

**Annual  
Report**

**2016**

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**Seventh Annual Report of the Guernsey Planning  
Panel**



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## **Chairman's Introduction**

It is once again my pleasure to present this the Seventh Annual Report of the Guernsey Planning Panel.

During 2016, the Panel received a lesser number of appeals than in 2015. This may well be in part due to a reduction in the number of planning applications which were refused by the Development & Planning Authority. There have been various appeals related to the Protected Buildings List which has given an added dimension to the Panel's work.

The most significant change in planning on the Island in 2016 was, of course, the long awaited Island Development Plan which will fundamentally influence many aspects of development. The Panel members received very helpful training towards the end of the year to prepare them for the implementation of the Plan and the impact it will have on the Panel's consideration of planning appeals.

The Panel's membership has again remained constant throughout the year and the respect in which the Panel is now held is undoubtedly due to their skills and integrity and I am grateful to them for the manner in which they have carried out their duties. A recruitment process to appoint further reserve members is now underway to ensure continuity and succession of the Panel.

This is my last Report as Chairman of the Panel. At the end of December last year I tendered my resignation to the President of the Committee *for the* Environment & Infrastructure as both Chairman and an Ordinary Member of the Panel to be effective on 31<sup>st</sup> March this year. That date will almost exactly coincide with my appointment eight years ago and I feel after such a period the time is now right to step aside and allow someone else to take the Panel forward who has new ideas and a new approach.

I have been delighted to learn that my successor will be Mr. David Harry who has been involved with the Panel since its inception, firstly as a reserve member, and more latterly as an Ordinary Member. David is a solicitor by profession and has been a partner with a local law firm for many years. He is well known on the Island and is a man of great ability, charm, and integrity. I am sure he will lead the Panel with great success.

I have been very fortunate to have been supported by very able colleagues, both past and present, and I wish to thank all of them most sincerely for their wholehearted support.

I also wish to thank Mrs. Joanne De Garis for her assistance as Secretary to the Panel at its inception and who set up many of the protocols which have served us well. Her successor, Miss Elizabeth Dene, has been the Panel Secretary for a number of years now and her considerable talents are a great asset to us. It has been an absolute privilege and pleasure to have been Chairman of the Panel for the last eight years and I wish everyone connected with it my good wishes for the future.

Patrick Russell  
Chairman  
March 2017

## **1. The Planning Panel**

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 Development & Planning Authority<sup>1</sup>.

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 it:

- (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 in the preceding two years.<sup>2</sup>

## **2. Planning Panel Membership**

The Panel's membership remained unchanged during 2016.

## **3. Panel Staff**

In 2016 there were no staff changes and Miss Dene continues to act as the Panel's Secretary on a half-time basis.

During 2016, Miss Dene took a three month unpaid sabbatical to undertake voluntary work in Uganda. During her absence, the Panel was supported by Mr. Peter Burnard, who had previously provided administrative support for the Planning Inquiry. The Panel is grateful to Mr. Burnard and to the Policy & Resources Committee and Committee *for the* Environment & Infrastructure for arranging administrative cover during Miss Dene's absence.

## **4. Operating Costs**

The Panel's expenditure in 2016 is set out in Table 1. The number of appeals lodged in 2016 was lower than in previous years and this is reflected in the lower payments to Panel members and travel costs.

The income from appeal fees in 2016 was higher despite the lower number of appeals. The appeal fee is the same as the fee paid when the planning application was submitted. In 2016, two appeals (one relating to outline planning permission for a

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

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

large residential development in St. Martin and another for a commercial development at Bulwer Avenue) accounted for £7,290 of the total income of £10,235.

The Panel did not receive any applications from appellants who indicated a wish to appeal against a planning decision but were unable to do so because of financial hardship. Should such an enquiry be received the Panel has the power to waive the fee if the Panel's Chairman is satisfied that payment of the appeal fee will cause the appellant financial hardship.

