

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: Change of use of agricultural land to domestic garden (800sqm).

LOCATION: La Petite Hure, Val Au Bourg, St. Martin.

APPLICANT: Mr & Mrs C Whitman

I refer to the application referred to below received as valid on 20/11/2024 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 05/03/2025

Drawing Nos: Proposed Block Plan date stamped 20.11.24

Application Ref: FULL/2024/1875

Property Ref: J011330000

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. The land parcel forms part of a broader area of contiguous agricultural land, extending to the east and south of the site. The land is of a reasonable size and is recognised as having 'excellent' soil quality as set out in the Guernsey Soil and Land Classification Document and therefore could be used for commercial agricultural use on its own or could potentially be amalgamated with the adjoining fields without unacceptable adverse environmental impacts or be used in association with nearby fields in the wider area. It has not been satisfactorily demonstrated that the land cannot positively contribute to the commercial agricultural use of an Agriculture Priority Area or cannot practicably be used for commercial agriculture within an Agriculture Priority Area without unacceptable adverse environmental impacts. Consequently, the proposal would represent the unacceptable loss of agricultural land within the Agriculture Priority Area and therefore is contrary to Policies GP15(c) and OC5(A).

2. The land is part of a large swathe of open and undeveloped land which extends to the east and south of the application site and positively contributes to the amenity of the area and is visible from various public vantage points. The proposal would result in an obvious and considerable incursion beyond the extent of the existing residential

property. The proposal would be at odds with the general landscape character of the area. In addition, the domestication of this land would adversely affect the landscape character, for example through the introduction of domestic paraphernalia. In this case the requirements to ensure the protection of open land and landscape character outweighs the reasonable expectations of the landowner to incorporate additional land into the curtilage of the adjoining dwelling. The proposal is contrary to Policies GP15(a) and GP1.

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/2024/1875
Property Ref: J011330000
Valid date: 20/11/2024
Location: La Petite Hure Val Au Bourg St. Martin Guernsey GY4 6EP
Proposal: Change of use of agricultural land to domestic garden (800sqm).
Applicant: Mr & Mrs C Whitman

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The land parcel forms part of a broader area of contiguous agricultural land, extending to the east and south of the site. The land is of a reasonable size and is recognised as having 'excellent' soil quality as set out in the Guernsey Soil and Land Classification Document and therefore could be used for commercial agricultural use on its own or could potentially be amalgamated with the adjoining fields without unacceptable adverse environmental impacts or be used in association with nearby fields in the wider area. It has not been satisfactorily demonstrated that the land cannot positively contribute to the commercial agricultural use of an Agriculture Priority Area or cannot practicably be used for commercial agriculture within an Agriculture Priority Area without unacceptable adverse environmental impacts. Consequently, the proposal would represent the unacceptable loss of agricultural land within the Agriculture Priority Area and therefore is contrary to Policies GP15(c) and OC5(A).

2. The land is part of a large swathe of open and undeveloped land which extends to the east and south of the application site and positively contributes to the amenity of the area and is visible from various public vantage points. The proposal would result in an obvious and considerable incursion beyond the extent of the existing residential property. The proposal would be at odds with the general landscape character of the area. In addition, the domestication of this land would adversely affect the landscape character, for example through the introduction of domestic paraphernalia. In this case the requirements to ensure the protection of open land and landscape character outweighs the reasonable expectations of the landowner to incorporate additional land into the curtilage of the adjoining dwelling. The proposal is contrary to Policies GP15(a) and GP1.

OFFICER'S REPORT

Site Description:

The property known as 'La Petite Hure' is a mid-twentieth century bungalow, which sits in the middle of the plot. The dwelling is located Outside of the Centres as defined in the Island Development Plan Proposals Map.

Val au Bourg lane comes down from the north, and winds around the west and south of the property, forming the roadside boundary. The vehicular access lies to the north-west of the site.

The land falls in a north-south direction. The neighbouring dwelling to the north (some 50 metres away) is at a slightly higher level, with neighbouring properties to the south and west at a lower level.

The agricultural field to the east of the dwelling, the subject of this application, also falls under the same ownership. The agricultural field lies within an Agriculture Priority Area as defined in the Island Development Plan Proposals Map.

