



Environment Panel

Quarterly Hearing with the Minister for Planning and Environment

MONDAY, 16th SEPTEMBER 2013

Panel:

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

Witnesses:

Deputy R.C. Duhamel of St. Saviour (The Minister for Planning and Environment)
Chief Executive Officer, Department of the Environment
Director, Development Control
Director, Policy, Projects and the Historic Environment
Business Manager, Department of the Environment

[14:30]

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

Right, good afternoon, everybody, and welcome to this afternoon's quarterly public hearing with the Minister for Planning and Environment by the Scrutiny Panel. Thank you very much for attending in such large numbers, I believe it is a first where the seats have been filled to capacity.

Just to introduce ourselves formally for the record, on this side of the table, Deputy John Young, Chairman of the Panel.

Deputy J.H. Young:

Thank you, Minister, your team?

Deputy J.H. Young:

Right, thank you very much. Welcome, Minister, and your team, and welcome to members of the public and representatives of the media. The agenda for this afternoon, we have set out 6 subjects we want to cover, we want to cover them all in equal loads, starting with planning and building, issues on that department; then the Island Plan; then issues with the Planning Application Panel; Master Planning; energy efficiency scheme; and then asbestos. So kicking off with the questions we want to raise on the planning and building service, Minister, we have heard many, many times that there is a lack of a pre-application advisory service available in Jersey and that the building industry, construction industry, wants this. Can you tell me where you are with producing this, please?

The Minister for Planning and Environment:

Yes, where I am is that, in moving towards bringing forward Master Plans and development of these sort of particular areas, I think that process has extended on a street by street basis across the whole of the built-up area, then I think a whole load of pre-application advice will be able to be put together in a way that would bring a determinacy, if you like, to the applications that are being made in planning terms. There will be issues of course about design considerations, which I consider to be at a different level to the planning considerations, they are things like mass and the acceptability of particular styles of development in a particular area, are the type of thing that the pre-application advice is being sought.

Deputy J.H. Young:

When do you think that service will be available for all areas of the Island, Minister?

The Minister for Planning and Environment:

Sorry?

Deputy J.H. Young:

When do you think that service will be available for all parts of the Island, not just the urban areas?

The Minister for Planning and Environment:

Well that is a difficult one. Perhaps one of my officers could answer that.

Chief Executive Officer, Department of the Environment:

Yes, it is worth just outlining what the pre-application service is now; because I think it is true to say we do have a pre-application service now.

Director, Development Control:

We do have that service at the moment, Chairman; we operate a 2-tier service: for minor applications or minor inquiries we operate an over-the-counter service at our South Hill reception, which means that people can pop into our reception at any time of our opening hours and have free planning advisory service. That accounts for about 70 per cent of our work. The other 30 per cent is the more major schemes, which we prefer to take a little longer to consider, as you might imagine; that accounts for about 30 per cent and that is a written advisory service, often accompanied with meetings with prospective applicants and their agents, and we cover that with those meetings and site visits and occasionally the written advice as well. The Chief Executive Officer alluded to us improving that service and that is something that we are looking at, at the moment, to the extent that we are proposing in very short order to be issuing pre-application statements to prospective applicants and we will be rolling that out very shortly.

Deputy J.H. Young:

Minister, are the people that avail themselves of the current service able to get advice on which they can rely, if there is going to be some service here that they will get decisions in that way when the matter comes to an application?

Director, Development Control:

There is always a degree with pre-application advice to which the Department cannot be absolutely certain, and it is something that we get asked a lot. Applicants come to us and say, "Can you please guarantee that we will be able to turn this advice into a planning permission?" and of course we cannot do that because the planning process is an open process, it is a public process, and members of the public have a right to intervene in that process when applications are made public, and so we clearly cannot predict every single issue, which comes up during the application process. But we do make the very best efforts to ensure that the advisory service is as accurate as it can be prior to submission of the formal application.

Deputy J.H. Young:

Thank you. Minister, perhaps I should ask a question for you. Does that mean, if we have heard talk of a pre-application service where applicants pay for and get advice on which they can rely, is unrealistic, is that the case?

The Minister for Planning and Environment:

I think that is the case. As my officers indicated, it is an open process and decisions cannot and should not be pre-empted or prejudged.

Deputy J.H. Young:

All right, Minister. I will move on to the question of planning and building charges. Minister, can you tell us, what is the most expensive planning fee that the Department has charged since you have been elected as Minister?

The Minister for Planning and Environment:

It is in the 10s of thousands of pounds I think, possibly higher, 100s.

Deputy J.H. Young:

Perhaps I could ask your Chief Officer.

Chief Executive Officer, Department of the Environment:

Yes, it was £365,000.

Deputy J.H. Young:

A little bit higher than the Minister suggested.

Chief Executive Officer, Department of the Environment:

Of that order. It was of that order.

Deputy J.H. Young:

So can we just get this, so an application of £363,000?

Chief Executive Officer, Department of the Environment:

Yes, I think it is worth putting that in context. We charge per square metre, so the bigger the proposal the bigger the fee. So therefore it was a very big proposal, it was the single largest building proposed in the Channel Islands, therefore it undoubtedly attracted the biggest planning fee we have ever seen.

Deputy J.H. Young:

Is it unusual to see fees of say over £100,000?

