

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 (2,076 sq m) and create pond to north of site.

LOCATION: Kylesku, Houmtel Lane, Vale.

APPLICANT: Mr & Mrs P Martin

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: 24/07/2025

This notification of grant of permission refers solely to the proposals referred to above as described in your application received as valid on 27/05/2025 and the drawings referred to below. This grant of permission is subject to the following conditions:-

Drawing Nos: Jason Hobbs Architectural Services Ltd: 6530/A/1 & Environment Guernsey Ltd Biodiversity Statement Dated May 2025.

Application Ref: FULL/2025/0872

Property Ref: C014400000

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. Please note this is one condition with multiple sub-sections:

(i) No development shall commence on site (including the breaking of ground or any site works in relation to the creation of the pond) and the land the subject of this application will not be recognised as forming part of the domestic curtilage associated with the property currently known as Kylesku until there has been submitted to and approved in writing by the Authority:

(a) A desktop study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Land Contamination Risk Management (LCRM) and BS10175:2001+A2:2017 - Investigation of Potentially Contaminated Sites - Code of Practice;

and unless otherwise agreed in writing by the Authority,

(b) a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS10175;

and, unless otherwise agreed in writing by the Authority,

(c) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include nomination of a competent person to oversee the implementation of the works.

(ii) If determined to be required, the development hereby permitted shall not be occupied or brought into use until there has been submitted to the Authority

verification by a competent person approved under the provisions of subsection (i)(c) of this condition that any remediation scheme required and approved under the provisions of subsection (i)(c) of this condition has been implemented fully in accordance with the approved details (unless varied with the written agreement of the Authority in advance of implementation). Unless otherwise agreed in writing by the Authority such verification shall comprise:

- a) as built drawings of the implemented scheme;
- b) photographs of the remediation works in progress;
- c) certificates demonstrating that imported and/or material left in situ is free from contamination.

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under subsection (i)(c) of this condition.

To make sure that the site, when developed, is free from contamination, in the interests of public health and safety in accordance with Policy GP17 of the Island Development Plan.

5. The approved landscaping scheme as detailed in the approved Environment Guernsey Ltd Biodiversity Statement dated May 2025 shall be fully completed in accordance with those details in the first planting season following the discharge of condition 4 of this permission, or in accordance with a programme previously agreed in writing by the Authority. 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.

Expiry Date: This permission will cease to have effect on 23/07/2028 unless development is commenced by that date.

ADVICE AND OTHER REMARKS:-

With reference to condition 4 a desktop study shall be the very minimum standard accepted. Pending the results of the desktop study, the applicant may have to satisfy the requirements of criteria (b) and (c) of that condition, however, this will all be confirmed in writing.

The phased risk assessment should be carried out also in accordance with the procedural guidance and UK policy.

The site is known to be or suspected to be contaminated. Please be aware that the

responsibility for the safe development and secure occupancy of the site rests with the developer.

It is strongly recommended that in submitting details in accordance with the above condition that the applicant has reference to Land Contamination risk management available at <https://www.gov.uk/guidance/land-contamination-risk-management>.

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/2025/0872
Property Ref: C014400000
Valid date: 27/05/2025
Location: Kylesku Houmtel Lane Vale Guernsey GY3 5LG
Proposal: Change of use of agricultural land to domestic garden (2,076 sq m) and create pond to north of site.

Applicant: Mr & Mrs P Martin

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. Please note this is one condition with multiple sub-sections:

(i) No development shall commence on site (including the breaking of ground or any

site works in relation to the creation of the pond) and the land the subject of this application will not be recognised as forming part of the domestic curtilage associated with the property currently known as Kylesku until there has been submitted to and approved in writing by the Authority:

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(c) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include nomination of a competent person to oversee the implementation of the works.

