

PLANNING AND BUILDING (JERSEY) LAW 2002 (AS AMENDED)

Appeal under Article 108 (2) (a) against a decision to grant planning permission

Report to the Minister

By Sue Bell MSc., BSc, FCIEEM, CEcol, CWEM,
An Inspector appointed under Article 107

Appellant: Sue Syvret

Planning Permission Reference Number: P/2024/1407

Decision notice date: 25 February 2025

Location: Field No. 0369, La Rue du Mont Capel, St. Ouen

Description of development: RETROSPECTIVE - Construct an agricultural shed

Appeal procedure and dates: accompanied site inspection, 13 May 2025. Assessment based on written representations.

Date of report: 10 June 2025

Preliminary matters

1. I received a request for the appeal to be considered based on written representations. Having reviewed the written evidence and consulted all parties, I agreed to the request. Further written clarification was obtained on some matters.
2. During my site inspection I saw two 'lean-to' structures at the rear of the shed subject to this appeal and a solar panel on the roof of the shed. These items are not shown on any of the submitted plans or within the description of development. Therefore, I do not consider that these form part of the current application and I have not considered their planning status.

Introduction

3. This is a third-party appeal by Sue Syvret against a decision to grant retrospective planning permission for erection of an agricultural shed in a field in St Ouen.
4. Permission was granted by the Infrastructure and Environment Department using delegated powers on 25 February 2025.
5. A summary of the cases presented by each party during the application and the appeal are presented below. Further details are available in the statements and other documents submitted by each party, which are available through the Planning Applications Register website.

The appeal site and proposed development

6. The appeal site lies within the Protected Coastal Area. It comprises an agricultural field, which slopes roughly north to south. It appears to be managed as meadow

grassland and trees have also been planted recently. There is an existing substantial stone ‘barn’ in the south-east corner of the same field, which does not form part of the current application.

7. The proposal seeks retrospective permission to install a single-storey shed with pitched roof in the north-eastern corner of the field. It would be placed on a base on the surface of the ground (i.e. without foundations). It would be 4.19 metres wide, 2.89 metres deep and with an eaves height of 2.5 metres rising to 4.34 metres at the ridge. It would be constructed of wood with a corrugated iron roof. The south-facing elevation would have four, floor to ceiling glass panels, two of which would open as doors. The east and west elevations would have an opening, closed by a wood door. The shed is to be used for cultivation of mushrooms.

Case for the appellant

8. The appellant’s grounds of appeal can be summarised:
 - The application is retrospective; there is no planning permission for either of the two buildings in the field and permission has only recently been sought following complaints from neighbours.
 - The proposals could set an unacceptable precedent in the Green Zone.
 - Should the development be permitted in the Green Zone?
 - There are no conditions attached to its use.
9. Other matters raised in submissions, include: the operation of the planning system; previous use of the building; effect of the proposal on views; and the suitability of the site. The appellant has also stated it would be helpful to understand the term ‘re-wilding’ so residents can appreciate its meaning for Field O369 and seeks information as to whether water and mains drainage have been installed.

Case for Infrastructure and Environment Department (‘the Department’)

10. Points can be summarised:
 - The application is retrospective. The building was initially used as an Air B&B without planning permission. Following complaints from neighbours and investigation by Planning Compliance, the current application was submitted.
 - The building to the south of the site is within the red line boundary but does not form part of the application. As it has been in place for more than eight years it is immune from planning enforcement under Article 40 of the Planning and Building (Jersey) Law 2002.
 - The building is in an agricultural field and is for agricultural use. This is an acceptable use in the Green Zone. It is not prominent in its location and is considered to protect landscape character in accordance with Policy NE3 of the Bridging Island Plan 2022.
 - Each planning application is considered on its own planning merits and this proposal would not create an unacceptable precedent.
 - Re-wilding is not a planning term.
 - Any connections to mains drainage would require separate permission of the Drainage section.

Case for the Applicant

11. The shed is to be used by two young farmers for growing of mushrooms and can also be used to dry garlic. It has been painted black to be inconspicuous. It is in an unproductive corner of the field. Since purchasing the field, the applicant has

removed derelict vehicles, planted over 800 hedging plants in addition to growing crops of garlic, potatoes and beans. The shed has no foundations and was mistakenly believed by the applicant to be permitted development.

Consultation responses

12. No objections were received from **Environmental** Health (6 January 2025), the Parish of St Ouen (10 January 2025), or the Drainage Department. The latter noted that there is capacity within the foul sewer network to accommodate the proposal, and that the Connection Application form was approved in early 2024.
13. No responses were received from either the Rural Economy or Land Control Teams.

Representations

14. Four of the six representations listed on the planning register support the application. They comment favourably that the field has been tidied and express support for a local business.
15. Objection letters raise concerns as to whether the shed would remain in use for growing mushrooms or would revert to holiday accommodation and the quality of the building of the shed. One of the representations also questions the status of the stone building to the south-west of the site.

