

**REPLY BY THE MINISTER OF THE ENVIRONMENT DEPARTMENT
TO QUESTIONS ASKED PURSUANT TO RULE 6 OF THE
RULES OF PROCEDURE BY DEPUTY LESTER QUERIPEL**

Question 1

In response to one of my previous Rule 6 questions, submitted to the Environment department in August, I was informed that following the publicity surrounding the sign currently placed outside of Blacks shop in the Pollet, the department intend undertaking a review of shop signs in our Town. The department themselves are reported, in the media, to have described the sign as 'garish'. I was also told by the department, in response to my previous question, that the purpose of the review, is to ensure a 'level playing field' for businesses and a 'benchmark' when assessing future signage applications. In addition, I was told the review would involve a 'quick survey' of shop signs currently in place in our Town. Therefore, I have several questions I would like to ask in relation to that response.

Question 1(a)

Can you tell me please who actually created the 'publicity' surrounding the Blacks sign?

Answer

The Guernsey Press.

Question 1(b)

Did the department really describe the Blacks shop sign as 'garish'?

Answer

Retrospective planning permission to 'Erect a fascia sign (rear) and a fascia and hanging sign (front) - Protected Building', at 9 Le Pollet, St Peter Port was refused on 26th June 2014. With regard to, in particular, the plastic projecting sign at high level on the Pollet elevation of the building, the planning report on the application contained the following sentence: 'The use of orange Perspex is a garish visual statement which would impact on the character of the Protected Building and the character and appearance of Le Pollet.' The term garish was not included in the notice of refusal of planning permission and in the context of the planning report and its description of the development and impacts is considered a reasonable statement for the planning officer dealing with the case to have made.

Question 1(c)

Are you able please to relay to me, the departments definition of the term 'level playing field' in relation to signs in our Town?

Answer

Whilst most businesses apply for planning permission for their signs prior to erecting them as required to do by the Island's Planning Law, some do not. This situation is clearly unfair on those businesses who comply with the Law, as it unfairly advantages those that do not. The review will determine the actual position on the ground and help to ensure that there is a 'level playing field', or fair and equitable starting point, for such businesses going forward.

Question 1(d)

Regarding the forthcoming review setting a 'benchmark': are you able to tell me please, what criteria will the department employ during the review, to assess whether or not a shop sign is considered to be 'acceptable' to the department?

Answer

The review will not consider the merits of any signs, merely whether approval has been granted, if required, for them under the Island's Planning Law. Therefore there will be no

criteria employed by the Department during the review to assess whether or not a shop sign is considered to be 'acceptable' to the department.

Question 1(e)

Are you able to tell me please, what criteria do the department currently employ when considering applications for shop signs in our Town?

Answer

This information is readily available in the public domain and in the resources available to States Members and is as follows:

Section 13 of the Land Planning and Development (Guernsey) Law, 2005 confirms that 'development', for which permission is required under section 14 of the Law, includes the 'attaching to or painting or otherwise exhibiting on the exterior of any structure, or placing on land, an advertisement or sign'.

A planning application made under the Land Planning and Development (Guernsey) Law, 2005 must be considered under that Law having regard to the purposes of the Law (section 1), any relevant adopted planning policies contained in an approved Development Plan (in this case the Urban Area Plan, 2002) having regard to section 12 of the Land Planning and Development (General Provisions) Ordinance, 2007 and the general material planning considerations as set out in section 13 of the Land Planning and Development (General Provisions) Ordinance, 2007.

The purposes of the 2005 Law include a duty to achieve quality in the design and implementation of development so as to respect Guernsey's historic, architectural and archaeological heritage and make a positive contribution to the built environment. Section 2 of the Law states that it is the duty of any person exercising any function under this Law to do so in the light of, and with a view to achieving, its purposes.

There is also a statutory duty under the Land Planning and Development (Guernsey) Law, 2005 to have regard to the desirability of preserving and enhancing the special interest and setting of protected buildings. There is a similar duty in relation to preserving and enhancing the character and appearance of conservation areas.

The general material planning considerations in section 13 of the Land Planning and Development (General Provisions) Ordinance, 2007 include:

- The character and quality of the natural and built environment which is likely to be created by the development;
- The appropriateness of the development in relation to its surroundings in terms of its design, layout, scale, siting and the materials to be used; and
- The likely effect of the development on the character and amenity of the locality in question.

