

**WRITTEN QUESTION TO THE MINISTER FOR PLANNING AND ENVIRONMENT
BY DEPUTY R.G. LE HERISSIER OF ST. SAVIOUR**

ANSWER TO BE TABLED ON TUESDAY 19th JUNE 2007

Question

In the light of the Minister's recent comments that there needed to be more effective checks and balances as to how he exercised his powers, would he outline what steps he or others are taking to restrict or moderate his powers?

Answer

In order to answer this question, I need to clarify what I said to the Privilege and Procedures Committee's Machinery of Government Sub-Committee on 9th March 2007, as most Members will only be aware of the somewhat misleading front page article in the Jersey Evening Post on that day, under the headline "Curb my Powers". First of all, I did not use those words. Rather I posed the question of when there was so much to consider in the establishment of Ministerial government, whether the States had considered that all planning powers would be vested in the Minister.

Planning decisions can be made in one of three ways: by the Minister, by the Planning Applications Panel, or by Planning Officers under delegated authority.

The vast majority of decisions are not made by the Minister, but by the Panel or officers under delegated authority. Those powers that are delegated are governed by appropriate Codes of Practice or Conduct. The Panel (and my own conduct) is covered by the States Members' Code, adopted by the politicians involved in the planning process for the last three years. This was instigated by Senator Ozouf when President of the Environment and Public Services Committee. Professional and Civil Service codes apply to officers of the Department involved in making delegated decisions, and as members know, I have instituted a system whereby no decisions are made unless checked and endorsed by senior officers.

Decisions of the Panel are made in public as required by the new Planning Law. The Law does not require decisions of the Minister to be made in public. Nevertheless, I have, during my term of office, introduced a system under which all key planning decisions made by the Minister are also made in public. I intend to move towards making all my application decisions in public.

Since the introduction of Third Party Appeals in March 2007 the decisions of the Minister can be challenged both by the applicant through the existing system of appeals and by objectors through the new Third Party Appeals system.

Relatively few jurisdictions around the world have so far introduced Third Party Appeal powers; they give third parties affected by planning decisions a statutory role in the process, which is a particularly important check on the power of those making planning decisions. All planning decisions must be demonstrably reasonable, in the light of policy and other material considerations.

I welcome and fully support the additional transparency built into the new Planning and Building Law in Jersey. This introduced public Panel hearings and I have implemented a system where applicants and objectors can address the Panel. Similarly I take my own decisions on planning applications following a public hearing where applicants and objectors are free to state their case.

In the realm of Planning Policy, the new Planning and Building Law also incorporates additional safeguards. With the current Island Plan Review, for example, I shall be seeking to involve States Members in the process at all key stages. There will be widespread and thorough consultation and an Examination in Public to consider objections

and representations, leading to a formal and independent report.

So I believe that there is now a solid range of checks and balances in place for the Minister for Planning and Environment, both in the determination of planning applications and the development of planning policy. This is particularly so now that third party appeals are in place, when, if there are concerns about the soundness of a Ministerial, Panel or officer application decision, it can be reviewed by the Royal Court.

I think we now have a fair balance. My evidence to, or the deliberations of, the Machinery of Government Sub-Committee may lead to recommendations about my powers, but that is a matter for the Privileges and Procedures Committee, and possibly the States.