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IN THE ROYAL COURT OF JERSEY (INFERIOR NUMBER)  
12TH JANUARY, 1990

BEFORE	MR. P.R. LE CRAS JURAT THE HON. J.A.G. COUTANCHE JURAT C.L. GRUCHY	Commissioner
BETWEEN	MARTIN DONALD FURZER WENDY JOAN KIRK BAILEY nee FURZER HEATHER SUZETTE LE MAISTRE nee FURZER wife of JOHN RAYMOND LE MAISTRE and the said JOHN RAYMOND LE MAISTRE	APPELLANTS
AND	THE ISLAND DEVELOPMENT COMMITTEE OF THE STATES OF JERSEY	RESPONDENT

This appeal arises out of the decision of the Island Development Committee, taken at a meeting of the Committee held on the 15th October 1982, to revoke a development permit for the construction of a bungalow on field 729 in Trinity.

The history of this application is a long and tortuous one, complicated, we were told, by family difficulties. In view, however, of what follows, it need not long detain us. It suffices to say that, commencing with a planning application as long ago as the 27th September 1972, a development permit had been granted and having been renewed on more than one occasion, the last of which was the 21st February 1979, had lapsed due to effluxion of time.

Following this Mr. Martyn Furzer wrote to the Committee on the 19th February 1982 and requested that the permit be renewed. On the 3rd March 1982 the Committee replied and renewed the permit, which was to expire on the 3rd March 1983.

The property was advertised for auction on 30th September 1982, but, as a result of representations from the Committee, it was withdrawn from sale. Shortly afterwards, on the 15th October 1982

the permit was revoked, Mr. Furzer for the Appellants being so advised on the 29th November 1982.

There followed an appeal, which was brought on two grounds, first that the proceedings of the Committee constituted a breach of natural Justice, and second that the proceedings were unsafe and unsatisfactory.

In pursuing these grounds the Appellants relied not only on the way in which the Committee dealt with the revocation but the grounds on which they relied in doing so. Counsel for the Appellants cited, inter alia, the well known cases of Blackall & Banby Ltd. v. I.D.C. (1963) JJ273, Scott v. I.D.C. (1966) JJ631 and Rabet v. I.D.C. (1966) JJ 697. Counsel also made reference to the element of forfeiture which arises on the revocation of a permit, replying on a passage in In re the Representation of Centenier P.J. Pearce (1988) unreported @ p.33.

Counsel for the Committee in his final address, whilst not conceding these grounds, made no submissions as to the substance of the appeal, that is as to the unreasonableness of the decision of the Committee. In effect therefore, he asked the Court to find whether or not the Appellants had made out their case as pleaded by them.

As we say, in these circumstances, we see no need to go through the facts at length. We are content to say that we do find that the Appellants have sufficiently proved the substance of their case as pleaded

Counsel for the Committee however, although he had, and we may say very properly, made no submissions as to the substance of the Appeal, by no means conceded the Appeal. He made a further interesting and important submission to us.

This submission arose as a result of the very long delay in bringing this appeal on for hearing, that is, near enough seven years, and submitted that since 1982 the policy of the Committee had, of necessity been evolving and that there had, in the interval, been an Island Plan approved by the States. It would appear, from the evidence

before us, that on the approval of the plan, existing consents were honoured; but that insofar as concerns this field, if a new application were now to be made to the Committee, the Committee, as the land is in the green zone, would not now grant a permit without taking it to the States.

Counsel agreed that his case might be put in this way. He asked the Court how it should view this appeal having regard to the length of time which has passed since it was commenced; and whether in view of ever changing policy it was fair to bind the Committee with an old decision. In consequence he submitted that we ought to reject the appeal on these grounds.

It is quite clear that for reasons which reflect on neither Counsel in this case, for they were not then instructed, this appeal did come on very slowly indeed. However, during 1988, it was revived by Advocate Le Cornu, who was by then acting. As a result, the Attorney General wrote to him on the 5th August 1988 in the following terms:-

"I refer to your letter of the 3rd August 1988 about the above appeal, notifying me that you will shortly be filing the Appellants' Case. I have exhumed my file and I have re-read the papers. I have reached the conclusion that I have been extremely dilatory in not applying sooner to the Royal Court for the appeal to be struck out for want of prosecution. Will you please take this letter as notice that I shall be so applying if the Appellants' Case is not filed within the next two weeks."

Thereafter matters proceeded at a more reasonable pace, further delays being due at least in part to illness of Counsel for the Committee, in whose stead Advocate Pallot now appears.

We consider that in the instant proceedings the letter of the Attorney General amounts to an undertaking that he will not seek to strike out the proceedings providing certain conditions are met. In these circumstances we consider that the Committee comes too late and that we ought not to accede to this submission. We therefore rule against the Committee on this ground also.

We should like, however, to say that, in doing so, we are by no means without sympathy to the Committee, charged as they are with dealing with planning, and having, of necessity, to evolve their policy continuously. Had an application to strike out the appeal been made before August 1988 it is by no means certain that we should have found for the Appellants. It is important for both the Appellants and the Committee that these appeals should come on with expedition and that neither side, notwithstanding the known pressures of time, should unduly delay.

We therefore order the Committee to restore the development permit. The permit dated from the 3rd March 1982 and was, in effect, rendered valueless at the end of September of that year. In all the circumstances we feel it fair and proper to order that the permit should be treated as having been issued six months ago.

Authorities referred to:

Blackall and Danby Ltd. -v- Island Development Committee (1963) JJ 273.  
Rabet -v- Island Development Committee (1966) JJ 697.  
Scott -v- Island Development Committee (1966) JJ 631.  
Binet -v- Island Development Committee (1988) Jersey Unreported. (31MAY'88).

Halsbury (4th Edition) Vol. 1 Administrative Law. .

Ogden -v- Island Development Committee (1966) JJ 593.

Scott -v- Island Development Committee (1966) JJ 631.

Le Maistre -v- Island Development Committee (1980) JJ 1.

Royal London Mutual Insurance Society Ltd. -v- Finance and Economics  
Committee (1982) JJ 37.

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