The Panel continues to promote, wherever appropriate, the use of the provision for an appeal to be determined without the need for a public hearing and to be determined by a single professional members. The Panel is always mindful that whilst the costs associated with the Panel's work are important considerations they should never outweigh the need for each appeal to be determined fairly and transparently and for the evidence to be properly and anxiously reviewed by a Planning Tribunal.

<b>Table 1</b> <b>Panel's Expenditure and Income</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
Recruitment and training	£8,000	£4,355	£3,250	--	£710
Stationery	£685	£254	£132	--	£420
Payments to Panel Members	£79,076	£55,558	£47,534	£51,025	£41,215
Travel and accommodation costs	£4,749 <sup>3</sup>	£5,480	£3,961	£2,051	£4,185
Operational costs	£4,259	£3,339	£2,709	£1,964	£2,255
Staff salaries	£33,355	£39,654	£39,810	£36,385	£33,325
<b>Total Expenditure</b>	<b>£132,124</b>	<b>£110,653</b>	<b>£99,410</b>	<b>£91,425</b>	<b>£82,110</b>
<b>Income from Fees</b>	<b>£7,969</b>	<b>£13,422</b>	<b>£4,605</b>	<b>£3,985</b>	<b>£10,235</b>

## 5. Casework

In 2016 (2015), the Panel received 24 (33) appeals, i.e. 27 per cent decrease when compared with 2015. Tables 2 and 3 provide a breakdown of the categories of appeals made and their disposal. In 2016 (2015), the Development & Planning Authority refused 3.7% (5.9%) of applications for planning permission. The lower number of planning applications where planning permission was refused, in part, reflects the more permissive approach under the Island Development Plan which was adopted by the States of Deliberation as the adopted development plan on 2<sup>nd</sup> November 2016. A full breakdown of the appeals lodged during 2016 is set out in Table 3 below.

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



**Table 2**

	Number of Appeals					
	2016		2015		2014	
	Commercial	Householder	Commercial	Householder	Commercial	Householder
<b>Refusal of planning permission</b>	3	6	6	10	6	9
<b>Refusal of outline planning permission</b>	1	--	--	--	--	--
<b>Planning conditions</b>	--	1	--	--	--	1
<b>Non-determination</b>	--	--	--	--	--	--
<b>Compliance Notices</b>	--	7	6	5	6	1
<b>Completion Notices</b>	--	--	--	--	--	--
<b>Confirmation of a Tree Protection Order</b>	--	1	--	--	--	--
<b>Add building to Protected Building List</b>	2	3	1	6	1	--
<b>TOTAL</b>	<b>6</b>	<b>18</b>	<b>13</b>	<b>21</b>	<b>13</b>	<b>11</b>

At the end of 2016, eight appeals remained unheard. In two cases the appeals were lodged in late November 2016. In three cases, the appellants had lodged a revised planning application and so had requested that the appeal be held in abeyance until the outcome of the second application was known. In two of these cases, planning permission for the revised application was granted and so the appeals were withdrawn. In the remaining appeals unheard at the end of 2016, the appellants asked for the appeal hearing to be delayed to allow time for them to enter into negotiations with the Development & Planning Authority to seek resolution of the matter without recourse to a Planning Tribunal.

In 2016, the Panel noted that 25 per cent of appeals related to commercial sites and 75 per cent were householder-based appeals.

As a general rule, the Panel endeavours to determine appeals within twelve weeks of the appeal being lodged, subject to the availability of the parties and any witnesses. Where an appellant requests an appeal be determined as a written representation, the Panel is able to progress such cases more quickly as the arrangements for the case to be determined are generally simpler as no hearing needs to be arranged.

