

**WRITTEN QUESTION TO THE MINISTER FOR PLANNING AND ENVIRONMENT  
BY DEPUTY J.H. YOUNG OF ST. BRELADE  
ANSWER TO BE TABLED ON TUESDAY 18th FEBRUARY 2014**

**Question**

Will the Minister explain why in his reply to my written question on 21st January 2014 about Planning enforcement matters in particular *“those matters which were subject of recent decisions of the Royal Court to allow appeals against enforcement action previously taken by his Department”* he replied *“Taking recently to mean the last 12 months , the Royal Court has not allowed any appeals made against the serving of enforcement notices”*.

Whereas on 29th October 2013 , after investigation by the *Amicus Curiae* appointed by the Court into an enforcement matter and consequent convictions for enforcement offences, the Royal Court was advised *“that there were grounds for concern over the validity of an enforcement notice which had been served...there were technical procedural irregularities and ...the Crown no longer views it as being in the public interest to continue with these charges”* and therefore did not oppose the appeal against prosecution, resulting in the Royal Court quashing the convictions, awarding the appellant costs.

Will he now reconsider his reply, explain why this was not disclosed in his reply to my original question and provide the Assembly with a complete and wholly accurate reply?

**Answer**

The answer to how this question was answered originally has already been explained to Deputy Young via email correspondence.

The Deputy refers to an individual case which was considered by the Royal Court last year. This was not an appeal against an enforcement notice of the department, but was a hearing to request an appeal against a Court conviction. This was required because the person involved, was out of time for the normal appeal against the Court’s original decision to convict.

In assessing whether to allow the individual the right of appeal, the Court considered the grounds put forward by the prospective appellant. In assessing these grounds, the Court decided to allow the opportunity to appeal. It also went on to allow the appeal against conviction. In doing so the original enforcement notice was withdrawn as it considered the wording unclear. Due to this technicality the Crown did not consider it in the public interest to continue with the charges.

The answer given originally to the question on the 21st January 2014 was correct in so far as I am able to answer in relation to appeals against my department. The case the Deputy refers to was an appeal against a Court decision. However, by nature of the final decision it had an impact on earlier work of my department.

This case was not however a formal appeal against a refusal of planning permission or an appeal against an enforcement notice. Both of which options the person in this case declined to exercise.

I do understand that the Deputy considers my earlier answer did not fully answer the question. I would suggest that the answer was technically correct in relation to appeals against my departments work. I had taken advice on its content before submission.

I would also suggest that if the question had been written differently and been more specific, it could have offered me the opportunity to refer to this case. Alternatively it could be argued that as the case referred

to was to seek leave to appeal against a conviction, it may have been more appropriately put to the Crown Officers.

I consider that I can only answer a question with reference to the work of my own department. I would suggest that I could not automatically infer from the question that the Deputy was referring to work outside of my department, although it did have an impact on a previous case. The Case referred to was known to the Deputy and has already been publicly reported on. The information pertaining to it has already therefore been publicly disclosed.