

**WRITTEN QUESTION TO THE MINISTER FOR PLANNING AND ENVIRONMENT
BY DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR
ANSWER TO BE TABLED ON TUESDAY 2nd FEBRUARY 2010**

Question

Would the Minister identify how many times he has exercised his powers under Article 84 of the Planning and Building (Jersey) Law 2002 and on what grounds and would he define what is meant by "a ruinous or dilapidated building"?

Answer

Article 84 of the Planning and Building (Jersey) Law 2002 is one of a number of Articles under Chapter 6 of the Law that deal with the condition of land (which in this context includes buildings on the land), and confers powers on the Minister for Planning and Environment to abate any problem through the service of a notice.

Specifically, Article 84 (1) states:

“ARTICLE 84

Minister may require repair or removal of ruinous or dilapidated buildings.

- (1) If it appears to the Minister that a building is in a ruinous or dilapidated condition it may serve a notice requiring that the building or a specified part of it be demolished, repaired, decorated or otherwise improved and that any resulting rubbish be removed.”

Article 91 of the Law requires the Minister to specify in sufficient detail the works to be carried out, and a reasonable time to complete them depending on what is required. Articles 93 and 94 state that it is an offence not to comply with a notice, and that in default, the Minister may undertake the works and recover his reasonably incurred costs from the person failing to undertake the work. There is no right for the owner to claim compensation under these provisions, but there is an appeal to the Royal Court on the grounds that the action taken by or on behalf of the Minister is unreasonable with regard to all the circumstances.

No notices have been served by the Minister under this Article, although the threat of serving a notice has been sufficient in two cases for action to be taken by the property owner to remedy the problem.

The Law does not define what constitutes a “ruinous or dilapidated building”. They are ordinary words, and the Royal Court is likely to apply the ordinary meanings to them. In order for a building to be ruined or ruinous, would in the Minister’s view require the property, effectively, to be a wreck and therefore incapable of occupation. A dilapidated building is likely to be a building in an extreme state of disrepair. Each case is different, and will depend on the evidence of and the degree of ruination or dilapidation.

In determining whether to serve a notice, the Minister will principally consider any other likely solutions to remedy the state of the building. In most cases the building owner themselves have aspirations for redevelopment and refurbishment which if balanced correctly through the planning system will have the same result. The other principle consideration is the likely cost to the public purse if a notice under Article 84 is not implemented by the landowner with pressure then falling onto the Minister to implement the notice. In determining whether to serve a notice each case must be dealt with on its merits, and must be seen to be reasonable in the eyes of the Court.