



Appeal Decision Notice

Planning Tribunal Hearing held on 24th July 2012 at Les Cotils Christian Centre, St. Peter Port including a visit to the Appeal site in the course of the Hearing

Members: Mrs. Linda Wride (Presiding), Miss Julia White and Mrs. Sheelagh Evans

Appeal Site:	La Remise, Le Petit Marais, Vale
Property Reference:	C00247C000
Compliance Notice Reference:	ENF/2012/00060
Compliance Notice date of effect:	19th June 2012
Appeal Case Reference:	PAP/023/2012

- The Appeal is made under the provisions of Part VI and section 70 of The Land Planning and Development (Guernsey) Law, 2005.
- The Appeal is made by Mr. Richard Donaldson and Mr. Ian Donaldson against the decision of the Environment Department to issue on 17th May 2012 a Compliance Notice made under section 48(1) of the Law requiring certain activities taking place at La Remise, Le Petit Marais, Vale to cease.
- The appellants were represented by Mr. Peter Falla, Peter Falla and Associates Limited who called Richard Donaldson and Ian Donaldson.
- The Environment Department was represented by Ms. Elaine Hare, Principal Planning Officer, and Mr. David Perrio, Investigation and Enforcement Officer.

Decision

1. The Appeals on all grounds are dismissed and the Compliance Notice is upheld.

Background

2. The appeal site is located in a predominantly rural area with dwellings nearby and horticultural greenhouses and workshop on the adjacent site. Originally a vinery with ancillary buildings, the glasshouse has long since been demolished. The ancillary buildings remain and have been further developed with planning permission.
3. Planning application (Ref PAPP/2008/0902) to convert the sheds to offices was granted permission in 2008 subject to conditions, including a condition which restricted the use of the building to office purposes falling within the Commercial Use Class 25 of the Island Development Use Classes Ordinance, 1991. At the Hearing, after some discussion, the parties agreed that such a use now constitutes administrative offices within Use Class 22 *Administrative, Financial and Professional Services* of the Land Planning and Development (Use Classes) Ordinance, 2007.
4. The office premises were used as administrative offices for Dee Construction Limited (a development company) and as a registered office for Kimberley Holdings Limited (owner of developments undertaken by Dee Construction). Following the demise of another local company, Chameleon Interiors, which had supplied kitchens to Dee Construction, the kitchen franchise was acquired and a new business, Platinum Interiors Limited, was set up to operate the franchise, also based at La Remise.
5. The Tribunal was advised that a condition of the franchise required kitchen products from specific manufacturers to be displayed. In 2010, this requirement led to an application by Dee Construction seeking permission to change the use of part of the appeal building to display kitchen products. Drawing D.C 01 received by the Department on 6th December 2010 identifies one room in the building (with a floor area of some 12 sq m) as the proposed kitchen display area.
6. During December 2010 and January 2011, an exchange of correspondence between the Department and the applicant clarified that the kitchen display use would be ancillary to the construction business, allowing services to customers to be extended. No additional staff would be employed. The display would consist of product samples and the display area would only be open during office hours (from 09:00 to 17:00). Most of the anticipated business would be trade customers calling by pre-arranged appointment. Based on this drawing and the additional information, the Department advised by letter dated 13th January 2011 that planning permission would not be required, provided the kitchen display area remained ancillary and incidental to the use of the building as offices and on the understanding that there would be no retail use of the premises.
7. In December 2011, Dee Construction sought permission to extend the appeal building (Ref FULL/2011/3437). The agent's supporting letter dated 17th January 2012 stated that as the kitchen enterprise demanded a large amount of space, both of the main offices were being used to display kitchen units and associated products. The proposed extension of some 41.5 sq m would make good the shortfall of office accommodation and allow for the business's long term needs. In terms of staffing, responsibility for the kitchen section had been absorbed by the current directors. An additional member of staff had already been recruited for kitchen fitting and it was anticipated that another would be required in due course, along with an additional kitchen designer.
8. Due to the way the building was being used at the time, permission was refused on 21st February 2012 on the grounds that the proposed extension would not be ancillary or essential to the proper running of an existing commercial (i.e. office) operation and would therefore fail to satisfy Rural Area Plan (RAP) Policy RE9 (a) (i) in this respect.