**Table 3**  
**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(5) of the 2005 Law		
	2016	2015	2014	2016	2015	2014	2016	2015	2014	2016	2015	2014	2016	2015	2014	2016	2015	2014	2016	2015	2014
Refusal of planning permission	8	16	16	1	7	5	3	8	9	3	1	--	--	--	2	--	--	1	--	--	--
Refusal of outline planning permission	1	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
Planning conditions	1	--	1	1	--	1	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
Non-determination	--	--	1	--	--	1	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
Compliance Notice	9	11	7	--	1	--	--	5	2	4	--	1	1	1	3	1	1	1	3	--	--
Completion Notice	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
Confirmation of a TPO	1	--	--	1	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
Add building to or amend existing entry on Protected Building List	4	7	1	--	1	--	2	2	--	1	1	--	1	1	--	--	--	1	--	--	--
<b>TOTAL<sup>4</sup></b>	<b>24</b>	<b>34</b>	<b>26</b>	<b>3</b>	<b>9</b>	<b>7</b>	<b>5</b>	<b>15</b>	<b>11</b>	<b>8</b>	<b>2</b>	<b>1</b>	<b>2</b>	<b>2</b>	<b>5</b>	<b>1</b>	<b>1</b>	<b>3</b>	<b>3</b>	<b>--</b>	<b>--</b>

<sup>4</sup> 2 appeal cases (1 appeal against the planning conditions attached to the grant of planning permission and the other relating to the refusal of outline planning permission) remain unheard as the parties had either submitted revised planning applications or requested additional time to try and negotiate a settlement with the Development & Planning Authority

## **6. Case Appraisal**

The Decision Notices for each planning appeal is set out in Appendix 1. In 2016 (2015), 8 (21) of the appeals lodged proceeded to an adjudication.

Three appeals against Compliance Notices issued by the Development & Planning Authority for a single appeal site were dismissed by the Panel's Chairman under section 68 (4) of the Land Planning and Development (Guernsey) Law, 2005 because there had been undue delays in the manner in which the appellant had progressed his appeal. When these appeals were lodged, the appellant had indicated his intention to make a revised planning application to try and regularise the alleged breaches. However, several months later and despite various reminders, no revised planning application had been submitted.

A full breakdown of the planning policies is set out in Appendix 2.

In 2016, the Panel received four appeals against decision to add a building to the Protected Building List. The Panel noted that during 2015, 40 properties were added to the Protected Buildings' List. The three appeals lodged represent 10% of all cases eligible for appeal under section 18 of the Land Planning and Development (Special Controls) Ordinance, 2007.

## **7. Case Administration**

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

Table 4 (below) 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 Committee *for the Environment & Infrastructure*.

In 2016, just under half of the appellants were represented by an Advocate or Architect. The Panel continues to encourage appellants, where they wish, to present their own appeals without the need for professional representation. The Panel is mindful that, when it was established, one of the main reasons for moving away from appeals before the Royal Court to a Tribunal approach was to enable anybody who had been refused planning permission to be able to appeal the decision without having to incur possibly substantial legal costs.

**Table 4**  
**Mode of Appeal**

	Disposal as requested by Appellant			Actual disposal following review by Panel Chairman		
	Planning Decisions	Compliance and Completion Notices	Protected Buildings	Planning Decisions	Compliance and Completion Notices	Protected Buildings
	2016 (2015)	2016 (2015)	2016 (2015)	2016 (2015)	2016 (2015)	2016 (2015)
Public Hearing before a Planning Tribunal	5 (11)	-- (4)	5 (3)	5 (11)	-- (5)	2 (3)
Public Hearing before a Single Professional Member	-- (3)	-- (3)	-- (--)	-- (3)	-- (2)	-- (--)
Written Representation determined by a Planning Tribunal	1 (4)	-- (1)	-- (--)	1 (4)	-- (--)	-- (--)
Written Representation determined by a Single Professional Member	-- (2)	-- (--)	-- (--)	-- (2)	-- (--)	-- (--)

Table 5 provides a more detailed breakdown of representation.

