

**WRITTEN QUESTION TO H.M. ATTORNEY GENERAL
BY DEPUTY J.H. YOUNG OF ST. BRELADE
ANSWER TO BE TABLED ON TUESDAY 15th JANUARY 2013**

Question

Will H.M. Attorney General inform the Assembly whether the Minister for Planning and Environment's decision to approve the development of Plémont Bay Holiday Village (MD-PE-2012-0120) on 23rd November 2012, which is conditional on a Planning Obligation Agreement being entered into between the Minister and applicant, has any legal effect before that Agreement is entered into and whether, in the interim pending the required Agreement, the Minister is permitted to use powers under the Planning and Building Law (Public Inquiries) (Jersey) Order 2008 to reopen the planning inquiry to consider any issues which are insufficiently or not covered in the Inspectors report, including issues arising in respect of the required Planning Obligation Agreement?

Answer

The Minister has given an 'in principle' decision subject to the preparation and completion of an agreement embodying the obligations set out in the Ministerial Decision.

The decision is not one on which the applicant can rely to start development. That stage would be reached once the decision has been perfected by the completion of the planning obligation agreement and grant of planning permission. However, given the substance of the Ministerial Decision, the applicant will have a reasonable expectation that the planning obligation agreement will be negotiated in good faith and on reasonable terms.

The Attorney General is not at this time in a position to give definitive advice on the legal effect of the 'in principle' decision in the time available and without further research.

Article 18(1) of the Planning and Building Law (Public Inquiries) (Jersey) Order 2008 provides:

The Minister may direct the inspector to re-open the public inquiry if, before the Minister determines the application, it appears to the Minister –

- (a) that there are material considerations, other than the Minister's policy, that either are not mentioned in the inspector's report or are insufficiently considered in that report; or*
- (b) that the report contains any technical information that is incorrect in a material particular.*

If the matter is one that falls within Article 18(1), it is technically possible the Minister to exercise his discretion to re-open the public inquiry. The question as to whether or not such a decision would be open to challenge would also require further research and consideration.