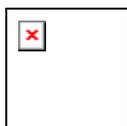


DRAFT PLANNING AND BUILDING (JERSEY) LAW 200- (P.50/2001): THIRD AMENDMENTS

**Lodged au Greffe on 1st May 2001
by Deputy C.J. Scott Warren of St. Saviour**



STATES OF JERSEY

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(1) PAGE 67, ARTICLE 11 -

Delete paragraph (1) and substitute the following paragraph -

“(1) The Committee shall by Order prescribe the manner in which -

- (a) an application for planning permission shall be publicized or otherwise notified; and
- (b) representations may be provided by members of the public.”.

Insert after paragraph (3) the following paragraph -

“(4) The Committee shall take into account in determining the application any representations provided by the public under this Article.”.

Renumber the subsequent paragraphs accordingly.

(2) PAGE 76, ARTICLE 22 (1) -

Insert, after sub-paragraph (a), the following sub-paragraph -

“(b) to grant planning permission in circumstances in respect of which a right of appeal would lie under Article 114 in respect of that decision;”.

Designate the subsequent sub-paragraphs as (c) and (d).

(3) PAGE 140, ARTICLE 106 -

Delete paragraph (2) and substitute the following paragraph -

“(2) For the purpose of paragraph (1)(c) a person who has made a submission to the Committee includes any highway authority, Committee, or a body or person created by statute that has commented on an application as a result of the Committee’s compliance with Article 14, 15, 16 or 17.”.

(4) PAGE 141, ARTICLE 108 -

Delete paragraph (2) and renumber the subsequent paragraphs accordingly.

(5) PAGE 146, NEW ARTICLE 114 -

After Article 113 insert the following Article -

“ARTICLE 114

Persons who may appeal against grant of planning permission

(1) This Article applies to a decision by the Committee to grant planning permission on an application made to it in accordance with Article 9(1), if any person other than the applicant has made a submission to the Committee in respect of the decision prior to the Committee making its decision.

(2) For the purpose of paragraph (1), a person who has made a submission to the Committee includes a highway authority, Committee, or a body or person created by statute that has commented on the application as a result of the Committee’s compliance with Article 14, 15, 16 or 17.

(3) A decision to which this Article applies shall not have effect during the period of 28 days immediately after the decision is made.

(4) If during that period a person appeals in accordance with this Article the period shall be extended until

either the appeal is withdrawn or is determined.

(5) When the appeal is determined the decision shall have effect, if at all, in accordance with the determination.

(6) The Committee shall serve a copy of the notice informing the applicant of the decision on each other person who made a submission to which paragraph (1) refers.

(7) The copy of the notice must -

(a) be served within 7 days of the decision being made; and

(b) be accompanied by a notice informing the person that the person may appeal against the decision or any part of it (including any condition of the planning permission) within 14 days of the service of the notice,

and that person, if aggrieved by the decision, may appeal to the Commission accordingly.

(8) On the appeal the Commission may -

(a) confirm the decision of the Committee; or

(b) order the Committee to vary its decision or any part of it (including any condition of the planning permission) as the Commission may specify; or

(c) order the Committee to cancel its decision to grant the planning permission.

(9) The Committee shall comply with an order made under paragraph (8)(b) or (c).”.

Renumber subsequent Articles and correct any cross references.

DEPUTY C.J. SCOTT WARREN OF ST. SAVIOUR

REPORT

Introduction

The draft Law is, as has been said, a major improvement on the present Law. Greater transparency in decision-making, with open Committee meetings and public inquiries for large-scale developments, is to be commended, and the setting-up of a Planning Appeals Commission is a positive step forward.

My amendments, however, are designed to rectify what I consider to be significant omissions in the area of allowing third parties, who may be affected by a proposed development, to express their concerns, and to have those concerns heard. In the event of an “adverse” Committee decision, my amendments, if approved, would offer the means whereby a third party could have swift access to an independent tribunal, and can therefore be seen as a safety-net.

Under the present Law, an aggrieved neighbour can appeal under the Administrative Decisions (Review) (Jersey) Law 1982, but the outcome is not binding upon the Committee. A third party has no “locus standi” for an appeal to the Royal Court.

If the House approves my amendments, the Committee would serve a copy of the notice informing the applicant of the decision, on all persons who had made a submission in respect of the application. This would be accompanied by a notice to inform these persons that they could appeal against the decision of any part of it within 14 days.

The provision for third party appeal is restricted to decisions on applications which have been the subject of submissions by third parties; such decisions would not take effect for a period of 28 days. In the event of an appeal, this period could be extended until the appeal is withdrawn or determined. The decision of the Commission would be final and binding upon the Committee, and could reasonably be achieved within the same period of three or four months as is already envisaged within the draft Law for appellants.

My amendments would have minor administrative financial and manpower implications for the States, but I believe these can be justified in order that the right of appeal is extended to all who feel aggrieved by a planning decision. The Commission could rightly dispense with appeals that were without foundation or frivolous, within a short time span.

I see my amendments as a common sense extension of the Planning and Building Law.

Amendment (1):

Article 11, as drafted, empowers the Committee to prescribe the manner in which applications shall be publicised. There is little purpose in this, however, if individuals have no statutory right (as do other bodies under Articles 14-17) to make representations to the Committee.

Equally, when individuals exercise their statutory right to make such a representation, the Committee must have a duty *to consider* that representation before reaching a decision.

Amendment (2):

Any appeal against the grant of planning permission would clearly need to be based on arguments which take the Committee’s reasoning into account. This amendment therefore includes the granting of contested applications in the list, in Article 22, of matters on which the Committee has a duty to explain its reasoning.

Amendment (3):

This is a technical amendment, on the Law Draftsman’s recommendation, to make it clear that Committees and other bodies making comments under Articles 14-17 will be in the same position, in terms of appeals, as private individuals who have made a representation on the subject of a planning application.

Amendment (4):

This amendment deletes the provision in the draft Law, whereby no appeal can be made against the *granting* of planning permission.

Amendment (5):

This amendment makes it clear that any person who has made a representation in respect of an application must be given

notice of the Committee's decision, and a reasonable opportunity to appeal against that decision.

(Amendments 1-3 stand or fall on their own merits. Amendments 4 and 5 depend on the House's approval of Amendments 1-3.)