

STATES OF JERSEY

Environment Scrutiny Panel

TUESDAY, 4th SEPTEMBER 2012

Panel:

Deputy J.H. Young of St. Brelade (Chairman)
Deputy S.G. Luce of St. Martin (Vice Chairman)
Connétable P.J. Rondel of St. John

Witnesses:

Deputy Robert Duhamel, Minister for Planning and Environment
Director for Environment and Deputy Chief Officer, Department of the Environment
Director of Policy and Projects, Department of the Environment
Director of Environmental Protection, Department of the Environment
Business Manager, Department of the Environment

Present:

Scrutiny Officer

[14:01]

Deputy J.H. Young of St. Brelade (Chairman):

Thank you very much for coming to this Scrutiny Panel meeting. Just informally, before we start the meeting formally, this is the second day of our new podcast system, so just to remind everybody concerned, please, to speak up and speak clearly, near a microphone, preferably. The members of the public can have the podcasts of these events, which will be available much quicker than the printed transcripts. Of course, the normal rules apply; you have got the rules of members giving evidence on the desk. We are planning to finish the meeting at 4.00 p.m. There is an agenda in front of you and, with that, I will then proceed to open the meeting and I will start by introducing members on this side: myself, Deputy John Young, I am Chairman of the Environment Scrutiny Panel.

Deputy S.G. Luce of St. Martin (Vice Chairman):

I am Deputy Steve Luce, Vice Chair.

Connétable P.J. Rondel of St. John:

Constable Phil Rondel, I am a member of the panel.

Scrutiny Officer:

Scrutiny Officer.

Deputy J.H. Young:

Minister, for the record, please?

The Minister for Planning and Environment:

Deputy Duhamel, Minister.

Director for Environment and Deputy Chief Officer:

Director for Environment and Deputy Chief Officer

Director of Environmental Protection:

Director of Environmental Protection.

Director of Policy and Projects:

Director of Planning Policy.

Business Manager:

Business Manager.

Deputy J.H. Young:

Thank you. If you can just share the microphone there a bit, I think it might be easier to pick up. Right. With the agenda in front of us, obviously, there is advanced publicity material that has been issued indicating we are proposing to include some environmental matters today, particularly ash, asbestos removal, seaweed on beaches, but a number of planning matters: planning system, affordable housing and coastal paths. So we are going to stick to the running order and see how we go. If I can open with a question to the Minister on planning systems. Minister, I wonder, could you explain to us under what circumstances you call in planning applications, deal with them in person? Is it that you decide or does the department refer them to you and on what criteria?

The Minister for Planning and Environment:

Yes. Basically, there is a 2-tier system: the Minister is entitled to call in whatever he likes, so I have specifically said that I may be interested in urban regeneration projects or, indeed, in items that retain some element of difference from the run-of-the-mill kind of oddities, from time to time. Over and above that, we have a protocol that was agreed by myself and a working party of States Members which suggests that any applications that are passed on to the Applications Panel, should they be intended to be decided upon in a way which goes against officer advice and the decision is not formalised at that meeting, it is held in abeyance and those items are brought back to the Minister and the Minister then decides whether or not to send them back to the Application Panel for further advice or comment, or whether or not to decide on that himself.

Deputy J.H. Young:

Is that a public protocol, Minister?

The Minister for Planning and Environment:

It is a public protocol and, as I say, it was agreed by a working party of States Members, including one or 2 Members who are sitting on the Application Panel.

Deputy J.H. Young:

Minister, it has been put to us that that procedure you have just explained provides planning officers with an effective veto on planning decisions of the Planning Panel and that that means that those decisions then go out of the hands of the panel to you as a Minister. Do you agree with that view?

The Minister for Planning and Environment:

No, I do not, not at all. It is not a veto and if one reads the Planning Law, all decisions are made in the name of the Minister, so it must be the Minister's name that is effectively on the label of the plan, or whose head is on the chopping board.

Deputy J.H. Young:

Are you satisfied that that power to the planning officers is not abused and is always used responsibly?

The Minister for Planning and Environment:

That is part and parcel of the remit of the Minister: to ensure that any decision-making that is taken under delegated powers is done under the laws and conditions and in light of the Island Plan and the other publically-agreed documents that provide the remit for that delegation.

Deputy J.H. Young:

Minister, are you satisfied with the decisions of the Planning Panel? Are you satisfied that they follow planning policy in all events?

The Minister for Planning and Environment:

That is a leading question. I think in some instances no, but those instances have been picked up on and I have had recent meetings with the Application Panel in order to talk to them about tightening up the system in particular places. Likewise, it could be said that the actual planning process itself from a legal point of view is not entirely happy with some of the decisions made by the Application Panel in that appeals have been brought to the Royal Court and decisions have been changed or quashed.

Deputy J.H. Young:

Are you suggesting, Minister, that there is room for improvement in the way Planning applications are decided, on one hand by yourself and also by the Planning Panel?

The Minister for Planning and Environment:

There is always room for improvement, but at the moment the room for improvement is fairly small because we have just been through the process in order to tighten up the system.

Deputy J.H. Young:

Can you tell us about what those tightenings are?

The Minister for Planning and Environment:

The tightenings up were essentially to ensure that any decisions that are ostensibly made by the Application Panel, that a full administrative record is kept in order to determine the conditions by which the Application Panel have arrived at a particular decision, paying particular respect to the policy considerations that underlie the decision-making process.

Deputy J.H. Young:

Minister, do you ever go to the Planning Panel and observe its procedures?

The Minister for Planning and Environment:

Although I am entitled to do so, I think it would probably be frowned upon if I was there peering through the keyhole, or whatever.

Deputy J.H. Young:

Do you not feel, if there are issues of procedure, that that might be advantageous for you to pick up if there are any problems?

The Minister for Planning and Environment:

I must say, I think it would be an issue. I would obviously step in if indeed it was shown that the system was breaking down and the Application Panel was regularly making decisions that were either overturning after some recommendation or, indeed, being arrived at with poor regard to the Island Plan and thereby being quashed through court appeals.

Deputy J.H. Young:

Minister, it is early days with the ministerial system and the Planning Panel, of course, was introduced in order to help the ministerial system work. Do you see a case for return to a single planning committee with yourself as Minister with a body of members deciding planning applications?

The Minister for Planning and Environment:

That is an alternative way of dealing with it, but if that were to happen (and I am not suggesting that it would be a good idea that it did) it would obviously give me less time to deal with the other items that form part and parcel of the job, which is to consider the Island Plan, the applicability of the policies and to issue supplementary planning guidance specs in order to flesh out the decision-making process in the areas that require it.

Deputy J.H. Young:

So that would require you to have a greater number of members or some arrangement under the Minister?

The Minister for Planning and Environment:

There is absolutely no way that with the several thousand applications that are considered by the department and the Application Panel together that the Minister could or should be sitting down to be privy or party to all of those decisions.

Deputy J.H. Young:

No, I was not suggesting that, I was saying about having a single body and having delegated arrangements.

The Minister for Planning and Environment:

We have, again, under the protocol a system designed to grade, if you like, the decisions according to who should be delegated them. So at the moment, most of the decision-making is undertaken by officers, anything that fits a criterion whereby the number of objections is greater, I think, or equal to 3 are automatically pushed towards the Application Panel for decision-making. Over and above that, the Minister is able under the 2 systems that I mentioned earlier to deal with whatever is left, which is fairly minor in comparison to what is undertaken by the other 2 bodies.

Deputy J.H. Young:

Thank you, Minister. What arrangements do you make to ensure that officers' recommendations, which are obviously key to the process, are based on evidence, not solely based on their own personal opinions?

The Minister for Planning and Environment:

I think that is covered within the rules and regulations for writing up the officer reports and I would expect that the departmental officers, who have to sign off the reports, have got their finger on that particular button.

Deputy J.H. Young:

When those opinions are challenged, particularly in appeal processes and the like, what arrangements do you make for independent scrutiny and external verifications of those planning officers' opinions?

The Minister for Planning and Environment:

We have got some work that is being undertaken at the moment to bring forward an appeals system and to provide us an opportunity to validate decisions in a simple way, but that work is being undertaken at the moment and is not completed.

Deputy J.H. Young:

Sorry, that is the Planning appeals work. Is that the Green Paper you said ... can you give us progress on that, when we will see it, Minister?

The Minister for Planning and Environment:

Well, we were hoping (and maybe officers can help me) ... I think it was for the last quarter, so it is due around about now.

Director of Policy and Projects:

Yes, work is to commence on the basis that the department has been undertaking some work related to the improvement of its administrative procedures for dealing with planning applications and that work has taken up a considerable amount of time. This is about transparency of planning

applications through the website. That work is largely complete and the appeals work will follow on the back of that.

Deputy J.H. Young:

So when do you think we might see a report?

Director of Policy and Projects:

I would imagine early in the New Year.

Deputy J.H. Young:

Not until the end of the year.

Director of Policy and Projects:

Well, I cannot give you a definitive timescale but it will be picked up shortly.

Deputy J.H. Young:

Is it top priority?

The Minister for Planning and Environment:

It is at the top of the priority list.

Deputy J.H. Young:

Would you be prepared to give it top priority?

The Minister for Planning and Environment:

That is a difficult one because with this job obviously there are a multiple number of balls that have to be juggled, and it is a case of doing whatever you can as quickly as you can with the staff that are available. I think on previous occasions I have outlined to the Scrutiny Panel that were I to be in a position to call upon extra help from other outside planning bodies, or whatever, then a number of these workstreams could progress at a faster pace, but that is not able to be done under the existing budgeting system so I have to work within the means that I have. That, in essence, means there has to be a priority setting and if jobs do come up that require the setting aside of those priorities for a certain length of time because of some emergency situation, or whatever, then we have to juggle those balls accordingly.

Deputy J.H. Young:

Is there anything that this panel itself can do to speed up the progress of this Appeals Green Paper?

The Minister for Planning and Environment:

You could take over the Treasury perhaps and give us the money.

Deputy J.H. Young:

Is there anything practical that you could see that we could do to speed it up? Because there is a lot of pressure and comment that we are receiving.

The Minister for Planning and Environment:

No. I think over and above going through the usual channels and issuing a Scrutiny report which highlights the difficulties that are inherent within the system if monies are pared back to too-low levels, I think there is nothing much else that can be done.

The Deputy of St. Martin:

It is 14 months, Minister, since the introduction of the Island Plan; are you satisfied with the policies that are contained within it, or would you be looking to make any changes in the near future?

The Minister for Planning and Environment:

I think, broadly, the policies are settling in well. There have been a number of instances where challenges are appearing, but with the issuing of supplementary planning guidance notes we are smoothing over the cracks, so to speak.

Deputy J.H. Young:

Is that the way forward, Minister? Does it not make it much more complicated if you issue lengthy supplementary planning guidance on policies that are already several pages long? Does that not make it much more complex and therefore expensive to administer?

[14:15]

The Minister for Planning and Environment:

No, I do not think so. The whole thing about the issuing of supplementary planning guidance notes is to provide a mechanism whereby a broader interpretation can be applied to what, in some instances, is not broad enough within the Island Plan document.

The Deputy of St. Martin:

Do you not feel that there is the possibility that you are taking the initial outline of this supplementary planning guidance much further when you come to write it? The plan was initiated with a 2 or 3-line supplementary planning guidance to follow, and then when you get 2 or 3 pages it seems to go way beyond what most people in the Assembly might have interpreted was coming.

The Minister for Planning and Environment:

I think it is a “suck it and see” situation and in some instances you will require a lengthier document; in other cases, there may be just minor differences of interpretation that could be settled with the issuing of a smaller paper.

Deputy J.H. Young:

Would you accept, Minister, that looking at the Island Plans 1987, 2002, 2011, these policies have now become much more complex than they were?

