



PLANNING APPEAL DECISION NOTICE

Planning Tribunal Hearing held on 8th October 2019 at Les Cotils Christian Centre, St Peter Port, preceded by a visit to the appeal site

Members: Mr S Fell (Presiding), Mr J Weir and Mr G Jennings

Appeal Site: Rue Coutance, Vale

Property Reference: C011620000

Planning Application: FULL/2018/0826

Appeal Reference: PAP/008/2019

- The appeal is made under the provisions of Part VI and Section 68 of the Land Planning and Development (Guernsey) Law, 2005 (“the 2005 Law”).
- The Appeal is by Messrs R & J Wilkes-Green and Mrs H Carpentier against the decision of the Development and Planning Authority (“the Authority”) made on 5th December 2018 under Section 16 of the 2005 Law to refuse planning permission for development described on the decision notice as: *“Convert existing outbuilding to new dwelling with associated car parking and amenity area”*.
- Messrs R & J Wilkes-Green and Mrs H Carpentier attended the Hearing and represented themselves. They were supported by J Le Gallez, Planning Consultant, Messrs J and P Dowington of Tyrell Dowington Associates, Chartered Architects, Ms S Bretel of Dorey, Lyle and Ashman, Chartered Structural and Civil Engineers,
- The Authority was represented by Ms. J Roberts Development Control Manager, Mr E Tildesley, Planning Officer and case officer. They were supported by Mr A Mauger, Building Control Manager.

Decision

1. The appeal is dismissed.

Preliminary matters

2. As questions relating to the structural nature and the condition of the appeal building lie at the heart of this appeal, the Hearing was formally opened on site and evidence taken throughout the Tribunal's visit.
3. A brief structural report was submitted with the planning application giving rise to this appeal and has been taken into account in reaching our decision. We are aware that a further, more comprehensive report was prepared in January 2019. As this second report was produced after the planning application in question was refused we have not admitted it into evidence and have naturally disregarded it.
4. With the agreement of the parties we have based our assessment of the appeal proposal on drawing Ref: 03.01.B, which is an amendment of the drawing originally submitted with the planning application. The subject building is described as an **outbuilding** in the application documents. However, as the property in question has never been attached to another structure, we consider the term **building** to be more appropriate and have described it as such in this decision.

The site and building

5. The appeal building, a former packing shed, stands close to the road on the north side of Rue Coutance and lies within a parcel of open land once in horticultural use when it was largely occupied by glasshouses. The glasshouses were cleared in the 1980s but the shed survived and has since been used for storage. There is a vehicular access immediately adjacent to the building.
6. The former packing shed is of simple form with the ridge of the pitched roof parallel to the road and there is a lean-to extension on the north side. Overall, the building is about 9.5m long and 7m wide, and is clad entirely in corrugated metal sheeting. Other than two doors in the east gable the exterior is featureless. The building is visible from both directions along Rue Coutance above the roadside walls and planting.

The proposal

7. The proposal is to convert, upgrade and adapt the existing building to form a dwelling, with living room, kitchen, bathroom and study/bedroom on the ground floor, and two double bedrooms on the first floor. An area about 44.5m long and 15m deep would be separated off from the remainder of the open land so as to form a new residential curtilage; the boundary would be defined with new hedging. The existing vehicular access would be utilised.
8. The scheme originally submitted for permission included the demolition and rebuilding of the northern extension, the raising of the main roof and its covering in slate, the external recladding of the entire building, the replacement of the first floor, the insertion of doors and windows in new openings, as well as the usual

range of works associated with conversions to residential use that typically include partitioning to create the desired room layout, and thermal insulation.

9. Two subsequent modifications were made to the scheme at the suggestion of the Authority, each of which sought to limit the extent of reconstruction and retain a higher proportion of existing building fabric.

The planning policy context

10. Section 16.1 of the Island Development Plan 2016 (IDP) deals with Housing Outside the Centres, a classification that applies to the appeal site, where Policy OC1 sets out detailed requirements that development proposals must satisfy. The preliminary text is helpful in explaining the rationale that underpins Policy OC1.