There are additional material planning considerations for protected buildings (section 15 of the Land Planning and Development (General Provisions) Ordinance, 2007).

With regard to the consideration of applications for signage in the centre of St Peter Port, the most relevant planning policies of the approved Urban Area Plan, 2002 are:-

Policy DBE1

In general, the IDC[sic] will require new development to:-

- (a) achieve a good standard of architectural design;
- (b) respect the scale and massing of existing buildings in the vicinity;
- (c) avoid the introduction of elements that would appear obtrusive or discordant in the street scene;
- (d) retain existing features that contribute to the character of the area;
- (e) incorporate measures, as appropriate, to ensure the safety and security of the public; and

(f) achieve a satisfactory relationship with adjacent properties.

Policy DBE7

Development within, or affecting the setting of, a Conservation Area will only be permitted if it conserves or enhances the character and appearance of the area, in terms of size, form, position, scale, materials, design and detailing. Particular attention will be given to the removal of unsightly and inappropriate features and the retention of features that contribute to the character of the area.

Policy DBE8

Buildings of special interest and their settings will be protected from development that would detract from their special qualities.

Development will only be permitted where:-

- (a) it respects the building and its setting in terms of siting, scale, massing, form, proportions, detailing and materials;
- (b) it would not result in the loss of ancillary features which contribute to the character of the setting of the building; and
- (c) the proposal would comply with other policies of the Plan and, in the case of conversion or change of use, the character and appearance of the building would be retained.

Policy CEN12

Proposals to display internally illuminated fascia, wall, projecting, neon or box advertisements will generally be resisted.

New or replacement advertisements will only be permitted if by reason of design, positioning, materials, proportion or illumination they would:-

- (a) be appropriately positioned in relation to the street level of the building on which they are fitted;
- (b) be satisfactory in scale and appearance and not detract from the visual amenity of the street scene; and
- (c) not create a safety hazard.

Policy CEN12 relates specifically to signs and the preamble to the policy states as follows:-

Signs and advertisements are important to commercial areas, being both informative and often adding interest and vitality to the street scene. But advertisements that are poorly designed and inappropriately sited can have a seriously detrimental visual effect. Too many signs can appear cluttered and confusing. The proliferation of signs relating to different floor levels of a building can be particularly harmful.

In order to protect and enhance the character of the centres, advertising material should be generally restrained in quantity and form. In Conservation Areas, only painted signs and applied lettering will be appropriate and designers should be prepared to compromise on matters of "corporate" design. The IDC [sic] will not normally permit the provision of illuminated signs and, as a general rule, signs above first floor windowsill level will be considered to be unacceptable. In addition, advertisements should not adversely affect any form of traffic, including pedestrians, or other public safety, for instance where it will cause obstruction to the public highway or result in glare or dazzle.

This policy reflects the importance of retaining and protecting local distinctiveness which can be undermined by use of basic 'corporate' design solutions such as was employed for the Blacks signs. Research shows that many historic UK towns have similar policies, and that national retailers are generally willing to adapt their signage to suit local requirements. This has in fact been done by Blacks in Salisbury and York, for example, where more appropriate designs for their signs have been used. The issue of local

distinctiveness is of political importance in Guernsey and as well as being reflected in States approved planning policy also features as an objective in the States Strategic Plan.

Question 1(f)

Are you able to relay to me please, the departments interpretation of a 'quick survey'? For example, will this 'quick survey' take an hour or two hours, or a day, or a week etc?

Answer

The time taken to check what signage currently exists within the Centre of St Peter Port and then cross-check this with approvals granted will, it is estimated, amount to hours rather than days

Question 2

In response to another of my previous Rule 6 questions, focusing on the departments approach to shop signs in our Town, the department informed me that 'it would be expected that any unauthorised signs will be removed'. But what the department didn't tell me is, who would actually be expected to remove the sign. Therefore, I ask the following questions in order to clarify the situation:

Question 2(a)

Would the trader be expected to remove an unauthorised sign, or would employees of the department remove it?