The Minister for Planning and Environment:

I think that is an inevitability within any planning system.

Deputy J.H. Young:

Is that not just going to consume resources and make it more difficult for decisions to be made?

The Minister for Planning and Environment:

No, I do not think so at all. You have to have a rule book by which to judge and to be in a position to judge applications and, as life becomes ever more complicated, it is inevitable that sometimes the rule-making is going to respond to that.

Deputy J.H. Young:

But if the rule is more simple, for example like the countryside national park and the green zone, as other places do, would that not make planning decisions much clearer and much more certain and people would know where they were?

The Minister for Planning and Environment:

Well, equally, it has been said to me that it would be useful not to have a Minister for Planning and Environment at all and that will be the simplest system: just give people permission to do whatever they want, in effect: do not apply for permission, just do it.

Deputy J.H. Young:

No, I was not suggesting that, Minister, I was suggesting clearer rules on what you can do and what you cannot do.

The Minister for Planning and Environment:

I think the system that we have got, which to be fair has only been there for a year, took rather a long time in terms of the workload of the officers to put the plans together. It went through, for the very first time, an extensive round of consultation and pre-phase consultation (in fact, several rounds) and it was the first time that the States Members have been given the opportunity to come forward with amendments which were worked in. I think there has to be an element of respect for that process, and I think after 14 months it is still too soon to decide that the nature of the document is too complicated or not simple enough.

Deputy J.H. Young:

Phil, do you want to get in?

The Connétable of St. John:

Yes. We have got to 2012 without a bundle of laws or rules, and you are telling us now that we need a rulebook to follow, and I do not think the Island has done too badly over that period of time. Can you tell us how many positive decisions have been made in your 14 months, how many negative decisions in that 14 months and how many decisions have been deferred?

The Minister for Planning and Environment:

Can you define what you mean by a “positive” decision and a “negative” decision?

The Connétable of St. John:

Well, a positive decision is when you have given a permit for having had plans submitted to you and a negative one is when you knock it back. The third one is when you defer making a decision.

The Minister for Planning and Environment:

I do not have those statistics at my fingertips, but ...

Business Manager:

I think, from memory, about 80 per cent are approvals; so about 80 per cent of all applications received are approved.

The Minister for Planning and Environment:

It was 85 per cent, I thought.

Deputy J.H. Young:

Minister, at your meeting today, how many applications did you consider?

The Minister for Planning and Environment:

Three.

Deputy J.H. Young:

How many did you approve?

The Minister for Planning and Environment:

If you are going to use the classification system, there was an agreement with and officer recommendation for the first one, there was a deferral on the basis that information had not been supplied as part of the application for the second, and the third, again, the client had not realised the importance of a new policy, policy E1, within the Island Plan, and was challenging the policy on the basis that he did not think it was right that he should be bound to submit information that the officers had requested.

The Connétable of St. John:

Can I get back in on to the deferrals, then. If you have an 80 per cent approval, or whatever the figure is, close to 80 per cent, was that done at the first attempt or had they been deferred for you to make a decision later on? Secondly, of that 20 per cent balance which were not approved and/or deferred, what percentage of those were deferred?

The Minister for Planning and Environment:

It is not very usual for items to be deferred unless there is a particular reason for doing so. One of the reasons that does arise within a ministerial hearing is whether or not issues that are brought up by the members of the public who are presenting the case for the client or otherwise as an objector, might raise issues which would require a site visit. The fact that a decision is not taken at that particular ministerial hearing and is deferred until the site visit takes place is the condition under which the deferral takes place. It is not deferred items put on a shelf and lock the door and throw away the key.

The Connétable of St. John:

How long can a deferral go on for? There must be a cut-off date, surely.

The Minister for Planning and Environment:

It really depends on the conditions by which the deferral is being made. If it is to achieve a site visit, that is normally done within a period of a week to 10 days following a meeting and then a written decision is made.

The Connétable of St. John:

For instance, this morning you said one of them was a deferral. How long has that one been on the books?

The Minister for Planning and Environment:

The one for a deferral this morning, the third one was on the basis that the applicant is now going to talk with his lawyer to determine whether or not there is still an appetite to bring forward the information that the officers have required in order to present the case in its entirety to the Minister to make a decision that is in line with the Island Plan.

The Connétable of St. John:

So has that been 6 months, 12 months, 18 months?

The Minister for Planning and Environment:

Well, since I have looked at it, it has not been very long at all.

Deputy J.H. Young:

I wonder if I can get back in. You said that it is too early to review the Island Plan policy (it is 14 months now) when, in your view, is the proper time?

The Minister for Planning and Environment:

When I said that, I did not mean that no review would be undertaken and there has to be an element of years pass, or whatever, before a look is undertaken; that is why we have the supplementary guidance system. As I say, if items which refer to the new policies are not being properly interpreted then that, in my mind, is a look at the Island Plan, but it is a minor look as opposed to a major look.

Deputy J.H. Young:

But at the moment you are having to do a lot of supplementary planning guidances and you have not got the resources for that, you told us.

The Minister for Planning and Environment:

We are not having to do a lot, we do whatever is required.

Deputy J.H. Young:

Thank you, Minister. Now ...

Director of Policy and Projects:

Sorry, if I might add something to that, Chair, some more information?

Deputy J.H. Young:

Yes, go on. Carry on.

Director of Policy and Projects:

I think just in terms of the extent of supplementary planning guidance, the guidance has a number of different purposes and, clearly, the Island Plan deals with all the planning issues for the Island over the next 10 years so, as a consequence, it is a complicated document and it is a large document. You mentioned the issue around our policy is too long and would it not be easier to have shorter policies. One of the purposes of the Island Plan is to provide more certainty and more clarity about decision-making and one of the issues that arises, for example in the coastal national park, is what type of development is permissible, what type of development is not. One of the reasons why the policy is so long is because it contains a number of details in there around what exceptions to the policy will be permitted and, as a consequence, the policy is longer as a result of that. Similarly, the Minister has asked for some supplementary guidance to be prepared about the sorts of developments that would be acceptable in the case of a national park, to add more information to the policy to provide more certainty to developers, to landowners, to objectives about the sorts of things that might happen in the coastal national park. So I think there is a tension there between wanting a plan to provide more certainty and the length of the plan and the complexity of the plan.

Deputy J.H. Young:

Perhaps if I could come in. This leads in, in fact, to the position taken by the construction industry. I apologise if I sum this up wrongly, but basically they suggest that the planning system is too bureaucratic, too slow, too complex and too inconsistent. Presumably, Minister, you would accept that?

The Minister for Planning and Environment:

No, I do not accept that, and the other thing is that the Jersey Construction Forum, or whatever it is called, does not necessarily represent everybody's viewpoint, it represents a majority viewpoint by those with the loudest voices.

Deputy J.H. Young:

They are holding a seminar shortly, I understand, Minister.

The Minister for Planning and Environment:

They certainly are, yes; in fact, there was a meeting ...

Deputy J.H. Young:

I understand that you have agreed that your Chief Executive can take part in this.

The Minister for Planning and Environment:

The Chief Executive, the Planning Director, and who else?

Director of Policy and Projects:

That is it.

Deputy J.H. Young:

Is that not approving the overstepping of public servants into areas of political party?

The Minister for Planning and Environment:

No, I do not think so, I think it shows the opposite: I think it shows the openness of the system and the transparency that we bring to the job.

Deputy J.H. Young:

If those officers are required to give opinions on political judgments, you are content with that?

The Minister for Planning and Environment:

No. I think they will be asked not to give political judgments; they are there to give officer-type advice to the questions that those who invited them to sit at the table will be asking.

Deputy J.H. Young:

Thank you, Minister. I think in view of the time, we will probably close that item, unless other members want to follow up. We will be coming back to those. Thank you for your answers on that. Do you want to comment?

The Connétable of St. John:

No, I will come back later, if we have got time, on supplementary planning guidance.

Deputy J.H. Young:

Yes. I think there are lots of questions, but I think time constrains us today. Moving now to the question of a particular planning policy, policy H3, which is in the Island Plan, for affordable housing, which is a policy approved by the States on a privately-owned site, not on a States-owned site. Minister, can you tell us what the case is for introducing the supplementary planning guidance, which you have issued in draft, when the industry is not generally developing those privately-owned sites at the moment?

The Minister for Planning and Environment:

Could you repeat the question? I am not sure where you are going ...

Deputy J.H. Young:

Yes. You published the supplementary planning guidance, or at least issued it in draft for comments, and that is issued because the policy is at the moment on hold and not introduced. What is the argument for introducing that policy now if sites are not being developed?

The Minister for Planning and Environment:

I think I am responding to the wish of the States when they asked me to develop a supplementary planning guidance note to deliver the policies to assist in bringing forward affordable homes.

Deputy J.H. Young:

Is that an easy task, Minister?

The Minister for Planning and Environment:

No, it is not a particularly easy task but we are trying to find a balance and a consensus point of view while at the same time trying to pick up on perhaps new ways of doing things that would deliver greater benefits to more persons, and it is a challenge.

Deputy J.H. Young:

Do you think you have found that consensus?

The Minister for Planning and Environment:

I think I have found some suggestions that could provide a way forward and we are out to consultation at the moment. Inevitably, we are pressing on a number of what appear to be sensitive pressure points for some particular developers who see the whole exercise as largely government interference in their ability to do what they like as far as possible within the planning system or, indeed, to make surplus or gross profits that are outside most people's normal conceptions of what is fair and equitable.

Deputy J.H. Young:

At the moment, Minister, are you seeing applications coming from the private sector to develop those sites?

The Minister for Planning and Environment:

Yes, we are indeed, and certainly some of the bigger developers do not fall into that category and have been quite supportive in the proposals that we have on the table at the moment, and notably the Le Masurier group.

Deputy J.H. Young:

So you are getting applications for those sites which include, what, affordable houses under this policy?

The Minister for Planning and Environment:

Absolutely, yes.

Deputy J.H. Young:

Do you think it is premature to consider alternatives to that?

The Minister for Planning and Environment:

I would not say it is premature because as part of any consultation, that is what you are doing: you are testing the ideas to a group of people to see what is advisable to be done when the Minister is put in a position of taking a final decision. That is where we are at the moment. I think the main reason the construction industry is squealing at the moment is, as I say, no government hitherto in my knowledge has come forward and suggested mechanisms that will deliver a new way of delivering affordable homes across the board, and that may have some bearing on the gross profits that people make or expect to make.

Deputy J.H. Young:

What is your position on the alternative means to delivering affordable housing, which was discussed and agreed by the States as a fallback under the other policy, H1, within the Island Plan, if affordable housing was not achieved within 12 months of June 2011? What is your position on that?

The Minister for Planning and Environment:

I do not think it is a fallback position. It does not necessarily represent what most people would define as being opportunities to provide truly affordable housing. It represents a continuation of the old system and the exploitation of greenfields within Jersey, and the usual economic nonsense that is put forward which suggests that the only way to go for growth is to grow houses on greenfield sites.

Deputy J.H. Young:

I think, Minister, the officers want to say something.

Director of Policy and Projects:

I was just going to try and add some clarity around the approach set out in the Island Plan about the delivery of affordable homes. The plan is quite clear in the sense that it sets out provision of affordable homes on States-owned land, under policy H1, in the early part of the planning period, that was always envisaged that that would deliver affordable homes within the first 5 years of the plan.

[14:30]

You have made reference to some of the timescales that are set out in the policy. Indeed, we have had planning applications that have come in for delivery of affordable homes on States-owned sites within the timescale set out in the policy, so it was always envisaged that the States-owned sites would deliver affordable homes within the first 5 years. Policy H3, which is the policy designed to deliver affordable homes on private sites, was always envisaged as providing those homes in the latter part of the plan period, so the last 5 years of the plan period. So as the Minister stated, he was required by the States to introduce that policy, initially tentatively in the first 5 years of the plan, and then to ratchet that policy up in the latter part of the plan period, so that that became a major mechanism for delivery of affordable housing.

