



Education and Home Affairs Panel Camera Surveillance

FRIDAY, 28th JUNE 2013

Panel:

Connétable M.P.S. Le Troquer of St. Martin (Vice Chairman)
Deputy M. Tadier of St. Brelade
Deputy G.P. Southern of St. Helier

Witnesses:

The Minister for Planning and Environment
Director, Development Control

Also Present:

Dr. P. Fussey - Advisor
Professor W. Webster - Advisor

Connétable M.P.S. Le Troquer of St. Martin (Chairman):

Friday afternoon is busy as well. Obviously this afternoon is a public hearing by the Education and Home Affairs Scrutiny Panel and we are reviewing C.C.T.V. (closed-circuit television). I have a few questions. I think it is probably quite difficult for the role that you might have in relation to the subject that we are doing. I do not know, Minister, if you have any views on the prevalence of C.C.T.V. cameras coming out all over the Island at the moment.

The Minister for Planning and Environment:

Yes, I do. There have been a number of cases that have been referred through me at the department to our planning officers to see whether or not any infractions have been caused on planning grounds in requiring or not needing to require planning permissions to erect some of these cameras. I think more importantly, it was objections based on the fact that it seemed to be that some members of the public and perhaps all members of the public are legally entitled at this point in time to place cameras on their building in positions whereby they do impose an overlooking nuisance to their neighbours, and there is not really a lot under the Planning Law that I appear to be able to do about it.

Connétable M.P.S. Le Troquer:

So you refer them to your officers as a general complaint made to the department although you know probably ...

The Minister for Planning and Environment:

There was a specific complaint not more than, I do not know, 6 weeks ago; 6, 8 weeks ago.

Deputy M. Tadier: There is a complaint, sorry, from somebody who is ...

The Minister for Planning and Environment:

A complaint from a member of the public who alleged properly because we sent enforcement officers around to double check, a camera had been placed on the garage part of the building overlooking the next door neighbour's drive, and another camera had been placed to the rear of the property overlooking the neighbour's garden and perhaps the bedroom windows as well.

Deputy M. Tadier:

What authority does this department have first of all to go round and to enforce anything?

Director, Development Control:

Well, we did not go round to enforce. We had officers who are called enforcement officers, but they went round to investigate. So their primary role is investigation. Then they see if there is a breach of the law and of course if there is a breach of the law they follow it up, and if there is not ...

Deputy M. Tadier:

What is the law that that there would be a breach of then?

Director, Development Control:

Well, they just went to check to see if there had any breach of the Planning Law. But I think they concluded that there had not been.

Connétable M.P.S. Le Troquer:What conditions could you impose then at Planning Department?

Director, Development Control:

If there was something that was within our rule that required planning permission to be asked for before the cameras were erected, or indeed other kind of bits and pieces that would ensure that the cameras as installed were not in a position to impact on other people's human rights, then all well and good. But we do not have any of those kinds of laws.

Connétable M.P.S. Le Troquer:

I do not know if it has changed recently, I have not seen it so much. You had the notices in the *Gazette* for people putting up signs on their shops and things like that. Would this be the same sort of thing?

Director, Development Control:

Slightly different, Connétable. The power to erect a C.C.T.V. camera on your own property is enshrined in the General Development Order which is a piece of legislation which is attached to the Planning Law basically. The Minister is entitled to make an order and this is the same piece of legislation that allows everybody to put conservatories in their back garden or to make a driveway or things like that. So that piece of legislation says that you do not need planning permission to put C.C.T.V. coverage over your property. It also contains powers to Ministers to allow erection of C.C.T.V. on public buildings, public land. The point you asked was about the signage applications and canopies and such like. Those advertisements do require planning permission under the law and as part and parcel of dealing with those applications we contact the States Police, for instance, in order to ensure that canopies overhanging streets do not interfere with the crime prevention C.C.T.V. coverage, so that good public order is maintained.

Connétable M.P.S. Le Troquer:

So your officers that went would have been looking under what legislation? They had gone to see if there is any ...

Director, Development Control:

On the case quoted? Yes, the enforcement officer went to see if there was any breach of the Planning Law. So anything that did not comply with this General Development Order that I quoted

earlier and assuming that there was not, they would just close the inquiry. But they had been asked to go round and see, so they went round and saw.

