

3.4 Deputy J.A.N. Le Fondré of St. Lawrence of the Minister for Planning and Environment regarding the signature of a Ministerial decision:

Given the assertion to this Assembly during the debate on 2nd May of P.49/2007 - and I have abridged that, Sir - which is the Committee of Inquiry debating Goose Green, that the decision to grant planning permission had already been made, could the Minister confirm what date he physically signed ministerial decision number MDPE 2007(065) which bears the date 21st March 2007?

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

I physically signed the relevant ministerial decision on the morning of 4th May 2007. I appreciate that there has been a level of debate over when a planning decision takes place, however, I have taken advice from the Law Officers and am satisfied that this decision was made on the day I instructed the planning officers to write up the consent, and that was on 21st March 2007. On 21st March I instructed the planning officer to write up the consent for 102 homes, together with various associated works, subject to finalisation of conditions and to a requirement that the applicant should enter into a planning obligation agreement. I appreciate that the ministerial decision supplementary guidelines state that a ministerial decision will only be made when the decision is signed, however, I am assured that this is not the determining factor in the case of planning decisions. Under the Planning and Building Law, the word "decision" takes on the common English usage, and, accordingly, my decision was made when I reached my conclusion and/or made up my mind to grant planning permission. The fact that I signed the ministerial decision on 4th May 2007 does not, and cannot, undo my original decision made on 21st March. The ministerial decision signed on 4th May is only a document recording a decision I had taken on 21st March. The period of time between 21st March and 4th May was essential in order to enable the preparation of my detailed report on the application and to finalise the wording of its contents. I would point out to the House that at all times I have kept the Parish Connétable and Deputies fully informed. I have provided them with notification of my decision of 21st March and I have provided them with draft conditions during the preparation of my report. Furthermore, I continue to provide them with the notes of the weekly site visits that I have instructed my officers to undertake to ensure compliance with the planning conditions. The matter is now the subject of a public inquiry at the suggestion of the Connétable of St. Lawrence, and I hope that the House will feel that it is now appropriate to confine further examination to that Inquiry.

3.4.1 Deputy J.A.N. Le Fondré:

I would add the point that I am not having a go for political reasons. It is purely for an objective measure, to ensure that due process has been followed. I do not really want to get into a major legal argument as to when a decision had been made, although it is my understanding that a decision that is conditional upon something is not a decision in law. However, I do have a problem with the statement the Minister made towards the end, because it seems to completely ignore R.C.80/2005, which does require decisions to be dated on the date they are signed, and notes that decisions to be recorded will include the following: "a decision to grant consent or permission under statutory provision." So therefore, on my reading of the process, the ministerial decision should have been dated 4th May and not 21st March. Can the Minister clarify, please, Sir?

Senator F.E. Cohen:

I think I have already clarified the matter in my previous answer.