Planning Tribunal

PLANNING APPEAL DECISION NOTICE

Planning Tribunal hearing and site visit held on 18th November 2019 at The Cotils Centre, St Peter Port

Members: Mr J King (Presiding), Mr D Harry and Mr G Jennings

Appeal Site: **La Pomare Farm, Rue de la Pomare, St Pierre du Bois**

Property Reference: **F004640000**

Planning Application Reference: **FULL/2018/ 2870**

Appeal Case Reference: **PAP/010/2019**

- 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 Mr and Mrs Taylor against the decision of the Development and Planning Authority made on 22nd February 2019 under Section 16 of the Law to refuse planning permission for development described on the decision notice as: *"Extend and convert existing barn to create residential unit."*.

- The appellants were represented by Mr A Ozanne, O.B.E, Architect, of Lovell, Ozanne and Partners. assisted by Mr A Madden, Chartered Civil Engineer, of Dorey, Lyle & Ashman.

- The Development and Planning Authority ("the Authority") was represented by Ms J Roberts, Development Control Manager and Ms S Stuart, the case officer.

The Decision

1. The Appeal is dismissed.

Description of the Proposed Development

2. The proposed development comprises the extension of a small barn or outbuilding associated with La Pomare Farm, and its conversion to a one-person dwelling. The barn is constructed of granite under a clay pantile roof. It forms part of a group of buildings comprising La Pomare Farm, situated on the northern side of Rue de la Pomare. To the south east is the former farmhouse, which is occupied by the appellants, but also includes holiday rental accommodation; and beyond is a free-standing holiday let. The buildings lie within a formally defined curtilage which includes garden land and a swimming pool on rising land to the rear. Some of the land has in the past been subject to quarrying. Other agricultural land within the ownership of the appellants, but beyond the curtilage, extends to the north and on the opposite side of the road. There are a number of other dwellings along the northern road frontage, but the land opposite is undeveloped.

3. The intention is to extend the barn on its north-western corner to increase the available floorspace; to reconstruct the roof and to demolish an attached small brick structure formerly used as a toilet. On the front of the building – on its south eastern side – the present barn doors would be replaced by a new front door and 2 windows. To the rear, a new window would be pierced in the existing masonry; and double doors and a window incorporated into the new extension wall. A substantial proportion of both the front and rear elevations would be clad with new horizontal timber boarding; and on the north-eastern elevation, facing the hillside, the wall of the extension would be rendered. Internally, a substantial wall that extends to eaves height and partly supports the roof would be cut through to provide internal circulation. The new internal layout would include a kitchen / living / dining area, occupying rather more than half of the space; a single bedroom; a shower room / toilet and a small store. The building would have to be fitted with a floor slab, insulation to floor, walls and roof; and the installation of all usual services. A separate curtilage for the new dwelling would be defined, to include a garden area to the north-west and a space for vehicle parking to the front. Access from Rue de la Pomare would be shared with the farmhouse.

4. For the avoidance of doubt, the detailed plan of the proposed development is shown on a revised drawing: No AA18-10288-S1-3 Revision A, dated November 2018.

The main issues

5. The main issues in this case are:

   (a) Whether the proposed development complies with the requirements of Island Plan policy with respect to housing outside the Centres and the conversion of redundant buildings; and
   (b) Whether the proposed dwelling would provide satisfactory living accommodation for future occupiers, having regard to the requirements of Island Plan policy with respect to the conversion of redundant buildings and the relevant technical standards.

The Tribunal's Assessment of the Evidence and the Site Visit

Issue (a) Housing outside the Centres

6. The strategic context for the development is provided by Island Development Plan ("the IDP") Policy OC1 *Housing Outside of the Centres*. This supports the creation of new dwellings outside the Main Centres only in limited circumstances: by subdivision, which does not apply in this case, or through the conversion of an existing redundant building. In such instances, proposals will be considered under the provisions of Policy GP16(A) *Conversion of Redundant Buildings*. This supports the conversion of existing buildings provided that eight criteria (a) to (g) are met.

7. Of these criteria, it is common ground between the Parties that criteria (b), (d), (e), (f) and (h) are met, briefly for the following reasons:

- The development would result in the establishment of a residential use – one of the acceptable uses under the policy (criterion b);
- There would be no impact on a protected building (criterion d);
- There would be no unacceptable impact on a building of character (criterion e);
- There would be no unacceptable adverse impact on the character and openness of the landscape (criterion f); and
- There would be no unacceptable adverse impacts on the amenities and enjoyment of neighbouring properties and the surrounding area (criterion h).