Deputy M. Tadier:

Can I just ask, because we are trying to, I am not trying to put you under any unnecessary duress but we are trying to establish because we know that there is a problem emerging with nosey neighbours as the slightly circuitous headline in the *J.E.P. (Jersey Evening Post)* says. So when your officers went round you have told us that you do not need permission to erect a C.C.T.V. So what kind of infringement was there likely to have been or possible could there have been?

Director, Development Control:

The way the law is expressed, it is expressed in a generality so that the C.C.T.V. is one of many things that you can do within the boundaries of a property. Other examples are lamp standards, seats, cycle racks, et cetera, et cetera. But there are a couple of conditions. So if those conditions are not complied with then the work is not considered to be permitted development under this General Development Order. So for instance, if it was a listed building, a potential listed building or in a conservation area or in an area of archaeological potential or if any part of the work being done is outside the boundaries of a private way which is the way that this is expressed in the law here, within the boundaries of a private way.

Deputy M. Tadier:

So essentially that was the third part which you could have investigated in the course.

Director, Development Control:

Yes; I think we were just going to check that everything was in order.

Connétable M.P.S. Le Troquer:

Then you normally deal with that by way of what? Advice? Or do you have to do some sort of order?

Director, Development Control:

No, no. If everything was found to be within the law, then we would just close the investigation and say: "I am sorry. There is nothing we can do."

Connétable M.P.S. Le Troquer:

If it was not?

Director, Development Control:

If it was not, then we would immediately ask the person involved to either take it down or to make a retrospective planning application.

Deputy M. Tadier:

We are concerned that it probably was not a very good use of your time. I suspect that you would have known before you even sent anyone down that you were not going to be able to do anything; 90 per cent sure.

Director, Development Control:

When somebody makes a complaint, we do take them seriously and we do like that customer to have a service, even if it only involves half an hour or 40 minutes of a site visit, we like to check that everything is okay. It is just one of the things we like to do.

Deputy M. Tadier:

In that kind of situation where somebody has a complaint about an invasion of their privacy, who should that fall with ultimately? At the moment we have a gap in the law, it seems. There are some people, like the Data Protection officer suggesting that this could be taken up under Planning provisions. I am not sure if that is buck-passing or if that is genuine, but where would you see it lying initially? Perhaps that is for the Minister.

The Minister for Planning and Environment:

That is a tricky one, I think, because at the moment there is perhaps a legitimate police interest in terms of external surveillance work, but for domestic, yes, there might well be something that we could undertake.

Deputy M. Tadier:

Would there be limitations on that?

Director, Development Control:

I think there are limitations on all work that comes.

Connétable M.P.S. Le Troquer:

Possibly the commissioner has far less staff, I suppose, although that is a role - a role of the department rather than yourselves. So I suppose that would be the ultimate that you have more staff, but then you have a far bigger role.

Director, Development Control:

I think it depends on where you come from on this subject. I mean, if you have privacy as a human right which it surely must be, then surely the correct primary legislation for that is human rights legislation.

Deputy M. Tadier:

You are right. I think it is Article 8 under the Human Rights Law says there is a right for private and family life. So as a government as a whole we have a duty to enforce that. But it is a case of do you enforce it under the Data Protection Commissioner; do you do it via Harassment Law; do you do it via Planning, or do you do it by all 3?

The Minister for Planning and Environment:

I do not know. To my way of thinking it imposes other difficulties in other areas. As you were saying, if a person does have a right to expect privacy, to what extent do you take it? If somebody takes your photograph you could argue, I would have thought, that that is a limited form of C.C.T.V. although it is just one picture at a time. Likewise, if you look at somebody a long way, that is an invasion of their privacy if they are in a position of undress or this, that and the other. I do not really know. I think there are wider issues which start to blur as to what extent limitations should be applied through the Planning Department or any other department.

Connétable M.P.S. Le Troquer

I suppose you could look at it in 3 ways. You have the totally private house; I know there are always going to be grey areas. You have the totally private house; then you have the commercial type premises, say Marks and Sparks and the bigger shops in town businesses and then you have the police. So, you would not have any input in the way the police put up C.C.T.V.?