Relevant History:

FULL/2025/0053	Erect single storey extension with raised terrace area and rooflight to south (rear) elevation, erect single storey extension and rooflights to north (front) elevation.	Pending
FULL/2024/2007	Remove section of earth bank to widen vehicle access and erect gates to west (roadside) boundary.	Pending
FULL/2020/2368	Raise roof ridge height and extend and alter at ground floor level and create 1st floor accommodation, install field gate and widen vehicular access.	Granted
FULL/2015/2405	Demolish existing garage, glasshouse and coal store and erect outbuilding to accommodate ground floor double garage and first floor studio with balcony (rear of the property)	Granted
FULL/2012/2209	Demolish existing garage, glasshouse and coal store and erect a double garage / studio including glazed gable end and balcony at first floor level.	Granted

Existing Use(s):

Residential use class 1 – dwelling-house
Agriculture use class 28 – field.

Brief Description of Development:

Planning permission is sought to change the use of a parcel of agricultural land measuring approximately 800sqm, to domestic garden associated with the dwelling.

The application is accompanied by a letter from the applicant dated 4th November 2024 setting out comments in support of the application.

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

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

Policy GP1: Landscape Character and Open Land

Policy GP15: Creation and Extension of Curtilage

Strategy for Nature (2020) Supplementary Planning Guidance

Representations:

The Authority has received two representations from two parties objecting to the proposal. Grounds for objection principally relate to the following issues:-

- Display of site notice.
- Accessibility of supporting information online relating to planning application.
- Unclear whether the application seeks to legalise the outbuildings.
- Precursor for future development. Planning conditions should be applied to such decision.
- No concerns over the land being used as garden, provided there is no building development to follow.
- The land should be preserved given its siting close to the South Coast cliffs and adjacent agricultural land.

Consultations:

None.

Summary of Issues:

The main issues in deciding this application are centred on:

1. The loss of agricultural land within the Agriculture Priority Area (APA).
2. The impact of the development on the landscape character and openness of the area.
3. Whether the biodiversity enhancements are sufficient to address the requirements of the Strategy for Nature (2020).

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).

- 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 proposal to change the use of the land to a domestic use falls to be considered principally under Policies OC5(A), GP15 and GP1 of the Island Development Plan.

The site is not within an Area of Biodiversity Importance.

No changes to the existing boundaries are proposed and the proposed use of the land for domestic purposes would have no significant adverse effect on the amenities of neighbouring residents.

The application is required to demonstrate a biodiversity enhancement scheme to accompany the application to take into account the Strategy for Nature (2020).

Loss of agricultural land within the Agriculture Priority Area

The Island Development Plan 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.

Whilst the policy approach is to generally support development for agricultural purposes in the Agriculture Priority Areas, 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.

In order to protect Guernsey's best agricultural land, where appropriate, proposals for development which would result in the loss of an existing farmstead or agricultural holding in the Agriculture Priority Areas will only be supported where it is demonstrated that the farmstead, building or land is no longer required for agricultural purposes and

any proposed new use accords with the other relevant policies of the Island Development Plan. The policies place the onus on the applicant to demonstrate that this is the case.

The Authority has published non-exhaustive guidance on matters that could be considered for such proposals. It is noted that *'When assessing if a particular site or land parcel can make a positive contribution to the commercial agricultural use of an identified Agriculture Priority Area, the following matters could be taken into account:*

- *What the requirements of the agricultural industry are at the time;*
- *The condition of the land (e.g. the grade and depth of the soil, any contamination, whether it is able to be used for agriculture or if not what may be required to make it available for cultivation or grazing);*
- *Whether the land can be used for agriculture without adverse environmental impacts;*
- *The size of the site/piece of land;*
- *How the site/piece of land relates to existing agricultural holdings;*
- *Access;*
- *Topography (including slope, gradient, etc);*
- *Flooding/Drainage;*
- *The nature of the proposed use (will the proposed use allow the long-term use of the land for agriculture to remain)."*

The field in question is square in shape and adjoins other parcels of agricultural land to the east and south, all recognised as falling within an Agriculture Priority Area. The field in question covers an area of approximately 2,160sqm, although the application seeks to change the use of 800sqm, leaving agricultural land to the east and south of the field. The applicant's main points in support of the application are set out in their letter dated 4th November 2024.