11. Paragraph 16.1.3. states:

“the Plan makes provision for the Island’s five-year housing requirement predominantly within the Main Centres, the Main Centre Outer Areas and, to a more limited extent, within the Local Centres, in accordance with the Strategic Land Use Plan. In order to fulfill these broad objectives, and to protect landscape character, no specific provision is made for new build housing Outside of the Centres. However, in order to make the most effective and efficient use of land on the Island, the creation of new dwellings Outside of the Centres will be supported only where this can be achieved through the subdivision of existing dwellings and the conversion of redundant buildings”.

12. Paragraph 16.1.4 goes on to say that:

“the conversion of redundant buildings to create residential units will be assessed against the Conversion of Redundant Buildings Policies, GP16(A): Conversion of Redundant Buildings, and GP16(B): Conversion of Redundant Buildings - Demolition and redevelopment. This will require, among other things, that the structure to be converted is redundant, is structurally sound, and is capable of conversion without significant extension or alteration”.

13. Paragraph 16.1.6 makes clear that proposals for the subdivision of existing dwellings and the conversion of redundant buildings must provide a satisfactory living environment and standard of amenities and that the effect of the development on neighbouring properties, character and amenities is acceptable. In this regard attention is drawn to Policies GP1: Landscape Character and Open Land, GP8: Design, GP9: Sustainable Development, and GP15: Creation and extension of Curtilage, which must all be satisfied.
14. Paragraph 16.1.9 states, in effect, that where a proposal involving the creation of new dwellings by subdivision has satisfied the relevant requirements of Policy OC1 and planning permission has been granted, the demolition and redevelopment of a dwelling may be acceptable without the need to implement the decision by physically carrying out the development, subject to certain provisos. The stated

reason for this provision, explained in Paragraph 16.1.10, is “to achieve enhancements not possible through subdivision alone”, such as “the potential to relocate a structure on the site or to use sustainable building and construction techniques”. It continues,

“The Authority will need to be satisfied that there is significant enhancement in terms of the sustainable design and construction of the new building and that there are no increased impacts on neighbouring properties or the character or openness of the area”.

15. We note that, within this explanatory text to Policy OC1, no such concession is made in cases involving the conversion of an existing redundant building to form a new dwelling.
16. Policy OC1 itself repeats the wording of the explanatory paragraphs referred to above by stating that proposals for the conversion of redundant buildings to dwellings will be considered under Policies GP16(A): Conversion of Redundant Buildings and GP16(B): Conversion of Redundant Buildings – Demolition and redevelopment. The first step in the assessment of the proposal must therefore to be made against the detailed requirements of Policy GP16(A), with the provisions of GP16(B) kept in mind.

Policies GP16(A) and GP16(B)

17. Section 19.7 of the IDP deals with the conversion of redundant buildings and provides an explanatory introduction to Policies GP16(A) and GP16(B).
18. Paragraph 19.17.2 states:

“the IDP makes provision for development Outside of the Centres where this is achieved through the conversion and reuse of redundant buildings and which would enable a use that would not otherwise be permitted through the carrying out of new-build development when assessed against the other relevant policies of the IDP”.
19. It continues:

“The Authority considers that, because the policies of the IDP ensure the majority of new development is concentrated within and around the Centres, the scale of impact of this policy would be such that it would not undermine the Spatial Policy of the IDP but would ensure the best use is made of the Island’s structurally sound buildings”.
20. We consider the last phrase to be especially significant, where the policy is justified on the explicit basis that it would ensure that best use is made of the Island’s structurally sound buildings. However, this statement appears to us to be contradicted by the advice in Paragraphs 19.17.12 and 19.17.13, which indicate that where planning permission for the conversion of a redundant building has

been granted under this policy, then demolition and redevelopment may be acceptable without the need to implement that permission, subject to specified requirements relating to the construction and the likely impacts of the new building. The grant of planning permission in these circumstances self-evidently fails to ensure that the best use is made of the Island's structurally sound buildings, as the buildings in question would be demolished. This suggests to us that the policy contains an intrinsic flaw in its construction.

