

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: Install raised swimming pool/spa with balustrade to north-west boundary, alter ground levels and erect retaining wall to new patio area to west of property. Remove and replace boundary hedge to east boundary of agricultural land.

LOCATION: L'Etoile Du Matin, Ruelle Julienne, Castel.

APPLICANT: Mr R & Mrs L Marino

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: 30/01/2025

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 13/11/2024 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: DLM Architects - 1213_8A, 9, 10, 11.

Application Ref: FULL/2024/1849

Property Ref: D003550000

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 existing hedge being removed along the west boundary of the site, full details of the hedge planting scheme, noting the species, sizes, numbers and densities of plants shall be submitted to and agreed in writing by the Development & Planning Authority.

Reason - To ensure the approved hedging is acceptable in the interests of visual amenity and the landscape character.

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 (October - April) following the removal of the existing hedge. 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 plants of a size and species similar to those originally required to be planted.

Reason - In the interests of visual amenity and the landscape character.

6.The external wall serving the proposed pool and spa along the north boundary shall be finished in smooth render within 2 months of the proposed pool and spa being constructed, as shown on drawing1213_10.

Reason - to ensure the works to the external face of the north boundary wall are carried out in a reasonable timeframe in the interests of visual amenity and neighbour amenity.

Expiry Date: This permission will cease to have effect on 30/01/2028 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/2024/1849
Property Ref: D003550000
Valid date: 13/11/2024
Location: L'Etoile Du Matin Ruelle Julienne Castel Guernsey GY5 7LD
Proposal: Install raised swimming pool/spa with balustrade to north-west boundary, alter ground levels and erect retaining wall to new patio area to west of property. Remove and replace boundary hedge to east boundary of agricultural land.

Applicant: Mr R & Mrs L Marino

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).

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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 existing hedge being removed along the west boundary of the site, full details of the hedge planting scheme, noting the species, sizes, numbers and densities of plants shall be submitted to and agreed in writing by the Development & Planning Authority.

Reason - To ensure the approved hedging is acceptable in the interests of visual amenity and the landscape character.

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 (October - April) following the removal of the existing hedge. 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 plants of a size and species similar to those originally required to be planted.

Reason - In the interests of visual amenity and the landscape character.

6. The external wall serving the proposed pool and spa along the north boundary shall be finished in smooth render within 2 months of the proposed pool and spa being constructed, as shown on drawing 1213_10.

Reason - to ensure the works to the external face of the north boundary wall are carried out in a reasonable timeframe in the interests of visual amenity and neighbour amenity.

OFFICER'S REPORT

Site Description:

The property comprises a detached dwelling house, known as L'Etoile Du Matin, located on a corner plot between Ruelle Julianne and Rue du Dos D'Ane.

The Rue du Dos D'Ane runs along the south boundary at the site, at a higher level than the application site, and the land slopes steeply away towards the north. A neighbouring property known as Ocean View (formerly Hebden Villa) lies to the north of the application site.

The Ruelle Julianne runs along the east boundary of the site, sloping away from the main road.

The property is located within an Agriculture Priority Area and is Outside of the Centres as defined in the Island Development Plan.

Relevant History:

D003550000 FULL/2022/0669	Change of use of agricultural land to domestic garden (1,048 sq.m.), remove section of hedge and erect earth bank to north-west.	Granted
D003550000 FULL/2018/1792	Demolish existing extension and erect single storey flat roof extension to rear, raise roof height and change roof form to hipped roof, demolish porch and install flat roof canopy (east elevation), alter fenestration and apply external cladding, remove chimney and install flue, install two roof lights (north elevation) and two sun tubes (south elevation).	Granted
D003980000 FULL/2021/1468	Raise and alter roof and extend at ground and first floor levels including first floor balconies to north elevation. Demolish existing and erect replacement garage to south boundary. Erect vehicular access gate. Change of use of agricultural land to domestic garden (270sqm).	Granted

Existing Use(s):

Dwelling-house - Residential Use Class 1.

Brief Description of Development:

Planning permission is sought to install a raised swimming pool/spa with balustrade adjacent to the north-west boundary, alter the ground levels and erect a retaining wall to form a new patio area to the west of the property.

It is also proposed to replace a boundary hedge to the east boundary of the agricultural land.

