

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 (333sqm) (retrospective).

LOCATION: L'Etelle du Nord, Braye du Valle, St. Sampson.

APPLICANT: Mr & Mrs A Dowinton

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: 20/01/2025

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 03/12/2024 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Jason Hobbs Architectural Services Ltd - 6481/A/1

Application Ref: FULL/2024/1685

Property Ref: B01066H000

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 development hereby permitted and all the operations which constitute or are incidental to that development must be carried out in compliance with all such requirements of The Building (Guernsey) Regulations, 2012 as are applicable to them, and no operation to which such a requirement applies may be commenced or continued unless (i) plans relating to that operation have been approved by the Authority and (ii) it is commenced or, as the case may be, continued, in accordance with that requirement and any further requirements imposed by the Authority when approving those plans, for the purpose of securing that the building regulations are complied with.

Reason - Any planning permission granted under the Law is subject to this condition as stated in section 17(2) of the Land Planning and Development (Guernsey) Law, 2005.

4.Prior to the 31/12/2025, a landscaping scheme, to show full details of infill hedge planting to the east site boundary incorporating planting schedules, noting the species, sizes, numbers and densities of plants 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.The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of the above condition, in the first planting season following the date of this decision, by 31/03/2026. Any 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.

6.By 31/12/2025 details of a gate, its height, appearance and materials, and any other means of defining the north boundary of the domestic garden hereby approved shall be submitted to and agreed in writing by the Authority. These approved details shall be completed in full by 31/03/2026 and thereafter shall be retained at all times.

Reason - To ensure the boundaries of the enlarged garden area are clearly defined to avoid the overspill of domestic paraphernalia and activities onto the retained agricultural land, within the APA.

Expiry Date: This permission will cease to have effect on 20/01/2028 unless development is commenced by that date.

ADVICE AND OTHER REMARKS:-

This permission relates to the change of use of agricultural land to domestic garden only but does not infer permission for any physical development on the land that would not meet the current householder exemption rights under the The Land Planning and Development (Exemptions) Ordinance, 2023 or the 2024 amendments.

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/2024/1685
Property Ref: B01066H000
Valid date: 03/12/2024
Location: L'Etelle du Nord Braye du Valle St. Sampson Guernsey
GY2 4RB
Proposal: Change of use of agricultural land to domestic garden
(333sqm) (retrospective).

Applicant: Mr & Mrs A Dowinton

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.

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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).

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Reason - To ensure the boundaries of the enlarged garden area are clearly defined to avoid the overspill of domestic paraphernalia and activities onto the retained agricultural land, within the APA.

INFORMATIVES

This permission relates to the change of use of agricultural land to domestic garden only but does not infer permission for any physical development on the land that would not meet the current householder exemption rights under the The Land Planning and Development (Exemptions) Ordinance, 2023 or the 2024 amendments.

OFFICER'S REPORT

Brief Description of the site:

L'Etelle du Nord, Braye Du Valle is a detached bungalow with render exterior and pitched, tiled roof. A hipped roof extension, flat roof extension and conservatory exist to the rear of the property. Fencing and hedging exist to the east and west boundaries with the neighbouring dwellings. A hedge and fence, with pathway/access gaps current exist between the recognised extent of domestic garden and the agricultural land beyond, to the north of the site. A painted render, flat roof shed is situated adjacent to the west site boundary, a timber shed is situated to the east of this and to the immediate north is a glasshouse which, internally, is partially paved and appears to be used for a mixture of storage associated with land management, potting shed and a small element of growing.

The site is located Outside of the Centres and within the Agriculture Priority Area as designated in the Island Development Plan. The dwelling to the immediate east falls outside the APA but APA land extends to the north, east and south of the site.

Relevant History:

The dwelling and a glasshouse to the north were constructed between 1938 and 1963. By 1996 the glasshouse had been reduced in size, with the southern portion removed. By 2001 a further section of glass had been removed and the western outbuilding may be present based on the aerial photograph. The situation remained largely unchanged until 2019 when the timber shed is present in the aerial photographs.

Lynrose La Route Du Braye

FULL/2017/3046 - Extend domestic curtilage and change of use of former horticultural building/yard (use class 28) to the storage/maintenance of commercial vehicles (use class 25) – granted. This permission relates only to an area of land does not project further north than the southern edge of the hardsurfaced area, with associated outbuildings at the application site.

Existing Use(s):

01 dwellinghouse

28 agriculture

Assessment: *(Tick as appropriate)*

no representation

☒

accords with policy

☒

within curtilage

☐

design acceptable

☒

visual amenity acceptable

☒

no material neighbour impact

☒

traffic not affected

☒

Policies considered most relevant:

Island Development Plan policies:

OC5(A): Agriculture Outside of the Centres – within the Agriculture Priority Areas

OC7: Redundant Glasshouse Sites Outside of the Centres

GP1: Landscape Character and Open Land

GP15: Creation and Extension of Curtilage

Conclusion/Brief comment:

Policy OC7: Redundant Glasshouses Sites Outside of the Centres sets out that horticultural premises are recognised as agricultural land and on clearance of structures such as glasshouses and ancillary buildings the land is expected to revert to agricultural use. The IDP promotes the return of land into open agricultural use following the clearance of glasshouses in the first instance, where viable and practical and the Island Development Plan policies seek to maintain and protect large contiguous areas of agricultural land by prioritising agricultural use. Within the IDP a 'Redundant glasshouse site' means: 'a glasshouse or glasshouses together with ancillary structures and land where the glass and ancillary structures are no longer required or capable of being used for their authorised purpose.'

