

2024.12.10

**3.11 Deputy J. Renouf of St. Brelade of the Minister for the Environment regarding planning permit time limits (OQ.245/2024):**

In relation to the existing planning permits for developments that have not yet commenced, will the Minister advise whether he has any intention to use his powers under section 26 of the Planning and Building (Jersey) Law 2002 to withdraw planning permission after a specified time period, and if not, why not?

**Deputy S.G. Luce of Grouville and St. Martin (The Minister for the Environment):**

Article 26 of the law, “Termination of planning permission by reference to time limit”, allows the chief officer or Planning Committee, but not me as Minister, to serve a notice stating that a planning permission shall cease to have effect upon expiry of a time period specified in the notice, with such a period not being less than 12 months from the date of serving the notice. The Article applies only in instances where a planning permission was granted subject to a condition that States development shall commence within a specified period, the standard period currently applied being 3 years, and where development has commenced but not completed within the time period specified in the condition. Article 26 of the law, therefore, does not apply to developments which have not yet commenced, and the Article does not confer any powers on me as Minister to terminate planning permissions.

**3.11.1 Deputy J. Renouf:**

The powers vested in the chief officer are, I am sure, related to the direction given by Ministers. Is the Minister aware that there are many circumstances where builders have begun developments in order to trigger planning permission and not then complete it, that would be very, very helpful in terms of the supply of property in the Island if those planning permissions were actually built out and the possibility of a withdrawal of planning permission might actually spur some of those developments to take place.

**Deputy S.G. Luce:**

Certainly I am aware of a number of developments where planning permission has been approved and work has commenced and then stopped, and of course that is part of development, if you like. Certainly, as I said, I know a number of these sites, it is not helpful to have development started and then not completed but in many cases it may be for many and various reasons, many of them very good. For example, interest rates, economic downturn, population demands on housing, the price of building. I would need to be very careful about interfering in the market and withdrawing a planning permission when a development has commenced but not been completed.

**3.11.2 Deputy A.F. Curtis of St. Clement:**

The Minister has highlighted that there are reasons that developments start and do not complete but, nonetheless, that leaves large amounts of properties extant on the books that are not being developed. He has highlighted his concern about the quantum of applications approved yet not commenced. Does he not think in some circumstances that the use of Article 26 by the chief officer or, as it may be, the Planning Committee is a valid tool and where developments were no longer viable perhaps withdrawal of that permission is considerate and applicants should apply for new permissions on those sites?

**Deputy S.G. Luce:**

As I stated in my original answer, Article 26 does not apply to properties or developments which have commenced. Article 27 is the one that we might use for that and that refers to revocation and modification of planning permission. But I would state that, unlike Article 26, Article 27 also has powers for giving money back where work has been incurred and expenditure is taken back. So there is certainly some compensation and possibilities that could happen in those circumstances and the numbers could be quite large. We would need to consider that.

### **3.11.3 Deputy A.F. Curtis:**

I think the Minister has misunderstood me. I was suggesting that one should do as Article 26 allows, serve notice no less than 12 months under paragraph (3), and therefore should planning not be completed within a suitable timeframe given to a developer that such permission is then terminated. Article 26 gives no permission for compensation should the right terms be granted, as described under paragraph (8). Does the Minister not think that, ultimately, serving these notices with reasonable timeframes to deliver the development would at least ensure that developments are completed and, if not, that developers and landowners could bring schemes compliant with today's Island Plan, which he may then be able to have a greater say on?

### **Deputy S.G. Luce:**

Lots of questions there. I think it will be clear to everybody in the Assembly that the subject is very complicated, very difficult and that what the Deputy suggests, while it might be possible, we could be asking people or forcing people to develop sites where they may find, or have found, that they have paid over the odds for the site, the price of materials may have gone up, planning permission may have certain conditions which imposes additional costs which the developer had not anticipated. As I said in the original answer, interfering in the market is something that we should do very, very carefully. I would want to tread with great caution before I started forcing people to do things with a potential threat of losing a planning approval, which they had gained in reasonable circumstances.

### **3.11.4 Deputy P.F.C. Ozouf of St. Saviour:**

The Minister has partly answered my question but I will just reinforce it by saying: does the Minister agree with me that there is a real concern within the building industry about the viability of schemes? Does he need to perhaps share with Members some of the real challenges that builders are facing so that we can solve some of the issues to get Jersey building and get the houses that people want? Does he share my concern about the economic situation that some Members do not seem to be aware of?

### **Deputy S.G. Luce:**

Yes, I do share the Deputy's concern. I am sure that we are all aware of a number of properties or sites around the Island where development has commenced in the form of demolition but we have seen no building happening. That may be for a number of different reasons but, certainly, if a site is purchased at a certain price with an anticipation of building at a particular rate and that changes, developers do have to have the opportunity to stop and take stock of where we are. Something just as simple but vital as the interest rate could be the reason for that happening. So, yes, I do share the Deputy's concerns. I am not quite sure how one solves the issue. Certainly, we have an Island Plan and we have building bylaws which convey to developers the quality, the standard, and the standards that they must build to. There is a cost to doing that. Materials increasing in price with inflation and all these things have to be borne in mind along with demand. When the price gets expensive, the demand drops off. I know we will all be only too aware of the difficulties that young families, young couples, young people face in purchasing property at the moment.

### **Deputy P.F.C. Ozouf:**

The Minister answered very well. Thank you.

### **3.11.5 Deputy J. Renouf:**

I thank the Minister for his answers. I want to focus on the particular circumstances which the Minister conceded do exist, namely where applications are started, not with the intention of completing the building but with the intention of triggering planning permission effectively in perpetuity and avoiding the 3-year rule on completion. Discretion is the point of Article 26. Can he not use that discretion to find those sites where the planning permission is being hoarded and make clear that this type of hoarding is not acceptable by instituting proceedings to cancel the permissions?

### **Deputy S.G. Luce:**

Well, I am certainly happy to go away and look at the problem, but defining hoarding or land banking is difficult. As I said in previous answers, there may be any number of reasons why a development site may not be being built on at the moment and one would need to be very careful indeed in stepping into the marketplace with new rules and regulations. But I take what the Deputy says on board, I am certainly aware of sites where a very small amount of work has been done, enough work to officially be commenced, and in certain circumstances the development has not gone ahead when maybe it could have done. So, I will go away and consider that.