

3.13 Deputy J.H. Young of the Minister for Planning and Environment regarding amendments to Royal Court Rules:

What action, if any, will the Minister be taking to request amendments to the Royal Court's rules to ensure the third party objectors to the development of neighbouring properties are not excluded from Royal Court appeals against refusals and thereby denied their rights to an appeal under Article 1.1.4 of the Planning and Building (Jersey) Law 2002?

Deputy R.C. Duhamel (The Minister for Planning and Environment):

I understand the problems in this area and also agree with the drift of the Deputy in seeking to resolve these issues. At present, it is not unusual for third parties to be involved at all in any first party appeals and there is, as stated, a potential for appeals to go unnoticed by third parties and perhaps also the potential for decisions to be made which then exclude third party appeal rights. The Court, in deciding upon appeals, however, do consider all correspondence made by third parties in arriving at their decision. However, I do consider that this issue needs to be resolved and I have instructed my officers to include within proposals on the new planning merits appeal proposals to overcome these issues when we review the system later this year. Following that and subject to the results of the public consultation, necessary changes to the legal framework will also need to be contemplated.

3.13.1 Deputy J.H. Young:

Thank you for that answer. I would like to clarify with the Minister, please, whether he agrees that the problem that he has outlined arises from the States decision to replace the independent planning appeals arrangement, which was included within the Planning Law approved by this House to replace that with the Royal Court procedure and introducing the Royal Court Rules.

Deputy R.C. Duhamel:

Item 68 of the judgment does refer to that and suggests that when the Planning Law was originally passed, the proposal was that the Royal Court would no longer hear appeals but instead a new Planning Appeals Commission was to be created. This is going back to 2005. However, that did not happen, although it was suggested that a new planning merits appeal system should have been introduced. As I said, I think the problem has been readily identified. There are potential complications with the way it is being interpreted at the moment - and loopholes - and it is my intention, as I indicated earlier, to bring to this House further legislative changes in order to remedy those potential situations.

3.13.2 Deputy J.H. Young:

Just to ask the Minister to confirm if he agrees that the solutions potentially lie in re-examining the independent field process but, in the meantime, will he request changes to the current Royal Court Rules to at least reduce the chance of third parties being excluded and also to restore to them protection from costs and the right to lay representation on the modified procedure which the Royal Court Rules provide within the case of first party appeals they may not enjoy?

Deputy R.C. Duhamel:

As far as possible, yes.