

PlanForum

Guernsey Agents Forum
Meeting held on 26th November 2015 @ Sir Charles Frossard House

NOTES OF THE MEETING

PlanForum members in attendance:

Mark Woodall – Naftel Associates
Oliver Westgarth – CCD Architects
Nic Joyce – Create Ltd
Tony Charles – Porchester Planning
David Falla – Falla Associates International Ltd
Chris Lovell – Lovell & Partners
David Aslett – States of Guernsey
Claire Smith – Ogier Advocates
Carl Foulds – Direct Architectural Solutions
Emilia Trow – Soup Architects
Andrew Merrett – Lovell Ozanne & Partners
John Hibbs – PF+A

From States of Guernsey:

Jim Rowles – Director of Planning (AJR)
Elaine Hare – Development Control Manager (EMH)
Andy Mauger – Building Control Manager (AAM)
Claire Barrett – Policy and Environment Manager (CEB)
Alun White – Principal Conservation & Design Officer (AWW)
Louisa Driver – Technical Support Officer (notes)

Apologies:

Bob O'Brien – States of Guernsey (CIOB)
Tim Guilbert – Consult & Build
Jill Bray – Courtillet Design
Rachel Jones – Carey Olsen
Stuart Pearce – CCD Architects
Rob Le Page – R W Le Page

Meeting commenced 2:30pm

Welcome

AJR opened the meeting and welcomed all present.

Matters arising

Referring to matters arising from the last PlanForum meeting held in May 2015, and not

included on the agenda for the present meeting, AJR made reference to the very interesting presentation in May by Guernsey Water with Bob Bray on Sustainable Drainage Systems (SUDS) and noted that SUDS guidance was currently being drafted by Guernsey Water which it is hoped will be available for agents to review prior to the next Forum meeting in May 2016.

AJR also noted that the States had, since the last Forum meeting, approved the Department's Policy Letter on High Hedges legislation. The legislation was now being drafted by the Law Officers and following completion of the necessary procedures, including further approval by the States, the new Law should be in force in 2016. The Department will be issuing guidance regarding the new legislation prior to its enactment.

Agents did not raise any other matters arising from the previous meeting for discussion.

Development Control - update and progress (EMH & AJR)

Update

EMH stated that, as of Friday 20th November 2015, there were 365 applications (apps) and pre-applications (pre-apps) in hand and the number of applications is lower than in the comparable period in 2014. The speed of decisions had improved with 77% and 90% of decisions on all planning applications being issued in 8 and 13 weeks respectively. The team is working very hard to deal with the applications and other DC work promptly and it is hoped this is reflected in agents' perceptions of the service.

AJR made reference to the Planning Division's Service Delivery Plan, which is being drafted at the moment and is intended to document all of our intended initiatives and improvements and provide direction to our service delivery over the short, medium and longer terms. This reflects the direction and values of Service Guernsey and includes customer service improvements as a major element. EMH and AJR welcomed agents to add any comments and suggestions regarding the present service and any enhancements that they would wish to see. If any agents would like to raise points, please contact EMH or AJR and these points will be carefully considered and acted upon wherever possible.

Meeting requests and provision of plans in advance

It was requested that the Department receives plans in advance of meetings where they are available, because this enables the planning officer to prepare and therefore the meetings to be more useful.

It was also requested that agents make a conscious effort when submitting pre-apps to clearly state what they would like to discuss. EMH referred to a number of very recent examples of pre-app requests, where vague descriptions made it difficult to deal with the enquiry. EMH noted that there have been occasions where the notified topic for discussion ended up being something quite different when the meeting was held. As well as this, the client may want to talk about something else or discuss ideas which may be worthy of a 5 minute chat rather than a half-hour meeting.

Agents were also requested to question whether the meeting is actually necessary in order to help manage the officer's, their own and their client's time effectively. The planning policies are generally clear on where some form of development is acceptable in principle or

precluded yet meetings are still requested to enquire about such issues.

EMH also requested agents to make sure they provide email addresses on pre-apps, to enable meeting notes to be issued by email.

The importance of agent communication was also discussed. EMH said that a long-standing protocol was that Development Control officers would communicate only through the agent for the application where one was appointed. However, when the client contacts the officer directly it can be difficult to adhere to this protocol without appearing to give poor customer service and there is a risk of either duplication or misinterpretation. She asked that agents explain their role to clients so they know.

AJR gave the opportunity for agents to give feedback on the above points.

David Falla suggested that it may be useful to have a tick box on the application form stating whether the application is to be dealt with solely through the agent or client, making it clear how the Department should communicate going forward. EMH suggested alternatively that the application form and guidance could state that where an agent is appointed, they will be the point of contact.

Tony Charles said many local authorities in the UK had a strict view on this and in most cases the planning officer will refuse to speak to the client if there is an appointed agent for the application. AJR said that this appeared to support the Department's existing protocol relating to this issue.