Deputy J.H. Young:

Can I ask, is that explicit in the plan, what you have just said: that H1 is the policy for the first 5 years and H3 is for the second?

Director of Policy and Projects:

Well, I believe it is explicit in the plan. If you look at the tables contained within the plan about housing supply, I think that is quite clear.

Deputy J.H. Young:

Is there not a problem there if all of the H1 sites as they are at the moment coming forward, are for rental housing, social rented? Is that falling within the definition of affordable homes?

The Minister for Planning and Environment:

That was the second part or another part of the exercise: to come forward with a more generally agreed or agreeable definition of what affordability meant.

Deputy J.H. Young:

I am confused: on the one hand we are told that the plan was that States-owned sites would be the next provider of affordable homes for 5 years, and then in the 5 to 10 we get the private sites. At the moment, the H1 sites, the States-owned sites, are delivering rental houses. Where is the policy to deliver affordable houses for people to purchase?

The Minister for Planning and Environment:

Generally, that has been dealt with by the Housing Department but supplemented by this particular policy.

Deputy J.H. Young:

But, Minister, we just said we will not be getting any affordable housing under the private sites for 5 years.

Director of Policy and Projects:

I do not think the H1 sites will be exclusively social rent; there may be homes there for social rent, there may be homes there to purchase also.

Deputy J.H. Young:

Who makes those decisions, Minister?

The Minister for Planning and Environment:

I think it is down to the Minister and the decision-making process through the department to determine the mix.

Deputy J.H. Young:

Are you satisfied at the moment there are affordable homes in the market for people to buy?

The Minister for Planning and Environment:

I am not particularly satisfied of that at all, no.

Deputy J.H. Young:

Thank you, Minister. Members, do you want to come back on that? I think we will be coming back to this subject. Thank you, Minister, and your officers for those responses. We will return back to that important subject again another day. Heritage sites. Minister, can you tell us whether or not all owners of buildings which are under consideration for your department as being worthy of heritage designation have yet received notice of their present status under

the Planning Law, their proposed status, the restrictions which will apply and their right of appeal?

The Minister for Planning and Environment:

The officer will fill in the details, but I think the actual review process is not completely complete at the moment.

Deputy J.H. Young:

Does that mean that people that own those buildings are unaware of their position?

The Minister for Planning and Environment:

No, I do not think so. I think everybody was notified at the outset and the process is just running along catching up with the administration of those applications or those suggestions for relisting.

Deputy J.H. Young:

“Everybody” being people who are on your list?

The Minister for Planning and Environment:

Principally, I think it was those people who have been notified or those who were on the previous historic building list, plus a small number of properties that had been missed out in the first process.

The Connétable of St. John:

How were they notified, please?

The Minister for Planning and Environment:

I think that was by letter ...

Director of Policy and Projects:

Perhaps if I could try and clarify. All the buildings that currently have some form of heritage status, all the owners of those properties have received letters that their properties will be re-surveyed as part of the historic environment review, so they would have received those letters in the back-end of last year and during this year. Now, we tried to write to all of the property owners (and you have to be aware that we have got something like 3,500 properties) so there may have been changes of address and we have been trying to make sure that all the landowners are contacted about the forthcoming historic environment re-survey. So that was really just to inform them that we were undertaking re-survey and to make access arrangements for a surveyor to visit their property. So that was in relation to ...

The Connétable of St. John:

At that point, before we go any further, were they recorded delivery letters?

Director of Policy and Projects:

No, they were simply normal mail because this was not part of the formal service of notice of listing of a property. This was really to tell them that we

were reviewing the status of their property and that we would like to come and visit their property to assess it so ...

The Connétable of St. John:

So it was normal mail, but you also said you tried to contact all of them, to write to all of them.

Director of Policy and Projects:

That is right.

The Connétable of St. John:

You do not know if you have or have not, all 3,500?

Director of Policy and Projects:

We have written to everybody. What I am saying is in some instances we did not have the specific details of who owned the properties. So we might write to: "Dear Sir/Madam/the occupier" at the address of the property, so ...

The Connétable of St. John:

So those people may still be unaware that their place is registered. Because historically, originally when these places were put on the original letter, letters were delivered on site and they had to reply within X number of weeks, and if the people were away on holiday, it went ahead and happened without the people's knowledge. Because I am aware of having had property in that particular category at the time that it was a building site, and a lot had been left on that building site, and it was just by chance about 6 weeks later, this was found by the foreman on that building site that the site had become registered, or was going on that register, and their appeal time had gone. So, therefore, if you are picking up historic documents like that and you are saying they are on the register, did the person have right to appeal when you have notified them this time to go back to the beginning, not just accept that they are on a register that is historical?

Director of Policy and Projects:

Yes. Perhaps if I can carry on in terms of the second part of the process. Once we have surveyed their property and the Minister is minded to either retain it on the list or add it to the list, we are then required under the law to serve formal notice on that landowner of the intent to list. If the Minister serves the notice incorrectly, so in other words if it is not served on the landowner in a procedurally-correct manner, then there is a right of appeal against that and the listing would not be upheld if it was served incorrectly.

The Connétable of St. John:

Is that appealed to yourselves or to the Royal Court?

Director of Policy and Projects:

Ultimately, if it gets to that stage, to the Royal Court.

The Connétable of St. John:

There are cost implications.

Deputy J.H. Young:

Could I come in there? Sorry, could I just check: have you served notices on those people?

Director of Policy and Projects:

No. At the moment we are just going through the process of advising them that we are surveying the property. Once their properties have been reviewed by Jersey Heritage and a recommendation made to the Minister about whether the property should be listed or not, we then go through the process of formal listing. Last month we just started the pilot stage of formal notification to list for about 20 properties, just as a pilot process before we embark on the remaining several thousand to go through the formal process of listing. So we are embarking on that process of formal notification to list at the present time.

Deputy J.H. Young:

On 20, and they will be notified of their right of appeal.

Director of Policy and Projects:

They will be notified. We are formally required to serve notice of the Minister's intent to list; that gives them an opportunity to make representations to the Minister. If the Minister then decides to list the property and they are still unhappy, they then have the right to appeal to the Royal Court and we will notify them of that.

Deputy J.H. Young:

Thank you. Do you want to get back to ...

The Connétable of St. John:

Yes. In that right to appeal to the Royal Court, what funding is available for the persons concerned to appeal? I presume none.

Director of Policy and Projects:

They would exercise their right of appeal to the Royal Court; they would notify the court of their wish to appeal.

The Connétable of St. John:

So the department, Minister, do not have any funding aside for people to appeal on heritage grounds?

The Minister for Planning and Environment:

I do not think we have money for that.

The Connétable of St. John:

Should there not be?

The Minister for Planning and Environment:

I do not know. I think there is maybe another way of dealing with it in that if the initial survey shows that the householder is unwilling to have their house

listed in whatever category going forward, then I think that will be a material consideration to take on board when the Minister is deciding whether or not to officially apply a listing.

Deputy J.H. Young:

But, Minister, do you not think (just hearing that exchange) that this would usefully fall within the appeal processes that you are bringing forward for planning applications, the precise advised procedure?

The Minister for Planning and Environment:

Yes, it probably would do. Yes.

Deputy J.H. Young:

Because obviously people who are in this situation do not have lawyers and would have to incur the expense of going to the Royal Court to argue those points. Minister, I just want to follow up there: will those notifications, when they get them, tell people clearly what restrictions will apply to their buildings or will they just be told: "Your building is listed"?

The Minister for Planning and Environment:

No. Because it is a legal process for listing, I am sure that a full documentary listing of the import of what it means will be attached to the forms.

Deputy J.H. Young:

Is it true, Minister, that at the moment those restrictions are applying even though 6 years after the Planning Law we still do not have a single building registered under that new law?

The Minister for Planning and Environment:

You are obviously going to advise me on that one.

Director of Policy and Projects:

Yes. Perhaps if I could clarify: the properties are listed under the Planning and Building Law. We are going through a process of reviewing the heritage status of those buildings and, if they are deemed worthy of retaining on that law, we will go through a process of formal renotification. We are also looking at properties that are new that have not been listed previously to assess whether they are worthy of listing and, if they are, then they will be formally listed as part of that process.

Deputy J.H. Young:

This is buildings that were listed under the old law that you are saying are carrying on being restricted under the old ...

Director of Policy and Projects:

Under the old law, we had buildings that were listed through transitional provisions that were brought in when the law came in and applied to those properties, and those properties remain listed.

Deputy J.H. Young:

Your view is that it is okay to restrict those even though we have not registered those buildings under the new law?

Director of Policy and Projects:

As I say, they are listed under the new law and I think it is important to be aware that, effectively, what the listing of a property does is it simply requires a landowner to apply to the Minister for permission for works that would not necessarily require permission if they were not listed. But it does not impose a set of restrictions, it imposes a requirement to apply for permission ...

Deputy J.H. Young:

But is there not a supplementary planning guidance that sets out the increased and enhanced restrictions that apply in respect of those buildings?

Director of Policy and Projects:

I think the word "restrictions", if I may say so, is perhaps slightly misleading. It is about a requirement to have to apply to the Minister for works that would affect an historic building. That does not necessarily mean that permission will not be granted for those works, it just means that there is an additional requirement to apply to the Minister for permission to undertake those works that would not apply if that building was not listed.

Deputy J.H. Young:

Do you want to pick up ...

The Deputy of St. Martin:

Sorry. If I could talk about churches in particular which are, as we all know, listed. They are heritage, they are historic, they are all those words, but we have become aware of 2 particular churches where applications have been made and the implications or the restrictions that have been put on have been enormous. In one particular case, the officer recommendation is that the disabled access is not acceptable because it is a heritage building, and there does not seem to be an alternative. Do you think it is the case, Minister, that we need to accept that in some of these places of worship people's ability to get into their place of worship is more important than the heritage?

The Minister for Planning and Environment:

I cannot say whether that applies generally or in particular; it is obviously something that has to be considered when the application is being made, as the officer said, and the fact that the property has been listed awakens the Minister or the decision-maker as to the importance of specific bits and pieces of the buildings which have to be properly and reasonably argued for their inclusion or destruction or amendment.

The Deputy of St. Martin:

But would you not agree that in a case where there might be a church, for example, where under the Island Plan there is not a suitable access point for disabled access and which would render the building inaccessible to disabled people who wish to worship, that there must be a case for changing the policy?

The Minister for Planning and Environment:

I do not know about a change in the policy, I think you are probably asking for a change in the decision, and it would be the interpretation of the policy by the officer.

The Deputy of St. Martin:

If the officer interpreted the Island Plan correctly and then decides that there is not anything under the Island Plan which allows that officer to make a positive decision, surely that must be wrong.

The Minister for Planning and Environment:

It could be wrong, but this clearly goes back to the reason and the rationale behind having supplementary planning guidance notes, and if indeed there are a large number of such applications that do require a slightly different interpretation of the rules in not such a hard and fast way, then that is certainly something that the Minister would look at.

[14:45]

Deputy J.H. Young:

Will you look at it, Minister?

The Minister for Planning and Environment:

I will look at it but I gather, because I did receive a letter from Deputy Luce about once of these particular chapels, and I think it is the same one because the language he is using is the same, but ...

The Deputy of St. Martin:

I feel very strongly, Minister, that people should not be restricted from worshipping in the church because they are disabled.

Deputy J.H. Young:

Can I add that in my own constituency there is a church where there was an application turned down for a toilet to allow worshippers to use in the church because of the historic building status; not a question of access, but I think the same principle applies.

