

Appeal Decision Notice

Planning Tribunal Hearing held on 16th October 2012 at Les Cotils Christian Centre, St Peter Port, Guernsey, including a visit to the Appeal site

Members: Mr. Jonathan King (Presiding), Mr. John Weir and Mr. David Harry

Appeal Site: Greenhouse at La Fontenelle, Rue de la Fontenelle, Vale

Property Reference: C01852C000

Planning Application Reference: FULL/2012/2691

Compliance Notice Reference : ENF/2011/00115

Appeal Case References: PAP/007/2012 (s.69 appeal) and PAP/021/2012 (s.68 appeal)

- The Appeals are made under the provisions of Part VI and Sections 68 and 70 of The Land Planning and Development (Guernsey) Law, 2005.
 - The Appeals are by Mr. A Ferbrache against:
 - (a) The decision of the Environment Department made on 19th December 2011 under Section 16 of the Law to refuse planning permission on an application for “repair (extensive) to glasshouse (existing) at La Fontenelle”; and
 - (b) The service on 9th January 2012 of a Compliance Notice made under Section 70 of the Law.
 - The appellant was represented at the Hearing by Mr. W Lockwood. Mr. Ferbrache and Mrs. M Dadd also presented evidence.
 - The Environment Department was represented by Mr. A J Rowles, Director of Planning Control Services for the Environment Department, the Case Officer, Mrs. C Miles, and the Department’s Enforcement Officer, Mr. D Perrio.
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Decision

1. The Appeal is allowed and planning permission is granted for alterations to an existing glasshouse at La Fontenelle, Rue de la Fontenelle, Vale, subject to the following conditions:
 - (a) The development hereby permitted and all the operations which constitute or are incidental to that development must be carried out in compliance with all such requirements of the Building Regulations, 1992 (as amended) as are applicable to them.
 - (b) The modified structure shall only be used for purposes incidental to the enjoyment of the dwelling known as Top Flat, La Fontenelle, Rue de la Fontenelle, Vale and not in connection with any trade or business.
 - (c) Notwithstanding the provisions of Class 1 of the Schedule to the Land Planning and Development (Exemptions) Ordinance, 2007 (the Exemptions Ordinance) or any Ordinance revoking or re-enacting that Ordinance with or without modification, no extension or material alteration shall be made to the modified structure which is the subject of this permission.

Background

2. The glasshouse to which the appeals relate was built in 1952, though the Tribunal understands that it either replaced or was a reconstruction of an earlier structure on the same site. Some elements of the older glasshouse, such as the vent-opening gear, were incorporated. As built, it had twelve bays, but one was removed some time ago.
3. It was owned initially by Mr. Ferbrache's great grandmother, passing to his grandmother in 1961, and then to his father, Mr. John Ferbrache, in 1995. On the death of his father in 2009, it passed to the appellant. Based on his evidence and that of Mrs. Dadd, his sister, we understand that the structure was first used for growing, but also for some storage. However, the use for growing subsequently ceased. The reason for ceasing plant production was in part due to the age or infirmity of the older members of the family, but may also have been because there was another larger greenhouse adjacent which was more suited for the purpose.
4. By the time the appellant took ownership, the structure had fallen into a state of some disrepair as Mr. Ferbrache (Sr) had not been well and had not maintained the structure in later years. It was decided to undertake repairs. To that end, Mr. Ferbrache and Mrs. Dadd attended a meeting on 13th January 2009 with the Department's case officer (Mrs. Miles) to discuss, amongst other things, planning aspects of what he wanted to do. Mrs. Miles' brief note of the meeting states that policies of the Rural Area Plan (the RAP) do not support the replacement of buildings that were not structurally sound, adding that the structure was "ruinous". However, at the Hearing the Tribunal was told that Mrs. Miles had advised the family orally that repair, even if extensive, would be acceptable.

It was on this basis that the appellant chose the description of the development on the application form. The advice was given without any officer of the Department visiting the site or inspecting the condition of the glasshouse.

