

2.8 Deputy J.H. Young of the Minister for Planning and Environment regarding changes to the Third Party Appeal system:

In view of the recent judgment in an appeal against a development in La Rue au Moestre, St. Aubin in which the Royal Court concluded that the development should not have been approved, will the Minister agree to bring forward changes to the third party appeal system to address the inequalities of the system for third party appellants?

Deputy R.C. Duhamel (The Minister for Planning and Environment):

The Deputy suggests in the run up to his question that the Minister's decision was - what is the word - not agreed with. Members will know that third party appeals are dealt with under Articles 114 and 109 of the Planning and Building (Jersey) Law 2002. The effect of these provisions is that a court may only allow an appeal on the ground that the decision of the Minister was unreasonable having regard to all the circumstances of the case. The court, in summing up, stated that the court had considered the matter very carefully; the Jurats are unanimous in concluding that - if they had been the Minister, which clearly they are not - they would not have granted permission for this development because of the degree of overbearing overlooking, even with the party wall. However, they remind themselves of the fact that such a view does not entitle them to overturn the decision of the Minister and that in order to do so they have to be satisfied that his decision is so mistaken as to be properly categorised as being unreasonable. This they are unable to do. They consider that the decision falls within the band where reasonable disagreement is possible and in the circumstances they are not entitled to substitute their own view for that of the Minister. Turning my attention to the question without the premise, I have already stated at this House on several occasions that it is my intention to bring to this House - probably by the third quarter, that is the aim of the department - changes to the appeal system in order to consider the very questions that the Deputy Young has addressed about inequities in the system for third party appellants. This is the agenda and I am hoping that we will stick to it.

2.8.1 Deputy J.H. Young:

I thank the Minister for his very full answer. I would just like to ask him to clarify 2 points. Could he confirm that he thinks that where in lay terms a court decides unanimously that they do not consider that it was right to give consent, that constitutes for most people a mistake? Secondly, would he not agree that if the court finds itself in the situation that having reached that conclusion that it cannot do anything about it and cannot cancel the consent that is seen by most people as at least an inequality, something to be put right?

Deputy R.C. Duhamel:

I think that there are issues and difference of opinion in terms of Ministerial ideas, departmental ideas and indeed ideas for the public. This is why I have asked for a review of the system. To draw me into any particular conclusion as to what the outcome of that review will be at this point in time is wrong and I reserve my judgment.