

Appeal Decision Notice

**Planning Tribunal Hearing at Les Cotils Christian Centre,
followed by a Site Visit, on 4th September 2012**

Members: Mr. Stuart Fell (Presiding), Mr. Patrick Russell, Mr. John Weir

Appeal Site: Dell Nursery, Le Foulon, St. Peter Port

Property Reference: A310920000-P110A

Planning Application Reference: FULL/2012/0151

Planning Application Valid Date: 16th January 2012

Appeal Case Reference: PAP/025/2012

- 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 by Mr. and Mrs. J Barnes against the decision of the Environment Department dated 22nd February 2012 to refuse planning permission on an application to convert an existing store, office and reception building (formerly a Militia hut) to provide a dwelling; demolish lean-to greenhouse, install new and alter fenestration; demolish an existing outbuilding and greenhouse, all at Dell Nursery, Le Foulon, St Peter Port.
- The appellants, who were present at the Hearing, were represented by their architect, Mr. P Falla, and their son, Mr. D. Barnes.
- The Environment Department was represented by Mrs. C. Miles, Senior Planning Officer.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Within the papers submitted on behalf of the appellants was a bundle of documents setting out some background on the history of the Guernsey Militia. These had been sent by Mr. Falla to the Department on 11th May 2011, some time after the Department had refused permission for the application in question. Mrs. Miles confirmed at the Hearing that she had no objection to these papers being admitted in evidence, as she had been aware of the information contained in these documents at the time the decision was made.

Background

3. The appeal relates to a former Militia hut that had originally been erected in 1901 as part of an encampment of thirty nine huts at Les Beaucamps, in Castel. Twenty four of these structures were barrack huts built on a standard plan. The other huts were different in form and served a variety of purposes. Most of the huts were removed from the Les Beaucamps site in 1940 and many were re-erected on locations around the Island, and put to a variety of purposes. The hut in question was brought to Dell Nursery in about 1977 from another site. Only a handful of the original huts are known to have survived to the present day, and these are in a more or less altered or decayed condition. The exceptions are a hut at Les Beaucamps and another at Longue Rue, which, from the photographic evidence submitted, appear to be reasonably sound and little altered, though both have replacement roof coverings.
4. The building at Dell Nursery served originally as a barrack hut. It is approximately 6m wide and 17.5m long. It has functioned for many years as an office and store at the Nursery, but is now redundant as the Nursery has diversified into contracting work. The hut has been altered and has a greenhouse extension attached on its east side. The appeal proposal is to remove the later addition, restore the hut as far as practicable to its original appearance, and convert the building so as to form a permanent dwelling. Mr. Barnes explained that this building would be kept within the ownership of the appellants' family.

Main Issue

5. From its assessment of the papers submitted by the appellant and the Department, and from what was seen and noted during the site visit, the Tribunal considers that the main issue in this case is whether it is appropriate to convert this building into a dwelling in the manner proposed, given the tests contained in Policy RCE14 of the Rural Area Plan which govern all proposals for the reuse and conversion of buildings in the rural area.

Policy Background

6. Dell Nursery is located within an Area of High Landscape Quality. This is relevant in the sense that within such areas additional restraint is imposed on proposals involving the conversion of existing buildings, the restraint being expressed through one of the requirements of Policy RCE14.
7. Policy RCE14 of the Rural Area Plan is the key policy relied on by the Department in its refusal of the application, and this deals with the conversion or reuse of buildings. The Policy states:

“Proposals to convert and re-use buildings will only be permitted where:

- a) It has been clearly demonstrated to the satisfaction of the Department that the building is no longer useful, or capable of being used for its current or last known viable purpose or that more appropriate buildings are available;*
 - b) The building is of sound and substantial construction and is capable of conversion without extensive alteration, rebuilding or extension;*
 - c) In areas of High Landscape Quality, the building is of architectural or historic interest or makes a positive contribution to the character of the rural environment;*
 - d) The conversion can be implemented without adversely affecting the character or appearance of the building; and,*
 - e) The provision of curtilage, road access, driveways and parking, ancillary buildings and boundaries would not adversely affect the character of the building or its setting.”*
8. The Department considers that the appeal proposal is compatible with the aims of parts a) and e) of the Policy, and the Tribunal has no reason to disagree with this assessment.
 9. However, the Department considers that the proposal fails on three other counts; first that the building cannot be regarded as being of sound and substantial construction and that the extent of work needed to bring about the conversion would be excessive; second, that the building has little architectural or historical interest, and third, that the conversion cannot be implemented without adversely affecting the character or appearance of the building. The scheme would therefore not comply with parts b), c) and d) of the Policy. The Tribunal accordingly considered these three aspects of the Department’s case in detail.

Is the building of sound and substantial construction, and capable of conversion without extensive alteration, rebuilding or extension?