The Tribunal does not intend to consider these matters further.

8. The tests set out in the other criteria (a), (c) and (g) remain at issue and are considered in turn.

Criterion (a)

9. Under this criterion it has to be demonstrated that the building proposed to be converted is no longer required or capable of being used for its current or last known purpose. It is fundamental to the subject of the policy, which applies specifically to redundant buildings.

10. The building is of some age, evidenced by its appearance on a map of 1898, according to the Authority. It was probably built as a small barn or another type of agricultural structure, though it is possible that it has had some connection with the quarrying activities at the farm. However, whatever its original use, in March 2017 it was formally incorporated by planning permission into the domestic curtilage of La Pomare Farm which, despite its name, was by that time a private residence no longer used in connection with agriculture. The extent of the curtilage is shown clearly on the plans submitted with the appeal proposal as including the barn and land adjoining. In November 2017, permission was also granted to extend the building "to provide additional storage", but this has not been implemented.

11. In September 2018, the Director of Planning for the Authority wrote to the appellant in the following terms: *"I can confirm that the authorised use of the existing outbuilding, either as it stands or once it has been extended, is for purposes incidental and ancillary to the enjoyment of the dwelling house. The structure can therefore be used for ancillary domestic storage or for ancillary habtiable* (sic) *accommodation without the need for planning permission".* It was evident from the Tribunal's visit to the site that the current use of the building is for the storage of domestic items including, for example, furniture. In this context, the Tribunal is in no doubt that the current and last known purpose of the building is as domestic storage ancillary to the residential use of La Pomare Farm.

12. The Tribunal acknowledges that the practical usefulness of the building for storage is limited by the poor condition of the roof and its lack of security. It could not be used for the storage of valuable items or things which could be damaged by water ingress. However, even in its present state it could be used to store less sensitive items; and is currently doing so. Without prejudice to our conclusions below concerning the soundness and substance of the building, we take the view that the building is capable of being used for its present or last known purpose.

13. Whether the building is required for that purpose is, however, a different question. The appellants say that it is not required; and that such storage as is taking place or has taken place in it consists either of items which could easily be disposed of, or which belong to family members who could store them elsewhere. It is claimed that the main house has sufficient storage space in its attic, which was said to be large, but accessed by a ladder, which would limit its usefulness, and in a utility room which was shown to the Tribunal at the site visit. Certainly this room was used extensively for storage, including of some electric bicycles, albeit at the expense of rendering its other use for refrigeration and food storage somewhat impractical. We were also shown a shed which was occupied by the pump / filtration system for a swimming pool. However, the space remaining in it was very limited and capable of accommodating little else.

14. Mr Taylor indicated at the hearing that, although a quantity of land outside the curtilage of the dwelling was in his ownership, it was occupied and / or managed by his son-in-law and so there was no need to store agricultural implements. Moreover, he said that, if he wished to undertake land management tasks, such as trimming hedges, this could be done by a contractor, so there would be no need to store gardening tools. As he had recently suffered a serious illness, he had abandoned or curtailed his previous recreational activities, especially boating and fishing which had been used as the justification for gaining permission to extend the building to provide additional storage as recently as 2017. As a consequence he had no requirement for the barn for storage purposes

15. The Tribunal has some sympathy with the appellant concerning the practical difficulty in demonstrating a negative statement (i.e. that the building is no longer required for the purpose). The IDP does not contain any specific guidance on the matter, and the Authority was unable to assist at the hearing – simply indicating that

it was the appellants' responsibility to demonstrate the lack of need. So, in order to assist with our decision-making, we have sought to find other examples of where a demonstration of redundancy may be required in order to justify a particular course of planning action. We set these out in turn.

16. Policy OC8(C) *Visitor Accommodation outside of the Centres* supports the change of use of visitor accommodation to another use provided (briefly) that the applicant demonstrates either that it is not technically feasible to refurbish, alter or otherwise adapt the establishment to meet appropriate standards or, where that is feasible, that it is not viable to undertake such works and return a reasonable operational profit; and that the premises have been actively and appropriately marketed for sale for a period of 2 years and that an appropriate offer has not been made. In such cases, redundancy can clearly be demonstrated objectively by reference to costs and viability data, and marketing information.