**Table 5**  
**Breakdown of Representation<sup>5</sup>**

		2016	2015	2014	2013
Unrepresented		13	10	6	9
Unrepresented but assisted by friend or family member		--	1	1	2
Represented	Architect	2	17	8	10
	Advocate	8	15	4	4
	Planning consultant	1	3	3	--
	Surveyor	--	--	2	--

## **8. Matters arising in cases determined in 2016**

The appeal cases heard during 2016 did not raise any issues not previously reported on by the Panel.

In respect of the addition of buildings to the Protected Buildings List, the Panel noted that the decision of the Development & Planning Authority not to include a Statement of Significance as part of the Listing Notice continued to present difficulties for Tribunals. The Tribunal's view is that the Statement of Significance assists the property owner in understanding how the information collected during site inspection has been assessed and weighed.

<sup>5</sup> Numbers relate to appeals determined at a public hearing; in some cases the appellant was represented by an Advocate together with other professional parties

The Panel accepts that there have been occasions when a property owner and a Tribunal has challenged to accuracy of the States of Significance but remains of the view that such Statements are beneficial and so should be included in any Listing Notice.

## **9. 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 would be beneficial.

The Panel has reflected further on this matter and, having taken legal advice, is satisfied that the provisions under section 5 (h) of the Land Planning and Development (Appeals) Regulations, 2009 provide a Planning Tribunal with the powers to call as witnesses any third party representors where there may be a need to do so. Section 5(h) states:

*"The Appellate Body may call for such documents and examine such persons on oath, affirmation or otherwise as appear likely to afford evidence which is relevant and material to any question to be determined by the Appellate Body."*

### **(b) *Appeal Periods***

The Panel has also raised concerns that in some cases where an individual is appealing against 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 Development & Planning Authority will propose an amendment to the Land Planning and Development (Guernsey) Law, 2005 to shorten the appeal period in the case of planning applications where enforcement action has been formally commenced and that this will be submitted to the States of Deliberations during 2018.

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

The Panel has previously expressed its concerns about the absence of published character assessments for the various Conservation Areas as designated under the Urban and Rural Area Plans.

The Panel is pleased to note that such character assessments have been included in the Island Development Plan, together with full details of the methodology for designating Conservation Areas.

## **10. Other Developments during 2016**

### ***(a) Adoption Island Development Plan***

The Panel noted that on 2<sup>nd</sup> November 2016, the States of Deliberation approved the adoption of the Island Development Plan to replace the Urban and Rural Area Plans as Guernsey adopted development plan.

The Panel members received training on the principal changes between the Island Development Plan and the Urban and Rural Area Plans.

The Panel notes that, as the appeal period against decisions is six months from the date of the decision, it will continue to receive appeals where the relevant development plan is either Urban or Rural Area Plan. The reason for this is because a Tribunal can only consider an appeal against the refusal or planning permission or the conditions attached to the grant of planning permission on the basis of the evidence, facts, or material before the Development & Planning Authority when the decision was made (section 69(1) of the Land Planning and Development (Guernsey) Law, 2005 refers).

## **11. Conclusion**

During 2016, the Panel has again continued to build on and develop its knowledge and understanding of development control and its understanding of the planning process. The Panel is grateful for the professional and courteous assistance it continues to receive from appellants, their representatives, the Development & Planning Authority officers and officers of other States Departments who have given evidence at appeal hearings. The Panel is appreciative of this assistance and recognises that without such co-operation it would face greater challenges in discharging its statutory responsibilities.

The Panel continues to use its best endeavours to ensure that its members are kept up-to-date with relevant planning matters and to review its own policies and practices. This is undertaken through 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.

Looking forward to 2017, the Panel anticipates that, aside from the particular issues that may arise from individual appeals, the year will be a challenging one as the new Island Development Plan replaces the Urban and Rural Area Plans.

In addition, the Panel notes that it is anticipated that the High Hedges (Guernsey) Law, 2016 will come into force in October 2017. The Panel will be the appellant body for parties to appeal decisions by the Development & Planning Authority against decisions under section 8(5)(a) that the allegation made in the complaint is not justified, or under section 8(5)(b) that no action should be taken in relation to the high hedge.

