

3. Questions to Ministers without Notice - Minister for Planning and Environment:

3.1 The Connétable of St. Lawrence:

I see on the Order Paper that the Minister for Planning and Environment is down to make a statement under item K on the Goose Green site, I understand that it is possible the Minister will not be making such a statement. Would he please confirm whether or not he will be making a statement and if he is not going to make that statement would he explain why?

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

I will not be making the statement. Yesterday evening I received a communication from the developer of the Bel Royal site that raised issues that I had not previously considered. I decided that those issues require me to take legal advice from the Law Officers and I have instructed my department to obtain that advice this morning. Literally within 5 minutes of receiving the communication last night I did forward it on to the relevant Parish politicians, including the Connétable, so he was informed, albeit in confidence, that I would not be making the statement today.

3.1.1 The Connétable of St. Lawrence:

Could I ask a further question of the Minister? Is it true that the fact that the statement was going to be made in the House today was released to the developer and does he think that is appropriate that statements that are supposed to be made to the Members of this House should be released to other parties before they are released to the Members of this House?

Senator F.E. Cohen:

I personally rather casually authorised yesterday the release of the statement to the developer; in this case I do think it was appropriate, particularly on reflection. It contained in it a suggestion of, I think what would probably be considered a compromise, and it was really a question of whether the developer was prepared to accept not pursuing alternative courses of action against the department or whether they would be prepared to give me some latitude. I think it is important that Members understand that I have approved the application for 102 houses at Goose Green and that is a fact, it is approved. What we are now dealing with is the conditions that are attached to the consent when the consent is sent out and I dealt with how I propose to deal with that earlier in relation to Deputy Mezbourian's question.

3.2 Senator B.E. Shenton:

When planning and building control fees were introduced 10 years ago it was on the basis that the funds raised would be used for environmental purposes. Is the Minister confident that his department has adhered to this requirement and if so will he produce the facts demonstrating that planning fees have been used for environmental purposes as intended?

Senator F.E. Cohen:

Firstly, I did not know that and I suppose the answer is; it depends what you mean by environmental purposes. The purpose of the Planning Department is to protect the built environment. I think in terms of protecting the countryside a relatively good job has been done. I do not believe that in terms of presenting the Island with buildings from which the Islanders derive pride and inspiration that the department has a particularly wonderful record but it is something that we are presently seeking to improve.

3.3 Deputy K.C. Lewis:

Further to plans to redevelop the Waterfront Esplanade car park area and of course the town park, will the Minister in consultation with other States' departments insist that adequate parking is provided elsewhere before any plans are approved?

Senator F.E. Cohen:

I am not sure that I can give an undertaking as to the timing but I can assure the Members that we are taking a holistic view of the parking requirements in the town, and this is being very carefully assessed and Members who have had the opportunity of studying the EDAW report will see just how seriously we are taking this.

3.4 Deputy C.J. Scott Warren of St. Saviour:

Can the Minister provide Members with an update regarding the introduction of limited third party appeals, including whether the department has so far received any requests for appeals from third parties?

Senator F.E. Cohen:

The system is in place. The officer is in position and so far, as far as I am aware, we have not been advised of any third party appeals.

3.5 Deputy A. Breckon:

I wonder if I could ask the Minister if he believes that the new hotel on the Waterfront adds to the Island's architectural merits and built heritage?

Senator F.E. Cohen:

I think, Sir, I had better be a little careful how I answer this question. I do not believe that this is a building from which anyone is likely to derive pride or inspiration. That does not mean it is necessarily the fault of the developer or the developer's architect. It may be that there could be all sorts of circumstances that have led to that. I can assure you that similar buildings will not happen under the direction of Sir Michael Hopkins.

3.6 Deputy G.P. Southern:

In the light of answers to Deputy Mezbourian suggesting that compliance with conditions attached to planning consents is somewhat haphazard will the Minister state when he will come to the House with measures appropriate to strengthen his powers to ensure that such compliance takes place?

Senator F.E. Cohen:

I think the problem is not that we do not have the mechanism to enforce. The problem is that we do not have the resources to enforce. I am intending to come to the House later in the year with a proposal to significantly increase commercial planning application fees and I have instructed my department to make sure that when we do come forward with this that it is a comprehensive mechanism to ensure that we deliver within the department everything that our customers - because applicants are customers, they pay a fee - and Islanders who we represent expect out of the Planning Department and I want the whole lot all thrown into one pool and that will include adequate measures to ensure that consents are properly monitored and that conditions are properly imposed. But I can do a quick fix in relation to issues like Goose Green.

3.7 Deputy D.W. Mezbourian:

Members of the public are able to obtain from the Planning Department copies of location plans which identify areas within the Island and show buildings in those areas. What guarantee can the Minister give that such plans are accurate?

Senator F.E. Cohen:

I think I am correct in saying that if you obtain a Digimap image from the department it is a 2006 Digimap image because there was a fly past in 2006. So I would assume that if you obtain an image from the department providing the building was in position in 2006 you will see it. I presume that if it has been constructed between the time of the fly past and now you will not see it.

3.7.1 Deputy D.W. Mezbourian:

Supplementary, if I may. I did ask whether the Minister was able to give a guarantee that such plans are accurate and I would like to have an answer on that?

