

21.03.23

7 Deputy K.F. Morel of the Minister for the Environment regarding the legal protection of trees (OQ.74/2021):

Given that the Jersey Trees for Life website states that: “Currently the law in Jersey relating to tree protection is quite inadequate and the resource and motivation to uphold what is in place is lacking”, will the Minister advise of any progress to date in strengthening the legal protection of trees and will he provide an approximate date as to when he will lodge proposals to amend the relevant laws?

Deputy J.H. Young (The Minister for the Environment):

I am grateful to the Deputy for his question because it gives me an opportunity to correct the statement there of lacking of motivation. The improvement in the protection of the trees is one of the priorities of myself and Deputy Guida, as the Scrutiny Panel will recall. I signed a Ministerial Direction in January 2020 and updated one in October 2020 on 28 amendments to the Planning and Building Law. Most of them are procedural, technical and admin but 3 are very significant; conservation areas, biodiversity and protection of trees. The latest update I had is that I will be seeing a draft to enable me to lodge that in July this year. Unfortunately, it is correct that I have not yet seen that draft and I am informed that there are considerable drafting delays in the system due to pressure on the drafting facilities for both COVID legislation and a huge chunk of laws regarding Brexit. My expectation now, I am hoping that is not a long delay, September; therefore lodging in September this year I am hopeful of. But I am afraid it is not an easy business because the change to the law will be empowering. There is a lot more work to do after that, which I was very grateful for the Environment Scrutiny Panel bringing amendment number 21 to provide £300,000 worth of resource in the Government Plan, which will enable the work in terms of the tree survey, definition of tree species and exemptions and issues about diseased trees and so on. There are a lot of complex matters which need to be in place and that is why I am suggesting the law changes will have an appointed day provision, when all that work is done, to be able to implement and achieve full implementation of a much better regime to look after trees due in 2022. That is the best expectation I can have. I see it as an absolute priority, particularly with climate change and ...

The Bailiff:

Minister, I have to ask you to bring your answer to a close.

Deputy J.H. Young:

Thank you, Sir, I have finished.

The Bailiff:

At least 40 seconds over the normal allocated time.

3.7.1 Deputy K.F. Morel:

I thank the Minister for his detailed answer but does the Minister have any mechanism currently through which he can understand the scale of trees being felled in Jersey at any given time? By scale I mean the number of trees being felled or destroyed at any given time in Jersey. Is that something he is currently able to monitor?

Deputy J.H. Young:

No, I do not get the information. What I do know are the things that led me to the decisions I made was, first of all, the loss of listed trees, which was truly shocking. The planning system obviously needs improving to make sure it does not happen anymore. Of course, anecdotally, I do get a lot of complaints throughout the Island, people are very sensitive to trees and so I do not have quantitative information, I am sorry.

3.7.2 Deputy G.J. Truscott of St. Brelade:

Sometimes I believe we overcomplicate matters. Does the Minister not agree the simple permit system would more than adequately do the job? If you lived in Vancouver, for example, and wanted to fell a tree you would apply for a tree-removal permit for every tree that had a diameter of 20 centimetres or greater, measured at 1.4 metres.

Deputy J.H. Young:

I had no intention of proposing that we implement this in an over-bureaucratic way. The planning law change, I propose, will simply bring trees into the scope of development. It would certainly need the sort of permit system that you have described. I am familiar with one that I personally operated in Alderney, where a tree is 18 inches circumference and so on. It is straightforward to do, so it will not be over-bureaucratic. But that is what I mean, we need time to put all those details in place and that is why I gave the answer I did on the time.

3.7.3 Deputy G.J. Truscott:

All I wanted to say is I am disappointed that it is taking so long to get legislation put in place. Will the Minister do his utmost to progress matters?

Deputy J.H. Young:

I absolutely share the Deputy's frustration. We are desperate for law-drafting resource. This planning law strengthening, as a member of the Planning Committee, there will be most of those changes he will want and benefit from but I just cannot seem to get the progress on law resources.

[11:00]

I think some of it is due to COVID. The department, at its worst, lost 50 per cent of its staff to do COVID work, so there has been disruption. But I do share the frustration and I am going to keep my foot on this all the time, it is really important.

3.7.4 Senator S.C. Ferguson:

Given that I understand that the Planning Department has no individuals with landscaping experience or qualifications, that they tend to ignore the green backdrop zone in St. Brelade, for example, what steps will the Minister be taking, apart from the legislation, to ensure that they will improve this?

Deputy J.H. Young:

I think in amendment 21 to the Government Plan there was a whole set of actions and outcomes there. The Senator is absolutely right, to make sure that the planning team is geared up with the skills and knowledge to do that. At the moment I think I am hopeful we might be able to get agreements with external organisational partners to help us do this but there is a resource issue. But that resource was in place as a result of that amendment. But, yes, I think the Senator is right, that is what I mean, why there is more to do than just pass laws. We have to get the mechanics in place in a workable, practical fashion.

3.7.5 Senator S.C. Ferguson:

I would just like to know that the Planning Department will follow the decisions made by the States. For instance, in 1967, 2011 and 2014 and the Planning Department ignores them. It is that sort of approach. We must ...

The Bailiff:

I am sorry, is the question: will the Planning Department follow the decisions of the Assembly because ...

Senator S.C. Ferguson:

Yes.

Deputy J.H. Young:

The quick short answer is yes and the new Island Plan will help them do that, if the Members agree to those proposals, to strengthen those things that the Senator is talking of; green backdrop, et cetera.

