

*Clos du Gain
Rue du Gain
St. Pierre du Bois
Guernsey
GY7 9BS*

Our Ref: CAF/CduG.

The President
Development and Planning Authority
Sir Charles Frossard House
La Charroterie
St Peter Port
Guernsey
GY1 1FH

Attention - Planning Services Department.

22nd August 2021.

Dear Sir,

Re: Proposed extension to the existing domestic curtilage associated with the recently completed extensions, alterations and refurbishment at ‘Clos du Gain’, Rue du Gain, St. Pierre du Bois, Guernsey for Mr. & Mrs. C. Foulds.

Please find enclosed four copies of Block Plan Drawing number CduG-BP-01 in connection with the above proposed extension to the existing domestic curtilage associated with the recently completed extensions, alterations and refurbishment of ‘Clos du Gain’, Rue du Gain, St. Pierre du Bois, Guernsey, which we would be pleased if your planning staff and Committee could consider on our clients (Mr. & Mrs. C. Foulds) behalf for ‘Planning Permission’ approval, in connection with the above.

We also enclose two copies of your Development and Planning Authority / Planning Services Department Application for Planning Permission Form both duly completed and signed.

Please also find enclosed a cheque made payable to the States of Guernsey in the sum of £390.00 (Three Hundred and Ninety Pounds, Zero Pence) on our clients (Mr. & Mrs. C. Foulds) behalf in respect to the fee for the application under Category 10A of the Development and Planning Authority / Planning Services Department Fees for Planning Applications being processed by the Development and Planning Authority / Planning Services Department / Planning Department for ‘Planning Permission’ approval, in connection with the above.

The proposals as shown on the enclosed Block Plan Drawing number CduG-BP-01 are as follows:-

- i. Proposed extension to the existing domestic curtilage associated with the recently completed extensions, alterations and refurbishment of ‘Clos du Gain’, Rue du Gain, St. Pierre du Bois, Guernsey.

When considering the above inclusion of the existing area of existing land to the north of the existing property as being an extension to the existing Domestic Curtilage presently associated with ‘Clos du Gain’, we would be pleased if you could take the following setting out into consideration.

Boundaries.

- North - Boundary bank with Rue du Gains and fields the other side of the road.
- East - High bank forming boundary (top of bank) in the ownership of 'Clos du Gain' and the adjoining property 'Bellerive' owned field.
- South - Existing dwelling 'Clos du Gain', garden shed, small glasshouse and domestic garden.
- West - Boundary low granite wall and hedging with Rue du Gains and properties with domestic gardens the other side of the road.

Introduction.

The site is located close to the west coast, above Rocquaine, and is not within an Agricultural Priority Area, or under any designation in the Island development plan.

The area is characterised by residential properties, gardens and agricultural land.

From the aerial photographs, the adjoining properties have either housed small glasshouse, several of the adjacent and adjoining gardens have also previously housed glasshouses and/or were used as agricultural land, however over time up too and about 1990 the glasshouses had largely been removed with the last remaining glasshouse to the adjoining property known as 'Bellerive' being removed circa 2004 and the land initially become overgrown but has now been put back to grass.

The existing dwellings known as 'Clos du Gain' and 'La Pommeraié' was built between 1936 and 1940, the land parcel is shown as one land parcel on the first recorded through to the current aerial photographs and in turn subsequently as far back as the Ordinance Survey Drawings go back to Duke of Richmond map.

The land proposed to be domestic curtilage associated with the recently completed extensions, alterations and refurbishment of 'Clos du Gain', has as far as we can go back with the checking against the various dated aerial photographs, the land has never been anything other than a piece of overgrown and in more recent times as grass land, this is likely due to the topography and dimensions of the site not being suited for glasshouses etc.

The land has been associated solely with the residential use of the dwelling Clos du Gain and 'La Pommeraié' since the original build circa 1936.

The site shows no evidence of having been used ever for agriculture use in any form.

Island Development Plan (IDP) - Policies.