Senator F.E. Cohen:

Sorry, Sir, I did not get to the heart of the question. I cannot give a guarantee. All I can do is to say that the department does its best to ensure that the plans are up-to-date but progressively from the time of the fly past the image you get will be progressively less and less up-to-date. So the more regularly we can fund fly pasts the more accurate they are going to be, but no I cannot give a guarantee.

3.8 Senator L. Norman:

Some time ago the Minister received an application for a housing development near the old holiday village at Plémont. Can the Minister say when that application will be determined and whether that will be before or after the Council of Ministers come forward with their preferred option for the future of the Plémont headland?

Senator F.E. Cohen:

The Plémont application will be determined as soon as is practical. I have only recently asked the officer concerned to write to the applicant's agent reminding them of certain information that they have not supplied. Sir, I am afraid we are really, at the moment, waiting on them and there is one issue which may be considered by some to be minor, but I regard it as quite important, and that is the future of the Puffin colony. There is an important Puffin colony and I have asked for a clear report that will outline the effects of any development on the Puffin colony and I am awaiting that as well.

3.8.1 Senator L. Norman:

The Minister did not answer the part where I asked whether the determination of the application will be made before or after the Council of Ministers come forward with their preferred option for the future of the Plémont headland.

Senator F.E. Cohen:

Sorry, Sir, it is not entirely in my control but I think the determination is likely to be before.

3.9 Deputy J.B. Fox:

Last week I had the pleasure of going over Norman Foster's Millau Bridge - which is an icon bridge - and I have never heard so many Frenchmen praise an Englishman in my life. I was wondering if he could indicate when Sir Michael Hopkins will be able to introduce to us an icon building that we too could be proud of on the Waterfront?

Senator F.E. Cohen:

You are shortly to see the first of Michael Hopkins' proposal, which is the new plans for the Weighbridge, which includes a proposal for a National Gallery and the current proposal is that that National Gallery will be designed by Sir Michael Hopkins. So the answer is very soon.

3.10 The Connétable of St. Lawrence:

We have discussed earlier this morning the importance of conditions on developments and in relation to Goose Green Marsh we have heard that there are going to be something like 60 conditions imposed. It is important to my mind that if conditions are imposed that they are properly policed and enforced. I am somewhat concerned that in the message that the Minister received last night from the developer, I believe, that in view of the fact that the Minister has made a statement already that he has effectively determined the application in favour in relation to Goose Green Marsh but that conditions are still in draft, and he has confirmed again this

morning that they are still in draft, I am concerned that the developer in the message said to the Minister: "I have to advise that if the consent is not issued immediately we will have no choice but to take legal proceedings against you." Does the Minister think that is an unreasonable approach?

Senator F.E. Cohen:

No, I am afraid I do not. I think that the developer is probably desperately frustrated. I think the developer is very well aware that the application for 129 houses that I refused had an unequivocal officer recommendation for approval. I had knocked that down to 102 which is as low as I believe I was practically able to deliver. I have engaged with the developer in requiring them to significantly improve the design of the houses and to introduce some local relevance. They have responded to all my requests and I think they are probably pretty frustrated. I think we just have to keep a balance of all these issues and accept that we are going to impose stringent conditions and that we have to work out a mechanism to ensure that those conditions are properly satisfied and I have given my undertaking that I will do just that.

3.11 Deputy I.J. Gorst:

I hate to be a bore or be seen to be flogging a dead horse but in light of the Minister's comments this morning regarding the hotel on the Waterfront and the to-ing and fro-ing which led to its current design, is he not now prepared to admit that this would not have occurred under the Australian system whereby the planning and the building control would have been dealt with together?

Senator F.E. Cohen:

My knowledge of the process that led to the present Radisson Hotel on the Waterfront is pretty scant but my understanding is that the issues that led to the design solution we presently see would not have been resolved by the Deputy's suggestion of combining the 2 processes. It was simply that in order to deliver the yield that the developer wanted they required a building that is higher than the present and the Committee of the day reduced the size of the building. It was a dumbing-down exercise, as I understand it.

3.12 Deputy J.A.N. Le Fondré:

Does the Minister feel that the department has been under perhaps unsuitable pressure from the developer to improve the scheme at Goose Green Marsh and, secondly, to approve the scheme before third party appeals came in, which obviously the original commitment on 1st January this year only came in about 2 weeks ago?

Senator F.E. Cohen:

No, Sir. I have done my best to keep the St. Lawrence politicians apprised of every move I was going to make in confidence ahead of the move. The Deputy is very well aware of the position in which I found myself. I simply was not able to manipulate the timing of the decision around third party appeals. It would have been ideal to have manipulated the timing, to have effectively passed the decision over to a time after third party appeals were implemented, taken the weight off my shoulders and I could have sat back saying: "Well, if you do not like it go for a third party appeal." I simply was not able to do that. There is a planning process within which an applicant has a reasonable expectation of having their application determined promptly and they do not expect the politician involved to manipulate his or her decision around political issues, and that would have been a political issue had I chosen to do so. So, yes, it would have been...

The Bailiff:

Sorry, that expires your time.