

**Annual
Report**

2013

Fourth Annual Report of the Guernsey Planning Panel

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Chairman's Introduction

It is my pleasure to present the Planning Panel's fourth Annual Report.

During 2013 the number of appeal cases lodged with the Panel dropped significantly in comparison to previous years. Whilst there was no immediate reason for this reduction in appeals it would appear to be a reflection of a lower number of planning applications lodged with the Environment Department. However, as set out in this Report, the fall in the number of individual cases was not wholly reflected in a decrease in the Panel's workload. Whilst fewer appeals were received, a number of them were larger commercial cases which raised several complex and novel issues for Tribunals to consider. Most notably was an appeal against a Completion Notice issued by the Environment Department under section 19 (1) of the Land Planning and Development (Guernsey) Law, 2005. This was the first time a Completion Notice had been issued and the owner of the property chose to lodge an appeal against the Notice.

During 2013, the Panel continued to develop and refine its procedures and practices. In late 2012, the Panel had started to introduce agenda to help structure Tribunal Hearings and the use of agenda continued during 2013. They are now an established part of how the Panel manages Hearings. The Panel has received favourable feedback from both appellants and the Environment Department regarding its agenda-led procedure and the approach remains sufficiently flexible to allow either party to raise matters not included on the agenda but which they consider important and relevant.

In 2013, the Policy Council undertook a detailed review of the Panel's work. Having considered this review I have written to the Policy Council indicating that I do not oppose the proposed changes. This review sets out a number of areas where amendments to the appeal provisions under the Land Planning and Development (Guernsey) Law, 2005 may assist the Panel to determine appeals in a more timely and cost effective manner without any negative impact on the fairness or transparency of the appeal process. I understand that the Policy Council is considering our review recommendations and will be presenting its own recommendations to the States of Deliberation during 2014.

The Panel's membership has remained constant throughout the year. It is again my pleasure to record my thanks to my fellow colleagues on the Panel for their hard work, skill and dedication. The complexity and novelty of some cases heard during this year have required our professional members in particular to demonstrate their depth of knowledge which has been to the benefit of all of us. A clear advantage to the Panel during its four years of operation has been the availability of reserve members to fill vacancies that have arisen and during this next year I will invite the Policy Council to consider proposing to the States an additional number of such members to ensure continuity and progression of the Panel's membership. The Secretary to the Panel, Miss Elizabeth Dene has again continued to provide invaluable administrative support throughout this period and we are most grateful to her for this assistance.

Patrick Russell
Chairman
May 2014

1. Background

The Planning Panel was established in April 2009, under the Land Planning and Development (Guernsey) Law, 2005 (2005 Law) to determine appeals against planning decisions made by the Environment Department¹.

The Panel is an independent appeal body, with its own secretariat and administration. The Panel members are appointed by the States of Guernsey. To ensure the independence of the Panel, the following groups of people cannot serve on the Panel:

- (a) A Member of the States of Deliberation
- (b) An employee, member or anybody carrying out work or providing services for the Environment Department
- (c) A member of the Strategic Land Planning Group
- (d) Anybody holding judicial office in Guernsey
- (e) Anybody who has held any of the above posts within the preceding two years.²

2. Planning Panel Membership

The Panel's membership remained unchanged during 2013. The full membership of the Panel at the end of 2013 is set out at Appendix 1.

3. Panel Staff

During 2013 there were no staff changes and Miss Dene continues to act as the Panel's Secretary on a half-time basis.

4. Operating Costs

The Panel's expenditure in 2013 is set out in Table 1. The payments to the Panel members was nearly £25,000 less than in 2012. This reflects a significant decrease in the number of appeal cases received by the panel. The Panel's caseload dropped by nearly fifty percent but half of the cases related to commercial premises and a number of these required the members to spend substantial more time preparing the case and drafting the decision notice than the general norms. Further, in the first quarter of 2013, the Panel also dealt with six appeals lodged in late 2012.

The Panel has observed that most appellants continue to request a public hearing before a Tribunal. It is mindful that this is administratively the most costly mode of appeal to the Guernsey tax payer and that its own endeavours to encourage appellants to consider agreeing that an appeal be determined on the basis of written representations or by a single professional member have only had limited success. However, it must always remain the appellant's right, within the framework of the legislation, to choose such mode of appeal as they consider appropriate.

¹ See section 86 of the Land Planning and Development (Guernsey) Law, 2005

² See section 4 of the Land Planning and Development (Appeals) Ordinance, 2007

During 2013, a [Policy Council review](#) raised this matter with the Policy Council and offered some suggestions about how the 2005 Law may be amended to enable the Panel to direct greater use of alternative modes of appeal in appropriate cases. The Panel understands that its suggestions are being actively considered by the Policy Council.

Table 1 Panel's Expenditure and Income	2009	2010	2011	2012	2013
Recruitment and training	£26,410	£0	£8,352	£8,000	£4,355
General administration and stationery	£960	£1,410	£1,038	£685	£254
Payments to Panel Members	£16,700	£48,070	£50,867	£79,076	£55,558
Travel and accommodation costs	£210	£1,870	£1,618	£4,749 ³	£5,480
Operational costs	£870	£4,050	£3,503	£4,259	£3,339
Staff salaries	£12,550	£31,150	£32,232	£33,355	£39,654
Total Expenditure	£57,700	£86,550	£97,610	£132,124	£110,653
Income from Fees	--	--	£965⁴	£7,969	£13,422

5. Appeal Fees

In 2013, the Panel's income for appeal fees increased by some forty percent. The reason for this significant increase is that four appeals related to the refusal of planning permission where the planning application fee exceeded £1,000 and in one case the appeal fee was over £4,000, i.e. these four cases generated just over £10,000 of the appeal fee income.

