

**WRITTEN QUESTION TO THE MINISTER FOR PLANNING AND ENVIRONMENT
BY DEPUTY M.R. HIGGINS OF ST. HELIER
ANSWER TO BE TABLED ON TUESDAY 26th JUNE 2012**

Question

Will the Minister advise Members, with regard to planning applications:

1. (a) the powers of, and relationship between, the Minister, the Planning Applications Panel and the delegated powers of his officers, and
 - (b) the circumstances in which one may overrule or vary the decisions of the others.
2. The procedure(s) adopted when the Planning Applications Panel rejects an application which is subsequently resubmitted to the Department and which
 - (i) has successfully met all the objections of the Panel;
 - (ii) has successfully met some of the objections of the Panel.
3. The nature and extent of the powers that have been delegated to officers?

Answer

1. (a) The Minister has delegated functions conferred upon or vested in him by virtue of the power conferred on him by Article 28(1) of the States of Jersey Law 2005 and article 9A of the Planning and Building (Jersey) Law 2002, as set out in the Scheme of Delegation for the Minister for Planning and Environment. Those parts of the Scheme of Delegation relating to Planning and Building services are included in Appendix 1 below.

In December 2011, the Minister approved an updated *Determination of Planning Applications: Code of Conduct for Minister for Planning and Environment*. The code of conduct ensures that there is a clear framework in place that indicates when the Minister might become involved in the consideration of individual development proposals. This framework assists the Minister, States Members, members of the public and Officers in understanding in what circumstances the Minister might become involved in considering development proposals. The code of conduct is published on the States of Jersey website.

The Planning and Applications Panel (PAP) also work against an approved code of conduct.

- (b) (i) An application refused by the Department under delegated powers may be reviewed by the Planning Applications Panel if the applicant requests reconsideration.
 - (ii) A decision of the Planning Application Panel may be reviewed by the Minister if it is contrary to Department Advice.
 - (iii) A decision of the Minister cannot be reviewed, unless the Minister himself chooses to revoke a permission using his powers under Article 27 of the Planning and Building (Jersey) Law 2002.
2. There are no particular procedures set out for the examples quoted in the Deputy's question. Each new application is fully assessed based on its merits and the material considerations which apply to it at that time, notably the 2011 Island Plan.
3. Please refer to the answer given to question 1 (a) above.

Appendix 1

Scheme of Delegation for the Minister for Planning and Environment		
December 2011		
2. By virtue of the power conferred on him by Article 28(1) of the States of Jersey Law 2005 and article 9A of the Planning and Building (Jersey) Law 2002 the Minister has delegated the following functions conferred upon or vested in him		
Law	Detail/Involves	Delegated to whom
Planning and Building (Jersey) Law 2002.		
APPLICATIONS FOR PLANNING PERMISSION		
Article 9 (5) Article 9 (6)	Determining that an application has been properly made, that sufficient information is accompanying the application and that if this is not the case that the application can be refused.	<ul style="list-style-type: none"> • the Planning Applications Panel • the Chief Officer – Planning and Environment; • the Directors of Planning Development Control and Policy and Projects; • the Principal Planners and, Principal Historic Environment Officer and • the Senior Planners & Assistant Senior Planners
Article 11(3)	Determining that an application has been publicized in accordance with the Planning and Building (Application Publication) (Jersey) Order 2006	
Article 11(4)	Taking into account representations received in connection with a planning application	
Article 11(5)	Requiring evidence to demonstrate that an application for planning permission has been publicised or notified in the appropriate manner	
Article 11(6)	Provision of a copy of any part of an application for consideration or comment	
Article 13(1) Article 13(2) Article 13(3)	Determination as to whether an application for planning permission should be the subject of an Environmental Impact Assessment (EIA) and consideration of applications accompanied by an EIA	

