

STATES OF JERSEY



FIELD 530A: RE-DESIGNATION AS A GREEN ZONE SITE (P.62/2010) – COMMENTS

**Presented to the States on 2nd June 2010
by the Minister for Planning and Environment**

STATES GREFFE

COMMENTS

On 29th October 2009 a planning application was submitted to construct 73 new homes on the site of the former Dairy at Five Oaks. The Dairy site was designated as Industrial Land by the States in the 1960s, and comprises –

- the dairy itself, which is situated on the 2002 Island Map in the designated Built-up Area, in which new development will normally be permitted; and
- F.530A, which is part of the designated Countryside Zone in which there is a presumption against development. However, Article 19(3) indicates that the Minister may grant permission that is inconsistent with the Island Plan if he considers there is sufficient justification to do so.

It is important to point out that a decision by the States Assembly to re-designate the land to Green Zone can have no effect on how the current application is determined, as the application must be considered under the planning policies that existed at the time it was submitted in October 2009.

On 7th April 2010, the Minister considered the application at a public hearing, and heard representations for and against the development. He granted planning permission for the 65 homes that are to be located in the designated Built-up Area, but expressed his reservations about the extent of development proposed for F.530, given its designation in the Island Plan. However, the Minister made it clear that, as he believed it would improve the scheme from an aesthetic perspective, and having taken into account the condition and history of F.530, he would approve a significantly lesser number of houses on a smaller area of F.530A. The Minister is bound by his decision.

Accordingly, the applicant has a justifiable expectation that the Minister will approve a reduced number of houses on F.530A, and should he fail to do so, there would be grounds for an appeal to the Royal Court.

The Minister has also indicated that any further consent granted will ensure protection from any further development for 2 areas being: the remaining part of Field 530A and the proposed new area of open space to be created within the Built-up Area of the development. This permanent protection will be included in a Planning Obligation Agreement.

The Planning and Building (Jersey) Law 2002, under Article 9, confers the power to make planning application decisions on the Minister for Planning and Environment. The States Assembly has expressly entrusted the Minister for Planning and Environment with the task of carrying out this function. With the greatest of respect to Members, they have already decided, through the Planning and Building Law, that the States Assembly will have no legal role in determining planning applications.

The States Assembly carries out the vital role of amending, debating and determining the Island Plan, but once the Plan is approved it has vested the delivery of the Plan in the Minister for Planning and Environment. Consequently, in this case, lodging a proposition requesting the Minister to amend the Island Plan with the specific purpose of influencing the outcome, this current planning application can have little effect as the Minister is bound to determine the application under the planning policies that prevailed at the time the application was submitted in October 2009.