In this case, the site does represent a redundant glasshouse site as defined in the Island Development Plan and the site is located within the Agriculture Priority Area. Policy OC7 does make provision for the change of use of glasshouse land so that it may be incorporated into curtilage (domestic garden) so OC7 d. is met in this case. Criterion c., e., f., g. and h. are not relevant in this case. There are however, various other policy criteria that must be satisfied in order for Policy OC7 to be met.

Although Policy OC7 expects that glasshouses and ancillary structures are cleared from land so that its use may revert to agriculture the Policy does set out that such demolition may relate to glasshouses and structures that are not capable of being used for a use in accordance with relevant policies of the IDP. The retention of the modest size glasshouse, which exceeds the exemptions for a domestic glasshouse, would nonetheless, comply with OC7 iv.

Commercial agricultural use of an Agriculture Priority Area/Environmental impacts

The IDP recognises that agriculture plays a relatively small part in Guernsey's economy but is valuable for its land management function protecting and enhancing the countryside and providing visual access to open space.

The Strategic Land Use Plan requires a balance to be made between the protection of land for agriculture for the industry's current and future needs and recognising the role it plays in countryside management with ensuring land is available to meet other legitimate development requirements. The Island Development Plan has therefore identified large areas of contiguous agricultural land, and other areas well related to established agricultural operations, which represent Guernsey's most valuable agricultural land. These have been identified as Agriculture Priority Areas (APA).

Whilst the policy approach is to generally support development for agricultural purposes in the Agriculture Priority Areas (APA), these areas have been broadly drawn and include areas of land and sites which are not currently used for agricultural purposes and could not be expected to contribute positively to commercial agriculture in the future. The Agriculture Priority Areas are not intended to safeguard the land for agricultural use if it is not appropriate or is not required for that use or where the inclusion of an area of land into a larger land parcel for agricultural purposes would have a negative environmental impact. The Island Development Plan policies therefore allow for other forms of development within the identified Agriculture Priority Areas provided that they accord with all the other relevant policies of the Island Development Plan (Policy OC5A).

The IDP (para. 15.1.10) sets out that the APA areas have been broadly drawn, they include other non-agricultural uses and highlights that the policies relating to these areas allow for other forms of development where this would not unacceptably prejudice commercial agriculture. In this case there would be no significant impacts on the achievement of strategic policies (IDP 19.16.4). This flat site proposed to be used as garden is modest in size when considered against the overall field size to be retained for agricultural purposes. The modest area proposed would not undermine the commercial function of the APA in accordance with GP15 and OC7 of the IDP.

Impact on the landscape character and contribution to a wider area of open land

The site falls within the lowlands landscape, wetlands, of le Braye du Valle. Annex V sets out that such areas may be poorly drained and many areas are below the level of ordinary high spring tides (the northern part of the application site, beyond the proposed area of domestic garden falls within an area at risk of flooding and surface water was present at the time of the officer site visit in this case). Le Braye du Valle is of marine origin and has the same general characteristics as the Marais areas. In 1808 embankments were completed and the area drained. This resulted in the layout of straight roads and a gridiron pattern of field divisions.

This is the primary difference between the existing character of the Marais areas and Le Braye du Valle area.

Policy GP1 relates to the Landscape Character and Open Land and sets out that proposals will not be supported if they would result in the unnecessary loss of open and undeveloped land where there would be an unacceptable impact on the open landscape character of an area. In this case, given the position of the land, rear of the dwelling and existing site boundaries, the proposal would not undermine the wider landscape character or the openness of the area in accordance with Policy GP1 and OC7 b. of the IDP. The proposal would not significantly alter the gridiron pattern of field division with the majority of agricultural land proposed to be retained.

Biodiversity interest of an Area of Biodiversity Importance and loss of established boundary features

The proposal would not result in the removal of any boundary features (GP15 d.). The application site is not located within or adjacent to an Area of Biodiversity Importance it is therefore concluded b) of Policy GP15 is not relevant in this case.

In relation to the requirements of the States' Strategy for Nature, 2020 Supplementary Planning Guidance the scheme proposes to infill a section of hedge to the east boundary which is proportionate to the extent of land to be brought within the domestic garden area for the property. This, in addition to a bank and/or hedge to the north boundary will satisfactorily address the aims of the SPG. The landscaping proposals also accord with OC7 v. of the IDP.

Policy GP15

The area of land is well associated with the existing dwelling and the land to the north is within the same ownership as the application site, whilst land to either side falls outside the ownership of the applicant in this case. The proposal does not require any established boundary features to be removed in connection with the change of use of land.

The west and east boundaries of the site are clearly defined and the glasshouse would, in part, define the north domestic garden boundary. There is however, an element of land to the east where no defining feature is proposed. A hedge or bank may be appropriate but would limit access for agricultural or maintenance purposes to the retained agricultural land beyond. It would, in this case, however, be reasonable to ensure that the full extent of the north boundary is defined to avoid the overspill of domestic activity and paraphernalia onto the agricultural land beyond. In light of this, a condition relating to a gate, in combination with a hedge or bank would be appropriate in this case.

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 existing and proposed boundary treatments 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 in accordance with Policy GP15 and OC7 i).

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 taken into account in the assessment of this application.

In view of the above it is recommended permission is granted for the proposed change of use subject to relevant planning conditions.

Recommendation:

Grant with Conditions



Date: 17/01/2025