The Authority's assessment against Policy GP16(A)

21. Policy GP16(A) has eight criteria, numbered a) to h), all of which must be satisfied if the proposed conversion is to gain support. There is no dispute in relation to part a), which requires it to be demonstrated that the building is no longer required or capable of being used for its current or last known purpose. It is a matter of fact that the horticultural use of the site ceased during the 1980s and that the appeal building, then used as a packing shed, became redundant as a consequence.
22. Part b) of the policy lists a range of uses that will be supported, including residential, and the appeal proposal accordingly complies with it.
23. Part c) requires that the building in question is of sound and substantial construction and is capable of conversion without extensive alteration or rebuilding. The tests implied in this part of the policy will be critical to our decision, and they break naturally into two distinct parts, the first relating to the nature of the construction and the second relating to the extent of alteration or rebuilding that will be needed to bring the conversion into effect.
24. In relation to the question as to whether the building is of sound and substantial construction, explanatory Paragraph 19.17.6 states that the submission of a structural survey will usually be required as part of the planning application, and goes on to say that where buildings are structurally unsound their demolition will be encouraged.
25. The structural report prepared by Dorey, Lyle and Ashman Limited and submitted with the application is brief, and is reproduced as follows:

“The existing structure consists of boarded timber studwork walls supporting a timber first floor and timber roof.

The stud walls are built off blockwork sleeper walls which we assume are supported on strip foundations.

The timber appears to be in good condition throughout the building.

The first floor may require some strengthening to comply with current building regulations for domestic floor loading, however the existing structure is in good condition.

The existing structure and envelope is of sound and substantial construction and we therefore consider it possible and appropriate to develop the existing building for domestic use.”

26. The Authority's evidence makes clear that the report was regarded as inadequate. Attention was drawn to its shortcomings in the Authority's Planning Application Report dated 3rd December 2019, where the engineer's report was described as "scant, lacking in basic detail, and makes assumptions about key facts". It is on the basis of this report that the application was refused. The insufficiency of the submitted report was not raised with the applicants by the Authority, and we question whether the application should have been validated. The workload pressures experienced by the Authority compounded this problem because a significant period of time elapsed before an assessment of the merits of the application was made.
27. During the Hearing we put a number of questions to the parties about the structural and constructional issues arising in cases such as this which are subject to Policy GP16(A). We sought clarification about the relationship between proposals submitted for planning permission and those prepared for building regulation approval. The Authority confirmed our expectation that schemes approved under planning control should be capable of being built without significant deviation from the approved planning drawings. Mr. Mauger, the Building Control Manager, supported this position, and advised that significant departures from the approved planning drawings were only rarely encountered during the assessments made under the building regulations. He also explained that there is regular interaction between building control officers and planning officers and that advice is available on technical matters arising from planning applications when requested.
28. The responses to our questions also revealed that the advice of building control staff had not been sought prior to the determination of this planning application, and that Mr. Tildesley had not made an internal inspection of the building as part of his assessment. His first inspection having been made during the Tribunal's site visit. We consider that it was the Authority's duty to test the veracity of any information on which the application relies and consider the failure to inspect the building to be a serious omission.
29. Over three months after the application was validated the Authority reached the conclusion that the extent of rebuilding, recladding and renewal was so extensive that the proposal failed to comply with the requirements of Policy GP16(A). The applicant was notified of this on 5th July 2018 and invited to address this fundamental concern by submitting revised drawings demonstrating that the principal accommodation could be contained within the existing building envelope and the amount and extent of external alterations required to convert the building could be reduced.
30. On 18th July 2018 revised drawings were submitted to the Authority showing all the existing structural walls and roof retained, the steel external wall cladding replaced with timber, and the steel roof cladding replaced with slate. On the basis of the Authority's subsequent advice these plans were altered once again so as to leave the existing steel cladding in place. Revised drawings were submitted on 18th September 2018 and the application was eventually refused on 3rd December

2018.

31. The Authority's reasons for refusal was expressed in the following terms:

"The building that is the subject of this planning application is not considered to be capable of conversion without substantial alteration or rebuilding and due to the extent of alterations proposed the development is tantamount to the erection of a new dwelling Outside of the Centres where such development is precluded. The scheme would not accord with criterion c) of Policy GP16(A) or Policy OC1 of the Island Development Plan".

The Tribunal's assessment – can the building considered to be of sound and substantial construction?