The Minister for Planning and Environment:

Not necessarily, I do not think, unless they are buildings that are designated as listed buildings and the erection of the cameras would be deemed to be destroying some part of the fabric of the building.

Connétable M.P.S. Le Troquer:

We have seen how they have increased following this morning's interview, the amount of cameras that have increased since they first introduced them. So unless there was, as you say, a protected building of some sort, they could just put them up where they like without coming to Planning.

Director, Development Control:

That is correct.

The Minister for Planning and Environment:

That is correct, but it is not just to my knowledge. The police are erecting C.C.T.V. cameras over an issue involving kind of alleged damage to a boat up the Bouley Bay and a big dispute between boat owners and fishing interests. The harbours and airports have decided to put up cameras in order to try and find out who is causing the damage. So there is another department there who has taken upon themselves to erect C.C.T.V. cameras in a semi kind of police type way in order to ascertain who is causing the damage.

Connétable M.P.S. Le Troquer:

They can be patched through to the police.

The Minister for Planning and Environment:

They could be. I do not know whether it is.

Connétable M.P.S. Le Troquer: It is; yes.

Deputy M. Tadier:

Can I just get this straight? Anything that the police cameras that are on buildings in town which may be private buildings and harbours, do they apply for planning permission to put them up? Do they need to do that? No?

Director, Development Control:

No; they do not because, as I said, the General Development Order gives power to Ministers to carry out those functions. So it sits within part 6 of the General Development Order which is the development which can be carried out by providers of public services and utilities and it specifically talks about within the public authority.

Deputy M. Tadier:

So even on private property the Minister could give permission for a camera to be put there by the police, but the same camera can be put there by an individual without applying for permission.

Director, Development Control:

That is right. The individual's rights relate to their own land, but the public authority is not restricted, on my reading of the law anyway.

Connétable M.P.S. Le Troquer: This is the Home Affairs, in this case.

Director, Development Control:

It could be, but it could be the Minister for Housing, for instance, or it could even be the Minister for the Environment and Planning on areas which cover their own jurisdiction.

Deputy M. Tadier:

And that would be done by ministerial decision most of the time, would it, if at all? It does not come to the States; so I guess it would be.

Professor W. Webster:

Could I ask a point of clarification? When you were talking about the installation of cameras in domestic, private settings you were likening a camera to, for example, any other part of a development that they might have on their property. What would happen in the planning process?

[14:15]

I am not an expert on planning, but what would happen, for example, if a private resident wanted to have an extension and they wanted to have some windows which clearly overlooked a neighbouring property? Are there provisions in current legislation to stop that happening? And if so, can that not then be applicable to C.C.T.V.? Is that not a better comparison than having a gazebo or a park bench I think was the example you gave?

Director, Development Control:

What I was trying to do ... Professor Webster was just to illustrate where in the legislation the allowance for C.C.T.V. cameras was located, and it was next to a bunch of other things. But your point is well made. Clearly, if somebody applies for an extension next to their neighbour and it has windows overlooking the neighbour's rear garden, we will act either to prevent it by refusing it, or by negotiating a different solution. So, yes.

Professor W. Webster: So there are provisions in the current legislation to allow you to act.

Director, Development Control:

They are policy provisions, not legal provisions; but they are policy provisions set out within our local plan.

Deputy M. Tadier:

Is there a paradox in one sense, because you know, I have been to Planning before and heard exactly those kind of cases where overlooking is always one of the major considerations? But you could have a scenario where one planning application would be refused because it was

overlooking. But if there were no windows but 4 video cameras pointing in someone's garden that would not be a consideration for you at the moment.

Director, Development Control:

It cannot be a consideration when the C.C.T.V. cameras are exempt from control under the law.

Deputy M. Tadier: It seems the first thing we need to do is make them un-exempt.

Director, Development Control:

Well, I wondered about that because I obviously knew I was coming here today and I was thinking about that in advance. It seems to me that the issue here is about unreasonable behaviour on the part of the people doing the surveillance. Clearly you could put a surveillance camera over somebody else's property which would cause some nuisance. Equally you could stand on a stepladder and take photographs with a camera or you could look out of a window or whatever, to create unreasonable behaviour.