9. At a follow up meeting on 19th March 2012, the Department was advised that the kitchen business was not advertised or named on the building. Enquiries came from trade customers and as a result of the company's reputation. Whilst display kitchens are set up in the building, construction is undertaken at the client's site by sub-contractors. The Department confirmed that whilst the design of the extension was not an issue, there was a conflict with Policy RE9 which required extensions to be incidental and essential to the proper running of the commercial (in this case, office) operation.
10. In April 2012, the Department received an anonymous complaint from a retailer that a retail kitchen showroom was operating at the appeal premises without planning permission. When visiting the site, Mr. Perrio observed that the whole of the western side of the building had been fitted out with kitchen units. A member of staff was serving customers in the display area and dealing with a telephone enquiry in the front office, where kitchen sales administration appeared to be based.
11. As the area used for kitchen display exceeded that indicated on drawing D.C 01, in the Department's view this use could no longer be considered to be a minor or ancillary to the authorised office use of the building. The Department considered that this level of kitchen display and sales constituted a retail use. As there is no provision for new retail uses on such sites under RAP Policy RE4 (b), the Department considered it expedient to serve a Compliance Notice requiring the permanent cessation of retail activity, other than as an ancillary use, on or by 19th July 2012.

The Compliance Notice

12. At the Hearing, the Department confirmed that the alleged material change of use is from administrative offices for any purpose (Class 22) to retail use (Class 14). The Compliance Notice was served on Mr. Richard Donaldson and Mr. Ian Donaldson as owners of the land and on Platinum Interiors Limited, as tenant of part of the land.
13. At the Hearing, Richard and Ian Donaldson confirmed that they are Directors of Dee Construction Limited, Platinum Interiors Limited and Kimberley Holdings, all of which have registered offices at La Remise. Although the appeal is proceeding only in the names of Richard and Ian Donaldson as owners of the site, with the Department's agreement, the appellants also gave evidence at the Hearing about the kitchen franchise operated by Platinum Interiors and the business relationships between Platinum Interiors, Dee Construction and Kimberley Holdings.

The Legislative Context

14. Section 70(1) of the Land Planning and Development (Guernsey) Law, 2005 sets out various grounds on which an appeal against a Compliance Notice may be made. The grounds of appeal argued in this case are threefold. The first is that the breach of planning control alleged in the Compliance Notice has not taken place; there has been no material change in use of the land and therefore no breach of Section 13(1)(b) of the Law. This ground of appeal is specified in Section 70(1)(a) of the Law.
15. The second is that the matters alleged in the Notice do not constitute a breach of planning control, this being a ground of appeal set out in section 70(1)(b) of the Law.
16. The third ground of appeal is that issue of the Notice was (for any other reason) *ultra vires* or unreasonable, this being a ground of appeal set out in section 70(1)(f) of the Law. At the Hearing, Mr. Falla confirmed that his clients considered the issue of the Notice to be unreasonable, rather than falling outside the law.

17. Section 71(1) of the Law prescribes the action to be taken by the Planning Tribunal in determining an appeal against a Compliance Notice made under Section 70. Under the provisions of Section 71(1)(a), if the appellant satisfies the Tribunal of a ground mentioned in Section 70(a), (b), (c), or (f), then the Tribunal must quash the Notice.

Main issues

18. From its assessment of the papers submitted by the appellants and the Department, and from the evidence heard during the Hearing and seen during the site visit, the Tribunal considers there are three main issues in this case. Firstly, whether a material change of use from offices to retail has occurred on the appeal land. Secondly, whether the existing use of the premises for the display and sale of kitchen units and associated fittings and the design of fitted kitchens constitutes a breach of planning control. Thirdly, whether the issue of the Compliance Notice can be regarded as reasonable, given the written advice from the Department that planning permission is not required for the use of part of the premises as a kitchen display area

The First Issue – Has there been a material change of use?

19. The starting point for the Tribunal's consideration of the first issue is the planning unit, the authorised use of the land and the alleged change of use which are set out in points (a) and (b) below. We, the members of the Tribunal, then considered whether the current use is ancillary or incidental to the authorised use in point (c). In reaching a view on this point, we had regard to the criteria in points (i) to (iv). The Tribunal reached an overall conclusion on the first issue taking into account all these considerations.