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

GP8: Design

GP9: Sustainable Development

GP13: Householder development

Representations:

The Authority has received representation from one party objecting to the proposal. Grounds for objection principally relate to the following issues:-

- Overlooking and loss of privacy.
- Impact on landscape character.

Consultations:

None.

Summary of Issues:

- Whether the design, scale, mass, siting, form and materials of the proposed development is acceptable.
- The impact of the development on the character and appearance of the area.
- The impact of the development 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).**

The principal aim of the Island Development Plan is to help maintain and create a socially inclusive, healthy and economically strong Island, while balancing these objectives with the protection and enhancement of Guernsey's built and natural environment and the need to use land wisely.

Policy GP13 is generally supportive of proposals for domestic extensions, alterations and other such householder development, unless material considerations indicate otherwise or conflicts with other Plan policies or the States strategic objectives are identified. These material considerations include the appropriateness of the development in relation to its surroundings in terms of its design, layout, scale, siting and the materials to be used, as well as its likely effect on the character and amenity of the locality in question and its likely effect on the reasonable enjoyment of neighbouring properties

In this instance Policy GP8 (Design) is also relevant in which enables a degree of flexibility and personal choice with regards to design matters given that the site does not comprise a protected building, or is sited in a Conservation Area.

In light of the policy and legal context above, the removal of the section of hedging along the north-boundary towards the rear of the house is regrettable, although is likely to have a negligible effect on both the visual amenity and the landscape character of the area when read in context with the existing house, which features in the foreground, and the hard landscaping along the majority of the northern boundary.

Moreover, the removal of the existing hedge along the west boundary will have a neutral effect on the visual amenity and landscape character of the area once the replacement hedge has matured. Although due to the ambiguity regarding the

replacement hedge along the west boundary of the dwelling. It is considered necessary and reasonable to attach a landscaping condition to the decision.

Given the position and limited visibility of the proposed works, including the raised patio area, pool and spa; the development is not considered to adversely affect visual amenity or the character of the area as the works are confined to the rear of the property, and is screened by hedging that runs along Rue du Dos D'Ane.

The replacement hedging along the west boundary will also negate any views of the development in time, and views towards the rear of the site from Ruelle Julianne are limited. It is however necessary and reasonable to condition that the exterior wall along the north boundary is smooth rendered within a reasonable timeframe in the interests of visual and neighbour amenity.

Careful consideration has been given to the effect of the development on the amenities of neighbouring residents and the letter of representation. The loss of the hedge along the north boundary will undoubtedly lead to further overlooking towards the neighbouring property known as Ocean View, and negatively affect their amenity due to the loss of privacy the hedge currently provides. Although, the area directly overlooked from the proposed pool, spa and patio area will be towards the neighbour's driveway (circa 0m-30m), with oblique angles and more distant views towards the neighbour's front garden (circa 12m-28m), with the dwelling-house beyond (circa 30m). However given that the typical area most sensitive to overlooking involves the dwelling-house itself and the area immediately surrounding it, the distances between the proposed pool/spa and raised patio and the neighbouring property would not be so substantial in this particular case to justify refusal. Consideration has also been given to existing overlooking relationship between the patio area and first floor fenestration of L'Etoile Du Matin and Ocean View, the cumulative effect of overlooking, and that the private garden associated with Ocean View appears to be to the north of the property, and not to the south. This assessment of the most likely private amenity space of Ocean View is consistent with the orthophotographs available to the Authority.

Thought has been given to deferring the application to request a low level privacy screen to reduce the extent of overlooking to the north, although in this case the design proposed features an 'infinity pool and spa', with uninterrupted views of Vazon Bay intended, and therefore such request would undermine the proposal's design.

Overall, the proposal will have a negative effect on the amenities of the neighbours to the north, although the degree of harm would not be significant to reasonably to justify refusal.

All other aspects of the proposal, including the large retaining wall, have been taken into account and are considered acceptable.

Sufficient information has been submitted that has taken into account the criteria of Policy GP9 (Sustainable Development).

All material considerations as set out in the Land Planning and Development (Guernsey) Law, 2005 and the Land and Planning (General Provisions) Ordinance 2007 have been taken into account in the assessment of this application.

Based on the above, the application is considered compliant with the relevant Island Development Plan policies; it is therefore recommended that planning permission be granted, subject to conditions.

Date: 28/01/25