Chief Executive Officer, Department of the Environment:

It is not unusual because we are seeing some large schemes come forward. The vast majority of applications attract a fee far less than that; the vast majority of applications are small in nature and get small fees, but we are seeing, especially on the commercial side of applications, commercial schemes, office schemes, there have been over the last sort of 3 to 5 years a number of large commercial office schemes being proposed and because we charge per square metre it is a product of how big they are.

The Deputy of St. Martin:

Is it usual to charge per square metre; are you aware, in other jurisdictions, Guernsey, Isle of Man, U.K. (United Kingdom)?

Chief Executive Officer, Department of the Environment:

No, the charging regimes do differ in many different places, so, yes, UK, or England and Wales system, is different charging schemes; that is set by central Government and local authorities apply, so, yes, different charging regimes are different in different places.

Deputy J.H. Young:

So where you have a very large scheme like that, does that cost you a lot more money to deal with it planning-wise than just an ordinary large scheme?

Chief Executive Officer, Department of the Environment:

I will answer, and Pete can give a bit more detail, but invariably bigger schemes to generate a lot more engagement, certainly we have to do more work when it is a bigger scheme, bigger impact, but generally more people get involved with those sort of schemes, so I would have to say ...

Deputy J.H. Young:

What do you mean, more people?

Chief Executive Officer, Department of the Environment:

Well certainly they normally elicit more public reaction, they normally elicit more political reaction, and more interest group reactions as well, so there is going to be a lot more to deal with.

Deputy J.H. Young:

Well perhaps take an example, one which we are probably all familiar with, one in the public domain, States of Jersey Development Company, fees for waterfront; did that involve a lot of extra work?

Director, Development Control:

I think a lot of the work for that application was done upfront and certainly a public inquiry happened on the waterfront and some of the comments that Mr Scate has just made, those are the sorts of costs that might be borne on the Department in very large applications. Take Plémont for instance; there was a public inquiry with that, and a public inquiry on Field 622 in St. Ouen. Those are very costly exercises, and in fact I would imagine, in both of those cases I have just mentioned, the fee did not cover the Department's costs.

Deputy J.H. Young:

Thank you for that. Presumably you are aware that in Guernsey and the U.K. and the Isle of Man, of course we know all of those operate a ceiling maximum fee in terms of commercial developments; you are presumably aware of that?

The Minister for Planning and Environment:

Yes, I am aware of that.

Deputy J.H. Young:

Have you ever had a request to introduce such an arrangement in Jersey?

The Minister for Planning and Environment:

Yes, I think I had one from the Minister for Treasury and Resource, but who did not follow it up to suggest that he would be happier to pay for the service by direct taxation.

Deputy J.H. Young:

Minister, what about your own budget priorities, could you have not introduced it from your own budget priorities?

The Minister for Planning and Environment:

I think it is difficult; there is a general question as to who pays for the planning service and whether or not it is something that should be borne by the applicant or to an extent borne by public monies.

Deputy J.H. Young:

What is your view?

The Minister for Planning and Environment:

I think it is a balance and I think we have that balance right. I think the general standards we have is that we are not expected to raise from our charges obviously any more than it costs to run the service and in fact I think it is a percentage below that.

Chief Executive Officer, Department of the Environment:

Yes, if I could just put that into context, we have both the planning application service and the building bylaws service, building control; in effect recover their costs from application income. Other aspects of planning, such as policy and enforcement generally the view has been taken that it is appropriate for those to be borne by the general taxpayer, whereby people who benefit from the development process should pay for that service. So, in reality, the planning fees; that is not related to the planning profession, it is a fee that gets lodged administratively for budget reasons. If there was no fee then there would need to be more general subsidy of the service by the general taxpayer, and that is what happens in other jurisdictions who do not raise so much money from fees, generally the burden falls across general taxpayers, some of whom never use the planning application service in their lives. So it is a wider philosophical discussion ...

Deputy J.H. Young:

Minister, have you heard the argument that having such a high fee, particularly without any certainty on which pre-application advice that applicants rely, that this means that commercial applicants anyway put unreasonable large amounts of money out in fees and of course that is a risk, have you heard that argument, Minister?

The Minister for Planning and Environment:

I have heard that argument from some quarters but I do not necessarily agree with it. I think, in all these things, there is a level of work that is undertaken prior to the submission of a planning application that in some instances does not need to be done. Certainly if architects' fees and other professional fees are being called to be paid for submissions that are in a state of being worked up to a level that you would expect for a full application without the submission work that is normally done at an earlier stage then we probably have a recipe for discontent.

Deputy J.H. Young:

Minister, have you ever considered introducing concessional fees for particular types of development to encourage activity in recessionary times, as an anti-recession policy, have you ever considered such a thing, a selective policy?

The Minister for Planning and Environment:

No, I do not think I have, although it has been suggested, as I indicated earlier, but I am not sure that it would generate any greater demand for the work that we undertake, or indeed bear fruit in terms of the permissions that would flow on from it.

Deputy J.H. Young:

Thank you, Minister, I am going to move on. Colleagues, do you want to raise any ...

The Deputy of St. Martin:

I just thought, on that point, Minister, we talk about affordable houses and we are trying to bring down the cost of affordable houses, do you think there would be a possibility in the future that the building application charges for that type of development would be reduced or negated?

The Minister for Planning and Environment:

I think, dependent upon the technologies that are employed in bringing forward affordable homes, and certainly in respect of the more modular builds, where a lot of the work has been done in factories, so the certification process that is supported by our building inspector and so on, and as has already been done in other places, I think there might well be a case for kind of reconsidering the element of fees that the Department charges in that respect. But, in terms of planning, I think there is probably less opportunity to be as generous in those encouragements.