The Minister for Planning and Environment:

Yes. But in asking that the Minister take a fresh look at this, you are suggesting that the Minister puts himself in a position to overturn the decisions made in alignment with the existing planning law, so ...

The Deputy of St. Martin:

I accept that, but we are asking for some commonsense.

Deputy J.H. Young:

I think we are asking, Minister, for a review of the policy. I certainly am asking for clarity over whether or not buildings are listed under the law, whether people know what their restrictions are and they do not find out by accident

when they happen to apply that: “Oh, lo and behold, there is a heritage restriction on it” 6 years after the law. So I was really asking for clarity, Minister. If you are giving a commitment that you will work towards that, I think that is very great progress, Minister.

The Minister for Planning and Environment:

Yes. I am happy to review any of the decisions that are taken by the officers or the plan.

Deputy J.H. Young:

Thank you.

The Connétable of St. John:

Can I come back to something you said earlier, Minister (or maybe your officer) about historic buildings requiring a survey. What happens where the owner of the property refuses to allow you on to the premises?

The Minister for Planning and Environment:

At the moment I do not think anything does, I think it just gets put down on the records that no permissions have been given although they have been sought.

Director of Policy and Projects:

I think the other issue is the decision about the heritage value of the building would be based on the information that was available to the department, so whether that was from archival material, from historic notes, from what is visible of the property from the public byway.

Deputy J.H. Young:

There would be no onsite survey per se unless you have given permission.

Director of Policy and Projects:

No, that is right. The Minister does have legal powers to authorise his officers to enter that property for purposes under the Planning Law, but we have got to respect people’s desire that they do not want us to visit the site, and we would simply make a recommendation to the Minister based on the information that we had.

The Connétable of St. John:

I would sincerely hope so, because I am dealing with one of my parishioners at the moment who rang me and asked me for advice on that in the last couple of weeks, and that would worry me if I thought you would go in heavy-handed, for want of a better word, and have a property surveyed, including the trees in the garden, because there are a particular variety of trees on this particular large site. I am comforted somewhat in the comments you have made.

The Minister for Planning and Environment:

I think as a general point I would feel uncomfortable if we were moving towards police state intervention or to suggest that the States has too much

power to intervene in the private rights of individual landowners. It is obviously better if we are getting to a position where there is a consensus behind the importance and the value of the historic buildings that a person owns, and our efforts in order to try and maintain for posterity and historic purposes those particular values and premises.

Deputy J.H. Young:

That sounds very reasonable.

The Connétable of St. John:

If I could move on from there and get back on to the issue to do with the churches. As you are aware, we have a large church in St. John, the Sion Methodist Church has been empty now for a considerable period of time, and we have got real concerns within the parish that that is going to be left to go derelict. Because there is an intransigence on the part of your department, I would say; it is not the owners, they have been bending over backwards to try and get things moving in that area. When will we get a decision made on Sion Chapel, please? Because I do not want to see a derelict building in the heart of the countryside in St. John.

The Minister for Planning and Environment:

No, nor do I, but I think it is probably not right, but I will mention it. I did visit the site a couple of weeks back with the historic buildings adviser, and we did offer advice to the owners of the building as to potential other uses, other than what was being suggested. The owners of the site are considering those suggestions and I am waiting for some action upon it. If indeed no action comes forward upon those suggestions, then we are back into the situation where it is only being put forward to do one particular thing with that church and we are into a little bit of a stalemate situation, which I feel would be wrong.

Deputy J.H. Young:

Does that mean, Minister, what you just said there (which is very encouraging) you are prepared to be flexible and we will not see repeats in your regime, as it were, of intransigent decisions on historic buildings where they are not capable of any use, like in former churches, like St. James, for example?

The Minister for Planning and Environment:

As I said earlier, I think it is better overall if government or those persons within it can try and encourage the greater appreciation, or the joined-up appreciation, across the board of people who own the properties and the values that the officers hold as well. To all intents and purposes that is what I am going to try and do. There will be instances, of course, as in any system, whereby the values perhaps of a particular historic site are not appreciated by the owner and in such cases we will have to be a little bit more innovative in terms of how we can find ways to secure what we consider and the Island considers to be worthwhile of retention.

Deputy J.H. Young:

But you have got no money for grants, have you, Minister?

The Minister for Planning and Environment:

There is no money for grants but from work that I have seen in other places, if you do take a more enlightened view, it does not necessarily always apply that the only way to secure a building is to get the States or the taxpayer to pay for it.

Deputy J.H. Young:

Thank you, Minister. Before I close this one, just a related issue on demolition. We notice we have a number of sites in the Island where you have given consent where buildings are taken down and we end up with a hole in the site due to the current market conditions. Have you any thoughts on that of what we might do to prevent some of that?

The Minister for Planning and Environment:

What, you do not like cleared sites?

Deputy J.H. Young:

Yes. Site 1, Mont Gras D'Eau, St. Brelade, a site called the Atrium in a prominent position; building demolished, boarded up, left. There is a site being marketed off plans, and there are, I think, others. Is that something you are thinking about, Minister?

The Minister for Planning and Environment:

I think we will think about that. The flipside, if you are dealing with a dilapidated building, is to keep the building in a dilapidated form for longer as an eyesore than perhaps a cleared site might represent.

Deputy J.H. Young:

It depends what it looks like. We will come back to that another ...

The Minister for Planning and Environment:

If you think of the Milano bars and other such sites ...

Deputy J.H. Young:

Thank you. I concede your point there, Minister, Thank you. Right, so I now close that planning subject and we will move to the subject of ash and asbestos disposal, where Deputy Luce will be leading on this one.

The Deputy of St. Martin:

Minister, as we all know concerning asbestos, there are a number of steel containers down at La Collette which contain the asbestos that has been taken out of buildings over the last few years. These containers are now rusting away. I understand that you have made a decision this morning that some of us might not be aware of. Could you enlighten us, please?

The Minister for Planning and Environment:

Yes. Transport and Technical Services put in an application for a permanent disposal site to store the asbestos waste in a specially-engineered cell at La

Collette for a period up to 2019. Of late, the Minister for Transport and Technical Services has decided that, as part of his election manifesto pledges that he made when he was elected to the job, he would prefer that that material, if it were able to be exported off-Island, to be remediated or disposed of or both, then that represented a better route than one which was going to continue to allow a hazardous waste site to be present at the La Collette area, with all the implications for the future generations that that meant. So with those utterances that were made in the media a number of weeks ago, the application was not amended to be put into a request for a temporary application pending further work to determine whether or not materials could be successfully exported off-Island to be remediated or otherwise, and the original application thereby had to be presented to be considered this morning. At that meeting, I asked the Minister for Transport and Technical Services. to outline his aims and ambitions in terms of a timetable for seeking to deliver what he wanted to deliver, and he was of the view that would be of the order of not more than 2 years. So what needs to happen in the meantime is that, having succeeded in getting some information from some French companies (and I think I have 4 at present who are all in a position to deal with this material if it were able to be exported under the law) and the next stage is obviously to go for a special duly-reasoned approach to the authorities who would deal with this material for us. There would be a joint agreement between Jersey and the other body and the officers would then, if permission were forthcoming, be in a position to accede to the wishes of the Minister for Transport and Technical Services, and indeed to do something which I would consider to be more environmentally sensible and sustainable in terms of achievement of that particular waste material.

The Deputy of St. Martin:

So what was your decision this morning, Minister?

The Minister for Planning and Environment:

The decision was that in the absence of an amended application for a temporary licence to store the material and in the absence of a letter, a duly-reasoned request from the 2 parties that would enter into such an agreement, I would ask that such work be undertaken as soon as possible so that we could be in a position to know categorically whether or not it is possible for Jersey to export this waste. If it is not possible, then further consideration of the application for the permanent disposal on the site of the asbestos materials will then take place.

The Deputy of St. Martin:

So you did not make a decision?

The Minister for Planning and Environment:

I did make a decision. I made a decision that I needed extra information, as does the Minister for Transport and Technical Services, in making the request for whatever he was requesting.

The Connétable of St. John:

So it was deferred, in other words?

The Minister for Planning and Environment:

It was deferred for reasons to get the required paperwork in order rather than dealing with surmise and public statements that are made without having the necessary proper back-up based on fact.

Deputy J.H. Young:

Why has it taken so long, Minister?

The Minister for Planning and Environment:

I think it has probably taken so long because we have a crossover in terms of waste management strategy between the operator and the Environment Department. I mentioned this to the Scrutiny Panel and others on previous occasions. Previously, when we joined together the Planning Department and the T.T.S. (Transport and Technical Services) Department to deliver an incinerator and other things, the intention was always that the environmental remits would then be stripped out again and put back into Environment, but that never took place in terms of waste management strategy. So we have the odd situation whereby you have got the operator, which is T.T.S., in charge of the waste management strategy, which are the overarching rules and ideas as to what is best practice for dealing with particular materials, as opposed to just carrying out the remit to burn materials or to deal with them in any other ways that the department sees fit.

Deputy J.H. Young:

So it is T.T.S.'s fault?

The Minister for Planning and Environment:

It is nobody's fault. I think if the finger of blame has to be pointed in any particular direction, then I think it should be pointed in the direction of the States Assembly as a whole for not realising the insufficiency of the split when T.T.S. was re-established and Environment was ...

The Deputy of St. Martin:

But, Minister, you would have to agree that the storage of this asbestos inside metal containers at La Collette ... metal is obviously going to rust, this is unsustainable. It must be the responsibility of somebody to highlight this to the States if the situation is not good?

The Minister for Planning and Environment:

It is, and that is why we are at the position that we are at. The decision to store the material in double plastic bags inside metal containers was taken by the current Chief Executive when he was Chief Executive of T.T.S. Indeed, again, if people want to point a finger of blame or to raise eyebrows as to the sustainability of the process, one could argue what was the sense in ordering second-hand metal containers in the first place, which is what the Chief Officer did, storing the asbestos materials, albeit properly lined inside these containers, but then storing the containers in a hostile marine environment without doing as little as covering them in a waterproof tarpaulin, which would

have limited the amount of rust that has taken place, not across all of the containers, but to one or 2 of the older ones, as I inspected the other day.

[15:00]

The Deputy of St. Martin:

T.T.S. have told us that they have had an application in with you for over 14 months now to have approval or otherwise for the cell that you spoke about.

The Minister for Planning and Environment:

That is fine, but at the end of the day, what I have stated is that from the comments made by the Minister for Transport and Technical Services the other day, he has had a change of heart, it would appear, and the suggestion was that he did not want a long-term solution of an engineered waste cell at La Collette, and he wanted an export solution instead. So notwithstanding ...

The Deputy of St. Martin:

Would you consider that to be a change of heart on behalf of T.T.S.?

The Minister for Planning and Environment:

I do consider it to be a change of heart on behalf of T.T.S. and, certainly, it might be a change of heart on behalf of the Minister for Transport and Technical Services, but then again, the 2 should work together.

The Connétable of St. John:

Can I come in? You have got a preferred way of disposal of asbestos, I understand, and would your preferred way pass the approval to ship off-Island and, if so, can you share with us what your preferred way is?

The Minister for Planning and Environment:

I do not have a preferred way. The way that waste management materials should be dealt with should be, as far as possible, within the waste hierarchy for the treatment of those materials. Within the waste hierarchy, landfill sites comes at the bottom of the hierarchy rather than at the top and that is it. As I have said, as the Minister for Planning and Environment I will always seek, as would be expected for a person with this particular chain of office, to ensure as far as possible that best environmental practice takes place whenever possible and that whenever possible we seek to position ourselves as a Jersey Government and responsible society in following the waste management hierarchy and dealing with those hazardous materials in the way that the rest of the world thinks is best practice rather than worst practice.