32. The operative phrase within Policy GP16(A), is that a building should be "of sound and substantial construction and capable of conversion without extensive alteration or rebuilding".
33. The significance of a careful assessment is not to be underestimated, as once permission for conversion is granted under this policy, a new policy gateway opens under the provisions of Policy GP16(B), which envisages that permission for the demolition and redevelopment of the building may be granted subject to certain requirements being met.
34. We take the view that in assessing whether an application satisfies Policy GP16(A) the conflation of the two key aspects into a single phrase is unhelpful, as there are actually two distinct sequential tests to be overcome. In relation to the first of these tests, we agreed with the parties during the Hearing that when considering whether the building is of sound and substantial construction, this should be determined in relation to the use for which it was originally intended. If an applicant is unable to demonstrate that the building in question is of sound and substantial construction the application could be refused on this basis alone, a conclusion given support by Paragraph 19.17.6. of the IDP which states that "in order to satisfy the requirements of this policy, the existing building must be considered to be of sound and substantial construction".
35. The question must be raised as to how much reliance should be placed on the engineer's report in this case, given the reservations expressed by the Authority as to its adequacy. The Authority did not pursue this matter with the applicants, though an early request requiring the submission of a more comprehensive structural report would seem to us have been an appropriate course of action. Neither did the planning officers consult with their Building Control colleagues, who have the relevant expertise to advise on the additional information needed to satisfy the test of *sound and substantial construction*. These circumstances led the Authority to make a decision on the application without reaching an explicit conclusion on this aspect of the policy requirements.

36. It is our view that the scope and detail of the engineer's report is insufficient to demonstrate that the building is of sound and substantial construction as certain important matters are not addressed. An assumption is made about the presence of strip foundations when trial holes would have provided factual evidence. No mention is made of the tree growing from beneath the foundations at the south-western corner of the building, how this might affect the structural integrity of the building, and whether remedial work would be needed. The ground floor construction is not described. The timber studwork was said to be supported on blockwork sleeper walls but we saw during our site visit that these walls are actually constructed of in-situ concrete. There is no explanation as to how the roof structure is restrained at eaves level, a point made by Mr. Mauger during the site visit. There is no mention of the three metal hangers that provide support to the first floor structure, or their structural significance. All these features were evident during our site visit.
37. The survey drawing is also inadequate as it fails to show certain essential elements of building structure such as the positions of timber studs within the outer walls or the positions of the three metal hangers by which the first floor is suspended from the ridge of the roof, features that could clearly inhibit a conversion of the first floor to residential use.
38. The Authority, in Paragraph 7.1 of its appeal statement, states that it considers the appeal building not to be of sound and substantial construction. The basis of this conclusion is unclear, however, and the Authority chose not to argue this point during the Hearing. Neither did Mr. Mauger raise any fundamental argument on this point, though he did raise concerns about certain structural issues that would need to be addressed, such as the foundations, and the stiffening of the roof, should the building be converted. We were also satisfied, on the basis of the evidence we saw and heard, and from our own experience, that the building is well made and can be considered to be of sound and substantial construction for its original purpose, notwithstanding the fact that it has a relatively lightweight fabric when compared with traditional masonry structures that are common in the rural parts of the Islands. We therefore conclude that the first of the tests implicit in Policy GP16(A) is satisfied.

The Tribunal's assessment – is the building capable of conversion without extensive alteration or rebuilding?

39. We turn next to the second test, which is whether the building is capable of conversion without extensive alteration or rebuilding. The terms "alteration" and "rebuilding" are not defined in the explanatory text to the policy, though it was agreed between the parties at the Hearing that "rebuilding" implies that significant elements of the building structure are to be dismantled or demolished, followed by rebuilding in a similar form.
40. The term "alteration" consequently becomes a catch-all phrase encompassing the diverse range of other building work that is normally or potentially included in a conversion scheme, including, for example, extensions to the building, structural

repairs and upgrading, damp-proofing, the repair or replacement of existing elements such as windows, the provision of sound and thermal insulation, the renewal of services, and the creation of a new room arrangements, new doors and windows, and internal fittings.

