

Failure to complete the steps required following the issue of compliance notices, under section 48 of Planning and Development (Guernsey) Law, 2005.

[2021]GRC010

**ROYAL COURT
FULL COURT**

15 March 2021

**Before: Jessica E Roland, Deputy Bailiff and:
Stephen Murray Jones OBE,
Steven John Morris, Alan Stevenson Boyle, Peter Francis Gill, David John Robilliard,
Tina Jane Le Poidevin, Paul Martin Burnard, Jurats.**

THE LAW OFFICERS OF THE CROWN

- v -

Steven Terrence OGIER

**Crown Advocate C G Dunford appeared for the Crown
The Defendant was not represented in court**

DEPUTY BAILIFF:

Background

Mr Ogier, you were found guilty of 5 counts of failing to take the steps required after the issue of compliance notices under section 48 of The Planning and Development (Guernsey) Law, 2005 (the “Planning Law”), contrary to section 59(1) of the Planning Law, and each of these counts carries a maximum penalty of 2 years’ imprisonment, or a fine, or both.

All these offences relate to land situated at Ruelle De Frocq in the Castel. This was land that you originally bought for domestic storage and parking, and obtained planning permission in 2011 and 2016 to undertake this. Then, due to your own personal circumstances, you started to live on the property and undertook the various changes to the land which has brought you into contravention of the Planning Law. Compliance Notices were served upon you and although you did not appeal the notices, you did not undertake the necessary steps to comply with them within the time periods.

Sentencing Considerations

Mr Ogier you are 48 years old. Planning matters do not often come to the Royal Court as they are normally dealt with summarily in the Magistrates Court. However, as is your right, you asked that the matter be dealt with by the Royal Court. Again, as is your right, you required a long form committal; you refused to enter a plea, but conducted your case on a ‘not guilty’ basis and have contested the Development and Planning Authority and Court’s jurisdiction throughout. However, at the same time you have candidly and with honesty, admitted that you were aware of the compliance notices and that you had not undertaken the action required, or ceased the activity required to be stopped in accordance with the compliance notices. You also accepted that you had not appealed the compliance notices.

As I have said, the jurisdiction of the Royal Court is up to 2 years in prison and/or an unlimited fine. The Court has spent some time this morning very carefully considering the nature of the offences and we have kept uppermost in our minds that the overarching principle required, is that ‘a sentence is proportionate to the seriousness of the offences’. We consider that these 5 offences when taken as a course of conduct are serious enough to warrant a community order.

Mitigation

We have read the Probation Report and note the circumstances that appear to have led you to attempt to develop your land as a place to live. We also note the probation officer’s comments about the detrimental effect that this has had upon your health and your family life with those nearest to you expressing their own concern about your intransigence on these planning matters. We also take into account that the probation officer concludes that you have a general moderate likelihood of re-offending but note that there is actually little evidence to suggest that you will contravene the law, save in relation to the planning obligations on your property. In relation to planning offences and consequential orders and that in that regard, her assessment is that there is a high likelihood of you reoffending. We do however take into account that in all other respects, you have for many years been a law-abiding citizen, who is employed, pays tax and social security and although you do have previous convictions, none of them are relevant and are many years ago, so we will treat you as being of good character.

We have also listened to the probation officer’s assessment of your willingness to undertake a community service order. We are very grateful to the probation officer for attending the court this morning in that regard.

Sentence

In sentencing you we have taken into account the principles of totality and proportionality.

Sentence:

- In relation to Count 1 the court sentences you to 40 hours Community Service.
- On Count 2, the Court sentences you to 40 hours Community Service to run concurrently with Count 1.
- On Count 3, the Court sentences you to 40 hours Community Service to run consecutively with Counts 1.
- On Count 4, the Court sentences you to 40 hours Community Service to run consecutively with Counts 1 and 2 but concurrently with Count 3.
- On Count 5, the Court sentences you to 40 hours of Community Service to run consecutively with Counts 1, 2, 3 and 4.
- This means that you are required to take a total of **120 hours Community Service**.

The sentence of the Court for the offences of which you have been convicted, as I have said, is for you to perform 120 hours, unpaid work under a Community Service Order. This Order is made because of the seriousness of the offences of which you have been convicted. We note that you have signed a form stating that you understand the nature of effect of a Community Service Order, the power of the Court to review the Order and the consequences that may follow if you fail to comply with any of the requirements of the Order, or if you are convicted of further offences whilst the Order is in force. The Court is satisfied that provision can be made for you to perform work and that you are a suitable person to perform that work.

As you know Mr Ogier you have said that the actions required of you by the compliance notices have not yet been undertaken by you. Whilst you do not take these actions you are at risk of these matters

coming back before the Court again and if that happens, as well as in relation to the Community Service Order itself, it is likely the sentence is likely to be even more severe.

**Jessica E Roland,
Deputy Bailiff**

15 March 2021