

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 (482 sqm).

LOCATION: Pagmar, Les Queritez, Castel.

APPLICANT: Mr & Mrs R Le Page

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: 04/12/2024

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 25/10/2024 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Viage 24015-02A

Application Ref: FULL/2024/1755

Property Ref: D010610000

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.The landscaping scheme shall be fully completed, in accordance with the details shown on the approved plan, 24015-002 A condition,in the first planting season following the date of this decision, by 31st March 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 the development provides adequate and appropriate biodiversity enhancements in line with the aims of the adopted Strategy for Nature, 2020.

5.Prior to the 31st December 2025, a landscape management plan, including long term objectives and maintenance schedules for the retained area of agricultural land within the redline site boundary but outside the approved domestic garden area (shown outlined in blue) which is currently an area of wilderness and undergrown, shall be submitted to and agreed in writing by the Authority. The agreed landscape management plan shall then be fully implemented.

Reason - To ensure that the development provides adequate and appropriate biodiversity enhancements in line with the aims of the adopted Strategy for Nature, 2020 and having regard to the effect of the clearance of land for agricultural purposes in relation to Policy GP15 c.

Expiry Date: This permission will cease to have effect on 04/12/2027 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/2024/1755
Property Ref: D010610000
Valid date: 25/10/2024
Location: Pagmar Les Queritez Castel Guernsey GY5 7EE
Proposal: Change of use of agricultural land to domestic garden (482 sqm).

Applicant: Mr & Mrs R Le Page

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 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. The landscaping scheme shall be fully completed, in accordance with the details shown on the approved plan, 24015-002 A condition, in the first planting season

following the date of this decision, by 31st March 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 the development provides adequate and appropriate biodiversity enhancements in line with the aims of the adopted Strategy for Nature, 2020.

5. Prior to the 31st December 2025, a landscape management plan, including long term objectives and maintenance schedules for the retained area of agricultural land within the redline site boundary but outside the approved domestic garden area (shown outlined in blue) which is currently an area of wilderness and undergrown, shall be submitted to and agreed in writing by the Authority. The agreed landscape management plan shall then be fully implemented.

Reason - To ensure that the development provides adequate and appropriate biodiversity enhancements in line with the aims of the adopted Strategy for Nature, 2020 and having regard to the effect of the clearance of land for agricultural purposes in relation to Policy GP15 c.

OFFICER'S REPORT

Site Description:

Pagmar, Les Querites is a detached, two-storey dwelling with render exterior and pitched roof. Vehicular access is adjacent to the north site boundary and serves both the dwelling and agricultural land to the east, to the rear of the dwelling. Residential properties are situated to the north, east and west of the site whilst land to the immediate south is open and undeveloped agricultural land. Landscaping (hedgerow/trees) exist to the north, south and east site boundaries. The west boundary is the roadside boundary with Les Querties.

The site is located Outside of the Centres and within the Agriculture Priority Area (APA) as designated in the Island Development Plan. The site forms the edge of this Agriculture Priority Area with the land/properties to the north, west and immediate east falling outside the APA whilst land to the south and southeast is within this designated area.

The land falls within the Uplands, Escarpment Landscape Character Area as set out in Annex V of the Island Development Plan (IDP) which "is an inland "fossil" cliff forming the northern and western edges of the Upland Plateau ... [it acts] as a physical division and as a visual backdrop which can be seen from the lower ground throughout the north and west of the Island."

Relevant History:

The domestic garden area of the property was defined by the Planning Service in 2024.

The land parcel is highlighted as being formed of a mixture of amenity grassland, a small element of arable land (allotment) and the easternmost end of the site being formed of dense scrub. The arable and amenity grassland are of least concern under the terms of the Habitat Survey of 2018 whilst the scrub area could be affected by encroachment.

Existing Use(s):

01 dwellinghouse
28 agriculture

Brief Description of Development:

The application relates to the change of use of a section of agricultural land to domestic garden (481sqm). The application has been accompanied by a supporting letter that seeks to address the requirements of the Island Development Plan. In terms of biodiversity enhancements, a new earthbank with native hedgerow is proposed to mark the extent of domestic curtilage as proposed in order to satisfy the aims of the Strategy for Nature Supplementary Planning Guidance.

