

STATES OF JERSEY



MINISTER FOR PLANNING AND ENVIRONMENT: VOTE OF NO CONFIDENCE

**Lodged au Greffe on 5th November 2013
by the Deputy of St. Martin**

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

that they have no confidence in the Minister for Planning and Environment.

DEPUTY OF ST. MARTIN

Note: As required by Standing Order 22(a) this proposition has been signed by the following additional members –

Deputy James Patrick Gorton Baker of St. Helier

The Connétable of St. Brelade

The Connétable of St. Peter.

The reasons for bringing this proposition are set out in the report.

REPORT

It is a great personal disappointment to me that I find that my first ever proposition to be debated in the Assembly is a vote of no confidence. I would like to think that I am not a negative person, and aspire to be positive and proactive ... but I can no longer sit back and let others assume that, by my silence, I am content to endorse the views and opinions of the Minister for Planning and Environment. He no longer enjoys my confidence, and therefore I feel there is no option for me other than to bring this proposition.

As a potential States Member back in the autumn of 2011, I campaigned throughout my Parish with one policy, and based my manifesto on 3 words ... “let’s work together”. I told my fellow St. Martin parishioners that, regardless of who you were or what you did, working together was the secret to making things better for our Island. I would like to think that since my election I have put those words into deeds ... I have certainly done all I can to discuss problems with people, and tried as hard as I can to work WITH others for the common good. I would also like to think that my informal approach has been appreciated by others, and has shown some success over the last 2 years. “Let’s work together” is not, however, a mantra that is shared by all our States Members ...

Within weeks of being elected to the States Assembly back in October 2011, it became apparent to me that there seemed to be a fundamental disconnect between the Minister for Planning and Environment and, not only other States Members, but also some of the officers of his department. On a number of different and varied occasions, I noticed that the Minister was at loggerheads with others as to solutions, answers and “the best way forward”. I fully accept that it would be “normal” for the Minister for Planning and Environment to be regularly caught between “a rock and a hard place” when making planning decisions, but it became clear to me that Deputy Duhamel did not make decisions ... and used excuses for delaying the planning process, a process that should at the very least deliver adjudications in good time. It seemed to me that the situation was particularly bad where the Transport and Technical Services Department (TTS) were concerned, and that the Minister for Planning and Environment seemed determined to delay anything that was proposed by TTS. Nothing could demonstrate this better than the asbestos situation at La Collette.

As a member of the Environment Scrutiny Panel, I visited the La Collette reclamation site late in 2011. As well as touring the Energy from Waste Plant, I viewed the recycling sites and the “ash pits”. I also saw the old metal freighting containers that were, and still are, being used for the storage of hazardous asbestos waste that is delivered to La Collette. It seemed to me (and I know the other members of the Scrutiny Panel) that the solving of the bottom ash, “fly” ash, and asbestos “issues” were an absolute priority for the whole of the La Collette area ... and we started asking questions, and indeed reviewed the “ash situation”. Two years later and we may nearly have found a solution to some of the ash problems, but not the asbestos. Given that asbestos-related diseases have no known cure, no safe limit for exposure, and pose a serious health risk if they become airborne and inhaled, it seems hypocritical to me that the Minister for “Environment” hasn’t made the solving of the problems associated with the legacy asbestos at La Collette his number one priority. The Minister has publicly stated that he gives preference to the environment over planning ... in a quarterly hearing on 23rd March 2012 he was asked the following –

Deputy J.H. Young: The balance of your contribution as Minister between the built environment and planning and the broader environmentalist aspects, how would you put it?

The Minister for Planning and Environment: I would probably put it as 70/30, 70 for the environment and 30 for the planning.

We know therefore that he claims to champion the environment, but he has now been Minister for nearly 30 months ... and in all that time he has done nothing but delay the movement of this hazardous material to an engineered and safe storage facility not a few hundred yards away from its current site. An urgent solution has been required for many years ... a solution that becomes more urgent with every week that passes.

The States of Jersey currently have approximately 1,300 tonnes of asbestos waste stored in shipping containers at the La Collette site. This quantity has built up over the last 25 years, since it was recognised that the disposal of wastes, including asbestos, at La Saline quarry was no longer acceptable. The total number of units currently amounts to over 150 containers, and if an application for the current facility was to be made tomorrow, it would certainly NOT receive the support of the Environment Department or Health and Safety officers. The containers holding the asbestos are currently stacked opposite the fuel farm (most importantly ABOVE ground) and alongside the Energy from Waste Plant, which brings the potential for a major off-site incident or explosion which might result in the containers being subjected to a blast wave. This could cause complete failure of the structure of the containers with, almost certainly, widespread contamination across the area as a result of the release of asbestos particles into the atmosphere. Depending on prevailing wind direction and strength, this would not necessarily be confined to the La Collette site, which could potentially present a major public health hazard to anyone in the central and south-eastern parishes. The potential for an incident of this sort raises real concerns over the prospect of any further delay in dealing with Jersey's asbestos waste. As previously stated, an immediate solution is required ... and has been required for many years.

The lack of a solution is not, as some may think, the fault of TTS. The following are extracts from letters sent from the Minister for TTS to the Minister for Planning and Environment last year. The first is from 28th September 2012 –

“Asbestos Planning Application No. P/2010/1861

Following your recent decision to defer the planning application against your Officer's advice for the safe storage of asbestos I believe that I need to formally explain our position.

The intent of my department is to deal with all wastes presented to us in a safe and environmentally sustainable fashion for the benefit of the citizens of Jersey.