The Panel did not deal with any appellants who indicated a wish to appeal a planning decision but were unable to do so because of financial hardship. Should such an enquiry be received the Panel would advise the person that the fee may be waived where the Panel's Chairman is satisfied that payment of the appeal fee will cause the appellant financial hardship.

6. Casework

In 2013 (2012), the Panel received 22 (44) appeals. Tables 2 and 3 provide a breakdown of the categories of appeals made and their disposal. In 2013 (2012), the Environment Department refused 9 (8) percent of applications for planning permission and 14 (20) percent of the refusals resulted in the applicant appealing the decision.

At the end of 2013, five appeals remained unheard and the Panel anticipates that these cases will be heard in the first quarter of 2014. The Panel aims to determine appeals within twelve to sixteen weeks of the appeal being lodged, subject to the availability of the parties and any witnesses.

In 2013, the Panel noted that the number of appeals relating to commercial sites was the same as those relating to householder planning applications (see Table 3).

³ The increase in costs reflects the additional travel and hotel accommodation following the appointment of two UK-based Professional Members

⁴ Appeals fees became payable with effect from 1 September 2011 (see Section 5 for further detail)

Table 2
Breakdown of
Appeal Cases by
Outcome

	Number of Appeals			Outcome																	
				Allowed (i.e. where the Tribunal found in favour of the appellant)			Dismissed (i.e. where the Tribunal upheld the Department's decision)			Other											
										Withdrawn by Appellant			Conceded or Withdrawn by Department			Appeal out of time			Dismissed under s.69(4) of the 2005 Law		
2013	2012	2011	2013	2012	2011	2013	2012	2011	2013	2012	2011	2013	2012	2011	2013	2012	2011	2013	2012	2011	
Refusal of planning permission	17	30	29	1	10	8	10	14	15	--	3	5	--	1	1	1	--	1	--	--	--
Refusal of outline planning permission	1	--	2	1	--	1	--	--	1	--	--	--	--	--	--	--	--	--	--	--	--
Planning conditions	2	4	3	2	2	2	--	1	1	--	--	--	--	--	--	--	1	--	--	1	--
Non-determination	--	1	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
Compliance Notice	1	9	8	--	2	1	--	1	3	1	--	--	--	3	3	--	--	1	--	--	--
Completion Notice	1	--	--	--	--	--	1	--	--	--	--	--	--	--	--	--	--	--	--	--	--
Confirmation of a TPO	--	--	1	--	--	1	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
TOTAL	22	44	43	4	14	13	11	16	20	1	3	5	--	4	4	1	1	2	--	1	--

Table 3

	Number of Appeals					
	2013		2012		2011	
	Householder	Commercial	Householder	Commercial	Householder	Commercial
Refusal of planning permission	7	9	19	13	23	8
Refusal of outline planning permission	1	--	--	--	--	--
Planning conditions	1	1	--	3	3	--
Non-determination	--	--	--	1	--	--
Compliance Notices	1	1	1	7	6	2
Completion Notices	1	--	--	--	--	--
Confirmation of a TPO	--	--	--	--	--	1
TOTAL	11	11	20	24	32	11

7. Case Appraisal

During 2012, the Panel continued to publish quarterly synopses of planning appeal decisions (see Appendix 1). This document sets out brief details of the case, the issues identified at appeal, the planning policies involved and the Tribunal's decision. These are available on the Panel's website (www.gov.gg/planningpanel).

Table 4 provides an overview of the principal subject matter of planning appeals. In many appeal cases more than one issue was raised and therefore the totals do not automatically equate to the number of the appeals shown in Tables 2 and 3.

Table 4

Subject matter of Appeals⁵		2013	2012	2011	2010
Change of Use	Horticultural to industrial	3	--	2	1
	Horticultural to residential	--	1	1	1
	Horticultural to recreational	--	1	1	4
	Industrial to retail	1	2	1	--
	Tourist accommodation to residential	1	2	--	--
Creation of parking	Private/domestic	3	5	4	8
	Commercial	--	2	1	--
Fencing and gates	Type	--	3	3	3
	Height	--	3	--	--
New housing developments		3	2	2	2
Removal or lowering of roadside walls		4	8	6	13
Construction or removal of earthbanks		2	2	--	3
Re-use of redundant buildings for other purposes		2	1	6	5
Sheds on agricultural or horticultural land		--	1	5	1
Signage		2	2	--	3

⁵ A single appeal case may have involved more than one of the subject areas listed.

In 2013 (2012), 14(24) of the appeals which proceeded to an adjudication 11 (19) related to development within the Rural Area and 3 (5) cases related to developments in the Urban Area. A full breakdown of the planning policies is set out in Appendix 2.

8. Case Administration

As noted above, there remains a strong preference for appellants to request an appeal be heard before a Planning Tribunal.

Table 5 provides a breakdown of the mode of appeal, including cases where the Panel's Chairman has, having reviewed an appeal application, decided that the case should be determined by a different mode of appeal from that indicated by the appellant, such as a request for determination by Written Representations or by a Single Professional Member, the latter also requiring the consent of the Policy Council.

Table 5 Mode of Appeal	Disposal as requested by Appellant		Actual disposal following review by Panel Chairman	
	Planning Decisions	Compliance and Completion Notices	Planning Decisions	Compliance and Completion Notices
	2012 (2011)	2012 (2011)	2012 (2011)	2012 (2011)
Public Hearing before a Planning Tribunal	13 (25)	1 (8)	14 (30)	1 (6)
Public Hearing before a Single Professional Member	1 (--)	1 (--)	1 (--)	-- (--)
Written Representations determined by a Planning Tribunal	3 (7)	2 (--)	2 (3)	-- (--)
Written Representations determined by a Single Professional Member	2 (2)	-- (--)	2 (--)	-- (--)

During 2013, a Policy Council review has recommended some suggestions for possible amendments to the appeal provisions under the 2005 Law to give the Panel's Chairman the authority to decide the most appropriate mode of appeal having regard to the preferences expressed by an appellant or the Department.

