
STATES OF JERSEY



STATES OF JERSEY COMPLAINTS BOARD FINDINGS – COMPLAINT BY MS. N. HAY (R.143/2024): RESPONSE OF THE MINISTER FOR THE ENVIRONMENT

Presented to the States on 23rd December 2024
by the Minister for the Environment

STATES GREFFE

REPORT

I accept the findings of the Board as stated in section 5 of the report [R-143-2024.pdf](#) as far as it relates to grounds a, b, c, and e. In terms of ground d, I consider the officer report relating to the application (Ref: P/2023/0229) clearly indicates the reasons for considering the proposal to be acceptable, and I consider the application was properly and rationally assessed.

I have carefully considered the recommendations made by the Board in section 6 of the report, and would comment as follows on each of the recommendations.

Recommendation 6.1

In the interests of natural justice, I will bring the ability for third parties to appeal against the grant of a permission under Article 7 of the Planning and Building (Moveable Structures) (Jersey) Order 2006 into the scope of Article 108 of the Planning and Building (Jersey) Law 2002.

The display of advertisements is controlled in a similar manner to the control of moveable structures, namely through an Order allowed for by the Law. In particular Article 6 of the Planning and Building (Display of Advertisements) (Jersey) Order 2006 is the legislation that allows for the grant of permission to display an advertisement. Such a grant of permission is not included in Article 108 of the Law and will also be included alongside moveable structures to allow for the submission of third-party appeals.

The amendments to the Law will be progressed under the planning services reform programme.

Recommendation 6.2

Article 80 of the Planning and Building (Jersey) Law 2002 defines moveable structures as “a structure the placing of which in, on, over or under land does not constitute development of the land”. Article 80 of the Law then provides examples of moveable structures as a marquee, tent, caravan or other conveyance, with or without wheels, a flagpole, or radio or television mast temporarily placed upon land. This list is not exhaustive, and the Law is clear that these are only examples of moveable structures. There may be many other objects that could be described as moveable structures, and it would appear the Law is deliberately not definitive in order to ensure its application as appropriate.

The Planning and Building (moveable Structures) (Jersey) Order 2006 at Article 2 describes where the Order applies, and that is to a moveable structure, other than a caravan that is to remain on the same land for 28 days or more in a period of 12 months.

As indicated the definition in the Law is useful as it stands as it allows for a wide range of scenarios, and I consider it fit for purpose given the level of flexibility it offers in applying the controls over moveable structures. I therefore do not propose to redefine the meaning of a moveable structure.

Recommendation 6.3

Permission was granted for the moveable structure, as the proposal was considered to accord with the policies of the Bridging Island Plan 2022, set out in the officer report published online in the Planning Register.

Conditions attached to the permission are being adhered to and the situation is actively monitored to ensure compliance. The owner confirmed the marquee was disassembled at the end of October 2024, and a site inspection was undertaken on 8 November 2024 when it was noted that the marquee had been removed from the property

The Planning Compliance Team continues to undertake compliance activities in accordance with the published Regulator's Code [Jersey Regulators Code](#) and the Department's Enforcement Policy [IE Document Cover](#).

Recommendation 6.4

Article 81 (2)(c) of the Planning and Building (Jersey) Law 2002 limits any permission for a moveable structure to a maximum period of three years after the date of the grant of permission. This means that the permission granted for the marquee will expire on 13 June 2026. The applicant will either have to remove the marquee by that date or reapply for permission which will allow the consideration of the impact of the structure to be assessed again.

Unfortunately, this fact was not brought to the attention of the Board and I would like to apologise for this oversight.

As stated above, I consider the application was appropriately assessed and a decision made based on the rationale set out in the case officer's report.

Recommendation 6.5

In accordance with Article 9A of the Planning and Building (Jersey) Law 2002 the functions of the Planning Committee shall be allocated by agreement between the Chief Officer of Planning and Building and the Committee. This agreement includes identifying when applications should be referred by the Chief Officer – or their delegates – to Committee.

Planning Committee procedures and arrangements can be found on the gov.je website [Planning Committee](#).

I will refer the findings of the Board to the Committee for consideration alongside other procedural issues they are currently considering.

I will also ensure that the threshold for referral to the Planning Committee is more clearly signposted at the appropriate point when representations are received.

Recommendation 6.6

I acknowledge that conflicting or unclear advice was provided by the Department regarding the processes and procedures associated with moveable structure applications that are not currently subject to third party appeals. I have instructed the Department to highlight the importance of providing appropriate advice to officers, specifically referring to the details of this matter. Public guidance, information and in particular

individual correspondence with individuals making representations on applications are being reviewed to reflect the findings of the Board.

As the appeals process involves the Judicial Greffe, who administer the process, work to update publicly available information and letter templates will be carried out along with the Judicial Greffe as part of the planning reform programme relating to planning appeals.

Recommendation 6.7

Article 81 of the Planning and Building (Jersey) Law 2002 allows for an Order in respect of moveable structures. Only within that Order is the provision to grant or refuse permission for a moveable structure.

I accept that the information published on the site notice that was displayed on site did not make it clear that the application was made pursuant to the Moveable Structures Order, and I have given instructions that the template for site notices is amended to clarify when an application is made under the Order.

Recommendation 6.8

The definition of a moveable structure and examples of moveable structures are included in the primary legislation - Article 80 of the Law. The lack of provision in Article 108 of the Law to appeal against a decision in relation to a moveable structure is addressed in relation to recommendation 6.1 above

Conclusion

I welcome the review undertaken by the Board on behalf of Mrs Hay, as it has allowed the Department to review working practices to ensure that the service is continuously improving. I consider the application was rationally and appropriately assessed, leading to a decision that was made in accordance with the applicable legislation. I do not propose to redefine the meaning of a moveable structure as contained in the Law, as the current definition (providing a number of examples of what may constitute a moveable structure) provides an appropriate framework for bringing structures that do not usually constitute development within the control of the planning system. I propose to amend the Law in order to allow third party appeals for decisions relating to moveable structures and advertisements. I wish to thank the Board for their recommendations.