Deputy M. Tadier:

The window example is a good one, is it not, because you could say that having windows there in itself is not a problem; just we do not want standing in front of your window all day looking at the neighbour sunbathing is a problem. Therefore it is an enforcement issue, not necessarily a planning issue.

Director, Development Control:

Yes; but I am saying that I was wondering if the right way to approach this is to enforce the unreasonable behaviour in that sense, rather than to enforce the camera on its own. Because you can enforce the camera, but then equally have some different form of unreasonable behaviour which still loses that person's privacy.

The Minister for Planning and Environment:

I think you are generally right. There is an anomaly in my mind because certainly we do quite often impose further restrictions on planning applications if we consider that there is an overlooking potential by calling for scored glass or whatever.

Connétable M.P.S. Le Troquer:

This week we have looked at the example may be at the Police Station; I hear the Police Station is going to be something. Where you have flats next door who can overlook the Police Station. The Police Station will have to be blocked for the flats. The cameras would have to be blocked so they cannot view the flats. But the flats could view the Police Station.

The Minister for Planning and Environment:

I think you probably could, but I think the argument being one is that you have policemen in the building impacting on a private residence and that is deemed to be less acceptable than the other way round. The other issue I suppose is to what extent do you take these things? The purchase of a telescope must be openly admitted, but again it is down to the user. If you set your telescope up in order to deliberately overlook your neighbour in order to behave in the same way as a C.C.T.V. camera is operating, or indeed to record whatever you can see through the telescope, does that imply that we should have licensing agreements to purchase that equipment?

Deputy M. Tadier: The thing with the windows is I think it is cameras specifically to survey things or people, whereas the windows also let in light. It seems that there should be more care taken about video cameras and where they are placed and what the field of vision is, I guess.

Director, Development Control: I think they probably should be; yes.

Professor W. Webster:

Could I just ask another point of clarification? I think, again I am not an expert on Planning Law but I think that, if I understood correctly, you were saying that on a private property someone could install a camera and you do not have the authority to make them take it down. But on the same property, if they put a sign up saying: "We have C.C.T.V. on this property" there would be lots of circumstances where you could go in and enforce them to take that sign down, which seems rather odd to me.

Director, Development Control:

It is not really, because there are allowances for signs as well within a separate piece of legislation which I have not brought with me today, but the advertisement regulations do allow for small signs to be put up on property without consent.

Connétable M.P.S. Le Troquer:

The States Police now want to put signs on their 23 cameras which they do not have at the moment. Would they need your consent in town?

Director, Development Control: No.

The Minister for Planning and Environment: Not even if they were very large signs?

Director, Development Control: They would have to be more than 2 metres square. So, yes.

The Minister for Planning and Environment: They would in some instances.

Deputy M. Tadier: What about colours if they wanted to paint them high-vis?

The Minister for Planning and Environment: That is part of the considerations for whether or not a sign is deemed to be acceptable or not.

Deputy M. Tadier: But for the actual camera itself, is it known? They are not likely to spot.

The Minister for Planning and Environment: No; that is part of the reason ...

Director, Development Control:

There would be no control over colour, just as there is no control over the colour of buildings; painted buildings anyway.

Connétable M.P.S. Le Troquer:

Obviously people will start phoning after tonight's *J.E.P.*; a couple of things this week. I mean you take the calls if they come to Planning first. But would you be diverting or directing to Data Protection rather than yourselves because your hands are so tied?

The Minister for Planning and Environment:

In the instance I was referring to earlier we did do that in addition to the officer calling.

Deputy M. Tadier:

What we found interesting is that there is a limited knowledge about where all the cameras are in Jersey, or the domestic ones in particular, although good practice would be for the Data Protection Officer, the Commissioner, to be informed when a new camera is set up. But there is no obligation for that. Do you think that your department could help in that in any way?

The Minister for Planning and Environment:

I think it possibly could do, but the nature of these cameras sometimes is to put the camera in an observable position and not to actually run it.

Connétable M.P.S. Le Troquer: Not to actually ...?

The Minister for Planning and Environment:

Not to actually have any film or opportunity to record anything. You are using it as a visual deterrent for changing people's behaviours. So that is 6 of one and half a dozen of the other, so to speak.

