

**WRITTEN QUESTION TO THE MINISTER FOR PLANNING AND ENVIRONMENT
BY SENATOR B.E. SHENTON
ANSWER TO BE TABLED ON TUESDAY 6th JULY 2010**

Question

“Can the Minister list all planning decisions specifically made under Article 19(3) of the Planning and Building (Jersey) Law 2002 during the past 2 years and publish the justification for doing so in each case, which is required under the Law?

Furthermore can he cross-reference these decisions with Article 12(1) and list all incidences where public inquiries were held and, if they were not held, explain the reasoning for deciding this Article of the Law was not applicable?”

Answer

Preparing a wholly complete answer to this question is impossible in the timescale available as our computer systems are not designed to search on such criteria. The analysis presented in this answer, in itself, has taken over two and a half days of senior officer time. Additional information is of course available on the individual Planning files and these are publicly available.

I have however gained an estimate of the number of applications that have been approved and may potentially be regarded as exceptions to the Island Plan, and calculate that out of the total number of over 3500 applications determined between July 2008 and June 2010 approximately 30 decisions could be regarded as incorporating exceptions to the Island Plan. As such less than 1% of planning applications considered have been approved as insubstantial departures from the Island Plan.

The Scheme of Delegation for the determination of applications normally ensures that applications that do not accord with the Island Plan are determined by the Minister or the Planning Applications Panel.

An important requirement in considering planning applications is that each one is considered on its own merits. Indeed I am required by the Planning and Building (Jersey) Law at Article 19(1), and by case law, to take into account all material considerations in determining an application for planning permission. This is the strength of the planning applications process, because it allows all the relevant circumstances of a particular proposal to be properly considered and for a reasoned and logical conclusion to be reached.

As I have stated on previous occasions planning is an art form and not a box ticking exercise. It involves the assessment of many elements including the aesthetics of any proposal and each application needs to be considered within the principles of the policy framework, but with the ability if necessary to apply a certain element of discretion.

I have made it clear that my priority is delivering exceptional buildings designed to the highest standards and constructed with the best materials. We are achieving this objective and I direct the questioner to 50 Colomberie, El Tico, Chateau Valeuse, St Cecilia and Wayside as examples of the hugely increased standards. Interestingly all of these schemes have been designed by local architects. Other schemes such as Zephyrus, Westwater and Castle Quays II promise to deliver much needed high quality to the Waterfront. It may be that insubstantial departures from the Island Plan will in the future be required to ensure that we maintain the delivery of buildings of the highest standard.

In order to establish a context within which to consider applications the Law requires that an Island Plan is prepared to provide for the orderly, comprehensive and sustainable development of land in a manner that best serves the interests of the community. The Island Plan is not a rigid set of rules designed to deliver an outcome in every case rather it is a set of principles and built into the process is the ability to make to accommodate exceptions and when it was written it was never considered that its guidelines should be absolute. There is a general presumption in favour of granting planning permission if a proposal is in accordance with the Island Plan (Article 19(2)). However, there will always be a small number of situations where the material circumstances of a proposal are such that a proposal should be supported even though it does not wholly accord

with the provisions of the Island Plan. Consequently Article 19 (3) of the Law allows the determination of these exceptions provided the Minister is satisfied that there is sufficient justification to do so and that the reasons for departing from the Policies of the Plan are clearly recorded in each case.

I now turn to the second part of the question regarding Article 12(1) of the Law which deals with Public Inquiries.

Article 12(1) of the Law requires that a Public Inquiry is convened when (a) a development would be likely to have a significant effect on the interests of the whole or a substantial part of the population of the Island; or (b) the development would be a departure (other than an insubstantial one) from the Island Plan. The question suggests that the Senator's particular interest is with the departure requirements of Article 12 (1)(b).

I should point out that when the Draft Planning and Building (Jersey) Law was lodged in 2001 (P.50/2001) the report accompanying the Proposition made it clear that it was the intention that the process "*will only be invoked in exceptional cases, and relates to large-scale developments such as a new reclamation site or an extension to the Airport runway.*" To this extent, it indicates where the line is drawn between substantial and insubstantial departures from the Island Plan.

All the applications identified over the past two years as being inconsistent with the Island Plan are insubstantial departures and therefore would not warrant a Public Inquiry. Indeed since I took office in 2005 there have been no planning applications approved for developments that are more than an insubstantial departure from the plan. Consequently there has been no need to convene a Public Inquiry.

