

## **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

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#### **Appellant:**

Bradley Twigger

#### **Enforcement notice reference number and date of issue:**

ENF/2024/00002 dated 7 February 2024

#### **The land to which the enforcement notice relates:**

Land forming part of the land known as Le Côttil de la Grève de Lecq and fields numbers O324 and O325

#### **The alleged breaches of development controls:**

1. The construction of a structure used as a workshop
2. The construction of a structure used for the keeping of poultry

#### **The steps required by the enforcement notice:**

1. Demolish the workshop structure together with any hardstanding and footings.
2. Remove all resulting debris and materials from the land.
3. Demolish the poultry structure together with any hardstanding and footings.
4. Remove all resulting debris and materials from the land.
5. Restore the land to an agricultural field.

#### **Time for compliance with the notice:**

28 days

#### **Grounds of appeal:**

The appeal has been brought on grounds (c), (f), (g) and (h) specified in Article 109(2), namely: -

“(c) that at the date of service of the notice no or no expedient action could be taken to remedy the alleged breach”

“(f) that the requirements of or conditions in the notice exceed what is reasonably necessary to remedy any alleged breach of control or make good any injury to amenity”

“(g) ... that any time period imposed by the notice for compliance with its requirements falls short of the time which should reasonably be allowed for such compliance”

“(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

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**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. When dealing with the appeal on ground (h), 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 appellant has submitted a planning application for the construction of a shed on the land. This application should be processed by the Chief Officer.

**The appeal on ground (c)**

4. The purpose of an appeal on ground (c) is to show “that at the date of service of the notice no or no expedient action could be taken to remedy the alleged breach”. The appellant maintains that this is the case because at the date of service he had received a licence from another Government department, which he needed to support the resubmission of an earlier planning application that had been refused due to insufficient information having been submitted.
5. These circumstances do not prevent the service of an enforcement notice if a breach of planning controls has occurred and it appears to the Chief Officer that it is expedient at the time to take action to remedy the breach (Article 40(1)). The appeal on ground (c) should therefore fail, but I have taken into account under ground (h) the fact that the licence has been issued, as well as the details of the licence.

**The appeal on ground (h)**

6. The purpose of an appeal on ground (h) is to show that in all the circumstances planning permission should be granted in respect of the development in question. The “development in question” in this instance is the construction of the workshop and poultry-keeping structures.

*The land and the structures*

7. The structures are in a secluded location on the fringe of the woodland that forms part of the fields referred to in the enforcement notice. Access to the structures is from La Charriere Huet, on the opposite side to the rear entrance to the Prince of Wales Hotel.
8. The workshop is a small timber structure in which the tools and equipment used on the land in connection with forestry and agricultural activities are

kept. Birds are also kept on the land; the poultry structure is a small hut with a wire-mesh enclosure, which assists with the birds' security and has also provided housing for the birds during an outbreak of avian influenza.

*The reasons given for the issue of the enforcement notice*

9. The notice states that the appellant has failed to demonstrate that the workshop is essential to the proper function of the farm holding, contributes to the viability of the Island's agricultural industry and cannot be met from leasing or purchasing an existing shed. It states that the workshop and poultry structure fail to protect or improve the landscape character. The structures are therefore stated to be in conflict with Policies ERE5, PL5 and NE3 of the Bridging Island Plan.
10. Policy ERE5 (New or extended agricultural buildings) sets out the circumstances in which proposals for new agricultural buildings will be supported. Policies PL5 (Countryside, coast and marine environment) and NE3 (Landscape and seascape character) contain measures for the protection of the countryside and coastal areas.
11. At the time when the notice was issued, the Infrastructure and Environment Department had not received a copy of the licence granted on 26 January 2024, approving the appellant's application for smallholder status and giving him permission to occupy and use the land under the Agricultural Land (Control of Sales and Leases) (Jersey) Law 1974 in connection with his approved business.

*Update following consultees' responses*

12. In May 2024 the Department's drainage section stated that they required further information about surface water disposal and the proximity of the development to a public sewer in the field. The appellant has confirmed that the surface water from these small structures will be minimal; it will initially be collected in water butts for use on the land; any excess will run off and soak away. The structures are a considerable distance from the public sewer.
13. The Department's Natural Environment Team noted on 22 April 2024 that the Initial Ecological Assessment was carried out in December 2021. They asked for an updated report, which the appellant has provided (the Preliminary Ecological Appraisal dated 28 March 2024). The updated report concludes that no further wildlife surveys are required. It recommends that further ecological enhancements are included as part of the landscaping scheme, in addition to those already carried out.
14. On 8 April 2024, the Department's Rural Economy section responded stating that they supported the appellant's planning application, which they described as being "for essential business infrastructure". The appellant relies on this response in his appeal and the Department's response to the appeal does not challenge it.

*Inspector's assessments and conclusions on ground (h)*

15. The appellant carries out a small business from the smallholding. The business is based on local sales of eggs and, as a byproduct of woodland management,

the sale of logs and handmade bird boxes and squirrel boxes to local businesses and the public.

16. The land is located within the designated Coastal National Park and Protected Coastal Area, where the Bridging Island Plan gives the highest levels of protection. Policies PL5 and NE3 indicate that development here should protect the special landscape character and qualities of these areas and be compatible with the purposes of the park. These purposes include the conservation of natural beauty and wildlife, which the recommended ecological enhancements would achieve.
17. Policy NE3 also states that proposals which result in the improvement of landscape character will be supported. To enhance and protect landscape character the appellant has submitted an Outline Landscape Management Plan (Woodland and Meadow Areas)(Revision C - February 2024), which proposes landscape improvements in both the meadow area and the woodland area of the smallholding.
18. The structures comply with the criteria in Policy ERE5 because (1) they are incidental and essential to the running of the holding, (2) there are no existing buildings available for their purposes, (3) they are well-related to other agricultural and forestry activities on the holding, (4) they minimise visual impact and (5) they are in keeping with the landscape character of their surroundings.
19. Policy ERE5 adds that proposals for new agricultural buildings in the countryside must be accompanied by a business plan. The appellant's approved business plan satisfies this prerequisite by justifying the location of the structures in the countryside and showing how they contribute to the rural economy.
20. I have concluded that 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 the proposed ecological enhancements and landscape improvements are carried out and maintained. Applying the principles set out by the Minister in appeal decision ENF/2022/00011, the Chief Officer should deal with this matter from hereon.

### **The appeal on grounds (f) and (g)**

21. Since I have concluded that the appeal should succeed on ground (h), the notice should be quashed. In this event, grounds (f) and (g) will no longer fall to be considered. If the Minister does not accept my recommendation I will submit a supplementary report relating to grounds (f) and (g).

### **Inspector's recommendation**

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

Dated 2 July 2024

*D.A.Hainsworth*  
Inspector