- The 800sqm already houses a shed which existed when purchasing the property, some 11 years ago.
- This visually looks better as visual and physical access to this land for our own uses;
- This provides a more appropriate east facing visual access to the land from our dwelling;
- It follows the symmetry of our existing south boundary feature and our north neighbour's east boundary feature;
- All existing boundary and mid-boundary features and trees are retained;
- It allows a suitable direct area of about 200m² to apply a biodiversity net gain or pollinator area under the Strategy for Nature 2020 within the suggested curtilage;
- This also (and additionally) allows a further area of 1,000m² outside of the curtilage to apply a biodiversity net gain, 'wilding' and/or pollinator area under the Strategy for Nature 2020 outside of the suggested curtilage;
- The land stops at the back of the existing and long serving stable and land and up to the developed treelined boundary that splits our land;
- The retained agricultural land shape keeps a usable form;
- All existing boundary features and trees are retained and we will apply good longevity maintenance; and

- There is no access to any of the land from the east as Rue Tonnelle is on foot only and with no openings in the east boundary. Therefore, we will introduce a more useable access.
- In short, this area of land is land locked, has historical uses, and provides us with good physical and visual access and with no loss to commercial agriculture.

Limited information has been submitted by the applicant to seek to demonstrate that the land could not be used for commercial agriculture, as required by the relevant Policy. It is also noted that none of the points made have been substantiated by independent advice and that no justification has been provided regarding the condition of the land, such as regarding soil quality, topography, flooding/drainage or what the requirements of the agricultural industry are at this time as set out in the published guidance.

The land features a gentle gradient, decreasing in a north-south and west-east direction. The field is served by the vehicle access serving the property (La Petite Hure), and there is currently no direct access onto the field. It is noted in the applicant's letter that there is no access from the east along Rue Tonnelle.

The agricultural land quality is regarded as 'excellent' according to the Guernsey Soil and Land Classification map commissioned in 1988. It is therefore considered that this area of agricultural land should be retained for agricultural purposes unless there is convincing evidence to demonstrate otherwise.

The field covers a total area of approximately 2,160sqm, which is comparable to the size of other fields in the immediate locality, particularly to the east and south, and other fields in the wider area of the Agriculture Priority Area. The proposal would see the total size of the field reduce by approximately 40%.

In addition, the site has the potential to create a limited sized opening in the south boundary which would physically link and create a much larger parcel of agricultural land that could also be used on a commercial basis and potentially make a more meaningful and viable contribution to the APA. This in turn is likely to have a minor environmental impact and would be similar to other punctuated earthbanks seen across the Island which often provide the connectivity of agricultural fields and holdings.

The field is already linked to the field to the east, which is also within the applicant's ownership.

The land parcel forms part of a broader area of contiguous agricultural land, extending to the east and south of the site. The land is of a reasonable size and is recognised as having 'excellent' soil quality as set out in the Guernsey Soil and Land Classification Document and therefore could be used for commercial agricultural use on its own or could potentially be amalgamated with the adjoining fields without unacceptable adverse environmental impacts or be used in association with nearby fields in the wider area.

It has not been satisfactorily demonstrated that the land cannot positively contribute to the commercial agricultural use of an Agriculture Priority Area or cannot practicably be

used for commercial agriculture within an Agriculture Priority Area without unacceptable adverse environmental impacts. Consequently, the proposal would represent the unacceptable loss of agricultural land within the Agriculture Priority Area and therefore is contrary to Policies GP15(c) and OC5(A).

Impact on the landscape character and openness of the area

Paragraph 19.16.3 of Policy GP15 refers to the intentions of the Strategic Land Use Plan, where it is considered that whilst the domestication of the landscape generally runs counter to the desire to preserve the local character of our landscapes, *“minor shifts in the management style of small parcels of land not forming part of larger areas of open land and not visually prominent will not fundamentally alter the character of the Island.”*

Paragraph 19.16.7 acknowledges that:

“competition for land can occur when a residential use adjoins an open area of land and the householder would like to incorporate some of that open land within the domestic curtilage of the residential property” and that “in these instances there will be 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. An assessment of proposals will take into account the impact on the wider areas of open landscape and Agriculture Priority Area.”