5. About March 2011, Mr. Ferbrache removed some loose glass from the structure. Subsequently, and having taken advice from an acknowledged expert on the construction and repair of glasshouses, he proceeded in a progressive manner to remove the remaining glass and to replace rotten timbers. The rot was principally in the horizontal components: the ground plates, those at eaves level and those comprising the ridge. It also affected some of the timber in the faces and in the ends of the rafters where these had been in contact with the horizontal timbers. In all, he believes that about sixty percent (60%) of the ground and eaves plates were replaced, together with the whole of the ridge plate.
6. Two bays at the northern end were taken away entirely, and two of the remaining rafters were also replaced. At ground level, the old ground plates had been attached to granite pillars with metal pins. These had corroded and some of the granite had also split. The solution advised to the appellant was to cast a new concrete ring beam about 22cm (9") inside the old pillars, on to which the new ground plates could be fixed. Some of the rafters were shortened to remove the rot in their ends but, notwithstanding the slightly narrower structure, this caused the pitch of the roof to be reduced, from around 30 degrees to 26 degrees. At the same time, timbers in the faces were lengthened, so that the eaves were raised by about 38cm (15"). The net effect of these changes meant that the overall ridge height was raised by a maximum of about 13cm (6"). The southern gable end, previously glass other than a pedestrian door, was filled with timber. The northern gable, which had formerly been mostly boarded, was relocated owing to the removal of the bays, and was reconstructed wholly in boarding. All of the glass in the structure is original. The concrete floor of the glasshouse was also extended by a small amount to cover the whole of the building footprint.
7. During the course of these works, the Department were advised of them anonymously. A planning application was requested and submitted in the form used in the preamble to this decision. However, the description was unilaterally altered by the Department in its decision to: *"rebuild glasshouse as a workshop / store"*.

Main Issues

8. From its assessment of the papers submitted by the appellant and the Department, and from what was given in evidence during the Hearing and seen and noted during the site visit, the Tribunal considers that the main issues in this case relating to the planning appeal are:
 - (i) *Whether development (building works and / or change of use) requiring permission has taken place.*
 - (ii) *Whether the use is consistent with policies of the Rural Area Plan with respect to*

development on agricultural land;

(iii) *Whether the development has led to the loss of open, undeveloped or agricultural land; and*

(iv) *The impact of the development on the visual quality and landscape character of the Area of High Landscape Value.*

9. Four additional issues were identified at the Hearing in relation to the Compliance Notice. However, in the event, it has not been necessary to consider these.

Planning Policy

10. Four policies of the RAP are referenced in the reason for refusal:

RE1 Agricultural development

RE2 Horticultural development

RCE1 Protecting open land and avoiding unnecessary development

RCE3 Areas of High Landscape Quality.

These are considered below, by reference to issues (ii), (iii) and (iv).

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

Building Works

11. The first issue is fundamental to considering both appeals, since the Tribunal has to be clear about the nature of what has happened in planning terms and whether that amounts to development requiring planning permission. It is not possible to progress to applying policy in the absence of such clarity. Moreover, in the event that we conclude that no development has taken place, there would be no purpose in proceeding to consider the Compliance Notice appeal. We start by considering whether building works requiring permission have taken place.
12. As evidenced by the different descriptions of the development used by the appellant and the Department respectively on the application form and the refusal notice, there is considerable dispute on this matter. Indeed, the positions represent very nearly the ends of a spectrum or continuum. At one end, Mr. Ferbrache takes the view that what he has done are works of repair either not requiring permission, or constituting exempt development, with no change of use, while at the other, the Department alleges the construction of a wholly new building. Against that background, the Tribunal examined points along the continuum and sought views on what criteria should be taken into account in determining the nature of the work.
13. In wording his application as he did, Mr. Ferbrache acknowledges that the repairs (if that is what they are) were "extensive", but nonetheless fall within Class 3(1) of The Land

Planning and Development (Exemptions) Ordinance, 2007 (*Maintenance, repair and minor alterations*). Mrs. Miles' statement characterises a repair as something fairly small - the replacement of one or two rafters or new glazing – but at the Hearing this position was modified, so that even extensive repairs could be so classified.