The proposed extension to the existing Domestic Curtilage is not in an Agriculture Priority Area, the proposals are in a zoning 'White' – Non- Designated Zoning Area of the approved Island Development Plan dated 2nd November 2016, we believe the proposals comply and satisfies the criteria set out within the relevant policies below and therefore would allow 'Planning Permission' approval to be granted.

Policy Appraisal & Planning Guidance

The following policies are relevant in considering this application:

Policy GP1: Landscape Character and Open Land

Policy GP15: Creation and Extension of Curtilage

Policy GP1: Landscape Character and Open Land Relevant criteria:

Development will be supported where it:

- a. respects the relevant landscape character type within which it is set; and,
- b. does not result in the unacceptable loss of any specific distinctive features that contribute to the wider landscape character and local distinctiveness of the area concerned.

In relation to policies GP1 we believe we adhere to these policies as follows:

The site forms part of a number of residential properties to the east of 'Clos du Gain', with boundaries which are typically earth banks with planting or hedges on top, the site itself is surrounded by such boundaries and these would be retained and therefore there would be no change to the relevant landscape character type and / or there no specific distinctive features that contribute to the wider landscape character and local distinctiveness of the area concerned that would be lost as a result of the proposals to extend the existing Domestic Curtilage associated with 'Clos du Gain'.

Policy GP15: Creation and Extension of Curtilage.

A proposal to create or extend curtilage will be supported where:

- a. it would not have an unacceptable detrimental impact on the landscape character; and,
- b. it would not have an unacceptable impact on the biodiversity interest of an Area of Biodiversity Importance or, where negative impacts are unavoidable, they can be acceptably mitigated in accordance with a scheme to be agreed with the Authority in accordance with Policy GP3: Areas of Biodiversity Importance; and,
- c. it is 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; and,
- d. it is demonstrated that it would not involve an unacceptable loss of established boundary features that contribute positively to the character of an area, unless the new or replacement boundary treatment makes an equal or enhanced positive contribution to the character of the area; and,
- e. it would not adversely affect the reasonable amenities of neighbouring residents.

In relation to Island Development Plan (IDP) policies GP15 we believe we adhere to these policies as follows:

- a. The proposals to extend the existing Domestic Curtilage associated with 'Clos du Gain' would not have a detrimental impact on the landscape character of the area or result in the unacceptable loss of any specific distinctive features that contribute to this area due to the following reasons.

The proposals to extend the existing Domestic Curtilage associated with 'Clos du Gain' are not within an open area of land and the roadside boundaries to the north and west, along with the high bank with planting forming the eastern boundary with the adjoining property 'Bellerive' provide a distinct separation between the area of land proposed as Domestic Curtilage associated with the existing residential property known as 'Clos du Gain'.

The site boundaries which are typically earth banks with planting or hedges on top, the site itself is surrounded by such boundaries and these would be retained and therefore there would be no change to the relevant landscape character type and / or there no specific distinctive features that contribute to the wider landscape character and local distinctiveness of the area concerned that would be lost as a result of the proposals to extend the existing Domestic Curtilage associated with 'Clos du Gain'.

The application site represents a small area of agricultural land which would not be practical to be used for commercial agricultural uses. Furthermore the adjacent land to the east, formerly part of an existing glasshouse site has also not been used for agriculture since the glasshouses were cleared and the area has been laid to grass.

We would also ask the department to note that there are no protected trees and / or any mature trees or planting that will be removed for the purpose of this application.

The preambles to GP15 the Island Development Plan (IDP) states:

19.16.3...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...

- b. The area is not an area of Biodiversity importance and there are no existing trees, planting and / or any animals or insects of any special interest, therefore the departments does not need to consider this element of the policy during the processing of the application.
- c. The land is not in an Agriculture Priority Area, therefore during the departments processing of the application it does not need to consider this element of the policy, that said even if the land was in an Agriculture Priority Area, the land is not able to be used for Agricultural Use due to a number of reasons as follows:-

The ground build up / conditions to the area shown on the Block Plan Drawing number CduG-BP-01 consists of decomposed rock (granite) from a level of approx. 200mm / 250mm below the existing ground level, which has rendered the area unusable for agricultural use.

