

7.4 Deputy J.A. Hilton of St. Helier of the Minister for Planning and Environment regarding a meeting between himself and representatives of the Co-op:

Would the Minister for Planning and Environment inform Members of the date of the meeting which took place between himself and representatives of the Co-op (Channel Islands Co-Operative Society Limited) which he referred to on 10th September and would he also state when he made the decision not to take part in determining the planning application?

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

Friday 19th October 2012, and it was on Monday 13th May 2013 that I confirmed my decision not to sit in with my Planning Applications Panel to determine the application.

7.4.1 Deputy J.A. Hilton:

In an answer given to Deputy Young on 10th September, when asked if alternatives had been discussed, the Minister for Planning and Environment responded: "It was my recollection that no alternatives were discussed." Is the Minister for Planning and Environment still of the opinion he did not discuss alternative amendments or schemes with the applicant and, if so, did he not find it surprising that after considering the original application at a Ministerial meeting in October that the applicant should submit an application which included totally demolishing the building?

Deputy R.C. Duhamel:

I notice the Deputy Bailiff has left the Chamber and this application is *sub judice* at the moment so I am wondering or not I should answer that particular question.

The Greffier of the States (in the Chair):

I understand the matter is coming to the court, I am not sure it is yet before the court, so I think you can answer the question.

Deputy R.C. Duhamel:

I think in that case, yes, it is my recollection that alternatives were not discussed and it is not a matter of surprise that a particular application which has not been considered by the Planning Applications Panel or myself has not been discussed or presented to a panel or body for decision in the light of comments that have been expressed by the department. I feel that if I say any more we are starting to stray into an area that might be a form of challenge for the particular application that has been presented to the Planning Applications Panel for decision-making. I would just like to say that in all circumstances I have followed the Ministerial protocol, as I read out last time, and I remind the House that I have not determined the application.

7.4.2 Deputy J.A. Hilton:

I do not believe the Minister for Planning and Environment answered part of my question. The question that I asked the Minister for Planning and Environment was: was he surprised after the private meeting that took place with the applicant that they submitted an application to demolish all of the historic buildings?

Deputy R.C. Duhamel:

Personally, I was not surprised, particularly because of references that had been made by my officers as to a way forward in this particular difficult case. There are letters on file, which may be viewed, suggesting whatever advice had been given by the department, and it is pretty clear that advice did suggest that, having got to a stalemate position, the only alternatives left were the radical ones.

7.4.3 Deputy J.H. Young:

I wonder if I can ask the Minister for Planning and Environment to clarify: the answer he gave referred to his answers to earlier questions where my recollection is that he did say that he had not authorised his officers to make any suggestions about demolishing those buildings. Yet he appears to have indicated just now that that was not the situation that his officers did so. Could he clarify that?

Deputy R.C. Duhamel:

I do not think I have issued any statement saying that I have authorised officers to give advice. The advice that is given by officers is given by officers. All I can say is that I have on file and with me, a letter from the department suggesting ... and I can paraphrase it or read it out exactly, it is written by one of the officers: "Accordingly, I must advise you that the department's view on this application has not altered since it was expressed in the February letter. Additionally, we can suggest no alternatives other than radical reductions in both the size of the building and the loss of heritage to overcome these concerns." It goes on to discuss other matters. As I say, we are straying into things that might well be material to the challenge that the Co-op is making in respect of an application and I think it is not right that this House, in the absence of full particulars, should be straying into those questions.

7.4.4 Deputy J.H. Young:

Not wishing to lead the Minister for Planning and Environment into dangerous areas, but would he not agree that such a letter containing such comments from a planning officer - although the Minister for Planning and Environment says this was issued without his authorisation - would he not agree that such a letter issued by an officer does have potential legal implications as a principle? Would he not accept that?

Deputy R.C. Duhamel:

Again, Deputy Young is moving into an area that is asking me and the rest of the House to judge on something for which we do not have the particulars in front of us and we should not be drawn, so I am not in a position to comment on that.

7.4.5 Deputy J.A. Hilton:

A final question. Going back to the Minister for Planning and Environment having stated 2 weeks ago that there were no discussions around alternative amendments of schemes, can the Minister for Planning and Environment explain to me that if he did not give pre-planning advice why did he feel he had to withdraw from determining the application that he had determined the previous month in a Ministerial hearing? What did he feel had changed that he was not able to do that anymore?

Deputy R.C. Duhamel:

Again, it says under the protocol, and it is quite clear, which is why I read it out last time and I will read it out again, it says: "If there is a direct or indirect financial interest or prejudicial interest or where the Minister has been lobbied or has been subject to personal approaches or personal interests he or she would not be comfortable disclosing, the Minister should regard him or herself as conflicted on receipt of the application and not determine the application to ensure public misconceptions of undue influence do not arise."

[12:00]

I consider there are things that I am not comfortable disclosing, in particular other States Member interest in this particular application, and on that basis I have excluded myself from making the decision. It is absolutely quite clear that I have not made the decision and there are things, or I know things, such that I am counting myself as being conflicted on receipt of any application and I have not taken part in the decision-making. That is as far as I am prepared to go.

7.4.6 Deputy J.A. Hilton:

A supplementary, very briefly. Just in the Minister for Planning and Environment's last answer he said that there are things that he was uncomfortable about disclosing. Will he tell the Assembly what those things are?

The Greffier of the States (in the Chair):

Presumably not. [Laughter]

Deputy R.C. Duhamel:

Presumably not, absolutely right, Sir. Unless we are prepared to go into an in camera session and I can divulge things that perhaps I would not wish to divulge, then fair enough, but I am not prepared to go there at the moment. I do not think it is right I should be queried as to why I have excluded myself from making a decision and the protocol is very clear: it says that if the Minister, and I repeat: "Feels that he is conflicted, for whatever reason, then he does not take part in the decision." That is what has happened and that is that.