Answer

The planning enforcement powers of the Department are set out in Part V of the the Land Planning and Development (Guernsey) Law, 2005 and in the Land Planning and Development (Enforcement) Ordinance, 2007.

The trader can be required through a Compliance Notice to remove an unauthorised sign and, if the trader fails to act as required, the Department is empowered to enter the land to take those steps.”

In all instances, however, such enforcement action is a last resort and is taken only where it is expedient and in the public interest to do so. There is a right of appeal against a Compliance Notice to the independent Planning Panel on grounds which are set out in section 70 of the Land Planning and Development (Guernsey) Law, 2005.

Question 2(b)

Does the department have the legal authority to force a trader to remove a sign that has been identified as unauthorised?

Answer

Yes.

Question 3

I believe I am right in saying, that the department are objecting to the sign currently situated on the inside of the window of 'Just Games' in Town Church Square. Therefore, can you tell me please:

Question 3(a)

Does the department have the authority to tell traders what they can, or can't, put inside their shop windows?

Answer

Where, as in this instance, the building is a protected building, it has that authority where it affects the character of the building.

Question 3(b)

If the department do have such authority, can you please tell me where that particular piece of legislation can be located?

Answer

Section 2(1) of the Land Planning and Development (General Provisions) Ordinance, 2007 states that: ‘Any operation which alters or extends a protected building, or any feature of such a building, in any manner which affects the character of that building as a building of the particular special interest by reason of which it is listed, shall constitute development irrespective of whether or not that operation would also constitute development in accordance with section 13(1) to (3) of the Law.’

Section 2(2) clarifies that: ‘In this section “**feature**” shall mean any internal or external feature consisting of a man-made object or structure fixed to the building or forming part of the land in the vicinity of the building.’

Policy CEN12 of the Urban Area Plan indicates that new or replacement advertisements will only be permitted if by reason of design, positioning, materials, proportion or illumination they would:-

- (a) be appropriately positioned in relation to the street level of the building on which they are fitted;
- (b) be satisfactory in scale and appearance and not detract from the visual amenity of the street scene; and
- (c) not create a safety hazard.

Question 4

In response to another of my previous Rule 6 questions, the department informed me that the forthcoming review of shop signs, is specifically in relation to shops in our Town. However, the department never gave me a reason why, in their opinion, such a review should focus exclusively on our Town shops, and not include shops throughout the rest of the island. It could, of course, be considered, that by conducting a review that focuses exclusively on the signs on shops in our Town, the department are discriminating against the Town traders. Therefore, I ask the following question: Can you tell me please, why did the department decide that the review should focus exclusively on the shops in our Town, and not include shops throughout the rest of the island?

Answer

The Blacks case highlighted that signage, and particularly retrospective applications for signage, in the historic centre of Town is a significant issue, attention having been drawn specifically to it by the Guernsey Press which has contained a number of articles on the topic recently.

When dealing with applications for signage, the Department’s planning officers frequently have to research the history of nearby premises to determine whether the signage which exists is approved.

The purpose of a review is to approach this issue on a comprehensive and therefore more efficient basis, rather than dealing with each case on an ad hoc basis as and when it arises, and to set a clear and consistent benchmark to assist with the determination of future applications for signs in Town.

As this issue has not arisen elsewhere on the Island, and is likely to be related to the particular concentration of retail premises in the Town, coupled with the particular historic and architectural importance of the Town environment, the Department does not believe that a similar approach elsewhere would be justified at the present time.

Question 5

In another of my previous Rule 6 questions, I asked whether or not the department saw any merit in reducing the speed limit past the main entrance to our Princess Elizabeth hospital, to 20mph, from the current limit of 35mph. The response to that question from

the department, was that there is currently no indication that traffic speeds in the vicinity of the entrance to the Princess Elizabeth hospital from Le Vauquiedor, cause a problem for traffic seeking to exit from the hospital. Also, that consideration could be given to extend the current 25mph speed limit to the west of the hospital entrance, if traffic speeds are subsequently considered to be an issue. I have the following questions in relation to that response.

Question 5(a)

In my opinion, it is far better to be proactive than reactive. Therefore, it seems to me that reducing the speed limit in the vicinity of the hospital entrance to 20mph, from the current 35mph, would be adopting the sort of proactive approach that I feel is needed. However, it would appear that the department do not share my proactive approach. Are you able to tell me please whether or not that is the case?