17. Policy OC7 *Redundant Glasshouse Sites Outside the Centres* includes a requirement in certain circumstances to demonstrate that the site cannot positively contribute to commercial agricultural use or cannot practically be used without certain adverse impacts. While there is little or no guidance as to how this might be demonstrated, one may similarly envisage the need to provide technical and / or financial analysis.

18. Policy GP12 *Protection of Housing Stock* allows for the loss of an existing dwelling subject to criteria which amongst other things may require a demonstration that the property is substandard and there no reasonable way of upgrading it to provide satisfactory living conditions. Such matters could be demonstrated by reference to technical information such as building surveys, the Building Regulations and cost estimates.

19. Although all of these examples require the demonstration of a negative statement, none are directly comparable to the present case: frequently commercial factors will apply, or objective technical, market or financial evidence can be brought to bear in evidence. However, as a matter of principle, it seems to the Tribunal that in each of these policies the demonstration of redundancy of a building relates not simply to the needs or wishes of the present owner of the property, but to redundancy of the building in its present or former use more generally. Thus, for example, under Policy OC8(C) a hotel operator may have to demonstrate that the hotel is unviable not only under present management but for any future operator. Under Policy OC7, the owner may have to show that a glasshouse cannot positively contribute to commercial agricultural use, irrespective of their personal circumstances or whether they individually wish to use it in that way. Similarly, under Policy GP12, the property owner has to demonstrate that there is no reasonable way of upgrading the house to provide satisfactory living conditions for any future occupier, not only for themselves. It seems to us reasonable that this principle should also apply to cases considered under Policy GP16(A). If, for example, the owner of a commercial storage facility which was capable of being used as such wished to convert it to another appropriate use then, under the terms of the policy, they would be required to demonstrate that it was not required. That might be done by submitting evidence

similar to that applying to visitor accommodation.

20. Unfortunately for the present appellants, evidence of redundancy is difficult, if not impossible, to bring forward in the case of seeking to demonstrate the absence of need in relation to domestic property, where financial factors similar to those considered above are highly unlikely to apply. As set out above, Mr and Mrs Taylor have sought to demonstrate a lack of requirement for the building for domestic storage by reference to their own needs at this particular time. However, while the Tribunal has no reason to disbelieve their assertions concerning their personal lack of need, we are very hesitant to accept this as compelling evidence of a lack of a requirement for the building for the purpose of applying Policy GP16(A)(a). We cannot rationally believe that it could be the intention of the policy to allow a building (not covered by another specific policy) to be converted to another use simply because the current owner has no personal requirement for it at the time. If a householder were to claim that a domestic garage is redundant because they have no vehicle, and have no intention of keeping one, would that demonstrate redundancy? This Tribunal suggests not. A future occupier might well require a garage.

21. Within that overall context, the Tribunal finds that in respect of criterion (a) the barn is not redundant in that firstly it is still capable of being used for its present or last known purpose of providing domestic storage for La Pomare Farm and the associated holiday accommodation. Secondly, we find that although the building may no longer be required for storage by Mr and Mrs Taylor, in the context of the criterion it is insufficient to show that the requirement for use relates solely to the use and intentions of the current owners. Ownership can change, and a future owner may well require the building for its current storage use. This is particularly so with La Pomare Farm as, although not actively used for farming, the property does comprise some 2.25 acres of land and holiday accommodation. Therefore in respect of the property, as distinct to its use by Mr and Mrs Taylor, the barn may still have an important and relevant use and as such cannot be considered as being redundant in the sense of not being required for its current or last known purpose.

22. The Tribunal wishes to add its opinion that the policy and its supporting text does not provide sufficient information or certainty for applicants and appellants - or indeed decision-makers - with respect to the nature of the evidence that is expected to be provided in order to demonstrate that a building is no longer required. Nor is there any indication of any planning principles concerning the application of criterion (a), in particular, whether the expression “no longer required” may relate to personal circumstances, or whether a broader interpretation, taking into account more than private interests is necessary, as we conclude. On the basis that planning is exercised in the public interest, we lean towards the latter opinion and have reached our conclusions on that basis. Against the background of this uncertainty, we urge the Authority to address this issue as a matter of urgency, as the question of redundancy is central to the proper application of Policy GP16(A).