41. We consider it appropriate to distinguish between three distinct categories of building work that seem to us to have different underlying purposes, though we acknowledge that at the Hearing the Authority saw no need to make such distinctions.
42. First are works of structural repair, upgrading and renewal that may be necessary to render the building safe and structurally capable of accommodating the proposed new use or uses and the new loadings that the structure will have to bear. It is to be expected that many existing buildings will require some work in this category given that they were typically built for other purposes and may have suffered alteration and wear and tear. If the scope of such work appears excessive then this will bring into question whether the proposed development is acceptable in principle.
43. Second are the works intended bring the main fabric of the building up to current constructional standards in order to satisfy other aspects of the building regulations. It was agreed by the parties at the Hearing that the conversion of buildings to residential use is especially demanding, and that most existing buildings will, for example, require upgrading to meet thermal and noise insulation standards.
44. Third are works of internal and external alteration, renewal and fitting out that are specifically designed to facilitate the requirements of the new use, for example the insertion of new doors, windows and rooflights.
45. In dealing with the structural aspects of the appeal proposal, there is no cogent explanation of the scope of repair, structural remedial work and replacement of structural elements that will be required to make the building fit for its intended purpose. It is apparent from the amended application drawing and the engineer's report that the intention is to renew the ground floor slab and the first floor structure. No information is provided on how the timber studwork will be strengthened to accommodate the first floor loads or how the potential spread of the roof structure will be restrained. No information is provided on the relationship between the existing studwork and the proposed new external openings and how any conflicts will be reconciled. In the absence of information on the foundations it is unclear whether underpinning or rebuilding might be necessary. Taken together, these shortcomings in the presentation of the appeal proposal offer little assurance that the scheme could be implemented without the need for substantial structural upgrading and renewal of building fabric, a situation that could bring the proposal into conflict with the objectives of the policy. We accordingly conclude that the proposal fails to demonstrate that the conversion can be carried out without the need for extensive structural intervention, which is encompassed in part c) of the policy in the phrase "extensive alteration or

rebuilding”.

46. We see no fundamental conflict, however, in relation to the works necessary to bring the building fabric up to current building regulation standards in terms of freedom from damp and thermal and sound insulation, for example, as such work is known to be a common feature of schemes involving the conversion of traditional rural buildings. We accordingly conclude that the proposed works in this category are neutral in terms of their impact on the objectives of Policy GP16(A).
47. While the reconfiguration of the building interior raises no particular issues in policy terms, the extent of external alteration is a different matter. There are presently two external doors in the east gable. These will be removed and a new door and window created. In addition, three new window openings will be formed in the northern lean-to, serving the boot-room, bathroom and kitchen. A large sliding/folding door will be inserted in the west gable. Five new rooflights will be inserted in the roof. This amounts to a total of eleven new or modified openings in all. We consider the scale of alteration here to be extensive, and this provides an indication that this building is not of a form that readily lends itself to conversion, especially given the apparent paucity of existing external openings. In two respects, therefore, the proposal fails to accord with criterion c) of policy GP16(A) and we conclude that the dismissal of the appeal is appropriate for this reason.

Planning permissions elsewhere that are cited by the appellants

48. In his written and oral submissions, Mr. Le Gallez, for the appellants, drew our attention to two other proposals involving the conversion of redundant buildings to residential use, both of which have been recently approved, which he claimed reveal inconsistencies in the Authority’s treatment of the appeal case. As Policy GP16(A) was also the determining policy in these other cases we have assessed them carefully insofar as the key issues described above are concerned. In making these assessments, we have relied on the officer’s Planning Application Reports, the approved drawings, and the structural reports that have been provided by the Authority.

Gardenia, Rue Charruée, Castel

49. The first of these cases relates to a proposal at Gardenia, Rue Charruée, to demolish some existing glasshouses and convert an outbuilding on the land to a dwelling (DPA Ref: FULL/2017/2518). The application was validated on 17th October 2017 and approved on 5th January 2018, two months before the appeal application was submitted. The demolition of the surviving glasshouses was used in part justification for the proposed conversion. The building in question was a packing shed with timber studwork walls that is not dissimilar in structural terms to the appeal building. The Building Control officers were consulted on the application. No as-existing survey drawing appears to have been submitted.
50. The structural report submitted with the application and dated July 2017 was

prepared by Chartered Structural and Civil Engineers CBL Consulting following an earlier site inspection. The report was based on a visual inspection, as is the case at the appeal building. It extends to five pages with supporting photographs. The construction materials are described, and attention drawn to the asbestos-clad, timber framed walls and collar-tied roof supported on a mixture of existing masonry and concrete blockwork walls and a ground bearing concrete slab. No trial holes were made and the substructure was thought to be masonry. No evidence of displacement or damage was found in the floor slab and no evidence of significant foundation movement was found in the masonry or blockwork walls. Decay was noted in the timber framing but this was generally thought to be capable of treatment without replacement. The removal of the asbestos cladding was recommended because of the health risks associated with this material.