The topography, size of the area of land outside of the unusable ground conditions and the access to the land more than justifies as to why it cannot positively contribute to the commercial agricultural use of the area as it is not possible to access it with machinery or big enough to be used for livestock commercial crop growing or feed.

The only access into the site is via the restricted windy lanes and through the top narrow roadside opening which has a very tight turning circle from both directions which prevents any modern machinery access to the parcel of land, and in so preventing consideration as to any possible agricultural use even if the land was in a usable condition, which it is not.

The current preference for commercial agricultural uses is for larger open fields either for cultivation, grass to feed livestock or grazing livestock. Where a field is to be used for grazing livestock it is preferable to be adjacent to other larger open fields to enable transfer between fields and allow pastures to rejuvenate. The site does not fulfil any of these criteria as the area of usable (still not good) ground is too small to consider the site as being viable.

The extension of the curtilage as proposed and subsequent loss of a small area of agricultural land as shown on the enclosed Block Plan Drawing number CduG-BP-01 will have no impact on wider areas of open land. It will not have a negative impact on the area as no alterations to existing established boundaries and the site is totally separated from the neighboring agricultural Land associated with the existing property to the east known as 'Bellerive'.

The preambles to GP15 the Island Development Plan (IDP) states:

19.16.4...In some cases, the incorporation of land into the curtilage of a building will not undermine the overall objective of retaining and enhancing open land or supporting agriculture and there is a requirement to assess proposals carefully to ensure a reasonable balance is struck between achieving these objectives and enabling individuals to exercise personal choice in creating or extending curtilages...

19.16.7...The Strategic Land Use Plan notes the requirement to protect open and agricultural land from development in order to ensure the open character of these areas is maintained and to ensure the agricultural industry has an adequate amount of land to operate successfully. Therefore, 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 Areas

- d. There will not be an unacceptable loss of established boundary features due to a number of reasons as follows:-

The site itself is surrounded by such boundaries that consist of earth banks with local found planting and all of these features would be retained, therefore there would be no change to the relevant landscape character type and / or local distinctiveness of the area concerned that would be lost as a result of the proposals to extend the existing Domestic Curtilage associated with 'Clos du Gain'.

- e. There are no immediate neighbours that would have their amenity affected by the proposals, the nearest adjoining property is 'Bellerive' to the east, which is separated by a 2 meter plus high bank with planting, with the top of the earth bank forming the eastern boundary with 'Bellerive'.

General.

During the Planning Services processing of the application to extend the existing Domestic Curtilage associated with Clos du Gain, when considering the above and the island development plan relevant policies, we would be pleased if you could take the following setting out into consideration.

- As described above, the site does not contribute to an open area of land. Although defined as agricultural land, and as can be seen from the aerial photographs, the land has never been used for agricultural purposes.
- The proposed inclusion of the existing area of existing land to the north east of the existing property as being an extension to the existing Domestic Curtilage presently associated with 'Clos du Gain' is require due to the size of the existing Domestic Curtilage being very small relative to the size of the existing property and in turn of a size what would be reasonably expected have with a property of this nature and size.
- The inclusion of the existing small enclosed agricultural field to the north east of the existing residential dwelling and associated garden shed, small glasshouse and the present recognised domestic garden as being an extension to the existing domestic curtilage presently associated with 'Clos du Gain' would be in keeping with what would be expected with a property of this nature, size and type, it is also in is in keeping with the adjoining properties and amenity of the area.
- Whilst this is of no relevance in respect to the relevant Island Development Plan (IDP) policy requirement, as a small token in looking to enhance the level of animals or insects, an additional planting of approx. 50 various fruit tree which have already been purchased are to be planted in the next planting season October 2021 to improve the nature wildlife interest to the area.

We trust the above and enclosed Block Plan Drawing number CduG-BP-01 enable the Planning Service Department to validate and continue the processing on our application for approval for 'Planning Permission' approval, however, should you have any queries or wish to visit the site please do not hesitate to contact us.

We look forward to what we hope will be an early and favorable reply.