(ii) If determined to be required, the development hereby permitted shall not be occupied or brought into use until there has been submitted to the Authority verification by a competent person approved under the provisions of subsection (i)(c) of this condition that any remediation scheme required and approved under the provisions of subsection (i)(c) of this condition has been implemented fully in accordance with the approved details (unless varied with the written agreement of the Authority in advance of implementation). Unless otherwise agreed in writing by the Authority such verification shall comprise:

- a) as built drawings of the implemented scheme;
- b) photographs of the remediation works in progress;
- c) certificates demonstrating that imported and/or material left in situ is free from contamination.

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under subsection (i)(c) of this condition.

To make sure that the site, when developed, is free from contamination, in the interests of public health and safety in accordance with Policy GP17 of the Island Development Plan.

5. The approved landscaping scheme as detailed in the approved Environment Guernsey Ltd Biodiversity Statement dated May 2025 shall be fully completed in

accordance with those details in the first planting season following the discharge of condition 4 of this permission, or in accordance with a programme previously agreed in writing by the Authority. 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.

INFORMATIVES

With reference to condition 4 a desktop study shall be the very minimum standard accepted. Pending the results of the desktop study, the applicant may have to satisfy the requirements of criteria (b) and (c) of that condition, however, this will all be confirmed in writing.

The phased risk assessment should be carried out also in accordance with the procedural guidance and UK policy.

The site is known to be or suspected to be contaminated. Please be aware that the responsibility for the safe development and secure occupancy of the site rests with the developer.

It is strongly recommended that in submitting details in accordance with the above condition that the applicant has reference to Land Contamination risk management available at <https://www.gov.uk/guidance/land-contamination-risk-management>.

OFFICER'S REPORT

Brief Description of the site:

Kylesku, Houmtel Lane is a detached one and a half-storey dwelling with hardstanding/parking to the front and eastern side of the property. A glasshouse exists to the north of the property. The land to the west of the site is the subject of this application and La Mazotte runs along part of the west site boundary whilst an access drive to a dwelling runs along the north site boundary. Residential development surrounds the site with the exception of some open land to the north of La Mazotte.

The site is located Outside of the Centres as designated in the Island Development Plan.

Relevant History:

The curtilage/garden of Kylesku was defined in 2022.

Existing Use(s):

01 dwellinghouse

28 agriculture

Assessment: *(Tick as appropriate)*

no representation

x
x
x

accords with policy

within curtilage

design acceptable

visual amenity acceptable

no material neighbour impact

traffic not affected

x
x
x

Policies considered most relevant:

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

GP1: Landscape Character and Open Land

GP8: Design

GP15: Creation and Extension of Curtilage

Consultation:

Office of Environmental Health and Pollution Regulation – have reviewed the proposed plans to change the use of agricultural land to a domestic garden and create a pond to the north of the above site. Concerns exist regarding the proposals due to potential land contamination on the site.

Using the States' Digimap system and historical records, OEHPR have confirmed that glasshouses were previously located both on the site and nearby. While part of the site has already been developed for residential use, it is unclear from the available records whether any contaminated land surveys were carried out during earlier phases of development to assess risks arising from historic glasshouse use. In the absence of this information, there

The proposed planting of fruit trees introduces the potential for future human consumption of produce grown on the site. Given the site's historic use for horticulture, and the associated risk of residual contamination from substances such as pesticides, heavy metals, and hydrocarbons, there is a potential health risk if contaminants are taken up by fruit-bearing plants. In the absence of a detailed contamination risk assessment, it is not possible to confirm the safety of growing edible crops on this land. A condition is therefore necessary to ensure a suitable

investigation is carried out and that any risks are appropriately mitigated before fruit trees or other edible plants are introduced to the site.

Additionally, the excavation and introduction of a pond may disturb previously buried contaminants associated with historic glasshouse use (including metals, hydrocarbons, and pesticides). The presence of standing water creates a new potential pathway for these contaminants to migrate through soil and groundwater, increasing the risk of wider environmental harm and potential exposure to site users. Again, a condition is therefore necessary to ensure that appropriate land contamination assessments and mitigation measures are undertaken prior to pond construction, to protect human health and the surrounding environment.

