

2018.07.10

6.1 The Deputy of St. Peter of the Minister for the Environment regarding the construction of the hospital catering facility at St. Peter's Technical Park:

Is the Minister aware of concerns from the residents of Ville du Bocage, regarding noise and vibration disruption from the construction of the hospital catering facility at St. Peter's Technical Park; and, if so, what action has been and will be taken?

Deputy J.H. Young (The Minister for the Environment):

I am aware of concerns from the residents, regarding noise and vibration from the construction of the new hospital catering facility at St. Peter's Technical Park, both from comments made to me by residents and emails and from the Deputy and Constable, both prior to my election as Minister and subsequent. I have asked for a report from the Environmental Health Officer and officers from the Environmental Health have been involved in monitoring the construction work, including noise and vibration levels since it started and visited the site on numerous times. The team used sophisticated state of the art monitoring equipment and is very experienced and qualified in acoustics and noise. I, personally, visited the site and I have listened to the current stage of construction, which is piling work, which, I have to say, I found unpleasant and if I were to live there I would find it would be irritating, to say the least. But I have asked an opinion whether there exists a statutory nuisance under the Statutory Nuisance (Jersey) Law 1999 and, at the present time, I am advised that it is not considered that the noise meets that standard. Not to say that this issue is trouble free, because, previously, noise had to be stopped when the noise level did exceed those measures and, after some false starts with the contractor - I am told it has not been easy - the contractor did put in place some improvements in working practices, which will help.

The Deputy Bailiff:

Minister, I am going to have to ask you to bring that answer to an end, because it is overly long. Supplemental question from the Deputy of St. Peter at this time?

6.1.1 The Deputy of St. Peter:

The noise levels, that you mention, may be on or about acceptable standards, decibel levels, according to the standards that you mention, but what is the Minister's view on the effect of having a constant repetitive pile driving that, I think, has a similar effect to Chinese torture, or a dripping tap, that they are enduring for over 8 hours a day?

Deputy J.H. Young:

My personal view is I would find it very unpleasant. But I think, technically, I have questioned the team about this and they say that the noise assessment does take into account both the frequency and period of this noise. But they have pointed out to me that the only law they have available is the Statutory Nuisance Law and that in the United Kingdom there are other legislations, the Control of Pollution Law, which deals with construction noise and that we do not have and that would provide a more effective tool to deal with this situation.

6.1.2 Connétable R. Vibert of St. Peter:

I think the Minister has partially answered this one: what action will the Minister take regarding this development, to ensure that neighbouring residents only endure acceptable disruption, given that past assurances have failed to achieve this and can the Minister ensure that damage to the properties is made good at no cost to the residents?

Deputy J.H. Young:

I will take the last point first: I am certainly not able to deal with that point; this is a development, I remind the Constable, which is being run by the States. The States have entered into a lease, it is a States project, and they have appointed the contractor and if there is any damage, as a result of the works, then I would expect that both the contractor and the States would have in place insurance and they have some responsibility. So, the environmental side would not deal with that. But it is a fact that there are several stages of the work to carry on, which are likely to be noisy and on the programme I have seen will not be completed until the end of August. That will come as bad news, but the monitoring is going to carry on and the co-operation, which is going on with the contractor at board level, at the top level, will continue. But, of course, it is a States-owned project and I am going to be relying very strongly on the D.f.I. team, who have commissioned this project, to work with the contractor. There is a limit to what can be done on the regulatory side here.

6.1.3 Connétable J. Le Bailly of St. Mary:

A lot of people are concerned that the catering facility is being built at this stage, especially when we have been told that the hospital site will be revised. Is this whole project already a *fait accompli*?

The Deputy Bailiff:

I am sorry, Connétable, I cannot allow that question. It is not to do with the noise and concerns from residents, it is to do with a much larger policy issue, which is not a matter for an urgent oral question. We have Deputy Labey and then Senator Ferguson, but then that will draw us to an end, because we will have reached the maximum time.

6.1.4 Deputy R. Labey:

Does the Minister know if the developer here is operating in contravention of any conditions, or restrictions, placed upon it at the time that the planning permission was granted to do with operating hours, *et cetera*?

Deputy J.H. Young:

I have looked back into the planning record and - as a qualified answer here - all of the development at St. Peter's Technical Park carries very strong conditions for the prevention of noise, vibration, *et cetera*, and limits the hours of use. That goes back to the decision of 1984, which, as far as I am advised, is still extant on the site. But I understand that when the consent was given for this work, which is to construct a building within a building, in 2018 that some of those conditions contained, but I think there was a variation to the hours of work. I understand, from the Environmental Health team, they are not aware of any breaches of the standard, which is set as a standard on all building projects under the Environmental Health Law for limiting the hours of work. I am not aware there is a breach there, but I cannot confirm that there is no breach of the original planning consent. But I have to say I looked at the files, they are that thick, it would take a lot of research to check that and probably legal opinion.

6.1.5 Senator S.C. Ferguson:

The Minister has said that he has no power under any of the existing laws to deal with this. Given the knowledge he has of the large piling project in St. Brelade's Bay, which peaked at about 91½ decibels, when it was in full swing, given this particular incidence and given the prospect, possibly, of extensive piling around the hospital, should he not review the legislation and bring in something, which covers situations like this?

Deputy J.H. Young:

I absolutely share the Senator's concern about the impact of such works. I have been advised by the department that including the missing piece of law - an equivalent to the U.K. Control of Pollution Act - has been on the list of law requirements for many years and has been assigned a very low priority. Unless something is done to move that priority I am afraid that situation will continue. I shall certainly campaign for that. But the reality is it will not be in time for this particular project, I am afraid; they have to be managed by the States, D.f.I. Department and the contractor, working in co-operation with the residents. It is the only solution.

6.1.6 Senator S.C. Ferguson:

Can I ask that the Minister includes, as a matter of course, in planning approvals, or recommends that it is included in planning approvals, that there should be a survey of the condition of properties prior to approval of projects with such extensive pile driving and really unpleasant building construction implications?

Deputy J.H. Young:

I think that is a valid question, but it is one on which I would need to take legal advice, it is a question of whether, or not, such a condition would be within the scope of the Planning Law and I undertake to check that out with the Attorney General.

6.1.7 The Deputy of St. Peter:

I would like to thank the Minister for his efforts and concerns he shared with the residents of Ville du Bocage and Senator Ferguson's also assistance. However, I am looking at lessons to be learned and I think you mentioned statutory nuisance laws, or whatever. What urgency can we do to revise these, to ensure that other future developments, or neighbours of such future developments, do not have to suffer in the same way as the residents of Ville du Bocage and what urgency can be put behind that?

Deputy J.H. Young:

I think my shorthand on the law may have confused. I need just to highlight that the Statutory Nuisance Law is an effective law. It has dealt with 800 noise complaints, about 47 of which are related to construction industry.

[12:15]

It is a successful law, but it does not deal with the intermediate, short-term effects of construction. That requires a commitment to a Control of Pollution Act, which works elsewhere. I will certainly do my best to see that priority is given to that, because, as the Island gets more densely occupied and neighbours have to put up with such development close to them, its importance is even greater.