

STATES OF JERSEY



ENVIRONMENT AND PUBLIC SERVICES COMMITTEE: VOTE OF NO CONFIDENCE

**Lodged au Greffe on 14th September 2004
by the Deputy of St. Peter**

STATES GREFFE

PROPOSITION

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

that they have no confidence in the Environment and Public Services Committee.

DEPUTY OF ST. PETER

Note: As required by Standing Order 18B, the following States members also signed the proposition –

1. Senator S. Syvret
2. Senator P.V.F. Le Claire
3. Senator R.J. Shenton
4. Connétable of St. Martin
5. Connétable of St. Brelade
6. Connétable of St. Mary
7. Connétable of St. Peter
8. Connétable of Grouville
9. Connétable of St. John
10. Deputy R.C. Duhamel of St. Saviour
11. Deputy A. Breckon of St. Saviour
12. Deputy of St. Martin
13. Deputy G.C.L. Baudains of St. Clement
14. Deputy C.J. Scott Warren of St. Saviour
15. Deputy R.G. Le Herissier of St. Saviour
16. Deputy J.A. Martin of St. Helier
17. Deputy G.P. Southern of St. Helier
18. Deputy J.A. Bernstein of St. Brelade
19. Deputy of Grouville

The reason for moving this proposition is set out in the attached report.

REPORT

On the 21st July 2004, following a detailed debate in the Assembly in which all aspects of the decision by the Environment and Public Services Committee to allow 72 homes to be built on the site of fields 181, 182 and 183 in St. Peter were discussed, the States requested the Committee to amend the 'minded to approve' development to a maximum of 54 three-bedroomed two-storey units or 68 two-bedroomed two-storey units, or any equivalent combination of three and two-bedroomed units. This was carried by 25 votes to 18.

There is no doubt that following all of this intensive debate every member of the States was fully aware of the salient planning issues before they voted to request the Committee to amend their proposals.

The debate followed a series of discussions between myself and my Constable Tom du Feu with the Committee, this included a formal meeting with the Committee on 1st July which was attended by a representative from the Education Department, the Traffic Section and the Engineering Section of the Committee to deal with concerns about overcrowding at St. Peter's School, the extra traffic that would be generated at the busy cross road at St. Peter and the disposal of surface water runoff by the addition of 72 homes. In addition we expressed serious concerns over the density of the development in relation to the current village layout.

Furthermore, following 3 well attended meetings with the Parishioners over an extended period, the last of which was attended by 3 members of the Committee, on all occasions the attendees unanimously rejected the proposal to build 72 homes. However, they did accept the fact that homes should be built on the site.

In spite of the representations of both myself and the Constable, backed up by the parishioners meeting, the Committee met on 1st July and decided that they were 'minded to approve' the building of 72 homes on the site. I was informed via e-mail by the planning officer in charge of the Committee's decision. Within an hour and a half of receiving the message I replied (copied to the President) to the e-mail stating "I wish to put the Committee on notice that I will be taking a Proposition to the States – as has always been stated – with the view to reducing the numbers to that advised to the Parish on the initial meeting in 2001.". Despite this, the next day, a letter was sent to the developer informing him of the decision.

In an attempt to seek a compromise and avoid a show-down in the House, a member of the Committee approached me and asked if the Parish would accept 64 homes on the site. I responded that I felt they would but it would be necessary to consult the parishioners. This matter was put to the Committee by the member – and rejected on the grounds that the letter to the developer was, in effect, a planning permit to built 72 homes. A member of the Committee disputed that and asked for a ruling from the Crown Law Office.

As I understand this has been received and the Attorney General confirmed that this advice from the officers was wrong and that the letter did not constitute a permit.

I believe that this 6 page legal letter from the Attorney General was given to the Committee when they arrived at the Committee meeting held to discuss this matter on the 8th September. They then made a decision to maintain their position.

It is my belief that there were 3 major planning grounds to change their position and accept either the position upheld by the States or the compromise put forward. They were traffic, pressure on the school and the water problems, all of which would be eased by any reduction in numbers. In my view none of these concerns have been adequately dealt with to this day.

This total disregard for the views and opinions of others has typified the whole approach of this Committee. It is clear that they also treat any decision by the Administrative Tribunal with disdain and contempt.

As members are aware the Board of Administrative Appeal Tribunal was set up in 1981 "where any person who is aggrieved by any decision made, or act done or omitted, relating to any matter of administration by any Committee or Department of the States or by an person acting on behalf of any such matter or Department, he may apply to the Greffier to have the matter reviewed by a Board".

Before any complaint goes before the Board, The Greffier carries out his investigation to ensure that the facts of the matter justify a review by the Board, which he then refers to the Board for consideration.

He is entitled to eliminate complaints which, in his view, are trivial, frivolous, vexatious and those not made in good faith and is no older than 12 months.

