

**Annual
Report**

2014

Fifth Annual Report of the Guernsey Planning Panel

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Chairman's Introduction

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

During 2014, the number of appeal cases lodged with the Panel was similar to 2013. The first appeal lodged in 2014 was an appeal on the grounds of non-determination by the Environment Department, made under section 68 (2) of the Land Planning and Development (Guernsey) Law, 2005. This was the first time an appeal had been made on such grounds and, given the nature of the appeal, the Panel sought to hear the appeal within a short as possible timescale, without compromising the need for all parties, including the Planning Tribunal itself, to have time to prepare for the hearing.

The first two appeals lodged in 2014 (PAP/001/2014 – Manor Hotel, Les Houards, Forest and PAP/002/2014 – Greenacres Hotel, Les Hubits, St. Martin) raised very similar policy issues for the Tribunals. As a result of consideration of these cases, the Tribunal members identified a gap in their collective knowledge on development economics. To address this knowledge gap, the Panel arranged for a professional agency providing training for planners to give some general training on development economics. The training was aimed at equipping Panel members with the skill needed to be able to review, assess, and understand submissions and evidence from appellants and the Environment Department in such appeal cases.

An important landmark in the Island's planning history will be the publication of the Draft Island Development Plan in 2015 following a Public Inquiry to be held in September, 2015. This is referred to in paragraph 11, below. This Plan will be of great interest to all who are concerned with planning issues in the Island.

The Panel's membership has remained constant throughout the year. However, we hope during the course of 2015 to take steps to appoint reserve members to the Panel. At its inception the Panel consisted of six members with three reserve members. Those reserve members have now been appointed to the Panel or withdrawn and it is timely to consider further appointments. Given the often technical nature of the Panel's work having reserve members who attend training meetings and are associated with our work in an informal way has proved invaluable at the time of their formal appointment.

It is again my pleasure to record my thanks to my Deputy Chairman Mr. Stuart Fell and fellow colleagues on the Panel for their hard work, skill and dedication. We continue to hear complex and novel cases which have again required our professional members in particular to demonstrate their depth of knowledge which has been to the benefit of all of us.

The Secretary to the Panel, Miss Elizabeth Dene has despite her increasing workload continued to provide invaluable administrative support throughout this period and we are most grateful to her for this assistance.

Patrick Russell
Chairman
July 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 2014. The full membership of the Panel at the end of 2013 is set out at Appendix 1.

3. Panel Staff

During 2014 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 2014 is set out in Table 1. The payments to the Panel members were some £10,000 less than in 2013. Although the number of appeals lodged in 2014 was similar to 2013, the number of cases which proceeded to a Tribunal hearing was less and hence the lower level of fees paid to Tribunal members.

The Panel has observed that most appellants continue to request a public hearing before a Tribunal. The Panel Secretariat is mindful that this is administratively the most costly mode of appeal to the Guernsey tax payer and appellants are reminded that an appeal can be determined on the basis of written representations or by a single professional member, although this has had only limited impact on the choice of hearing. 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

| Table 1 Panel's Expenditure and Income | 2010 | 2011 | 2012 | 2013 | 2014 |
|---|----------------|-------------------------|---------------------|-----------------|----------------|
| Recruitment and training | £0 | £8,352 | £8,000 | £4,355 | £3,250 |
| General administration and stationery | £1,410 | £1,038 | £685 | £254 | £132 |
| Payments to Panel Members | £48,070 | £50,867 | £79,076 | £55,558 | £47,534 |
| Travel and accommodation costs | £1,870 | £1,618 | £4,749 ³ | £5,480 | £3,961 |
| Operational costs | £4,050 | £3,503 | £4,259 | £3,339 | £2,709 |
| Staff salaries | £31,150 | £32,232 | £33,355 | £39,654 | £39,810 |
| Total Expenditure | £86,550 | £97,610 | £132,124 | £110,653 | £99,410 |
| Income from Fees | -- | £965⁴ | £7,969 | £13,422 | £4,605 |

5. Appeal Fees

In 2014, the Panel's income for appeal fees decreased by nearly two thirds. The reason for this significant decrease is that in 2013 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. Further, during 2014, the number of household appeals (which are generally associated with a lower appeal fee) increased when compared with the 2013 figures.

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 2014 (2013), the Panel received 26 (22) appeals, i.e. 15 per cent increase when compared with 2013. Tables 2 and 3 provide a breakdown of the categories of appeals made and their disposal. In 2014 (2013), the Environment Department refused 7.5 (9) per cent of applications for planning permission and 12 (14) per cent of the refusals resulted in the applicant appealing the decision.

At the end of 2014, two appeals remained unheard having been received by the Panel in December 2014. The Panel continues to aim to determine appeals within twelve weeks of the appeal being lodged, subject to the availability of the parties and any witnesses.

In 2014, the Panel noted that 34 per cent of appeals related to commercial sites and 66 per cent were householder-based appeal (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 | | |
| 2014 | 2013 | 2012 | 2014 | 2013 | 2012 | 2014 | 2013 | 2012 | 2014 | 2013 | 2012 | 2014 | 2013 | 2012 | 2014 | 2013 | 2012 | 2014 | 2013 | 2012 | |
| Refusal of planning permission | 16 | 17 | 30 | 5 | 1 | 10 | 9 | 10 | 14 | 2 | -- | 3 | -- | -- | 1 | 1 | 1 | -- | -- | -- | -- |
| Refusal of outline planning permission | -- | 1 | -- | -- | 1 | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- |
| Planning conditions | 1 | 2 | 4 | 1 | 2 | 2 | -- | -- | 1 | -- | -- | -- | -- | -- | -- | -- | -- | 1 | -- | -- | 1 |
| Non-determination | 1 | -- | 1 | 1 | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- |
| Compliance Notice | 7 | 1 | 9 | -- | -- | 2 | 2 | -- | 1 | 3 | 1 | -- | 1 | -- | 3 | 1 | -- | -- | -- | -- | -- |
| Completion Notice | -- | 1 | -- | -- | -- | -- | -- | 1 | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- |
| Confirmation of a TPO | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- |
| Add building to Protected Building List | 1 | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | 1 | -- | -- | -- | -- | -- |
| TOTAL | 26 | 22 | 44 | 7 | 14 | 13 | 11 | 16 | 20 | 5 | 1 | 3 | 1 | -- | 4 | 3 | 1 | 1 | -- | -- | 1 |

