

General Information	
Ministerial Decision Type	Deciding of: an Appeal/Case/Application/Public Inquiry
Report Title	Appeal Decision: P/2022/0679 (La Petite Robeline, La Rue des Bonnes Femmes, St. Ouen)
Minister	Environment
Signatory	Minister
Lead Department	Cabinet Office
Lead Directorate	Strategy and Innovation (SP3)
Ministerial Decision Summary: Public or Absolutely/Qualified Exempt	Public Select if more than one Absolutely/Qualified Exemption.
Date decision made if different to date 'Ministerial Decision Summary' signed.	Select date.
Report and Supplemental Report Details	
Report Author	Principal Policy Planner
Date of Report	28/07/2023
Supplementary Report Title <i>(If applicable)</i>	1. Inspector's Report: La Petite Robeline, La Rue des Bonnes Femmes, St. Ouen 2. Schedule of conditions
Supplementary Report Author <i>(If applicable)</i>	1. Sue Bell MSc., BSc, FCIEEM, CEcol, CWEM 2. Principal Policy Planner
Date of Supplementary Report <i>(If applicable)</i>	03/07/2023 28/07/2023
Ministerial Decision Report: Public or Absolutely/Qualified Exempt	Public Select if more than one Absolutely/Qualified Exemption.
Relevant Case/Application/URN <i>(Only complete if making a decision related to an appeal/case/application)</i>	P/2022/0679
Relevant Proposition Number <i>(Only complete if presenting Comments or if lodging an Amendment)</i>	Insert P. number.
Relevant Scrutiny Report <i>(Only complete if presenting a ministerial response)</i>	Insert S.R. number.

Associated Law(s) and/or Subordinate Legislation	Articles 108 - 111 of the Planning and Building (Jersey) Law 2002
Action required if recommendation agreed	Department to take necessary action.
Resource Implications	There are no new financial and/or manpower implications.

Introduction

Following an appeal against the approval of planning permission, reference P/2022/0679, Sue Bell was appointed as the Independent Planning Inspector to consider the appeal and all statements and other plans and documents associated with the appeal.

The Inspector visited the site and surroundings and held a hearing before preparing and submitting a report for the Minister's consideration.

Recommendation

To dismiss the appeal contrary to the Independent Planning Inspector's recommendation, and to maintain the original grant of planning permission, reference P/2022/0679 with variation in respect of conditions attached to the permission.

Reason for decision

The Minister acknowledged the comprehensive assessment of the Inspector, but did not accept the recommendations, especially in respect of the use of the cider barn as a seasonal restaurant. However, the Minister considered that the permission should be maintained and amended through the appending of additional conditions as suggested by the Inspector in the event that the Minister did not accord with the Inspector's view, but not going beyond what was suggested by the Inspector in respect of the range and requirement of possible conditions, save a requirement to clad the lean-to shed in timber.

In reaching his decision, the Minister recognised that certain Island Plan policies can seem to pull in different directions to other policies and accepted that this is not a flaw in the system, but simply a product of a complex and wide-ranging plan. The Minister noted that it is the decision-maker's role to carefully balance the planning merits of a development proposal with the policy requirements of the Plan.

Where policy conflicts do arise, as highlighted in this appeal by the Independent Planning Inspector, a reasoned judgement must be made by the decision-maker as to whether the wider benefits of a proposal, especially in terms of sustainability, promoting innovation within the rural economy and, enhancing what is special about the island, outweigh policy conflicts relating to the proposal.

In this instance, the Minister considered that the wider benefits of the proposal do, subject to satisfactory compliance with stipulations specified in the schedule of conditions, outweigh the negative policy presumptions. Hence, whilst the Minister acknowledged that the planning application highlighted some inconsistencies with the Island Plan, he was satisfied that there was sufficient justification, set out below, for granting permission. The minister noted that the bridging Island Plan allows economic development in the countryside in limited circumstances, but also noted that the Plan provides clear routes to justify such development and that it is important that these are followed.

The Minister considered that the restaurant use, given its restricted and seasonal nature as a use that is complementary to the site's cider production and catering business, represents an operation that complements and enhances the existing rural enterprise. The use operates

in tandem with the existing enterprise, allowing business continuation throughout the year during periods when the barn is not used for cider-making.