The Panel notes that recourse to the Development & Planning Authority to resolve a dispute with a neighbour over a high hedge is limited to the owners and occupiers of domestic properties where a hedge is over 2 metres high and is predominantly of evergreens and the hedge adversely affects the reasonable enjoyment of their property because the hedge forms a barrier to light. It also notes that the High Hedges (Guernsey) Law, 2016 is intended to act as a last resort, when all other attempts to resolve the problem through discussion with the neighbour have failed.

The Panel will be issuing additional guidance notes for anybody considering whether or not to make an appeal under this new legislation.





# Appendices

## APPENDIX 1 – PLANNING PANEL MEMBERSHIP

Name	Position on Panel	Date Appointed	Term of Office
Mr. Patrick Russell	Chairman	March 2015 <sup>6</sup>	Until March 2021
Mr. Stuart Fell	Vice Chairman Professional Member	March 2015 <sup>7</sup>	Until March 2021
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 <sup>8</sup>	Until March 2019
Mr. David Harry	Lay Member	September 2012 <sup>9</sup>	Until March 2017
Mr. John Weir	Lay Member	January 2012 <sup>10</sup>	Until March 2018
Ms. Julia White	Lay Member	January 2012 <sup>11</sup>	Until March 2018

<sup>6</sup> Mr. Russell was first appointed as a lay member in March 2009 to serve for 6 years and was re-elected in 2015 for a further 6 year term

<sup>7</sup> Mr. Fell was first appointed as a professional member in March 2009 to serve for 6 years and was re-elected in 2015 for a further 6 year term

<sup>8</sup> 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

<sup>9</sup> Mr. Harry was appointed to serve the unexpired term of Mr. Burnard's appointment (who resigned from the Panel in August 2012)

<sup>10</sup> Mr. Weir was first appointed as a lay member in March 2009 to serve for 3 years and was re-elected in 2012 for a further 6 year term

<sup>11</sup> Ms. White was first appointed in September 2011 to serve the unexpired term of Mr. Bowen's appointment (who resigned from the Panel in May 2012) and was re-elected in 2012 for a further 6 year term

## APPENDIX 2 - SYNOPSIS OF APPEAL CASES DETERMINED DURING 2016

PAP Ref	Planning Reference	Details	Principal Issues	Appeal Outcome
001	FULL/2015/2532	Appeal against the refusal of planning permission to erect a fence at La Chapelle Cottage, Rue des Blanches Terres, St. Saviour	<i>Appeal withdrawn by appellants after negotiations with the Development &amp; Planning Authority</i>	
002	PB1645	Appeal against a decision on 22nd January 2016 to add La Vieille, Sous l'Église, Rue de l'Église to the List of Protected Building	Whether to building had no special interest; the entry was in any material respect factually incorrect; or the entry was (for any other reason) ultra vires or unreasonable.	Appeal Dismissed
003	PB1640	Appeal against a decision on 15 <sup>th</sup> January 2016 to add Le Vieux Menage, Rue des Juliennes, St. Pierre du Bois to the List of Protected Buildings	<i>Appeal conceded by the Development &amp; Planning Authority and building removed from the List of Protected Buildings</i>	
004	FULL/2015/2497	Appeal against the refusal of planning permission to rebuild roadside wall and earth banks at Les Preux, Route de Saumarez, St. Martin	Whether is planning permission required for work; and whether the work is acceptable in terms of its effect on the character and appearance of the area, having regard to the presumption in favour of householder development contained in Policy RH6 of the Rural Area Plan.	Appeal allowed