Connétable M.P.S. Le Troquer: If you can register all mobile phone licence ...?

Director, Development Control: We do.

Connétable M.P.S. Le Troquer: That is by law, or is that ...?

Director, Development Control: No. It was by agreement when the mobile systems went into Telecom; sold, I think.

The Minister for Planning and Environment:

It was mainly based on considerations being expressed by other States Members and members of the public that perhaps there were problems with the intensity of the emissions coming out. So it was decided at the time that an Island register that could be openly viewed would give persons who chose to walk along a different route and not to be, if you like, in the direct firing line of the site of these masts.

Connétable M.P.S. Le Troquer:

It would be members of the public obviously thinking the same thing; some members of the public. We can understand that, that they are concerned about. There are cameras around the Island and there is no actual master copy of where they are.

Director, Development Control:

The only way we could come forward with some sort of register that you are suggesting would be if we captured the requirement or changed the requirement for people to apply for permission for C.C.T.V. Otherwise we just would not know. I mean, they are quite small, some of these bits of kit, and a bit like putting an outside light on the side of your house. We do not capture that either, and we do get calls about light nuisance as well, transferring when a cat runs across and trips the sensor and a light comes on and it shines and wakes the neighbour up. We get complaints about that. But this issue of nuisance between neighbours is quite a delicate matter.

Deputy M. Tadier:

Is that Environmental Health then? Things like light pollution. Is that administered by Health or by your department?

Director, Development Control:

It certainly is not our department. I would imagine it would be Health, although I would imagine also that it would be quite a high bar to jump over in order to claim a nuisance from an electric light.

The Minister for Planning and Environment:

There are certainly some cameras I think most people would not object to and one just has to think of the cameras that have been set at various times by Transport and Technical Services probably with the permission and oversight of the police in order to test the traffic and to ensure that roads are free or to send out public messages to the public when snarl-ups occur and what have you.

Connétable M.P.S. Le Troquer:

What of the large developments, a large hotel refurbishment, total refurbishment? Do you have any say at all where the C.C.T.V. might go in their hotel, inside? The planning permission is passed or it may be a large supermarket or something. It is then totally up to ...

Director, Development Control:

I think it comes down to a legal definition of what is development. The Planning Law is to control development and if you are talking about particularly cameras on the inside, that is not an element. Anything that happens inside once the approval is given, is not ...

Connétable M.P.S. Le Troquer:

That is where Data Protection would kick in, I take it, if they are breaching any policies and that is what we have been into.

Deputy M. Tadier:

Is it fair to say that the most complaints that are made about video cameras, whether it is to yourselves or elsewhere, are not due to the visual aspect of the camera; it is due to the infringement of privacy?

Director, Development Control: Yes.

Deputy M. Tadier:

It seems to me on that basis that it would be very strange to put any regulation for cameras with your department, because people are not worried about the visual aspect of it. They are worried about the filming capabilities. Is that a fair ...?

Director, Development Control:

Yes; which is the point I was making about a stepladder. Yes, I would agree with that.

Deputy M. Tadier:

Because it is no different to a gargoye, is it? You could have a gargoye outside your house or a video camera as long as it is within the planning guidelines. There is no distinction in your mind.

Connétable M.P.S. Le Troquer:

You get something like that - what you assume is a camera which is allowed and now you have these small little things, half this size. Do you have any say in things like that? You do not want the States Police to be putting up huge cameras, do you?

Director, Development Control:

No; there is nothing in there at all. I mean, that is not to say that there could not be because this is an order which is made by the Minister; so an order can be changed by the Minister. So that is something; these orders do change from time to time. In fact we are due to review this document in the second half of this year for a number of reasons, because it covers all manner of things.

Deputy M. Tadier: What about new buildings? Is it easier to take video cameras into consideration more easily?

Director, Development Control: No.

Dr. P. Fussey: Are you able to give us a very rough idea of the scale of the problem? Is it just that you have only ever had one complaint, or is it something that happens weekly or just as a rough idea of these sorts of complaints about domestic C.C.T.V.?

The Minister for Planning and Environment: This year I have had 2.

Dr. P. Fussey: Two this year, and the previous year?

The Minister for Planning and Environment: Last year, none.

