

## **2.1 Deputy D.W. Mezbourian of St. Lawrence of the Minister for Planning and Environment regarding enforcement of conditions attached to planning consents:**

Will the Minister advise Members what steps his department takes to ensure compliance with conditions attached to planning consents, and would he further state how often in the last 5 years formal action by way of the service of an enforcement notice has been taken following a breach of conditions?

### **Senator F.E. Cohen (The Minister for Planning and Environment):**

The Planning Department monitors conditions in 3 ways. First, the case officer for the application will visit the site during construction to check that the development is in line with the permission granted. Secondly, the site will be visited probably on several occasions by building control surveyors, who will also address any deviance from the approved plans. Thirdly, we will respond to requests from neighbours and members of the public where it appears that conditions are not being adhered to. Planning conditions are made known to those who commented on the application, and our enforcement is made much more effective by their continued vigilance. In the vast majority of these cases, formal enforcement action is not required, this is because the developer will either alter the work to comply with the permit or he will seek approval for the amendment. Enforcement notices are only necessary and are only justifiable if the request to alter the work is subsequently denied and the developer refuses to go back to the original approval. These cases are rare. A total of 49 enforcement notices were served against unauthorised developments between 2001 and 2005. Of these, 35 related to cases where works had been carried out without any permission at all and 14 related to cases which did not comply with the planning permit, either through a breach of conditions or a failure to adhere to the approved plans.

### **2.1.1 Deputy D.W. Mezbourian:**

Will the Minister advise how many enforcement officers he has within his Department, and whether he considers the resources that are applied to this are sufficient?

### **Senator F.E. Cohen:**

We have 2 enforcement officers, they are both excellent officers but they are significantly overworked. We are under-resourced; we could do with more enforcement officers, more planning officers, more development control officers and more building control officers, but I am afraid we have to make do with what we have. The system could be significantly improved, and in relation to a particular significant application of which many Members have an interest, I will be developing a far better system to ensure the conditions are properly implemented.

### **2.1.2 Connétable G.W. Fisher of St. Lawrence:**

As a follow-on to the question, and the particular site that the Minister mentioned, we are told that there will be something like 60 conditions attached. It is extremely important that we do ensure that those conditions are adhered to and that the conditions are properly policed and enforced, and listening to the Minister's reply I can only assume that he is going to try to do that. Does he feel confident he can, in fact, police and enforce all 60 of those conditions?

### **Senator F.E. Cohen:**

The number 60 was an approximate number, so I had better make that clear for a start. The particular application - being the Bel Royal site - is a very complicated application. The conditions are equally complex, and it is absolutely essential that we put in place a mechanism to ensure that each and every one of those conditions is properly implemented before the houses are sold or occupied, and I will be seeking to put in place an appropriate mechanism. I will take personal charge of the implementation of that mechanism, and I will also undertake to consult with the Connétable before I finalise the mechanism.

### **2.1.3 Deputy I.J. Gorst of St. Clement:**

Has the Minister considered incorporating the Australian approach to planning whereby building control and planning are brought forward together thus alleviating some of the problems that he may be encountering in his enforcement department?

**Senator F.E. Cohen:**

I think that this system, with which I am quite familiar, would not be particularly applicable to Jersey, particularly as we have such an under-resourced department and it will require such significant change. I think in the long term it may be a relevant aspiration, but in the short term it would be undeliverable.

**2.1.4 Deputy J.A.N. Le Fondré of St. Lawrence:**

The Minister referred to approximately 60 conditions, I think it was, on the Goose Green Marsh development. Could he confirm that at the time of the email he circulated to all States Members that those conditions were still being drafted and had therefore not been finalised? And could he also confirm whether those conditions are still in the process of being drafted?

**Senator F.E. Cohen:**

I can confirm that the conditions are still being drafted. I can also confirm that I will be taking advice from the Law Officers on a number of the conditions, and I have not finalised my view on one or 2 conditions.

**2.1.5 Deputy C.H. Egré of St. Peter:**

Would the Minister confirm that in a development close to Goose Green Marsh - namely the L'hermitage development - that there were certain conditions that were enforced on the developer which were not in fact adhered to? Would he make sure that these are reviewed and, in the case of the other development, to ensure that public have the confidence in the current system, that any changes in conditions will be notified to the public and will be enforced very highly and the very use of it?

**Senator F.E. Cohen:**

I can, and I would also add that I am certainly not claiming that in the past that the department has always been successful in imposing the implementation of permit conditions, but I can assure the House again that in relation to the Bel Royal site that I will personally take charge of this issue.

**2.1.6 Deputy D.W. Mezbourian:**

I regard it as highly unsatisfactory that we have to rely on the general public to give assistance to the Planning Department by making sure that conditions on planning consents are enforced, and as we know the public are not able to venture on to many sites. Therefore, we do have to rely on the 2 enforcement officers that the Minister has referred to, and he has told the House that he is looking at this issue as one to be addressed. I would like to ask the Minister to advise us which priority he is giving this within his department?

**Senator F.E. Cohen:**

I am not entirely sure what the Deputy is getting at, but if it is in relation to the Bel Royal development, my proposal in relation to that would be that we develop some form of mechanism where before the development is either signed-off or before the houses are allowed to be sold, that all the conditions are properly examined and tested to make sure that they have been complied with. As far as relying on the public is concerned, I agree it is not a satisfactory situation to rely on the public, but we do not entirely rely on the public. However, objectors do tend to have a particular interest in developments against which they have objected, and they do tend to keep a pretty vigilant eye on them, so it is a 3-pronged approach I would say.