

DEPARTMENT OF THE ENVIRONMENT

PLANNING AND BUILDING (JERSEY) LAW 2002

Chief Officer's Decision Making Protocol

November 2017

1. Background:

The Planning and Building (Amendment No.6) (Jersey) Law 2014 came into force on 10 March 2015. The Amendment introduced the right of appeal against decisions and actions taken under the Law with the Minister for the Environment making the decision on the appeal. It is not appropriate for the Minister to be involved in the first tier of decision making and the Law now identifies the Chief Officer as a first tier decision maker.

It would be impractical for the Chief Officer to personally make all the decisions that are identified in the Law and this protocol ensures that decisions are made at the appropriate level to ensure the efficient administration of the Chief Officer's duties and responsibilities.

This protocol covers decisions and actions in the Law and in enactments made under the Law

2. Instructions to officers of the Department of the Environment

In pursuance of Articles as identified below the Chief Officer responsible for the administration of the Planning and Building (Jersey) Law 2002 authorises the making of decisions by the officers of the Department of the Environment as indicated and subject to the conditions and limitations as stated.

Officers should be certain that in accordance with this protocol that they have the relevant authority to make decisions. If there are any uncertainties that an officer is authorized to make a decision they must discuss it with their line manager prior to making any such decision.

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Article	Detail	Authorised Officer
APPLICATIONS FOR PLANNING PERMISSION		
Article 9(2)(a)	Determining the required form of an application	<ul style="list-style-type: none">• Directors of Planning Development Control and Policy, Projects and the Historic Environment
Article 9(2)(b)	Determining the particulars to be accompanied by an application	<ul style="list-style-type: none">• Directors of Planning Development Control and Policy, Projects and the Historic Environment• Principal Planners and, Principal Historic Environment Officer• Senior Planners and Assistant Senior Planners• Planners and Trainee Planners• Technical Support Officers

Article 9(3)(a)	Determining the prescribed fee required to be submitted for an application	<ul style="list-style-type: none"> • Directors of Planning Development Control and Policy, Projects and the Historic Environment • Principal Planners and, Principal Historic Environment Officer • Senior Planners and Assistant Senior Planners • Planners and Trainee Planners • Technical Support Officers
Article 9(3)(b)	Determining the certification required for an owner to approve that an application be made	<ul style="list-style-type: none"> • Directors of Planning Development Control and Policy, Projects and the Historic Environment • Principal Planners and, Principal Historic Environment Officer • Senior Planners and Assistant Senior Planners
Article 9(6)	Requiring the applicant to provide further particulars as may be reasonably required to determine the application.	<ul style="list-style-type: none"> • Directors of Planning Development Control and Policy, Projects and the Historic Environment • Principal Planners and, Principal Historic Environment Officer • Senior Planners and Assistant Senior Planners • Planners and Trainee Planners • Technical Support Officers
Article 9(7)	Determining that an application has been properly made, that sufficient information is accompanying the application and that if this is not the case that the application can be refused.	<ul style="list-style-type: none"> • Directors of Planning Development Control and Policy, Projects and the Historic Environment • Principal Planners and, Principal Historic Environment Officer • Senior Planners and Assistant Senior Planners
<p>Articles 19 to 23 and 26 may be considered by the Planning Applications Committee.</p> <p>Before making any decision officers should be sure that the issue is not being considered by the Committee in accordance with the agreement between the Chief Officer and the Committee as required by Article 9A (1A) of the Law</p>		
Article 19 (4) & (5)	Granting of planning permission either without conditions, or subject to conditions, and the refusal of planning permission, following the submission of an application.	<ul style="list-style-type: none"> • Directors of Planning Development Control and Policy, Projects and the Historic Environment • Principal Planners, Principal Historic Environment Officer