PAP Ref	Planning Reference	Details	Principal Issues	Appeal Outcome
005	ENF/2015/00053	Appeal against a Compliance Notice served on 15th March 2016 in respect of an alleged unauthorised development, namely a breach of condition 1 attached to grant of planning permission FULL/2012/0401 at Craig Gowan, Forest Road, St. Martint. Jacques, St. Peter Port	<i>Appeals dismissed by the Planning Panel Chairman under section 68(5) of the Land Planning and Development (Guernsey) Law, 2005</i>	
006	ENF/2015/00053	Appeal against a Compliance Notice served on 15th March 2016 in respect of an alleged unauthorised development, namely a breach of conditions 1 & 7 attached to grant of planning permission FULL/2012/0401 at Craig Gowan, Forest Road, St. Martin		
007	ENF/2015/00053	Appeal against a Compliance Notice served on 15th March 2016 in respect of an alleged unauthorised development, namely the erection of a timber fence along the western boundary of Craig Gowan, Forest Road, St. Martin		

PAP	Planning	Details	Principal Issues	Appeal
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Ref	Reference			Outcome
008	FULL/2015/2843	Appeal against conditions attached to grant of planning permission to pollard, crown lift and crown thin 5 trees on land adjacent to 7 Longfield, Maurepas Road, St. Peter Port	<p>The effect of the proposed pollarding on the health, wellbeing and value of the trees:</p> <ul style="list-style-type: none"> <li>• The trees.</li> <li>• The value of the trees.</li> <li>• The effect of proposed pollarding.</li> </ul> <p>Whether the effect on the appellant's living conditions is sufficient to outweigh any harm to the trees that may arise as a result of the proposed pollarding.</p> <ul style="list-style-type: none"> <li>• The use of the garden.</li> <li>• The impact on the solar panels.</li> </ul>	Appeal Dismissed
009	ENF/2015/0150	Appeal against a Compliance Notice served on 6 <sup>th</sup> April 2016 in respect of an alleged unauthorised development, namely the creation of ponds and waterway and erection of summerhouse on agricultural land at La Haye du Puits, Castel	<i>Appeal withdrawn by appellants after the grant of planning permission for a revised planning application</i>	
010	FULL/2016/0061	Appeal against a Compliance Notice served on 6 <sup>th</sup> April 2016 in respect of an alleged unauthorised development, namely the extension of domestic curtilage onto agricultural land at La Haye du Puits, Castel		

PAP Ref	Planning Reference	Details	Principal Issues	Appeal Outcome
011	FULL/2016/0154	Appeal against refusal of planning permission (retrospective) to extend domestic curtilage and create two ponds at La Haye du Puits, Castel	<i>Appeal withdrawn by appellants after the grant of planning permission for a revised planning application</i>	
012	PT84	Appeal against decision of 21st January 2016 to protect a group of trees at Gandhi Ahimsa, Montville Road, St. Peter Port	Whether it is not in the interests of amenity to provide for the protection of the group of trees to be protected.	Appeal allowed
013	OP/2015/0649	Appeal against the refusal of planning permission to erect 20 dwellings and 17 flats with associated parking and landscaping at Les Blanches, La Route des Blanches, St. Martin	<i>Appeal was been held in abeyance pending the decision on a revised planning application (OP/2016/1180); the revised application was refused on 30<sup>th</sup> September 2016 and the appellants have asked for a further deferral as it is their intention to appeal the second decision; with the agreement of all parties, the Panel has agreed to determine both appeals together in 2017</i>	
014	FULL/2016/0165	Appeal against the refusal of planning permission to erect signs at western elevation of Sigma, Braye Road Industrial Estates, Vale (retrospective)	Whether the proposed sign, by virtue of its size, positioning, and the introduction of advertising material within an otherwise residential area, would form an unduly prominent and incongruous feature taking into account the character and visual amenity of the locality and the surrounding streetscape.	Appeal dismissed

