

## **PLANNING AND BUILDING (JERSEY) LAW 2002**

### **Appeal under Article 108 against a decision made under Article 19 to refuse planning permission**

#### **REPORT TO THE MINISTER FOR THE ENVIRONMENT**

made under Article 115(5)  
by D A Hainsworth LL.B(Hons) FRSA Solicitor  
the inspector nominated under Article 113(2) from the list of persons appointed  
under Article 107

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#### **Appellants:**

Green View Limited

#### **Application reference number and date:**

P/2023/1259 dated 15 December 2023

#### **Decision Notice date:**

7 November 2024

#### **Site address:**

Verte Vue Farm, La Rue du Rondin, St Mary JE3 3EA

#### **Development proposed:**

"Development for the purpose of cultivation of plants of the genus Cannabis, and the preparation for distribution comprising the drying of plants and packaging. Works to alter and extend existing agricultural building, erect perimeter fencing, create ancillary parking area, associated landscaping and upgrade and amend existing access road."

#### **Inspector's site visit date:**

10 February 2025

#### **Hearing date:**

14 February 2025

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#### **Introduction**

1. The application was refused by the Chief Officer for the following reasons: -
  - "1. The proposals provide insufficient information regarding the loss of agricultural land to fields MY333, 334 and 335. With the impact of the development upon the value of the land and its necessity to the agricultural

holding and industry insufficiently justified the proposals fail to satisfy Policy ERE1 of the Bridging Island Plan 2022.

2. The siting, scale and design of the proposed building, including the proposed perimeter fence, would be dominant and visually intrusive within the landscape. The proposals are therefore not considered to protect or improve the special qualities of the Protected Coastal Area contrary to Policies SP4, SP5, PL5, NE2 and NE3 of the Bridging Island Plan 2022 and the Landscape & Seascape SPG (2023).

3. The proposals are not within the built-up area and do not provide robust evidence to suggest the proposed location is necessitated by the development. With a countryside location not considered essential to the viability of the business and the new building not considered appropriate in scale, location or design the proposals fail to meet the tests of Policy ERE2 of the Bridging Island Plan 2022.

4. The proposals provide insufficient information that the development is essential to the viability of the existing holding, and do not sufficiently justify that a countryside location is demonstrably necessary contrary to Policy ERE5 of the Bridging Island Plan 2022.

5. Inconsistent and conflicting information submitted within the application fail to comprehensively assess the overall development proposals in accordance with issues arising from design, access, visual impact, harm to landscape character, protection of agricultural land and the buildings and overall design in accordance with the relevant Policies of the Bridging Island Plan 2022."

### **The existing building, the surroundings and the proposed development**

2. The existing building is a large glasshouse in agricultural use, which is part of an agricultural holding that also contains extensive fields adjoining the site and beyond. There are dwellings to the south of the glasshouse, including listed buildings. There is a large warehouse nearby to the south-east, which is in commercial use, beyond which are further dwellings. The warehouse and the glasshouse share a vehicular access point on La Rue du Rondin. The whole of the area is within the Protected Coastal Zone.
3. The cultivation of plants of the genus Cannabis is an agricultural use and is lawful when carried out in accordance with licensing conditions. The appellants have prepared a detailed business plan showing how the business would operate and have submitted an extensive suite of plans and documents in support of their proposals.
4. The framework of the glasshouse would be retained and the building would be extended to provide additional growing space and necessary production and packaging facilities. The whole of the extended building would be clad in dark green profile metal sheeting. The existing track between the building and the road would be slightly re-aligned to accommodate the extensions to the building and the external parking and access requirements. Metal security fencing would surround the facility. A revised fencing drawing 1554/09-C was tabled at the hearing. The fencing would now be 2.3m high (reduced from 2.4m) and have a more open design. There is existing timber panel fencing 2.2m high on the northern and southern sides of the site.

5. Plants would be grown continuously. It is anticipated that products would be despatched from the site about once a week; up to four staff would be employed; trip generation overall would be very low. The building would be designed to be secure and additional security would be provided by the fencing, video surveillance, infrared cameras, and security personnel. Minimal external lighting is proposed. The heating and lighting needed for cultivation would be augmented by solar panels and geothermal sources. Organic waste would be processed and recycled within the building.
6. Odour emissions would be averted through the building being sealed by design and by the operation of a computerised air filtration and circulation system. An Odour Risk Assessment J0651/1/F3 has been submitted, prepared by an expert consultant. It has identified a slight risk of odour exposure at a small number of receptors close to the building. It recommends that the level of residual odour beyond the site boundary should be monitored and an odour management plan implemented if the operation of the facility results in complaints due to residual odour.
7. Detailed landscaping proposals have been submitted for additional planting around the building and the access and to reinforce existing trees on field boundaries within the holding. The development would have no impact on heritage fabric nor on the setting of the listed buildings and their significance.
8. The application plans do not put forward any changes to the junction between the track and the road and none were requested by the Parish, who are responsible for this road. The existing sightlines are tolerable here and work to improve them would be environmentally damaging. It was agreed at the hearing that a proposal from IHE Transport for a contribution towards improvements at the junction of the road with Le Mont de Ste Marie further to the south-east could not be supported.