		<ul style="list-style-type: none"> • Senior Planners and Assistant Senior Planners
<p>Article 19(3) - Grant of planning permission inconsistent with the Island Plan - no officers may make a decision which is inconsistent with the Island Plan.</p> <p>Any proposed departures from the Island Plan must be considered by the Planning Applications Committee or may be the subject of a Public Inquiry in accordance with Article 12 of the Law.</p>		
Article 20	<p>Grant of planning permission for development already undertaken following the submission of an application.</p> <p>Grant of planning permission for a development that does not accord with a condition attached to a previously granted planning permission.</p>	<ul style="list-style-type: none"> • Directors of Planning Development Control and Policy, Projects and the Historic Environment • Principal Planners, Principal Historic Environment Officer • Senior Planners and Assistant Senior Planners
Article 21	Variation or removal of a condition attached to a previously granted planning permission following an application to vary the condition.	
Article 26	Termination of a planning permission which has been commenced but not completed by reference to time limit.	
Article 28	Provision of a certificate of completion of a development.	
<p>APPLICATIONS FOR BUILDING PERMISSION (BUILDING BYE-LAWS APPROVAL)</p>		
Article 35(3)	Granting of building permission that is inconsistent with the Building Bye Laws.	<ul style="list-style-type: none"> • Director of Building Control • Principal Building Control Surveyors
Article 35(4)	Granting or refusal of building permission (Building Bye Laws).	<ul style="list-style-type: none"> • Director of Building Control • Principal Building Control Surveyors • Senior Building Control Surveyors • Building Control Surveyors
Article 34(4)	Refusal of an application for building permission on the basis of appropriate details not being submitted.	

ENFORCEMENT OF PLANNING AND BUILDING CONTROLS

Decisions under Articles 40, 42 & 45 may be made by the Planning Applications Committee.

Before making any decision officers should be certain that the issue should not be considered by the Committee in accordance with the agreement between the Chief Officer and the Committee as required by Article 9A (1A) of the Law

Article 40	Serving of an Enforcement Notice where there has been a breach of Development Controls (Planning Controls and Building Controls).	<ul style="list-style-type: none"> • Directors of Building Control, Planning Development Control and Planning Policy, Projects and the Historic Environment • Principal Planners, Principal Historic Environment Officer and Principal Building Control Surveyors • Senior Planners and Assistant Senior Planners
Article 42	Variation or withdrawal of an Enforcement Notice.	
Article 45	Serving, alteration or withdrawal of a Stop Notice.	
Article 47	The serving of an Enforcement Notice in respect of non-compliance with a condition attached to a planning or building permission.	
Articles 84 to 90	Service of a land condition notice.	
Article 92	Variation or withdrawal of a land condition notice	

SITES OF SPECIAL INTEREST

For Article 52 officers must not add a building or place to the List of Sites of Special Interest if a representation has been received in accordance with Article 52.

In such circumstances consideration of the inclusion on the List must be made by the Chief Officer

Article 52	Adding or removing of a building or place on the List of Sites of Special Interest.	<ul style="list-style-type: none"> • Directors of Planning Development Control and Policy, Projects and the Historic Environment
Article 53	Provisional Listing of a building or place.	<ul style="list-style-type: none"> • Principal Planners, Principal Historic Environment Officer • Principal Planners, Principal Historic Environment Officer • Director for Environment / Deputy Chief Officer • Director of Environmental Management and Rural Economy • Principal Ecologist