Table 3

| | Number of Appeals | | | | | |
|--|-------------------|------------|-------------|------------|-------------|------------|
| | 2014 | | 2013 | | 2012 | |
| | Householder | Commercial | Householder | Commercial | Householder | Commercial |
| Refusal of planning permission | 10 | 6 | 7 | 9 | 19 | 13 |
| Refusal of outline planning permission | -- | -- | 1 | -- | -- | -- |
| Planning conditions | 1 | -- | 1 | 1 | -- | 3 |
| Non-determination | -- | 1 | -- | -- | -- | 1 |
| Compliance Notices | 4 | 3 | 1 | 1 | 1 | 7 |
| Completion Notices | -- | -- | 1 | -- | -- | -- |
| Confirmation of a TPO | -- | -- | -- | -- | -- | -- |
| Add building to Protected Building List | 1 | -- | -- | -- | -- | -- |
| TOTAL | 16 | 10 | 11 | 11 | 20 | 24 |

7. Case Appraisal

During 2014, 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 | | 2014 | 2013 | 2012 | 2011 |
|--|---|-------------|-------------|-------------|-------------|
| Change of Use | Horticultural to industrial | 3 | 3 | -- | 2 |
| | Horticultural to residential | -- | -- | 1 | 1 |
| | Industrial to retail | | 1 | 2 | 1 |
| | Tourist accommodation to residential | -- | 1 | 2 | -- |
| | Tourist accommodation to residential care | 2 | | | |
| Creation of parking | Private/domestic | 6 | 3 | 5 | 4 |
| | Commercial | 1 | -- | 2 | 1 |
| Fencing and gates | Type | 1 | -- | 3 | 3 |
| | Height | 1 | -- | 3 | -- |
| New housing developments | | 1 | | 3 | 2 |
| Removal or lowering of roadside walls | | 3 | | 4 | 8 |
| Construction or removal of earthbanks | | 1 | | 2 | 2 |
| Re-use of redundant buildings for other purposes | | 1 | | 2 | 1 |
| Sheds on agricultural or horticultural land | | -- | -- | 1 | 5 |

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

| | | | | |
|---------|---|---|---|----|
| Signage | 3 | 2 | 2 | -- |
|---------|---|---|---|----|

In 2014 (2013), 17(14) of the appeals which proceeded to an adjudication 16 (11) related to development within the Rural Area and only 1 (3) case related to 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 |
| | 2014 (2013) | 2014 (2013) | 2014 (2013) | 2014 (2013) |
| Public Hearing before a Planning Tribunal | 11 (13) | 1 (1) | 13 (14) | 1 (1) |
| Public Hearing before a Single Professional Member | 1 (1) | 1 (1) | 1 (1) | -- (--) |
| Written Representations determined by a Planning Tribunal | 3 (3) | 2 (2) | 2 (2) | -- (--) |
| Written Representations determined by a Single Professional Member | 1 (2) | -- (--) | 1 (2) | -- (--) |

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 2014, just under three fifths of appellants were represented by an Advocate or Architect and two fifths of appellants represented themselves. The Panel continues to use its best endeavours to encourage appellants, where they wish, to be able to present their own appeals without needing to obtain professional representation. The Panel is very mindful that when established one of the main reasons for moving away from the Royal Court was to enable anybody who had been refused planning permission to be able to appeal the decision without having to incur substantial legal costs.

Table 6 below provides a more detailed breakdown of representation.

| Table 6 | | 2014 | 2013 | 2012 | 2011 |
|---|---------------------|-------------|-------------|-------------|-------------|
| Breakdown of Representation⁶ | | | | | |
| Unrepresented | | 6 | 9 | 15 | 16 |
| Unrepresented but assisted by friend or family member | | 1 | 2 | 3 | 3 |
| Represented | Architect | 2 | 17 | 8 | 10 |
| | Advocate | 7 | 15 | 4 | 4 |
| | Planning consultant | -- | 3 | 3 | -- |
| | Surveyor | -- | -- | 2 | -- |

9. **Matters arising in cases determined in 2014**

(a) Appeal on the grounds of Non-Determination

The first appeal lodged in 2014 was an appeal made under section 68(2) of the Land Planning and Development (Guernsey), 2015, namely an appeal against the non-determination of an application for a change of use from a hotel to a residential care home (PAP/001/2015 – Manor Hotel).

From its initial review of the appellants' appeal papers, i.e. the planning application and supporting evidence from the appellants before the Environment Department as on the date of the appeal, the Tribunal members were concerned that it may not have sufficient evidence to reach a decision. Their concerns were based on the limitation placed on all Tribunals, namely section 69(1) that an appeal under section 68 shall be determined by the Tribunal on the basis of the materials, evidence and facts which were before the Environment Department at the expiry of the period for the Environment Department to determine a planning application.

The Tribunal members were concerned that if there was insufficient evidence in the planning application to reach a properly informed decision, they would have little option but to dismiss the appeal as the provisions of section 69(1) prevented them from requesting further evidence from either party. Clearly such an outcome would be unhelpful to all parties and could potentially bring the appeal provisions on the grounds of non-determination into question.

