

STATES OF JERSEY

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ESTABLISHMENT OF A WORKING PARTY TO EXAMINE THE OPERATION OF THIRD PARTY PLANNING APPEALS

**Lodged au Greffe on 5th December 2007
by Deputy C.J. Scott Warren of St. Saviour**

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

- (a) to establish a Working Party, comprised of both States Members and members of the public, in order to examine the operation of Third Party Planning Appeals in the Royal Court;
- (b) to report back to the States Assembly by the autumn of 2008 on the findings of the Working Party;
and
- (c) to bring forward for consideration any recommendations from the Working Party.

DEPUTY C.J. SCOTT WARREN OF ST. SAVIOUR

REPORT

Members will know that on 31st March 2007 the provision was enacted for third party planning appeals to the Royal Court. The original full-scale Amendments at the time of the original debate on the Draft Planning and Building (Jersey) Law 200- would have provided for third party appeals to the Planning and Building Appeals Commission. However, the successful Proposition P.210/2004, brought by the Environment and Public Services Committee, scrapped the formerly endorsed Appeals Commission in favour of determination of planning appeals by the Royal Court.

Members were reassured that an appellant would not have to be represented in the Royal Court by a lawyer. The 'modified' procedure in the Royal Court would enable an appellant not to bear the risk of a cost award. However, the possibility of costs being incurred still remains, either due to a decision that the 'ordinary' procedure is required or the possibility of Court of Appeal costs. The fear of costs is effectively a deterrent against aggrieved third parties requesting an appeal, for all but the wealthy. In other words, the very people the Amendments had been intended to help – neighbours who feel aggrieved by a planning consent which they fear will adversely affect the enjoyment of their property – are in my opinion unable to risk costs that could run into thousands of pounds.

This was the situation that faced the first person to attempt a third party appeal in the Royal Court. She tried to appeal against the planning consent given to a developer but she had to withdraw her appeal, for fear of the costs, even though she may well have won the appeal.

After much thought, following a meeting which included the Minister for Planning and Environment, the Solicitor General, and the lady who had to withdraw from the Appeal, I have decided that there is a need to establish a Working Party, in order to monitor the operation and effectiveness of third party appeals.

My suggested Terms of Reference, which would need to be agreed or amended in consultation with the other members of the Working Party, are as follows –

1. To monitor and review the operation of third party planning appeals in the Royal Court, since their introduction on 31st March 2007 and continuing the review throughout the first half of 2008, in order to establish the success or otherwise of this provision.
2. To report back to States Members by the autumn of 2008 on the operation of third party appeals.
3. To bring forward for consideration any recommendations from the Working Party.

Financial/manpower implications

There are no appreciable resource issues for the Planning and Environment Department.

The Working Party will take its own Minutes and not take any individual expenses. The Working Party will decide who takes Minutes and also who chairs the meetings.