(a) The Planning Unit and Authorised Use of the Land

20. Whether a material change of use has taken place is a matter of fact and degree, based on individual circumstances. The starting point for any such assessment is normally the planning unit. In this case, the parties agree that the planning unit comprises the building and land at La Remise, outlined in red on the plan attached to the Compliance Notice.
21. The use of the appeal building is controlled by an ongoing planning condition dating back to 2008. Although the condition in question refers to Commercial Use Class 25 of the Island Development Use Classes Ordinance, 1991, the Tribunal concurs with the view reached at the Hearing that the equivalent use in the current Land Planning and Development (Use Classes) Ordinance, 2007 is administrative office within Use Class 22 *Administrative, Financial and Professional Services*. This does not include the provision of services to visiting members of the public, which is encompassed in Use Class 21 *Administrative, Financial and Professional Services*.

(b) The Alleged Change of Use

22. Retail Use Class 14 comprises any retail trade or business use, the purpose of which is to (a) sell or display goods for retail sale or (b) offer services, in both cases to the public. Notwithstanding the statement made in the agent's letter of 11th January 2011, Mr. I Donaldson told the Tribunal that since the business started trading, there have been a total of 38 visits to the premises by 23 individuals. The majority of visitors have been members of the public (19), rather than trade customers (4).
23. At the Hearing, the appellants confirmed that kitchens and related products are available for sale to anyone who wants to buy these goods, regardless of whether the clients are members of the public or trade customers. It makes no difference whether someone

wants buy the units and “self fit”; purchase the units and have them installed by the company’s kitchen fitters, or employ Dee Construction to carry out any associated building work.

24. The fact that the goods on display in the showroom are for retail sale to the public as well as trade customers is reflected in different pricing structures, with preferential rates offered for goods purchased by Dee Construction and other trade customers. As well as selling kitchen units, Platinum Interiors also offers kitchen design and fitting services to the public. The Tribunal was advised that there are no restrictions on visitors to the showroom to view the products, other than opening times. Potential clients can visit at La Remise “on spec” when considering purchasing kitchen units and appliances without a pre-arranged appointment.
25. In all these respects therefore, the Tribunal considers that the kitchen franchise business is operating in a way which is consistent with Retail Use Class 14.

(c) Is the Kitchen Franchise Ancillary or Incidental Use to the Primary Office Use?

26. The main thrust of the appellants’ argument is that the use of part of the premises for the purposes of a kitchen display area is ancillary or ordinarily incidental to the primary use of the premises as administrative offices for Dee Construction’s operations. In accordance with section 2 of the Land Planning and Development (Use Classes) Ordinance, 2007, such uses should be regarded as falling within the same use class, notwithstanding that such other use might (if carried on independently of the principle use) have fallen within a different use class. In reaching a view on this matter, the Tribunal has considered a number of criteria, as set out below.

(i) The Nature of the Kitchen Franchise Business Operation

27. Platinum Interiors Limited was set up specifically to run the kitchen franchise operation acquired by Messrs Donaldson after Chameleon Interiors ceased trading in 2010. It operates as the Guernsey showroom for kitchens made by Nolte, which are supplied by UK importer, Mark David. It also acts as a distributor for Charles Yorke Hand-Made Kitchens, in addition to equipment supplied by Kuppersbusch and Falmec Hoods.
28. Where kitchen refits require building work, such as extensions or internal alterations, this element of the work is usually provided by Dee Construction. However, other than in these circumstances, Dee Construction would not normally be involved as a business in the day-to-day operation of Platinum Interiors. Although the Messrs Donaldson are company directors of Platinum Interiors and Dee Construction, both businesses are legal entities in their own right. They supply, buy and sell from each other at preferential rates, however, the two businesses are financially independent. For example, Dee Construction is a trade customer of Platinum Interiors and pays trade prices for the kitchens fitted in its own developments.
29. Whilst Messrs Donaldson have roles in the other companies based at La Remise, they also carry out specific roles/functions for Platinum Interiors; Ian Donaldson works in the “back office” at La Remise, focusing on computer-based work; Richard Donaldson’s main responsibility is on-site supervision. The Tribunal was advised that they have similar roles for Dee Construction. The third Director, Mr. Roger Giubileo (a former Chameleon kitchen fitter) also works at La Remise. He is mainly based in the kitchen display area, dealing with customers visiting the showroom, taking orders, dealing with telephone queries and overseeing the fitting side of the business. Mr. Ian Donaldson’s wife works in the “reception office” at La Remise and provide secretarial and admin support to all three companies based at the premises.

30. At the Hearing, the Tribunal was advised that Platinum Interiors has its own advertisement in the Yellow Pages and its own website. Whilst limited in nature, such separate marketing and promotion reinforces the separate and independent nature of the kitchen franchise business, notwithstanding the overlap of personnel with Dee Construction and Kimberly Holdings.

