

17/04/06

Re: Review of the Planning Process (with particular reference to P/2005/0855)

1) a) the rôle performed by officers in the pre-planning process:

The planning officers are, by their own admission, overworked, and cannot scrutinize every application. There seems to be an inability to pick up on whether a building is on the Historic Buildings Register, let alone whether inappropriate and/or unauthorized work has already been done on it.

c) The advantages and disadvantages of the current pre-application process with regard to the degree of neighbour/public involvement:

The present system of issuing one announcement in the Jersey Evening Post, giving a two-week period in which to lodge objections, is totally inadequate. It is all too possible for a neighbour or interested person to be out of the Island or ill at the time. I suggest the following additional measures: the placement of the application on a nearby surface such as a telegraph pole or a wall; written notification to the neighbours; and either a notice in the Parish Hall, or that the Parish vingteniers should notify the neighbours. I believe the first two courses are followed in the U.K.

2) To assess the effectiveness of the existing planning application process:

In the UK plans are available online, but in Jersey they are the property of the architect and can only be consulted within limited hours in the planning office which is inaccessible to elderly or disabled applicants.

No help is given to objectors in any way comparable to that given to applicants, and this is an aspect that causes feelings of frustration and injustice in objectors. In the UK local authorities have planning advisors who advise objectors how to make their case; we have nothing similar in Jersey. On the contrary, applicants have architects to advise them how to apply, and meetings are held with applicants, architects and planning officers, meetings from which objectors are excluded.

One result of this is that applicants are free to make statements that objectors would be able to demonstrate as untrue – if only the latter were aware that those statements were being made! This seems to have been a factor in the case regarding the application I objected to: I relied upon the fact that the site was in the Countryside Zone to give me protection, whereas the applicant managed to persuade the Committee to grant him exemption from the strict presumption against development in the Countryside Zone by citing his special needs for extra accommodation for his growing family – when, in fact, he had already placed his house on the market, and was only seeking the permit in order to increase the sale price of a site that he had overcapitalised on.

Additionally, if applicants make ‘concessions’, even concessions over matters that should never have been granted in the first place, such as loss of light or privacy to the objector, planning officers then seem to regard this as grounds for granting an application. Architects therefore seem to encourage applicants to apply for the moon, i.e. for a proposal that might otherwise be turned down, such as for too many units, in the anticipation that the proposal will then be reduced to what they wanted in the first place.

3) To consider the degree to which decisions taken by the Minister, Applications Panel etc have been influenced by

b) Precedent:

Well, yes, if permission has been given for numerous hotels to be pulled down and replaced by blocks of flats, it becomes very difficult to refuse permission for any such development.

c) the prospect of litigation on the part of applicants:

Well, yes, again, with reference back to my answer to 2, if applicants have been told that if they make 'concessions' they will then be granted permission, the Committee doubtless is in danger of being sued if it refuses the proposal. I think this definitely happened in my case: I asked that the Committee visit the site before granting the application if they were so minded to do so, because in no way was it possible to tell from the plans just how intrusive the development would be to me. They did visit, but they had already led the applicant to believe that he was going to get permission because of his 'concessions', and they could not then withdraw, even though they could not help but see the truth of my claim.

In addition, if applicants have put out considerable amounts in architects' fees, having been led to think that they will then get their way, they feel they have a right to that permission. I have some sympathy for that point of view; but that does not mean that applications that cause gross problems for the objectors should be granted. The process is NOT like buying a bar of soap; the fact that they have paid should not guarantee success.

4) To review the extent to which officers within the Planning and Building Services Department exercise delegated powers:

If the officers can exercise the power to bend the strict presumption against development in the Countryside Zone, can they not then exercise the power to tell the objector that this is what they are doing and why they are doing it, and to give the objector the right to point out that they might be doing so on a false assumption? Knowledge is power, and objectors are being disenfranchised.

Yours sincerely,

Fabia Gray