Deputy J.H. Young:

I think your (overspeaking 2:44:02)

Chief Executive Officer, Department of the Environment:

I was just trying to put a bit of the fee into context, so a fee for a house, as I say it is per square metre, so a fairly decent size average house is going to be about a £1,200 planning fee, so even if planning fees were removed, the vast majority of costs in housing developments are the land value, rather than professional fees, and most of the other professional fees involved in the development process are more than the planning fees. So, even if you were to reduce the planning fee or remove the planning fee, I do not think it would have any marked impact on the affordability of the property.

The Minister for Planning and Environment:

On the flip side of course is that, if there were to be encouraged a radical kind of increase in the number of applications that were coming through to the Department, there would also obviously be a request on behalf of the management perhaps to increase the number of staff, so it is swings and roundabouts, in order to accommodate the extra workload.

[14:45]

Deputy J.H. Young:

Extra workload for what, Minister? I apologise, I missed that.

The Minister for Planning and Environment:

For dealing with all these extra planning applications that are going to be brought about by charging a cut-price fee.

Deputy J.H. Young:

Would you not accept though, Minister, that if there were more activity that would generate more economic activity?

The Minister for Planning and Environment:

No, only if you take a very narrow view of what you mean by economic activity.

Deputy J.H. Young:

Well I am going to move on then, Minister, thank you.

The Connétable of St. John:

I have concerns with what I am hearing about the square metreage charging, given in recent times we have seen swathes in St. Helier, which are ripe for redevelopment, like the north of town and parts of Commercial Street and the like, and we are not getting investment in there and there is a log jam, and the log jam appears to be in your Department.

The Minister for Planning and Environment:

I do not think that is the case.

The Connétable of St. John:

We were told that money was going off-Island where this money could be spent on-Island and because of the manner in which the Department are dealing with applications, and a prime example is out of town with the Grève de Lecq Hotel, right now they have started building, but they were asked by the Minister of the day to go away and do some additional drawings, to come away with something basically all in glass, which was kicked into touch after the developers had spent considerable amounts of money, the work was done at the request of the Minister, your predecessor, and at the end of the day they have finished up with something totally different, because when those particular drawings went in, as I say, they were kicked into touch. Now that is unacceptable. If we are charging and advising, whether it is the Minister or the officers, a person or a company to put in new drawings, and then those in turn are not acted upon, but they have to go away again, can that be acceptable after spending hundreds of thousands of pounds with the original development application, then another one, because of the Minister's particular view on having a specific type of building, then that gets kicked into touch, then have to go back to the drawing board. Can that really be acceptable, Minister?

The Minister for Planning and Environment:

Well I do not think it is, but you are asking me to comment on a previous Minister's way of handling affairs, and to a certain extent the processes that this Minister, myself, has introduced, especially by way of an application that has been worked up to a level, and not gaining permission, and the applicant being offered an opportunity for a free submission, is something that, steps that I have taken in order to offset that criticism. But the point in essence goes back to what was being hinted at earlier, and that is that, if indeed, in the discussions with the Department, the applicant, and his officers and advisors by way of architects and designers and all the rest of it, are going to a level of expense that is not warranted by the stage of the decision-making, then that person or group are kind of asking for the charges to be racked up by their own accord, and that for me is fundamentally different to suggesting that the charge structure on behalf of the Department in relation to things that may or may not be asked for by departmental officers is doing the same thing; I do not think it is.

The Connétable of St. John:

On that particular point, Minister, given that your officers have not changed, the advice cannot have changed, how come, when everything that appears to have been asked for was completed and done, how come it was kicked into touch?

The Minister for Planning and Environment:

In relation to that application, I do not know, I mean perhaps design tastes have changed in between.

Deputy J.H. Young:

I think the key point, Minister, is that the answer to the Constable's question, you were saying this sort of thing does not happen again since you have taken on as Minister, this was the old regime, as it were. Can you say for definite that these things do not happen anymore?

The Minister for Planning and Environment:

I do not think I can give a categorical assurance on anything at that point, and it is the particular instances that would be the ones that I have just answered. Generally, I mean in relation to that particular application, if a particular architect was sought by a previous Minister to do the work, and a previous design flavour was suggested to the applicant; that if he came forward with worked-up drawings to the level that an application could be determined by the officers or whatever, and then the Department did not like it ...

The Connétable of St. John:

But surely it is not whether the Department likes it, your job is, is it not, to decide whether it meets the criteria of the planning law?

The Minister for Planning and Environment:

It is not so much my job as it is the job of the officers.

The Connétable of St. John:

Well the job of the officers, is it not supposed to meet a criteria within the planning law, not whether it is a preferred choice of the Minister or the officers?

The Minister for Planning and Environment:

I think all I would like to say in relation to that is there are planning decisions and then there are design considerations, and the 2 are not necessarily the same thing.

Chief Executive Officer, Department of the Environment:

If I can, Chairman, I think the Minister is being very modest. What this Minister did on entry into the office was to sign an agreed ministerial protocol as to when he would or would not get involved with planning applications and that has seen a marked change from the previous Minister that we had. The perception that there are a lot of applications hanging around in the planning system, the statistics do not show that, we only have 22 planning applications that have been with us for longer than 13 weeks, and some of those applications need legal agreements and things like that, which invariably push their time limits out. The statistics show that we permit the vast majority of applications coming through the door and the vast majority of them are done within the timescales.

