

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 (125sqm).
Remove section of hedge and erect earth bank to north west boundary.

LOCATION: L'Etoile Du Matin, Rue Du Dos D`Ane, Castel.

APPLICANT: Mr R & Mrs L Marino

I refer to the application referred to below received as valid on 17/06/2025 regarding the above proposals as described more fully in the application and drawings referred to below.

Date of refusal of permission: 24/09/2025

Drawing Nos: SOUP Architects Ltd: 503_GP-010

Application Ref: FULL/2025/0924

Property Ref: D003550000+D00061B000

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 subject of this application is within an Agriculture Priority Area (APA), the proposed change of use of agricultural land to enlarge the domestic curtilage associated with the property known as L'Etoile Du Matin has not been justified in this case. The proposal, if permitted, would result in the unacceptable loss of agricultural land within the APA and would not, therefore, meet the requirements of Policies GP15 (c) or OC5(A) of the adopted Island Development Plan.

2. Encroaching into the agricultural field in the manner proposed would alter the landscape character of the area when taking into account the spatial relationship of well-defined domestic curtilages to the north of the application site, fronting onto Ruelle Julienne. The former hedgerow, which once defined the west boundary of the application site was consistent with the edge of ribbon development along Ruelle Julienne. Extending the domestic curtilage in the manner proposed would alter and interrupt the field pattern and thus have a detrimental effect on the landscape character as defined in Annex V: Landscape Character of the Island Development Plan.

Furthermore erecting a timber fence across the entire width of the application site (north-south) would introduce a discordant element into the rural environment and thus result in unacceptable harm to the landscape character and openness of the area.

In this case the requirements to ensure the protection of open and undeveloped land and the landscape character outweigh the reasonable aspirations of the landowner to incorporate additional land into the curtilage of the dwelling. The proposal would therefore be contrary to Policies GP1 and GP15 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/2025/0924
Property Ref: D003550000+D00061B000
Valid date: 17/06/2025
Location: L'Etoile Du Matin Rue Du Dos D`Ane Castel Guernsey GY5 7LD
Proposal: Change of use of agricultural land to domestic garden (125sqm).
Remove section of hedge and erect earth bank to north west boundary.
Applicant: Mr R & Mrs L Marino

RECOMMENDATION - Refusal with Reasons:

REASONS FOR REFUSAL

1. The land subject of this application is within an Agriculture Priority Area (APA), the proposed change of use of agricultural land to enlarge the domestic curtilage associated with the property known as L'Etoile Du Matin has not been justified in this case. The proposal, if permitted, would result in the unacceptable loss of agricultural land within the APA and would not, therefore, meet the requirements of Policies GP15 (c) or OC5(A) of the adopted Island Development Plan.

2. Encroaching into the agricultural field in the manner proposed would alter the landscape character of the area when taking into account the spatial relationship of well-defined domestic curtilages to the north of the application site, fronting onto Ruelle Julianne. The former hedgerow, which once defined the west boundary of the application site was consistent with the edge of ribbon development along Ruelle Julianne. Extending the domestic curtilage in the manner proposed would alter and interrupt the field pattern and thus have a detrimental effect on the landscape character as defined in Annex V: Landscape Character of the Island Development Plan.

Furthermore erecting a timber fence across the entire width of the application site (north-south) would introduce a discordant element into the rural environment and thus result in unacceptable harm to the landscape character and openness of the area.

In this case the requirements to ensure the protection of open and undeveloped land and the landscape character outweigh the reasonable aspirations of the landowner to incorporate additional land into the curtilage of the dwelling. The proposal would therefore be contrary to Policies GP1 and GP15 of the adopted Island Development Plan.

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 property currently benefits from garden to the west of the dwelling and to the south, adjacent to Rue Du Dos D'Ane and with off-road parking to the east.

Rue du Dos D'Ane runs along the south boundary of the site, at a higher level than the application site, and the land slopes steeply away towards the north. Ruelle Julianne runs along the east boundary of the site, sloping away from the main road.

A neighbouring property known as Ocean View (formerly Hebden Villa) lies to the north of the application site.