He refers those to the Administrative Appeals Panel, which is appointed by the States, from people “suitably qualified by profession or experience”.

The Board, having heard a complaint, can determine the case on the following grounds:

- (a) The decision was contrary to law;
- (b) was unjust, oppressive or improperly discriminatory, or was in accordance with a provision of any enactment or practice which is, or might be, unjust, oppressive, or discriminatory;
- (c) was based wholly or partly on a mistake of law or fact; or
- (d) could not have been made by a reasonable body of persons after proper consideration of the facts;
or
- (e) was contrary to the generally accepted principles of natural justice.

If the Board finds that any of the above applies to a decision they request the Committee concerned to re-consider the matter.

This is in keeping with the U.K. Ombudsman’s position. The Ombudsman has no legal power to enforce their decisions but the authorities generally accept his findings.

In dealing with planning matters, the Board generally receives all of the information which the Committee is given, visits the site, hears the planners case and the applicants. Hears a member of the Committee and then makes a written adjudication.

In the last few months, the planning sub-committee have had three administrative appeals decisions requesting that they reconsider decisions they have made: against their decisions:

- The first by a St. Brelade resident who had objected to having 10 self-catering units built almost in his backyard. The Tribunal found for him – the Committee refused to alter this decision.
- A man wanted to build a small granite cottage in an area outside of the green zone at Grand Vaux; there were no objections from the neighbours and it was in front of a large row of recently built houses. The planning officer said that the only planning objection was that it could be argued that it would spoil the visual impact of the area but that this was very subjective and he could not advise one way or the other. The Tribunal found that the refusal was a decision that “could not have been made by a reasonable body”. Again, the Committee refused to change their decision.
- A young farmer in St. Martin had 2 fields in the green zone attached to his parent’s farm by a track. He wished to build an agricultural shed next to his father’s outbuildings and a small timber farmhouse in the corner of one of his fields. The site of the house could only be seen by a person using a pair of binoculars on Rozel Pier – and then only in the winter. The field was in the green zone where the presumption is against development except in “exception circumstances”. His proposal was backed by the Jersey Farmers Union, and all other relevant farming bodies. Letters were produced indicating that he was an exemplary young farmer who had won awards for his work.

At the reconsideration site inspection, the officers gave the Committee wrong boundaries of the applicant's land which indicated that the applicant could fit a home on a site he owned near his father's farm and that he could build a house there.

This information affected the views of at least 2 members of the Committee and they rejected the proposal.

At the subsequent Board hearing, the Vice President of the Committee, who heads the planning-sub committee, rightly pointed out that, during their reconsideration they had been given the wrong information on boundaries plus information on health and safety issues had emerged which the Committee had not been aware of and, as a consequence, she felt that the matter should go back to the Committee for review. As a result the Board's decision was deferred.

The Chairman of the planning sub-committee took the view that, had she known that the proper boundary ruled out the site the Committee had recommended the house to be built on, she was prepared to change her position. I am aware that another member took the same view. Four other members, including the agricultural representative, voted against the farmer. This matter will now go before the Admin Tribunal again. Those members who voted against indicated that they would do the same thing, no matter what the Board determined. It is this constant refusal to accept that they could be wrong which is causing this Committee to lose the support of the island through its lack of common sense.

The decision by the Committee to set up an Inquiry into the Trinity in-fill saga by appointing the solicitor who acts for the Committee was a grave error of judgement, as was the decision not to follow the accepted format and have a States Committee of Inquiry.

The evidence given by the President laid the blame squarely on the shoulders of the planning sub-committee, of which 2 of the 3 people involved still make up the majority of the planning sub-committee, including the Chairman. As the President accepts Ms. Canavan's criticism of the planning sub-committee, it means that he is prepared to allow 2 people who appear to have made a serious error of judgement, which has caused so much controversy and heart-ache for the people involved, not to mention a £15,000 inquiry and a possibly pay-out to the applicant for compensation, to continue in their positions and make decisions that affect other peoples livelihoods and way of life.

When Senator Ozouf was asked to appear before a Scrutiny Panel looking into the Agri-environment scheme, he claimed that he could not do so as he had a conflict of interest. He was informed that the panel would decide if he had such a conflict and he was invited to explain his position. In doing so, he claimed that, because his father was a large land-owner, he felt that this excused him from any consideration by the Committee on the future use of agricultural land. It is important to point out that this was his position when he accepted the presidency of the Committee. Furthermore, at no time did he inform the States Assembly that this was his position when he took the presidency and when he nominated his father to go onto the Committee.

These are but a few of the more detailed examples where concerns have been expressed over the decisions made by the Environment and Public Services Committee. It is apparent that other States Members have their own examples of problems that have either affected their Parishes or individual members of the public that they represent. It is the actions of this Committee, perhaps more than any other, that have resulted in States members generally being held in such low esteem.

There are no financial or manpower implications arising from this proposition.