(ii) The Scale and Nature of the Kitchen Display Area

31. The internal layout of La Remise approved in 2008 shows two separate, self-contained offices to the left of the entrance hall, accessed off an internal circulation space with a small area (presumed to be storage) in between. To the right of the entrance hall is a reception with a door leading into an area annotated as “office/filing/kitchen”. There is also a toilet, accessed off the hall. As now laid out, there is no passage or store between the two main “offices”. The space is now a large through room, from the front to the back of the building, entered directly off the hall. This part of the building now functions primarily as a kitchen display area.
32. Runs of kitchen base units and wall hung units have been installed around the perimeter of the open plan area, with floor units projecting into the central space effectively creating separate kitchen “room settings”. There are brochures on display in racks on the work tops and in drawers, as well as wall mounted displays showing the range of work top styles and materials available. The display units incorporate kitchen appliances (e.g. sinks, ovens, hobs, extractor hoods etc). Smaller kitchen products displayed on the worktops and shelves add to the appearance of this part of the building as a retail sales display. This impression is reinforced by a wall-hung display of kitchen unit handles in the hall area, to the right of the reception entrance and an advertising “totem” positioned in front of the street-facing windows.
33. We, the members of the Tribunal, were shown an area in the centre of the showroom (in between the approved front and rear main offices) which is used as a “staff” kitchen. Tea, coffee and similar goods are stored in one of the wall hung kitchen display units. The sink below this storage unit provides a supply of hot water, without the need to boil a kettle for hot drinks. Cleaning materials are kept in the floor unit below the sink. A functioning fridge nearby cold storage for the staff’s perishable goods. The area is scrupulously clean and tidy and there are no outward signs that it doubles up as a staff kitchen. To all intents and purposes, the small number of kitchen units and appliances used by staff in the centre of the showroom look like part of the overall kitchen display.
34. At the Hearing, the appellants argued that this rear part of the kitchen display area functioned as an office/filing/kitchen area for all three businesses based at La Remise. At the site visit, we were told that meetings take place around one of the peninsula unit worktops, as this is a convenient place to open up and look at large drawings, and we were shown some box files and folders, including several labeled “Dee Construction 2009” along with some product brochures which were stacked horizontally and rather haphazardly, in a carousel unit towards the rear of the kitchen display area. These items were not visible when the carousel unit door was closed.
35. However, there were no signs of furniture or equipment usually associated with office use, such as a computer, printer, telephone, fax machine, office chairs and desks, task lighting, stationery and traditional office storage. These were all to be found in the smaller offices (reception and back office) to the right of the entrance hall. Furthermore, none of the appliances (sinks, microwave, cookers) in the rear part of the display area are plumbed in or connected to the electricity supply. These findings undermine the appellants’ argument that the entire rear section part of the show room functions as a multi-purpose area, including a staff kitchen.

36. The “back’ office shown as “office/filing/kitchen” on the approved layout is occupied by Ian Donaldson. Laptops, printers and a computer sit on an office desk arrangement, with an office chair and two visitor’s chairs. Office storage is provided in a wall-mounted unit which accommodates product catalogues and a suspended filing system. At the Hearing, Mr. Perrio’s memory of catching a glimpse of a kitchen area/sink in this room on his visit earlier this year was disputed by the appellants. However, it is a matter of fact that there are no such facilities in the room at present. It appears to function as an office for one person where meetings of 2 to 3 people can take place.
37. The front office is a reception, with an office desk, office chair, visitor’s chair and telephones. An office storage unit is located behind the reception desk, and another unit takes up most of the wall opposite the door, providing screen storage for suspended files and “in trays” including, we noted, trays relating to the kitchen franchise suppliers. From our observations on site, this area appears to be used by all three businesses with registered offices at La Remise, including Platinum Interiors.
38. Based on our observations at the site visit, the Tribunal gained the overall impression that the primary use of the premises is as a kitchen showroom, with an ancillary office and reception. We consider that anyone visiting the premises would gain a similar impression when walking through the front door or looking in through the windows.