Criterion (c)

23. Under this criterion the existing building must be of sound and substantial construction and capable of conversion without extensive alteration or rebuilding. These are two separate requirements that will be considered individually.

24. The application was supported by a letter from Dorey, Lyle and Ashman, Chartered Engineers, dated 15th November 2018, written by Mr A T Madden, a Director of the Company, and a Chartered Civil Engineer. This referred to an inspection which took place on 20th January 2016 with respect to an earlier proposed scheme for the conversion of the barn to habitable accommodation. The letter concluded by saying that the current structure is of sound and substantial construction. At the hearing, Mr Madden stated that he had recently visited the building again and remained of the same opinion.

25. The letter is headed: "Structural inspection of the outbuilding …". It does not purport to be a structural survey, and this was confirmed by Mr Madden at the hearing. He also indicated that he had not undertaken any technical or practical investigations – for example with respect to existence of foundations, other than the visual inspection. The letter is mostly descriptive, but includes the following relevant observations:

- The building is constructed of traditional random granite masonry with a gable-ended pantile covered pitched roof;
- There are no internal floor slabs.
- The ground level steps up towards the north east gable which retains approximately 1.2 metres of ground.
- There is a small toilet outbuilding attached to the gable at this higher level constructed of poor quality brickwork.
- The condition of the internal pointing is quite good, and in general all of the walls are relatively straight and plumb for a building this age and type of construction.
- There is some vertical cracking visible externally in the left-hand gable measuring up to approximately 7mm horizontally and 2mm vertically. This is indicative of some relatively minor historic structural movement which could easily be repaired as part of the renovation works, with a localised underpin to the rear end of the wall if necessary.
- The roof structure comprises pitched rafters to a single ridge beam which is propped mid-span onto the internal division wall.
- The roof timbers are small in accordance with current regulations and would probably have to be replaced as part of the new scheme.

26. The relevant supporting text to Policy GP16A (paragraph 19.17.6) states that the submission of a structural survey as part of the planning application will usually be required. It is not known why one was not submitted in this case or, in its absence, why the Authority did not request one in the knowledge that external cracks are clearly visible on two elevations and the fact that the inspection had taken place

some considerable time before. The Authority's report on the application refers to the fact that "A Structural Engineer's Report" had been submitted. The Tribunal considers this to be inaccurate, and misleadingly elevates the inspection above its true status. The report notes that the letter indicated that the building was of sound and substantial construction and records a number of its observations, but omits to mention the cracking or to conclude on the question of soundness and substance. In the Tribunal's view, the Authority failed properly or fully to address the question of whether the building was of sound and substantial construction.

27. The Tribunal has viewed the barn. We noted that the walls are substantially constructed mainly of granite, though some of the external pointing requires renewal. We saw cracks in both the north west (rear) and south west (gable) elevations and were surprised at their extent in comparison with the brief description of them in the inspection letter which suggested that only one wall was affected, and which neglected to indicate their length. We also noted that some poor quality modern cement pointing had been applied on the rear wall and that in places this had pulled away from adjoining stones. We do not know when this repointing or the subsequent cracking took place, but this suggests to us that the movement of the wall may not be entirely historic, as Mr Madden surmises. His opinion is doubtless based on his professional expertise and local knowledge, but we consider the observations to be far from conclusive without further investigation. When questioned, he took the view that the building was probably sitting on bedrock, judging from what could be seen of the geology locally. However, while it is known that quarrying took place directly adjoining the building, suggesting that there is bedrock close to the surface, it is not known with any certainty when such excavations took place. One may only speculate, but it could be possible, for example, that part of the building was constructed on disturbed or made ground connected with the quarrying. This could have the potential to affect its stability.

28. Overall, we take the view that the application should have been accompanied by a proper structural survey which would have revealed such basic information as the nature of the land on which the building sits, and of the foundations, if such exist. The absence of such information gives the Tribunal cause for concern, particularly in the context of the existing cracking in two walls. We recognise that our concerns may be unfounded, but without these matters having been addressed either in the inspection report or by the Authority, we are unable to conclude with confidence that the building as it presently exists is of sound and substantial construction. Consequently, the proposal fails to meet that element of criterion (c) of the policy.