Article 14	Consideration of any comments received from the relevant Highway Authority (if any) in respect of any effect any development that might have on highway safety	<ul style="list-style-type: none"> • the Planning Applications Panel • the Chief Officer – Planning and Environment; • the Directors of Planning Development Control and Policy and Projects; • the Principal Planners, Principal Historic Environment Officer • the Senior Planners & Assistant Senior Planners
Article 15	Consideration of any comments received from the Minister for Economic Development in respect of any effect any development might have on the harbour or airport	
Article 16	Consideration of any comments received from the Minister for Transport and Technical Services in respect of any effect any development might have sewerage or drainage system, flood defence works, surface water issues or water quality.	
Article 17	Consideration of any comments received from any Minister or other body created by statute who has an interest in an application for planning permission	
Article 19 (save for Article 19(3))	Granting of planning permission either without conditions or subject to conditions following the submission of an application	
Article 19(3)	Grant of planning permission inconsistent with the Island Plan	<ul style="list-style-type: none"> • the Planning Applications Panel
Article 20	Grant of planning permission for development already undertaken following the submission of an application. Grant planning permission for a development that does not accord with a condition attached to a previously granted planning permission	<ul style="list-style-type: none"> • the Planning Applications Panel • the Chief Officer – Planning and Environment; • the Directors of Planning Development Control and Policy and Projects; • the Principal Planners, Principal Historic Environment Officer • the Senior Planners & Assistant Senior Planners
Article 21	Variation of a condition attached to a previously granted planning permission following an application to vary the condition	
Article 22	The giving of reasons for the grant or refusal of an application for planning permission	
Article 23	The attaching of appropriate conditions to any grant of planning permission	
Article 26	Termination of a planning permission which has been commenced but not completed by reference to time limit	
Article 28	Provision of a certificate of completion of a development	

APPLICATIONS FOR BUILDING PERMISSION (BUILDING BYE-LAWS APPROVAL)		
Article 34 (4)	Refusal of an application for building permission on the basis of appropriate details not being submitted	<ul style="list-style-type: none"> • the Chief Officer – Planning and Environment; • the Director of Building Control;
Article 35(2)	Granting of Building permission that is inconsistent with the Building Bye Laws	
35(3) & 35(4),	Granting or refusal of Building Permission (Building Bye Laws)	<ul style="list-style-type: none"> • the Chief Officer – Planning and Environment; • the Director of Building Control; • the Directors of Planning Development Control and Planning Policy and Projects; • Principal Building Control Surveyors; • Senior Building Control Surveyors; • Building Control Surveyors;
Article 36	Giving of reasons for the refusal of Building Permission (Bye Laws)	
Article 35(2)	Granting of Building permission that is inconsistent with the Building Bye Laws	<ul style="list-style-type: none"> • the Chief Officer – Planning and Environment; • the Director of Building Control;
ENFORCEMENT OF PLANNING AND BUILDING CONTROLS		
Article 40	Service of an Enforcement Notice where there has been a breach of Development Controls (Planning Controls and Building Controls)	<ul style="list-style-type: none"> • the Planning Applications Panel • the Chief Officer – Planning and Environment;
Article 42	Variation or withdrawal of an Enforcement Notice	
Article 45	Service, alteration or withdrawal of a Stop Notice	<ul style="list-style-type: none"> • the Directors of Building Control; Planning Development Control and Planning Policy and Projects • the Principal Planners, Principal Historic Environment Officer and Principal Building Control Surveyors;
Article 47	Service of an Enforcement Notice in respect of non-compliance with a condition attached to a planning or building permission	

SITES OF SPECIAL INTEREST		
Article 51	Maintenance of a List of Sites of Special Interest	<ul style="list-style-type: none"> • the Chief Officer – Planning and Environment; • the Director of Planning; • the Assistant Directors of Planning; • the Principal Planners, Principal Historic Environment Officer • The Director of Environment; • The Director Environmental Management and Rural Economy; • The Principal Ecologist
Article 52	Adding or removing of a building or place on the List of Sites of Special Interest	
Article 53	Provisional Listing of a building or place	
Article 54 (2)(a)	Grant of permission to carry out works to an SSI which whilst not amounting to development would affect the character of the SSI	<ul style="list-style-type: none"> • the Planning Applications Panel • the Chief Officer – Planning and Environment; • the Directors of Planning Development Control and Policy and Projects; • the Principal Planners, Principal Historic Environment Officer • the Senior Planners & Assistant Senior Planners • the Director of Environment; • the Director Environmental Management and Rural Economy; <p>the Principal Ecologist</p>

