

**WRITTEN QUESTION TO THE MINISTER FOR THE ENVIRONMENT
BY THE CONNÉTABLE OF ST. LAWRENCE
QUESTION SUBMITTED ON MONDAY 2nd OCTOBER 2023
ANSWER TO BE TABLED ON MONDAY 9th OCTOBER 2023**

Question

“Will the Minister provide information on the processes and decision-making of the Planning and Building Compliance team in relation to two situations in St Lawrence, and explain –

- (a) following the refusal of a retrospective application, after a developer had failed to follow approved buildings plans for 17 dwellings, whether there is any way to appeal the Planning and Building Compliance team’s decision to take no enforcement action nor to require a new retrospective planning application, and if no such appeal is possible, why; and
- (b) despite complaints being made two months ago about a developer proceeding with building houses using plans without details of site levels or means of surface water drainage, which has led to flooding on neighbouring properties, and seemingly contravening the requirements of the building permit in terms of using spoil to raise the land around completed floor slabs, why no action has yet been taken by the Planning and Building Compliance team?”

Answer

Without knowing the exact situations in St Lawrence to which the Connétable refers, I am unable to provide a detailed response. However, in more general terms:

- (a) Unlike the right of appeal afforded against decisions relating to applications for planning permissions pursuant to Article 108 of the Planning and Building (Jersey) Law 2002, there is no right of appeal against a decision not to take enforcement action. There is no mechanism in law that may be used to force a developer to submit a planning application if they choose not to. In the absence of a planning application, the Regulation Directorate will assess each breach on merit, taking into consideration any relevant policies in the Bridging Island Plan, material planning considerations and harm caused by unauthorised development. Whether development has already taken place is not usually a material planning consideration. The use of enforcement powers is discretionary, and in instances of continued non-compliance the team will consider further action in a fair and proportionate manner.
- (b) Where breaches of planning or building control are identified, the Regulation Directorate will in most instances seek to secure voluntary compliance before considering formal enforcement action. In instances where required details have not been submitted (as may be required by a planning condition), the officers will inspect works being carried out in order to identify any problems and suggest ways to remedy the breach. Neighbours and affected parties may report any specific instances of flooding so this may be witnessed and taken into consideration as part of the investigation and decision-making process regarding possible formal action.