14. We consider that some of the works do not constitute development or are exempt. An example is the extension of the concrete floor. Other works clearly involve an element of repair or maintenance. In itself, replacing rotten timber would fall under that description. The Department has consistently held the view that, prior to the works, the glasshouse was derelict and beyond repair. But it has no direct evidence for this, as it is based almost entirely on a succession of Digimap vertical aerial photographs up to 2009, the quality of which is very poor. They are not sufficiently detailed to show, for example, whether glass is missing, as the Department claims. In any event, even if a proportion of the glass was missing in 2009, something disputed by the appellant, its replacement would have been something which the Department accepts as being exempt development. It is not conclusive as to dereliction.
15. The Tribunal finds the Digimap evidence entirely unconvincing. By comparison, the appellant has submitted an oblique aerial photograph taken in April 2009. This shows some vegetation covering part of the outside of the structure, but otherwise it appears complete. It is not conclusive of the condition of the structure, but it does serve to show that great care is needed when interpreting the Digimap photographs. A ground-level photograph taken in July 2009 shows the glasshouse in the background. Mr. Ferbrache acknowledges that it shows some of the glass missing. But he adds that this was after he had removed some that had slipped in its framing, undertaken in advance of the main works.
16. The Tribunal considers that it would not be possible either from this picture or from the Digimaps to conclude as to whether the structure was repairable. A fairly detailed structural survey would be required. Yet, so far as can be ascertained, the building had never even been visited by an officer of the Department prior to the works taking place, not even at the time of making enquiries about an alleged change of use in 1992 nor in connection with the meeting in 2009. There was no survey undertaken. The fact that the works which had to be carried out were extensive does not indicate that the building was derelict and beyond repair. Indeed, the opposite could be argued.
17. In principle repairs can involve some degree of alteration, for example if original materials are unavailable and have to be substituted. But, generally speaking, the Tribunal feels that a repaired building should stay essentially unchanged in character and appearance. That is not so in this case. Having seen the structure and heard the description of what was done, the Tribunal is of the firm opinion that the works go beyond what may be allowed as a repair.
18. Moreover, Class 3(1)(c) of the Exemptions Ordinance says that the exemption is provisional on the works of maintenance, repair or minor alteration having no material effect on the external appearance of the structure. In this case, the repairs in question

have resulted in a change to its proportions which are a key component of its appearance. On that basis, the Tribunal is of the view that the works do materially affect the external appearance of the structure and so do not fall within the exemption. Section 13(2)(c) of the 2005 Law states that such alterations constitute development.

19. We can therefore conclude confidently that the works require planning permission. In reaching this conclusion, we have not taken account of the reduction in the length of the glasshouse, which is development permitted by virtue of Class 10 of the Exemptions Ordinance. At the Hearing there was some discussion about whether this should apply, since provision (c) of the exemption says that, in the case of partial demolition of a glasshouse (and some other structures), the remaining structure should be “made good”. There is no definition of what is meant by this, but the Tribunal takes the view that in this case it should not be applied so strictly as to require the new gable end to replicate exactly the one removed. In our view, the glasshouse has been “made good” in that it has not been left open or in an unfinished state, but has been properly enclosed in an appropriate manner with a new gable. That gable is not identical to the one it replaced, but is very similar, and not unlike examples found elsewhere in Guernsey. We have also not taken account of the painting of the internal surfaces of much of the glazing. It was agreed by both parties that not only does internal painting not constitute development, but that seasonal painting of glass has been a common practice in Guernsey in order to maintain appropriate growing conditions.
20. While the Tribunal is certain that the works involved alterations materially affecting the external appearance of the structure, that is not conclusive as to whether they should be treated solely in that way, or whether other categories of development comprising building work as defined in Section 13 of the 2005 Law have also taken place.
21. First, do the works constitute “rebuilding” under Section 13(2)(b)? Although the Department had revised the description of the development to include the term, at the Hearing it agreed with the appellant that no rebuilding had taken place. The Tribunal concurs. Using the ordinary meaning of the term, we take it to describe the taking down of a building and re-erecting it in exactly, or very nearly exactly the same form. Since we have already established that the works involved alterations which materially affected the external appearance of the glasshouse, it cannot apply in this case.
22. Linked to this matter is the question as to whether the works involved demolition under Section 13(2)(a). Clearly some demolition was involved: two bays were removed (though, as set out above, partial demolition of a glasshouse is exempt development), and the other frames were progressively dismantled and re-erected, albeit in modified form. Mr. Rowles explained by way of comparison that taking down part of a house that was structurally unsound with a view to building a sound replacement would constitute a separate act of development. It is therefore at least arguable that demolition, partial or otherwise, has taken place. The Tribunal heard from Mr. Perrio that it may have been possible to undertake the repairs and alterations without taking down the individual frames. This approach has been adopted elsewhere. But, in view of the nature of the repairs and alterations, we consider that it was entirely logical and practically much

easier to undertake the work in sections. This does not assist us in deciding whether demolition requiring permission took place. However, as the Tribunal has already concluded that permission for the works is required anyway, and that nothing further rides on whether demolition was involved, we feel that there is little benefit in concluding on this point.