Article 54(2)(a)	Grant of permission to carry out works to an SSI which, whilst not amounting to development, would affect the character of the SSI.	<ul style="list-style-type: none"> • Directors of Planning Development Control and Policy, Projects and the Historic Environment • Principal Planners, Principal Historic Environment Officer • Senior Planners and Assistant Senior Planners • Director for Environment / Deputy Chief Officer • Director of Environmental Management and Rural Economy • Principal Ecologist • Senior Natural Environment Officer
Article 55	This relates to allowing activities which are restricted on SSIs.	<p>In relation to those activities indicated in Article 55(1)(a) and (b) –</p> <ul style="list-style-type: none"> • Directors of Planning Development Control and Policy, Projects and the Historic Environment • Principal Historic Environment Officer <p>In relation to those activities indicated in Article 55(1)(c) (relating to those activities stipulated in Article 55(2)) –</p> <ul style="list-style-type: none"> • Director for Environment / Deputy Chief Officer • Director of Environmental Management and Rural Economy • Principal Ecologist • Senior Natural Environment Officer
PROTECTED TREES		
<p>For Article 59 officers must not add a tree to the List of Sites of Protected Trees if a representation has been received in accordance with Article 59.</p> <p>In such circumstances consideration of the inclusion on the List must be made by the Chief Officer</p>		
Article 59	Adding or removing a tree on the List of Protected Trees.	<ul style="list-style-type: none"> • Directors of Planning Development Control and Policy, Projects and the Historic Environment • Principal Planners, Principal Historic Environment Officer • Senior Planners and Assistant Senior Planners
Article 60	Provisional listing of trees.	
Article 61	Grant of permission to carry out works to a Protected Tree.	

		<ul style="list-style-type: none"> • Director for Environment / Deputy Chief Officer • Director of Environmental Management and Rural Economy • Principal Ecologist
DANGEROUS STRUCTURES		
Articles 66 and 67	Serving of a dangerous buildings notice.	<ul style="list-style-type: none"> • Directors of Planning Development Control and Planning Policy, Projects and the Historic Environment and Building Control • Principal Building Control Surveyors • Senior Building Control Surveyors • Building Control Surveyors
Article 68	Variation or withdrawal of a dangerous building notice.	
PLANNING OBLIGATION AGREEMENTS		
Article 25	Entering into a Planning Obligation and modifying or discharging all or part of the obligations of that Agreement.	<ul style="list-style-type: none"> • Directors of Planning and Development Control and Planning Policy, Projects and the Historic Environment
CARAVANS		
Article 99	Permission to import a caravan, campervan or any other vehicle with sleeping, etc. accommodation	<ul style="list-style-type: none"> • Directors of Planning Development Control and Policy, Projects and the Historic Environment
Article 101	Attaching of conditions to the importation of a caravan, etc.	<ul style="list-style-type: none"> • Principal Planners and, Principal Historic Environment Officer • Senior Planners and Assistant Senior Planners • Hospitality and Leisure Manager, Department of Economic Development, Tourism, Sport and Culture and Department of the Environment (see condition 5) • Compliance Officers
Planning and Building (Environmental Impact) (Jersey) Order 2006		
Article	Detail	Authorized Officer
Article 3	To indicate whether an environmental impact statement is required.	<ul style="list-style-type: none"> • Directors of Planning Development Control and

Article 4	What information (the Scope) should be provided in an environmental impact statement.	Planning Policy, Projects and the Historic Environment <ul style="list-style-type: none"> • Principal Planners, Development Control
Planning and Building (Application Publication) (Jersey) Order 2006		
Article	Detail	Authorized Officer
Article 2(6)	Determining if it is appropriate to re-advertise an application	<ul style="list-style-type: none"> • Directors of Planning Development Control and Policy, Projects and the Historic Environment
Article 4(4)	Extending the publicity period of an application for more than 21 days if it is in the public interest	<ul style="list-style-type: none"> • Principal Planners and Principal Historic Environment Officer • Senior Planners and Assistant Senior Planners
Building Bye-Laws (Jersey) 2007		
Article	Detail	Authorized Officer
All the functions attributed to the Chief Officer	Functions to ensure works comply with Bye-Laws	<ul style="list-style-type: none"> • Director of Building Control • Principal Building Control Surveyors • Senior Building Control Surveyors • Building Control Surveyors
Planning and Building (Moveable Structures) (Jersey) Order 2006 (under Article 81 of the Planning and Building (Jersey) Law 2002)		
<p>Applications for moveable structures can be considered by the Planning Applications Committee. Before making any decision officers should be sure that the issue is not being considered by the Committee in accordance with the agreement between the Chief Officer and the Committee as required by Article 9A (1A) of the Law</p>		
Article	Detail	Authorized Officer
Articles 7, 8 & 9	Grant of permission for a moveable structure (as defined by the Order) attachment of conditions on a grant of permission and allowing retrospective permission.	<ul style="list-style-type: none"> • Directors of Planning Development Control and Policy, Projects and the Historic Environment • Principal Planners and Principal Historic Environment Officer • Senior Planners and Assistant Senior Planners
Planning and Building (Display of Advertisements) (Jersey) Order 2006 (under Article 76 of the Planning and Building (Jersey) Law 2002)		