The Panel's view is that such a change should enable the Panel to manage its caseload efficiently and cost effectively without any unfairness to the appellant or the Environment Department.

In the 2012 Annual Report, the Panel noted a sharp increase in the number of appellants choosing to be represented by a professional person. In 2013, just over one fifth of appellants were represented by an Advocate and two fifths represented

themselves. This represented a drop in the percentage of legally represented appellants compared to 2012 when one third of appellants were legally represented. The proportion of appellants representing themselves remained static.

Table 6 below provides a fuller breakdown of representation.

Table 6		2013	2012	2011	2010
Breakdown of Representation⁶					
Unrepresented		9	15	16	17
Unrepresented but assisted by friend or family member		2	3	3	3
Represented	Architect	5	17	8	10
	Advocate	5	15	4	4
	Planning consultant	2	3	3	--
	Surveyor	--	--	2	--

In its 2012 Annual report, the Panel raised concerns that some potential appellants may be discouraged on cost grounds from appealing a planning decision if the trend for appellants, particularly householders, to be legally or professionally represented continued to increase. While the Panel fully accepts that the decision whether to engage a representative to act for them at an appeal hearing rests entirely with the individual, the Panel continues to ensure that its procedures and practices do not disadvantage an individual who chooses to present their own case. The Panel fully accepts that in some cases, especially those involving a commercial development, the question of professional representation raises very different issues.

9. Review of the Planning Panel

During 2013, the Policy Council has carried out a review of the planning appeal process and to identify any aspects of the appeals provisions under the Land Planning and Development (Guernsey) Law, 2005 that may merit consideration for amendment. As part of this review, the Policy Council has considered the potential advantages and disadvantages that may arise should the two recommendations from the Shepley 2008 Review of Guernsey's Planning Service (the Shepley Review) relating to planning appeals under the 2005 Law, namely:

Recommendations 17B and 17C

B I recommend that the powers to appoint a single adjudicator and to consider appeals in writing are extensively used and monitored

C I recommend that, should that process prove successful, provision should be made in due course to move to a single adjudicator system for all cases.

⁶ Numbers relate to appeals determined at a public hearing; in some cases the appellant was represented by an Advocate together with other professional parties

In its consideration of the implications regarding how planning appeals are handled should the Shepley recommendations be implemented, the review recognised that financial savings could be achieved for both itself and the Environment Department if where appropriate an appeal was determined as a written representation or by a single professional member. However, it is recognised that such savings should always be balanced against the requirement that the appeal process remains fair and transparent to ensure public confidence is maintained.

The Panel's view is that in some cases a public hearing will always be required, for example if:

- The appellant was unable to present his arguments in written form
- The facts are in dispute and the evidence requires testing by oral questioning
- Human rights considerations
- The number of third party representations is significant
- The application has raised issues of wider public concern or interest
- Allowing an appeal would require a minor departure from the Plan
- The appeal raises a novel legal question.

In its submission to the Policy Council concluded that, if the appeal provisions under the 2005 Law were amended to place the final decision regarding mode of appeal with the Panel's Chairman, it would be possible to determine appeals by the most appropriate means whilst ensuring that there was no loss of fairness or transparency. The decisions would be made against published criteria and the Panel would also issue guidance on the evidence a party would need to provide in support of a request for a particular mode of appeal.

The Panel has advised the Policy Council that it believes this approach would mean that more appeals could be determined as a written representation or by a single adjudicator. In this way, the recommendations set out in the Shepley Report could be progressed and whether a move to a single adjudicator system for all cases would be an appropriate planning appeal mechanism for Guernsey would be more fully assessed.

The review also considered a number of other areas including:

- The role of the Panel's Secretary, particularly if more appeals are to be determined by a single adjudicator
- Whether appeal fees should be levied for other classes of appeal. Currently only appeals against the refusal of planning permission attract a fee
- The term of appointment for Panel members, including a maximum term of office and a statutory retirement age.

The Panel made a number of recommendations to the Policy Council in respect of the term of appointment for Panel members and understands that they are currently under consideration.

10. Update on Issues raised in the Panel's previous Annual Reports

(a) Third party representations

In previous Annual Reports, the Panel has commented on the restrictions placed on third parties and indicated that it would support some relaxation of the current restrictions placed on taking evidence from third parties.

The Panel understands that, as part of its wider review of the 2005 Law, the Environment Department intends to include recommendations to amend the legislation to specifically allow the taking of evidence from third parties when they have also submitted written representations. The Panel understands that the recommendations are likely to be similar to the scope for public speaking at an Open Planning Meeting under the Environment Department's current protocols for the conduct of those meetings.

(b) Appeal periods

The Panel has also raised concerns that in some cases where an individual is appealing a refusal of planning permission on a retrospective application and an associated Compliance Notice the difference between the two appeal periods (six months from the date of the refusal of planning permission and 28 days from the Date of Issue of a Compliance Notice) may be used as a means to delay enforcement action.

Here again, the Panel understands that the Environment Department shares these concerns and will include recommendations to shorten the appeal period in the case of planning applications where enforcement action has been formally commenced in its forthcoming review of the 2005 Law.

(c) Use of Character Assessments and Statements of Significance for Conservation Areas and Protected Buildings

The Panel notes that during 2013, the Department continued to progress its review of protected buildings and in November 2013 opened a public consultation on its criteria for the selection of buildings for inclusion on the Protected Buildings List.

The Panel anticipates that the adoption of criteria setting out how buildings are assessed for inclusion on the List will assist future Planning Tribunals when handing appeals involving protected buildings. As noted in previous Annual Reports and various Decision Notices, the absence of character assessments for conservation areas and statements of significance for protected buildings has resulted in Tribunals having

to reach their own conclusions based on the evidence of the parties and their own assessment from a site visit.