Yours faithfully,

Mr. C. A. Foulds MRICS MCIAT MCIOB.

For and on behalf of Direct Architectural Solutions Limited.

Enc.

Application Notes.

The proposals are in a zoning 'White' – Non- Designated Zoning Area of the approved Island Development Plan dated 2nd November 2016, we believe the proposals comply and satisfies the criteria set out within the relevant policies and therefore would allow 'Planning Permission' approval to be granted.

Zoning 'White' Non Designated Zoning Area.

NOT IN AGRICULTURE PRIORITY AREA.

Policy GP15: Creation and Extension of Curtilage.

A proposal to create or extend curtilage will be supported where:

- a. it would not have an unacceptable detrimental impact on the landscape character; and,
- b. it would not have an unacceptable impact on the biodiversity interest of an Area of Biodiversity Importance or, where negative impacts are unavoidable, they can be acceptably mitigated in accordance with a scheme to be agreed with the Authority in accordance with Policy GP3: Areas of Biodiversity Importance; and,
- c. it is 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; and,
- d. it is demonstrated that it would not involve an unacceptable loss of established boundary features that contribute positively to the character of an area, unless the new or replacement boundary treatment makes an equal or enhanced positive contribution to the character of the area; and,
- e. it would not adversely affect the reasonable amenities of neighbouring residents.

The creation of new or extension of existing curtilages in Sites of Special Significance or Areas of Biodiversity Importance will only be supported where they are consistent with Policy GP2: Sites of Special Significance and Policy GP3: Areas of Biodiversity Importance and providing the requirements of this policy are met.

19.16. Creation and Extension of Curtilage

19.16.1. A curtilage is an area of land immediately beside or around a building which is closely associated with and serves the purposes of that building in some necessary or useful way. For dwelling houses the curtilage will usually be the garden but other non-domestic buildings may also have curtilage. A builder's workshop may have an operational, outside area commonly known as a builder's yard which forms the curtilage of that building. A curtilage can provide amenities space around dwellings and can accommodate ancillary domestic paraphernalia such as washing lines, children's play areas and equipment, swimming pools, garden structures, ornamental gardens, etc. In the case of commercial uses, it can provide practical operational areas for associated ancillary facilities including storage areas, car parking, un/loading areas, etc.

19.16.2. Although the curtilage relates to a building and not to a particular use, in most cases the use of both the building and its curtilage will be the same, for example, a garden will be used for the residential purposes of a house. A curtilage is often, but not necessarily always, marked-off or enclosed. Therefore, planning permission is usually required for a change of use to extend the curtilage of residential and non-residential buildings onto adjoining land used for another purpose, for example, to extend the garden of a dwelling onto adjoining agricultural land.

19.16.3. The Strategic Land Use Plan states that some people have a desire to tidy up and domesticate the landscape which will have an impact on landscape character. It further states that while this 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. They will also retain the ability to be used for agricultural purposes, if needed, in the future. In this respect, an acceptable solution to the clearing of some redundant glasshouses might be through the inclusion of such sites within the curtilage of adjoining properties.

19.16.4. The Strategic Land Use Plan also states that land planning operates in the interests of the wider public good and is, by its nature, an encroachment into private property usage and, therefore, a balance needs to be struck between the public interest and personal choice. To achieve consistency with the Strategic Land Use Plan the Island Development Plan will apply a reasonable and proportionate level of control when considering proposals for the creation or extension of curtilages that respects the exercise of private choice in matters where there are no significant impacts on the achievement of the strategic policies of the States of Guernsey. As a result, the Island Development Plan supports the creation of new and extension of existing curtilage where this is compatible with the other relevant policies of the Island Development Plan. In some cases, the incorporation of land into the curtilage of a building will not undermine the overall objective of retaining and enhancing open land or supporting agriculture and there is a requirement to assess proposals carefully to ensure a reasonable balance is struck between achieving these objectives and enabling individuals to exercise personal choice in creating or extending curtilages.