Deputy J.H. Young:

I understand that. I think what I wanted, one final question from me on this, you said that the Minister introduced new protocols and the implication that he is less involved in application work. Can I ask, does this then lead to inconsistencies between the advice of officers and the Department and when the application comes into the political process, does it lead to a disconnect of inconsistencies of judgments?

Chief Executive Officer, Department of the Environment:

I have to say, and Pete can answer in practical terms what it means, but our role as officers within the system, of the planning officer's role, is to provide a recommendation. Those decisions that can be made under delegated powers are done so, and an officer will issue that decision, and that is subject obviously to checks within the Department, so it is not an individual making their own decision; that is checked by line managers, et cetera. Where decisions are recommended to

either the Minister or to the planning application, the vast majority of decisions that go to politicians is the Planning Panel, it is a recommendation after all, and the democratic process then gets applied and sometimes the Panel sticks with that recommendation, sometimes it does not.

Deputy J.H. Young:

We will come back to that I think. I think I would like to move on. We have an item on the agenda for the Panel, and maybe we should move to that now I think, it would probably be consistent. We have heard it said, is that from time to time the members of the Planning Panel express frustration that having the decisions where they are subject to Minister's review when they go against the recommendation of officers, and in fact that I think surfaced in the States last week where the States approved the proposition of Deputy Roy Le Hérissier to the extent that should not happen. What is your current position on that? What do you intend now to do, Minister? Do you propose to continue with the 2-tier arrangements?

The Minister for Planning and Environment:

The protocol that everybody signed up to is absolutely clear and until the protocol changes that is the protocol that will be run.

Deputy J.H. Young:

So you are going to ignore the States decision, Minister?

The Minister for Planning and Environment:

In which respect?

Deputy J.H. Young:

The one that was made by Deputy Le Hérissier's proposition last week.

The Minister for Planning and Environment:

To do what?

Deputy J.H. Young:

To do, part of Deputy Le Hérissier's proposition was that the decision of the Planning Application Panel would be final.

The Minister for Planning and Environment:

The request that the States voted on the other week was that, for a request for the reconsideration of officer decisions be taken by the Application Panel.

Deputy J.H. Young:

No, but it was also said there was no reference back.

The Minister for Planning and Environment:

No.

Deputy J.H. Young:

We will have to check that then, Minister, I shall withdraw my question pending the chance to check that proposition.

Chief Executive Officer, Department of the Environment:

If I can comment. The proposition was to keep the requests for the reconsideration process as part of the planning application determination. In approving the appeals proposition as it went through the Assembly last week, the Minister has effectively removed himself as the first decision-maker for planning applications, so that invariably means the Planning Panel are the decision-maker prior to an appeal. The Minister has to be at the end of the process.

Deputy J.H. Young:

But the effect is the same?

Chief Executive Officer, Department of the Environment:

So the effect is to remove that perceived conflict between the Minister and the Planning Panel; that will no longer happen under the new system.

Deputy J.H. Young:

From the new system, will that be effective now?

Chief Executive Officer, Department of the Environment:

We have to put the law drafting together and the law change has to go through, but the protocols are clear in terms of where the Planning Panel fit in. The Minister's job is potentially calling in Panel decisions or not, and the Minister does not call in every Panel decision where they go against an officer recommendation, but the Minister's role there is to ensure that the policy is being applied in the right manner.

The Minister for Planning and Environment:

Technically they are not called in. Everybody is using the wrong nomenclature. The decisions that are proposed to be taken by the Application Panel, if they go against officer recommendation and advice, are deemed not to have been made until the Minister has had an opportunity to look at

those to see whether or not there are policy considerations that are being made on the hoof or whether or not there are things of minor consequence and it is just the position that the officers and the Application Panel are very, very close to have the decision right.

Deputy J.H. Young:

Minister, how many decisions of the Planning Panel have you overturned as Minister?

The Minister for Planning and Environment:

I do not have that statistic with me but it is very few.

Deputy J.H. Young:

But you do overturn some?

The Minister for Planning and Environment:

I have, some, yes, because quite clearly the Panel, in arriving at their decision, going against officer advice, have in my view erred in that decision.

The Deputy of St. Martin:

Where you decide not to overturn the Planning Application Panel decision against officer advice, do you then consider the officer has erred in his decision then, Minister?

The Minister for Planning and Environment:

I consider both sides obviously because the Minister is involved with the policy setting and this is one of the instances we have to inform that process.

The Deputy of St. Martin:

Why do you think we get so many decisions where we seem to have officer and Panel and the decision that you make yourself, while not wanting to call them inconsistent, why is it we have so many times where we do not seem to be able to agree, because we are all reading from the same Island Plan?

The Minister for Planning and Environment:

I do not think we do have that many times; I think it is a natural consequence of the several thousand applications that are decided upon within the Department that the vast majority go ahead under the recommendations of the Department or the Panel or otherwise and a very, very small minority of those applications come forward and in essence they are the difficult ones where the decision point is at the knife edge and could go either way. So I think that is wrong; I think most people who are coming out with a criticism have just not taken the time and opportunity to look at

the statistics and to weigh up that in any decision-making process there are going to be a small number of decisions that are difficult.