23. Finally, the Tribunal has considered whether a completely new building has been erected, as the Department believe. We approached this question with particular care, because the implications of our decision could be very significant. In short, if a new building has been erected, then it would not benefit from any use rights which may have become attached to the former structure. Conversely, if we were to take the view that what we see today is essentially the same structure, albeit altered, then it would benefit from any lawful use rights.
24. On first consideration, the present structure is different in several respects from what was there prior to the works taking place. It is shorter, narrower and higher at the eaves and at the ridge; the angle of the roof is shallower; it is supported on a concrete ring beam rather than on granite pillars; it has fully boarded gables; and the glass is substantially painted white. The entire floor is now surfaced in concrete. Although all of the original glass has been re-used, a significant proportion of the timber framing has been replaced. On that basis, it would not be wholly unreasonable to conclude that what we see today is a different building.
25. It is a matter of fine judgment, but the Tribunal concludes that it is not a new building. In reaching this conclusion, we have taken account of a number of factors. As related earlier, the painted glass does not amount to development. The reduction in length, though by far the greatest of the alterations to the size and shape of the structure would be exempt development if it is classified as a glasshouse. The boarding of the northern end we regard as a minor alteration which most likely could have been carried out as exempt development or as "making good". The replacement of the glass in the other gable with boarding is more significant, but has not greatly altered the character or appearance of the structure. The raising of the eaves and consequential reduction in the angle of the roof represents a change to its proportions. However, the ridge height has not been significantly altered so that the overall degree of change is not so great. The ring-beam has been cast only a small distance inside the line of the old granite pillars. The difference in width, to our minds, is marginal and there have been no encroachments beyond the original footprint of the glasshouse. The small amount of additional internal concrete surfacing is of no practical consequence for our decision. It could have been done at any time as an exempt minor alteration.
26. We have considered the important point as to whether these individually small alterations might, if considered cumulatively, be so great as to amount to a new building. As indicated earlier, we believe that, as a matter of fact and degree – ie what has taken place and the extent to which it has taken place - they are sufficient to take the works outside the ambit of exempt maintenance, repairs or minor alterations into the category of alterations which materially affect the external appearance of the

building. They therefore constitute development requiring planning permission. But they are not so great as to amount to the construction of a new building.

27. Consequently, we conclude under the first issue with respect to building works that development requiring planning permission has taken place, in the form of alterations to the glasshouse, but that a new building has not been erected. Moreover, any use rights attaching to the building by reason of its history continue to apply. This first conclusion was communicated to both parties on the day of the Hearing, after the site visit.

Change of Use

28. The Department's alteration of the description of the development to include a change of use to a workshop / store reflects its belief that a change requiring planning permission had taken place. This is disputed by Mr. Ferbrache, who claims that the use of the structure for domestic storage commenced at a time which either renders it lawful, by reason of it having commenced prior to the coming into effect of the Island Development (Guernsey) Law, 1966 (on 1st February 1967), or immune from enforcement by reason of it having taken place more than ten years ago (ref: Section 48(4)(a) of the 2005 Law). If the former is shown to be the case, then no planning permission is required. If the latter, the Department has no power to require permission to be sought, though the use would technically remain unlawful.
29. For a change of use to be demonstrated, it is not sufficient for the Tribunal to find that the use for growing stopped. A disused glasshouse in law is still a glasshouse. It is additionally necessary for us to conclude that the growing had been replaced by a new use.
30. In considering this matter, the Tribunal is hampered by a lack of independent evidence. We are almost entirely reliant on the statements of Mr. Ferbrache and Mrs. Dadd. In the information supplied to support his application dated 5th August 2011, Mr. Ferbrache makes the following statements: *"for the last 50 years this glasshouse has been used for part Horticulture and part store"*; *"in the last 30 years the glasshouse has been used as a store"*; and *"intended use will be as above as it has been for 30/40 years"*. The uses were listed as: *propagation and storage of garden plants in winter to avoid frost damage; storage of general gardening equipment; occasional storage of van if I am off island; general domestic store i.e. pedal cycles, small boat, oars and bits [of] winter storage; tools and timber etc. for property maintenance; drying clothes in bad weather*. In a second letter, dated 5th December 2011, he states that: *"The current use of the glasshouse remains the same as it has always been since it was built in 1952, i.e. storage, plants and since late 1970s a personal workshop, save that livestock is no longer kept in it"*. In a letter dated 28th March 2012, Mrs. Dadd adds that *"nothing had been grown in the greenhouse for at least 30 years before January 2009"*. At the Hearing, she stated that she could not remember a time when the structure had been used for growing.