19.16.5. However, in some cases, the creation or extension of a curtilage can have a positive impact and meet strategic objectives through the removal of redundant or derelict glasshouses and/or associated structures or the improved management of abandoned areas of land (see Policy OC7: Redundant Glasshouse Sites Outside of the Centres). The removal of redundant glasshouses is otherwise unlikely to occur without there being some benefit to the landowner.

19.16.6. The requirement for a building to have a curtilage, the extent of the curtilage needed and curtilage character will vary considerably depending upon the particular use concerned and the setting of the site. For example, a domestic curtilage associated with a residential apartment in the centre of St Peter Port is likely to be more limited in size and more constrained than a domestic curtilage within a more open area, owing to the competing demand for land and the density of development within the more urban setting.

19.16.7. 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. The Strategic Land Use Plan notes the requirement to protect open and agricultural land from development in order to ensure the open character of these areas is maintained and to ensure the agricultural industry has an adequate amount of land to operate successfully. Therefore, 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 Areas. Where landscape character is particularly open and undeveloped and where it is considered that ancillary development within a proposed extended curtilage that would otherwise be exempt would have an unacceptable impact on open character, the Authority may decide to remove the ability to carry out development without planning permission under the Land Planning and Development (Exemptions) Ordinance, 2007. In these areas positive enhancement through an appropriate soft landscaping scheme may also be required.

19.16.8. 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. The removal or repositioning of established features, such as those contributing to a field pattern, earth banks or other landscape features, should be avoided where possible and proposals will need to demonstrate that they would not involve an unacceptable loss of established boundary features that contribute positively to the character of an area, unless the new or replacement boundary treatment makes an equal or enhanced positive contribution. In this regard, proposals must also be consistent with Policy GP1: Landscape Character and Open Land, Policy GP2: Sites of Special Significance, Policy GP3: Areas of Biodiversity Importance, Policy GP4: Conservation Areas, Policy GP5: Protected Buildings and Policy GP6: Protected Monuments, as relevant.

19.16.9. Proposals for extending or creating curtilage should not result in an unacceptably negative impact on natural habitats. Where necessary, proposals will be required to demonstrate that there would be no significant detrimental impact in this regard and that, where necessary, such impacts can be mitigated. It should be noted that methods for managing land can impact on habitats and the environment but that the character of open and undeveloped land can also be changed through alternative management techniques without the requirement for planning permission. For example, the planting of hedges, trees and flowers and the mowing of grass does not generally involve works constituting development under the Land Planning and Development (Guernsey) Law, 2005. Therefore, the management of land alone does not generally constitute development requiring planning permission. However, it is acknowledged that where, for example, there is a change of use of agricultural land to allow it to be incorporated into the curtilage of a dwelling this could result in the land being managed more regularly or in a more orderly way than if the land was used for agriculture or left as a natural area.

19.16.10. Owing to their sensitivity to management practices, proposals for the creation of new or the extension of existing curtilages into land identified as a Site of Special Significance or Area of Biodiversity Importance will only be supported where they are consistent with Policy GP2: Sites of Special Significance and Policy GP3: Areas of Biodiversity Importance.

19.16.11. Within Agriculture Priority Areas, proposals for new or extensions to existing curtilages will be acceptable where it can be 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, such as the loss of hedge banks or landscape features, and subject to satisfying other relevant policies of the Island Development Plan. Proposals that may be considered to affect an agricultural holding will also be assessed under Policies OC5(A): Agriculture Outside of the Centres - within the Agriculture Priority Areas and OC5(B): Agriculture Outside of the Centres - outside the Agriculture Priority Areas.

19.16.12. Creating or extending a curtilage can change the way in which land is used and impact on the amenities of neighbouring properties. For example, extending the curtilage of an industrial unit onto land behind a dwelling can have a detrimental impact upon the reasonable enjoyment of the occupants of the dwelling. Therefore, proposals will be supported where they do not have an unacceptable impact on the reasonable amenities of adjoining residents.

19.16.13. Where proposals to extend the curtilage of an existing use also include extensions or alterations to buildings, they should be considered comprehensively as a single proposal and the relevant policies of the Island Development Plan applying to that use should also be considered and satisfied.