A field lies immediately to the west of the dwelling-house. Part of the field is under the applicant's ownership, with the most western part of the field under separate ownership. No obvious boundary treatment appears to demarcate between the different sections or ownership of the field.

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

Following a recent site visit to the property it is apparent that unauthorised development has occurred on the agricultural land in question, in terms of altering ground levels and boundary treatments.

Relevant History:

Application site - D003550000

FULL/2025/0527	Remove section of wall and hedge to create temporary vehicle access to south boundary.	Granted
FULL/2024/1849	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.	Granted
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.	Refused

Neighbour to north

FULL/2021/1468 D003980000	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
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Existing Use(s):

Residential – dwelling-house
Agricultural land - field

Brief Description of Development:

Planning permission is sought for a change of use of agricultural land to domestic garden. The area in question measures approximately 125sqm.

Amongst other works, planning permission was recently granted under application FULL/2024/1849 to remove and replace a boundary hedge which formed the boundary between the recognised domestic curtilage and the agricultural field to the west. This application seeks to remove the hedge permanently and to partially erect a hedge bank along the west boundary of the proposed extension of curtilage, together with a timber fence and gate. The new hedge bank is not continuous.

The application has been accompanied by a Design Statement by the agent that seeks to address the requirements of Policy GP15: Creation and Extension of Curtilage. The Statement outlines how the proposal meets Policy OC5(A), GP15 and GP1.

With regard to biodiversity enhancements the submission refers to the creation of a new earth bank with a native hedgerow as well as wildflower meadow planting.

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 2 representations from two parties objecting to the proposal. 1 further letter which includes a copy of a letter sent from the objector to the applicant has also been received. Grounds for objection principally relate to the following issues:

- Retrospective nature of the works undertaken, including the removal of the earthbank.
- Subsidence of land.
- Boundary issues and ownership.
- Works carried out have changed the landscape of the field and should revert to a level piece of land.

Consultations:

None.

Summary of Issues:

The key issues in this case relate to the loss of agricultural land within the Agriculture Priority Area, and the impact of the change of use of land on the landscape character and openness of the area.

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

The loss of agricultural land within the Agriculture Priority Area:

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).

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 (Policy OC5A).

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.

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 Authority has published non-exhaustive guidance on matters that 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 Design Statement argues that the site has not been farmed in recent years and the land in question is very small (125sqm) and therefore has no realistic prospect of contributing to any viable agricultural holding. It is noted that *"This proposal has been carefully limited to a small, proportionate area immediately adjoining the homeowner's existing garden, ensuring that there is no fragmentation of a larger agricultural land parcel, or any prejudice to adjacent farmland.* Limited information has been submitted by the agent to demonstrate that the land could not be used for commercial agriculture and not all of the points set out above have been addressed.

The land is predominantly flat with a suitable access to the south-west corner of the field. Whilst the field itself is of a relatively modest size, it could be used for commercial agricultural use in conjunction with a group of nearby agricultural fields to the north, also within the APA.

Whilst it is recognised that decreasing the area of agricultural land by approximately 125sqm is relatively small in comparison to the remainder of the field, it would, if approved, reduce the capability of the remaining area of agricultural land from being used for commercial purposes. The agent has not provided compelling justification for its loss, which could have included comments from an independent agricultural expert. It is therefore considered that without adequate justification, retaining the field in its original size, increases the likelihood of positively contributing the agricultural industry, now or in the future.

Whilst it could be argued that losing 125sqm of land within the APA would not in itself have a significant impact on the Agricultural Priority Area or agricultural industry as a whole, there would be a cumulative significant impact should many small areas of APA land, such as this, be converted to garden. This would then undermine the objectives of the SLUP and IDP to protect the most valuable areas of agricultural land.

The land, within the Agriculture Priority Area, along with areas of undeveloped agricultural land to the west of the proposed extension of curtilage, and to the north, is considered capable of positively contributing to the commercial function of the APA, particularly having regard to the dairy farming industry.