51. The conclusions of the report were that the building was free of significant structural defect and was sustaining the loads applied. It was noted, however, that some structural interventions would be needed to carry the increased loads imposed by the replacement wall and roof cladding and the insulation. Because of the restraint provided by the existing asbestos cladding to the timber-framed walls, it was recommended that careful consideration should be given to the construction sequence of the conversion.

52. The Building Control Officer made internal comments on the Engineer's report in the following, rather cryptic, terms:

"Structural Engineers Report is a visual assessment of the condition of the building and is not a full structural assessment; The report would appear satisfy [sic] and indicates area that need to be improvement [sic]; The report does suggest that the building appears to be capable of conversion; important note in the conclusion paragraphs 'careful consideration of the sequence works to ensure stability; A schedule of the sequence of works produced by the structural engineer would [be] advantageous."

53. Insofar as the structural issues are concerned, there are clearly many similarities between the building at Gardenia and the appeal building. While the structural report for Gardenia is much longer and more explicit than that prepared for the appeal building, it was also based on a visual inspection only, and also involved assumptions about the nature of the ground floor slab and the foundations. We consider that the observation made in the Building Control consultation that the report was not a full structural assessment is important, as this implies that the level of investigation was insufficient for the intended purpose. It did note, however, that areas of the structure needing improvement had been identified. The lack of a survey drawing is, we believe, a significant omission.

54. In relation to the extent of the proposed alterations to Gardenia, these can only be assessed by comparison of the proposal drawings prepared by architects PF+A with the photographs provided in the engineer's report.

55. We note that in this case the external materials are comprehensively modified or renewed in response to the engineer's recommendation to replace the existing asbestos cladding. This material is replaced with timber boarding on the walls and slate on the roof, while the exposed concrete block walls appear to be rendered. A new window and a new door opening are inserted in the presently featureless southern gable, and the two horizontal strip windows and door on the principal western façade are blocked and replaced with five new doors and windows. Two of the upper windows break the eaves line. A large door opening on the north gable is reduced and replaced with new double doors, and a first floor window is inserted in an existing door opening. Internally, the first floor structure is upgraded, and the roof strengthened by the addition of supplementary trusses. On the basis of our assessment we have come to the conclusion that the scope of the proposed changes at Gardenia are no less extensive than those proposed for the appeal building.

Tertre Farm, Tertre Lane, Vale

56. The second application to which Mr. Le Gallez drew our attention relates to the proposed conversion of a disused building on a former vinery site at Tertre Farm, Tertre Lane (DPA Ref: Full/2018/0956). The application was validated on 13th April 2018, about three weeks after the appeal application was validated, and approved on 3rd August 2018. The building in question is described as a single storey store with a roof set at a high level, presumably to accommodate tall vehicles, and is built in blockwork with asbestos cement roof cladding. There are extensions on the west and north sides, the latter, with a mono-pitch roof, being added in the 1960s or 1970s. The other extension has a flat roof. The building control officers were not consulted in this case. The as-existing survey drawings prepared by PF+A architects are indicative only and provide no information on materials or construction. There is no cross-section drawing showing the existing roof arrangement.
57. The structural report submitted with the application is dated March 2018 and was prepared by Chartered Structural and Civil Engineers CBL Consulting. It was based on a visual inspection, as is the case at the appeal building, and the foundations were not examined. The report extends to three pages and has some supporting photographs. Attention is drawn to the fact that part of the western wall of the building utilises the roadside boundary wall. The roof of the main building is described as a timber tied truss with raised collars. The lack of restraint of the head of the blockwork walls is noted, which is a consequence of the raised collar roof arrangement of the main roof. It is not explained how the western feet of the roof trusses are carried over the large opening between the main building and the extension to the west. A defective lintel over the large central window set within the buttressed eastern wall is identified, but replacement is said to be straightforward. No evidence of foundation movement was seen in the main building or in the northern extension. It is implied that some upgrading of the main roof structure would be required to improve its structural performance. No mention is made of the nature or condition of the roofs over the two extensions. The ground floor is said to be in situ concrete but no indication is given as to its

condition or whether it will be retained or replaced. There is no explanation of the construction of the proposed first floor and how it would be supported on the existing fabric.