(d) Compliance Notices

In its 2012 Annual Report, the Panel commented that in a number of appeal cases the description of the alleged breach of development control was unclear and was without reference to the section of the Notice setting out the measures or steps to be taken or activities to be stopped in order to rectify the alleged breach.

During 2013, the Panel noted that the Environment Department reviewed the format of the Notices and, in particular, the description of the alleged breach. Whilst none of the revised notices was the subject of an appeal during 2013, the Panel believes that the more detailed description will assist both the parties receiving such a Notice and any Planning Tribunal hearing an appeal.

11. Developments for 2014

(a) Strategic Land Use Plan and review of Development Plan

During 2013, the Panel followed with interest the Environment Department's publication of a number of consultation documents as part of the pre-publication consultation required under section 4 of the Land Planning and Development (Plans) Ordinance, 2007 and the summaries of the consultation responses.

The Panel understands that the draft Development Plan is likely to be published in early Summer 2014 and the Planning Inquiry to be held in late 2014 or early 2015 with the draft Plan being presented to the States for adoption in early 2016.

The Panel awaits the adoption of the new Development Plan with interest.

(b) Planning Appeals in Jersey

The Panel noted with interest that in September 2013, the States of Jersey approved proposals from the Minister for Planning and Environment for the creation of an independent planning appeals tribunal so providing a merits-based alternative to the present remedy of an appeal to the Royal Court. It is anticipated that the legislation for establishing the new Planning Appeals Tribunal may be in place during 2014.

The Jersey Tribunal will replace the present appeal provisions in the Planning and Building (Jersey) Law, 2002 should provide a means to determine appeals against decisions made under this law entirely on their merits, with the exception of deciding points of law arising from such appeals. Under the new system, an independent Inspector will consider the case, along with all the material evidence, and report his

findings to the Minister for Planning and Environment who would then determine the appeal.

The Panel's Secretary assisted officers of the Jersey Environment Department in their preparation of options for consideration. The Panel's Secretary has offered the new Planning Appeals Tribunal whatever advice and assistance might be needed on matters of recruitment and training given [her](#) experience in this area.

(c) Hearing Agenda

In 2013, the Panel sought to develop and strengthen how it uses agenda during appeal hearings. The agenda set out the principle matters the Tribunal members have identified from their review of the appeal papers that required and which, in their view, require further discussion and scrutiny during an appeal hearing. Their use was introduced in late 2012. This change of approach has been generally welcomed by appellants and the Environment Department officers.

The Panel believes that circulating the agenda prior to the hearing assists the parties to prepare for the hearing by drawing their attention to the issues the Tribunal members have identified as requiring examination. The agenda does not prevent either party from raising other matters which they would wish the Tribunal to consider. Rather it provides a framework for the hearing and ensures that the examination of the evidence focuses on the key issues.

The Panel also believes that the agenda help to make the most efficient use of the time available at the hearing.

12. Conclusion

During 2013, the Panel continued to build on and develop its knowledge and understanding of development control and its understanding of the planning process.

The Panel continues to use its best endeavours to ensure that the members are kept up-to-date with relevant planning matters and to review its own policies and practices. This is undertaken through regular in-house training and regular reviews of its operational policies and procedures whilst monitoring any developments in local planning policy or other States policy which may have an impact on the cases it is asked to determine.

Appendices

APPENDIX 1 – PLANNING PANEL MEMBERSHIP

Name	Position on Panel	Date Appointed	Term of Office
Mr. Patrick Russell	Chairman	March 2009	Until March 2015
Mr. Stuart Fell	Vice Chairman Professional Member	March 2009	Until March 2015
Mr. Jonathan King	Professional Member	January 2012	Until March 2018
Mrs. Linda Wride	Professional Member	January 2012	Until March 2018
Mrs. Sheelagh Evans	Lay Member	January 2013 ⁷	Until March 2019
Mr. David Harry	Lay Member	September 2012 ⁸	Until March 2017
Mr. John Weir	Lay Member	January 2011 ⁹	Until March 2017
Ms. Julia White	Lay Member	January 2012 ¹⁰	Until March 2019

⁷ Mrs. Evans was first appointed as a lay member in March 2009 to serve for 4 years and was re-elected in 2013 for a further 6 year term

⁸ Mr. Harry was appointed to serve the unexpired term of Mr. Burnard's (who resigned from the Panel in August 2012) appointment

⁹ Mr. Weir was first appointed as a lay member in March 2009 to serve for 2 years and was re-elected in 2011 for a further 6 year term

¹⁰ Ms. White was first appointed in September 2011 to serve the unexpired term of Mr. Bowen's (who resigned from the Panel in May 2011) appointment and was re-elected in 2011 for a further 6 year term

APPENDIX 2 - SYNOPSIS OF APPEAL CASES DETERMINED DURING 2013

Appeals on the refusal of planning decision or a grant of planning permission subject to conditions – 2013				
Number	Appeal Details	Principle Issues	Relevant Policies	Decision
001	Subdivide, extend and alter existing farmhouse and barns to provide five dwellings and install terraces at White Gables, Les Prevost Road, St. Saviour and to demolish one pig sty and storage building, alter ground levels and erect fencing	<ul style="list-style-type: none"> - Whether the proposal can result in a satisfactory subdivision of the existing house - Whether the proposal would cause no adverse harm to the character or appearance of those buildings that are to be converted to residential use, or harm the visual quality of the area - Whether the proposal would preserve and enhance the special character and appearance of the Conservation Area, and retain distinctive features - Whether in its assessment and determination of the application the Department has satisfactorily discharged its obligations under the 2005 Law 	Rural Area Plan RGEN11 - Effect on adjoining properties RCE10 – Conservation Areas RCE14 – Conversion and re-use of buildings RH1 – New housing RH3 – Subdivision and conversion to provide housing RH6 – Extension and alterations to dwellings	Appeal Dismissed
002	Rescind Planning Condition 4 - <i>“No use whatsoever, other than as an emergency exit, shall be made of the area of external decking on the north western side of the extension hereby approved”</i> - attached to planning permission to erect an extension and extend the existing decking and steps at L’Auberge Restaurant, Route de Jerbourg, St. Martin	<ul style="list-style-type: none"> - Whether the disputed condition is necessary and reasonable, having regard to the history of the development and its impact on the living conditions of the occupiers of the adjoining dwelling 	Rural Area Plan RGEN11 - Effect on adjoining properties	Appeal Allowed