Dr. P. Fussey: Okay; thank you.

Deputy M. Tadier: One of these incidents can take long, you know?

The Minister for Planning and Environment: No.

Connétable M.P.S. Le Troquer:

Is there anything that we as a panel then can recommend? Do you think there is a need for us to be doing anything in relation to planning laws, or are you happy to leave it with Data Protection? We have to do recommendations and you are very limited.

The Minister for Planning and Environment:

I think generally it is more a case of the use of the cameras rather than the positioning of the cameras; although the positioning of the cameras can lead to discussions over the use of the camera. So I think from the Planning point of view I think we are going to more concerned at this stage of the issues with listed buildings or kind of size of cameras and colour and all that type of thing, rather than the actual use of the piece of equipment. I think from my perspective as I have indicated earlier, there probably is a requirement for a tightening up of whatever legislation is possible in order to assure people of their human rights and to step into the frame to sort out warring neighbours if indeed people are doing things they really know do cause their neighbours a problem but for whatever reason do not wish to desist from.

Connétable M.P.S. Le Troquer: How many enforcement officers do you have for this sort of work?

The Minister for Planning and Environment: Two.

Connétable M.P.S. Le Troquer: Just the 2.

Dr. P. Fussey:

Just before we exhaust the conversation about the possibilities of the Planning, could you just briefly describe the enforcement officers, or the process of enforcement? So whether that be slightly beyond my kind of development, what is the general process?

Director, Development Control:

Typically we receive a complaint from a member of the public and that comes into our enforcement team, and one or other of the enforcement officers will log it on computer. Then they will do a double-check, cross check in the office to see whether there has been any recent planning permissions in that area or on that property that the complaint is about. Because frequently people will say: "Oh, an extension been built at number 6" and we look at it and sure enough, permission for an extension at number 6. So there is likely to be not much wrong. But then there is a site visit and notes taken and sometimes people are interviewed if there is a need to speak to people about these things; and again come back to the office, check things out against the office systems, speak to maybe the planning officer. Then the investigation can either be closed; if there

is nothing amiss, closed straight away. Or if not it can trundle on to other actions if those are necessary.

Dr. P. Fussey:

In terms of those other actions, does it get to a point where you have only have 2 permanent enforcement officers full time for someone who has built say 20 cm beyond that you kind of say: "Well, it is not really expedient." I mean, is that the general outcome?

Director, Development Control:

Sometimes, yes. It is within the power of the Minister to decide whether it is expedient to enforce something. But I would not want to give the impression that we just go around saying: "Yes, that is okay" if people are not building to their plans. We do take that quite seriously and sometimes we will ask them and say: "Well, I am afraid you ought to adjust your plans to meet what you built and we will decide whether that is okay."

Dr. P. Fussey: Yes.

Director, Development Control:

Because sometimes it is a couple of centimetres; sometimes several feet and that can have a difference.

Dr. P. Fussey:

So yes, and obviously I do not expect you to say: "Actually we do not ..." I think what I am driving at, so you have a clear sense of what is permitted development, for example, and there is a negotiation that accompanies that, let us say, around enforcement, sometimes about inexpediency is one of those features of that discussion. Okay.

Deputy M. Tadier:

We talked about the fact that cameras in themselves, or could be a gargoyle for example, or something. For your purposes it does not matter what it is.

Director, Development Control:

That is right. We were talking about the visual aesthetic of the camera. As I said, this General Development Order could be amended to exclude C.C.T.V. cameras which would have the effect of bringing all C.C.T.V. cameras within planning control. But then the planning control would be around visual aesthetic. But then there would be an issue of privacy, and then there would be a policing and enforcement issue that Dr. Fussey was just referring to, within the planning system and that would become a very difficult matter, controlling the camera. How do you know where the

camera is pointing? How do you know what it is recording? These things are likely to be in their hundreds, if not thousands, I would expect across the Island.

Dr. P. Fussey:

Yes; that is kind of what I was driving at really in terms of ... There is no point saying that one should look to Planning if there is no prospect at all of ever being able to enforce it.