The Deputy of St. Martin:

Do we know what the percentage is then, Minister?

Chief Executive Officer, Department of the Environment:

I think we have just been speaking around about what we think the number of decisions where maybe the Minister has issued a different decision from the Panel, and we think it is probably only in the region of 5.

The Deputy of St. Martin:

How many decisions arrive at the Panel as a percentage of the total applications, which are passed by the Department?

Director, Development Control:

About 10 to 15 per cent of applications go to the Planning Applications Panel and, of that 10 to 15 per cent we estimate that around about a quarter maybe are overturned by the Panel.

Deputy J.H. Young:

When that happens, Minister, do you explain the reasons for not going along with the Panel's view to the applicant, do you give a letter and set out proper explanations?

The Minister for Planning and Environment:

I do not issue a letter but the Chairman of the Panel attends the regular management meetings and we have a discussion.

Chief Executive Officer, Department of the Environment:

Yes, but the protocol is, post the Panel meeting, the planning officer, who is normally Peter, will sit in a meeting with the Minister and the Chairman of the Panel and the Minister will hear the argument either way as to why the officer recommended that way, why the Panel went this way, the Minister will then make a decision as to whether there are any significant policy issues there that need to be addressed, and what the process is therefore is a check and balance to ensure that policies are not being breached and that dangerous precedents are not being set. Sometimes that process means that the Panel decision is absolutely fine and they just came to a different judgment, and many planning decisions are judgments after all.

Deputy J.H. Young:

One last question on this, Minister, how often do you meet the Planning Panel and discuss planning matters and policies? How many times have you met them since you have been in office?

The Minister for Planning and Environment:

I do not have that figure available at my fingertips but a handful of times, as and when required ...

Deputy J.H. Young:

All the members, you have met all the members?

The Minister for Planning and Environment:

... rather than on a regular basis.

Deputy J.H. Young:

So you do not meet regularly?

The Minister for Planning and Environment:

No, we ...

Chief Executive Officer, Department of the Environment:

The regular meeting is with the Chair of the Panel once a month and there have been a smaller number of occasions when the Panel as a whole have met with the Minister.

Deputy J.H. Young:

Are you aware of any other areas where Panel members have expressed concern about the arrangements between the Panel and the Minister?

Chief Executive Officer, Department of the Environment:

Certainly I can come in on that; I think there is a debate that Panel members and the Minister, there is an issue about who has the primacy in the system, and clearly the Minister has the primacy under the law and the Panel is appointed by the Minister. We ensure that there is a workable protocol in place there because Panel decisions are important and the vast majority of Panel decisions remain as they are. There are the odd occasions where there is a policy precedent at stake and therefore it is right for the Minister to possibly step in. Sometimes the Minister will come up with the same answer.

[15:00]

Deputy J.H. Young:

I am going to close that discussion on that now, thank you, Minister and your team. We will move to historic buildings policy. Obviously always been a controversial area of planning policy, the policies for the conservation of our heritage. We recently became aware, Minister, of a Royal Court judgment on 2nd August 2003 where a decision of the Royal Court quashed your decision to list a particular property on what seemed to us fundamental policy reasons, I think it was listed as a landmark judgment. Can you tell us whether you agree that judgment has cast major questions on the historic buildings policy and the way you are working?

The Minister for Planning and Environment:

I think it has raised a whole host of issues, absolutely right, and to such an extent that that decision is being appealed.

Deputy J.H. Young:

So, Minister, you are going to appeal the decision?

The Minister for Planning and Environment:

Yes.

Deputy J.H. Young:

So it is *sub judice* at the moment?

The Minister for Planning and Environment:

Yes.

The Connétable of St. John:

In the interim, what action are you taking with any meetings to do with the historic buildings, et cetera?

The Minister for Planning and Environment:

The recommendations on historic grounds as part of the listing process has been put on hold subject to the determination of the appeal.

The Connétable of St. John:

So you are telling us that, if the appeal takes another 12 months, anybody with an application, anything to do with historical buildings, that will be delayed until after the appeal?

The Minister for Planning and Environment:

It is probably an unsatisfactory outcome of the appeal system that we have but nevertheless ...

The Connétable of St. John:

Is that a yes or no?

The Minister for Planning and Environment:

But nevertheless it is the way that we have to go along with the system. It would be wrong to continue with the listing process, having this particular challenge still to be taken.

Deputy J.H. Young:

With respect, Minister, that was not the Constable's question. Would you just like to rephrase it?

The Connétable of St. John:

Yes. Will you or will you not be dealing with historic building applications in the interim between now and the time of the appeal, yes or no?

The Minister for Planning and Environment:

No, we will not.

The Connétable of St. John:

You will not?

The Deputy of St. Martin:

Does that mean the whole of the listing process, Minister, which is now a few months into ... is now on hold as well?

The Minister for Planning and Environment:

The answer is no because there are qualitative differences within the listing determination and some buildings that are likely to be not affected by this challenge could continue under the listing process.

Chief Executive Officer, Department of the Environment:

If I could just elaborate; there are some listings, such as milestones and things like that, which clearly are far more straightforward in terms of whether they have heritage value or not, so it is of a very minor nature. We do feel that the Court decision had a fundamental impact on how we deal with heritage in the Island and it has fundamental ramifications on how heritage is dealt with into the future. They are of such concern to us that we are going to the Court of Appeal.