(iii) The “Severability Test”: Linkages And Dependencies

39. Whilst there are obvious benefits for a construction business and a company which designs, sells and installs kitchens to operate out of the same building, operationally and financially, the businesses are run separately. The main linkages between Dee Construction and Platinum Interiors are the personnel involved, together with a degree of shared use of the office space, storage and equipment.
40. In the absence of detailed evidence about viability, the Tribunal is unable to reach a view on the financial aspects of whether Platinum Interiors could continue trading if the other businesses based at La Remise ceased to operate. However, the trading framework is in place for the kitchen franchise to continue operating in this event.
41. The business is a legal entity in its own right, operating as a limited company. It is financially independent from Dee Construction; has a showroom, use of offices and associated facilities, and arrangements are in place with suppliers and importers. As stated at the Hearing, although it started as a “sideline”, the kitchen franchise business has exceeded expectations, in spite of limited marketing and promotion. All these factors suggest that, on balance, the linkages and dependencies between Platinum Interiors, Dee Construction and Kimberley Holdings are not so critical as to prevent the kitchen franchise continuing to operate should the administrative office use cease.

(iv) The Environmental Impact Test

42. The kitchen franchise business has been operating since January 2012. To date, the business has a low profile in terms of advertising and promotion and there are few external signs (other than the advertising totem in the front window) of the kitchen showroom operating inside. Whilst a total of 38 customers visits to the premises since January represents a relatively low key level of activity, this is not surprising given the high value of the goods sold (on average £15,000-18,000 per kitchen, excluding any related building work). Nevertheless, this figure supports the Tribunal’s view that an independent retail business is operated from the premises.

43. Kitchen units and appliances are delivered direct to the site where they are to be installed, rather than the appeal site. As a result, the business can operate with only few staff based at La Remise.
44. Given the small number of staff working at the premises, the relatively low level of customer activity and the absence of heavy goods vehicles accessing the site, the environmental impact of the kitchen franchise use has not been significant to date. Based solely to its environmental impact, there is little to suggest that a material change of use has occurred.

Conclusion on the First Issue

45. Although the environmental impact of the kitchen franchise operation has not been significant since it started operating in January 2012, all the other criteria we have considered support the Department's case that a material change of use from offices to retail has taken place.
46. The goods on show and the services offered by Platinum Interiors are all available to the public, consistent with the definition of a retail use. Having regard to the independent nature of the kitchen franchise business operation, the scale and character of the kitchen display area, the way in which other areas of the building are used to support the kitchen business, and the "severability test", the Tribunal has reached the conclusion on balance, that as a matter of fact and degree, the kitchen franchise operation is not ancillary or ordinarily incidental to the primary use of the planning unit for administrative offices. The appeal on ground (a) therefore fails.
47. In reaching this conclusion, the Tribunal carefully noted the argument, made by Mr. Falla at the Hearing, that the appellants have simply "rationalized" the use of the building to make better use of limited space, by moving the office/filing/kitchen facilities originally intended to be in the "back office" into the rear of the kitchen display area. On this basis, he argued that the area used for kitchen display occupied no more floorspace than indicated on drawing D.C 01, which had been accepted by the Department as being incidental to the office use.
48. Discrepancies between drawing D.C 01 and the plan tabled at the Hearing (drawing 5996-01/A/3A) in support of this case make direct comparisons difficult. Moreover, it is not clear which plan is accurate. Nevertheless, the floorspace figures given for the "office/filing/kitchen areas on both the "approved" and "as built" layout as annotated on Mr. Falla's drawing are clearly not the same – undermining the argument that there has been a straight swap, or "rationalization", as claimed. There is also a significant difference between the kitchen display area floorspace as annotated on drawing 5996-01/A/3A and as shown on drawing D.C 01, the plan on which the Department based its advice that a kitchen display area of this size would be incidental to the office use.
49. In addition, the Tribunal's observations on site lead us to the conclusion that the area of the building labeled "office/filing/kitchen" on the "as built" floor plan, together with the white area where no use is specified on drawing 5996-01/A/3A, are an integral parts of the larger kitchen display area, for the reasons stated in paragraphs 33 to 37. Taking all these matters into account, the Tribunal did not find the appellants' "rationalization" arguments compelling.
50. Given the evidence that the premises are also used as the registered office for Dee Construction and Kimberley Holdings, the Tribunal considers there may grounds for considering the existing use of La Remise as a mixed use of retail and offices. Section 4(2) of the Land Planning and Development (Use Classes) Ordinance, 2007 advises that

where premises are used for a mixture of uses that do not fall within one use class such that there is no principal use, then any use comprising a mixed use shall be regarded as not falling within any use class, notwithstanding that any such use might (if carried out independently of the other uses) have fallen within a specified use class.