The Panel has raised these concerns with the Environment Department and understands that the application to this class of appeals of section 69(1) will be reviewed as part of their on-going review of the Land Planning and Development (Guernsey) Law, 2015.

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

(b) Policy RE12 – Rationalisation of Visitor Accommodation

In both the above case and another appeal against refusal of planning permission for a change of use of another hotel to a dementia care home (PAP/002/2015 – Greenacres Hotel), the Tribunals encountered significant difficulties in weighing the evidence. Both appeals engaged Policy RE12 – Rationalisation of Visitor Accommodation.

In both cases, neither of the hotels had operated as visitor accommodation for several years. The Manor Hotel had operated as a lodging house for many years, although the authorised use remained under Use Class 11 – Visitor Economy, i.e. use in accordance with a boarding permit of an hotel for the supply of intoxicating liquor to non-residents. Greenacres Hotel had closed in October 2012.

The preamble to the policy states:

For a number of years the quality of accommodation offered by the Island’s visitor sector has been in overall decline, relative to the market. This is probably due to a lack of investment resulting from low average occupancy figures. Individual establishments that find themselves in this position are often unable to generate sufficient funds to invest in the refurbishment and development of facilities that would enable them to compete in the evolving market.

In order to secure an adequate stock of visitor accommodation and to encourage the industry to invest in its improvement, the Commerce and Employment Department has set the following objective with regard to the minimum occupancy rates which, it considers, will be necessary to sustain a viable sector:

To achieve an average annual room occupancy level for the serviced accommodation sector of 65% (based on year-round occupancy) and for self-catering accommodation of 75% (based on seasonal occupancy).

Owing to the changing nature of the tourist economy, it is difficult to define exactly what an “adequate stock” of visitor accommodation is. Nonetheless, the Environment Department takes it to be that which would naturally sustain the above occupancy rates at any particular, given time.

Based on the current supply of accommodation and occupancy levels, for this objective to be achieved, there would need to be a structured reduction in the total supply of accommodation in the Island. This reduction, and indeed any new or extended accommodation (whether in the rural or urban area), needs to be carefully monitored in order to ensure that actual occupancy rates remain at, or sufficiently close to, the minimum level. To this end, the Board will have regard to the adequacy of stock of visitor accommodation when applying Policy RE12. However, while there is a clear need for an improvement in occupancy levels overall, it is also acknowledged that the demand for accommodation depends

not just on the quality of the establishment and level of facilities available but also on its location. Demand remains strong for accommodation within easy reach of the centre of St Peter Port and in attractive rural and coastal locations. It is evident that in such locations, investment in the refurbishment and redevelopment of accommodation and facilities, sometimes incorporating additional capacity, can generally be justified. In addition, there is a strong demand for self-catering visitor accommodation across the Island although this does not appear to be so dependent upon location.

It follows that the most practicable opportunity for reducing the overall supply of accommodation, is most likely to be found in respect of serviced accommodation situated in poor, or relatively indifferent, locations.

Therefore, in appropriate circumstances permission may be granted for the change of use of visitor accommodation to an alternative use. However, the applicant must demonstrate that the establishment is

- Not of a satisfactory standard and is incapable of being upgraded or otherwise adapted; or,*
- That the continuing use of the site as visitor accommodation is not viable, perhaps because of locational, immediate surroundings or size issues.*

In addition, it must be shown that there are no practicable opportunities at reasonable cost for conversion of the accommodation to meet a different sector of the tourist market, for example, good quality self-catering accommodation.

In determining whether the establishment currently offers, or is capable of attaining, a satisfactory standard of accommodation, the Department will take into account the following factors:

- The location of the establishment, immediate surroundings and ease of access for visitors
[Those locations regarded as of importance are:
(i) Within easy access of the Town Area
(ii) On, or within easy access to the south and south-east coast cliffs
(iii) On, or adjacent to, a good tourist beach, being a beach which has refreshment and toilet facilities and provides attractive bathing at all states of the tide
(iv) Enjoying an attractive outlook or views
(v) Adjacent, or within easy access, to special interest attractions, or important visitor facilities (including the Harbour and Airport)]*
- The size of the establishment (whether too large or too small) and the size of the site on which it is located;*

- *The current standard of accommodation and amenities and the potential for upgrading or conversion to other tourist accommodation uses, including the cost of the works involved;*
- *The nature and level of available facilities.*
- *The current standard of accommodation and amenities and the potential for upgrading or conversion to other tourist accommodation uses, including the cost of the works involved;*
- *The nature and level of available facilities.*

In order to determine whether a visitor accommodation establishment is not viable, the views of the Commerce and Employment Department will be sought. To this end, the Commerce and Employment Department may reasonably request such information from an applicant as is necessary to make a sound assessment.

Policy RE12 states:

The change of use or redevelopment of visitor accommodation to other uses will only be permitted where it would not prejudice the retention of an adequate stock of visitor accommodation across the Island and where:

- a) *The existing premises provide an unsatisfactory standard of accommodation and facilities and are incapable of being upgraded or otherwise adapted to a satisfactory standard or, changed to an alternative visitor accommodation use at reasonable expense, having regard to the location, immediate surroundings and size of the establishment; or*
- b) *The premises are currently of an inappropriate size for a modern, viable operation and are not readily capable of being suitably adapted or re-sized.*

Where a residential use is proposed, a satisfactory living environment and standard of accommodation must be provided including satisfactory levels of amenity, servicing and parking provision appropriate to the type of accommodation being created and its location.

Proposals for the re-use or redevelopment of former visitor accommodation for housing purposes comprising sheltered accommodation, residential or nursing homes or staff hostels will generally be supported.