58. The report's conclusion is that the property is in reasonable condition for its age and type, and that no evidence was found of foundation or differential movement. Whilst the existing construction appear robust, it is recommended that if conversion is to take place, additional restraint should be provided at the head of the walls and a more robust and better tied system be introduced.
59. It is our view that the structural report and survey drawings leave unanswered questions, especially in relation to the remedial work needed to the main roof and how the proposed first floor will be supported. The absence of cross-sectional drawings makes interpretation of the existing building and the proposed conversion difficult. Nowhere does the report explicitly state that the building is of sound and substantial construction, but alternative terms are used such as *robust construction*, and *reasonable condition for its age and type*, which in our opinion leaves a degree of doubt on this this critical matter. We consider that consultation with the building control officers would have resolved this uncertainty as these matters fall squarely within their area of expertise.
60. As far as the extent of the proposed alterations is concerned, the building will be clad almost entirely with horizontal timber boarding, the only exception being the western extension and the west-facing wall of the main building, which appear from the approved drawings to be rendered. The roofs will be clad in zinc panels, replacing the existing corrugated asbestos sheeting. The glazing in the upper parts of the gable walls will be reconfigured, as will the large, ground-floor opening in the south gable. Many of the existing window areas will be blocked and these alterations are concealed beneath the new timber boarding. Four new rooflights will be inserted in the west-facing roof pitch of the main building, and a further rooflight inserted in the roof of the western extension.
61. Internally, the introduction of an entirely new first floor structure will enable two bedrooms and a bathroom to be introduced at first floor level. On the ground floor, the existing spaces are subdivided to accommodate two bedrooms with en-suite bathrooms, a living/dining room, a kitchen and utility room, and a cloakroom. The principal access to the accommodation will be through the living room.
62. We have assessed the nature of the work described in the approved drawings and have concluded that by any measure, these works can only be described as very extensive. The exterior of the building would entirely transformed by new cladding, rendering and new fenestration while the insertion of the new first floor will substantially increase the habitable floor area, triggering the need for rooflights.

The Tribunal's findings in relation to the other cases drawn to our attention

63. In the light of our review of these similar cases we have re-examined the detailed justification for the refusal of the appeal scheme as set out in the Planning Application Report. This states:
- “Although the revised scheme reduces the amount of alterations to the building (an improvement to that originally proposed), alterations are still required to provide insulation and sound proofing to all external walls, fenestration, a replacement roof, and possible internal strengthening. Furthermore, given that the structural report assumes that the building is situated on a strip foundation, works to underpin or improve the supporting structure may also be required”.
64. Taking the first of these points, we note that the other cases also incorporated insulation and sound proofing and no concerns were raised on this matter in the Authority's assessment. Indeed, as was acknowledged at the Hearing, most conversion schemes will necessarily involve work of this sort, otherwise compliance with building regulations cannot not be achieved.
65. The second concern relates to fenestration, but the point is not elaborated further. Given the extent of alterations to fenestration that were approved on the other developments referred to, we are unclear as to the basis for this objection.
66. The third point identifies a concern about a replacement roof, and possible internal strengthening. We take this to mean a replacement roof covering, as the roof structure is to be retained and strengthened, while the steel roof cladding is proposed to be replaced with slate. We saw in the two other cases that the existing roof coverings were also to be replaced, one in slate, the other in zinc, though we acknowledge that the existing asbestos cladding was considered to justify this change. The need for roof strengthening was a feature of both the other cases referred to us by the appellants. The Authority's final reservation relates to assumptions made about foundations, but we have seen that in neither of the other cases were the foundations fully investigated. The engineer's comment in each case that there was no evidence of foundation movement appeared to provide sufficient reassurance to the Authority on this point. In the appeal case the engineer also made comment about the absence of any evidence of foundation movement.
67. In short, we conclude that anomalies are indeed apparent in the assessment of the appeal case against the tests in Policy GP16(A) when compared to the similar proposals at Tertre Farm and Gardenia, where planning permissions have recently been granted. This is clearly a matter of concern, especially given the observation made at Paragraph 6.2 of the Authority's appeal statement in this case which states:

“Furthermore, since that approval [for Gardenia] the Authority has received numerous applications for similar residential conversions, and aims to adopt a

consistent approach to such proposals which aligns with the overall aims and objectives of the IDP and the spirit of the relevant policies as drafted, to ensure the development would not undermine the spatial strategy”.