Answer

The Oxford Dictionary definition of proactive is “creating or controlling a *situation* rather than just responding to it after it has happened”. At face value this is a laudable stance to take but on closer inspection it begs the questions: what situation is being controlled, why, and what are the consequences? Unless these questions are asked, understood and answered then a proactive approach may constitute meddling, mending that which isn’t broken.

Departments have limited resources and limited funds and it is important to demonstrate that those resources and funds are utilised in a sound, logical and structured manner. To reduce the speed limit in the road in question from 35mph to 20mph begs the question why not 15mph or 10mph? It also begs the question why this road and not any of the other roads in the island. From a risk perspective there are far more dangerous bends, blind spots, concealed exits and so on than the specific one that is your current centre of focus. Roads with supermarkets or Doctors’ surgeries have a much higher footfall than Le Vauquiedor.

Effective traffic management is not the result of random, ad hoc actions responding to individual uninformed calls for change. Effective traffic management is based on considered policy and evidenced based data. Neither of these suggests a need for change for the case in question. Sight lines are more than adequate, speeding in this area is not known to be an issue, but even if it was reducing the speed would not of itself encourage speeders to slow down; that relies on Police enforcement. Footfall across the road is low and is adequately accommodated by the pedestrian crossing. To effect change without any demonstrable issue moves one’s actions from being proactive to meddling.

Question 5(b)

Are you able to tell me please, whether or not legislation currently exists that determines the speed limit for vehicles travelling past hospital exits and entrances?

Answer

Before responding to your question I feel obliged to observe that it would have been impossible for the Department to have assumed you wanted to know about legislation from your previous rule 6 question concerning the speed limit applied at the boundary of the town area at Le Vauquiedor. It follows that your preamble which states you are only asking these questions because the Department could have provided the detail in response to your earlier questions but did not is a little disingenuous.

As you are clearly aware of the fact that the current speed assigned in Le Vauquiedor does not breach any Guernsey legislation, I can only assume you are referring to legislation in other countries. This assumption is of course reinforced by earlier emails you have sent me referring to National and International legislation.

Whilst the number quoted varies depending on the source there are about 195 independent countries and it is reasonable to assume each has legislative making powers. However, in such lists the United Kingdom is counted as one, whilst in reality we know that England, Northern Ireland, Scotland, Wales, Guernsey, Jersey and the IOM have their own legislation making powers i.e. Seven legislation making administrations rather than one single one. Likewise the Unites States has 50 States each of which can set speed limits. This information is, of course, readily available in the public domain. Other

countries similarly devolve legislation making powers to sub regions. The Department does not have the resources to research how many legislation making governing bodies exist in the world let alone how many of them have the power to set speed limits. It follows that it is virtually impossible for the department to advise whether any “National” legislation sets speed limits past hospitals. To even attempt to answer this question would take many months of wholly unproductive work. Similarly the Department is unable to research whether any International legislation seeks to influence or require domestic legislation setting speed limits past hospitals although it seriously doubts such legislation exists.

Question 6

In response to another of my previously submitted Rule 6 questions, the department informed me that, in relation to Care Homes being established here in the island, 'purpose built new facilities are preferable to those provided by way of conversion, or adaptation, of existing buildings'. Unfortunately, there was no explanation proffered by the department, as to why purpose built new facilities are considered to be preferable. Therefore, the question I need to ask is this: are you able to please tell me the reason why the department consider purpose built new facilities, to be preferable to those provided by way of conversion, or adaptation, of existing buildings?

Answer

The Department’s Board has received a presentation from the representative group *Ageing Well in the Bailiwick*, which has been established to provide a voice for older people and those organisations working with older people in the Guernsey Community. The Board was advised that “generally speaking, care and support in one’s own home is, where possible and practical, preferential to institutional care” and “where new facilities are required to provide institutional care, purpose built new facilities are preferable to those provided by way of conversion or adaptation of existing buildings”.

Responding to these questions has cost the department circa £400.

Date of Receipt of the Question: 10th September 2014

Date of Reply: 23rd September 2014