Number	Appeal Details	Principle Issues	Relevant Policies	Decision
003	Erect an extension over existing ground floor extension and construct Juliet balcony at Hazeldene, La Route des Blanchés, St. Martin	<ul style="list-style-type: none"> The effect of the proposed extension on the living conditions of adjoining occupiers 	Rural Area Plan RGEN11 - Effect on adjoining properties RH6 – Extension and alterations to dwellings	Appeal Dismissed
004	Rescind Planning Conditions 4- <i>The driveway surface level of the new (southern) access, at a point 2 metres back from the edge of the carriageway, shall be raised within 56 days of the date of this decision, so that the relative height of the adjacent roadside wall does not exceed a maximum height of 900mm; and 5 - Bellmouth radii shall be provided to the new (southern) access, to match that of the original (northern) access, within 56 days of the date of this decision</i>	<ul style="list-style-type: none"> Whether the conditions in dispute are reasonably necessary in the interests of road safety and the visual amenity of the locality. 	Rural Area Plan RGEN8 – Parking and open space	Appeal Allowed
006	Erect six signs at Norman Piette, Bulwer Avenue, St. Sampson	<ul style="list-style-type: none"> The effect of the three totem signs on the character and appearance of the area, having regard to their size and design and consequent impact on the street scene 	Urban Area Plan GEN6 – Design GEN8 – Safe and convenient access	Appeal Allowed
008	Remove a section of roadside wall, gate and pillar and create vehicular access and parking at Moreton, Rocquettes Road, St. Peter Port	<ul style="list-style-type: none"> The effect of the development on the character and appearance of the area, having regard to the loss of the roadside wall and the opening up of the frontage Whether the proposal would provide a safe and convenient access 	Urban Area Plan GEN4 – Built heritage GEN8 – Safe and convenient access DBE1 – Design DBE9 – Demolition of buildings and features	Appeal Dismissed

Number	Appeal Details	Principle Issues	Relevant Policies	Decision
009	Erect a two storey extension to the side (NE elevation) of Unit 2, Oakleigh Villa, Landes du Marches, Vale and to alter fenestration (Protected Building)	<ul style="list-style-type: none"> - Whether the proposed development would preserve the special characteristics and setting of the protected building 	Rural Area Plan RGEN11 – Effect on adjoining properties RH6 – Extension and alterations to dwellings	Appeal Dismissed
010	Erect a three bay oak car port at Les Parchounniers House, Les Landes, Vale	<ul style="list-style-type: none"> - Whether the proposal would lead to an unacceptable loss of open and undeveloped land - Whether the development would fail to complement the landscape character type in which it is located - Whether the development would result in the unacceptable loss of existing trees and the potential harm to other trees - Whether, by virtue of its siting and design, the new building would respect the character and amenity of the local environment and be readily assimilated into its surroundings 	Rural Area Plan RGEN3 – Landscape, ecology and wildlife RGEN5 – Character and amenity RCE1 – Protecting open land and avoiding unnecessary development RCE2 – Landscape character	Appeal Dismissed
011	Erect two signs at Ocean House, North Esplanade, St. Peter Port	Appeal Dismissed as not properly made within the appeal period		
012	Change of use from self-catering to residential accommodation at Les Piques Cottages, Rue des Piques, St. Saviour	<ul style="list-style-type: none"> - Whether the proposal can be justified on the basis that the existing use is non-viable - Whether the loss of these self-catering units could be said to prejudice the retention of an adequate stock of visitor accommodation across the Island, - Whether the potential increase in vehicular activity would cause unacceptable detriment to road safety 	Rural Area Plan RGEN7 – Safe and convenient access RE12 – Rationalisation of visitor accommodation RCE14 – Conservation and re-use of buildings	Appeal Dismissed

Number	Appeal Details	Principle Issues	Relevant Policies	Decision
014	Alter existing horticultural buildings, including new roof, and change of use from horticultural use to light industrial use and/or storage at Nicholson's Nurseries, Le Gélé Road, Castel	<ul style="list-style-type: none"> - Whether the appeal building is no longer useful or capable of being used for its current or last known viable purpose, or that more appropriate buildings are available to accommodate such use - Whether the proposed change of use would have a materially adverse effect in relation to the viability of a key horticultural site. 	Rural Area Plan RE2 – Horticultural development RE7 – Industrial development	Appeal Dismissed
015	Change of use for a packing shed to a builder's store at Merton Vinery, Rue des Pointes, St. Andrew to a builder's store	<ul style="list-style-type: none"> - Whether the appeal building is no longer useful or capable of being used for its current or last known viable purpose, or that more appropriate buildings are available to accommodate such use - Whether the proposed change of use would have a materially adverse effect in relation to the viability of a key horticultural site. 	Rural Area Plan RE2 – Horticultural development RE3 – Protecting key horticultural sites RE7 – Industrial development	Appeal Dismissed
016	Create parking at Brescia, Monument Gardens, St. Peter Port	<ul style="list-style-type: none"> - Whether the proposal would result in the unacceptable loss of public parking spaces, thereby resulting in a development that would be harmful to community interests - Whether the proposal would fail to conserve or enhance the character and appearance of the conservation area 	Urban Area Plan GEN1 – Sustainable development DBE7 – New development in conservation areas DBE9 – Demolition of buildings and features	Appeal Allowed
017	Change of use of the front of the rear showroom to retail use with ancillary storage and sorting at the former Jackson's Garage premises, La Grande Rue, St. Martin			Appeal adjourned for revised plans to be submitted