The Tribunals noted that where Policy RE12 is engaged, applicants are affectively being asked to prove a negative but neither the Environment Department nor the Commerce and Employment Department had issued any guidance on the evidence an applicant seeking to convert an hotel for another use would be required to provide to enable an assessment against the policy.

The Tribunals noted the particular difficulties of satisfying the policy requirements where the hotel had not operated as such for some considerable period and how the

contribution of the hotel to the Island's visitor bed stock could be assessed in respect of the requirement within the policy for the applicant to demonstrate that a change of use "... would not prejudice the retention of an adequate stock of visitor accommodation across the Island".

Further, the Tribunals were concerned that in both cases, neither the Environment Department nor the Commerce and Employment Department had requested any supporting evidence from the applicants necessary to enable them to make a sound assessment of the application. This was despite neither applicant having included any robust evidence as to the viability and suitability to demonstrate that the premises provided an unsatisfactory standard of accommodation and facilities and were incapable of being upgraded or otherwise adapted to a satisfactory standard or, changed to an alternative visitor accommodation use at reasonable expense, having regard to the location, immediate surroundings and size of the establishment. Indeed, the Tribunal considering the Greenacres appeal noted that the application had been both validated and determined by the Environment Department despite the applicant having failed to include any evidence to demonstrate viability or suitability for continuing to operate the premises as an hotel. The Tribunal concluded:

- "13. *The Environment Department accepted without question the Commerce and Employment Department's conclusions with respect to the various elements of criterion (a) of the policy, despite the fact that the kind of evidence necessary to draw such conclusions on these very complex and sometimes technical issues was wholly or mainly lacking. The responsibility for providing that information, relating to such matters as the cost of refurbishment; the consideration of alternative strategies and viability, lay with the appellant company. When it was not supplied, the Environment Department should have sought it, either directly, or through the Commerce and Employment Department. But it did not, despite the fact that the supporting text to the policy says that such information may be necessary to make a sound assessment. The failure to obtain the necessary information prevented the Environment Department from reaching informed decisions, which had far-reaching consequences for the outcome of the application and ultimately this appeal. In the view of the Tribunal, it failed to engage fully with the appellant company or to carry out its decision-making functions adequately.*
20. *The Tribunal's conclusion on this issue was that the material available to us at the Hearing was not sufficient, or not sufficiently reliable for us to reach a firm opinion as to whether the loss of visitor accommodation resulting from the proposed change of use of the hotel would be prejudicial to the retention of an adequate stock across the Island. This places the Tribunal in a difficult position with respect to the determination of the appeal, as we consider that drawing a conclusion on that important element of the policy is essential to reaching a properly informed and balanced decision.*

41. *... the Tribunal would have wished to see additional and more detailed evidence from both parties in relation to the various complex matters addressed in Policy RE12. On the one hand, we have concluded that the Environment Department failed to show that the proposed change of use would be prejudicial to retaining an adequate stock of visitor accommodation across the Island. But, on the other hand, we can also reasonably conclude that the appellant company has failed to demonstrate compliance with the criteria of the policy. That does not mean that, had we been in possession of the appropriate level of evidence, other conclusions could not have been reached. But they are the only reasonable conclusions that may be drawn on what is available and admissible.*

42. *The policy allows for a change of use only where both prejudice to the stock of accommodation and compliance with either criteria (a) or (b) is demonstrated. The proposed development therefore fails the overall test.”* (see Decision Notice PAP/002/2015 – Greenacres)

In both these cases, the Tribunals accepted that the policy presented both an applicant and the Environment Department a number of challenges, particularly that applicants were effectively required to prove a negative but also the absence of robust published data on occupancy levels for the Island’s stock of visitor accommodation. The Tribunals also noted that neither the Environment Department nor the Commerce and Employment Department had an in-house expertise in development economics and so, even if the applicants had submitted appropriate evidence to support the assertion that the hotel was no longer viable, the Departments’ may not have had the technical knowledge necessary to assess the robustness of the evidence.

The Panel understands the Environment Department has given careful consideration to both Decision Notices and has taken steps to ameliorate the knowledge gaps and, more importantly, has now issued supplementary planning guidance for owners of hotels seeking permission for a change of use. The Panel welcomes both these outcomes from what were challenging appeal cases for the Tribunals and the respective parties.

(c) Abandonment of Use

In late 2014, a Tribunal considered an appeal where the question of abandonment of the authorised use of the site (PAP/018/2014 – Les Mares, Candie Road, St. Andrew) was an important issue. The appeal was against a refusal of planning permission to build a two-bedroomed house on a site where the previous residential unit had been destroyed by fire in 2004.

In its deliberations, the Tribunal noted that, under the Rural Area Plan, Policy RH1(a) allows for dwellings to be replaced on a one-for-one basis, but only where the dwelling to be replaced is “existing”. The Tribunal considered whether the structure on the site,

which the appellants accepted was derelict, structurally unsound and uninhabitable, may reasonably be described as “existing” or whether the residential use of the land has been abandoned. The Tribunal concluded that, if the use has been abandoned, then the structure cannot be considered as an “existing dwelling”; and therefore the support of the policy for replacement cannot apply.

Further, the Tribunal noted that neither the Land Planning and Development (Guernsey) Law, 2005 nor the Rural Area Plan does provide any basis on which to determine whether a dwelling has been abandoned, though the concept of abandonment is implied by the Section 13(3)(b) of the 2005 Law that the resumption of a use which has been abandoned is development and that planning permission is required.

During the Hearing, a number of criteria were identified which may have a bearing on whether the use has been abandoned. Some have been referred to in UK cases (in particular *Secretary of State for the Environment, Transport and Rural Affairs v Hughes* [2000] 80 P&CR 397) where the concept was explored. Guernsey planning law is distinct from the English case law and the Royal Court has held that, while it may be proper to look at related systems of law, Guernsey’s courts should be slow to import English principles and authorities.