Architects' Panel

David Falla queried if there was any update on the Architects' Panel. AJR noted there had not been an Architects' Panel meeting held recently. AWW said that the meetings were arranged through the Guernsey Society of Architects. David Falla suggested that he may not have been informed of the last meeting and asked that he be emailed directly if a meeting was to be held. David Falla also suggested that a database of contacts should be set up regarding the Panel.

Photography within the Department's reception area

AJR informed the agents that the Department was no longer actively discouraging members of the public from photographing applications in reception, as had been its past practice. This was partly because use of mobile devices made it increasingly difficult to do so in a 'customer friendly' way. In addition, such restrictions would be irrelevant with publication of plans online in the future. It was therefore suggested that the agents should be mindful of any implications this might have in relation to their copyright of plans.

Use Classes update

AJR advised agents that the States Policy Letter relating to revisions to the Use Classes Ordinance had been written and is scheduled for consideration by the States in January 2016.

The proposed revisions principally related to reduction in the number of use classes, from 44 to 28, and an increase in permitted changes between certain use classes, to improve

flexibility for change of use. The changes would be of particular benefit to industrial and storage/distribution uses, with benefits for the Island's economy, but related to various other uses as well. In addition, a limited number of new classes were proposed to reflect new policy approaches.

Public consultation had been held and responses were generally supportive. Although limited in number, the responses provided helpful feedback which was of assistance in finalising the Policy Letter for the States. Particular issues raised by respondents related to combining two current office classes, distinguishing low value storage uses and in relation to housing definitions and these issues were considered within the States Policy Letter.

Commencement of development

This item had been included on the agenda at the request of one of the agents present.

AJR and EMH explained that commencement of development for planning purposes was judged in each particular case against a number of factors, including whether the work undertaken constituted a substantive start, whether it amounted to development (which might potentially include demolition) and whether any pre-commencement conditions existed and if so had been discharged. AJR noted that the legal position in Guernsey was less clear than in the UK, as there was no relevant or recent case Law in Guernsey to refer to. Previous legal advice, albeit some years ago, had indicated that passage of time and changes in planning policy might potentially be considered relevant here. AJR said however that this was by no means a definitive statement of the Law in Guernsey and the position could only be tested definitively through the Courts.

Claire Smith said that it is often easier to consider what doesn't constitute commencement rather than what does constitute commencement as the latter has not been clearly defined. For example, internal or insubstantial 'de minimus' work that would not amount to development would not be considered as commencement. Claire Smith suggested that to convincingly demonstrate commencement a developer should be able to point to a specific element of the approved scheme which they had started.

Tony Charles agreed that it was not always easy to determine the commencement of development on site. One way in which this issue had been addressed in the UK was by a developer commissioning an implementation report looking at the relevant issues. This report was then taken to a Planning Barrister to obtain their written view. In cases with which he had been involved, the local authorities who then considered the report had agreed with it.

There was some discussion about developer's intentions when considering commencement. Claire Smith noted that in the UK intent was no longer a relevant consideration. She referred to an interesting case with which she had been involved where a new house had been constructed in the middle of a factory site and this had been accepted in the UK Courts as commencement even though the developer had no intention of proceeding with the rest of the permission for residential development.

AJR advised it is best to contact the Department in the first instance to discuss and seek to agree what commencement is in a particular case if this is a critical issue for a developer. AJR also noted that under Guernsey Planning Law a Completion Notice could be served to require a development to be completed within a reasonable timescale, failing which the

planning permission granted for that development would cease to have effect. He noted that this would be an effective tool to deal with situations where only token works had been undertaken with a view to keeping permission alive.

David Falla queried what might happen with a complex scheme, for example when archaeology is found on site and must be investigated before commencement of building. Claire Smith advised that if this was covered by a pre-commencement condition the development could not lawfully be commenced until such time as the condition was discharged.

Building Control - update and progress (AAM)

AAM said that Building Control had been working hard to improve its customer service. One aspect of this was that staff would be happy to meet with clients and agents at their offices. This may be useful if all the plans and paperwork are already at the agent's offices. Building Control (BC) officers are happy to be flexible with this.

AAM informed agents that the e-docs dual electronic and paper submission route has been successful and has helped to reduce paper, which they hope to be rid of completely in due course. It was noted that most agents have now signed up to the dual submission route and it is hoped that everyone will be on board by early in the New Year.

There has also been work on the registration process, with the allocated case surveyor now identified on the acknowledgement letter. This enables contact to be made directly with the case surveyor.

Direct dial telephone lines have also been set up for BC staff to improve customer service. There have been a few technical difficulties in setting up an automated 'officer unavailable' message, although this has now been resolved. Agents were reminded to be mindful that BC surveyors work in an open plan office when making calls. AAM stressed that this facility is for site specific calls only, but not for booking site inspections, and that the direct dials of staff are not intended to be given out more generally and should be used by the agents only.