The Esplanade Quarter application was for a significant development that would be likely to have an effect on the interests of the whole or a substantial part of the population of the Island. Consideration of that planning application was made through the mechanism of a Public Inquiry, under Article 12(1)(a).

A list of applications possibly involving exceptions to the Island Plan is provided below. As I have pointed out above this may not be entirely complete given that our computer systems are not designed to search in this manner.

These are the applications identified in the time available but this may not be a comprehensive list

P/2009/0944	Clarkson House St Helier - extension of Hospice in Fields 146a & 146b St Helier MINISTER
P/2009/1567	South Hill Switching Station St Helier – to secure the Island's electricity supply PAP
P/2009/1026	Sous L'Eglise St Brelade – relocation of Registered Building demolished in connection with airport operations PAP
P/2009/1436	Field 578, Hospice Car Park, St. Ouen – car park for Hospice shop to support the hospice and prevent overcrowding on surrounding roads PAP
P/2008/0023	La Fontaine St. Mary – reinstatement of ruin/dwelling destroyed during the Occupation MINISTER
PP/2009/1819	La Rue au Tchian, Grouville – outline for single dwelling La Rocque Chapel enabling development MINISTER
P/2008/2506	St Peter's Garden Centre – additional overflow parking PAP
P/2009/1895	La Vallette, St. Mary – improved access/highway safety PAP
P/2009/2343	Castle Green Apartments St. Martin – 1m incursion into Zone of Outstanding Character to accommodate dwelling of architectural quality. PAP
P/2009/0620	Eden Farm St Saviour – previous approval and this proposal vastly improves the architectural quality of the scheme PAP & MINISTER
P/2009/1170	Littleyard, St Brelade, Stables/Commercial redeveloped as part of a tight group of buildings and improve environment PAP
P/2009/0973	Motor Mall St Helier – within an area of many buildings and extension to an established commercial enterprise PAP
P/2009/0810	St. Clement's Golf Club St Clements – Improvement on a previous permission PAP
P/2009/0829	La Braye Café St Peter – slight enlargement of existing footprint of café for quality architecture and to accommodate public toilet facilities PAP

P/2009/0333	Rue de la Pulente, St. Lawrence – additional parking and improved access for swim school operation PAP
P/2009/0570	Field 778, St. John – improved access curtilage extension PAP
P/2009/0340	Field 724, St. Saviour – following tipping the land was to be returned to agriculture PAP
P/2009/0756	Field 712, St. Martin – formalisation of works required in connection with previously approved changes of use of buildings to dwellings PAP
RP/2007/2840	Val Poucin St Saviour – finalisation of the redevelopment of a group of farm buildings including the replacement of a modern agricultural building PAP
PP/2008/0219	Woodside Farm St Peter - enabling development with proceeds re-invested in agricultural industry PAP
P/2007/1315	La Houge Bie Nurseries St Saviour - previous approval and this proposal vastly improves the architectural quality of the scheme MINISTER
P/2007/2847	Field 1094 St. Ouen curtilage extension not considered harmful to the area or aims of the Plan MINISTER
RP/2007/3145	Dawn Villa St Peter – previous approval and this proposal improves the architectural quality of the scheme MINISTER
P/2008/2180	Lakeside Care Home St Peter – following the previous approval of a large hotel building and a significant improvement on the architectural quality of the scheme MINISTER
P/2008/1552	Adjacent La Place Hotel, St. Brelade – to support the tourism industry MINISTER
PP/2007/1799	Cowley Farm St Saviour – Enabling Development for Agriculture MINISTER
P/2007/2055	Le Chalet Hotel site, St Brelade – 5 dwellings in place of previously approved self-catering apartment block MINISTER
P/2008/0120	La Bonne Aubain Nurseries, St Helier – 2 dwellings in place of significant areas of glasshouses on this site and on a nearby site MINISTER
P/2008/1778	Westmount Quarry – loss of a small area of Important Open Space so as to enable the wider development MINISTER
RC/2009/1226	Blampied Farm St Lawrence – retention of access drive to allow suitable and appropriate access MINISTER
PP/2009/1198	Field 621 St Brelade – single dwelling in land zoned as Green Zone MINISTER