

STATES OF JERSEY



STATES OF JERSEY LAW 2005: DELEGATION OF FUNCTIONS – PLANNING AND ENVIRONMENT

**Presented to the States on 16th August 2006
by the Minister for Planning and Environment**

STATES GREFFE

REPORT

On 28th June 2006, the Minister for Planning and Environment made a decision delegating certain of his functions under the legislation as detailed below.

The terms of the delegation were recorded in a ministerial decision as follows –

DELEGATION OF POWERS

Planning and Building (Jersey) Law 2002, as amended
R&O.8982 Building Bye-Laws (Jersey) 2004 (BBLs)

Delegation Agreement

The **Minister for Planning and Environment** has delegated to the Assistant Minister all his powers under the above Laws, save the making of Orders, so that they may be exercised in his absence, and to the Planning Applications Panel and the Officers specified in this Report, the power to make decisions on his behalf as described below –

Code of Practice

The **Minister for Planning and Environment** retains all decision-making functions under the Law.

In addition he will consider requests for reconsideration of decisions made by the former Environment and Public Services Committee, the former Planning Sub-Committee, the Planning Applications Panel or authorised officers of the Department to refuse permission or impose conditions. Where he considers it beneficial, the Minister may sit with the Assistant Minister who chairs the Application Panel, and may also invite personal presentations by the applicant or objectors (provided always that the applicant has a right of reply to any third party representations).

The **Planning Applications Panel** has the delegated authority of the Minister to make decisions under –

- (a) Articles 9, 11(3) to (6), 13(1) to (3), 14 to 17, 19 to 24, 26 and 28, concerning planning applications;
- (b) Articles 40, 42 and 45, concerning enforcement;
- (c) An Order made under Article 76 concerning the display of advertisements; and
- (d) An Order made under Article 81 concerning moveable structures.

In practice, the panel will decide –

- (a) all applications where written political representations have been made, either for or against the proposal;
- (b) all applications which have become contentious by virtue of the number or strength of representations made;

- (c) all applications which would involve a departure from the Island Plan or other approved planning policy but where, in its opinion, there are good grounds to consider approving the application;
- (d) the serving of enforcement notices; and
- (e) any other applications referred to it by an authorised officer of the Department.

Provided that it shall not make a decision –

- (a) where the Panel is minded to disagree fundamentally with the Department's recommendation on an application, the matter will be deferred until a later meeting of the Panel following consultation with the Minister; and
- (b) where the Minister wishes to decide the matter himself.

The Chief Officer – Planning and Environment, the Director of Planning, the Assistant Directors, Principal Planners and Building Control Surveyors, *Senior Planners and Building Control Surveyors, *Planners and Building Control Surveyors, and *Enforcement Officers, have the authority of the Minister to make decisions under –

- (a) Articles 9, 11(3) to (6), 13(1) to (3), 14 to 17, 19 to 24, 26 and 28, concerning planning applications;
- (b) Articles 34 to 37 concerning building applications;
- (c) Articles 40, 42 and 45, concerning enforcement;
- (d) An Order made under Article 76 concerning the display of advertisements; and
- (e) An Order made under Article 81 concerning moveable structures.

In practice, the above authorised officers will decide –

- on whether it is necessary to make an application;
- the appropriate fee for an application;
- on applications where that decision is in accordance with the Island Plan or other approved planning policy, or accords with an earlier decision of the former Environment and Public Services Committee, the former Planning Sub-Committee, the Minister for Planning and Environment or the Planning Applications Panel;
- on applications where there have been representations from the general public, but where those representations have been accommodated by revisions to the application or by condition, are of a non-planning nature, or are not of sufficient weight to influence a decision on the application;
- on all Building Bye-law applications, including relaxations of bye-laws;
- on applications made under the Display of Advertisements Order 2006;
- on applications made under Articles 101 to 104 (importation of caravans) and the Moveable Structures Order;

- on reserved matters which follow an outline planning permission;
- on requests to vary permissions, including conditions;
- on the content of Notices served under the Law;
- on applications to fell, or undertake surgery to, a tree listed as a Protected Tree (Article 61).

All decisions made under the above provisions will be checked and counter-signed by a more senior officer.

*Provided that the Chief Officer – Planning and Environment or the Director of Planning, in the case of these Officers, must be satisfied that any of the above decision-making responsibilities are within the competence of the individual officers concerned.

There is also delegated authority from the Minister to make the following decisions –

- (a) to disallow requests for reconsideration of a decision made by the former Environment and Public Services Committee, the former Planning Sub-Committee, the Planning Applications Panel or the above mentioned officers, where there are no new factors which on planning grounds would cause a different decision to be reached (to the Chief Officer – Planning and Environment, the Director of Planning, the Assistant Director (Development Control) or the Assistant Director (Building Control) as appropriate);
- (b) the making of grants for the repair of Registered Buildings (to the Chief Officer – Planning and Environment, the Director of Planning, the Assistant Director of Planning (Policy and Projects) and the Principal Historic Buildings Adviser).

For the avoidance of doubt, a decision under the above delegation agreement includes the granting of permission, with or without conditions, and the refusal of permission.

The Minister will be informed of all application decisions made by the Planning Applications Panel and authorised officers.

Agreed by the Minister for Planning and Environment on 28th June 2006.