Next April, BC will become a member of the Local Authority Building Control (LABC) organisation based in the UK and the team take this as a good opportunity to become a part of the well-established organisation. This will provide general information on training, guidance notes, etc.

Draft Island Development Plan - update and progress (CEB)

CEB informed agents that the Planning Inquiry hearings had now been completed and noted that several agents had been present during the hearings. This was a different format than previous Inquiries and the Department would welcome any feedback.

The hearings had been conducted in a relatively informal way enabling discussion between parties around the table and it was hoped that everyone who took part felt they had their opportunity to express their opinions and have their say. The Inquiry process had also involved extensive use of the Internet with most initial and further representations being made on line and any feedback on this aspect would also be welcomed.

Tony Charles and Andy Merrett both said that from their perspectives the Inquiry was successful and was a great improvement on previous Inquiries.

CEB explained that the Department had made some amendments to the draft Plan including minor ones to correct typos and ensure consistency. Other points identified through the Inquiry process and from internal workshops held with Development Control staff had also been taken on board and considered which had all helped towards making the final draft Plan more robust.

Following the Inquiry hearings, and in response to a representation, the Planning Inspectors had asked the Department to carry out an assessment as to whether another potential Conservation Area should be designated in the Delancey area. The team has therefore been working on this and carrying out the desktop analysis and scoring.

The next steps for delivering the new Island Development Plan will involve receipt by the Department of the Inspectors' report, expected by the end of February 2016, and consideration of the Inspectors' recommendations, preparation of the States Policy Letter and further consultation with the Strategic Land Planning Group (SLPG). The Plan is intended to go to the States in mid-2016, which means reference to SLPG in April in order to keep within the projected timeline. If there are significant changes recommended by the Inspectors this could affect the timeline and if significant new issues are raised when the Plan is discussed by the States this could possibly result in the Plan going back through the Inquiry process.

There is also a need to update the published guidance notes and make sure they are consistent with the direction of the new Plan. Work is also required in relation to development frameworks and new policy guidance. There are also requirements to effectively monitor the Plan, both quarterly and annually. The Forward Planning and Conservation and Design teams will hold a joint workshop later in December 2015 to help plan and prioritise their work for 2016.

CEB explained that the goals and principles of Service Guernsey were also being taken into consideration. For example, whilst the Development Control team publishes quarterly and annual statistics relating to performance against targets for planning applications, Forward Planning and Conservation and Design do not at present provide similar updates. CEB advised that it is intended in the future to compile and publish performance updates covering all of the Planning Division to inform the public and staff of the progress and performance of all the teams. The way in which we support our customers both internally and externally also needs to be considered, especially when the Plan is adopted and in the run up to its adoption. CEB outlined some ways in which this could be implemented, including a Forward Planning duty officer rota, internal surgeries, and a member of Forward Planning being present at some meetings with Planning Officers to help give advice on the new policies.

David Falla queried when the planned operational date of the new Island Development Plan would be. CEB confirmed that the Plan would come into effect immediately that it is approved by the States. Tony Charles queried how in practice the Department would go about publishing the Plan after the States decision, and whether there would be a time delay in producing hard copies of the approved Plan. CEB stated that a copy of the approved Plan would be made available online almost immediately and the Department would print hard copies of the Plan as soon as reasonably possible following adoption by the States.

CEB welcomed any further comments or feedback from the agents.

Tony Charles expressed his feedback regarding the Planning Inquiry and stated that having been to many hearings, this one seemed to go very well. It was noted that the two experienced Planning Inspectors had been very accommodating and made people feel comfortable. He believed the number of people around the table at each session had assisted a positive and helpful discussion of the relevant topics. Tony Charles also felt that the fact the Inspectors could engage directly with those present around the table was also beneficial, as at a UK Public Inquiry the Inspectors are generally not able to do this.

Andy Merrett queried when the guidance notes will be in place, in particular the Supplementary Planning Guidance (SPG) and expressed his concerns if the SPG were to change the policies contained in the Development Plan, as he had previously experienced elsewhere. CEB explained that the SPG could not go further than the policies in the Development Plan and that there was no question of policy being changed or re-interpreted through the SPG.

Andy Merrett suggested there could potentially be some difficulty around the Sites of Special Significance (SSSs) if there isn't supplementary guidance information made available straight away to explain what they are and the particular requirements that apply in relation to works carried out within them in Law. For example, if someone carried out work to trees, hedges or land and isn't aware they are in a SSS this could have implications for them. CEB noted his comments and agreed that the Department would consider an information or media event to explain the SSS's specifically as part of the introduction of the new Plan.