Paragraph 19.16.8 states that:

“the character and openness of the landscape can be affected by the introduction or intensification of ancillary fixtures and features, such as car parking, bin storage areas or boundary treatments. It can also change as a result of physical change to landscape features, such as hedges or earth banks. Care should be taken to ensure that proposals to create or extend a curtilage do not result in the removal or introduction of features that would detract from the character or distinctiveness of an area.”

With regards to the impact on the landscape character and openness of the area, Policy GP1 also requires consideration as to whether the proposal would result in the unnecessary loss of open and undeveloped land, which would have an unacceptable impact on the open landscape character of the area; whether the proposal respects the landscape character type within which it is set; and whether the proposal would result in the unacceptable loss of distinctive features that contribute to the wider landscape character and local distinctiveness of the area.

Paragraph 19.2.12 of Policy GP1 sets out that:

“care will be taken to ensure that development does not result in the unnecessary loss of open space or erosion of the character of the particular landscape of the locality concerned”. It goes on to state that “the value of the landscape and open and undeveloped land will be required to be assessed in a wider context rather than in terms of the impact development might have on an individual site. Development that affects landscape character or distinctive natural or built features will be considered in the wider context of the landscape

value of a particular locality. In assessing development proposals, the Authority will balance the character of the locality concerned with the aspirations for development as set out above."

With regards to the loss of distinctive features that contribute to the wider landscape character and the local distinctiveness of the area, paragraph 19.2.5 sets out that *"an important contribution to the landscape character of an area is made by the particular features within them. Such distinctive features include boundary treatments, historic field patterns, trees and natural landscaping and are important elements in defining an area's local distinctness."*

In this case, the land the subject of this application is located within the Upland Plateau landscape as identified in Annex V of the Island Development Plan and the character of the area is most akin to the Western Plateau subzone.

Annex V describes the characteristics of the Upland Plateau as:

"is a web of hedges, banks, hedgerow trees and tree-lined lanes, which enclose numerous small pastures. Interspersed through this field pattern are a series of small scattered settlements, usually in lower sheltered ground and surrounded by mature trees...In places, former green lanes have been upgraded to roads, but even the main roads are often no more than 14ft wide. A number of pastures have been replaced by glasshouses and residential development but the landscape fabric of hedges, banks and tree-lined lanes generally keeps views short, except in the more open west".

Annex V.29 describes the characteristics of the Western Plateau as:

"The Western Plateau is generally less affected by mid-to-late twentieth century development. The landscape consists of a series of broad erosion platforms stepping gradually down to the west and is much dissected by the deeply cut valleys. Open fields, divided by low earth banks, are interspersed with established farmsteads surrounded by mature trees. The open farmland on higher ground provides views out to the Western Bays and across the sub-zones from one church spire to the next."

The agricultural land provides a visual break in development patterns to the north and west of the site and is considered to form part of a larger swathe of open and undeveloped land which extends to the east and south of the application site and positively contributes to the amenity of the area. The general openness and undeveloped nature of the site positively contributes to the amenity of the area and is visible from various public vantage points.

The proposal would result in an obvious and considerable incursion beyond the extent of the existing residential property. The proposal would be at odds with the general landscape character of the area. In addition, the domestication of this land would adversely affect the landscape character, for example through the introduction of domestic paraphernalia.

Whilst it is recognised that an outbuilding and hard standing exists on agricultural land, this does not justify the change of use of land in an open and undeveloped setting, thus having a further detrimental effect on the wider open landscape character and appearance of the surrounding area.

In this case the requirements to ensure the protection of open land and landscape character outweighs the reasonable expectations of the landowner to incorporate additional land into the curtilage of the adjoining dwelling. The proposal is contrary to Policies GP15(a) and GP1.

Given that the principle of the proposal is unacceptable further information regarding the proposed biodiversity enhancements has not been sought.

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 considered in the assessment of this application.

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: 25/02/2025