

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: Erect portacabin to create residential dwelling and associated works, erect porch, external steps to south of bunker to east of site, erect porch to east elevation of bunker to west of site, install trailer and caravan (retrospective). Erect garage/store to south of site, erect fencing to create dog run to south of site.

LOCATION: Everland Border, Ruelle Du Frocq, Castel.

APPLICANT: Mr S Ogier

I refer to the application referred to below received as valid on 19/11/2024 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 19/12/2024

Drawing Nos: Annotated Block Layout Plan; written details of key for block layout plan both dated 19th November 2024; Written details of materials dated 24th October 2024; portacabin roof plan; portacabin floor plan; portacabin side profile of roof; 10 x photos of retrospective development on site; floor plan of dog trailer; details of proposed fencing all dated 19th November 2024; quick garden specification sheet dated 24th October.

Application Ref: FULL/2024/1784

Property Ref: D01264A000

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. Island Development Plan Policy OC1 makes provision for some housing Outside of the Centres but this is allowed only in very limited, specified circumstances, where achieved through subdivision of an existing dwelling or the conversion of an existing building in accordance with other relevant policies. The creation of housing in any other circumstances beyond those specified is not supported under the Plan.

The application as submitted is seeking retrospective approval for the erection of a portacabin and the installation of a caravan, both of which structures are currently being used for residential purposes and do not therefore meet the above requirements of Policy OC1.

The development would also result in an unsubstantiated loss of agricultural land within an Agriculture Priority Area. Given this, and that the development is not supported by any other Policy within the Island Development Plan, the application is contrary to Policies OC1: Housing Outside of the Centres and OC5(A): Agriculture Outside of the Centres - Within the Agriculture Priority Area, of the adopted 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/2024/1784
Property Ref: D01264A000
Valid date: 19/11/2024
Location: Everland Border Ruelle Du Frocq Castel Guernsey GY5 7PN
Proposal: Erect portacabin to create residential dwelling and associated works, erect porch, external steps to south of bunker to east of site, erect porch to east elevation of bunker to west of site, install trailer and caravan (retrospective). Erect garage/store to south of site, erect fencing to create dog run to south of site.
Applicant: Mr S Ogier

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. Island Development Plan Policy OC1 makes provision for some housing Outside of the Centres but this is allowed only in very limited, specified circumstances, where achieved through subdivision of an existing dwelling or the conversion of an existing building in accordance with other relevant policies. The creation of housing in any other circumstances beyond those specified is not supported under the Plan.

The application as submitted is seeking retrospective approval for the erection of a portacabin and the installation of a caravan, both of which structures are currently being used for residential purposes and do not therefore meet the above requirements of Policy OC1.

The development would also result in an unsubstantiated loss of agricultural land within an Agriculture Priority Area. Given this, and that the development is not supported by any other Policy within the Island Development Plan, the application is contrary to Policies OC1: Housing Outside of the Centres and OC5(A): Agriculture Outside of the Centres - Within the Agriculture Priority Area, of the adopted Island Development Plan.

OFFICER'S REPORT

Site Description:

The application site is to the south of Ruelle Du Frocq, a pedestrian 'green lane' located in Castel. Two existing bunkers occupy the site. The site is agricultural land sited within an Agriculture Priority Area Outside of the Centres as defined within the Island Development Plan.

Relevant History:

The site has been subject to on-going enforcement action due to unauthorised works which has resulted in the serving of Notices and subject to Royal Court action.

Existing Use(s):

Agricultural Use Class 28

Brief Description of Development:

The application is in part retrospective and seeks retrospective approval for:

- The erection of a portacabin used for residential purposes
- The siting of a caravan used for residential purposes
- The siting of a trailer used for housing dogs at present
- Erection of a porch for the bunker positioned in the middle of the site
- The siting of a fibreglass structure (planned to be used as a power station)

In addition, permission is also requested for:

- Fencing of 1.8m high to the north, east and south of the trailer to provide a dog run
- The erection of a timber structure used as a store/garage positioned within the centre of the site and measuring 4m x 7.5m
- The positioning of solar panels to the flat roof of the portacabin
- The erection of a porch area to serve the below ground bunker on which the portacabin is sited
- Steps leading down (below ground) to serve the bunker
- A retaining wall built around the bunker to the east of the site

