

PLANNING AND BUILDING (JERSEY) LAW 2002

**Appeal under Article 109 against an enforcement notice served under
Article 40(2)**

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

Appellant:

Gary Syvret

Enforcement notice reference number and date of issue:

Corrected reference number ENF/2023/00005 (previously ENF/2024/00003)
Date of issue: 24 January 2024

The land to which the enforcement notice relates:

Sundown, La Rue des Landes, St. John JE3 4AF

The alleged breach of development controls:

The construction of a garden storeroom to the north of the site

The steps required by the enforcement notice:

- 1 Demolish the garden storeroom.
- 2 Remove all resulting debris and materials from the land.

Time for compliance with the steps required:

Two months

Grounds of appeal:

The appeal has been brought on ground (h) specified in Article 109(2), namely:-

“(h) ... that in all the circumstances planning ... permission should be granted in respect of the development in question”

Inspector's site visit date:

28 May 2024

Procedural matters

1. With the agreement of the parties, the appeal has been dealt with by way of written representations and an accompanied site visit.
2. I have taken into account and applied the principles set out in the reason given by the Minister for appeal decision ref. ENF/2022/00011.
3. The appeal on ground (h) relates to the “development in question”, which is the construction of a garden storeroom to the north of the site. The building works are not yet finished. At present, the storeroom consists of a blockwork shell with no roof, but it is clear from its gable walls that when finished it will have a pitched roof.
4. The appellant has submitted a planning application ref. P/2024/0133, which is for a garden shed with a flat roof. This is a different development to the “development in question”. This application should be processed by the Chief Officer.
5. Although the appellant has not brought an appeal on this ground, his appeal form asserts that the storeroom is below the size permitted by the General Development Order. The Infrastructure and Environment Department have pointed out that, whether or not it is below this size, the storeroom is not permitted by the Order since it is in front of a principal elevation of the house, which is defined by the Order as any elevation that faces and is within 20m of a road.

The site and its surroundings

6. The house is within a row of dwellings on the south side of the road. The enforcement notice plan does not show this, but there are in fact two separate houses on the site, the appellant's being nearer to the road. The eastern side of the site consists of a shared parking area and forecourt. The appellant's patio and sitting-out area are on the western side and the appellant's garden, where the storeroom is situated, is at the front, next to the road. This layout results in there being in practice nowhere else where the appellant could build the storeroom, apart from in the front garden.

The reasons for the issue of the enforcement notice

7. The enforcement notice states that the storeroom is harmful to the character and appearance of the house and the street scene and that it results in an “over-intensified” frontage and erodes the openness, landscape and local distinctiveness of the locality, which is in the Green Zone. It states that the storeroom is therefore contrary to Policies GD1, GD6 and NE3 of the Bridging Island Plan and contrary to the Jersey Integrated Landscape and Seascape Character Assessment.
8. The Department have accepted in their response to the grounds of appeal that the development is not in conflict with Policy GD1, since it will not cause unreasonable harm to neighbouring uses or residents.
9. Policy GD6 deals with design quality. The Department maintain that the storeroom's design, scale, bulk, height and prominence would be out of keeping with the area.

10. Policy NE3 deals with landscape character. Development in the green zone should protect its landscape character. The Department maintain that the site has minimum landscaping and that the storeroom will conflict with the arrangement and pattern of development and neighbouring frontages in this part of the road.
11. The Jersey Integrated Landscape and Seascape Character Assessment was absorbed into the supplementary planning guidance *Landscape and seascape character guidance* in July 2023. The guidance states that the more prominent a site, the harder it will be to successfully integrate a new building into its setting. The Department indicate that the principle of a storeroom is not entirely discouraged but the building should be located away from the roadside.

Inspector's assessments and conclusions

12. The storeroom looks stark at present in its unfinished state, but when completed it will have external walls clad in light grey Hardieplank and a pitched roof with dark grey flat tiles. The materials to be used are already on site. They will match the materials and colours used on the exterior of the house. Additional landscaping has already been provided in the form of fencing and hedging where the garden borders the roadside banque.
13. It is unusual for domestic outbuildings to be allowed in front gardens and there are often compelling planning reasons why this is not permitted. It is, however, important to assess this storeroom in its context. It is in a frontage where there are other structures close to the roadside. There is a boundary wall about 3m high and 2m wide next to the appellant's access that extends alongside the carriageway. Further along there is a large, tall building with its gable end on the edge of the carriageway, and there are other examples here of development projecting closer to the road than the dwellings to which they belong. Fencing on the boundary with the adjoining front garden partially screens the site in the opposite direction.
14. When the storeroom has been completed as proposed, it will not be out of keeping with its surroundings or be in conflict with planning policies. The appeal should succeed on ground (h), because in all the circumstances planning permission should be granted in respect of the development in question, subject to planning conditions ensuring that it is completed as proposed. Applying the principles set out by the Minister in appeal decision ENF/2022/00011, the Chief Officer should deal with this matter from hereon.

Inspector's recommendation

15. I recommend that the appeal is allowed and that the enforcement notice is quashed.

Dated 26 June 2024

D.A.Hainsworth

Inspector