In *Hughes* [2000] the court identified a number of criteria, namely:

- Physical condition of the building
- Time elapsed
- Use for other purposes
- Intention of the land owner
- Other issues.

The Tribunal concluded that any assessment of abandonment should be on the basis of an objective test having regard to all the circumstances of the case; and that the weight to be placed on each criterion is a matter for the decision-maker. The Tribunal concluded that it was not bound by the criteria considered in *Hughes* [2000], but the criteria provided a useful starting point, while allowing for consideration of other criteria that may also be relevant in a particular case.

In this case, the Tribunal had to look outside of Guernsey law for guidance on the assessment of abandonment of use within a planning context, whilst remaining mindful of the Guernsey Courts’ directions regarding the application of UK planning case law in determining planning applications locally.

10. Update on Issues raised in the Planning 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 it agrees that some relaxation of the current restrictions placed on taking evidence from third parties.

The Panel has been advised by the Environment Department's that these concerns are to be addressed as part of its wider review of the Land Planning and Development (Guernsey) Law, 2005.

(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 Land Planning and Development (Guernsey) Law, 2005.

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

The Panel remains concerned that the Environment Department has not published character assessments for the various Conservation Areas as designated under the Urban and Rural Area Plans. The Panel understands that such character assessments will form an integral part of the new Island Development Plan.

In relation to Statements of Significance for Protected Buildings, the Panel notes that in March 2014, the Environment Department published criteria for the selection of buildings for inclusion on the Protected Buildings Lists. The Panel understands that work is now progressing on reviewing the buildings already on the List to identify if any changes to the listing that may be appropriate in light of the new criteria. The Environment Department is also inspecting the buildings it has identified as potentially meriting the additional protection inclusion on the List affords Guernsey's built environment.

The Panel welcomes both these developments but recognises that character assessments and statements of significance for Conservation Areas and Protected Buildings will continue to be required by Tribunals until the new Island Development Plan has been adopted and the on-going review of Guernsey's Protected Buildings is being progressed.

11. Developments during 2014

(a) Preparation of the Draft Island Development Plan

During 2014, the Panel noted that the publication date for the Draft Island Development Plan was variously delayed and the Panel understands that it will be published in early 2015 and the likely date for adoption of the Island Development Plan is early 2016, following its review through an independent Planning Inquiry.

(b) Planning Appeals in Jersey

The Panel noted that although the Jersey's Environment Minister had anticipated that the new appeal system would be in place during 2014, the project has been delayed and appointments to the Jersey Planning Appeals Panel are likely to be made during 2015.

The Jersey Tribunal will replace the present appeal provisions in the Planning and Building (Jersey) Law, 2002 and 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.

12. Conclusion

During 2014, 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 2014

| Number | Appeal Details | Principal Issues | Relevant Policies | Decision |
|--------|---|--|--|------------------|
| 001 | Appeal under s.68(2) against the non-determination of a planning application for a change of use from an hotel to a residential care home at the Manor Hotel, Les Houards, Forest | <ul style="list-style-type: none"> - Whether given that the underlying aim of Policy RE12 is to safeguard the Island’s stock of visitor accommodation at an appropriate level and standard, is whether the change of use of the appeal property from its authorised use as a hotel can be justified - Whether the proposed conversion and reuse of the building would comply with the requirements of Policy RCE14, resulting in a development which would be appropriate in this rural setting - Whether the proposed use of the appeal property as a residential care home will meet an acknowledged demand - Whether it can be regarded as a suitable site for such provision given its rural location - Whether it will make a significant contribution to the social well-being of the Island community, thereby satisfying the aims of Policy RS1 | RE12 – Rationalisation of visitor accommodation RCE14 – Conversion of buildings RS1 – Community services | Appeal allowed |
| 002 | Appeal under s.68(1)(a) against the refusal of planning permission for the change of use from a hotel to a care home at Green Acres Hotel, Les Hubits, St. Martin | <ul style="list-style-type: none"> - Whether the proposed development would prejudice the retention of an adequate stock of visitor accommodation across the Island - Whether the premises provide a satisfactory standard of accommodation and facilities - Whether the premises are incapable of being upgraded to or adapted to a satisfactory standard of alternative visitor accommodation at reasonable expense - Whether the premises are viable as an hotel, or could readily be made so - Whether there is a need for a home of this type | RE12 – Rationalisation of visitor accommodation RCE14 – Conversion of buildings RS1 – Community services | Appeal dismissed |

| Number | Appeal Details | Principal Issues | Relevant Policies | Decision |
|--------|--|---|--|------------------|
| 003 | Appeal under s.68(1)(a) against the refusal of planning permission to install a container lorry at Oatlands Vinery, Oatlands Lane, St. Sampson | <ul style="list-style-type: none"> - Whether the effect of retaining the container lorry on a permanent basis on the openness of the countryside and the visual quality and landscape value of the Area of High Landscape Quality having regard to the siting, design and scale of the structure | RCE1 – Protecting open land and avoiding unnecessary development RCE2 – Landscape character RCE3 – Areas of high landscape quality RE2 – Horticulture development | Appeal dismissed |
| 004 | Appeal under s.68(1)(a) against the refusal of planning permission to extend display area and create a café at Stan Brouard Ltd, Landes du Marché, Vale | <ul style="list-style-type: none"> - Whether the proposed development would support the viability and vitality of a Rural Centre and be of a type and scale which would be consistent with the function and character of the Rural Centre | RE4 – Retail development RE10 – Home-based employment | Appeal dismissed |
| 005 | Appeal under s.68(1)(a) against the refusal of planning permission to sub-divide existing outbuilding to create two dwellings with associated parking at Beecholme, La Biloterie Road, St. Saviour | <ul style="list-style-type: none"> - Whether the effect of the proposed development on the character and appearance of the setting of the building and the surrounding area - Whether the effect of the proposed development on the living conditions of adjoining occupiers | RH1 – New housing RCE14 – Conversion and re-use of buildings RCE6 – Creation or extension of curtilages RGEN5 – Character and amenity RGEN6 – Design RGEN7 – Safe and convenient access RGEN8 – Parking and open spaces RGEN11 – Effect on adjoining properties | Appeal allowed |