Such a dual and linked use of a site is not uncommon within the countryside. Indeed, and subject to strict conditions to ensure that the restaurant facility operates only in association with the primary use of the site for cider production, the Minister considers that the use will help to support the maintenance and diversification of the rural economy and that, owing to the siting of the existing cider producing facility, the location of the restaurant and sausage preparation kitchen is likely to complement and support an existing business, contributing to the maintenance of the rural economy.

The Minister did not consider that there is any requirement for the applicant to justify the restaurant facility on the grounds that it is required in order to secure the economic viability of the cider-making business.

Nonetheless, the Minister noted the requirement of policy ERE2 – Diversification of the rural economy – of the 2022 bridging Island Plan which clearly states, inter alia, that “proposals for diversification in the countryside must be accompanied by a business plan which justifies the location of the development in the countryside; and demonstrates its contribution to the rural economy”. Sufficient information to satisfy this requirement was not submitted with the planning application and the Minister considered that, in the interests of consistent application of policy requirements of the bridging Island Plan, an evidenced business plan should be submitted and that this should cover the aspects stated in Condition No 2 of the schedule of conditions. Hence, and given any contractual obligations that the applicant may have in respect of the restaurant, the Minister considered it reasonable to allow a period of nine months for such a plan to be prepared and submitted to the Infrastructure and Environment department for review and approval. If a satisfactory plan is not received and approved, then the use must cease.

The Minister also noted that the restaurant involves the re-use of the cider barn out of season and, accordingly, the proposal is not in direct conflict with policy PL5 - Countryside, coast and marine environment or policy ER4 – Daytime and evening economy uses - of the 2022 bridging Island Plan.

In respect of site access and car parking provision, the Minister accepted that the existing access and parking arrangements are not suitable for the safe and efficient operation of the restaurant facility. Furthermore, the Minister was mindful of the need to minimise the need to travel by private vehicle and the need to promote sustainable modes of transport for all new developments, in accordance with policy SP1 – Responding to climate change and policy TT1 – Integrated safe and inclusive travel - of the 2022 bridging Island Plan. To this end, the Minister considered that it was necessary to produce a site access plan as laid out in the Inspector’s report, but that it was reasonable to afford the applicants sufficient opportunity to prepare a practical, sustainable and controllable access plan specifying the means by which patrons may arrive at, and leave, the site without the need for private motor-vehicles to approach or park at the site. The Minister acknowledges the significant potential of the site to foster a pioneering hospitality offer that is built substantially on the use of locally grown and reared produce and on sustainable transport options.

The continued use of the restaurant facility beyond nine months will be dependent upon a satisfactory site access plan being submitted to be approved within nine months of the Ministerial Decision. If a satisfactory plan is not received and approved, then the use must cease.

The Minister accepted the Inspector’s assessment that the restaurant facility and sausage preparation kitchen will not, subject to certain restrictions as detailed in the schedule of

conditions result in an unreasonable impact upon the amenities or wellbeing of nearby residents and will not directly or indirectly, cause harm to Jersey's landscape and seascape character and will, by virtue of the fact that the restaurant facility and sausage preparation kitchen will help maintain a sustainable rural business, protect the distinctive character, quality, and sensitivity of the landscape character. The Minister does not consider, therefore, that the proposal is in conflict with policy GD1 - Managing the health and wellbeing impact of new development or with policy NE3 – Landscape and seascape character.

The Minister also noted the Inspector's assessment that the already constructed lean to extension and associated flue to the southern elevation of the cider shed was not a structure that was appropriate to a countryside location and that such a permanent structure was not an appropriate addition to a temporary shed. The Minister noted that agricultural sheds and other incidental or ancillary structures are, generally, of a utilitarian design and build quality. However, the Minister did consider that the lean to shed could be improved by the addition of timber cladding as specified in the planning application, within a reasonable time-scale.

The Minister considered that a nine-month period to allow for the preparation, submission and approval of a site access plan and business plan and for the lean-to shed to be clad in timber was appropriate given the need for the access plan and business plan to be thoroughly researched and evidenced and for the applicant to honour contractual obligations.

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