

5. Urgent Question - The Minister for Planning and Environment

15th May 2007

The Bailiff:

I think Members have been notified that I have given leave under Standing Order 15 for Deputy Le Fondré to ask an urgent question of the Minister for Planning and Environment. Deputy, perhaps this is the right time for you to ask that question.

5.1 Deputy J.A.N. Le Fondré of St. Lawrence:

Further to the email by the Assistant Minister yesterday referring to the protection of nesting birds under the Conservation of Wildlife (Jersey) Law 2000, would the Minister undertake to ensure that no work, particularly tree felling or scrub clearance, is carried out in the development site colloquially known as Goose Green Marsh until the season for nesting birds has passed, namely until the end of July 2007?

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

Firstly, I must say that I must take full responsibility for this situation as the current Planning Minister. Just to give a little recap: in 2004 the public consultation at St. Lawrence Parish Hall requested the relocation of the entrance to relieve congestion and allow for further road improvements. In May 2005 the Planning Sub-Committee accepted that the safety and road benefits outweighed the retention of the trees, albeit I have no doubt that this was a very difficult decision for them. When I first looked at this application I was very concerned at a proposed loss of the trees and instructed planning officers to do everything possible to retain the trees. Regrettably this would have compromised safety and on the advice of T.T.S. (Transport and Technical Services) was not possible. The Conservation of Wildlife (Jersey) Law makes this an offence to damage or destroy the nest of any protected bird while that nest is being used or built. We need to determine if any such nests have been destroyed or damaged. When an officer from the Environment Department visited yesterday no nests were found, but I have an email from a conservationist stating that he saw damaged nests. We need to get to the bottom of this. Thankfully the developers yesterday agreed in writing not to fell any further oak trees until the end of July. I will be asking the Environment Department to carry out a full survey of the site and to ensure that in the case of each and every tree that is proposed for felling that we are absolutely sure that there are no protected nests before it is felled. The loss of nests is unacceptable. The Conservation of Wildlife (Jersey) Law provides a mechanism effectively after the event. It may be time to review the process to ensure that this is better controlled by a more proactive method.

5.1.1 Deputy J.A.N. Le Fondré:

I thank the Minister for his reply. Just to clarify; will that review be extended - not being an ornithologist, I hasten to add - to the habitat areas and not just be restricted to trees?

Senator F.E. Cohen:

I think that my proposal is related specifically to trees and shrubs. The Wildlife Jersey Law, which is what effectively I will be using as the guide, specifically refers to

protected birds and the nests of protected birds and that is what I will be endeavouring to protect.

5.2 Deputy D.W. Mezbourian:

I too thank the Minister for his detailed reply, but I suggest that regrettably the delay in felling these oaks has been prompted only by the public outcry at the inappropriate timing of the felling. We have learned from the Assistant Minister that an Environment Department officer visited the site only yesterday. I would like the Minister to advise the House whether before he signed the formal permit on 8th May he had been advised of the Article to which he has just referred, namely Article 6(1)(b) of the Conservation of Wildlife Law? If he had not been advised will the Minister comment on the implied grave lack of co-ordination between the planning section of his department and the environment section which is, as we know, currently promoting an eco-active initiative?

Senator F.E. Cohen:

I am afraid that I cannot defend that which is indefensible and the position is very simple: that it would have been far better had I spotted earlier in the process that the permits that were being issued would allow trees to be felled immediately. I am not an ornithologist; I am afraid I did not consider the issue. I never considered that the permits that I was allowing to be sent out would result in the destruction of nests. I am not certain yet that it has resulted in the destruction of nests, but undoubtedly it would have been better had this been better controlled, but I am afraid I was not aware of it.

5.3 Connétable G.W. Fisher of St. Lawrence:

I understand that the copse in the northeast area of the site was also partially felled only yesterday. Why did the Minister, wearing his environment hat, feel justified in allowing 12 houses to be placed on the site of this copse which the Island Plan states should have been preserved?

Senator F.E. Cohen:

I think that the Connétable is well aware of the very long history of this site. The fact is that I have managed to achieve a very significant reduction in the number of houses built on the site. We are down to 102, which I think is the absolute bare minimum we could - and I cannot think of a better expression - have got away with and whether they are sited in the copse area or elsewhere I think that we should be satisfied that the number is not very significantly more.

5.3.1 The Connétable of St. Lawrence:

Could I just follow up on that? Is the Minister saying that the Island Plan is irrelevant?

Senator F.E. Cohen:

No, Sir. The Minister is saying that when I spoke to the Connétable early last year the Connétable himself told me on the telephone that if I could get the number down to around 100 he would be satisfied.

The Connétable of St. Lawrence:

No, Sir, that is not entirely correct. **[Laughter]** I agree we had a conversation on the telephone, I think it was the first time I had spoken to the Minister, and I said that the parishioners may be satisfied with that number but I could not speak for everybody.