29. We now turn to the question as to whether the building is capable of conversion without extensive alteration and rebuilding.

30. It is common ground between the Parties that the proposed building works would include the provision of a floor slab; the replacement of the roof structure and some tiles (though it may be necessary for all of the tiles to be replaced if they have significantly deteriorated); the demolition of parts of the north west and north east elevations (extending to over 6 metres or about half of their total existing length), a

significant proportion of the internal wall, and the brick toilet. To the north west and north east, new walls measuring approximately over 9 metres in total length would be constructed to form the extension. In addition, a new window would be pierced in the remaining part of the existing back wall, and the present large doors to the front replaced by 2 small windows and a door. In the absence of a structural survey, we have no information about the possible effects on the integrity of the building from the carrying out of these works. For example, the removal of parts of the rear wall and north-eastern gable would have the potential to weaken the remaining walling, some of which already displays cracking and which Mr Madden has speculated might require underpinning. Clearly additional repair and structural work may potentially be required. Further, the replacement of the lightweight roof structure, presently partly supported by the central wall, with a larger and necessarily heavier structure, presumably supported solely on the external walls, could have implications for their stability, also requiring more work.

31. In terms of appearance, only the south western gable would remain unaltered. A significant proportion of the remaining elevations would be finished partly in either horizontal timber boarding or render rather than the granite mostly used at present. Internally, the floor, walls and roof would have to be insulated and lined; and all usual services installed, a not inconsiderable exercise in its own right.

32. The Tribunal considers that the works necessary to carry out the proposed conversion to make the building suitable for occupation – involving demolition, building, reconstruction and repair, introduction of new doors and windows, changes to the external appearance, internal works and provision of services, taken together may reasonably be described as extensive alterations. In the event that further works of underpinning or structural repair to the external walls was found to be required – matters on which we cannot confidently conclude in the absence of a structural survey, there is potential that the works as a whole could be judged as representing extensive rebuilding. However, even if that were found not to be necessary, we conclude that this element of criterion (c) would be breached.

Criterion (g)

33. Under this criterion, the conversion should not require more than modest extension to the existing building for it to be achieved. What is meant by a "modest extension" is provided by Paragraph 19.17.8 of the supporting text which explains that conversion proposals may be accompanied by such an extension *"provided that it is not of such a scale that it forms a significant part of the new unit, in effect creating a new building contrary to this policy"*. *"This policy"* is taken to mean GP16(A), though that neither includes a test relating to the significance of the extension, nor the effective creation of a new building. Nonetheless, the supporting text, which forms an integral part of the IDP, does refer to the purpose of the Policies GP16(A) and (B) to *"enable uses through conversion or re-use of redundant buildings that would not otherwise be permitted through the carrying out of new-build development when assessed against the other relevant policies"*.

34. In the Tribunal's view it is reasonable to assume that whether an extension is "modest" will depend on its scale relative to the size of the new unit; and that if its scale is such that a new building would effectively be created, the policy test would not be met.

35. In this case, the resultant building would have an external (gross) footprint of approximately 44.3m^2, of which the extension would occupy 6.5m^2, or about a 17.2% increase. Notwithstanding the Tribunal's earlier conclusion that the proposed alterations as a whole (i.e. taking account of all of the various changes proposed) could reasonably be described as extensive, we do not consider that the extension taken alone would be of such a scale as to form a significant part of the new unit in proportional terms. Nor, despite the fact that the building would be altered in several other ways, do we consider that a new building would in effect be created by the addition of the extension. At the hearing, the Authority, having previously taken a contrary view, agreed with the proposition that the extension should be considered modest in scale.

36. However, at the hearing, the Authority then proceeded to argue by reference to Policy OC1, and in particular the supporting text in paragraph 16.1.7, that the extension should not be regarded as "modest" by reason of its <u>significance to the purposes of the policy,</u> notably the strategy of focusing housing development in the Centres. The relevant passage in the paragraph reads as follows: *"Schemes to … convert redundant buildings may be accompanied by a modest extension provided that the extension is not of such a scale or significance that it forms a significant part of the new unit, in effect creating a new build dwelling contrary to this policy".* This wording is almost, but not quite identical to that found in paragraph 19.17.8, which supports Policy GP16(A). The key differences are the addition of the words *"or significance"*, and the substitution of "*creating a new build dwelling*" in place of *"creating a new building"*. The thrust of the Authority's argument is that, even though the extension would be modest in <u>scale</u>, it would not be modest in <u>significance in policy terms</u>, as it would extend the present building to a size that would enable it to create a new dwelling in a location contrary to the strategic policy, when otherwise that would not be allowed.

