

4. Questions to Ministers Without Notice - The Minister for Planning and Environment

4.1 Deputy S. Power:

The Minister will be aware of guidance notes issued to members of the Planning Applications Panel in relation to protocol to meeting and having contact with developers, their agents and, indeed anyone who has a planning application at the department. Would he consider issuing a similar set of guidance notes to all States Members so that all States Members know how to deal with developers, their agents and planning applications and, indeed, that they know how not to deal with them?

Senator F.E. Cohen (The Minister for Planning and Environment):

This is a difficult question to answer because, really, it is up to each States Member to decide where they think the appropriate line is, and the same applies of course to members of the Planning Applications Panel on when they consider they are conflicted. There was some work done on this last year, and I will find out what stage the work is at and if it is possible to issue a set of guidelines or guidance notes, then I most certainly will do so, but of course it will be up to States Members individually to decide whether they wish to accept those guidelines or not.

4.2 Senator J.L. Perchard:

The Minister this morning, in a written response to a question from Deputy Le Claire's question 2, confirms that 2 planning applications have been received in respect of the Esplanade Quarter; one for the underground car park and road and one for 16 huge buildings on the surface and that he subsequently indicated to both States Members and the applicants that he is minded to approve the application. This worries me greatly. Will the Minister confirm that he will not approve any planning application submitted in the name of Harcourt Developments and the Waterfront Enterprise Board until such time as this States Assembly has approved that the development should proceed.

Senator F.E. Cohen:

That is pretty much the assurance I have already given. However, I must say that it would be for an applicant, if they felt aggrieved that I was delaying a decision, to perhaps bring a decision to early determination and of course if there was a court action requiring me to determine an application, then I would have no choice other than to do that. But it is certainly not my intention, as I have repeatedly explained, to determine the application before the States have had a chance to debate the development agreement.

4.2.1 Senator J.L. Perchard:

I must draw the Minister's attention to paragraph 3 of written answer 2 and I ask him and Members to access this paragraph in which he writes: "I am minded to approve the application once the issues raised by the inspectors have been addressed" and these inspectors are looking at the planning of the site and not the legal and technical nature with regard to the application and the ownership of the application. I am concerned that the Minister is forcing this issue. We know he is enthusiastic about this scheme but, really, we must be prudent at this time and hold back until this Assembly has approved the development and will the Minister confirm that he will do that?

Senator F.E. Cohen:

I would suggest that the Senator reads the whole of the answer because it is very clear in the whole of the answer what I intend to do. I will not be issuing a consent if I can avoid issuing a formal consent until the development agreement has been debated and decided on by the House. Thank you.

4.3 The Deputy of Grouville:

In 2008, the Assembly approved P.33 asking Planning to bring forward a scheme along the lines of Section 106 of the U.K. Planning Guidelines whereby large scale development, if appropriately located, has to provide a percentage of their build for social need. My proposition was approved in April 2008. That is 14 months ago. Could the Minister indicate when we might expect to see the scheme tabled?

Senator F.E. Cohen:

The answer is as soon as possible. There has been some significant work done on this. I have commissioned a report. The report is in draft form at the moment but I am afraid in the present housing conditions, it is very difficult to work out a mechanism that can be used across the broad spectrum of developments and we are still working on how to quantify the social housing requirements in relation to the various sites that will become apparent over the coming years.

4.3.1 The Deputy of Grouville:

The template is section 106 of the U.K. Planning Guidelines. His department does not have to reinvent the wheel. Does the Minister not appreciate the missed opportunities of homes that could have been provided for first-time buyers and the elderly in this 14-month delay?

Senator F.E. Cohen:

Yes, I do, but 106 is a much broader principle surrounding the whole spectrum of planning obligation agreements and this is a specific requirement we are talking about to deliver social homes on all large sites. I am afraid that we have not got, as yet, a workable mechanism that we are satisfied will deliver social housing without stalling the whole of the housing market and the range of provision of social housing is quite significant. What I am very happy to do is to circulate to Members an update of where we are and Members will understand the large range of opportunities, but it is very important that we deliver a mechanism that delivers social housing and does not just stall all development. Thank you.

4.4 Deputy R.G. Le Hérissier:

In the light of the inference of the Committee of Inquiry on Third Party Appeals that the system, sadly, was not working because there was always the possibility of a heavy legal bill; would the Minister outline whether he is now looking at other alternatives so that the excellent initiative of former Deputy Scott Warren will not be allowed to wither on the vine? Thank you.

Senator F.E. Cohen:

We are still in the early days of third party appeals and I still think, as I have said on a number of occasions before, that it is too early to determine how to change the third party appeal system. It undoubtedly will need changing but the early stage that we are at at the moment was of course identified in the Committee of Inquiry's Report. We are doing what we can to ensure the system runs smoothly, as is the court, and I am sure that there will be changes made to the system in time but I really do not think that there is anything that needs to be done that urgently in order to make the system work. It is working and it can be improved.