51. In either scenario therefore, a change of use from offices to retail, or from offices to a mixed use of retail and offices, constitutes a material change of use for planning purposes, as defined by section 13(1) (b) of the 2005 Law. Consequently, the outcome of the appeal on ground (a) would have been the same regardless of the precise nature of the change of use.

The Second Issue – Does the Existing Use Constitute a Breach of Planning Control?

52. No additional arguments were put forward by the appellants in support of ground of appeal (b), over and above the case made in support of the appeal on ground (a). Having reached a conclusion on the first issue that there has been a material change of use at the appeal site, it follows that the existing use of the premises for the display and sale of kitchen units and associated fittings, together with the design and installation of fitted kitchens services offered to the public requires planning permission either in its own right, or as a mixed retail and office use.
53. In the absence of planning permission for either a retail use or a mixed use of retail and offices, it follows that there has been a breach of control. The appeal on ground (b) therefore fails.

The Third Issue – Was the Notice Issued Unreasonably?

54. The main argument in support of this ground of appeal is that on the one hand the Department advised by letter dated 13th January 2011 that the use of part of the building as a kitchen display area would not require planning permission provided it was ancillary, with no retail sales. On the other hand, the Department subsequently wrote on 23rd April 2012 to request that either the ancillary display area be reduced back to the area shown on drawing D.C 01 within 28 days, or that retrospective permission be sought for a change of use in the same timescale, whilst highlighting the general presumption against new retail development in the Rural Area. The appellants consider this advice contradictory, underpinning their view that the Compliance Notice was issued unreasonably.
55. This view is reinforced by the fact that Department did not respond to a letter sent on behalf of the appellants seeking clarification of the breach of planning control in view of the Department's earlier advice that planning permission would not be required for an ancillary use. In addition, the Tribunal noted at the Hearing that the Compliance Notice was issued before the 28 day period referred to in the Department's letter had fully elapsed and without re-inspecting the premises to see whether the Department's request had been complied with voluntarily.
56. At the Hearing, the Department acknowledged that a reply should have been sent to the appellants clarifying the matters which, in its view, constituted the alleged breach of planning control and apologised for this oversight. However, it pointed out that the appellants were not precluded from submitting a retrospective application at any time, and the Compliance Notice could have been withdrawn had it subsequently transpired that the breach of planning control had been remedied voluntarily.
57. The Tribunal has considered this ground of appeal very carefully. From our reading of the correspondence between the parties, the Department's position is set out clearly.

The letter dated 13th January 2011 is based on the appellants' application plan which clearly marks the area to be used as a kitchen display. This area is shown as physically separated from the rear office by a hall and store. The drawing also shows an office/filing/kitchen area accessed of the reception, as approved.

58. The Department's letter also refers to information submitted by Dee Construction Limited in response to a request for further information, which refers to extending the services offered to trade customers of the long standing construction business. The caveat that this view is based on the understanding there should be no retail sales is unequivocal.
59. The Department's subsequent letter dated 23rd April 2012, sent following Mr. Perrio's investigation visit, is a straightforward request to reduce the area occupied by the kitchen display to that shown on the drawing submitted on 6th December 2010 (referred to above) on which it had based its earlier advice that planning permission was not required. The option to submit a retrospective application is indicated, whilst highlighting that the RAP generally resists retail uses in the Rural Area.
60. The Tribunal does not consider the advice in the two letters to be contradictory and therefore does not find the issue of the Notice unreasonable in this respect.
61. We have concerns that the Notice was issued before the 28 day period of grace had elapsed. As a matter of good practice, we consider that the decision to issue the Notice should have been based on a site investigation carried out *after* the period for voluntarily remedying the breach of planning control has expired. The Department's oversight in not responding to Mr. Falla's request for clarification is also regrettable.
62. However, notwithstanding these concerns, the Tribunal does not consider that the appellants have been unduly disadvantaged as a result of the Department's actions, and therefore does not consider the issue of the Notice unreasonable in these respects. Taking all these matters into account, the appeal on ground (f) fails.

Conclusion

63. The Tribunal has considered all other matters raised in written submissions, oral evidence given at the Hearing and seen at site visit. However, these do not affect its conclusions under the provisions of Part VI section 71 of the Land Planning and Development (Guernsey) Law, 2005, that the appeals on all grounds be dismissed. The Compliance Notice is upheld.

**Linda Wride Dip TP MRTPI
Presiding Member**

Date: 8 August 2012