68. The impression we have gained is that these three cases have been approached on an ad hoc basis, and a consistency of approach is not evident. We consider that the structural reports presented to us are unacceptably superficial and do not provide a sound basis for decisions made under Policy GP16(A), which, in cases where permission is granted, opens a gateway for new build residential development that would not otherwise be approved. We found the as-existing survey drawings, which we consider important in cases of this sort, were either inadequate or absent. In only one case was the expertise of the building control officers sought. We found the rationale for the refusal of the appeal application inadequate, given the permissions granted in the other cited cases. In short, based on the evidence placed before us, we consider that the handling of cases involving conversion of buildings under Policy GP16(A) would benefit from fundamental review.
69. We believe that the inconsistencies in approach could be avoided if the Authority were to publish advice explaining to applicants the minimum information that they must provide in order to secure validation of the application and ensure its efficient and timely processing. This, in our view, would normally include detailed ‘as-existing’ survey drawings together with exterior and interior photographs aimed at showing the form of construction of the building and its overall state. Such graphical information should be accompanied by a written commentary explaining clearly how the existing building functions in structural terms, giving observations on its condition and an explanation of the extent of necessary structural repair, upgrading and renewal that will be needed. Finally, a note should be submitted on the extent and reasons for proposed alterations such as cladding, roofing, new doors and windows, insulation, internal remodeling and so on.
70. We take the view that notwithstanding the expert opinion normally provided in the submitted structural surveys, the Authority should take full advantage of the expertise of its building control officers who are able to make independent and authoritative comment on the technical issues arising in such cases, and identify perceived shortcomings in the material submitted in support of an application.

Conclusion on our assessment under Policy GP16(A) c)

71. We stated earlier in this decision our conclusion that the proposal does not satisfy the requirements of the policy because of a failure to demonstrate that the building can be converted without extensive alteration or rebuilding, both in the sense of structural upgrading, and the alterations necessary to facilitate the intended use. We recognise that this may seem unfair from the appellants’ perspective, given that the other applications cited are in many respects similar. This is not sufficient reason, however, for us to allow this appeal.

Other Policy considerations

72. The other criterion set out in Policy GP16(A) remains to be considered. We agree with the Authority's position that no conflict arises in respect of criteria, e, g and h. However, we have concerns in respect of criterion f, which states that the conversion of an existing building will be supported where the conversion and any ancillary development associated with it can be implemented without having any unacceptable adverse impacts on the character and openness of the landscape.
73. We saw during our site visit that the appeal site and the parcel of land of which it forms a part are perceived as a large, flat, open area of agricultural land that is partially enclosed by trees and planting to the west, north and north-east. Neighbouring buildings are situated at some distance and have little visual presence. We consider that the ancillary development and paraphernalia associated with a converted dwelling, such as parking area, garden equipment, and the boundary hedges around the domestic curtilage would result in the suburbanisation of this otherwise undeveloped rural environment, resulting in unacceptable harm to the character and openness of the landscape.
74. For this reason, and the reasons relating to the technical aspects of the conversion of the appeal building that are cited earlier in this decision, we are unable to support this appeal.

Overall conclusion

75. We have considered all other matters seen during our site visit and raised in the written and oral submissions, including a number of representations made by local residents, but we find no reason to depart from our conclusion that this appeal should be dismissed.

**Stuart Fell DipArch RIBA IHBC
Presiding Member**

Date of Issue: 31st October 2019

Notice

A person seeking to appeal to the Royal Court must send a written notice to her Majesty's Greffier. A written notice must:

- a. identify the decision of the tribunal to which it relates; and
- b. identify the alleged error or errors of law in the decision.

A written notice of appeal must be sent or delivered to Her Majesty's Greffier so that it is received no later than one month after the date of the decision of the tribunal appealed against. All relevant documentation, including every document that was before it when it made the decision appealed against, should accompany the written notice.