The Connétable of St. John:

Given that 14 months has taken place, this has been delayed so far for 14 months, are you telling me that you are going to wait for best practice, for utopia basically, by keeping on deferring things until utopia happens? Therefore, we will never get this resolved.

The Minister for Planning and Environment:

No. No, I do not agree with that at all. The change that has been brought about by the application being considered at the ministerial hearing today is one that perhaps could have taken place earlier but a number of requests were made to the department to come forward to properly justify that the landfilling solution was the best available technology. Work was undertaken, not by my department, but by Transport and Technical Services, in their own timetable, with their own consultants, in order to provide that information to the environmental officers in order to properly assess the technologies. That work has only just been delivered and therefore the consideration of the application has taken place in what I consider to be the right timeframe. It is a timeframe that was not pushed by myself; it is being governed by the Department of T.T.S. collecting the information that we need in order to properly assess it. Then having got to the 11th hour, so to speak, we have had the statements from the Minister for Transport and Technical Services suggesting that he was not in actual fact looking for a long-term disposal route which required us to stockpile the stuff on the Island, but he was looking for an export policy, which is something quite different.

Deputy J.H. Young:

So he has withdrawn the application?

The Minister for Planning and Environment:

He has not withdrawn the application. I would have suspected that that might have been the better route for it and that is why I do not consider that the decision made today is a delay.

Deputy J.H. Young:

I would like to clear up, because I am a bit confused and I apologise if I get it wrong, the Minister applied for a landfill option for this in Jersey, not export?

The Minister for Planning and Environment:

Yes.

Deputy J.H. Young:

You held it up because you thought export options should be examined?

The Minister for Planning and Environment:

No, I did not hold it up; I asked for extra information, which is what I am entitled to do, and what is expected of me, in order to ascertain whether or not the proposals that were being put forward in environmental terms represented the best available technology without entailing excessive costs.

Deputy J.H. Young:

But that proposal was landfill for disposal in Jersey?

The Minister for Planning and Environment:

Yes.

Deputy J.H. Young:

But you knew that there were other options?

The Minister for Planning and Environment:

Yes. It has taken this time in order to get the department to come forward with what they considered to be the best way forward. In the very last moments, the Minister for Transport and Technical Services has issued public statements suggesting that he would prefer (notwithstanding the application and the time it has taken to consider it or to put the information by which it can be considered together) nonetheless to have the material looked into in terms of export to a jurisdiction that can treat the material in a way that this Island cannot.

Deputy J.H. Young:

Is that export for recovery or export for disposal?

The Minister for Planning and Environment:

That is export for recovery. It might include and entail export for disposal because some of the materials that are contained within the containers are not asbestos and would obviously have to be treated differently.

Deputy J.H. Young:

That requires a licence, does it not?

The Minister for Planning and Environment:

That requires a licence, yes.

Deputy J.H. Young:

Who is going to get that: you or the Minister for Transport and Technical Services?

Director for Environment and Deputy Chief Officer:

It is necessary. The Minister alluded earlier on to the role of T.T.S. in terms of its operator responsibility when the States separated these responsibilities. That leaves us in the position of regulator. That means that T.T.S. would have to apply to us as the regulator to consider whether it is acceptable under the terms of our jurisdiction's and the receiving jurisdiction's waste-related policies that export and import is acceptable.

Deputy J.H. Young:

They have indicated they are going to do that?

Director for Environment and Deputy Chief Officer:

I as yet have had no indication of that.

The Connétable of St. John:

Minister, you go back a long way in the Chamber; longer than I do, some roughly 20 years. You have not been on Public Services which is now T.T.S.

The Minister for Planning and Environment:

I have been on Public Services.

The Connétable of St. John:

Correct. You also have been chairman of Scrutiny Panels. Would it be right in saying you have always wanted utopia in the final solution for dealing with waste instead of using best practice of what is available today?

The Minister for Planning and Environment:

No, not at all.

The Connétable of St. John:

Or of the day concerned when we made decisions?

The Minister for Planning and Environment:

No.

The Connétable of St. John:

You would not agree with me?

The Minister for Planning and Environment:

No, not utopia, no. No, because utopia is unachievable.

The Connétable of St. John:

Well, exactly.

The Minister for Planning and Environment:

What I have asked for is best practice and there is a subtle difference.

The Deputy of St. Martin:

If I can go back to the planning application, Minister, am I right in understanding what you said that the application was made for a permanent site and that application has not been changed; that is one of the main reasons why you have not decided it? Had the application been made or changed to an application for a temporary site for storage of asbestos, would you have approved it?

The Minister for Planning and Environment:

I cannot say whether I would have approved it or not because the officer recommendation might well have been different as well. At the moment the officer recommendation was just on the basis of the site to be used for long-term disposal. Obviously, if an application is coming in for temporary storage purposes which could perhaps be met in a different way, then I suspect that the officer recommendations might well have been entirely different.

The Deputy of St. Martin:

Would it be your view that storing asbestos underground in a damp environment, sealed as it would be in a cell, would be preferable to storing it in bags in steel containers?

The Minister for Planning and Environment:

I think it would but I think the comparisons you want to be asking yourself is whether or not that storage anywhere is the best practice when you do have

systems that will remediate and render the asbestos material completely inert and not a waste material in the first place.

The Deputy of St. Martin:

Do you have any idea, Minister, how long you think it will take T.T.S. to get the approvals they will require to export the asbestos off-Island?

The Minister for Planning and Environment:

I suspect from the discussions I have had, it could happen very, very quickly but we have not pushed for this route because the previous requests have been for an in-Jersey on-site disposal route.

Deputy J.H. Young:

Minister, how do we get to a point where you and the Minister for Transport and Technical Services resolve this clearly and deal with this problem?

The Minister for Planning and Environment:

I think we are there now.

The Connétable of St. John:

You say “we are there now”, yet you deferred it again this morning. For how long?

The Minister for Planning and Environment:

For as long as it takes for my officers to talk to the other bodies who are party to the Basel Convention and who operate facilities that we do not have which could safely, environmentally and sustainably deal with this particular waste stream.

The Connétable of St. John:

So the other facilities are tried and tested?

The Minister for Planning and Environment:

It is tried and tested but I have to state on top of that, that the consideration for the export of waste materials is not something that only applies to asbestos at the moment. It is also being considered and actively asked for in terms of the remediation potential or the disposal potential of the fly ash from the incinerator which at the moment is being temporarily stockpiled in a pit down at La Collette that the departmental officers from T.T.S. are now suggesting that the better way forward they would like to pursue (and discussions are underway to look at that) would be to export those materials either for disposal or for recovery in the U.K. (United Kingdom).

Deputy J.H. Young:

That is good news, Minister, is it not?

The Minister for Planning and Environment:

It is good news in terms of a uniform, coherent and consistent waste management policy across the board. I would find it incredibly embarrassing as the Minister for Planning and Environment were we to be forced into

situations where we had to make up reasons to agree a particular waste management treatment for one particular type of waste, only to find that in a few months further down the line that further requests are coming in which ask us to take a diametrically opposed position.

Deputy J.H. Young:

Minister, there is a current Scrutiny review which is running separate to this in detail with technical advisers on this question of ash. What you have said is that if those options are there, then you would be supportive; if those options are there, to adopt best practice for export.

The Minister for Planning and Environment:

Obviously, because that is what the waste hierarchy is all about.

The Connétable of St. John:

With that being said, until approximately 10 years ago there was an awful lot of asbestos waste, et cetera, buried on the north coast. Would that be your intention at the same time to clear that waste off the north coast; asbestos waste?

The Minister for Planning and Environment:

That could be looked at but one of the difficulties with asbestos in particular and in the Mont Mado and in the other waste dumps ...

The Connétable of St. John:

La Saline.

The Minister for Planning and Environment:

... that the Island committed to, is that no record was kept of what went in. That poses particularly difficult conditions to the engineers and the operators of any remediation kind of process, particularly in terms of release of asbestos fibres which is part and parcel of the nature of the asbestos contamination.

The Deputy of St. Martin:

Are those sites not potentially more dangerous than La Collette, Minister?

The Minister for Planning and Environment:

If they were dug up, yes, they probably would be.

The Connétable of St. John:

You are not concerned with seepage? I am not talking about Mont Mado; I am talking about La Saline.

The Minister for Planning and Environment:

Yes, I would be, but it represents, in my view, slack environmental practice at a time perhaps when the environment was not treated in a way that we appreciate now. It certainly raises an issue as to whether or not a longer-term proposal might be for the cleanup of those particular sites in the same way as perhaps with the Guernsey situation, we are now finding that there are

companies beginning to become interested in landfill sites to re-mine them for the materials that have been dumped within them.

Deputy J.H. Young:

You do have a Contaminated Land Register, do you not, Minister?

The Minister for Planning and Environment:

We do.

Deputy J.H. Young:

So this is something that you will be looking at for the future, is it?

The Minister for Planning and Environment:

It is definitely, yes.

The Deputy of St. Martin:

I would just like to talk a little bit about the Basel Convention. I am not a particular expert but it is my understanding that if you wanted to export waste for disposal that that would be frowned on severely but for recycling or recovery is a different matter. If we find, Minister, that the ash, for example, that we are storing, the hazardous waste that we store at La Collette at the moment, we are not allowed to export it for disposal, we are in a bit of a tricky situation there, are we not?

The Minister for Planning and Environment:

I do not think we are. There are technologies about that are becoming more and more available. In fact, Scotland have just picked up on it in terms of their waste management strategy, and there is work that is being undertaken as well at Sheffield University, into the glass and plasma vitrification process which is becoming of more and more direct relevance for dealing with hazardous waste materials across the board. We are not only looking at containment of low-level nuclear waste, but asbestos waste, ash waste - bottom ash or fly ash - as well.

The Deputy of St. Martin:

You are very confident we will find a site somewhere not too far away which will be able to cope with disposal of the waste.

The Minister for Planning and Environment:

No, what I am suggesting is that as these technologies become more widespread, and they are becoming more widespread, then the Island will have the ability to perhaps acquire the services of an engineering company who specialises in this type of disposal.

[15:15]

It might well be as part of the process that the company could be invited to the Island in order to clean up La Saline or whatever with the technologies that they are providing. The way they work is we have large tubes that are drilled into the landfill and then the process generates a very, very high temperature

gradient which fuses the material into a glass-type substrate which locks in the potential hazard.

Deputy J.H. Young:

What is your position, Minister, on the ash residues which arose from the previous incinerator where there was not this separation of the ash which are at present also stored in those lined pits at La Collette? Do you include ...

The Minister for Planning and Environment:

It is the same thing. It was sloppy practice at the time and indeed there was a lot of political comment by previous States Members that we were not, as a government, taking the environment as perhaps seriously as we should. That said, it depends on the engineering kind of characteristics of the made-up land as to whether or not it does afford a realistic opportunity for further remediation of those sites into the future to neutralise those potentially damaging materials.

Deputy J.H. Young:

We have been told, Minister, that they are safe from physical damage, as it were. Is that the situation that you accept?

The Minister for Planning and Environment:

Again, I think it depends on who is telling you how safe they are. In all of the risk statistics that are undertaken, you have to take into account whether or not you are in an area that represents geological instability and is it likely that we are going to have seawater erosion due to high tides or whatever in a couple of 100 years. You can never say never. So when people are assessing those risks, it is not just a flat statement that there is a risk; there has to be a proper qualification as to how those risks have been arrived at.

Deputy J.H. Young:

In the decisions the States have to make on ash, you will also consider, as well as looking at the current arrangements for dealing with ash that is arising from the Energy from Waste plant, we should also look at the legacy of ash arising from the previous ...