Further clarification was provided via email:

Whilst we appreciate that fruit trees can be planted at any time, as these are shown on the plans, we have a duty to raise our concerns about this in relation to public health. These are mentioned in my letter as we do not feel that we can consent to this without further investigation, as this presents a risk. Should the applicant want to remove these from the plans and declare no fruit trees or fruit bearing plants for human consumption are to be planted, this may change the recommendation. However...

The full contaminated land condition is also recommended as introducing a pond on to any part of the land creates potential complex pollutant pathways for any contamination present to migrate through soil and groundwater, which could affect a significant area of the site, not just the immediate location of the proposed pond.

Therefore, in this case, we would not change our recommendation, and we would recommend that the full land contamination condition is applied to the whole site being changed from agricultural use to domestic.

Conclusion/Brief comment:

The IDP sets out that there is support for the loss of an existing farmstead, agricultural building or land where the new use accords other relevant planning policies in the Island Development Plan. This provides a policy gateway for the change of use proposed.

The area of land is well associated with the existing dwelling and is not located within an Agriculture Priority Area or Area of Biodiversity Importance. The west, south and north boundaries of the site are clearly defined and mostly form the roadside, The surrounding land is in separate ownership to Kylesku and the agricultural land that is the subject of this application.

The application does propose to remove the established boundary hedges to the west and north due to the poor condition of this boundary hedging, in connection with the change of use of the land and to contribute towards biodiversity

enhancements. The replacement boundary hedge will not result in harm to the open landscape concerned nor the unacceptable loss of a distinctive boundary feature in line with the aims of GP1 and GP8 of the IDP.

The Island Development Plan recognises there is a balance between protecting open and agricultural land and other legitimate uses Outside of the Centres. The designation of the Agriculture Priority Area represents the Island's most valuable agricultural area. In this instance, given that the land is outside of the Agriculture Priority Area, the balance would not be towards protecting this land for agricultural purposes.

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 that adequate boundary screening is proposed, the proposed change of use would not of itself have an adverse impact on or affect their amenities.

It is considered that the change of use would accord with Policy GP15 a)- e) and provided that the proposal accords with all other relevant policies of the IDP, the principle of change of use to domestic curtilage is considered to be acceptable in this particular location.

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

As domestic garden normal householder exemption rights would apply and it is reasonable to consider whether it is necessary to remove any householder exemption rights in this case. Much of the land would sit between the side/west elevation of the dwelling and the highway, La Mazotte and so many householder exemption rights would not apply. In this case therefore it is not necessary to remove any householder exemption rights in relation to the change of use of land proposed.

The matter of land contamination has been highlighted by the Office of Environmental Health and Pollution Regulation which could be present due to the previous use of the land and the nature of planting proposed to satisfy the Strategy for Nature Supplementary Planning Guidance in relation to biodiversity enhancements associated with applications for the change of use of agricultural land to domestic garden. In view of the proposed engineering operation to form a pond and the associated impacts outlined by Environmental Health it is considered necessary to impose the land contamination condition as recommended.

The scheme proposes the replacement of boundary landscaping, the creation of a pond and the planting of trees, identified on the plans as fruit trees. The level of planting is considered proportionate to the change of use of land proposed and in light of the requirement for a full land contamination condition to be imposed, as

outlined above, there is no requirement for the application to be deferred in order for reference to consumable fruit trees/plants to be omitted from the scheme.

Ordinarily, applications for the change of use of agricultural land to domestic garden would require the approved landscaping scheme to be implemented in full by the end of the first planting season following the grant of permission. In this case, that would be 31/03/2026 however, in light of the requirements associated with the matter of land contamination it is considered reasonable to allow the planting to be carried out in the first planting season following the discharge of the condition relating to land contamination.

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 that planning permission is granted for the change of use of land proposed.

Recommendation:

Grant with Conditions



Date: 24/07/2025