37. The Authority's argument was brought forward very late in the day. This interpretation of policy was neither referred to in its application report nor in its appeal statement. Moreover, while reference was made in the reason for refusal to Policy GP16(A)(g), there was none to Policy OC1. In the Tribunal's opinion, this is quite unacceptable, since it caught both the appellants, and indeed the Members of the Tribunal, by surprise. For both parties, the purpose of rehearsing the cases in writing beforehand is to ensure that neither is caught unawares at the hearing, and to enable them and the Tribunal to prepare adequately and, if necessary, obtain advice. We earnestly hope that this does not happen again, as it has the potential to disadvantage an appellant.

38. The Authority's argument brings into focus the inconsistency between the supporting text for Policies OC1 and GP16(A). Policy OC1 indicates simply that proposals for conversion of redundant buildings will be considered under Policy GP16(A). It adds no further tests; and the fact that the supporting text to the two policies is inconsistent in detail we find particularly unhelpful. For the second time in this decision, we urge the Authority to consider revising the text to make the meaning clear and not open to misunderstanding.

39. That said, the Tribunal sees nothing either in the policies or in the accompanying text that indicates that the argument put forward by the Authority should be followed. Albeit acknowledging the clumsy construction of the text, in grammatical context the word *"significance"* in paragraph 16.1.7 relates to the significance of the extension in determining whether it would *form "a significant part of the new unit in effect creating a new build dwelling contrary to this policy"* – in the same way as *"scale"* is used. Once it has been concluded that the extension would not form a significant part of the new unit, and that no new build dwelling (or a new building) would be created, there is nothing more to consider. To contend that *"significance"* relates to significance for the application of the policy is tenuous and unconvincing. The construction of the sentence simply does not support that interpretation.

40. The Tribunal therefore concludes that the extension would be "modest" within the context of criterion (g).

Issue (b) Living accommodation

41. Policy GP8(d) *Design* requires development to achieve high standards of design and amongst other things will be expected to: (d) consider the health and well-being of the occupiers; (f) demonstrate accessibility to and within the building for people of all ages and abilities; and (g) offer flexible accommodation that is able to respond to people's needs over time.

42. With respect to criterion (d), Annex 1 of the IDP refers to the Building (Guernsey) Regulations, 2012 and the practical guidance in the associated Guernsey Technical Standards. It says that they are primarily aimed at ensuring that a safe and healthy environment is provided for people in and around buildings. That includes some aspects of well-being such as minimum standards of accommodation with regard to the layout, size and arrangement of habitable rooms. The Annex states explicitly that it does not repeat the requirements of the Regulations or Technical Standards and is therefore aimed at those aspects of amenities associated with health, well-being and enjoyment that are not provided for by them. The intention is to ensure that new developments are planned and built to support the health and well-being of occupants and users and maintains appropriate amenities for those of neighbouring property. The Tribunal's assumption is that the proposed development would be constructed in line with the Building Regulations. In accordance with normal practice, if this appeal were to be allowed the planning permission granted would be subject to a condition requiring this.

43. The Guernsey Technical Standards for habitable rooms (G7) represent minimum internal space standards, which the Authority would normally expect to be substantially exceeded in new development. Nonetheless, there is no requirement for the standards to be exceeded: it is sufficient that they should be met. For a one person dwelling, the standard requires internal floorspace, comprising kitchen, living, dining and bathing to be at least 22m^2; sleeping (7 m^2) and storage (m^2), totalling 30 m^2. The area excludes any part of a room with a floor to ceiling height of less than 1.5 metres.

44. Reference was also made by the Authority to the English (Department for Communities and Local Government) *Technical housing standards – nationally described space standard* (2015). These require greater provision. The Tribunal notes that while the English standards may represent current best practice in that jurisdiction, they have not been adopted in Guernsey. The Tribunal takes the view that it would not be appropriate to penalise the appellant on the basis of any failure to comply with them.

