

STATES OF JERSEY

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COMMITTEE OF INQUIRY INTO THE OPERATION OF THIRD PARTY PLANNING APPEALS

**Lodged au Greffe on 26th February 2008
by Deputy C.J. Scott Warren of St. Saviour**

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

- (a) to establish a Committee of Inquiry in order to examine the operation of Third Party Planning Appeals in the Royal Court for the first 12 months since its introduction and, if necessary, make recommendations for the future;
- (b) to present its report to the States Assembly by the autumn of 2008;
- (c) to appoint the following persons as members of the Committee of Inquiry –
 - (i) Mr. Rowland Anthony
 - (ii) Advocate Christopher Gerard Pellow Lakeman
 - (iii) Deputy Roy George Le Hérissier
 - (iv) Deputy Sean Seamus Patrick Augustine Power
 - (v) Deputy Celia Joyce Scott Warren;
- (d)
 - (i) to agree that the Committee shall appoint a Chairman and Deputy Chairman from within its number;
 - (ii) in accordance with Standing Order 146(5)(b) and (c) –
 - (1) that the Deputy Chairman shall, if required, preside in the absence of the Chairman;
and
 - (2) that the quorum of the Committee shall be 3.

DEPUTY C.J. SCOTT WARREN OF ST. SAVIOUR

REPORT

Members will know that on 31st March 2007 the provision was enacted for third party planning appeals to the Royal Court. The original full-scale Amendments at the time of the original debate on the Draft Planning and Building (Jersey) Law 200- would have provided for third party appeals to the Planning and Building Appeals Commission. However, the successful Proposition P.210/2004, brought by the Environment and Public Services Committee, scrapped the formerly endorsed Appeals Commission in favour of determination of planning appeals by the Royal Court.

Members were reassured that an appellant would not have to be represented in the Royal Court by a lawyer. The 'modified' procedure in the Royal Court would enable an appellant not to bear the risk of a cost award. However, the possibility of costs being incurred still remains, either due to a decision that the 'ordinary' procedure is required or the possibility of Court of Appeal costs. The fear of costs is effectively a deterrent against aggrieved third parties requesting an appeal, for all but the wealthy. In other words, the very people the Amendments had been intended to help – neighbours who feel aggrieved by a planning consent which they fear will adversely affect the enjoyment of their property – are in my opinion unable to risk costs that could run into thousands of pounds.

This was the situation that faced the first person to attempt a third party appeal in the Royal Court. She tried to appeal against the planning consent given to a developer but she had to withdraw her appeal, for fear of the costs, even though she may well have won the appeal.

After much thought, following a meeting which included the Minister for Planning and Environment, the Solicitor General, and the lady who had to withdraw from the Appeal, I have decided that there is a need to establish a Committee of Inquiry, in order to examine the operation and effectiveness of third party appeals.

My suggested Terms of Reference, which would need to be agreed or amended in consultation with the other members of the Committee of Inquiry, are as follows –

1. To examine the operation of third party planning appeals in the Royal Court for the first 12 months since their introduction on 31st March 2007.
2. To present a report to the States Assembly by the autumn of 2008.
3. To bring forward for consideration any recommendations.

Financial/manpower implications

There will be costs involved in carrying out a public inquiry, but such is the public concern over this issue, I believe the public will accept that it will be money well spent.

The costs will depend upon the level of officer support required. I would consider that seconding an officer on a part-time basis should cost in the region of £10,000 for the period of the Inquiry, and I consider that a prudent provision for sundry expenditure of £5,000 would be appropriate. The Minister for Treasury and Resources is requested, in pursuance of Standing Order 150(c), to give direction as to how the above expenses should be funded.