31. This evidence is imprecise as to dates and detail. Thirty or forty years ago do not take us back to the critical year of 1967. But if the reference to fifty years or use from 1952 is to be believed, then a case could be made out for domestic storage, albeit that for at least some of that time it appears to have been alongside, but not seemingly ancillary to the use for horticulture. It is noteworthy that a distinction is drawn between use for storage and as a workshop, with the latter being claimed only from the late 1970s – in the region of ten years after 1967.
32. On the other hand, the Department has not submitted anything which causes us to doubt the appellant's evidence, not least because its officers have no firsthand knowledge of the nature of the activities at the glasshouse throughout its life and no other witnesses were called. And, to be fair to the Department, there is no reason why it should know. It might reasonably have information from 1992, when the use of the building had been called into question, but even this would have told us nothing about the use in earlier times. The Department points to the Cadastre which still records the use as a glasshouse, but acknowledge that this is not necessarily proof of the true use. They seek to demonstrate that it had not been used for storage or as a workshop by reference to photographs submitted by Mr. Ferbrache taken inside the structure when it was being cleared up in 2009. These show a building in a very untidy state, partially invaded by vegetation and seemingly not in any active use. There is no remaining evidence of any growing having taken place in it. But there are at least signs of it having been used for storage and as a workshop. There is a bench plane or another woodworking tool, a plastic barrel, piles of timber and what appear to be containers for decorating products on shelving. In the Tribunal's view, these photographs do not support the Department's case. Rather, they are consistent with the statements made by Mr. Ferbrache and Mrs. Dadd which tell of domestic storage and the structure lying largely disused and unmaintained for some time prior to 2009 when in the ownership of their father.
33. There is no documentary evidence for the date on which the change of use from growing to domestic storage / workshop occurred. It may not have been at a particular time but could have been progressive, as it appears that there had always been an element of storage use, even when growing was taking place. It is not a matter of dispute between the parties that this was commonplace. When growing ceased, it would have been logical for storage use to have expanded to become the only use, albeit that its intensity may have varied from time to time. It is equally plausible that the building was also used as a domestic workshop in much the same way as garages and sheds are frequently used for that purpose.
34. On the basis of what we have read and heard, the Tribunal is in little doubt that at the very least the changes of use to both domestic storage and workshop took place more than 10 years ago. In which case they would be immune from enforcement. Whether they took place before February 1967 and therefore lawful is a more difficult conclusion to reach; and one which, in the absence of clear independent evidence, must be on the balance of probability. Mr. Ferbrache and Mrs. Dadd are relying on memories of forty five years ago and more. It would be no criticism of them to admit the possibility that

these could be faulty or mistaken, given the passage of time. But the Tribunal considers them to be credible witnesses who were prepared to give their evidence on oath. Though it was decided not to follow that route, we may be reasonably certain of the truth of what they say, albeit that in some respects it is inconclusive.

35. Against that background, and explicitly on the balance of probability, we take the view that the use of the glasshouse for domestic storage most likely commenced before the coming into effect of the 1966 Law. It is therefore a lawful use and no permission is required to retain it. However, use as a workshop commenced later. It is not a lawful use, but one which is immune from enforcement.

The Remaining Policy Issues

36. The policies relied upon by the Department in refusing permission were applied on the assumption that the structure was still to be regarded as a glasshouse in agricultural or horticultural use. However, in view of our conclusions, their relevance has lessened.
37. Policy RE1 does not apply, as it relates solely to buildings remaining in agricultural use. Neither does Policy RE2, which includes a limited presumption in favour of the modification of glasshouses or buildings associated with horticulture. Policy RCE1 presumes against the unacceptable loss of open and undeveloped land, other than where a rural location can be justified or where the scale, location and design would not detract from the openness of the countryside or result in the unacceptable, irreversible loss of agricultural land or an adverse effect on the viability of an agricultural holding. As the Tribunal has decided that the change of use has already taken place, then it follows that the land should not be regarded as agricultural as it would if the structure were to be classed as a glasshouse. It follows that there would be no loss of agricultural land or any effect on an agricultural holding. Similarly, there would be no loss of open or undeveloped land, because the site is considered developed. We consider matters of scale and design by reference to Policy RCE3.
38. That policy contains a presumption against the replacement of buildings that are derelict or structurally unsound, but we have already concluded that neither was the case here.
39. It opposes development that would have a significant adverse effect on the visual quality or landscape character of the Area of High Landscape Quality in which the site lies. The structure is readily visible from a number of viewpoints locally from L'Ancrese Common. But when the alterations are taken as a whole - the more prominent features such as the raising of the eaves and ridge and the boarding of the gables together with those that diminish the impact of the building, such as the reduction in length - the overall visual impact of the alterations on the area may be considered broadly neutral and have not resulted in a significant adverse effect. The Tribunal appreciates the Department's view that an unmaintained decaying glasshouse may be less prominent in the landscape than the freshly painted restored structure we see today. But we are not