| Number | Appeal Details | Principal Issues | Relevant Policies | Decision |
|--------|---|--|--|------------------|
| 006 | Appeal under s.70 against a Compliance Notice served on 10 th February 2014 for an alleged unauthorised development, namely the use of pre-finished reconstituted external sandstone blocks as an external finishing to Olive Cottage, Rue des Grons, St. Martin | Appeal withdrawn after planning permission granted | | |
| 007 | Appeal under s.68(1)(a) against the refusal of planning permission to demolish roadside wall and create car parking at Pefkari, Camps du Moulin, St. Martin | <ul style="list-style-type: none"> - Whether the proposed development would preserve or enhance the character and appearance of the Conservation Area, having particular regard to the loss of the roadside wall and the provision of a parking space in the front garden | RCE10 – Conservation areas RCE11 – Buildings of special interest RCE13 – Demolition of buildings and features RH6 – Extensions and alterations to dwellings RGEN4 – Built heritage RGEN7 – Safe and convenient access | Appeal dismissed |
| 008 | Appeal under s.70 against a Compliance Notice for an alleged unauthorised development, namely the use of horticultural land known as St. Clair Nursery, Rue des Pointues Rocques, St. Sampson for purposes other than the authorised use | <ul style="list-style-type: none"> - Whether development comprising a material change of use requiring planning permission has taken place at the site, representing a breach of planning control | RCE1 – Protecting open land and avoiding unnecessary development RCE2 – Landscape character RE2 – Horticulture development | Appeal dismissed |

| Number | Appeal Details | Principal Issues | Relevant Policies | Decision |
|--------|---|---|-------------------------------|----------------|
| 009 | Appeal under s.70 against a Compliance Notice for an alleged unauthorised development, namely the use of horticultural land at Rue des Reines, Forest for purposes other than the authorised use | Appeal withdrawn by appellants | | |
| 010 | Appeal under s.18 of the Land Planning and Development (Special Provisions) Ordinance, 2007 against a decision to add Le Lorier Farm, Rue du Lorier, St. Saviour to the list of Protected Buildings | Appeal submitted after expiry of statutory appeal period | | |
| 011 | Appeal under s.68(1)(a) against the refusal of planning permission to erect a sign at Stan Brouard Ltd, Landes du Marché, Vale | – Whether by virtue of its size, design and content, the proposed sign would appear unacceptably out of place in its local surroundings, contrary to the underlying aim of Policy RGEN5 | RGEN5 – Character and amenity | Appeal allowed |
| 012 | Appeal under s.68(1)(a) of the Land Planning and Development (Guernsey) Law, 2005 against a the refusal of planning permission to remove a section of earthbank at front to erect wall at La Croix Nicolle, Les Beaucamps, Castel | Appeal submitted after expiry of statutory appeal period | | |

| Number | Appeal Details | Principal Issues | Relevant Policies | Decision |
|------------|--|---|---|----------------|
| 013 | Appeal under s.68(1)(a) against the refusal of planning permission to widen existing gateway and install new gate at La Clairere, Havilland Road, St. Peter Port | - Whether any loss of on-street public parking arising from the widening of the existing access would harm amenity and traffic management to the extent that it outweighs the presumption that proposals for extensions and alterations to dwellings (including development within the residential curtilage) will normally be permitted | RGEN11 – Effect on adjoining buildings RCE10 – Conservation areas and local distinctiveness RCE12 – Design and local distinctiveness | Appeal allowed |
| 014 | Appeal under s.68(1)(a) against the refusal of planning permission to create vehicle access and parking area and remove hedge and alter boundary wall at Westwood, La Mares Peices, Vale | - Whether the effect of the proposed development on the character and amenity of the rural environment, including on the quality of the built heritage, having regard to the provisions of RP Policies RGEN4, RGEN5, RGEN6 and RCE12 | RGEN4 – Built heritage RGEN5 – Character and amenity | Appeal allowed |
| 017 | Appeal under s.68 of the Land Planning and Development (Guernsey) Law, 2005 against a refusal of planning permission to erect a fascia sign and a fascia and hanging sign to the rear and front of 9 Le Pollet, St. Peter Port | - Whether the development would produce substantial benefits for the community that would outweigh any loss arising from demolition of walls or other distinctive features, having regard to the provisions of RAP Policy RCE13 - Whether the proposed development would ensure safe and convenient vehicular and pedestrian access, having regard to Policy RGEN7 | RGEN6 – Design for alternative signage approved RGEN7 – Safe and convenient access RCE12 – Design and local distinctiveness RCE13 – Demolition of buildings and features | |
| 015 | Appeal under s.70 of the Land Planning and Development (Guernsey) Law, 2005 against a Compliance Notice served on 19 th May 2014 in respect of an alleged unauthorised development, namely the erection of a timber and green mesh fence at Eastview, Le Parcq Lane, Vale | Appeal withdrawn by appellant after the Environment Department withdrew the Compliance Notice | | |