Number	Appeal Details	Principle Issues	Relevant Policies	Decision
018	Remove front roadside hedge and wall and create access and parking and erect replacement fence at Le Nid, Hougue du Pommier, Castel.	<ul style="list-style-type: none"> - The effect of the development on the character and appearance of the area, having regard to the loss of the traditional boundary treatment; the design of the replacement fence and the elevated position of the proposed parking space - Whether the effect on the character and appearance of the area is sufficient to outweigh the presumption that proposals for alterations and extensions to existing houses will normally be permitted 	Rural Area Plan RGEN11 – Effect on adjoining properties RH6 – Extensions and alterations to dwellings RCE13 Demolition of buildings and features	Appeal Dismissed
019	Erect four dwellings (instead of three dwellings as currently approved) in place of demolished structure, and revise the siting of one of the three dwellings currently approved at Sandy Hook Stores, L’Islet, St. Sampson	<ul style="list-style-type: none"> - Whether the construction of four new build dwellings would conflict with the primary RAP policy objective to conserve and enhance the rural environment 	Rural Area Plan RH1 – New housing RGEN11 - Effect on adjoining properties RCE13 - Demolition of buildings and features RCE14 – Conversion and re-use of buildings	Appeal Dismissed
020	Erect outbuilding (store, workshop and studio) at A La Ronde, Bon Port, St. Martin	<ul style="list-style-type: none"> - Whether the development is incidental to the enjoyment of the principal dwelling - Whether the visual impact of the development on its setting and on the openness and character of the area, having regard to its location in an Area of High Landscape Quality and its relationship with the main house - Whether the development would be in conflict with any other policies 	Rural Area Plan RCE1 – Protecting open land and avoiding unnecessary development RCE2 – Landscape character RCE3 – Areas of High Landscape Quality RCE12 – Design and local distinctiveness RH5 – Dower units	Appeal Allowed

Number	Appeal Details	Principle Issues	Relevant Policies	Decision
021	Erect 13 apartments with underground car parking and construct a new roadway at King's Club, Kings Road, St. Peter Port	<ul style="list-style-type: none"> - Whether the site is in a sustainable location for residential development. - The effect of the proposed development on the supply of housing. - Having regard to DBE1 and DBE2, the effect of the proposed development on the character and appearance of the locality. - Having regard to GEN12, the effect of the proposed development on the living conditions of residents living nearby. - The effect of the proposed development and its access on the safety of road users, including pedestrians. - Having regard to the loss of tennis courts and the appellants' stated investment intentions with respect to King's Club, the effect of the proposed development on the quantity and quality of recreational provision on the Island. 	Urban Area Plan GEN4 – Built heritage GEN5 - Design GEN8 – Safe and convenient access GEN12 – Effect on adjoining properties DBE1 – Design DBE2 – Developments with significant townscape impact HO1 – Housing provision in the Urban Area Plan	Appeal
022	Vary previously approved works at Casa Angelina, The Strand, St. Peter Port in respect of the front and garage door designs and fenestration	<ul style="list-style-type: none"> - Whether by virtue of its increased width the entrance door would have an adverse effect on the composition of the front elevation - Whether these changes would result in harm to the character and appearance of the Conservation Area 	Urban Area Plan GEN5 - Design DBE1 – Design DBE7 – New development in conservation areas	Appeal Allowed

2013 Compliance and Completion Notices			
Number	Appeal Details	Principle Issues	Decision
007	Appeal against a Completion Notice issued by the Environment Department on 24 th October 2012 under s.19(1) of the 2005 Law in respect of Fircourt, La Grande Maison Road, Vale	<ul style="list-style-type: none"> - Whether the issue of the Notice was <i>ultra vires</i> having regard to whether the 2005 Law can be applied retrospectively to schemes approved under earlier legislation, or unreasonable having regard to other developments approved prior to 2005 which have not been finished in similar timescales, but which have not been subject to the issue of Completion Notices - Whether the period specified in the Completion Notice is unreasonably short 	Appeal Dismissed
013	Install two tilt and turn aluminium windows to the rear of Blossom House, Rouge Huis Avenue, St. Peter Port	Planning permission granted; therefore no grounds for issuing Compliance Notice and so withdrawn by the Environment Department; appeal formally withdrawn by appellants	