10. Whilst the supporting text to Policy RCE14 gives no categorical definition of what is meant by 'sound and substantial construction', there are some relevant phrases that illuminate the underlying policy aims. It is said that conversions should not result in the retention of inappropriate buildings in open or potentially open areas, and that the removal of undistinguished, impermanent forms of building will be supported. Conversions involving major re-building works are discouraged, and it is made clear that such proposals might be assessed as if they were new-build schemes, invoking very strict controls over development. What the Tribunal drew from these indications is that for a particular building to merit conversion, its construction must be sufficiently robust for the building to endure over an extended lifespan without the need for extensive renewal, and it must not have a negative impact on the character of its landscape surroundings.
11. The only place where the phrase 'substantial construction' is actually used in the supporting text to the Policy relates to very specific circumstances where an assessment is to be made by the Department on the question of whether a building in a non-designated area which has benefitted from the grant of permission for conversion, might instead be demolished and rebuilt. It seems to the Tribunal that the situation described is so far removed from the circumstances of this appeal that this guidance is of little assistance.
12. Having decided to adopt a common-sense approach to this matter, the Tribunal reached the conclusion that the former Militia huts that have survived since they were erected in 1901, having being dismantled and re-erected during that period, are self-evidently of sound and substantial construction, otherwise they would not have endured. The surviving huts have clearly outlived some more recent buildings, including many built of brick, stone, or concrete frame, which have been demolished and replaced within this timescale. The Tribunal is also aware that timber frame construction has long been regarded as a traditional, permanent building technique in many geographic areas, and is currently widely employed as a permanent form of construction for houses and other building types. With these considerations in mind, the Tribunal finds no reason to conclude that the hut in question, despite being formed of lightweight timber frame with boarded cladding, should not be regarded as being of 'sound and substantial construction'.
13. The second limb of part b) of Policy RCE14 incorporates three distinct tests, requiring that the building be capable of conversion without extensive alteration, rebuilding or extension. These matters are considered in turn.
14. The Tribunal notes that the proposed external alterations are intended to reverse earlier damage by returning the external form of the building to something approaching its original state, though the Tribunal finds these proposed works to be only partially successful in achieving that end. The proposed internal subdivisions do

not seem to the Tribunal to be unusually extensive in their scope, and they appear to fall well within the normal range of interventions that routinely occur in the conversion of other open-plan buildings, such as barns. The lightweight and framed nature of the subdividing walls would also make such alterations readily reversible, without harm to the original building fabric. It follows that the Tribunal's finding on this point is that the scope of the proposed alterations is not unacceptably extensive, considered against the standards normally encountered in the conversion of old rural buildings.

15. The second test seeks to avoid extensive rebuilding. Rebuilding is a term that the Tribunal takes to mean the remaking or reconstruction of major building elements, such as walls, following the taking down, dismantling or demolition of such features. The Tribunal saw that in essence, the intention of the scheme is to replace an inappropriate roof covering, repair the roof trusses, provide inner linings to the external walls, and restore the north gable wall by creating a window, matching those existing elsewhere, in place of the large modern opening. The Tribunal saw these proposals as having the character of works of repair, restoration and improvement rather than rebuilding, and these works seem to be of a type and extent that is commonplace in the conversion of old buildings. Accordingly the Tribunal finds that the proposal would not involve extensive rebuilding.
16. The Tribunal saw from the submitted plans that no extension to the building is proposed, and that the later addition attached on the east side of the hut is to be removed. No conflict therefore occurs in relation to the third test.
17. In the light of the findings set out above, the Tribunal's overall conclusion is that the proposal raises no conflict with part b) of Policy RCE14.

Given the location of the site in an Area of High Landscape Quality, is the building of architectural or historical interest, or does it makes a positive contribution to the character of the rural environment?

18. Neither of the parties addressed the question of whether the hut makes a positive contribution to the character of the rural environment, for reasons which were clear to the Tribunal on visiting the site. The Tribunal saw that the hut is hidden from public viewpoints and screened by trees on all sides, and it is therefore unable to make a positive contribution to the wider rural environment.
19. Mr Falla submitted a Statement of Significance with the application, which provides background on the history of the Guernsey Militia and an appraisal of the significance of the building in architectural and historical terms. Although the report was unattributed, and the Tribunal had originally assumed it had been written by Mr. Falla, it emerged during the Hearing that it had in fact been prepared by Helen Glencross, the Historic Sites Curator at the Culture and Leisure Department of the States of Guernsey.