The Minister for Planning and Environment:

Absolutely. In fact, there is an Island Plan policy - I cannot remember the number at the moment - which does suggest that it is a stated aim of the department and the officers to put themselves into remediation possibilities in order to enhance any environmental damage that has taken place and to improve the situation.

Deputy J.H. Young:

What about the ash, Minister, that is known to be present in the Esplanade site? Do we see that developed and so on or are we going to see that moved to La Collette and then dug up and going somewhere else?

The Minister for Planning and Environment:

This is the bottom ash or the fly ash?

Deputy J.H. Young:

The ash in the Esplanade site, as I understood, it arose from the previous incinerator which did not separate out fly ash.

The Minister for Planning and Environment:

Personally, I think the overall processes that the Island signs up to in terms of trying to portray itself as being an environmentally responsible Island suggests to me that it must always be desirable for any Minister for Planning and Environment to seek to improve poor situations that have occurred in the past, while at the same time doing it when assigned available monies. Picking up on the Constable's point, it may well be utopian or pie in the sky, and indeed if there are no monies available or the cost for remediation is astronomically high, then those ideas would have to remain fanciful, albeit that they would not necessarily represent best environmental practice in the past.

Deputy J.H. Young:

Minister, just looking where we currently stand, you have explained that options are being looked at now, which is good news, for export for either disposal or currently according to what is permitted. Are there issues in the interim which you are concerned about which you see as urgent problems as far as how we deal with (apart from obviously asbestos where we have discussed) other ash and so on? Are there immediate, urgent issues that need urgent attention in the interim while those decisions are made? Are you content current arrangements are satisfactory?

The Minister for Planning and Environment:

No, I think what I am trying to do is to ensure that we have the right way of dealing with hazardous waste materials across the board, as I said earlier. We have several materials that are exercising our minds at the moment. We have ordinary bottom ash, and the suggestion was the best way forward was to stockpile it in an engineered hill. That does not necessarily represent best practice, in my view. There are other ways that the bottom ash can be properly remediated and turned into an engineering product, a graded aggregate, which would provide a revenue-generating opportunity for those persons who are undertaking the business ...

Deputy J.H. Young:

On-Island or off-Island?

The Minister for Planning and Environment:

On-Island or off-Island, it does not matter.

Deputy J.H. Young:

Right. That is the bottom ash?

The Minister for Planning and Environment:

That is the bottom ash. The fly ash at the moment contains a lot of heavy metals. Ironically, some of those heavy metals are achieving quite high prices at the moment on the recycled market. Admittedly, what has to take place

first of all is that there has to be a remediation process to take that fly ash which is a hazardous material in its own right ... it is mixed materials. There are processes which will take out the independent heavy metals that are causing the contamination and put them into a form where they can be put back into chemical or engineering processes. Again, that is a revenue-generating or at least a cost-neutral process, by and large, if you choose the right processes.

Deputy J.H. Young:

If those issues are under investigation at the moment, you are content that ...

The Minister for Planning and Environment:

All these issues should, in my view, as the Minister for Planning and Environment, be looked at in order to ascertain whether or not the Island in choosing whatever solution it goes for, that it necessarily fits into the best place it can be in terms of the waste management hierarchy.

Deputy J.H. Young:

You will be pushing at the Council of Ministers for the resources to do that?

The Minister for Planning and Environment:

Yes.

The Deputy of St. Martin:

You spoke just a minute ago, Minister, about the cost of utopia, if I can put it like that, and you said if a particular process is too expensive you would not consider it, but do you have any idea what sort of money you would be prepared to throw at processes that could deal with ash and asbestos?

The Minister for Planning and Environment:

The interesting thing is that my research is saying the costs of the high-temperature treatment remediation are of an order of times 3 for general landfill.

The Deputy of St. Martin:

Three times. So, for example, if a pit cost £1 million, the alternative plasma vitrification might be £3 million?

The Minister for Planning and Environment:

Yes, but the point is that in grading the materials, not all of the elements of the waste stream should justify, or do justify, that particular treatment.

Deputy J.H. Young:

Minister, summing-up your position - do I have it correctly? - you would like to see best practice adopted and ideally if that means we can clean up the residue of toxic, hazardous materials at La Collette and prevent the further accumulation of them, that would be job done as far as you are concerned?

The Minister for Planning and Environment:

It is the socially and environmentally most responsible way of dealing with things, yes.

Deputy J.H. Young:

Thank you, Minister. Do you want to ...?

The Connétable of St. John:

Yes, I would just like to say something on that. The leachate that is being produced while these pits are being filled currently goes into the digesters at Bellozanne. A percentage of it goes out to sea after being partly treated. Obviously it cannot get rid of the heavy metals, so that is going into the sea. The remainder goes to the bottom of the digesters and it finishes up as sludge, which eventually goes as cake on the land and, once again, those heavy metals are being put on the land. Do you have any concerns - I am sure you have - and how would you deal with that leachate, please?

The Minister for Planning and Environment:

Yes, I do have concerns but it is again the proportion that is put into sludge cake that goes back on to the fields that is the important bit. From my understanding, not all of the sludge that is produced by the Island does go back on to the fields and certainly the officers from the department on the Environment side have been working in the past to ensure that we do have more stringent measures applied in terms of not polluting through heavy-metal contamination of our fields. What happens, ironically, is that a greater proportion of the sludge is then dried in sludge driers using energy to dry the raw materials, and then they are burnt in the incinerator and most of the heavy-metal contamination will either come out then as fly ash or some of it perhaps in bottom ash.

The Connétable of St. John:

Are you concerned that bad practice has been operating, and probably still is, in the water catchment areas where they put this sludge cake on the land in water catchment areas?

The Minister for Planning and Environment:

I think we have to be a little bit careful because in the U.K. where you have heavy industries and you have contamination coming in from those industries into the rivers and the river waters and then going back into the sewage system by various means, the concentrations of heavy metals under those systems are way, way in excess of what we are producing. So I think you have to be a little bit careful in assessing that we are kind of openly poisoning our fields.

The Connétable of St. John:

But 2 wrongs do not make a right.

The Minister for Planning and Environment:

The underlying reasoning is correct but it is the quantum of the reasoning of the problem that might not be as exaggerated as perhaps you think.

Deputy J.H. Young:

I think our next subject will take us on to water quality as well so if I can ...

The Minister for Planning and Environment:

Generally, just one final point there. Again, in the seeking of the best environmental options, there are tertiary cleanup systems which allow plant material - that is ordinary plants - to bio-assimilate the heavy metals that form the contamination in the water. Then having had the plants do the concentrating programme, if you like, instead of other industrial processes, you have an opportunity then to save the contaminated plant waste in a more concentrated form and then deal with it appropriately. But we do not look at that at the moment; maybe we should.

Deputy J.H. Young:

But, Minister, would you accept those sort of options may be technically feasible but obviously the issues on the table for examination are whether or not they can be done with the quantities and size and the standards required? I think, because we will be coming back to the issue of ...

Director of Environmental Protection:

Just to add a bit on what the Minister said just to give reassurance. Obviously, leachates coming from ash cells going into the sewage treatment works are a concern to us as regulators of the Water Pollution Law. Unfortunately, the Drainage Law is operated by T.T.S. which means any trade effluent consent from a business, a dairy or a dry-cleaning firm, that you want to discharge into our sewer it goes through T.T.S. What we need to do is tighten up on that process. What we are doing is the department is implementing the E.U. (European Union) Water Framework Directive for St. Aubin's Bay and as part of that you have an E.U. list of some 50 to 70 priority hazardous substances. We have just undergone a screening process of Bellozanne effluent to just screen out and see what is there. But then as regulator we will incorporate that into the discharge permit to be able to say to T.T.S.: "You are approaching the limit on X priority hazardous substance according to the environmental safeguard limit and therefore we need to control the trade effluent consents coming in, and we need to question whether you accept that new trade effluent consent which is high in that particular chemical" and that follows into the bay of biota monitoring and everything of heavy metals.

Deputy J.H. Young:

I think if we could move on to the subject of (a related subject in a way) seaweed on beaches which is in relation to water standards. So, Steve, do you want to take us into this? We may come back to the list of what you just said.

The Deputy of St. Martin:

Yes, Minister, the green seaweed that we have in St. Aubin's Bay is also prevalent very heavily on the north coast of Brittany. It is generally acknowledged that where we get the seaweed it is a combination of percentage of waste that has been treated coming out of a liquid waste plant,

or runoff from agriculture down rivers and stuff. Given that St. Aubin's Bay has a very large percentage of Jersey's runoff entering it, as well as the finished product of the liquid waste treatment at Bellozanne, what would you consider to be the percentage breakdown of the 2 runoffs or Bellozanne as regards a ...

The Minister for Planning and Environment:

I know the figure that I am told. I am told that it is 50/50.

Deputy J.H. Young:

Do you agree with that?

The Minister for Planning and Environment:

Yes, I think I broadly do.

The Deputy of St. Martin:

I am sure there will be a number of different questions as we move on, but do you consider that T.T.S. will have best practice with that green weed that they have in St. Aubin's Bay at the moment?

The Minister for Planning and Environment:

No, they definitely will not follow best practice. They were following a practice that was a pragmatic approach to the problem but effectively it is no different to what they were doing in the French Revolution where a party went out in the morning and dug a ditch that a different party filled in in the afternoon, and the following day they repeated the exercise over and over. It is a job-creation scheme; it is not solving the problem.

The Deputy of St. Martin:

So what is the answer, Minister? Is there an answer?

The Minister for Planning and Environment:

I think there is an answer and the work that has been undertaken by my department is moving it slowly in perhaps that direction.

[15:30]

As I mentioned earlier, one of the difficulties we have is that the Environment Department do not have exclusive control of the waste management strategy, so we are not in a position to set what the strategies are; that is done by the operator. We do have a regulatory arm which says that, as far as possible, if environmental problems appear, then they will be sorted out by our team and hopefully not recur and we are not poisoning the environment. But the real questions must be examined by whoever is in charge of the waste management strategy. In relation to liquid waste, there is talk at Council of Ministers and beyond that perhaps in order to reflect on this badly located kind of responsibility for waste management strategy setting, that perhaps Environment and Transport and Technical Services work together in order to achieve our aims and their aims. One of the things that I would personally like to see is the policy that does not just say: "Right. Here is the cleanup

solution” and you move it from one end of the beach to the other but you have not solved the problem. Then when you look at the problem you say: “Well, is it the farmers?” and quite clearly it might be the farmers 50 per cent. Or is it the Government themselves through the liquid waste policy and how we run the sewer? There is no doubt in my mind that from the work I have seen that St. Aubin’s Bay has got a bit of a gyre in terms of the non-circulation of waters and the amount of nutrients that we are putting into the system is exacerbating the problem of the lettuce. What it shows to me as an environmentalist is that algae are fantastic organisms and there is an opportunity to have a man-made system to perhaps grow the algae off the waste waters, as happens in other places where they do have a fully-fledged tertiary treatment system for their treated waters from the sewage plant. Now we do not do that at the moment.

The Connétable of St. John:

Can you give us an example of that?

The Minister for Planning and Environment:

Across the board in America, Australia, everywhere basically where they have the land space there to deal with it. What is coming forward of late are opportunities for taking that waste water and growing algae in tube-based systems. Again, it presents an opportunity for the Island if it does take a wide approach to the delivery of solutions in this particular area to introduce a revenue-generating opportunity as in growing algae. There are a whole host of beneficial ways to sell it. The pharmaceutical industry is very, very interested in, in particular, algae that can express chemical components that go into the industry. Alginates are present in toothpaste and paints and you name it across the board and in quite a lot of canned foods as well. So they have to be grown somewhere and they could be grown here. There may be public distaste, suggesting that plant systems grown off waste water represents something that is soiled but the environmental health bodies that are operating in other places have shown categorically that you can grow clean plants off waste products.