APPENDIX 3 - ANALYSIS OF PLANNING POLICIES

Rural Area Plan Policies

	2013	2012	2011	2010
General				
RGEN1 Sustainable development	--	--	2	2
RGEN2 Comprehensive development	--1	--	--	--
RGEN3 Landscape, ecology and wildlife	--	2	--	2
RGEN4 Built heritage	--	1	2	2
RGEN5 Character and amenity	3	3	5	13
RGEN6 Design	1	2	1	2
RGEN7 Safe and convenient access	1	--	4	4
RGEN8 Parking and open space	1	--	--	4
RGEN9 Hazardous development, nuisance and pollution	--	--	--	--
RGEN10 Public enjoyment	--	--	--	2
RGEN11 Effect on adjoining properties	8	4	2	5
RGEN12 Flood risk	--	1	--	--
RGEN13 Airport safety	--	--	1	--
Conservation and Enhancement				
RCE1 Protecting open land and avoiding unnecessary development	2	5	7	6
RCE2 Landscape character	2	1	2	2
RCE3 Areas of High Landscape Quality	2	4	6	9
RCE4 Sites of Nature Conservation Importance	--	--	--	--
RCE5 Derelict land in the countryside	--	--	--	1
RCE6 Creation or extension of curtilages	--	--	2	3
RCE7 Public views	--	--	--	--
RCE8 Landscape design	--	--	--	--
RCE9 Archaeological remains	--	--	--	--
RCE10 Conservation Areas	--	1	1	3
RCE11 Buildings of special interest	1	--	--	--
RCE12 Design and local distinctiveness	2	1	--	5
RCE13 Demolition of buildings and features	2	1	2	5
RCE14 Conversion and re-use of buildings	4	1	4	3
Housing				
RH1 New housing	2	--	2	3
RH2 Social housing	--	--	--	--
RH3 Sub-division and conversion to provide housing	1	--	--	--
RH4 Protecting housing stock	--	--	--	--
RH5 Dower units	1	--	1	1
RH6 Extensions and alterations to dwellings	4	4	2	4

	2013	2012	2011	2010
Rural Economy				
RE1 Agricultural development	--	1	2	1
RE2 Horticultural development	2	1	2	--
RE3 Protecting key horticultural sites	1	--	1	--
RE4 Retail development	--	--	1	--
RE5 Garden centres	--	--	--	--
RE6 Coastal kiosks	--	--	--	--
RE7 Industrial development	2	2	3	1
RE8 Protecting industrial accommodation	--	--	1	--
RE9 Commerce related development	--	--	--	2
RE10 Home based employment	--	--	--	--
RE11 Visitor accommodation development	--	--	--	1
RE12 Rationalisation of visitor accommodation	1	--	--	--
RE13 Visitor facilities and attractions	--	--	--	2
RE14 Development requiring an airport location	--	1	--	--
RE15 Minerals	--	--	--	--
Social, Community and Recreational				
RS1 Community services	--	--	--	--
RS2 Protecting community facilities	--	--	--	--
RS3 Indoor recreational facilities	--	2	--	--
RS4 Outdoor recreational facilities	--	--	2	2
RS5 Golf course development	--	--	--	--
Essential Development and Infrastructure				
RD1 Essential development	--	--	--	--
RD2 Small-scale infrastructure	--	--	--	--

Urban Area Plan Policies

	2013	2012	2011	2010
General				
GEN1 Sustainable development	1	--	--	--
GEN2 Comprehensive development	--	--	--	--
GEN3 Landscape, ecology and wildlife	--	--	--	--
GEN4 Built heritage	2	--	--	--
GEN5 Design	2	1	4	1
GEN6 Character and amenity	3	7	7	1
GEN7 Safe and convenient access	--	--	1	--
GEN8 Roads and infrastructure	3	5	1	2
GEN9 Safe and convenient access	1	2	1	--
GEN10 Open space and parking	--	--	--	--
GEN11 Public enjoyment	--	--	--	--
GEN12 Effect on adjoining properties	1	1	1	--
Design and the Built Environment				
DBE1 Design - General	2	7	7	6
DBE2 Developments with significant townscape impact	--	--	--	--
DBE3 High buildings	--	--	--	--
DBE4 Landscape design	--	--	--	--
DBE5 Open space	--	--	--	--
DBE6 Skyline and public views	--	1	--	--
DBE7 New development in Conservation Areas	3	6	1	5
DBE8 Buildings of special interest	--	4	1	2
DBE9 Demolition of buildings and features	2	--	1	--
DBE10 Archaeological remains	--	--	--	--
Housing				
HO1 Housing provision in the Urban Area Plan	1	--	1	--
HO2 New housing in Settlement Areas and on previously developed land	1	--	1	1
HO3 Mixed use development	--	--	--	--
HO4 Conversion and subdivision of existing buildings - General	--	2	--	--
HO5 Vacant and underused upper floors	--	--	--	--
HO6 Obsolete office space	--	1	--	--
HO7 Flats, houses in multiple occupation, and staff hostels	--	--	--	--
HO8 Housing Target Areas	--	--	1	1
HO9 Retention of the existing housing stock	--	--	--	--
HO10 Residential density and amenity	--	--	--	--
HO11 Housing for smaller households	--	--	--	--
HO12 Housing for people with mobility impairment	--	--	--	--
HO13 Accommodation for the elderly	--	--	--	--
HO14 Dower units	--	--	--	--

		2012	2011	2010
Employment				
Office Accommodation				
EMP1 New office developments	--	--	--	--
EMP2 Small-scale professional and support services	--	--	--	--
EMP3 Upgrading the office stock	--	--	--	--
EMP4 Conversion of office sites for alternative uses	--	1	--	--
Industrial Development				
EMP5 Key Industrial Areas	--	--	1	--
EMP6 Industrial development outside Key Industrial Areas	--	--	--	--
EMP7 Small workshops and yards	--	--	--	--
EMP8 Development of the land reclamation site	--	--	--	--
EMP9 Protecting industrial sites	--	1	1	--
EMP10 Unneighbourly uses	--	--	--	--
EMP11 Home based employment	--	--	--	--
EMP12 Horticultural development	--	--	--	--
Tourism				
EMP13 New tourist accommodation	--	--	--	--
EMP14 Alteration, extension and redevelopment of existing tourist accommodation	--	--	--	--
EMP15 Rationalisation of visitor accommodation	--	2	--	--
EMP16 Visitor facilities and attractions	--	--	--	--
Centres				
CEN1 New shopping facilities in the Central Areas	--	1	--	--
CEN2 New retail development outside the Central Areas	--	1	--	--
CEN3 Mixed use development	--	--	--	--
CEN4 Complementing the retail function	--	--	--	--
CEN5 Maintaining the variety of shop units	--	--	--	--
CEN6 Public and commercial car parks	--	1	--	--
CEN7 Temporary car parks	--	1	--	--
CEN8 Pedestrians in the Central Areas	--	--	--	--
CEN9 Town centre management and environmental improvement	--	--	--	--
CEN10 Paving, street furniture and public art	--	--	--	--
CEN11 Shopfronts	--	1	--	--
CEN12 Signs	--	3	--	--
Social, Community and Recreational				
SCR1 Community services	--	--	--	1
SCR2 Education facilities	--	1	--	--
Recreation				
SCR3 Development of existing facilities	--	--	--	--
SCR4 Increased dual use of facilities	--	--	--	--
SCR5 The establishment of sports performance centres	--	--	--	--
SCR6 Indoor leisure facilities	--	--	--	--
SCR7 Equestrian related development	--	--	--	--

