

23.05.23

**7 Deputy S.Y. Mézec of the Minister for Treasury and Resources regarding the planning application submitted by the States of Jersey Development Company for South Hill (OQ.101/2023)**

Further to the announcement that the States of Jersey Development Company will appeal the decision of the Planning Committee to reject the application for a housing development on South Hill due to the proposed size of the apartments, will the Minister instruct the company to abandon the appeal and, instead, to focus on a new application which meets the requirements of the committee?

**Deputy I.J. Gorst (The Minister for Treasury and Resources):**

Following the sitting of the Assembly in March this year, I gave instruction to the S.o.J.D.C. (States of Jersey Development Company) that planning applications should not be made that included any units that are under the minimum-sized standards. It has been confirmed that any such future application, including this application for South Hill when resubmitted, would include all units meeting the minimum-sized standards. I therefore do not intend to ask for the appeal to be withdrawn.

[10:30]

**3.7.1 Deputy S.Y. Mézec:**

If such an application will come forward in the future that satisfies those requirements on minimum sizing, which was one of the key reasons the Planning Committee rejected the previous application, what sense is there in continuing with an appeal when the company already knows what the grounds are upon which its previous application failed and presumably already has the information which it needs to put forward a successful appeal. Is it not a waste of time and resources that a body, which is meant to be accountable to elected States Members is appealing against the legitimate decision of a committee populated by elected States Members?

**Deputy I.J. Gorst:**

No, I do not think it is. As often happens in planning, the departmental expert, as we might call them, has a view based on the Island Plan or planning legislation. Rightly the planning panel takes a nuanced or slightly different view. All perfectly legitimate, but it is absolutely right and appropriate that developers, any developer, can challenge either side of those decisions. A decision can be appealed because the developer thinks the expert is wrong. There are a number of grounds upon which the refusal was based. I am absolutely clear that S.o.J.D.C. have fully understood that they will not be bringing either this or any other application under-sized. They are clear on that. There are other elements which it is right for an independent expert to opine upon.

**3.7.2 Deputy A. Curtis of St. Clement:**

I will follow on from Deputy Mézec's point. The S.o.J.D.C. say in their annual report that they are to report to and are accountable to the States Assembly, who are accountable to the public of the Island. Island Plan policy is nuanced. Does the Minister not think, to Deputy Mézec's point, that a more nuanced point taken by democratically-elected Members, who spend a lot of time looking at plans and reading the documentation, is more worthwhile to take on account than an inspector's view?

**Deputy I.J. Gorst:**

While that may be a point of view, we would be entering extremely dangerous territory if we sought in any way to undermine the processes that we have in place. First of all, we have this Assembly that produces the legislation. We have this Assembly that produces the Island Plan. Then we have the experts' interpretation of what this Assembly was trying to achieve through the legislation and the Island Plan. Then, rightly, as following the U.K. model, we have the Members of this Assembly sitting on the planning panel, which gives a direct democratic overlay to ultimately those decisions. On top of that, any decision of any body of this Assembly, be it a Ministerial creature or be it the planning panel, rightly can appeal either to an independent planning inspector or to the Royal Court. It would be of fundamental detriment to checks and balances if we accepted the view that the Deputy perhaps espoused.

### **3.7.3 Deputy A. Curtis:**

I completely appreciate the option and process to appeal. Does that mean the Minister thinks that the ability for the States Assembly to direct the S.o.J.D.C. is broken and we need a new mechanism to ensure that whatever the S.o.J.D.C. do bring is in line with the will of the States Assembly?

### **Deputy I.J. Gorst:**

The States Assembly has made its decisions in the legislation and the Island Plan. Any developer, any applicant, be it a private individual or a developer, has a right to expect that the decisions emanating from the department and also emanating from the planning panel are in line with the legislation and the Island Plan. However, it is right that there can be debate, there can be disagreements and when there are those debates and disagreements there should be appropriate appeals mechanisms, whether that is to an independent inspector, whether it is in some cases to the Minister or in other cases it is to the Royal Court.

### **3.7.4 Deputy M. Tadier:**

I cannot help feeling that Deputy Gorst is the master of evasion. We are not asking a question about whether an appeals process should be in place. Of course, there should be appeals processes, but only when an applicant disagrees with the results they are being told by the civil servants or the Planning Applications Panel. Is the question not: should the S.o.J.D.C. be pursuing this, given the comments of the Deputy in the meantime, which said he did not want the S.o.J.D.C. to pursue, to submit, applications which were below minimum sizes? Does it not fly in the face of his political assurance that he gave to this Assembly only a few weeks ago?

### **Deputy I.J. Gorst:**

No, I do not believe it does, because that assurance holds good: there will be no application, whether it be this one or any other, which is below minimum standard. However, there were other grounds that the panel gave for rejecting the application, which were at odds with the expert opinion of the planning officer; nothing wrong with that. However, when that happens, we can expect appeals.

