

STATES OF JERSEY



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

**Presented to the States on 20th November 2008
by the Minister for Planning and Environment**

STATES GREFFE

REPORT

On 18th November 2008, the Minister for Planning and Environment made a decision delegating certain of his functions under Article 28 of the States of Jersey Law 2005 in respect of the–

- Planning and Building (Jersey) Law 2002,
- Planning and Building (Display of Advertisements) (Jersey) Order 2006,
- Planning and Building (Movable Structures) (Jersey) Order 2006,
- Planning and Building (Planning Fees) (Jersey) Order 2007,
- Building Bye-laws (Jersey) 2007, and
- High Hedges (Jersey) Law 2008.

The terms of the delegation were recorded in a Ministerial Decision as follows –

Unless otherwise stated, any reference to an Article is a reference to the Article so numbered in the Planning and Building (Jersey) Law 2002.

1. The Delegations

- 1.1 By virtue of the power conferred on him by Article 28 of the States of Jersey Law 2005, and subject to the conditions set out below, the Minister for Planning and Environment has delegated to the Assistant Minister all the functions conferred on or vested in the Minister by or under the Planning and Building (Jersey) Law 2002, as amended and the Building Bye-laws (Jersey) 2007, save the making of Orders, so that they may be exercised in his absence.
- 1.2 By virtue of the power conferred on him by Article 9A of the Planning and Building (Jersey) Law 2002 and subject to the conditions set out in section 2 below, the Minister has delegated to the Planning Applications Panel the functions conferred upon or vested in him 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 movable structures.
- 1.3 By virtue of the power conferred on him by the States of Jersey Law 2005, the Minister has delegated to the officers specified below (individually, an “authorized officer” and collectively, “the authorized officers”) the functions conferred on or vested in him specified below.
- 1.4 The Minister has delegated to –
 - (a) the Chief Officer – Planning and Environment,
 - (b) the Director of Planning,
 - (c) the Assistant Directors,
 - (d) the Principal Planners and Principal Building Control Surveyors,
 - (e) the Senior Planners and Senior Building Control Surveyors,
 - (f) the Planners and Building Control Surveyors, and
 - (g) the Enforcement Officers,

the following functions –

- (i) the functions specified in paragraph 1.2 above;
- (ii) the functions specified in Article 54(2)(a) concerning works to Sites of Special Interest;
- (iii) the functions specified in Article 61(1)(a) concerning works to a Protected Tree;
- (iv) the functions specified in Articles 66, 68 and 71 concerning dangerous structures;
- (v) the functions conferred upon or vested in the Minister by the Planning and Building (Fees) (Jersey) Order 2007;
- (vi) the functions conferred upon or vested in him by the Building Bye-laws.

For the avoidance of doubt, the functions delegated include the granting of permission, with or without conditions, and the refusal of permission.

1.5 The Minister has delegated to –

- (a) the Chief Officer – Planning and Environment,
- (b) the Director of Planning,
- (c) the Assistant Director (Development Control),
- (d) the Assistant Director (Building Control),
- (e) the Assistant Director (Policy and Projects),

(as appropriate) the power to disallow requests for reconsideration of a decision made by –

- (i) the former Environment and Public Services Committee,
- (ii) the former Planning Sub-Committee,
- (iii) the Planning Applications Panel,
- (iv) the authorized officers,

where there are no new factors which on planning, building or special interest grounds would cause a different decision to be reached; provided that no authorized officer may disallow a request for reconsideration of a decision made by that authorized officer himself.

1.6 The Minister has delegated to –

- (a) the Chief Officer – Planning and Environment,
- (b) the Director of Planning,
- (c) the Assistant Director of Planning (Policy and Projects),
- (d) the Principal Historic Buildings Adviser,

the making of grants for the repair of Registered Buildings under Article 56 to make funds available for the protection, repair or restoration of any site or building.

1.7 By virtue of the power conferred on him by Article 28 of the States of Jersey Law 2005, and subject to the conditions set out below, the Minister for Planning and Environment has delegated to the Assistant Minister all the functions conferred on or vested in the Minister by or under the High Hedges (Jersey) Law 2008, so that they may be exercised in his absence.

1.8 By virtue of the power conferred on him by the States of Jersey Law 2005, the Minister has delegated to the officers specified below (individually, an “authorized officer” and collectively, “the authorized officers”) the functions conferred on or vested in him by or under the High Hedges (Jersey) Law 2008 as specified below.