Applications for the display of advertisements can be considered by the Planning Applications Committee.

Before making any decision officers should be sure that the issue is not being considered by the Committee in accordance with the agreement between the Chief Officer and the Committee as required by Article 9A (1A) of the Law

Article	Detail	Authorized Officer
Articles 6, 7 & 12	Grant of permission for an advertisement, attachment of conditions on a grant of permission and allowing retrospective permission.	<ul style="list-style-type: none"> • Directors of Planning Development Control and Policy, Projects and the Historic Environment • Principal Planners and Principal Historic Environment Officer • Senior Planners and Assistant Senior Planners

Conditions

1. Authorised Officers refer to those Officers indicated in the table above.
2. In relation to all powers indicated above – save for those in relation to the Building Bye-Laws, Dangerous Structures and Caravans – all decisions made by an Authorised Officer will be made on the basis of a recommendation from another Officer. Any such recommendation shall be made in writing and must identify all the material considerations relevant to the decision to be taken or the action to be taken.
3. In considering applications for planning permission, Authorised Officers may determine applications where representations have been received, where those representations have been accommodated by revisions to the application or by the imposition of relevant conditions.
4. In considering applications for planning permission, Authorised Officers may determine applications where representations have been received from 3 or less individuals, where each individual appears to be from a separate address – when the representations are contrary to the recommendation.
5. In granting permission to import a caravan, campervan or any other vehicle with sleeping, etc. accommodation into the Island the Hospitality and Leisure Manager (Economic Development, Tourism, Sport and Culture department and Department of the Environment) must attach the following conditions
 - a) Caravans can only be accommodated on the following sites: Beuvelande (St Martin), Daisy Cottage Campsite (St.Ouen), Rozel Camping Park (St Martin), Jersey Accommodation & Activity Centre (St Martin) and Hideaway Motorhome Stopover (St Peter).
 - b) Where the visitor is staying at a private address or tourist accommodation motorhomes may not be used for overnight accommodation although they will be permitted to circulate the Island providing a valid permit is shown
 - c) The maximum duration of stay is 31 days from the date of arrival in Jersey
 - d) Visiting Caravans are restricted to one journey to and one journey from the campsite to the port. Caravans must remain on the designated site for the period of the permit.

Motorhomes/campervans may circulate on the Island on a daily basis but must return to the designated campsite each night.

- e) Where it is necessary to change vessels when in transit in either direction between the UK and France motorhomes/campervans are permitted to circulate the Island subject to a valid permit being displayed
- f) A permit displaying the dates for which the permission is valid must be displayed in the vehicle towing the caravan or motorhome/campervan
- g) The caravan or motorhome/campervan shall have in effect at all times during the duration of the visit a valid policy or policies of insurance against public and third party liability.
- h) The maximum dimensions allowed are
 - I. Width of caravan, motorhome or towing vehicle 2.3m
 - II. Length of any caravan 6.7m (excluding the means of attachment to the towing vehicle).
Length of any motorhome/campervan 9.3m
 - III. Caravan and towing vehicle 16.50m (to include any projection to the front or rear of the vehicle)