convinced by this argument. If a structure is lawful, then it is inherently desirable that it should be properly maintained.

40. The policy also requires alterations to respect the size, form and bulk of the original structure. While we acknowledge the changes in size, shape and materials that have taken place, the Tribunal takes the view that the character of the structure has remained fundamentally the same. The Department has not argued that it has taken its character or appearance beyond the normal range of variability that one may find in Guernsey glasshouses. The raising of the ridge is only a fairly minor alteration, as is the reduction of the roof angle. The overall increase in height would, we think, be barely perceptible. The glass, which covers a very large proportion of the overall surface area and which is integral to its character, is all original.
41. The Tribunal has considered Mr. Rowles' point that it would not be appropriate to allow modifications to a building that, by virtue of extending its life or making it more suitable, would permit or even encourage the continuation of an unlawful use, even if it were immune from enforcement. Though we have not researched the legal basis of such a claim, as a matter of pragmatism we would support the principle. However, as the structure has a lawful use as well as an unlawful one, it would not be appropriate to apply it to the works which are the subject of this appeal. That said, we consider that the structure should not benefit from any rights to development without permission that are conferred by the Exemptions Ordinance. This is addressed by way of a condition.
42. The Tribunal concludes that the development is not in conflict with any policy of the RAP.

Conditions

43. It is usual practice for all planning permissions granted to be subject to a standard condition to the effect that the requirements of the Building Regulations shall be complied with, repeating Section 17(2) of the 2005 Law. In this case, where the development has already been carried out and completed, there is no benefit in including the part relating to the submission of plans prior to its commencement or continuation. Insofar as it is necessary to ensure the appropriate standard of structural alteration, the Tribunal confines itself to imposing only that part requiring compliance with the Regulations.
44. As the application does not seek a change of use and none is expressly permitted by virtue of this decision, it would not be appropriate to define the lawful uses. Nonetheless, in view of the particular history of the structure and the conclusion that it is lawfully used for domestic storage, it is reasonable to impose a condition stating that it should not be used for purposes other than those incidental to the enjoyment of the associated dwelling. Mr. Ferbrache is content to accept a condition along those lines and, for the avoidance of any doubt, specifically prohibiting any use in connection with a trade or business.

45. Having regard to the workshop use of the structure, the Tribunal agrees with the Department that in order to ensure that it should not be further altered in a way that may benefit that unlawful use, or in such a way that may adversely affect the Area of High Landscape Quality, the structure should not benefit from any rights to development without permission that are conferred by the Exemptions Ordinance. Again, the appellant is content to accept such a limitation.

Overall Conclusions

46. For the reasons given above, the Tribunal concludes that the alterations to the structure are acceptable; the appeal may be allowed and permission granted, subject to conditions. However, in view of our conclusions as to the nature of the development, we substitute the term “alterations” for the descriptions given in the application and in the refusal notice.
47. In view of this conclusion, there is no need to address the Compliance Notice which, following normal procedure in cases such as this, should be withdrawn.
48. The Tribunal feels it is important to state that our conclusions have been reached on balance having regard to the particular circumstances of this case and the evidence with which we have been presented. We are emphatic in our view that, bearing in mind the number of disused glasshouses on the Island and the potential for them to be modified and put to new uses, it should not be taken as any kind of firm precedent. Any future proposals involving building works to glasshouses, and / or changes of their use must be considered individually on their merits having regard to the evidence submitted.
49. The Tribunal has considered all other matters raised in the written submissions and during the Hearing. It has also considered all matters pointed out at the site visit and its own observations. However these do not affect its conclusion under the provisions of Part VI Section 69 of the Land Planning and Development (Guernsey) Law, 2005 that the Appeal is allowed.

**Jonathan G King BA(Hons) DipTP MRTPI
Presiding Member**

1st November 2012