1.8.1 The Minister has delegated to –

- (a) the Chief Officer – Planning and Environment,
- (b) the Director of Planning and Building Services,

- (c) the Assistant Directors of Planning,
- (d) the Principal Planners,

the following functions –

- (i) the functions specified in Article 6 concerning the validity of a complaint;
- (ii) the functions specified in Article 7 concerning determination of an application and the requirements for remedial action;
- (iii) the functions specified in Article 9 concerning the varying and withdrawal of a remedial notice.

The Minister retains all decision-making and other functions delegated by this document.

2. The conditions

- 2.1 In the exercise of the functions delegated to them, the Assistant Minister, the Planning Applications Panel and the authorized officers will observe and abide by the Code of Practice set out in section 3 below.
- 2.2 The Assistant Minister will not exercise the functions delegated to him/her save in the absence or incapacity of the Minister.
- 2.3 The Planning Applications Panel will not make any decision or otherwise exercise any function in any case where it disagrees fundamentally with the recommendation of the officers of the Planning and Environment Department. In such a case, the Panel will defer the matter until a later meeting, for consultation with the Minister.
- 2.4 Neither the Assistant Minister, the Planning Applications Panel nor any authorized officer will make any decision or otherwise exercise any function in any case in which the Minister has given notice that he wishes to make the decision or exercise the function himself. For the avoidance of doubt, the Minister may give such notice after the Assistant Minister, the Planning Applications Panel or an authorized officer, as the case may be, has begun a consideration of the matter, and at any stage prior to the making of the decision or exercise of the function in pursuance of the delegated powers.
- 2.5 All decisions made by an authorized officer will be checked and counter-signed by a more senior officer.
- 2.6 The Assistant Minister, the Planning Applications Panel and the authorized officers will inform the Minister of all decisions made by them respectively in pursuance of the above delegations.

3. The Code of Practice

- 3.1 Subject to paragraph 1.6 above, the Minister will consider requests for reconsideration of decisions made by –
 - (a) the former Environment and Public Services Committee,
 - (b) the former Planning Sub-Committee,
 - (c) the Planning Applications Panel, or
 - (d) authorized officers,

to refuse permission or to impose conditions.

- 3.2 Where it is considered beneficial, the Minister may sit with the Assistant Minister who chairs the Application Panel.
- 3.3 The Minister, or Assistant Minister in respect of meetings of the Planning Applications Panel, may invite personal presentations by the applicant or objectors (provided always that the applicant has a right of reply to any third party representations). In the case of meetings to determine applications made under the High Hedges (Jersey) Law 2008, the Minister, or Assistant Minister may invite personal presentations by

the complainant and hedge-owner (as defined by the Law).

3.4 In practice, and subject to the conditions set out in section 2 above, the Planning Applications 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, any guidelines or policies published in accordance with Article 6, any 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 authorized officer.

3.5 In practice, and subject to the conditions set out in section 2 above and to paragraph 3.6 below, the authorized officers will decide –

- (a) whether it is necessary to make an application;
- (b) the calculation or waiver, in whole or in part, of planning fees;
- (c) applications where the decision is in accordance with the Island Plan, any guidelines or policies published in accordance with Article 6, any other approved policies;
- (d) applications where the decision accords with an earlier decision of –
 - (i) the former Environment and Public Services Committee,
 - (ii) the former Planning Sub-Committee,
 - (iii) the Minister for Planning and Environment, or
 - (iv) the Planning Applications Panel;
- (e) applications where there have been representations from the general public, but where those representations have been accommodated by revisions to the application or by the imposition of conditions, are of a non-planning nature, or are not of sufficient weight to influence a decision on the application;
- (f) applications under the Building Bye-laws, including applications for the relaxation of the Bye-laws;
- (g) applications under the Planning and Building (Display of Advertisements) (Jersey) Order 2006;
- (h) applications under Articles 101 to 104 (importation of caravans) or under the Planning and Building (Movable Structures) (Jersey) Order 2006;
- (i) on reserved matters which follow an outline planning permission;
- (j) on requests to vary permissions, including conditions;
- (k) on the content of Notices served under the Law;
- (l) applications carry out an action specified in Article 61 to a tree listed as a protected tree;
- (m) applications under the High Hedges (Jersey) Law 2008, where the hedge owner has not submitted a representation;

provided that, in all cases, the authorized officer's decision is endorsed by a more senior authorized officer.