The Connétable of St. John:

Can I stop you there, please? Because you are talking about other jurisdictions and those you have mentioned were Australia and America, both big nations. We are talking about a small jurisdiction here of 9 by 5. Surely we could not afford to go down that road.

The Minister for Planning and Environment:

We could add in smaller ones like Sweden. How small do you want to go?

Deputy J.H. Young:

But, Minister, is it not a question of what you have said sounds as if there is a strong theory behind it but here we are, do you accept, in an intermediate while we have searched for those solutions, there are practical problems in the meantime?

The Minister for Planning and Environment:

I think there are practical problems in the meantime and that is why we have the proposed court actions in terms of the release of nutrients, nitrogen, whatever, into the St. Aubin area. That is why we have asked Transport and Technical Services to re-engineer their processes as far as possible and that is being undertaken in terms of denitrification.

Deputy J.H. Young:

Can I just check, this is the proposed court action on the T.T.S. for exceeding the nitrate level in their outfall?

The Minister for Planning and Environment:

Yes.

Deputy J.H. Young:

What is that level, please?

Director of Environmental Protection:

It is set at 10 mg per litre.

Deputy J.H. Young:

Can I ask what is the standard set for drinking water in Jersey?

Director of Environmental Protection:

Fifty.

Deputy J.H. Young:

So you are suggesting that litigation for exceeding a standard of 10 when the Jersey New Waterworks deliver us water 5 times that level is a way of dealing with this?

Director for Environment and Deputy Chief Officer:

Yes, but it is not as simple as you suggest. Tim?

Director of Environmental Protection:

Yes, the 10 mg per litre is set by the Urban Waste Water Treatment Directive for sensitive waters and that is the amount of nitrogen, total dissolved nitrogen, that St. Aubin's Bay can withstand. If it goes higher than that it goes green. What we are talking about is a small concentration of it, a heavy flow ...

Deputy J.H. Young:

As a layman, every time somebody flushes the loo, do they not flush water down it into our sewage system to the level 5 times what is allowed to come out of the incinerator?

Director of Environmental Protection:

You are completely right. In that respect, Bellozanne Sewage Treatment Works is getting rid of that because it is coming in 40, 50 ...

Deputy J.H. Young:

I see. So really part of the job of the sewage treatment plant is to deal with these standards of drinking water?

The Connétable of St. John:

If it is 10 or 50, what is the rate that it is coming into St. Aubin's? What is the measure that you have got coming into St. Aubin's?

Director of Environmental Protection:

It would be about 40 to 50.

The Connétable of St. John:

As high as that?

Director of Environmental Protection:

Yes.

The Deputy of St. Martin:

You cannot be surprised though, surely, Minister, that if drinking water is 40 to 50 that that is the sort of level that it is coming out of Bellozanne into St. Aubin's Bay when the vast majority of liquid entering Bellozanne Treatment Works started off as possible water coming from the water company.

Director of Environmental Protection:

Bellozanne Treatment Works is recognised as an archaic structure and the denitrifying unit on that is not working as well as it should and that is our problem.

The Minister for Planning and Environment:

The whole point about the water framework is that if you have sensitive areas ... and sensitive areas are defined as those that cannot take high inputs or certain inputs of nutrients into the system without getting explosive growth in terms of the plants and the other things that grow in the area. As I say, St. Aubin's Bay has been identified as a potential such area where you do get nitrification of the waters, which is an overfeeding of the waters, and that is why we have the lettuce problem. That said, is it a problem? If an industry could be found to take the seaweed off the beaches and harvest it and turn it into useful product and, again, I am told that it is useful in the Far East as a fish food. We have one of our local companies even expressing interest in taking the seaweed off and putting it into a concentrated form so he has ormer-grazing pellets, so to speak, for his ormers to feed on. That represents a positive attitude to the environment rather than dealing with the treatment of waste material in a way that is not necessarily environmentally sustainable or justifiable.

Deputy J.H. Young:

What about a longer outfall, Minister, into the ...

The Minister for Planning and Environment:

Well a longer outfall is equivalent to, in my view, of slovenly housewives who, like the apocryphal stories about people, do not want to sweep their rooms

and they used to sweep it under the carpet. A longer outfall will not get rid of the problem. It will not get rid of the problem in the way that delivers an end-of-pipe solution that is clean. What it will seek to do is to put those polluted waters in terms of extra nutrients and whatever into deeper waters so that their polluting aspects can be more widely diluted.

Deputy J.H. Young:

What do we know, Minister, about the levels of nitrates out in the seawater beyond St. Aubin's Bay? We have heard, for example, that this is an issue prevalent throughout the whole of the Bay of Mont Saint-Michel and it is an issue in France. Are those waters beyond St. Aubin's Bay also subject to high levels?

The Minister for Planning and Environment:

Yes, they are and that is why societies all around the globe are now looking at new methods for dealing with liquid waste which minimise those problems, and that is what the Island must do as well.

The Deputy of St. Martin:

At the outset, Minister, we accepted, or we appeared to accept, that it is 50/50 between liquid waste and runoff and streams. Given that T.T.S. are therefore responsible for half of it, are the farmers responsible for the other half?

The Minister for Planning and Environment:

I do not think it is exclusively farmers although my colleagues might disagree.

Director of Environmental Protection:

Can I come in? You are right. If there is a sustainable solution for the Island on nitrates, we need to take it to the source. There have been a number of scientific studies which have recognised the majority of that source comes from agricultural land. So what can we as a department do about that? Under the law we can take areas out of farming; very costly, because we have to reimburse farmers. So what the department is doing is looking at a longer, more sustainable route of a co-management approach with farmers and it is called the Diffuse Pollution Project. This is a lot of talking at this stage but it is getting together with farmers, engaging with them and saying: "Well, let us have a look at your farm and your farming system and how we apply fertilisers to the ground. How could we minimise that, minimise the wash down during the planting season of Jersey Royals?" That has been quite successful. Farmers have very much engaged in that process because they have to do it for the initial produce scheme and develop a thing called the Farm Nutrient Plan which is telling us when you apply nutrients or fertilisers to your land and the environmental effect on that. What the department has done is come along to assist them in that process and by the end of 2013, all farmers on Jersey will need a Farm Nutrient Plan which is field-by-field records of the nutrients in fertilisers applied to that field, when it was applied, throughout the year. So, a dairy farmer is not coming in and applying slurry and then you are coming to put your spuds in, you are giving it a full whack of nutrients. It is early stages yet but the great thing about that project is all farmers are now on board and we support that with the department through training programmes,

through having get-togethers, through listening to the farmers' views and getting them involved in the project. Now for the first time since 1990 the groundwater levels of nitrate have dipped below the 50 which is a tentative success. As we know, Bartletts and Jersey Royal, the landbank given over to Jersey Royals has shot up but the actual level of nitrate in surface water has stabilised. Last year we had 28 breaches of nitrates in water embodied by Jersey Water; this year nil. It is very early indications but maybe this sustainable working together with farmers, a cooperative approach of education, of seeing how together we can solve that problem has got potential but we need to ...

The Connétable of St. John:

It would not have been because we had a dry spring?

Director of Environmental Protection:

We had very heavy rain just after planting. Yes, it is climatic effects as well; Val de la Mare was empty but ...

The Deputy of St. Martin:

Can I ask what the levels of nitrate are in streams entering St. Aubin's Bay currently for this year?

Director of Environmental Protection:

Jersey Water data is about 56 mg per litre.

The Deputy of St. Martin:

On average.

Director of Environmental Protection:

That is where we are coming from.

The Deputy of St. Martin:

That is sampling that is done by Jersey Water and not by yourself?

Director of Environmental Protection:

We do sampling but because Jersey Water do a more extensive sampling of surface waters we use their data. Touching on that point, Steve, that is where we are coming from because if we do not solve that problem as an Island, the drinking water supply which we regulate coming through the taps, if that is over 50, then we have to talk about drastic solutions of denitrifying parts of Jersey Water.

The Deputy of St. Martin:

But on average at the moment, the water going into St. Aubin's Bay through streams has got more nitrates in it than drinking water and the stuff coming out of Bellozanne?

Director of Environmental Protection:

Yes.

The Deputy of St. Martin:

So the streams are more of an issue than Bellozanne in a ratio gallon for gallon or litre for litre?

Director of Environmental Protection:

Yes.

Deputy J.H. Young:

So what should be our priority? Drinking water standards, effluent off the farmland or effluent from the sewage plant?

The Minister for Planning and Environment:

I think you have to take into account the other pollutants. It is not just nitrogen and the nitrogen content in the water. It is also phosphate runoff, which is another requirement for the plant waste.

The Deputy of St. Martin:

So is that even more likely to come from farming then?

The Minister for Planning and Environment:

I am not sure. It probably does, yes. But you also have phosphates in washing-up liquids and things like that. It is basically symptomatic of a not particularly joined-up global approach to dealing with waste waters.

The Deputy of St. Martin:

Is there a way of dealing with phosphates from a liquid waste plant?

The Minister for Planning and Environment:

Yes, both of those is to mimic in a man-made way what is happening on the beach, which is to either grow the algae in controlled conditions to take out those 2 material components of the waste stream and to derive a revenue from it ... what I did not say before was that over and above the pharmaceutical applications and the fish food and the food applications, it could be grown as a biomass to be put back into digestion methods which can produce bioethanols to replace the importation of fuels.

The Deputy of St. Martin:

I know very little about this, Minister, but I would imagine that the process you have just described would require acres and acres of very, very flat land so the water flows very slow.

[15:45]

The Minister for Planning and Environment:

No, no. That is one way of dealing with it if indeed we were picking up on the examples of Australia or America where land is cheap, but in places where land comes at a premium, then the man-made efforts, which is coiled-up test tubes, gives you the required surface areas and the flow throughputs that are required in equivalent fashion but in a more concentrated form.

Deputy J.H. Young:

Minister, what is likely to be the timescale of finding solutions like that and us getting it implemented even, that it is economically feasible? What is your best guess?

The Minister for Planning and Environment:

I am hoping that this can all be done and dusted within the term of office of this current States. That is certainly what I am working towards.

Deputy J.H. Young:

But in the interim are you prepared to allow seaweed to be removed off beaches in order to ...?

The Minister for Planning and Environment:

Yes, I have already said that. As far as I am concerned, notwithstanding that there are marine organism issues in terms of taking too much sand and other animals off the beach with the seaweed once it starts to break down, because those organisms do provide a food source for the fish that are present in the bay, there has to be a reasoned approach somewhere in the middle which allows the seaweed to be taken off the beach, or indeed another back-end process that does not put as much of those nutrients into the waters in as open a fashion as we do at present.

Deputy J.H. Young:

Some of those snags would also occur with some of the methods used as far as taking, would they not? It is not just a question of what is currently happening; some of those methods of people taking it from the beach for other reasons. They will still take those materials, will they not?

The Minister for Planning and Environment:

Yes.

The Deputy of St. Martin:

Do you think the problem is any worse now, Minister, than it was 20 or 30 years ago?

The Minister for Planning and Environment:

I think that is probably the wrong way to phrase it. The problem is not a problem that is there all the time, as can be seen by the seaweed. It is down to the growing conditions and the amount of nutrients that have come in and there will be peak times and there will be slack times.

Deputy J.H. Young:

So you are content for interventions in the interim when peak times occur?

The Minister for Planning and Environment:

I think the interventions that we have needed to take place because (the Island as a whole I have to take into consideration) the fact that the beaches are not just there to be global dustbins for our sewage products or whatever, but they are also there as part of our tourism product. There is a crossover in

terms of that particular industry and how we adopt the practices of keeping our beaches clean.