The submission highlights that the agricultural land is only accessible via the existing domestic garden of Pagmar and that the existing landscape character is varied but highlights residential development in the locality. The nature of agricultural land is considered to be fragmented. The submission includes a review of historic maps and aerial photographs noting little evidence of commercial agricultural use, the reason for which is given as the limited area of the land and the lack of direct access. In more recent times, since 2001, the land has been more overgrown with native and mature trees present. A review of the Guernsey Soil and Land Classification Map (1988) referred to the land as Urban, not useful for agriculture. The conclusion of the submission is that the land has little agricultural potential commercial but could support small-scale growing or hobby farming/small holding associated with the dwelling.

The application highlights numerous sites where a change of use of agricultural land to domestic garden have been approved, referencing a number that are considered broadly consistent with the current proposals but not clearly specifying whether any or all of the sites fall within the Agriculture Priority Area.

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

OC5(A): Agriculture Outside of the Centres – within the Agriculture Priority Areas
GP1: Landscape Character and Open Land

GP15: Creation and Extension of Curtilage

Strategy for Nature SPG

Representations:

None.

Consultations:

Office of Environmental Health and Pollution Regulation – have reviewed the proposed plans for the change of use from agricultural land to domestic garden and confirm that they do not wish to raise any objections to the proposals.

Summary of Issues:

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 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) (Policy OC5(A)).

Policy GP15 makes provision for the extension and creation of curtilages to serve both domestic and non-domestic buildings, subject to compliance with a number of criteria.

Contribution of the land to the commercial function of the APA

The site is located in the Agriculture Priority Area and Policy GP15 seeks to retain agricultural land that could contribute positively to the commercial agricultural use of the APA. IDP paragraph 19.16.7 recognises that competition for land can occur when a residential use adjoins open land and the householder would like to incorporate some of that land within the domestic curtilage/garden of the dwelling, nonetheless there is a requirement to protect open land and agricultural land from development to ensure the open character of the areas can be maintained. There is 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”.

The proximity of fields in relation to domestic properties is rather a matter of choice, necessity or by historic arrangement. In addition, consideration must be given to the needs of the agricultural industry in perpetuity, or until new evidence emerges or a policy decision is made that less land, or land of a different type, is needed for the future requirements of the agricultural industry.

The SLUP and IDP requirement to find a reasonable balance is provided for, in relation to APA land, by allowing APA land that can be demonstrated not to be able to contribute to commercial agriculture to change use, or where it can be demonstrated that there would be unacceptable adverse environmental impacts. The area of land that is the subject of this enquiry appears to be used at present for small scale growing and the topography of the land would not preclude its use for agricultural purposes. Although no independent access is currently available this could be provided from via the adjoining field.

Notwithstanding the above however, this site is situated on the very edge of the Agriculture Priority Area and the IDP acknowledges that a broad-brush approach was used when drawing the APA boundaries. There are residential properties to the immediate east, west and north of the site. The site is situated on the periphery of the Agriculture Priority Area (APA) with close residential development situated to the north and northeast. The change of use of land proposed would not result in pressure on land to the south to be given over to domestic gardens as the land is not connected to any residential properties thereby protecting the adjoining area of APA land from change of use proposals at the current time.

The site forms a relatively narrow strip of the APA when the bulk of the APA is situated away to the east and north. As outlined elsewhere in this report the APAs are large areas of contiguous agricultural land and areas well related to established agricultural operations. The areas have been broadly drawn and as such this does not preclude a change of use away from agricultural land. The proposed change of use would not therefore impact on commercial agriculture within an Agriculture Priority Area in this instance.

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 line with the States’ Strategy for Nature, 2020 however, from 01 September 2021 all

applications involving the change of use of agricultural land to domestic garden must include information demonstrating environmental benefits in respect of biodiversity that will be incorporated should planning permission be granted. In this case, a new bank and hedge are proposed which would provide a clear division between the retained agricultural land and extension of domestic garden proposed. This, combined with the ponds that already exist on the site in addition to a management plan associated with the area within the red line application site boundary but outside proposed curtilage (with reference to mature tree and natural undergrowth to be retained) would ensure that there would not be adverse environmental impacts associated with the clearance of land associated with agriculture and as a wilderness area it would benefit from management to contribute further to biodiversity enhancements associated with the site and the proposed change of use of land.

The proposal would not result in the removal of any boundary features. The new earthbank and native hedgerow would be in keeping, thereby contributing to the character of the area.

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 the proposed change of use would not of itself have an adverse impact on or affect their amenities.

Given the established site boundaries the proposal would not undermine the wider landscape character or the openness of the area in accordance with Policy GP1.

In view of the above it is recommended that planning permission is granted for the change of use land, part of an existing area of agricultural land, rear of Pagmar subject to conditions relating to landscaping/management plan.

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: 04/12/2024