Article 55 (3)	This relates to allowing activities which are restricted on SSIs	<ul style="list-style-type: none"> • the Planning Applications Panel • the Chief Officer – Planning and Environment; <p>In relation to those activities indicated in Article 55 (1)(a) & (b)</p> <ul style="list-style-type: none"> • the Directors of Planning Development Control and Policy and Projects; • the Principal Historic Environment Officer <p>In relation to those activities indicated in Article 55 (1) (c) (relating to those activities stipulated in Article 55 (2))</p> <ul style="list-style-type: none"> • The Director of Environment; • The Director Environmental Management and Rural Economy; • The Principal Ecologist
PROTECTED TREES		
Article 58	Maintenance of a List of Protected Trees	<ul style="list-style-type: none"> • the Planning Applications Panel • the Chief Officer – Planning and Environment; <p>the Directors of Planning Development Control and Policy and Projects;</p> <ul style="list-style-type: none"> • the Principal Planners, Principal Historic Environment Officer • the Senior Planners & Assistant Senior Planners <p>the Director of Environment;</p> <ul style="list-style-type: none"> • the Director Environmental Management and Rural Economy; • the Principal Ecologist
Article 59	Adding or removing a tree on the List of Protected Trees	
Article 60	Provisional listing of trees	
Article 61(1)(a)	Grant of permission to carry out works to a Protected Tree	

DANGEROUS STRUCTURES		
Article 66	Serving of a dangerous buildings notice	<ul style="list-style-type: none"> • the Chief Officer – Planning and Environment; • the Directors of Planning Development Control and Planning Policy and Projects and Building Control; • Principal Building Control Surveyors; • Senior Building Control Surveyors; • Building Control Surveyors;
Article 68	Variation or withdrawal of a dangerous building notice	
Article 71	Immediate action to ensure safety of a building This includes powers of entry to carry out any such works	
PLANNING OBLIGATION AGREEMENTS		
Article 25	Entering into a Planning Obligation and modifying or discharging all or part of the obligations of that Agreement.	<ul style="list-style-type: none"> • the Chief Officer – Planning and Environment; the • Directors of Planning and Development Control and Planning Policy and Projects
CARAVANS		
Article 99	Permission to import a caravan, campervan or any other vehicle with sleeping etc accommodation	<ul style="list-style-type: none"> • the Planning Applications Panel • the Chief Officer – Planning and Environment; • the Directors of Planning Development Control and Policy and Projects; • the Principal Planners and, Principal Historic Environment Officer and • the Senior Planners & Assistant Senior Planners • Enforcement Officers
Article 101	Attaching of conditions to the importation of a caravan etc	

ENVIRONMENTAL IMPACT ASSESSMENTS		
Planning and Building (Environmental Impact) (Jersey) Order 2006		
Article 3	Whether an environmental impact statement is required	<ul style="list-style-type: none"> • the Chief Officer – Planning and Environment; • the Directors of Planning Development Control and Planning Policy & Projects;; • the Principal Planners Development Control,
Article 4	What information (the Scope) should be provided in an environmental impact statement.	
PUBLICITY FOR PLANNING APPLICATIONS		
Planning and Building (Application Publication) (Jersey) Order 2006		
All of the powers and responsibilities conferred in the Minister	Powers relating to the publicising of applications for planning permission including extending the publicity period for more than 21 days and re-advertising a proposal	<ul style="list-style-type: none"> • the Chief Officer – Planning and Environment; • the Directors of Planning Development Control and Policy and Projects; • the Principal Planners, Principal Historic Environment Officer • the Senior Planners & Assistant Senior Planners
PUBLIC INQUIRIES (FOR INFORMATION)		
Planning and Building (Public Inquiries)(Jersey) Order 2008		No powers delegated
MOVEABLE STRUCTURES		
Planning and Building (Moveable Structures) (Jersey) Order 2006 (after Article 81 Of the Planning and Building (Jersey) Law 2002		
All the functions conferred upon or vested in the Minister	Grant of permission for an moveable structure (as defined by the order) attachment of conditions on a grant of permission and allowing retrospective permission	<ul style="list-style-type: none"> • the Chief Officer – Planning and Environment; • the Directors of Planning Development Control and Policy and Projects; • the Principal Planners, Principal Historic Environment Officer • the Senior Planners & Assistant Senior Planners