### **3.7.5 Deputy M. Tadier:**

How can we be assured that the S.o.J.D.C. will not continue to submit applications that are below size if they do not agree with the definitions that are given about minimum standards by the department, which has been proven in this case? The question I would like to ask as a supplementary, the main question, is: does it not follow that if the Minister does not want them to submit applications that are below size that they similarly should not pursue appeals for applications which are below size?

### **Deputy I.J. Gorst:**

I generally like to answer them all, but time will not permit. We remind ourselves that it was made clear to the S.o.J.D.C. in advance of the Planning Applications Panel hearing that it was not acceptable, despite what the planning officer might have indicated that there should be any below-sized units in that development. The S.o.J.D.C. were, on that day, prepared to amend and resubmit their application with only in-size units. For all sorts of technical reasons that was not permitted. I make no comment about that and that is why it is right for them now to undertake this appeal. I am absolutely clear and have been clear with them, and I can be clear with this Assembly, they have given me their assurance and we discussed this appeal in advance of them making it, particularly around the minimum standards, that they will not resubmit this application or any further application that does not meet the minimum standards as agreed by the Planning Department. I can give no other assurance than that.

### **3.7.6 The Connétable of St. Helier:**

Would the Minister agree with me that there is a risk that this site could become a little like a site not a million miles distant, La Folie, which has been in the States' ownership for some years and which the States has done absolutely nothing with. We could see South Hill left emptied of planning officers and other departments while the States of Jersey argue about what is the best future for the site.

#### **Deputy I.J. Gorst:**

Sadly, the Connétable is absolutely right. We have done that on myriad occasions in the past and it really ought to shame us. We should let them do the appeal. They will resubmit an application where units are appropriately sized, within the minimum standards, that the department proposes and we can get on and start building some units of accommodation.

### **3.7.7 The Connétable of St. Helier:**

Would the Minister go further and state that he shares my confidence that the S.o.J.D.C. can take a site that the States of Jersey has prevaricated about, such as the former Jersey College for Girls, which was derelict for most of my career in the States, and turn it into the really successful development of accommodation, Colledge Gardens? Does he share my confidence?

#### **Deputy I.J. Gorst:**

I am going to upset colleagues now. I drive past that development every morning - I know some will say I should cycle - on the way to school and I am more often than not reminded of what a great job was done in that development. It looks good, they have respected the old building, they have built new units and they can do so again.

### **3.7.8 Deputy S.G. Luce of Grouville and St. Martin:**

It is usual when senior civil servants disagree with their Minister that they would write to that Minister and say: "I know what you are telling me and I do not agree, but I will do what I am told." Given this circumstance, would the Minister agree with me, given that the Planning Committee is appointed by the Assembly and the development company are in some ways a de facto Ministry, that regardless of the reason for the appeal, they should never appeal any decision of the Planning Committee?

#### **Deputy I.J. Gorst:**

In effect I have answered that question. I beg to disagree with the Deputy.

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

While I respect the Minister's answer, I do not agree with it. Surely this Assembly is the decision-making authority. We agree the Island Plan, we then appoint a Planning Committee to administer that on our behalf and on behalf of the public. If the S.o.J.D.C. are owned by us, I would hope the Minister would agree with me in reflection that they should not be challenging decisions of the Committee.

**The Bailiff:**

That was a speech, not a question, Deputy Luce.

**Deputy S.G. Luce:**

I was hoping the Minister would agree with me, Sir.

**The Bailiff:**

The inchoate question, yes.

**Deputy I.J. Gorst:**

I certainly enjoyed his speech. Thank you.

**3.7.10 Deputy S.Y. Mézec:**

The Minister has made repeated reference to the process that any developer is able to follow. However, we are not talking about any developer, we are talking about our developer, which is meant to be accountable to this Assembly and seems to think that it is above the decisions that have been made by a committee, which has been appointed by this Assembly. Would the Minister, seeing as he is clearly not willing to ask the S.o.J.D.C. to abide by decisions of the Planning Committee, quite disgracefully in my view, will he instead inform this Assembly of how much money, which ultimately belongs to the taxpayer because we own that company, is being wasted by pursuing an appeal against a legitimate decision of the Planning Committee rather than putting a proper application in place that meets our aspirations, so that we can at some point see a decent development on there that is not plagued by all of the difficulties that the Planning Committee have already told them about?

**Deputy I.J. Gorst:**

We heard there, encapsulated, the point that the Constable of St. Helier was trying to make. We can choose to say to the S.o.J.D.C., despite the fact that the expert said things about the application that it was in line with the law and the Island Plan, the Planning Panel had a different view - and that is perfectly legitimate, as I said earlier - we can either deal with those technical planning issues in the appropriate way, following the appropriate process or we can say to S.o.J.D.C.: "Go back to the drawing board and submit a brand new application." The cost of which will be many of hundreds of thousands of pounds, if not millions of pounds, while leaving a site idle. The opportunity costs for Islanders needing accommodation is far greater than we can quantify in monetary value. I do not accept the question.