Deputy J.H. Young:

That is understood, but in the meantime the Constable's question was, what effect does that have in the meantime? Let me pose a few examples. There will be those people that received notices from you that you intend to list those buildings. What is the situation with those?

Director, Policy, Projects and the Historic Environment:

Perhaps if I could clarify the situation. Clearly the Department has embarked upon a programme of reviewing the heritage status in the Island and this judgment that we received from the Royal Court has called into question the basis upon which the Minister is assessing the listing of those properties and, as I think the Minister has explained, because we are seeking to appeal that judgment, we will effectively suspend the listing programme to a large extent, so those people who have received notices of the intent to list, at the moment their cases will effectively be held pending the outcome of those judgment, because I think it would be ... clearly, if the Minister carried on listing properties on the criteria that he currently uses to list a property, then, in the event that listing was confirmed and subsequently challenged, clearly there would be an element of risk, and if the matter came before the Royal Court on appeal then clearly the Court would say, "Why have you not taken into account (overspeaking 3:04:27)?"

The Connétable of St. John:

Can you tell me where we are? Can you tell me where we are please? Somebody like the church at Sion, Sion Chapel, which has had umpteen requests or submissions to you, or a number of submissions to your Department, they are putting in another submission, that means the whole thing is put on hold until after the appeal?

Director, Policy, Projects and the Historic Environment:

I think you are confusing the planning application process with the process of assessing the heritage value of a building, which is the listing process, so the two should not be confused. What we are talking about (overspeaking 3:05:03)

The Connétable of St. John:

So it will not affect people who already complied by it?

Director, Policy, Projects and the Historic Environment:

It will affect those people whose properties we are currently reviewing for their heritage status.

The Connétable of St. John:

But are you not reviewing them all?

Director, Policy, Projects and the Historic Environment:

Yes, but it will not affect people who are applying for planning permission, which I think is where you are conflating the two issues.

The Deputy of St. Martin:

Will it not affect them if their building was listed under the regime, which was found by the Royal Court to not be proper?

Director, Policy, Projects and the Historic Environment:

I think we will await the outcome of the appeal (overspeaking 3:05:35)

Deputy J.H. Young:

Well I think we need to clarify this. You have said, Minister, or Mr Pilley has said that the thing is put on hold, where you have made a written declaration or a notice of intention to list, those have been put on hold.

Director, Policy, Projects and the Historic Environment:

Yes, effectively, since we have received the Royal Court judgment, we have taken the view that ... effectively what the Court said is the Minister should have regard to other issues when he lists a property. The Minister ...

Deputy J.H. Young:

Such as the cost of doing work.

Director, Policy, Projects and the Historic Environment:

Such as the state of repair of the property, the cost of repair of the building, and also any planning implications of listing that property.

The Minister for Planning and Environment:

Or, even worse, any future planning implications that have not yet been made.

Deputy J.H. Young:

So, are you challenging all of those points, Minister?

Director, Policy, Projects and the Historic Environment:

Yes, we are.

Deputy J.H. Young:

Sorry, I need to ... so therefore it is on hold?

Director, Policy, Projects and the Historic Environment:

Effectively the Court of Appeal will sit and will consider that.

Deputy J.H. Young:

Now, in terms of the individuals, they have had a notice, then they cannot ... what you have done is held that so therefore the listing is not in place. What if that person has a current planning application? Is the determination of the planning application in the meantime going to be taken into account by you, Minister, and your officers, in reaching decisions on those applications?

The Minister for Planning and Environment:

I do not know, I would have to ...

Chief Executive Officer, Department of the Environment:

Most of our buildings of heritage value already have a status. The relisting process is to create a listed building grade, so we still know the heritage value of these buildings, but the process that we are going through is to give them a new grade.

Deputy J.H. Young:

Can I check this; I thought your review was to go through the procedure set out in the planning law to properly list those? Has that been done for all these others that you said have a status?

Chief Executive Officer, Department of the Environment:

We have many buildings in the Island, which are S.S.I.s (Site of Special Interest) or B.L.I.s (Building of Local Interest) or proposed S.S.I.s. We are going through a process whereby they all become listed buildings of a grade between one and four. Clearly, if we have a planning application in on a building and it has not yet had a new listed building number, we will be taking the heritage value of that building as we know at the moment. So we will still have the duty to (overspeaking 3:07:46)

Deputy J.H. Young:

So in other words it will be ... the decisions will take into account the previous status?

Chief Executive Officer, Department of the Environment:

Correct.

Director, Policy, Projects and the Historic Environment:

But we are not stopping the planning application process.

Deputy J.H. Young:

No, but you are making it plain that the Court decision will not have any effect on applications pending your appeal.

Chief Executive Officer, Department of the Environment:

Nor must it, because we are appealing this decision on such fundamental grounds, it has such fundamental ramifications for the heritage of the Island.

Deputy J.H. Young:

What will you do if the Court upholds the appeal ... rejects your appeal?

Chief Executive Officer, Department of the Environment:

If the Court does, if we lose the appeal, then I do think we will need to work with that decision, but, as I said, it will have serious ramifications for the heritage of the Island.

Deputy J.H. Young:

How long is it going to take to get this cleared up?

Director, Policy, Projects and the Historic Environment:

We have had a ...

The Minister for Planning and Environment:

Ask the lawyers.

Deputy J.H. Young:

What is the information that you have?

The Minister for Planning and Environment:

We do not have any information at the moment.

Deputy J.H. Young:

So it could take a year, 2 years?

