is currently an element of boundary separation to the west boundary, comprising a bank, planting and a willow fence. The south boundary with Fort Richmond is marked by a bank/large granite boulders whilst the north boundary is, in part, marked by a willow fence marking the edge of the bank to the lower land beyond which is the domestic garden of Patris and understood to be within the same family ownership. The application does not require any established boundary features to be removed in connection with the change of use of the land and it is noted that access will need to be maintained to the agricultural land beyond. It is appropriate to impose a condition relating to the installation of a timber/metal field gate to provide a continuous and clear boundary feature across the entire west boundary separating the domestic garden from the agricultural land beyond.

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 distance and/or 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.

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.

Given the position of the area of land the subject of this application, the proposal would not undermine the wider landscape character or the openness of the area in accordance with Policy GP1.

As domestic garden normal householder exemption rights would apply and it is reasonable to consider whether it is necessary to remove any householder exemption rights in this case. As part of the conversion scheme all householder exemption rights were removed and the removal of exemption rights for this extended area of domestic garden would also be appropriate. It is acknowledged however, that a number of exemption rights would not apply in any case given that Maison De La Guerre is a Protected Building.

The scheme and revisions have sought to address the Strategy for Nature SPG and subject to appropriate conditions this matter has been satisfactorily addressed. Although bird boxes are proposed these could not be installed on young/newly planted trees and it would be difficult to require these to be installed at some, unspecified, later date when the trees have matured and established sufficiently. It is acknowledged however, that these do form part of the overall commitment to biodiversity enhancements on the site but overall, the revised landscaping proposal is considered satisfactory.

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. The effect on protected buildings and sites is considered elsewhere in this report.

Date: 06/12/2024