

21.11.23

2 Senator K.L. Moore of the H.M. Attorney General regarding planning applications and the Island Plan (OQ.238/2021):

Will the Solicitor General advise whether, under Planning Law, a planning application submitted during the life of an Island Plan can be considered in relation to anything other than the Island Plan under which the application was submitted?

The Solicitor General (*rappporteur*):

Yes, planning applications fall to be considered in light of the Island Plan which is current at the time that the application is determined - and I stress determined. Article 19 of the Planning and Building Law provides that, and I quote: "In general terms permission shall be granted if the development proposed in the application is in accordance with the Island Plan." Article 1 of the same law then defines the Island Plan as, and I quote: "The Island Plan approved for the time being by the States." At the moment planning applications fall to be determined in light of the 2011 Island Plan as amended in 2014. Although, and this is a caveat, Article 19 provides that in general planning permission shall be granted if the proposed development is in accordance with the Island Plan. It also provides at paragraph 3 that permission may still be granted where the proposed development is inconsistent with the Island Plan if the decisionmaker is nonetheless satisfied that there is "sufficient justification for doing so". The other exception is Article 12 where the Minister decides to hold a public inquiry and he may do so where a planning application is substantially inconsistent with an Island Plan. So a planning application that falls to be determined during the life of an Island Plan can be considered in relation to things which are either in addition to the Island Plan or where the proposal is not consistent with the present plan. Whether or not those other factors provide sufficient justification to grant permission, notwithstanding the application does not fit with the Island Plan, is of course a matter for the decision-maker.