Director, Policy, Projects and the Historic Environment:

No, the Court of Appeal are due to sit to consider this case at the end of November, so we should get a judgment from the Court of Appeal towards the end of November/beginning of December hopefully.

Deputy J.H. Young:

Thank you. Colleagues, do you want to come back on this or shall we move on?

The Deputy of St. Martin:

I was going to ask how the process of getting on with these new listings was progressing [Laughter], but I think I will ... and the follow-up questions of completion dates and stuff like that, we will just put away.

The Connétable of St. John:

Given, while you are on that, the people who have had meetings with the Department booked in, et cetera, have been put on hold. How much of a backlog would you have had, Mr Pilley, or Minister, at the time of this ruling?

Director, Policy, Projects and the Historic Environment:

Clearly we have a number of cases that are live at the moment and the reason that we had to cancel the Minister's site visits to view some of those cases that were in process was because it would be inappropriate for him to make a decision on those cases while this Royal Court decision is being challenged. So then we have several hundred properties that are in the process, or had a notice of intent served on them, but we are having to suspend further consideration of that until the Court of Appeal ...

The Connétable of St. John:

So several hundred?

Director, Policy, Projects and the Historic Environment:

Several hundred, yes, until the Court of Appeal have given us their decision.

The Connétable of St. John:

Thank you.

Deputy J.H. Young:

Thank you, and I would like to move to the Island Plan review. Obviously as Members we have had the benefit of private briefings from you, so we will not bring that in, but I think in the public

domain, can you tell us, Minister, you have chosen to select a number of policies in the document that you have published dated July, could you give us the criteria used to select those policies so that we know, and also explain to us the situation, what if other people have ... members of the public want to raise issues that fall outside the scope of the policies that you have chosen? Could you update us on that please?

The Minister for Planning and Environment:

As I said, in conjunction with a certain Deputy from St. Brelade, who we both know fairly well, an alternative list of subjects to be reviewed was put forward, and statements have been made in the House by myself to the effect that those reviews will be undertaken, but not in a form that puts at risk in time terms the fundamental review issue, which was to bring forward new policies for affordable homes, which was a stated aim of the previous Assembly, and it is something that the Council of Ministers are wishing to have done and dusted within this term of office.

Deputy J.H. Young:

Thank you, Minister. So the predominant purpose is to bring forward proposals for affordable housing?

The Minister for Planning and Environment:

Yes, that is right, in addition there were one or 2 other topics, whereby, despite supplementary guidance notes, it has generally been felt that perhaps further discussions might be undertaken by way of review to re-determine the applicability or non-applicability or desirability of the certain policy intentions that those policy proposals were drawn up as.

Deputy J.H. Young:

This is the Coastal National Park and the Green Zone?

The Minister for Planning and Environment:

That is right.

Deputy J.H. Young:

Minister, your decision to select those 2 policies to put in this one, on what sort of basis was that?

The Minister for Planning and Environment:

It is always you start off with the more controversial items that are generally kind of encouraging public debate and warrant ...

The Deputy of St. Martin:

One of the items that I think the Chairman might have liked to have added to the list for review was employment land, Minister, and would not a change in the employment land policy make the affordable homes situation easier to solve?

The Minister for Planning and Environment:

No, I do not think it would, and I think that is possibly conflating 2 separate areas. My officers I think are I think in support that we are quite happy at the moment with the employment policies and it is not in the same kind of need category to re-tweak it.

Chief Executive Officer, Department of the Environment:

If I can add, Chairman, the Coastal National Park and the Green Zone policies, there had been an amount of work already done on those policies, because of Court decisions we had on planning appeals. There are some Court decisions obviously that we receive, we accept, we work with, and those 2 policies, it is an indicator of those times where the Court has issued ... we are already very clear from Court decisions what needed to be changed in those policies, so we had already advanced that sort of thinking. The other changes in there around safety zones are factual changes, so there was not a lot of work needed to be done on those. The employment land policy is a very flexible policy, however we are looking at how the guidance sits around that policy as to how it is implemented in practice. We feel that is the more appropriate route, we are going to look at the supplementary planning guidance, which does not need to have a formal Island Plan review, but it will we think deliver a more flexible, a more implementable policy, if I can put it that way.

Deputy J.H. Young:

So all those other subjects, you have invited public comment on?

The Connétable of St. John:

Under the law, Minister, when you have a review, can you just cherry-pick, as you have done on this occasion, or are you not supposed to look at the entire Island Plan?

The Minister for Planning and Environment:

No, I think, not only myself, but other previous Ministers, have always desired, in coming forward with an Island Plan, that it be written in a form that allows review of particular areas to be undertaken without tripping a full-scale review of everything. Bearing in mind that it is a 10-year plan, I think it would be unjustifiable to suggest that every 2 years we kind of rip the whole document up and start again to review it; that is obviously a nonsense, and I think in that respect I think it is entirely right that we do take the opportunity as and when to review the development of

the new policies in particular and to re-tailor them in a shape or form that brings greater clarity to those new proposals.

[15:15]

Deputy J.H. Young:

What is the effects from one policy knocks on to another one?

The Minister for Planning and Environment:

Well if that is the case then that will trip a process whereby, as has been agreed with yourself, that further parallel work will be undertaken by the Department.

Deputy J.H. Young:

Minister, thank you.