In summary, the level of information submitted does not provide compelling evidence to demonstrate 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, and therefore the proposal does not meet the aims of Policy GP15 c. or OC5(A).

The impact of the change of use of land on the landscape character and openness of the area.

It is recognised that an extension of domestic curtilage must be balanced between ensuring the reasonable protection of open land, the requirements of the agricultural industry, and the reasonable expectations of landowners to add new or additional land to the curtilage around a building (Paragraph 19.16.7 of Policy GP15).

The character and openness of the landscape can change because of physical change to landscape features, such as hedges or earth banks. Policy GP15 sets out that the repositioning of established features, such as those contributing to a field pattern, earth banks or other landscape features, should be avoided where possible.

Paragraph 19.16.8 of Policy GP15 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”.

In this case, the land the subject of this application is located within an Escarpment landscape character as identified in Annex V of the Island Development Plan. The escarpment is divided into the West Coast Scarp, and Inland Scarp. This site forms part of the West Coast Scarp.

The land which forms the subject of this application is a piece of agricultural land which, although has a steep bank to the south (La Conchee), had, prior to retrospective works having taken place, a more limited change in level across the site to the north.

The application site is bounded to the north and south by a swathe of open and undeveloped land that, collectively, is visible from Rue Du Dos D'Ane, looking northwards out towards Vazon Bay. The site itself, given its sunken nature, is not highly visible from Rue du Dos D'Ane to the south, but views are possible from the north.

A new hedgebank is proposed to partially demarcate between the proposed extension of domestic garden and the agricultural field. The hedgebank proposed does not extend across the entire width of the field.

Encroaching into the agricultural field in the manner proposed would alter the landscape character of the area when considering the collective spatial relationship of properties, and their boundaries, fronting onto Ruelle Julienne, which appear to have well-defined domestic curtilages to the north of the application site. This defined boundary was replicated at the application site by the original west boundary hedge which was positioned almost in line with the western edge of the domestic curtilages associated with Ocean View and Courtils à l'Or beyond. This defined boundary was to be retained through the previous planning consent (FULL/2024/1849) for a replacement hedgebank and consequently, the west boundary of the application site was consistent with the western edge of ribbon development along Ruelle Julienne.

However, extending the domestic curtilage in the manner proposed would alter and interrupt the field pattern and thus have a detrimental effect on the wider landscape character. The former, linear west boundary treatment would be replaced by an irregular shaped field boundary therefore negatively affecting the visual and spatial pattern of development.

In the Design Statement, reference is made to the neighbouring property to the north with regards to application FULL/2021/1468 which, among other works, granted a change of use of agricultural land to domestic garden. However, changes were sought to that original submission, reducing the size of proposed domestic curtilage to an area north of the neighbouring property Ocean View, and not westwards. The importance of the defined western boundary was noted in the officer report as part of application FULL/2021/1468, which substantiates the value and importance of these field boundaries in this locality and the impacts that such changes can have on the landscape character of the area.

Furthermore, the proposal also includes a timber fence and gate along the entire width of the field, which is out of character with the surrounding rural landscape. Whilst demarcation between two land uses is often recommended to prevent encroachment onto agricultural land, this type of demarcation in the form of a fence would have a detrimental effect. This discordant feature in the landscape is not considered to respect the rural characteristics of the wider area, contrary to Policy GP15(d).

Overall, the proposed incursion onto agricultural land associated with the change of use would alter the field pattern and landscape character when viewed in context with the wider area, both in terms of its visual and spatial impact.

In this case the requirements to ensure the protection of open land and landscape character outweigh 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 of the Island Development Plan.

Overall, the scheme does not comply with Policies OC5(A), GP1 and GP15 and is therefore recommended for refusal.

Following a site visit to the property, it was observed that the land levels of the field have been altered without planning permission, presumably to access the rear of the site as part of works approved under application FULL/2024/1849. Nevertheless, these works require planning permission as they constitute operational development. This will be pursued separately.

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 impact on Protected Buildings, Trees or on SSS's.

For the reasons set out within this report, it is recommended that the application be refused planning permission.

Date: 19/09/2025