Asbestos is a naturally occurring mineral which is not environmentally damaging, but offers a huge risk to human health. The use of Asbestos for building leaves a significant legacy which will over time be presented to my department for disposal.

We have as you know undertaken a significant review of best practice and as instructed by you undertaken a peer review by an industry expert. The only viable recommendation at the present time is storage in a suitable engineered cell at La Collette. Although not ideal, we believe that our modified methodology for the storage and handling of the material allows the mining of the material if a viable technology is developed.

In October last year we suggested this and the planning permission could be temporary or agreed with a suitable condition to review technology on a 5 year cycle.

Therefore I can confirm that the storage is temporary with the option for recovery in the future.

I appeal to you to deal with this planning application as soon as possible and allow my department to deal with this material in a safe and controlled manner.

Finally, the risk we face from the storage of Asbestos within the shipping containers is one which my department cannot continue, and I believe that your procrastination over the past 2 years is adding undue risk to our island.

A response by return would be appreciated.”

No response was received ... so the Minister for TTS wrote again on 4th October 2012 –

“In light of the on-going lack of progress in concluding this unfortunate and high priority issue of asbestos, I will for a final time re iterate my commitment to utilise the landfill cell as a temporary storage facility.

Transport and Technical Services will use the current constructed landfill cell as a temporary holding/storage facility for the asbestos waste, pending a periodic review of the technology to assess formal disposal options.”

“The only viable recommendation at the present time is the temporary storage in a suitable engineered cell at La Collette.”

Once again the Minister for TTS did not receive a response. He wrote, on 25th October –

“I write to you again on the matter of Planning Application No. P/2010/1681. A month has passed since my last letter to you on the subject (28 September 2012) in which I sought to clarify my and my department’s position. I would take the opportunity in this letter to ask again that you determine this application at your earliest opportunity.”

Again, the Minister for TTS wrote on 31st October 2012 –

“I am writing a final time to clarify my position.

Following legal advice, discussions with your officers and discussions with the UK authorities we will not be applying for permission to export asbestos.

As we have repeatedly stated, we have engineered the asbestos cell with full approval of your officers and the health and safety inspectorate and provided a solution which allows the material to be extricated at a later date of and when a suitable technology is available. This however is not now."

"As yet I have not received any formal response from my previous letters and I would appreciate it if you could respond to this one."

As both the Deputy of St. Martin, and as a Member of the Environment Scrutiny Panel, I have, at every opportunity over the last 2 years, pressed the Minister for Planning and Environment to act on the issue of asbestos. He could act tomorrow, he could have acted yesterday, and he could quite clearly have acted the moment he came into office. The following is a short extract from Hansard from the last few minutes of the most recent quarterly meeting between the Minister and the Environment Scrutiny Panel on 16th September 2013.

The Deputy of St. Martin:

Well the last topic, Minister, is asbestos, and I suppose I may as well start by asking the same question I ask every time we meet, would you reconsider your position and allow T.T.S. to relocate the asbestos stack to an underground facility where it could be held until it can be dealt with properly?

The Minister for Planning and Environment:

Have they applied?

The Deputy of St. Martin:

I believe there is an application on your desk.

The Minister for Planning and Environment:

I do not believe there is an application for such a facility, for a temporary facility, and that is certainly the discussions I have been having with the Department and Department officers for a very long time.

This short extract is a classic example of the delaying tactics used by the Minister for Planning and Environment. The Minister claims "I do not believe there is an application for such a facility, for a temporary facility" yet, in only 2 of the many letters from TTS to the Minister (28th September and 4th October) the word temporary is used on no less than 5 occasions. The letters were written over 12 months ago. How clear does it have to be that the Minister was deliberately ignoring what TTS (and his own officers) were telling him, and was deliberately obstructing TTS in trying to store this hazardous waste in a safe facility.

The final straw for me personally was the answer given to me during recent questions in the States Assembly on 8th October. The Minister was asked about the TTS application to store asbestos underground –

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

What is the earliest possible date that the Minister could determine this modified application?

Deputy R.C. Duhamel:

I think the earliest date is probably 6 to 8 weeks. It may be a little bit longer, but I have not seen the amended application as yet, although I am told it is with the Planning and Environment Department, and an officer will have to write a report in the meantime.

The Minister for Planning and Environment is not stupid, indeed he is highly intelligent, and he knows the Island Plan inside out ... he knows what he can, and cannot, do. His answer to my question was false, it was not accurate ... it gave the wrong impression not only to me, but to the whole Assembly. As the Minister for Planning and Environment, he has the power and authority to make decisions ... the revised TTS application could have been decided immediately as it had already been through a public meeting and there had been no objections ... it does not need yet another 6 to 8 weeks of delay and procrastination.

When it comes to the subject of asbestos and protecting the public, the Minister's behaviour over the last 2½ years is not what one would expect of a senior member of our Government ... indeed it is completely inconsistent with his supposed role as the Minister for Planning and Environment. It ignores all the official and professional advice from both on and off the Island. It frustrates others who are trying their best to solve the problem. Most seriously, it puts the safety of the general public at risk. The continuous delays over the issue of asbestos caused by the actions of the Minister are totally unacceptable. With the, now very recent, media headlines over liquid waste highlighting (yet again) the Minister's completely contrary views to all the technical and professional advice, I fear that we are heading for exactly the same delaying tactics again, but on a different (but again TTS-related) subject.

The Minister does not enjoy my confidence. I would ask Members to concur with my view.

Financial and manpower implications

There are no financial or manpower implications for the States arising from this proposition.