

**WRITTEN QUESTION TO THE MINISTER FOR THE ENVIRONMENT
BY DEPUTY M.R. HIGGINS OF ST. HELIER
ANSWER TO BE TABLED ON TUESDAY 10th SEPTEMBER 2019**

Question

Will the Minister advise members whether there are any circumstances in which an officer within his department can grant planning permission to an applicant who has previously been refused planning permission by the Planning Committee; and, if so, will he explain how it is ensured in such circumstances that the work of the Planning Committee is not undermined and that any individual officer is not afforded too much power?

Answer

All planning officers are authorised to determine planning applications, in accordance with the Chief Officer's Agreement with the Planning Committee. The agreement requires that all applications must be signed off by a separate senior officer. They need not go before the Committee if there are less than 4 representations which are contrary to the officer's recommendation. Revised proposals, where the first application has previously been before the Planning Committee, may be dealt with by department officers if it is considered that the concerns of the Committee have been adequately addressed.

At all times, the Chairman of the Committee retains the right to call any application before it. A copy of the Chief Officer's Agreement is attached (Appendix 1).

AGREEMENT BETWEEN THE CHIEF OFFICER AND THE PLANNING COMMITTEE

The Planning Committee will be allocated matters for consideration in the following circumstances

1. Where a grant of planning permission would be inconsistent with the Island Plan.

This is a statutory requirement as only the Committee has the power in the Law to grant development which is inconsistent with the Island Plan

2. Where, following the refusal of an application or the imposition of a condition, the decision was taken by the Chief Officer and the applicant requests within 28 days of the date of the original decision that the Committee review the decision.

This is a statutory process in Article 22A of the Law. A decision on review will not prejudice the opportunity to pursue an appeal to an inspector by either the applicant or anyone who wishes to challenge an approval subject to being entitled to do so

3. Following a request from the Chairman of the Planning Committee that the Committee should consider the matter

The Chairman represents a single point of contact for administrative / communication purposes and members of the Committee can channel requests through the Chairman.

4. Where the matter is considered by the Chief Officer to be of such a nature as to require the Planning Applications Committee to consider the case

Officers from experience are sensitive to matters which would be better considered by States Members through the circumstances of the case.

5. Where an application for planning permission has attracted 4 or more representations from individuals, where each individual appears to be from a different address, and the representations are contrary to the recommendation of the Chief Officer

This retains the current practice which was established by the Planning Improvement Programme Political Steering Group (July 2011)

6. If, after due consideration, the Committee reaches a conclusion which does not agree with the principle of the recommendation made by the Chief Officer, the Committee will furnish the Chief Officer with its planning reasons for arriving at that conclusion. The Committee will require that the

relevant documentation to support the Committee's decision be prepared by the Chief Officer and presented back to the Committee at its next meeting for ratification.

If the disagreement relates only to a condition or reason attached to a recommendation then the decision can be finalised at the same meeting of the Committee.

Items placed before the Committee for consideration remain to be determined solely by the Committee. However the Committee relies on the administrative support of the Chief Officer to issue its decisions in all circumstances. Formalising the arrangements where the Committee reaches a different conclusion to the Chief Officer on any matter leaves no room for misunderstanding of how such an issue will be dealt with. It allows reasons for any decision to be properly recorded and documented as the Law requires.

- 7. When an application has been included on an agenda for consideration by the Committee the item will only be removed from the agenda with the agreement of the Chairman of the Committee.**

Once an item is included on a Committee agenda it becomes the Committee's responsibility. A number of parties will be notified (for example, the applicant, along with anyone who has made a representation) and the agenda will be published inviting anyone else to attend the meeting. In these circumstances it is important that the process for dealing with a request for removing an item from the agenda is properly considered.