

### **3.5 The Deputy of Grouville of the Minister for Planning and Environment regarding the laws, policies and guidelines on which planning applications were determined:**

When planning officers are making recommendations to the Minister to approve or refuse a planning application, which laws, policies and guidelines are taken into account to assist or determine their recommendation?

#### **The Deputy Bailiff:**

Minister, you could write an essay, I am sure, but as you will recall... a reasonably concise answer.

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

I shall try. The department's recommendations are based on the requirements of the Planning (Jersey) Law and the current Island Plan. These considerations are the most important as decisions need to be legally correct. It is important to recognise that in general the Minister is expected to grant permission if a proposed development is in accordance with the Island Plan. Officers will consider any relevant approved supplementary planning guidance. They will also consider the replies to statutory and non-statutory consultations such as drainage and highways in the relevant Parish. The case officers will conduct a site visit to assess the potential impact of the application proposals on the site and its surroundings. They will have particular regard to any objections submitted from neighbours. In addition, there may be other factors that are material to consideration of the application such as planning history.

#### **Senator S. Syvret:**

On a point of order. I am sorry to interrupt the Minister but the Minister to my right, Senator Perchard, is shouting ... well, not shouting but saying in my ear: "You are full of fucking shit. Why do you not go and top yourself, you bastard." I really do not think that this conduct is acceptable.

#### **Senator J.L. Perchard:**

I absolutely refute that. I am just fed up with this man making up allegations against people. I just wish he would not.

#### **Senator S. Syvret:**

The Senator did engage in a drunken foul obnoxious outburst at the Town Hall the other night ...

#### **Senator J.L. Perchard:**

Oh, rubbish.

#### **Senator S. Syvret:**

... in front of witnesses and he is now persisting in his foul aggression against me. If the Assembly is to maintain some semblance of good order, I really think somebody ought to have a word with Senator Perchard and perhaps help him get some therapy.

#### **Senator J.L. Perchard:**

This is out of order. I really object to the Senator hijacking question time to pursue his personal vendetta against me.

#### **The Deputy Bailiff:**

One moment. This was a private matter in any event. I cannot rule on what was said and what was not because it is denied so we will leave the matter there. But quite clearly Members should as a general principle be courteous to each other, should not insult each other or use abusive language to each other. That is in Standing Orders so far as public utterances are concerned. It is in the code of conduct as I understand it so far as ordinary private interaction between Members is concerned. I urge all Members to abide by that. **[Approbation]** Now, Minister, I am sorry you were interrupted but perhaps you could carry on.

**Senator F.E. Cohen:**

In addition, there may be other factors that are material to consideration of the application such as the planning history of the site, any preliminary advice that may have been given and decisions made on sites in similar circumstances to ensure consistency of decision making. Once the officer has informed a recommendation it will be reviewed by a senior officer who will decide whether the application should be determined by officers under delegated powers, by the Planning Applications Panel or by the Minister or Assistant Minister. The officers will also be directed by the Minister's wishes with regard to the route of determination. It is important to remember that while the process of determination is structured there will also be an element of subjectivity in planning decisions.

**3.5.1 The Deputy of Grouville:**

In a report accompanying a planning application, part of the planning officer's recommendation read as follows: "It is not unreasonable on balance to conclude that what impact there will be on nearby properties is outweighed by the need to encourage the enterprise." What qualifications do planning officers have to make economic judgments and which enterprises in the Island should be encouraged and which should not? Surely this consideration greatly compromises the officer's ability to determine planning applications on planning grounds.

**Senator F.E. Cohen:**

I am not entirely sure which particular application the Deputy is referring to. However, the general principle is that Economic Development will provide advice in relation to economic enterprises. However, the Island Plan is quite robust in this area and does make very clear that planning is to be tuned towards certain industries, most notably of course the agriculture and, effectively, aquaculture industries as well.

**3.5.2 Senator B.E. Shenton:**

Is it not the case that the Planning Department have asked for business plans in the past to be put forward with planning applications?

**Senator F.E. Cohen:**

The Senator is absolutely correct. For example, in relation to 2 applications quite recently that could be classified in one way under the States-approved principle in 2005 of enabling development where very clear business plans had to be submitted and the consents are effectively linked to ensuring that investment is made in the agricultural enterprises specified.

**3.5.3 Deputy J.A. Hilton of St. Helier:**

Can the Minister explain in what circumstances he would agree to developments which do not reach his department's own minimum standards on room sizes?

**Senator F.E. Cohen:**

My preference is not to approve any application that is below the minimum standard. In fact I have increased the minimum standard by 10 per cent but there are always exceptions. There is one that I am presently considering involving a listed building where in order to come to an accommodation it may well be necessary to consider one or 2 units that are slightly below the minimum standard to ensure that we do not damage the listed building too much. So the general principle is that I will seek to maintain minimum standards plus 10 per cent.

**3.5.4 Deputy J.A. Hilton:**

I understand that the Minister does attempt to do that but really what I am trying to establish is why he agreed a development of the Rex Hotel on St. Saviour Road; agreed that development and some of those rooms are well below the minimum standard that he says that he supports.

**Senator F.E. Cohen:**

As far as I am aware in the case of this particular application there was an existing consent dating back some years. I think that the current plans are for significantly larger units than was previously the case. So I think the plans that I have recently been involved in approving are a significant improvement in respect of room sizes.

**3.5.5 The Deputy of St. John:**

Can Portacabin sites be given a permanent planning permission? If so, will he explain why as we are seeing more and more villages of Portacabins springing up around the Island? In the future will these turn out as building sites?

**Senator F.E. Cohen:**

The general principle is that Portacabins should be restricted to specific enterprises and they should be time-limited. However, I am aware of one situation recently where because Portacabins or workers accommodation was being relocated, a consent was given enabling the relocation to be on a permanent basis. When I was informed of this particular situation I instructed the department to modify the consent to ensure that the consent was limited to a time period I think of 5 years. So the general principle is that Portacabins should be time-limited most definitely.

**3.5.6 Deputy R.G. Le Hérissier:**

How does the Minister cope with situations where a planning application is refused on the grounds of being in the Green Zone and then at a later stage such an application apparently the ground - if I may use the phrase - has shifted and the application is denied on the basis of a poor design, thereby leaving the application open to be progressed further? How do such changes of principle occur?

**Senator F.E. Cohen:**

With great respect to my friend the Deputy, I do not think I really should comment. This relates to a particular application which is still the matter of some considerable debate and there is likely to be a first party and a third party appeal. So I think it is probably better that I do not comment.

**3.5.7 The Deputy of Grouville:**

Is the Minister saying that the economic grounds for determining an application will supersede the planning grounds? If there is a good business case to approve an

application will that take precedence if the application itself contravenes the Island Plan?

**Senator F.E. Cohen:**

No, it most certainly will not. However, as the Deputy and Members will know, the Island Plan wording is quite widely-drawn and it is designed to give considerable latitude in decision making. That is why I revert to my closing remarks in my answer which is that the process of determination is structured but there will always be an element of subjectivity and the decision maker in one case may weigh the economic argument more importantly than another decision maker in the same situation. That is the very nature of the subjectivity of planning decisions. But certainly the Island Plan should not be breached and it is very clear that the Minister does not have the authority to significantly breach the Island Plan.