Deputy J.H. Young:

Perhaps, Minister, it also focuses people on levels of pollutants in the seawater and so on.

The Minister for Planning and Environment:

Certainly, it is not a good advert, in my view, just piling up the seaweed to rot and then hearing stories, which are not apocryphal, about our next-door neighbours in France and Brittany where there have been horse-riders and horses who have been asphyxiated by the hydrogen sulphide gases that have been produced by having such large heaps of material rotting.

Deputy J.H. Young:

So we are not alone, basically.

The Connétable of St. John:

So you would be happy to see the farmers collecting it off the beach and putting it on the land?

The Minister for Planning and Environment:

Absolutely. I think the old practices for spreading seaweed on the land is something that should be actively encouraged by the department and we should be re-introducing them. It is not true that the green seaweed is not of some use for making compost. It could be used as a useful component to the composting that is taking place with the mainly woody materials down at La Collette. But the materials would have to be first of all washed to take some of the salt out.

Deputy J.H. Young:

I think, Minister, I would like to close that subject now, thank you, and move on to the last one we have put down as coastal paths and headlands. This arose, Minister, from a follow-up from our meeting with you, I think 6 weeks ago, when we were talking about financial budgets. You told us that you spent very little on looking after our conservation quality land and our coastal paths. Obviously we want to follow this up today and find out whether or not you agree that we, as an Island, are spending more money in promoting the benefits of those valuable amenities than looking after them. Do you agree with that?

The Minister for Planning and Environment:

I think I probably do, yes.

Deputy J.H. Young:

Good. What is your current level of resources on that?

Director for Environment and Deputy Chief Officer:

£60,000 per year for 3 years is my understanding.

Deputy J.H. Young:

With that you have to maintain 70 km of paths, 10 km of bridleways, 1,000 pieces of infrastructure and 608 hectares of open land, is that right?

Director for Environment and Deputy Chief Officer:

Thereabouts.

The Minister for Planning and Environment:

As well as all of the land that has recently been put into the coastal national park area.

The Deputy of St. Martin:

I think I know the answer to the next question, Minister, but if you had to say if the facilities under your control were improving, maintaining or depreciating, which of the 3 options would you choose?

The Minister for Planning and Environment:

What do you think? Let us see if you are right.

The Deputy of St. Martin:

I do not know. Do you have a figure in mind that you would need to maintain the coastal paths and areas that ...?

The Minister for Planning and Environment:

I think it is a little bit more complicated than just saying: "Here is a figure." The environment is pretty much like health. You can spend as much as you like on it, essentially.

Deputy J.H. Young:

Or as little as society gives you.

The Minister for Planning and Environment:

Yes.

Deputy J.H. Young:

In this case you have almost sunk to as little as it can get.

The Minister for Planning and Environment:

I think we have hit rock-bottom. As I have mentioned on previous occasions, it might well mean that the only way forward is to encourage more people to offer their services, either gratis or for a small sum of money, or bacon sandwich or whatever, a cup of coffee, in order to assist in the work that really should be undertaken to deliver the high-class product that we are telling everybody we support.

The Connétable of St. John:

Minister, we saw in the last few weeks 2 grants given from Tourism to the Rugby Club on initiatives, why have you not been applying to Tourism to get grants because walking, horse-riding and everything else that goes on around our coast is tourism in itself? Why are you not going into those budgets,

through the Council of Ministers or through the quangos that administer some of those budgets, and getting the necessary funding you need? You will not get it all but you will get a big lump of it.

The Minister for Planning and Environment:

Why are we not doing that? I am not sure we would have much success if we did do it because I think most people's attitudes towards the funding of the environment ... I think people tend to think that it is a specialist activity. So if we are going along as environmentalists to a department, we would be asking them for monies for, I do not know, surveys of bat droppings or things like that.

Deputy J.H. Young:

That is not we are asking here, is it? That is not what we are asking.

The Connétable of St. John:

No, that is not what I am asking. I am saying "tourism". There is a big business out there in tourism. I see people, 30 or 40 at a time in groups, going around the coastal paths in my parish and they are from Germany and elsewhere. One of these days there is going to be a heavy claim against the Island because we are not maintaining our footpaths, et cetera, properly. Tourism lives off the back of these people. There is money in the Tourism Investment Fund, why are you not applying? That is what I am asking.

The Minister for Planning and Environment:

Yes, well, I think you are probably right, we should be applying. Whether or not it draws teeth is neither here nor there.

The Connétable of St. John:

Well that is what you and your Council of Ministers should be working on. You should be around the table, smashing your fist on the table to make it happen.

The Minister for Planning and Environment:

It is a fair point, and particularly since the area under the administration within the coastal national park area has grown so quickly.

The Deputy of St. Martin:

If I could change tack slightly, Minister. There are 3 types of people who enjoy our paths extensively: the horse-riders, bicyclists and walkers. Do you think, in your experience, it is necessary to separate horses and bikes from pedestrians and have separate paths for them or do you think there is a case where they can all exist happily together?

The Minister for Planning and Environment:

Some of the work of my predecessor was in separating out the horse-riders from the walkers and I think in some instances that is probably right that you should do that. It is pretty difficult. If you are on a narrow coastal path and you are meeting up with a couple of horse-riders and you have bicyclists behind you, they are narrow paths, it is an accident waiting to happen. So I

think there should really be proper provision for those separate classes of enjoyment across the board.

Deputy J.H. Young:

On safety issues, I looked at your 2010 report but it was before you took office, Minister. It flags up that there are a number of category 1 incidents or something. It talks about 50 incidents per year which I assume to be safety-related. Clearly, there is a potential risk there. Is there not a safety argument for upgrading our standards?

The Minister for Planning and Environment:

I think there is an argument and that is tied into the work that was starting to be undertaken in separating out bridle paths running parallel to the footpaths in some areas along the north coast.

Deputy J.H. Young:

It is not so much the separation, Minister, as was cited to me, but where there are steps with sleepers and so on where these are fastened by steel into the ground, if those become unstable and you get heavy rain and so on, you could have accidents.

The Minister for Planning and Environment:

Yes, you could.

The Connétable of St. John:

Do you not think there is merit, Minister, and I am going back now to the Tourism Investment Fund and E.D.D. (Economic Development Department) in particular who have a number of budgets, most of them run by quangos. There is a big tourism market in horses, whether they are riding on the beach, and people need to be looking outside the box and changing some of the hours that these areas are allowed to operate. Horses should be permitted to go on the beach and hacking, et cetera, on certain beaches; there is a market there. I am aware of that. There is a market for mountain-biking, therefore work needs to be done in that area. More work needs to be done on the walking because that is very popular. There are 3 areas alone that your department should be working closely with Tourism, E.D.D. and making these things happen. You sit around the table with the other 9 Ministers; it is for you to sell your product - and get E.D.D. with you - to the other Ministers and therefore you will get the funding you need.

The Minister for Planning and Environment:

You make a strong point and I will do that.

Deputy J.H. Young:

Good. Maybe we can offer you a way forward, Minister. Page 141 of your predecessor's report says: "In addition to ongoing maintenance of existing infrastructure, a number of further initiatives have been prioritised for 2011 and onwards. These include addressing the under-supply of access resource for horse-riders and mountain-bikers" and so on. It says: "During 2012 the department will be working on stakeholders to produce an access strategy for

Jersey.” Does that not give you a potential key of trying to find some elements to lever some extra resource out of the system?

The Minister for Planning and Environment:

Yes, it does.

The Deputy of St. Martin:

I was just going back to the 1980s, Minister, when the work scheme was resurrected by the States and used to create many of these paths we are talking about now. I am presuming that you would be very much in favour of working with other departments to resurrect something similar that would ...

The Minister for Planning and Environment:

Absolutely, yes. Yes, definitely. In fact, it has been mooted since January when we had the redundancies in the packing industries that perhaps there was more than enough environmental work that could be undertaken by the department if those persons who found themselves in a position of being unemployed were able to be employed in those functions. We have not progressed as fast in that, and it is something that is not completely out of my hands, but has to be agreed by the Minister for Social Security and other Ministers as to where the priority of the funding goes.

Deputy J.H. Young:

Minister, as a panel we did talk about this with you, I think, several weeks ago. As a result we did make some approaches to Social Security but as yet we have not been able to have positive responses. Are you able to take action on this from this meeting today to call those Ministers to the table to get this addressed? Because you told us you are fully behind this initiative: you cannot do the work, there is a massive amount of work needs doing and an approach to using volunteers and funding and so on. Surely, Minister, there is enough material for you to persuade your fellow Ministers at Council of Ministers. Are you telling us that you want us to do it?

The Minister for Planning and Environment:

No, I think a joint approach would be the better one.

Deputy J.H. Young:

We would be happy, Minister, as a Scrutiny Panel, to come with you to the Council of Ministers ...

The Minister for Planning and Environment:

No, you have to appreciate that it is not just a money issue.

Deputy J.H. Young:

No.

The Minister for Planning and Environment:

There is stepping on other Ministers' territories to take into account and all the political sensitivities that go along with that.

Deputy J.H. Young:

But, Minister, that has got to be ridiculous ...

The Minister for Planning and Environment:

But notwithstanding that, the biggest problem that we have experienced since January is problems with the unions.

Deputy J.H. Young:

I certainly have spoken to the Minister for Social Security along those lines. But also having spoken to the Minister for Transport and Technical Services, he assures me that the union are amenable to sensible approaches and so this ...

The Minister for Planning and Environment:

Yes. At the moment I have not been called upon by my other colleagues who are working on these work schemes to come along and speak to the unions or speak to anybody else in order to put my tuppence worth in and to see whether or not there is an angle that could usefully break the log jam.

Deputy J.H. Young:

Minister, breaking the log jam, I think you have put your finger on it there, how can we take this forward? Are we to do it as a panel or will you do it? We will convene a meeting of the Minister for Social Security, the Minister for Transport and Technical Services, yourself, and, if necessary, the Chief Minister, to take this forward. Because there is an opportunity here, is there not?

[16:00]

The Connétable of St. John:

But before you answer that, Minister, will you give us your views on joined-up government? Because what you are telling us is there is no joined-up government within your Council of Ministers.

The Minister for Planning and Environment:

No, it is joined but it is maybe not joined in the places where you would like to see it joined.

Deputy J.H. Young:

We could have a Scrutiny hearing on this on its own, I think.

The Minister for Planning and Environment:

The elements of collective responsibility, it is not written up in a States of Jersey law, and perhaps it should be, but until it is and the law is amended, we have to control and persuade and all the rest of it. That is highly dependent on those persons who want to do things in a particular fashion and exclude any others who may have different points of view.

Deputy J.H. Young:

So if we called a meeting, Minister, you will attend?

The Minister for Planning and Environment:

I think in terms of joined-up government, that is what I was going to suggest. That is the better way to do it because it is not just the Ministers who should be dealing with these things; it is all States Members so that we can present a uniform point of view as to what the Island wants to do to solve these problems. It is not just ...

The Deputy of St. Martin:

Can I thank the Minister for the opportunity to lead that, and this panel will actively take that forward because we see it as a good opportunity to tick lots of boxes and work together.

The Minister for Planning and Environment:

Yes, I look forward to attending.

Deputy J.H. Young:

Absolutely. It is bang on 4.00 p.m. so unless my colleagues want to carry on ...

The Deputy of St. Martin:

No, let us finish on a high note.

Deputy J.H. Young:

Yes, finish on a high note. I would like to thank you, Minister, and your team for your answers and being so open with us. Thank you, everybody, for attending this afternoon. Lots of interesting material. The podcast will be available hopefully very soon and if you want to listen again, certainly, it is there to do it. Thank you very much. I will close the meeting.

[16:01]