| Number | Appeal Details | Principal Issues | Relevant Policies | Decision |
|--------|---|--|---|------------------|
| 018 | Appeal under s.68(1)(a) of the Land Planning and Development (Guernsey) Law, 2005 against the refusal of planning permission to replace a fire damaged dwelling at Les Mares, Candie Road, St. Andrew | <ul style="list-style-type: none"> - Whether the existing structure should be regarded as derelict, structurally unsound or uninhabitable. - Whether the existing structure should be regarded as an “existing dwelling” - Whether in that connection the use of the site for residential purposes has been abandoned. - Whether, if contrary to the provisions of the Rural Area Plan, the development could be treated as a minor departure from the Plan under Section12(a)(1) of the Land Planning and Development (General Provisions) Ordinance 2007 - In the event that the proposed development is treated as a minor departure whether the | <p>RCE3 – Areas of high landscape quality RCE11 – Buildings of special interest RCE13 – Demolition of buildings and features RH1 – New housing</p> | Appeal dismissed |

| | | | | |
|--|--|--|--|--|
| | | <p>site would be suitable having regard to its characteristics and its relationship with the surrounding area</p> <ul style="list-style-type: none"> - Whether the development would be acceptable in terms of siting, design, scale, massing, amenity and the provision of a satisfactory living environment. - Whether the refusal of planning permission would breach the human rights of the landowner | | |
|--|--|--|--|--|

| Number | Appeal Details | Principal Issues | Relevant Policies | Decision |
|------------|--|---|-------------------|----------|
| 019 | Appeal under s.70 of the Land Planning and Development (Guernsey) Law, 2005 against a Compliance Notice served on 30 th June 2014 in respect of an alleged unauthorised development, namely the storing of a boat on land at the front of a dwelling house at Sea Meadows, La Moye Road, Vale without planning permission | Appeal submitted after expiry of statutory appeal period | | |
| 020 | Appeal under s.68(1)(a) against the refusal of planning permission to erect window signage at Just Games, Church Square, St. Peter Port | Appeal withdrawn after planning permission for alternative signage approved | | |

| | | | | |
|------------|--|--|---|------------------|
| 021 | Appeal under s.70 of the Land Planning and Development (Guernsey) Law, 2005 against a Compliance Notice served on 1 st August 2014 in respect of an alleged unauthorised development, namely that agricultural/horticultural land at Merton Vinery, Pointes Lane, St. Andrew is being used for the commercial parking and storage of vehicles | <ul style="list-style-type: none"> – Whether the Compliance Notice had been issued after the expiry of the period within the time limitations under section 48(4) of the 2005 Law | <p>RCE1 – Protecting open land and avoiding unnecessary development RCE2 – Landscape character RE2 – Horticulture development</p> | Appeal dismissed |
|------------|--|--|---|------------------|

| Number | Appeal Details | Principal Issues | Relevant Policies | Decision |
|---------------|---|---|--|------------------|
| 022 | Appeal under s.68(1)(a) against the refusal of planning permission to vary Planning Condition 4 of FULL/2013/0274 to widen the vehicular access from 3m to 4m at La Petit Mi T'Aas, Hougue du Pommier, Castel | <ul style="list-style-type: none"> – Whether Conditions 4 and 5 are reasonable and necessary having regard to the character and appearance of the area and highway safety and convenience – Whether the effect of permitting an access up to 3.5m or 4m wide on the character and appearance of the area and highway safety and convenience | <p>RGEN4 – Built heritage RGEN7 – Safe and convenient access RCE10 – Conservation areas RCE13 – Demolition of buildings and features RH6 – Extensions and alterations to buildings</p> | Appeal allowed |
| 023 | Appeal under s.68(1)(a) of the Land Planning and Development (Guernsey) Law, 2005 against the refusal of planning permission to demolish existing vine house on south dwelling at Les Marchez, Rue des Reines, St. Pierre du Bois | <ul style="list-style-type: none"> – Whether the vine house is a distinctive feature whose loss would adversely affect the character and appearance of the Conservation Area | <p>RCE10 – Conservation areas RCE13 – Demolition of buildings and features</p> | Appeal dismissed |

| | | |
|-----|---|--|
| 024 | Appeal under s.70 of the Land Planning and Development (Guernsey) Law, 2005 against a Compliance Notice served on 13 th October 2014 in respect of an alleged unauthorised development, namely that condition 2 of planning permission reference PAPP/2008/3755 at St. Louis, Rue du Catillon, St. Pierre du Bois has not been complied with | Appeal withdrawn by appellants after the Environment Department rescinded the planning condition |
|-----|---|--|

| Number | Appeal Details | Principal Issues | Relevant Policies | Decision |
|--------|--|--|--|------------------|
| 025 | Appeal under s.68(1)(a) against the refusal of planning permission to install nine replacement PVCu double glazed sash windows at front of dwelling at La Houquette Route Des Paysans St. Pierre Du Bois | <ul style="list-style-type: none"> - Whether the loss of the existing windows and their replacement with PVCu substitutes, would cause unacceptable harm to the special qualities or features of this protected building | RCE11 – Buildings of special interest | Appeal dismissed |
| 026 | Appeal under s.68(1)(a) against the refusal of planning permission to remove section of roadside wall to enlarge vehicular access at Waverley, Doyle Road, St. Peter Port | <ul style="list-style-type: none"> - Whether the proposed development would preserve or enhance the character and appearance of the Conservation Area, having particular regard to the loss of a section of roadside wall at the appeal site and the consequent effect of increasing the width of the opening on the street scene | GEN6 – Character and amenity GEN9 – Safe and convenient access DBE1 – Design - general DBE7 – New development in conservation area DBE9 – demolition of buildings and features | Appeal dismissed |