Key Issues

16. Article 19 (1) of the Planning and Building (Jersey) Law 2002 as amended notes that all material considerations shall be taken into account when determining an application for planning permission. Paragraph (2) of the same article states “*In general planning permission shall be granted if the development proposed in the application is in accordance with the Island Plan.*” The current Island Plan is the Bridging Island Plan, dated March 2022 (‘Island Plan’).
17. Having regard to the provisions of the Island Plan, the grounds of appeal and other material considerations, I consider that the key issues in this appeal relate to:
 - The principle of development in the Protected Coastal Area.

The principle of development

18. The appeal site lies within the Protected Coastal Area, where the provisions of policies PL5 - Countryside, coast and marine environment and NE3 - Landscape and seascape character apply.
19. Policy PL5 seeks that proposals should protect or improve the special landscape and seascape character of the Protected Coastal Area. Similar provisions are included within policy NE3, which notes that the highest level of protection will be given to the Protected Coastal Area.
20. I saw that the immediate character of the area is rural, with fields, trees and woods and scattered dwellings, including a small collection of houses to the immediate east of the appeal site. The proposed shed is located to the north-east corner of a sloping field. Although it is positioned on the higher part of the field, the bank and higher ground to the rear of the shed and low bund in front of it, helps it to appear ‘set

down'. There are mature trees along the banking to the rear of the shed and these act to diminish its scale.

21. I walked the roads which border the site to the north, south and east. I saw that topography including a tall stone wall along part of the lane which runs to the west of the site, acts to prevent views of the proposed shed when travelling north or south. Views are also limited from the road along the south of the site and are restricted to almost opposite the access into the field. Even then, topography combined with the dark colouring of the materials means that visibility is limited.
22. The proposed shed is most visible from private land to the south-west. Nevertheless, it is viewed against the banking and vegetation to the rear, which help to reduce the apparent scale and height of the building. The dark colouration is recessive against the vegetated backdrop.
23. In conclusion, whilst the proposals would introduce a new built structure, I find that the scale, design and finishes of the shed would protect the character and distinctiveness of the area and would also protect landscape character consistent with policies PL5 and NE3.
24. Policy ERE1 - protection of agricultural land also applies. This policy seeks to protect agricultural land from development except under exceptional circumstances and where it will not lead to the loss of high-quality agricultural land and the nature of the use necessitates and is appropriate to its proposed location. The proposal would only occupy a small area of the field, adjacent to a hedge. The field does not appear to have been in recent active agricultural production, nevertheless, the shed would be used for agricultural purposes i.e. mushroom cultivation. The policy also seeks that proposals must be accompanied by adequate information to justify the proposals. A business plan was provided (although I note this was not published on the planning register). I therefore conclude that the proposals would be consistent with policy ERE1.
25. The Officer Assessment Report also references policy ERE5 - New or extended agricultural buildings and I sought further clarification from the Department as to how this policy had been assessed.
26. Policy ERE5 sets out three criteria for where proposals for new agricultural buildings will be supported: they are clearly demonstrated to be incidental and essential to the viability or running of the holding; existing buildings on the holding or within reasonable proximity of it, cannot, with or without adaptation, be used for the proposed purpose; and they are well-related to existing buildings and are appropriate in scale, location, design, material and colour to minimise its visual impact and to integrate with the character of the area. The proposed shed is necessary for mushroom growing, in conjunction with the existing building on site. I have concluded above that the proposal would be consistent with the character of the area. Policy ERE5 also states that proposals 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. As noted, this was provided. Thus, I conclude that the proposals would be consistent with policy ERE5.

Other matters

27. The appellant has raised questions about water and sewerage capacity. I saw that the proposed building is provided with a water supply. The consultation responses

state there is capacity within the local foul sewer network for an additional connection. I understand these matters are subject to separate control measures and I have not considered them further.

28. The appellant has raised concerns about traffic levels on local roads, which they suggest may be associated with other businesses. I saw there are two existing vehicle access points to the field, taken from La Rue du Mont Capel. It appears that the western of these is the most used. No changes to the access are proposed as part of the current application. The field is already allocated for agricultural use, with no restrictions on vehicle movements. I do not therefore consider the proposal would lead to an appreciable increase in traffic.
29. I note the comments about the planning history of the building on site, including previous unauthorised use and fears that these could be re-introduced. I am required to consider the proposals that are before me. Any future change in use from an agricultural shed would require permission.
30. The ability of the site to accommodate future growth of the mushroom business is a matter for the applicant. I have concluded that the installation of an agricultural shed to support that business is an appropriate planning use of land. I have considered the other points raised by the appellant, including those relating to the operation of the planning system but there are no additional matters that I consider are material for the determination of this appeal.

Conditions

31. The Decision Notice did not include any conditions other than the two standard conditions relating to the commencement of the development and the carrying out of the development in accordance with the approved details. I sought views for any additional conditions that should be applied, if the appeal is unsuccessful. The Department considers that the shed can only be used for agricultural use and that the existing landscaping is sufficient. No additional conditions have been suggested, and I am content that none would be required.

Conclusions

32. For the reasons set out above, I conclude that the proposal is consistent with the provisions of the Bridging Island Plan as a whole.

Recommendation

33. I recommend that the appeal should be dismissed, and that Planning Permission be granted.

Sue Bell

Inspector 10 June 2025