

2.15 Senator B.E. Shenton of the Minister for Planning and Environment regarding fees paid by the Boathouse restaurant as part of a planning agreement:

Would the Minister confirm that as part of the planning process the Boathouse Restaurant was required to pay the sum of £20,000 to the Planning Department to fund community improvements in the St. Aubin's area and if so, will he explain how this money has been used and advise Members whether such cash payments to his department are now commonplace?

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

The Boathouse was granted initial planning permission by the former Planning and Environment Committee in 2004. Subsequent applications relating to the balcony and terrace were received in 2005 and as these works were to significantly increase the number of covers in the restaurant the former Committee decided to seek contribution towards improvements and parking facilities through a planning obligation agreement. The agreed sum was £20,000. A cheque for £20,000 dated May 2006 was forwarded by the Law Officers to the Treasury where it is held in escrow pending the signing of the planning obligation agreement. Once signed the funds will be made available to Transport and Technical Services who will determine the best parking improvement solution in consultation with the Parish and Harbours. This mechanism for delivering public benefit through planning obligation agreements is a normal and accepted part of the planning process. Provision was made for it under the Planning and Building (Jersey) Law 2002 and it is common practice in other jurisdictions including the U.K. The law makes provision for financial contributions. For example, the Checkers redevelopment of Georgetown to increase the size of the store is subject to a possible contribution of up to £250,000 towards road improvements which would otherwise have to be funded by the public. £500,000 was negotiated for road... **[Interruption]** Furthermore, £500,000 was negotiated for road improvements through a planning obligation agreement on a housing scheme. All sums received are held in escrow by Treasury. They will usually be repaid, if not expended, within an agreed timeframe.

2.15.1 Senator B.E. Shenton:

Can the Minister confirm that the St. Aubin's residents will benefit from the interest on the money as it has been held for quite a long time?

Senator F.E. Cohen:

I am not authorised to answer on behalf of the Treasury, but I am sure that the Treasury Minister would look favourably on applying the interest to the benefit of the parishioners in terms of the parking improvements.

2.15.2 Senator J.L. Perchard:

Does the Minister agree that money obtained by his department from developers by means of a planning obligation agreement or, in fact, a Percentage for Art contribution, or any other levy on developers other than the usual application charges, are public funds once levied and received? Does he agree that all public funds should be managed in an open and transparent manner? If he, like me, thinks they most definitely should, how does he intend to regularly inform the people of the Island of the use of these funds?

Senator F.E. Cohen:

I think that the Senator is rather conflicted in this matter as he has a current planning application under consideration at the present time which may involve both the planning obligation agreement negotiation and a Percentage for Art negotiation. Therefore, I think it probably inappropriate that I answer the question further.

2.15.3 Deputy J.J. Huet of St. Helier:

Could I ask, I heard the Minister say that developers would be asked for a planning improvement that would go to either the roads or something else or to art, but I am also hearing rumours that the

word “developer” seems to be getting misused. I would like to be reassured that this is private developers and not what I am hearing if we wanted to put up a ward, a hospital, a waste energy plant, that they are not expecting a tax to come from those because that is the taxpayer’s money. I believe that on a waste energy plant, planning officers are asking for something like £1 million to go to art. That is taxpayer’s money; that is not a private developer’s money. I want to be really reassured on the floor of this Assembly that there is no intention of taking £1 million from the tax payer to pay for an art gallery or whatever.

Senator F.E. Cohen:

I can quite happily confirm that there is no intention of taking any sum from the energy from waste plant for the purpose you have suggested. The concept of planning obligation agreements is to be reasonable. They are intended to effectively compensate the public for inconvenience and to mitigate for the effects of development. For example, if you build a shop it may be that it would be reasonable to expect that that would increase the quantum of traffic in the area and therefore the developer should be expected to compensate the public so it does not fall to the public purse to pay for the road works necessary. The intention is not to apply it to works for the benefit of the public.

2.15.4 The Deputy of St. John:

The Minister may require some notice for this question, but I will ask it anyway. Could the Minister advise the House of any other planning obligation agreements since 2002 and assure the House that true benefit to the public has been achieved? Perhaps he could publish something, which I think is what Senator Perchard was getting at?

Senator F.E. Cohen:

The concept of planning obligation agreements, which the public are already benefiting significantly, was the brain child of my predecessor, Senator Ozouf, and I think we should all be very grateful to him for introducing this mechanism into the planning system. The system is transparent, it is open, and I am perfectly happy to commit to producing a published list of planning obligation agreements and, for example, Percentage for Art agreements if that would be helpful to Members of the House. It is not supposed to be a secret, but clearly during the negotiation process we cannot be entirely open about our expectation of what has been offered. Once they are agreed, yes, they can be published.

2.15.5 Senator J.L. Perchard:

I shall not respond to the Minister’s accusation that I was conflicted. I am very disappointed to hear him say that. I will write to Members to explain my position; I am far from conflicted. The Minister said that the planning obligation agreements are subject to negotiation with the developers. He has also, just a moment ago, said that an application can be the subject of a planning obligation agreement without a developer even knowing. So which is it? Is it a negotiation or is it a levy, a tax?

Senator F.E. Cohen:

I am not prepared to answer further questions from the Senator in relation to this matter. He is quite clearly conflicted. He has a current planning application in the planning process. It is a contentious application. It will probably be subject to a Percentage for Art negotiation and it may well be subject to a planning obligation agreement in other areas. I really think it is inappropriate to continue questioning me on this.

2.15.6 The Connétable of St. Brelade:

I understood the Minister to indicate the planning obligation agreement on the Boathouse had yet to be signed-off? The premises have, to my knowledge, been operating for some almost 2 years now. Could he give any Members any indication as to when this signing-off may take place?

Senator F.E. Cohen:

I have already asked the department to do what they can to encourage the signing-off of the planning obligation agreement. The problem is that the impetus to sign it off has probably rather fallen away because from the developer's perspective they have paid over their money to Treasury and it will now be up to their lawyers to complete their side of the work. I will be doing what I can to get it signed as soon as possible and I would certainly hope that it would be signed within a few months.

2.15.7 Senator F.H. Walker:

I am concerned about the way this question is developing. Will the Minister confirm that the planning obligations and the Percentage for Art are charges that are levied, that are then re-invested in the infrastructure of the Island entirely to the benefit of the people of the Island? That was my intention. That is how I believe they are being implemented and I would welcome the Minister's confirmation.

Senator F.E. Cohen:

Absolutely, Sir, I can confirm exactly as the Chief Minister has suggested.