### **Assessment of the reasons for refusal**

#### *The first reason for refusal and Policy ERE1*

9. Policy ERE1 is as follows: -

"Policy ERE1 – Protection of agricultural land

The development or loss of agricultural land will not be supported unless in exceptional circumstances and where:

1. the proposal will not lead to the loss of high-quality agricultural land, having regard to:
  - a. the quality of the soil and historic use of the land;
  - b. the location of the land relative to nearby farms and other active agricultural activity;
  - c. the overall of size of the land parcel and the impact that the development will have in on the integrity and viability of a farm holding; and
  - d. access to other agricultural land in the area.
2. the nature of the proposed use genuinely necessitates and is appropriate to its proposed location.

Proposals for the development of agricultural land must be accompanied by adequate information to justify the proposal; and which enables an assessment of the impact of the development upon the agricultural industry to be made. Where the supporting information is insufficient, proposals will not be supported.”

10. As recorded in paragraph 4 above, the track between the building and the road would be slightly re-aligned to accommodate the extension to the building and the external parking and access requirements. The re-alignment would be on to land classified as agricultural land, which is unused grass verge at the margin of the field near to its south-eastern corner. The Jersey Royal Company, who cultivate the field, have stated that this “will have absolutely no impact on the production of the field as a whole”. Furthermore, the use of this agricultural land for the track would be offset by incorporating within the building extension some uncultivated land outside the field, which would then be used for agricultural cultivation with a far greater economic potential. There would be no loss of high-quality agricultural land within the meaning of criterion 1 of Policy ERE1.
11. I have considered later in this report the provision in Policy ERE1 that “the nature of the proposed use genuinely necessitates and is appropriate to its proposed location” and have concluded that it would be satisfied. With regard to the provision in the policy that proposals must enable “an assessment of the impact of the development upon the agricultural industry to be made”, the Government publication *Economic Framework for the Rural Environment 2022* states that it is essential to investigate other high value, niche market produce such as pharmaceutical crops or plant-made pharmaceuticals, in order to promote opportunities for improving the socioeconomic resilience of the agricultural sector, in a strategy aiming to diversify cropping.

*The second reason for refusal, Policies SP4, SP5, PL5, NE2 and NE3 and the supplementary planning guidance (SPG) “Landscape and seascape character guidance” published in July 2023*

12. These policies and the SPG protect island identity, the natural environment, the countryside and the coast and the landscape and its character. The reason for refusal states that the siting, scale and design of the proposed building, including the proposed perimeter fence, would be dominant and visually intrusive within the landscape. The Departmental report states: “The materials used to clad the existing agricultural building are considered in keeping with the character of the area in relation to the current rural context and use of the building. However, the significant increase in scale, mass and density of the building in conjunction with the erosion into the cultivated land to the North would be dominant and visually intrusive in this rural area and is considered to harm the landscape character of the Protected Coastal Area”.
13. The Department’s case is not convincing. The footprint of the glasshouse would be extended, but not onto land in agricultural production, and its height would remain the same. The dark green profile metal sheeting used for the cladding would be less prominent than glass, which reflects daylight and sunlight and emits artificial light from within. The land rises immediately to the north and the lower parts of the building would be obscured from view from this direction; views from other directions would be masked by other buildings. The fencing would not be obvious beyond its immediate surroundings. The comprehensive landscaping scheme put forward would be

effective in protecting and enhancing the visual amenity of the site and its surroundings and the wider area.

14. I consider that the policies and the SPG referred to would be complied with and that, in particular, there would be no harm to the Protected Coastal Area.

*The third reason for refusal and Policy ERE2*

15. Policy ERE2 concerns the diversification of the rural economy. The supporting text states that agricultural diversification can be described as any proposal which seeks to supplement farm income on working farms and that a diversification proposal should remain ancillary to and complement the main farm enterprise. Policy ERE2 is not applicable to the proposed development, since it would not be a diversification in this sense, but would simply be a change in the crops being cultivated on the farm, with necessary production and packaging facilities, and would therefore be part and parcel of the existing agricultural enterprise.

*The fourth reason for refusal and Policy ERE5*

16. Policy ERE5 states: "Proposals for extensions, alterations, re-building or other works to buildings remaining in agricultural use will be supported where they are incidental and essential to the efficient operation of the holding." The proposed works to the glasshouse fall within this description and it is incorrect to treat them as a new building for the purposes of the policy. What is "incidental and essential to the efficient operation of the holding" is primarily a matter for the operator. In this instance, the development would involve a very significant investment in new facilities that would not be undertaken if they were not required for the holding's efficient operation.
17. The final paragraph of Policy ERE5 states:

"Proposals for new or extended agricultural buildings 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. Where the supporting information is insufficient, proposals will not be supported."
18. The appellants have submitted a comprehensive business plan, which has been assessed by Jersey Business in accordance with the established practice relating to business plans submitted in support of planning applications. Jersey Business are very supportive of the proposals because of their economic value. They describe the plan as robust and achievable and state that there are compelling reasons to support the redevelopment of the existing site. The Department's Rural Economy section has also supported the application. It seems to me that the proposals would make much better use of currently under-utilised existing agricultural premises in the countryside and that it is unrealistic to believe that the proposals could be satisfactorily accommodated elsewhere on a site that was not in the countryside.