Managing the Historic Environment - update and progress (AWW)

Update

The team had been focusing on the Protected Buildings Review, with the Conservation Officers concentrating on writing reports and making decisions on buildings surveyed in 2012 and 2014. Some new surveys had also been carried out this year. It was noted that CCD Architects had been contracted to assist the Department by carrying out some surveys. These surveys had been carried out from October through to the start of December.

This year (to the end of October) the total Protected Buildings list comprises four buildings less than at the start of 2015, as a result of buildings that have been removed and added to the list. In addition, decisions have been made to not add some buildings to the list.

Appeal and Advice notes

AWW referred to a recent Appeal against the Listing of La Maison De Haut. This was the first appeal against listing and AWW explained that this gave valuable insight into the appeal process, for example how much detail is considered and the sort of questions asked. The appeal decision led to elements being removed from the Notice e.g. parts of the interior, the barn and part of the roadside wall. The appeal also identified some suggestions for how the Department could communicate better with owners of protected buildings. After looking at these suggestions the Department has published additional advice notes, which can be downloaded from the States website: 'CN8 – Guide to the Protected Building Notice' and 'Protected Building Frequently Asked Questions'. There is also a need to improve the

building survey report that the owner receives, to ensure the terminology used is understandable to the owner; this is being looked into at the moment.

AWW said that the Conservation and Design Team would also be working on Conservation Area character appraisals. The IDP will contain a summary of special interest, character and appearance for each of the conservation areas in an Appendix to the Plan and a substantial evidence report had also been prepared on the conservation areas, from which the summaries are drawn. The intention now was to publish individual character appraisals for the conservation areas as Supplementary Planning Guidance, after consultation. Given the number of conservation areas, including St Peter Port which covers a large area and includes a number of different character areas within it, this task will however take several years to fully complete.

The proposed 'Windows and Doors in Protected Buildings' guidance is at a draft stage. It was explained that this may however not be published until the new Island Development Plan is adopted as it will otherwise be out of date quickly. AWW noted that when the guidance is published the Department will hold a stakeholder group meeting, similar to the Focus Group meeting that was held for The Criteria. This focus group would include agents, but the Department would also like to expand it to include on-island manufacturers of the windows.

AWW also informed agents that the Department would not now publish the Protected Building Technical Advice Notes until after the IDP has been adopted, and the number of Technical Advice Notes to be published may be reduced from three at present to one or perhaps two.

Staff changes

AWW informed agents of staff changes within the Conservation and Design Team. It was confirmed that Simon Went will be leaving the Department in early December 2015, Clare Vint will be leaving at the end of January 2016 and Alan Ritchie will be retiring in October 2016. Elaine Jordan (former Development Control officer and now Forward Planning officer) will be filling one of those positions with recruitment to the other vacant Conservation Officer post early in the New Year.

Co-ordination by Agents of different statutory requirements

AJR noted that there had been some instances recently particularly with Protected Buildings where problems had arisen as a result of poor co-ordination by agents between different statutory requirements. AJR stressed that agents need to take responsibility for actively managing different requirements, for example between Building Control and Development Control, when designing their schemes and should ensure that the resulting development complies with all relevant legislation.

It was emphasised that agents and their clients should not assume that Development Control would automatically accept something that has been negotiated separately with Building Control, or even that DC would know of the change. It is the agent's/developer's responsibility to resolve any conflict and not to do so could potentially result in enforcement action being taken. EMH also reminded agents that BC and DC do hold joint meetings where appropriate, which can help to iron out potential problems in an effective and joined-up way.

Notification re. PPE for site visits

AJR requested that if agents invite officers to a site meeting, especially for protected buildings where internal inspection would be required or there are potential safety risks, please let the officer know in advance what PPE is required.

Agent feedback

AJR gave agents the opportunity for feedback. Please contact the Department if you would like to give any further feedback.

Andy Merrett said that the planning fees remained complex and queried if they could be further simplified. Chris Lovell agreed with this point. EMH noted that the fees provisions had been simplified and there is much guidance available online, ranging from the Ordinance itself to a very simple summary. AJR suggested that in the past the Department had organised workshops for individual practices to help explain the fees and work through examples. AJR stated that the Department would be happy to do this again if requested by any agent.

Forthcoming CPD opportunities

AJR noted that the Department had benefitted from a range of CPD opportunities this year, including opportunities to visit a number of completed projects which was always of great interest and benefit. Agents were asked to inform the Department of any CPD opportunities. The importance of visiting completed projects was emphasised, which helps the Department to identify what went well with a project as well as what didn't go quite so well. CEB suggested that a structured approach to visiting projects would be beneficial; it was highlighted that this had been done (with visits to completed housing developments, for example) in the past and was very useful.

AOB and items for next meeting

There was no other business.

Meeting ended 4:10pm

The next PlanForum meeting will be held in May 2016.