CONTROL OF ADVERTISEMENTS

Planning and Building (Display of Advertisements)(Jersey) Order 2006

(after Article 76 of the Planning and Building (Jersey) Law 2002)

All the functions conferred upon or vested in the Minister	Grant of permission for an advertisement, attachment of conditions on a grant of permission and allowing retrospective permission	<ul style="list-style-type: none"> • the Planning Applications Panel • the Chief Officer – Planning and Environment; • the Directors of Planning Development Control and Policy and Projects; • the Principal Planners, Principal Historic Environment Officer • the Senior Planners & Assistant Senior Planners
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HIGH HEDGES

By virtue of the power conferred on him by Article 28(1) of the States of Jersey Law 2005 and subject to the conditions set out below, the Minister has delegated the functions conferred upon or vested in him under –

High Hedges (Jersey) Law 2008

Article 6	Whether a complainant has taken steps to resolve the situation, whether the complaint is frivolous or vexatious or whether the complaint is justified	<ul style="list-style-type: none"> • the Chief Officer – Planning and Environment; • the Directors of Planning Development Control and Policy and Projects; • the Principal Planners • the Senior Planners & Assistant Senior Planners <p>,NOTE – the Planning Applications Panel do not have any powers to determine High Hedges applications as neither the States of Jersey Law 2005 or the High Hedges (Jersey) Law 2008 allow for such a delegation</p>
Article 7	Issuing of a Remedial Notice provided that the Owner of the Hedge has not made any representation in connection with the Complaint	
Article 9	Withdrawal of a Remedial Notice and issuing of an amended Notice if appropriate	

The conditions
1. Authorized Officers refer to those Officers indicated in the table above.
2. Proposals which, if approved, would involve a Departure from the Island Plan, any guidelines or policies published in accordance with Article 6 of the Planning and Building (Jersey) Law 2002 or any other approved planning policy or Ministerial Guidance may only be considered by the Planning Applications Panel (PAP) and where, in its opinion, there are good grounds to consider approving the application it may grant such a permission;
3. Where the Planning Applications Panel is minded to reach a decision on an application which is fundamentally contrary to the Department's recommendation, the decision will not be taken at that meeting, but referred to the Minister, who may seek further information, issue advice to the Panel, or decide the application him/herself. (After Ministerial Decision MD-PE-2006-0012)
4. Neither the Planning Applications Panel, nor any authorized officer, will make any decision or otherwise exercise any function in any case in which the Minister has given notice that he wishes to make the decision or exercise the function himself. Such indication may be given at any stage prior to the making of the decision or exercise of the function in pursuance of the delegated powers.
5. Where it is considered beneficial, the Minister may sit with the Planning Applications Panel
6. In relation to all powers indicated above - save for those in relation to the Building Bye-Laws, Dangerous Structures and Caravans - all decisions made by an authorized officer will be made on the basis of a recommendation from another Officer. Any such recommendation shall be made in writing and must identify all the material considerations relevant to the decision to be taken or the action to be taken.
7. In considering applications for planning permission, authorized officers may determine applications where representations have been received where those representations have been accommodated by revisions to the application or by the imposition of relevant conditions.
8. In considering applications for planning permission, authorized officers may determine applications where representations have been received from 3 or less individuals, where each individual appears to be from a separate address – when the representations are contrary to the recommendation

9. In deciding whether to include a building or place on a List of Sites of Special Interest authorized officers may take a decision when representations have been received in connection with the process but where those representations not material in considering whether to include the building or place on any List

10. In deciding whether to include a tree or group of trees on a List of Protected Trees authorized officers may take a decision when representations have been received in connection with the process but where those representations are not material in considering whether to include the tree or group of trees on a List.

In deciding an application and any requirement for remedial action in connection with a submission under the High Hedges (Jersey) Law 2008 authorized officers may only make a decision when representations have not been received from the owner of the hedge that is the subject of the application.