3.7.6 Deputy L.M.C. Doublet:

Could the Minister please describe what a tree protection order is and how it can be applied? Is it something that a landowner applies for? Is it the department that applies for it or, perhaps a tree nearby, can a member of the public apply for a tree protection order?

Deputy J.H. Young:

Yes, Deputy, we do not have very many trees listed, that is a shame. But, nonetheless, the trees that have been listed have been done, proposed by the department. Some of those, I think, are due to survey work where all knowledge of a tree at risk due to development, but we are very open to members of the public to highlight those trees that require it. They will have to go through some kind of assessment and we would use the I.H.E. (Infrastructure, Housing and Environment) arboriculturists to help us advise on that. But we do not do enough and the tree survey in progress in amendment 21 will help us do that and do more.

3.7.7 Deputy L.M.C. Doublet:

Could the Minister just describe the criteria whereby a tree would be subject to a tree protection order?

Deputy J.H. Young:

That is a toughie. It depends on where it is. I think if it is an urban tree, very much a specimen tree in healthy condition and it really adds amenity to the area, which is otherwise not available, I think that would really be significant. But, equally, if it is causing damage or damaging drains or infrastructure around the place, then those would be negative, so there is a whole suite of factors. Could I undertake to provide the Deputy with the criteria in writing subsequently to the Assembly?

Deputy L.M.C. Doublet:

Thank you.

3.7.8 Connétable M.K. Jackson of St. Brelade:

In a similar vein to the previous speaker. A Jersey oak acorn was planted on 20th March 1934, that is some 87 years 3 days ago, at Overdale by the president of the committee to commemorate the

opening of the hospital. Will the Minister ensure that this magnificent tree receives maximum protection? It has no protection whatsoever at the moment.

Deputy J.H. Young:

That is a difficult question. I have to admit, I am not aware of this particular tree and I think it would be wrong of me to give a particular commitment on it without knowing so. But I will undertake to check that out and see what the situation is and what its future is.

3.7.9 The Connétable of St. Brelade:

Likewise, as the previous speaker mentioned, the process of protecting trees is extremely complex and not apparent on the Planning website. Would the Minister, once again, confirm that he will make the process somewhat easier for the public to implement tree protection orders?

Deputy J.H. Young:

Yes. I think we have got a dilemma here. At the moment the procedure is complex, which is one of the reasons why there are not many trees that have been listed because one has to go through all sorts of complex procedures and there are appeal opportunities and everything. What I am proposing in the Planning and Building Law changes, if Members go with it, is a much simpler system. I am a bit reluctant to pump a load of resources in because the longer term, a way of doing this would be better. But as an interim arrangement, because I have already said we probably will not be able to get these new arrangements in place until 2022, I am happy to do as the Connétable requests.

3.7.10 Deputy S.G. Luce of St. Martin:

I share the Minister's enthusiasm to protect the environment. Does he agree with me that it is fine to have new laws but to do the job properly you need officers with delegated powers to prosecute offenders?

Deputy J.H. Young:

Yes, and of course, Deputy, we had several questions on this subject. I have been quite open about this that the enforcement team has been badly depleted and there is a backlog of work. I think what I am asked by the office and told at the moment is that the OneGov I.H.E. model should realign some resources to be transferred internally to strengthen that team. But there is no beating around the bush, I have been frustrated because I want to find, and I have asked the director general for appointment of short-term temporary contract resource to help us get rid of that backlog. There are nearly 300 cases. I am very frustrated that so far the system has not been prepared to allow it to release those resources to enable to get this job done. I am sorry to say but that is the open situation.

3.7.11 The Deputy of St. Martin:

I understand the Minister's frustration with his officers but will he agree with me that it is the Environmental Protection Department that needs to be taking on this work and his officers at Howard Davis Farm that may also need strengthening if we really are to protect our environment in the countryside?

Deputy J.H. Young:

Yes. I think to be fair to the officers at Howard Davis Farm, they are having to take on some of these major responsibilities from the Planning team, which, as I said, has not only been depleted but has

had a massive increase in workload and lost skills as a result of the target operating model. But their work, indeed with Brexit and fishing, it has just gone off the scale. The Deputy knows that since I have been elected I have been banging on about the need to resource that Environment Department properly and it has never happened. I will keep at it until the end of my term.

3.7.12 Deputy K.F. Morel:

I would like to thank my colleagues in the Assembly for their supplementary questions. Given the situation the Minister has described in terms of lack of resources and law-drafting time, could the Minister confirm whether he has given any thought to the possibility of signing a Ministerial Order that would give blanket protection to mature trees over a particular size, as Deputy Truscott suggested, perhaps 20 centimetres as we see in Vancouver? Particularly an order such as this, has he thought about it, particularly in areas such as built-up areas, so you could just sign a Ministerial Order protecting trees in built-up areas? Has he considered it?

Deputy J.H. Young:

I have not but my immediate response is I think I would be very doubtful whether the law would allow it. The simple change that I need to have is that the felling of a tree becomes development. If that happens then I could do such a thing. I will go back and I will get him a legal opinion but in my view I would be very surprised if that can be done under the law.

The Bailiff:

As I just mentioned to Members, we have now finished 7 of the questions on the question paper and we have got through more than two-thirds, I think, of the time available to us and there are 22 questions overall. Possibly questions for Ministers who are to answer in questions without notice, it may be that supplemental questions can be kept to a minimum and that I may bring that to Members' attention. Question 8 Deputy Alves will ask the Minister for Social Security. Has the Deputy indicated that someone else is to ask the question? No. Yes, I think in the circumstances, as we understand it, Deputy Ward, that is not an inappropriate way forward.

Deputy R.J. Ward:

Shall I carry on?

The Bailiff:

Yes, please.