*The fifth reason for refusal and the relevant policies*

19. I have not found it difficult to assess the proposals and reach conclusions based on the information provided and to apply the relevant policies.

## **Conclusions and conditions**

20. I have concluded for the reasons explained above that the proposals are in accordance with planning policies and that planning permission should therefore be granted since there are no material planning considerations indicating otherwise. The proposals are also in accordance with Government economic policy.
21. In addition to the standard planning conditions, planning conditions are also required as set out in paragraph 22 below. I have not imposed a condition requiring a construction, environment and management plan to be submitted for approval since I do not consider that one is called for on this occasion.

## **Recommendation**

22. I recommend that the appeal is allowed and that planning permission is granted for the following development at Verte Vue Farm, La Rue du Rondin, St Mary JE3 3EA: -

Development for the purpose of cultivation of plants of the genus Cannabis, and the preparation for distribution comprising the drying of plants and packaging. Works to alter and extend existing agricultural building, erect perimeter fencing, create ancillary parking area, associated landscaping and upgrade and amend existing access road.

in accordance with the application Ref. P/2023/1259 dated 15 December 2023 and the plans and documents submitted therewith, subject to the following conditions: -

### *Standard conditions*

- A. The development shall commence within three years of the decision date.

Reason: The development will need to be reconsidered in the light of any material change in circumstances.

- B. The development shall be carried out entirely in accordance with the approved plans and documents listed below.

Reason: To ensure that the development is carried out as approved.

### *Additional conditions*

1. Prior to the commencement of the development, full details of the arrangements to be made for parking and access, including the arrangements for the storage of bicycles and the provision of electric vehicle charging points shall be submitted to and approved in writing by the Chief Officer. The development shall be carried out in accordance with the approved details and the facilities shall be retained thereafter.

Reason: To provide satisfactory parking, access and bicycle storage facilities in accordance with the transport policies of the Bridging Island Plan.

2. The measures outlined in the approved Species Protection and Ecological Enhancement Plan (ref. NE/ES/VV.02, 14 November 2023, Nurture Ecology) shall be implemented prior to the commencement of the development, continued throughout the development (where applicable) and thereafter retained and maintained as such. Any variations from the approved plan that may be required as a result of findings on site shall be agreed in writing in advance with the Chief Officer prior to implementation.

Reason: To protect biodiversity pursuant to Policy NE1 of the Bridging Island Plan.

3. The landscaping works shall be carried out in accordance with the approved details before the development is brought into use. A landscape management plan, including management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved in writing by the Chief Officer before the development is brought into use and the landscape management plan shall be carried out as approved. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the commencement of the development; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Chief Officer gives written consent to any variation.

Reason: To deliver design quality, to protect and improve green infrastructure assets and to provide new green infrastructure assets pursuant to Policies GD6 and NE2 of the Bridging Island Plan.

4. Before the development is brought into use, equipment to control the emission of odours from the premises shall be installed in accordance with a scheme to be submitted to and approved in writing by the Chief Officer. All equipment installed as part of the approved scheme shall thereafter be operated and maintained in accordance with that approval and retained for so long as the use continues. An odour management plan, including management responsibilities and maintenance schedules, shall be submitted to and approved in writing by the Chief Officer before the development is brought into use. The odour management plan shall be carried out as approved.

Reason: To protect the amenity of neighbours pursuant to Policy GD1 of the Bridging Island Plan.

5. Any plant or machinery in the development shall be installed, maintained and operated to such specification that the noise generated is at least 5dBA below the background noise levels when measured in accordance with BS4142:2014 from within the curtilage of any nearby property.

Reason: To protect the amenity of neighbours pursuant to Policy GD1 of the Bridging Island Plan.

*Approved plans and documents*

Location Plan VVF/02a

Overall Site Plan 1554/08-A

Proposed Layout Plan 1554/04-J

Proposed Layout Plan 1554/07-D

Site Access & Visibility 1554/10-B

Elevations 1554/05-D

Fence Elevations 1554/09-C

Proposed Sections 1554/06-J

Fig. 1 Landscape Proposals Sheet 1 VVF/03-A

Fig. 2 Landscape Proposals Sheet 2 VVF/04-A

Fig. 3 Landscape Proposals Sheet 3 VVF/05-A

Heritage Impact Statement

Species Protection and Ecological Enhancement Plan NE/ES/VV.02

Environmental Statement (1)

Initial Ecological Assessment (IEA) & Preliminary Roost Inspection (PRI) Report

Planning and Design Statement

Transport Statement

Plant Noise Assessment

Odour Risk Assessment J0651/1/F3

Dated 20 March 2025

*D.A.Hainsworth*

Inspector