4.4.1 Deputy R.G. Le Hérissier:

Would the Minister not acknowledge that the very small numbers of appeals coming forward really reflects the fact that the legal cost issue has holed the whole project below the water line?

Senator F.E. Cohen:

When you are dealing with a legal process, I do not think it is possible to absolve all those wishing to use the court process from court costs and of course one must remember that if a third party appeal was lost or won, there is of course always the possibility of an appeal to a higher court.

4.5 The Deputy of St. John:

Could I have the Minister's views on the wash-off from land, particularly on the south coast which in fact is affecting the fauna and flora within the bay from Gorey down to the Ramsar area, shall we say? Can I have the Minister's views on a way forward to try and prevent the wash-off from getting into the sea please?

Senator F.E. Cohen:

The whole issue of wash-off and contaminants entering the sea of course is a very important issue where the Planning and Environment Department carries out a regulatory role, but it really is for Transport and Technical Services to deal with possible solutions to improve the situation. This is a matter that is common to all marine locations and, as Members will have seen from the recent beach reports for the whole of the United Kingdom, this was a significant issue in many other places. So I am afraid I do not have any specific answers for improvements but I am sure if the Deputy has any particular ideas, I would be very happy to hear them and will take them to T.T.S. Thank you.

4.6 Deputy P.V.F. Le Claire:

The Jersey Heritage Trust, I believe, are finding some issues in relation to funding challenging at this time. What is he doing in respect of these challenges that they are facing to help them get over this period of difficulty and what, in particular, is being done to increase the access to such historic places like Elizabeth Castle?

The Greffier of the States (in the Chair):

I am not sure that question falls within the Minister's remit.

Senator F.E. Cohen:

That is exactly what I was going to say but, very clearly, if there is anything that we can do to help Jersey Heritage Trust, particularly as I am a former Vice-Chairman of Jersey Heritage Trust, I would be very happy to see such help afforded to the Trust.

4.7 Deputy A.E. Jeune:

This is going back to an earlier question now of Senator Perchard. Can the Minister confirm my belief and understanding that when his department looks at plans that are submitted, it is the plan they look at and not the name of who is putting the plan in and, when it comes to development on land that is owned by the Island, it is not the Planning Department who decides whether that goes ahead? Thank you.

Senator F.E. Cohen:

I am not quite sure where the Deputy is coming from on this but I can assure Members that all applications are considered against the same set of criteria. Clearly, the name, for example, of an architect can be important but it is not the overriding factor. It can certainly help in the determination of an application and you do, after a period of time, get a feel for the schemes that are likely to be of quality and those that are not likely to be of quality but I can assure Members all planning applications are given a fair hearing against the same set of criteria.

4.8 Deputy T.A. Vallois:

Could the Minister advise how serious a breach of a planning condition needs to be before any action is taken by his department?

Senator F.E. Cohen:

This relates to a particular situation where we are doing everything we possibly can. The enforcement team is a very small team in fact and until quite recently we were down to one officer. We do everything we can within our resource to ensure that planning conditions are

enforced, but of course it is always open to an applicant to challenge a condition and to ask for the condition to be removed and that happens regularly.

4.9 The Deputy of St. Mary:

Can the Minister confirm that the Hopkins team doing the master plan are seriously considering putting housing on the Millennium Park site, thereby shrinking the greenness and the value of that? If so, does he have any feeling about whether this is somehow breaking the spirit in which the petition was presented to the States?

Senator F.E. Cohen:

I think it would be inappropriate at the moment for me to speculate on what I believe the Hopkins team are looking at because it is changing by the week. One thing that is for certain is that if there are any changes that relate significantly to the approval the States gave to the Town Park site that it will be brought back to the House to consider.

The Greffier of the States (in the Chair):

That concludes the 15-minute period allowed for questions to the Minister. There are no matters under J or K.

Deputy P.V.F. Le Claire:

May I ask that the questions that were not answered this morning be circulated by the Ministers to those who asked the questions, as has been in the case in the past please?

The Greffier of the States (in the Chair):

There is nothing in the Standing Orders that applies. It is a matter for the Ministers individually and for the Chief Minister perhaps to look at.

Senator T.A. Le Sueur:

It seems to have been tradition in the last few weeks that that should happen. Speaking for myself, I have no difficulty in doing that and I expect to circulate them later in the day. I will leave it to other Ministers and other questioners to decide for themselves, but with a strong recommendation that they do also circulate them.

Deputy P.V.F. Le Claire:

I thank my Chief Minister for my answer anyway.