

STATES OF JERSEY



SAMARÈS NURSERY SITE, ST. CLEMENT: REMOVAL FROM DRAFT ISLAND PLAN – PETITION (P.49/2010) – COMMENTS

**Presented to the States on 28th June 2010
by the Minister for Planning and Environment**

STATES GREFFE

COMMENTS

The draft Island Plan was published for consultation in September 2009. Subsequently, the Minister was requested by the Connétable of St. Clement to withdraw the site from draft Policy H1, which proposes that the Samarès Nurseries site be designated as a site for Category A housing (for first-time buyers and Jersey Homebuy homes).

When the Minister met the Connétables in 2007 to request that they bring forward sites for lifelong homes and first-time buyers (which led to P.75/2008), the Minister advised all the Connétables that he wished to work with them and that his predisposition is not to bring forward any significant sites for housing without the support of the Connétable in whose parish the site lies, other than in exceptional circumstances.

Having reflected on what he said in reply to the Connétable of St. Clement at the conclusion of the States meeting on 23rd June 2010, and having taken legal advice on the matter, it is clear that the Minister's statements could give rise to a misunderstanding of his and the legal position. The Minister must take into account all material considerations. It is quite clear that while he can and will take into account the views of the Connétables, he cannot, in law, be bound by those views in any particular case nor, in effect, give to any Connétable a veto over matters which are solely his responsibility in law as Minister.

At present, the Samarès Nurseries site is the subject of public consultation pursuant to the terms of the *Planning and Building (Island Plan) (Jersey) Order 2009* (Revised Edition chapter 22.550.30). That consultation, required by law, has not yet been completed. The Minister's response to the Connétable's request was that the consultation process should run its course to enable representations, for or against development on the site, to be considered by the independent planning inspectors in the Examination in Public.

The Department received a number of individual representations opposing the development from St. Clement residents and others, and these have been forwarded to the inspectors for their consideration. The petition of 1,315 signatures was not submitted as a representation on the draft Island Plan, but is referred to in the Connétable's representation. There has also been a representation from the owners of the site that it should be developed for Category A housing.

The legal process that has been laid down by the Minister for the Examination in Public affords the Minister the opportunity to forward his comments on the representations and to make amendments to the draft Island Plan. He has indicated to the inspectors that it is presently his intention to remove the site from Policy H1 of the draft Island Plan, following his discussions with the Connétable and the high level of local objection to further development (including the petition).

However, the landowners (and others) have the right within the prescribed process to make known their objections to the Minister's proposed amendment and to be heard at the Examination in Public. Clearly, the Minister cannot finally make a decision and agree to formally withdraw the site at this stage in the Examination process and suspend the proper procedures for this site alone. To do so would be to invite the criticism that the Minister had predetermined the question, which he has not, and

potentially open the door to amendment propositions from other quarters, thereby undermining the process he has set out in the Island Plan Order.

In summary –

1. Samarès Nurseries was included in Policy H1 of the draft Island plan having scored highly as a suitable site in an objective planning assessment;
2. The Minister has advised the Connétable of St. Clement of his predisposition not to go forward with this site. Indeed, he has advised the inspectors that it is his intention, subject to the outcome of the public consultation, to remove the site from Policy H1; and
3. Due process must be observed to enable the owners of the site and objectors to be heard at the Examination in Public, and for the inspectors to produce their report.