APPENDIX 3 - ANALYSIS OF PLANNING POLICIES

Rural Area Plan Policies

| | 2014 | 2013 | 2012 | 2011 |
|--|------|------|------|------|
| General | | | | |
| RGEN1 Sustainable development | -- | -- | -- | 2 |
| RGEN2 Comprehensive development | -- | 1 | -- | -- |
| RGEN3 Landscape, ecology and wildlife | -- | -- | 2 | -- |
| RGEN4 Built heritage | 3 | -- | 1 | 2 |
| RGEN5 Character and amenity | 3 | 3 | 3 | 5 |
| RGEN6 Design | 2 | 1 | 2 | 1 |
| RGEN7 Safe and convenient access | 4 | 1 | -- | 4 |
| RGEN8 Parking and open space | 1 | 1 | -- | -- |
| RGEN9 Hazardous development, nuisance and pollution | -- | -- | -- | -- |
| RGEN10 Public enjoyment | -- | -- | -- | -- |
| RGEN11 Effect on adjoining properties | 2 | 8 | 4 | 2 |
| RGEN12 Flood risk | -- | -- | 1 | -- |
| RGEN13 Airport safety | -- | -- | -- | 1 |
| Conservation and Enhancement | | | | |
| RCE1 Protecting open land and avoiding unnecessary development | 4 | 2 | 5 | 7 |
| RCE2 Landscape character | 3 | 2 | 1 | 2 |
| RCE3 Areas of High Landscape Quality | 2 | 2 | 4 | 6 |
| RCE4 Sites of Nature Conservation Importance | -- | -- | -- | -- |
| RCE5 Derelict land in the countryside | -- | -- | -- | -- |
| RCE6 Creation or extension of curtilages | 1 | -- | -- | 2 |
| RCE7 Public views | -- | -- | -- | -- |
| RCE8 Landscape design | -- | -- | -- | -- |
| RCE9 Archaeological remains | -- | -- | -- | -- |
| RCE10 Conservation Areas | 4 | -- | 1 | 1 |
| RCE11 Buildings of special interest | 3 | 1 | -- | -- |
| RCE12 Design and local distinctiveness | 3 | 2 | 1 | -- |
| RCE13 Demolition of buildings and features | 5 | 2 | 1 | 2 |
| RCE14 Conversion and re-use of buildings | 3 | 4 | 1 | 4 |
| Housing | | | | |
| RH1 New housing | 2 | 2 | -- | 2 |
| RH2 Social housing | -- | -- | -- | -- |
| RH3 Sub-division and conversion to provide housing | -- | 1 | -- | -- |
| RH4 Protecting housing stock | -- | -- | -- | -- |
| RH5 Dower units | -- | 1 | -- | 1 |
| RH6 Extensions and alterations to dwellings | 1 | 4 | 4 | 2 |

| | 2014 | 2013 | 2012 | 2011 |
|---|------|------|------|------|
| Rural Economy | | | | |
| RE1 Agricultural development | -- | -- | 1 | 2 |
| RE2 Horticultural development | 3 | 2 | 1 | 2 |
| RE3 Protecting key horticultural sites | -- | 1 | -- | 1 |
| RE4 Retail development | 1 | -- | -- | 1 |
| RE5 Garden centres | 1 | -- | -- | -- |
| RE6 Coastal kiosks | -- | -- | -- | -- |
| RE7 Industrial development | -- | 2 | 2 | 3 |
| RE8 Protecting industrial accommodation | -- | -- | -- | 1 |
| RE9 Commerce related development | -- | -- | -- | -- |
| RE10 Home based employment | 1 | -- | -- | -- |
| RE11 Visitor accommodation development | -- | -- | -- | -- |
| RE12 Rationalisation of visitor accommodation | 2 | 1 | -- | -- |
| RE13 Visitor facilities and attractions | -- | -- | -- | -- |
| RE14 Development requiring an airport location | -- | -- | 1 | -- |
| RE15 Minerals | -- | -- | -- | -- |
| Social, Community and Recreational | | | | |
| RS1 Community services | 2 | -- | -- | -- |
| RS2 Protecting community facilities | -- | -- | -- | -- |
| RS3 Indoor recreational facilities | -- | -- | 2 | -- |
| RS4 Outdoor recreational facilities | -- | -- | -- | 2 |
| RS5 Golf course development | -- | -- | -- | -- |
| Essential Development and Infrastructure | | | | |
| RD1 Essential development | -- | -- | -- | -- |
| RD2 Small-scale infrastructure | -- | -- | -- | -- |

Urban Area Plan Policies

| | 2014 | 2013 | 2012 | 2011 |
|--|------|------|------|------|
| General | | | | |
| GEN1 Sustainable development | -- | 1 | -- | -- |
| GEN2 Comprehensive development | -- | -- | -- | -- |
| GEN3 Landscape, ecology and wildlife | -- | -- | -- | -- |
| GEN4 Built heritage | -- | 2 | -- | -- |
| GEN5 Design | -- | 2 | 1 | 4 |
| GEN6 Character and amenity | 1 | 3 | 7 | 7 |
| GEN7 Roads and infrastructure | -- | -- | -- | 1 |
| GEN8 Safe and convenient access | 1 | 3 | 5 | 1 |
| GEN9 Open space and parking | -- | 1 | 2 | 1 |
| GEN10 Hazardous developments | -- | -- | -- | -- |
| GEN11 Public enjoyment | -- | -- | -- | -- |
| GEN12 Effect on adjoining properties | -- | 1 | 1 | 1 |
| Design and the Built Environment | | | | |
| DBE1 Design - General | 1 | 2 | 7 | 7 |
| 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 | 1 | 3 | 6 | 1 |
| DBE8 Buildings of special interest | -- | -- | 4 | 1 |
| DBE9 Demolition of buildings and features | 1 | 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 |
| 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 |
| 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 | -- | -- | -- | -- |

| | 2014 | 2013 | 2012 | 2011 |
|---|------|------|------|------|
| 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 | -- | -- | -- | -- |
| 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 | -- | -- | -- | -- |

| | 2014 | 2013 | 2012 | 2011 |
|--|------|------|------|------|
| 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.