The Deputy Bailiff:

We have gone slightly off the point of the urgent question, which was to do with the trees rather than development as a whole.

5.4 Deputy C.H. Egré of St. Peter:

With reference to the oak trees, there had been several references and various officers' reports prior to their destruction regarding the supposed poor health of those trees. On Sunday after the trees had been felled I did have a look at them and was concerned that I did not see the illness that was supposedly apparent in these trees. So I asked for an independent qualified specialist to have a look at them and he confirmed to me that these trees were in generally good health - all the trees were in generally good health - and did not need felling. Would the Minister please review how his assessment from his officers was made in light of this information?

Senator F.E. Cohen:

The information I have which was reported yesterday to States' Members is that of the trees there were 3 which were Grade A, 6 were Grade B, 4 were Grade C and 3 are Grade D. I presume that these are standard classifications but I am afraid I know little more about it. While I can remember the content of the telephone call, I am neither an expert of trees nor birds.

5.4.1 The Deputy of St. Peter:

Would the Minister please review how this information was gained with the current information that I have passed on?

Senator F.E. Cohen:

Yes, I most certainly will.

5.5 Deputy R.G. Le Hérisier:

Would the Minister acknowledge that in the light of this incident and this whole saga that now is the time to separate Planning from Environment?

Senator F.E. Cohen:

There are very often conflicts between Planning and Environment and the Deputy is not the first person who has raised it. But I think that the present system does work quite well. There is an effective separation between the 2 departments and, in fact, in many cases - and this perhaps is one - it may have been a case where if the departments were more integrated we may have had a better result.

5.6 Senator J.L. Perchard:

Does the Minister agree with me that all Members of the States in 2002, at the time of the approval of the Island Plan, must take responsibility for the development at Goose Green and all that goes with it?

Senator F.E. Cohen:

It is very easy to blame others and I do not seek to do that. It is also very easy to not think of the full consequences of legislation that we approve, and I am sure that there are things that I have been party to approve that in time I may change my mind or wish I had been a bit more careful in my decision making. I was not a politician in 2002, I do not know fully the processes that Members went through, but I do not think Members can be blamed for the Island Plan mistakes of 2002, if there were any.

5.7 Deputy G.P. Southern:

I am pleased to hear that the Minister has said he will take full responsibility for the actions down at Goose Green. I also refer to his description of some of the actions as being indefensible. If, after inquiry, these actions do turn out to be indefensible, will his full responsibility extend to considering his position?

Senator F.E. Cohen:

I do not think that question really needs an answer. [Laughter]

The Deputy of St. Martin:

Could I ask the Minister was an environmental impact study carried out at Goose Green Marsh prior to the consent being given, and also what is the policy in respect of environmental impact studies, particularly in the countryside where new green fields are opened-up?

The Deputy Bailiff:

I am sorry, Deputy, this is an urgent question in relation to protecting these particular trees. Does anyone have a question on this particular matter?

5.8 Deputy P.V.F. Le Claire:

I for one - I am sure shared by other Members - congratulate the Minister for accepting that he has not got the power of God and he does see areas where he needs to be looking now that he has not looked up until now. I am comforted by his words today. Will he also look, while he reviews the issues from this incident, at the facilities that are provided to other forms of wildlife, other than nesting birds that trees provide, such as squirrel corridors, *et cetera*?

Senator F.E. Cohen:

Yes, I am quite happy to undertake to do that.

5.9 Deputy J.A.N. Le Fondré:

I do not know if you will allow this one or not, Sir. Given the responses of the Minister, does he perhaps feel that the ecological review performed by the developer on the site should have been much more detailed, especially in dealing with the timing of the tree felling and scrub clearance, to ensure that relevant laws such as the one referred to earlier were complied with?

Senator F.E. Cohen:

I think we are just going round and round in circles. The fact is that if bird nests were destroyed that is a terrible error. I do not know presently whether bird nests were

destroyed. I am going to do everything I possibly can to try and find out. All I can conclude from this is that it would clearly have been far better had we stipulated that the trees should not be felled during the nesting season. The fact is we did not. We learn from our mistakes and there is nothing more I can say.

5.10 Senator P.F.C. Ozouf:

I rise as a previous president of Environment and Public Services who, like my friend on the right, is one of those Members of this Assembly who has had to deal with the consequences of this Assembly's 2002 Island Plan. Would the Minister - who I sympathise with and is in the same position as I, who has to deal with former decisions of former States Assemblies and Committees - agree with me that this important issue of the trees should be added to the Committee of Inquiry terms of reference?

Senator F.E. Cohen:

I think that is a jolly good idea, and I think we should do so.

The Deputy Bailiff:

I think that is probably sufficient on that subject for today.