20. The Statement of Significance concluded that the hut has historic significance because of its association with the Royal Guernsey Militia and Island military history, and because it provides physical evidence of early 20th century military accommodation. In architectural terms, the hut was said to be of value because the primary fabric is complete and is structurally sound, and some original fixtures and fittings remain. The building was thought to have potential for development or conversion.
21. At the Hearing Mr. Falla made an impassioned case that the Royal Guernsey Militia is an important aspect of the Island's history, and that the few huts that remain represent important evidence of that history and accordingly warrant protection. He said that the fact that most of these structures are under threat of loss through development or decay strengthened the case for the conversion of the hut at Dell Nursery. He made the case that as the historic interest of these buildings was self-evident, a view supported by Helen Glencross, then the requirement of part c) of Policy RCE14 was satisfied.
22. Mrs. Miles acknowledged that the Royal Guernsey Militia was an important aspect of the island's history but argued that once the building had been moved from its original site its historical interest was diminished. The extent of alteration that the building had suffered in recent decades had further eroded its cultural significance.
23. Mrs. Miles explained that in her view the surviving hut at Les Beaucamps was unquestionably of historical interest as it remained on its original site, had been little altered, and was in sound condition. Other surviving huts, such as the ones illustrated in the Department's written appeal statement at Mont Crevelt and Les Rue des Monts were in a far less altered state. The Department's overall view, notwithstanding the opinion expressed by the Historic Sites Curator, was that because the hut at Dell Nursery had been relocated and substantially altered, it is of limited historical interest only, and accordingly failed to satisfy part c) of Policy RCE14.
24. The extent to which the Department's own historic building officers had been formally consulted on the issue of the building's architectural and historical significance remained unclear to the Tribunal, and no documents pointing to such internal consultation were included in the evidence submitted by the Department.
25. In its own assessment of the architectural and historical significance of the building, the Tribunal's approach broadly echoes that outlined by Mrs. Miles, the starting point being that a Militia hut surviving on its original site and in a relatively unaltered condition would unarguably be of historical interest. The Tribunal's view is that although the removal of the building to a new site would diminish its intrinsic historic interest, it would by no means negate that interest, as the dispersal of the huts to new sites around the Island could in itself be regarded as a significant aspect of the Island's evolving history. The Tribunal's view is that the extent of alteration and

change that the building had undergone would be a far more critical factor in any judgment on the question of architectural or historical significance.

26. It seems to the Tribunal that for the building to possess historic interest then sufficient of its original fabric should survive such as to provide tangible evidence of that interest, and this should readily evoke associations with the building's original use. The Tribunal therefore addressed itself to the extent of physical change that had occurred. The Tribunal saw that the original corrugated iron roof covering had been replaced with inappropriate concrete tile and the original fascia boards and barge boards had been renewed. Both gable walls had been remodeled, with a garage door inserted at the south end, and a large glazed opening formed at the north end. The louvred gable ventilators, which are a distinctive feature of the original huts, have been lost.
27. A lean-to addition has been attached on the east elevation, but as this could readily be removed, its impact is felt to be neutral. A noticeably large proportion of the original external boarding has been replaced with new boarding of a larger size. The windows appeared to be original, but were inexplicably different in detail from those in the other surviving huts at Les Beaucamps, Mont Crevelt, Longue Rue, and La Rue des Monts. The wall framing appeared to be substantially intact, but many of the rafters had lost their collars. The interior of the building had been subdivided and new finishes introduced.
28. The Tribunal's conclusion on this matter is that because of the extent of loss of original building fabric, and the degree of change that has occurred to its external appearance and internal character, the architectural interest of the building has been seriously compromised. In terms of its historical interest, the Tribunal's view is that the extent of physical change is so extensive that the building no longer evokes a strong connection with its Militia origins. For these reasons, the Tribunal considers that the building retains insufficient architectural or historical interest to convincingly satisfy the requirement of part c) of Policy RCE14 of the Rural Area Plan.

Can the conversion be implemented without adversely affecting the character or appearance of the building?

29. After careful consideration, the Tribunal considers the third test to be redundant in this case as it is clearly based on the premise that the architectural or historical interest of the building in question, or its positive contribution to the rural environment, has already been established, and that the character and appearance of the building should accordingly be safeguarded from harm. However, the Tribunal has already reached the conclusion that the architectural and historical character of the hut has been seriously compromised, and that the building does not make a positive contribution to the rural environment. The third test is therefore irrelevant.
30. In these circumstances, given that the proposal fails to satisfy a key policy requirement, the Tribunal is unable to support this appeal.

31. The Tribunal has sympathy for Mr. Falla's argument that the surviving Militia huts have some significance in architectural and historical terms and that a case might be made for their preservation. It will be a matter for the Environment Department and the Culture and Leisure Department to review this matter and take steps to protect this heritage, if they feel such intervention can be justified. The fact remains, however, that the hut in question has been found by the Tribunal to have suffered too much alteration and change to convincingly demonstrate its intrinsic architectural and historic significance.

Conclusion

32. The Tribunal has considered all other matters raised in the written submissions, and seen during its site visit, including the details of the proposed conversion scheme and the proposals to partially restore the external appearance of the building, but these do not affect its conclusion under the provisions of Part V1 Section 69 of The Land Planning and Development (Guernsey) Law, 2005, that the Appeal is not upheld.

**Stuart Fell Dip. Arch. RIBA IHBC
Presiding Member**

Date: 1st October 2012