PAP Ref	Planning Reference	Details	Principal Issues	Appeal Outcome
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<b>015</b>	FULL/2015/1744	Appeal against the conditions attached to the grant of planning permission to replace and reinstate windows and doors to barn, re-instate pump, re-grade land, alter hard surfacing and undertake landscaping at Le Val Farm, Route des Blicqs, Forest	<i>Appeal deferred pending issue of amended Compliance Notices following decision of the Development &amp; Planning Authority to concede Compliance Notice issued on 31<sup>st</sup> May 2016</i>	
<b>016</b>	ENF/2015/0130	Appeal against a Compliance Notice served on 31 <sup>st</sup> May 2016 in respect of an alleged unauthorised development, at Le Val Farm, Route des Blicqs, Forest as set out in the Compliance Notice	<i>Conceded by the Development &amp; Planning Authority under s.68(7) of the Land Planning and Development (Guernsey) Law, 2005.</i>	
<b>017</b>	FULL/2015/2215	Appeal against the refusal of planning permission to re-develop part of the former Esso Site, Bulwer Avenue, St. Sampson for the construction of a two building for the maintenance, preparation, display and the sale of motor vehicles		Appeal dismissed
<b>018</b>	FULL/2015/1471	Appeal against the refusal of planning permission to demolish existing and erect new dwelling, including home office and install ground source heat pump at The Meadows, Rue des Messuriers, St. Saviour	<i>Appeal withdrawn by appellants after the grant of planning permission for a revised planning application</i>	
<b>PAP Ref</b>	<b>Planning Reference</b>	<b>Details</b>	<b>Principal Issues</b>	<b>Appeal Outcome</b>

<b>019</b>	ENF/2015/0054	Appeal against a Compliance Notice served on 12 <sup>th</sup> July 2016 in respect of an alleged unauthorised development, at Grange Hall, The Grange, St. Peter Port	<i>Appeal withdrawn by appellants after compliance with the requirements under the Notice</i>	
<b>020</b>	ENF/2016/0075	Appeal against a Compliance Notice served on 13 <sup>th</sup> July in respect of the alleged domestic use of agricultural land at Les Fontaines, Rue des Portelettes, Torteval	<i>Conceded by the Development &amp; Planning Authority under s.68(7) of the Land Planning and Development (Guernsey) Law, 2005.</i>	
<b>021</b>	PB1658	Appeal against the listing as a Protected Building of the whole of the Happy Landings, Rue des Landes, Forest	Whether to building had no special interest; the entry was in any material respect factually incorrect; or the entry was (for any other reason) ultra vires or unreasonable.	Appeal dismissed
<b>022</b>	PB1661	Appeal against listing of the interior of La Brigade Guest House, La Brigade Rd, St Andrew's and of the single-storey kitchen at the east end. Other elements of listing are not contested	<i>Appeal withdrawn by the appellants after agreement with the Development &amp; Planning Authority to amend the extent of the listing</i>	
<b>023</b>	FULL/2015/3023	Appeal against refusal of planning permission to convert shop at 34 Mill Street to form display window and dwelling house and install windows (rear elevation)	The effect on the retail function, character and vitality of the Town. Whether the development would provide satisfactory living conditions having regard to outlook, daylight and sunlight, and means of access	Appeal dismissed

<b>PAP</b>	<b>Planning</b>	<b>Details</b>	<b>Principal Issues</b>	<b>Appeal</b>
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Ref	Reference		Outcome
024	FULL/2016/0582	Appeal against refusal of planning permission for change of use of outbuilding at Courtil de Rigeaux Vinery, La Grande Lande, St. Saviour to create an office	<i>Appeal withdrawn by appellants after the grant of planning permission for a revised planning application</i>

## **APPENDIX 3 - THE PLANNING PANEL'S GENERAL POLICIES AND PROCEDURES**

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

When deciding whether an application should be made to the Committee *for the Environment & Infrastructure* 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 Development & Planning Authority 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 Development & Planning Authority?
- 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 whether 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 section 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 Development & Planning Authority 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 Development & Planning Authority.

**(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 Development & Planning Authority'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 Development & Planning Authority'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 Development & Planning Authority'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 Development & Planning Authority 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 Development & Planning Authority's endeavours to deal with any breaches of the Island's development controls are not frustrated.