Deputy M. Tadier:

You could also pick cameras which are in the wall. You could have a completely flush camera, I guess, which has 180° or more or less capacity to film and it is not protruding at all. There are all sorts of possibilities. Is there any kind of halfway house that could be useful in terms of, you want to set up a camera, you have to apply to Planning for it, and all you would do then is say: "You have to register with Data Protection for us to give you permission for that camera."

Director, Development Control:

Yes, I think there could be something like that, so that perhaps you come to the Planning Authority with a certificate from whichever body saying: "We have a licence to operate a C.C.T.V. camera and this is what it is going to film, and there is our licence" and that becomes part of the planning assessment then. You can wrap it into that saying: "Yes, okay. That is fine." But whether the planning assessment is necessary then ...

Deputy M. Tadier:

I was going to say that. You are middle men. You may as well just go straight to ...

Director, Development Control:

The licensing authority, whoever that may be.

Deputy M. Tadier:

Then that is it.

Professor W. Webster:

I think the issue at the moment is that the Data Protection Commissioner is saying that those private systems are out of the scope of her legislation. So she cannot do anything. Individuals may approach her for advice and they may operate systems and handle information correctly, but she has no scope of any aspects of enforcement if, for example, a camera is overlooking neighbouring properties. So I think that the line of questions has been about whether or not it is a problem for your General Development Order and your legislation if there was an adjustment how C.C.T.V. was handled in domestic situations. I suspect that, for example, the case we have been

talking about, if your planning officers were able to have enforcement in this area and they turned up and the cameras were clearly pointed at the person's own property, they would have just turned round, filled out the paperwork and left it. But if it was very obvious that they were all pointing at a neighbouring property then they may have acted. That would be a reasonable assumption that they would have taken steps. They would have spoken to the owner and said: "This is against current good practice. The Planning Law says that you can have surveillance cameras; you can do what you like on your own property. But this is clearly not targeted at your property." Then you could act and take the various steps that Peter was talking about. So I think the dilemma for this Scrutiny Panel is that the Data Protection Commissioner is saying that she cannot act in these situations and therefore we are quite interested in exploring if you can. I guess my question then would be, is do you foresee any really difficult issues if we recommended that the status of C.C.T.V. in domestic properties changed within the General Development Order so that you had more control over misuse. I do not think we are suggesting that you check all systems; it would be an issue of those that come to light that you would check and then follow some sort of enforcement process.

Director, Development Control:

I am not clear that you could. At the moment the General Development Order includes C.C.T.V. cameras and once you exclude it, you bring that into control I think. We would have to have a discussion around whether or not erecting a C.C.T.V. camera is development. I think that is debateable as well, and as I said, the Planning Law is about controlling development. So without referring to some sort of legal test on that one, I think that is probably my answer on that. If it was decided that the erection of a C.C.T.V. camera is relevant and does fall within the context of the law, then I think that it would fall wholly to be determined and all of them would be. So unless you set certain parameters for these things, which is what the G.D.O. (General Development Order) does not do at the moment - it just allows them all - that would be potentially a halfway house, setting parameters around the control of those cameras.

Deputy M. Tadier:

If we could just recap something earlier, we did say that you do not need permission from the Minister to set up video cameras but you would for signage for video cameras. Is that right?

Connétable M.P.S. Le Troquer:

If they were big.

Director, Development Control:

I think you said that a sign on the camera, I think as I heard the question.

Deputy M. Tadier:

Well, either on the camera or in a zone to say the zone is being filmed. In that case would we need to amend the law?

Director, Development Control:

The Ministers also have permitted development rights to put up signs and there are limits to the size of those signs and where they are, the height of them and things like that. But they are different powers to this legislation. They are in the advert regs.

Connétable M.P.S. Le Troquer:

Do you have anything else? Thank you for coming in. Give you the chance if there is anything else that you want to say to us. We accept this afternoon, I think you have explained very clearly your very limited involvement in this aspect, but it has given us the opportunity this afternoon to listen. If there is anything we may have missed that you think we should know?

Director, Development Control:

Certainly from my perspective if a Scrutiny Officer wishes to contact us if they do not already have these documents, we are very happy to furnish you with them and highlight the parts where we believe C.C.T.V. cameras are excluded from the law at the moment.

Connétable M.P.S. Le Troquer:

Than you, Minister, and I close this meeting. Thank you.

[14:39]