45. During the course of the hearing and the site visit, considerable discussion took place concerning the eaves height at the rear of the building and whether this would restrict the overall useful space within the building by having regard to the 1.5 metres limitation referenced in the G7 Standard. As this could not be assessed with any accuracy from the submitted plans, or on site, the Tribunal requested the Parties jointly to undertake a measured survey of the building. This has since been carried out, with the result that it has been agreed that the internal floor area available would total 30.3m^2, taking account of all necessary works to the floor, walls and roof to ensure compliance with Building Regulations.

46. The proposed available floorspace would exceed the G7 standard of 30 m^2 by only 0.3 m^2. Nonetheless, this is sufficient for it to be met. The Tribunal has considered whether this amount of space and the layout would be sufficient and suitable to accommodate one person and meet the provisions of Policy GP8(d). We are aware that the G7 standards have not been drawn up as planning standards, but it is reasonable to suppose that they will be consistent with and inform planning aspirations and policy. We conclude that, although the space available would be small, subject to compliance with the Building Regulations it would provide adequately for the health and well-being of future occupiers. The Authority's application report states that the proposed dwelling could provide adequate living environment in accordance with the policy.

47. In terms of criterion (f), as the proposed dwelling would be on a single level with no steps it would be accessible for people of all ages and abilities. With respect to criterion (g) the accommodation would not be particularly flexible, nor could it respond readily to people's needs over time, for example in terms of provision for a partner or children. However, it would be no worse in these respects than any single-bed accommodation, such as a small flat. It would be unreasonable to require all dwellings to be capable of providing family accommodation; and this cannot be the purpose of the policy.

48. Overall, by reference to the second issue, the Tribunal is satisfied that the proposed development would comply with the terms of Policy GP8 and provide satisfactory, if not ideal, living accommodation for future occupiers.

Other Matters

49. A number of other matters have been raised by the appellants in support of the appeal. These are considered briefly below.

50. The Tribunal acknowledges the broad planning policy context of seeking to make the most efficient use of redundant buildings and existing developed land. But this does not promote development in an unconstrained manner. The IDP sets out specific criteria by reference to which different types of proposed development should be judged. In this case, the development should be considered principally by reference to Policies GP16(A) and GP8, and this is what the Tribunal has done in this decision.

51. We have noted that permission to extend the building for storage purposes was granted in 2017 and that the size of the extension permitted is larger than that sought by the current proposal. However, that proposal was not for a change of use but for an expansion of an existing use (domestic storage). Consequently, it fell to be determined under other policies, and is not comparable.

52. The proposed development does not fall to be determined under the provisions of Policy GP13 *Householder Development*, as that applies only to the alteration and / or extension of residential properties or the demolition of existing dwellings and the erection of replacement dwellings on a one for one basis.

53. The appellants claim that permission has been granted for the conversion of other buildings to residential accommodation elsewhere, involving a much greater degree of extension. We have no details of the matters taken into account when these proposals were considered and have no way of telling whether they are truly comparable with what is presently proposed. Even if they were shown to be comparable, they would not set any kind of firm precedent. This Tribunal has considered this appeal on the basis of the particular circumstances of this case.

54. Despite the assertion made on behalf of the appellants, no evidence has been put forward of local need for residential accommodation of the type proposed. Any suggestion that the building might be used for live-in support in the future would have to be considered on the basis of individual circumstances at the time. It cannot justify granting permission now.

55. We are aware that pre-application advice was given to the appellant by the Authority. However, that is no more than advice and does not bind the hands of the Authority or this Tribunal.

56. The Authority has considered whether the proposal might be considered as a minor departure from the IDP under the provisions of section 12(2) of the Land Planning and Development (General Provisions) Ordinance, 2007, but takes the view that it should not. The Tribunal agrees. Albeit that the proposed development would be fairly minor, the issues raised are fundamental to the policy with respect to the conversion of redundant buildings (or buildings claimed to be redundant).

Overall Conclusion

57. For the reasons given above, the Tribunal concludes that the appeal should be dismissed.

58. We have considered all other matters raised in the written submissions and during the Hearing. We have also considered all matters pointed out at the site visit and our own observations. However, these do not affect our conclusion under the provisions of Part VI and Section 69 of the Land Planning and Development (Guernsey) Law, 2005 that the Appeal should be dismissed.

Jonathan G King BA(Hons) DipTP MRTPI
Professional Member

Date of Issue: 13th December 2019