	2013	2012	2011	2010
Countryside				
CO1 New development outside the Settlement Areas	--	1	1	--
CO2 Re-use of buildings outside the Settlement Areas	--	--	1	--
CO3 Landscape character	--	--	--	--
CO4 Areas of Landscape Value	--	--	--	--
CO5 Wildlife and nature conservation	--	--	--	--
CO6 Derelict land in the countryside	--	--	--	--

APPENDIX 4 - THE PLANNING PANEL'S GENERAL POLICIES AND PROCEDURES

(a) Determination of an Appeal by a Single Professional Member

When deciding if an application should be made to the Policy Council to seek its approval that an appeal should be determined by a Single Professional Member the Panel Chairman will consider the following factors:

- Are the appeal papers complete and self-contained? In other words, can the Tribunal easily understand how the planning decision was reached, the appellants' reasons for appealing the decision and why the Environment Department is resisting the appeal?
- Are the relevant planning policies and issues clear? In other words, can the Tribunal clearly understand the issues by reading the appeal papers and visiting the site?
- Is there an over-riding public interest? Examples of appeals which may have an over-riding public interest will include large scale developments, developments in areas of particular environmental or historic sensitivity or where the policy issues are unclear. In other words, is there likely to be significant public interest in the development or have the policy issues linked to the appeal ones which are the subject of wider debate so that it is appropriate for a hearing to be held.
- Were any third party representations objecting to the development received by the Environment Department?
- Are there significant disputes as to the facts?
- Are there any novel legal issues?

(b) Determination on an Appeal by Written Representation by either a Single Professional Member or by a Full Tribunal

When deciding if an Appeal should be determined by Written Representations by a Single Professional Member the Panel Chairman will consider the factors referred to above in addition to those below relating to determination by a full Tribunal:

- Does the appeal involve a planning application of Island-wide significance or concern development where an environmental statement has or may be required, as specified under s.6(2)(a) and (b) of the Land Planning and Development (Appeals) Ordinance, 2007?
- Is the matter appealed fairly minor and uncomplicated?

- Is the evidence self explanatory and complete?
- Were there any third party representations received by the Environment Department; how many and from whom?

(c) General Procedure for Determining Compliance Notices and Confirmation of Tree Protection Order

When deciding whether an appeal against the issue of a Compliance Notice or the Confirmation of a Tree Protection Order should be determined by a Hearing or by Written Representations by either a Single Professional Member or by a full Tribunal, the Panel Chairman's general presumption is that the appeal should be heard by way of public hearing.

This general presumption is because these types of appeal are likely to be of wider public interest and, in some cases, the issues are likely to be more complex, and so require the Tribunal to hear evidence from a number of parties, other than the person making the appeal and the Environment Department.

(d) General Procedure for Site Visits

When determining an appeal the Tribunal or Single Professional Member will always visit the appeal site.

As a general rule, where an appeal is determined at a public hearing the site visit will take place at the end of the hearing. However, the Tribunal or Single Professional Member may direct that the site visit should take place at the start of a hearing or part way through a hearing. Such decisions will be determined on a case-by-case basis and the Tribunal or Single Professional Member will explain its decision.

These site visits will require the attendance of the appellants and/or his representative and the Environment Department's representative/s. All parties must be present throughout the site visit and should remain in close proximity to the Tribunal Members to ensure that they can hear any questions that Members may ask and the answers given.

Where an appeal is determined by Written Representations the site visit will generally be made privately, i.e. the attendance of the appellants and/or his representative and the Environment Department's representative/s will not be required. However, where the Tribunal Members need to gain access to a building or cannot view the appeal site without entering privately owned land the site visit will be conducted in the presence of the appellants and/or his representative and the Environment Department's representative/s.

For all accompanied site visits the appellant should ensure he brings any keys which may be needed to afford Tribunal Members access to any locked buildings, sheds, etc on the appeal site.

(e) General Procedure for Handling Post-Hearing Correspondence with the Parties

As a general rule, the Tribunal or Single Professional Member will not enter into any post-hearing correspondence with the parties. However, from time to time this may be necessary, e.g. to clarify a point made in evidence by either party or to seek both parties' comments on the wording of a non-standard planning condition.

Where it is necessary for a Tribunal or Single Professional Member to open such correspondence copies of any letters or email communications will be sent to all parties, together with the replies received from each party.

(f) General Procedure for Determining Linked Appeals against the Refusal of Planning Permission and against a Compliance Notice

As a general rule the Panel will endeavour to prioritise appeals against Compliance Notices.

This general rule will be modified where retrospective planning permission has been refused and the Environment Department has commenced enforcement measures before the appeal period for the refusal of planning permission has expired.

The Panel's general policy for dealing with appeals against both the refusal of planning permission and a Compliance Notice seeks to ensure that the party's rights under s.68 of the 2005 Law to appeal a decision refusing planning permission are not interfered with and that the Environment Department's endeavours to deal with any breaches of the Island's development controls are not frustrated.