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

OC1 - Housing Outside of the Centres

OC5(A) - Agriculture Outside of the Centres – within the Agriculture Priority Area

GP1 - Landscape character and open land

GP8 - Design

Representations:

One letter of representation has been received concerning:-

- The principle of the development is not supported by planning policies
- The visual effect on the area
- The impact on the green lane for its intended users including damage caused

Consultations:

Castel Douzaine – Strongly object to the planning application on the grounds of:

- 1) The application does not fall within the Island Development Plan

- 2) The proposed development would have an extremely detrimental effect on the rural character of the area.

Summary of Issues:

- Principle of residential development
- Impact on the APA and suitability of the development in this area
- Design including visual amenity
- Impact on neighbour amenity

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).**

As noted above the application site is within an Agriculture Priority Area and Outside of the Centres as defined within the Island Development Plan. As such, the principle of the development falls to be considered under IDP Policies OC1 and OC5(A).

Whilst IDP Policy OC1 makes provision for some housing Outside of the Centres this is in very limited, specified circumstances and only where achieved through subdivision of an existing dwelling or the conversion of an existing building in accordance with other relevant policies. The creation of housing in any other circumstances beyond those specified is not supported under the Plan. Similar policies in relation to new residential development have applied consistently in this area of the Island under previous Development Plans, prior to adoption of the current Island Development Plan in 2016.

The application as submitted is seeking retrospective approval for the erection of a portacabin and the installation of a caravan, both of which structures are currently being used for residential purposes and do not therefore meet the above requirements of Policy OC1.

Furthermore, the site is in an Agriculture Priority Area and Policy OC5(A) only supports proposals that would result in the loss of an existing farmstead or agricultural holding where it has been demonstrated that the farmstead or land is no longer required for agricultural purposes, and where the new use would accord with other relevant policies of the Plan. The application also fails to meet the requirements of this Policy. No justification as to why the land is not required for agricultural purposes has been given and notwithstanding submission of any justification, the use of the site for the creation of new residential development would fail to accord with other relevant policies of the IDP, specifically Policy OC1.

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 Policies OC1 and OC5(A), the only lawful decision that can be reached is that planning permission be refused.

Notwithstanding this conclusion, in this case further limited assessment of other relevant matters is set out below.

It is not considered that there would be any significant detrimental impact on neighbour amenity given the distance of the site from the nearest residential neighbour.

IDP Policies GP1: Landscape Character and Open Land and Policy GP8: Design, seek to ensure that development would not result in the unnecessary loss of open and undeveloped land or an unacceptable impact on the open landscape character of an area and that all development proposals achieve a high standard of design which respects and where appropriate enhances the character of the environment.

The application as submitted proposes several structures to be erected or installed on the site, some of timber and metal construction and others made of fibreglass. The site would consequently contain a significant amount of 'built' form and would introduce this development in an otherwise rural setting. The application site to the south of Ruelle Du Frocq is otherwise surrounding by open land and provides a rural corridor to this green lane. The incursion of development in this location would therefore impact on this open and undeveloped setting.

Furthermore the construction proposed on the site is not considered to represent development of a high standard of design and is more akin to temporary structures in terms of their design, likely useful lifespan and appearance. The proposals therefore would not meet the requirements of Policies GP1 or GP8 of the IDP.

Concerns are also raised in relation to the standard of residential accommodation provided and the accessibility of that accommodation. The portacabin is currently accessed over suspended open-sided grids (appearing to be formed from gates) supported by the existing ground level on one side and the top of the bunker (on which the portacabin sits). The accommodation would not meet the minimum Building Control technical standards of 30sqm for a 1-person unit and would not demonstrate a satisfactory standard of living accommodation in relation to the health and well-being of the occupants having regard to the relevant requirements in Policy GP8.

Notwithstanding these additional considerations, the proposed development for residential purposes is in any case precluded in principle under adopted planning policy as described above and it is recommended that the application be refused.

Date: 19/12/2024