The Connétable of St. John:

What is the timeframe then, Minister? There is only another 2 weeks or 10 days left to run on this, and I am aware of a requête in St. Ouen, which I just received today, where residents who have concerns about Field 622 have called for a parish meeting, and that does not happen until I think a day or 2 prior to the consultation period, when it comes to an end; that will not allow the residents of St. Ouen with that particular concern to put in a submission to your Department.

The Minister for Planning and Environment:

Without going into the details of the concerns of the parish, I am not in a position to determine whether that is the case or not. Certainly from what I have heard from those residents of St. Ouen that I do speak to from time to time, I think there is a general misunderstanding as to the reasons for coming forward with a planning inspection process to determine the application that was made by the parish for sheltered housing as opposed to the requirements under the housing revision to look at Field 622 as an opportunity for providing the Island with opportunities for affordable homes generally.

The Connétable of St. John:

No, that said, Minister, this is just one area that I am aware of, but I am aware of another area in St. John when I spoke to the Department and asked if we could have an extension so that the parish committee, *Comité Rural de St. John*, could put in their submission, and were told no, that is the cut-off date. Would you consider extending the cut-off date by several weeks so as to allow these parish groups and people like these ones at La Rocque, to put their thoughts on paper in the right manner?

The Minister for Planning and Environment:

As you can appreciate, Constable, it has already been intimated at a previous meeting with States Members that being the Minister for Planning and Environment puts me in a position where all these issues have to be fairly balanced in order to accommodate the needs and wishes of as many people as possible and what was coherently and cogently explained by my officers was that, if indeed extensions are given at the outset for people to take a greater time to submit the overall areas, which they wish to make submissions to the planning inspector as part of the process, inevitably there are going to be holiday periods, which will have to be further extended, both over the Christmas and Easter periods. I am under a duty and a request from the Council of Ministers to present, as far as possible, a joined-up approach in order to do the will of the House, which was expressed when the Island Plan was put forward and voted on last ...

The Connétable of St. John:

Can I pick you up the holiday period, given that this plan was put out at the start of the holiday period, so people were off-Island when that happened and are asking, by what I picked up an hour ago within your presentation, you are giving as early January, when people are still on holiday, for some of the reviews. That is being a bit hard on the general public.

The Minister for Planning and Environment:

No, I think that is not the case. It is a very finely balanced agenda and timetable. I think what we are asking for at this point in time, and certainly messages have gone out to States Members, and messages are also due, if they have not gone out already, to the public, to be under no delusions that all that is required at the moment is to express the area that they would wish to comment on, on the things that are being asked for, for their comments.

The Connétable of St. John:

I have to ask, Minister, given your comments about the Council of Ministers, who is running your Department, yourself as Minister or the Council of Ministers?

The Minister for Planning and Environment:

I am, but at the end of the day what I am saying is that, if I have to take into account holiday periods over the summer, holiday periods over Christmas, holiday periods over bank holidays and Easter and whatever, then the timetable that has been clearly set out in order to deliver these fundamental changes to the Island Plan to bring forward something that a previous House and the current House have asked me to bring forward, I will be in great difficulties in meeting those deadlines. In particular, we all know around the table that next year is an election period and messages have gone out to all departments that we have to be circumspect when it comes to biting off work that may or may not be delivered, particularly if we call for extensions of

consultation periods when they are not required, which could frustrate the deliverability of (overspeaking 3:20:35)

Deputy J.H. Young:

Can I just be clear, messages from who, what?

The Minister for Planning and Environment:

Sorry?

Deputy J.H. Young:

You said messages have gone out that we cannot have a process that allows more time, I think, you said messages have gone out.

Chief Executive Officer, Department of the Environment:

That will be something I can answer. Clearly we are working with an election year next year, the last States sitting next year will be July, if we extend any of the processes; the processes that we require in the Island Plan review are prescribed by law and by Order. If we start delaying these, it does put at risk a States debate next summer. What that practically means is that we are then into a States debate in the latter part of 2014, clearly in terms of States business, the States will not do any significant business immediately prior to the election, we will invariably end up with an Island Plan debate in early 2015. So that is the issue we are grappling with.

Deputy J.H. Young:

I am pleased we have identified that because, Minister, would I be right in assuming, not assuming, believing that you as the Minister are the one that sets the ministerial order, that sets the timetable for an Island Plan review? My question to you is, why can that not be changed to accommodate the opportunity for members of the public to properly be given an opportunity to work up their submissions and make their arguments in what is, you described yourself, a fundamental matter? It seems to me that you are being dictated to by the Council of Ministers on this.

The Minister for Planning and Environment:

No, I do not think that is the right assessment at all. I have been told and you have been told that there is a certain timetable that is prescribed in law and so the processes have to be given enough time to be carried out properly. What is being suggested at the moment from the Constable on your right is that I consider a first-stage extension by several weeks, I heard him say, which several weeks is certainly more than 2, it is possibly 3, it is possibly a month, and from the advice that I have received from the officers, if I do that I will have to accede to other wishes to do exactly

the same thing for the other periods, and that means that I run a substantial risk of not having the debate by the time that has been asked (overspeaking 3:22:44)

Deputy J.H. Young:

Well I understand, if you are being given that advice, Minister, I understand that, but is it correct that at the moment the law that you set and had the opportunity to change allows 12 weeks between the lodging of your proposals and the States debate, a minimum of 12 weeks? Yet what we seem to be facing here is a very rushed process and a risk of denying proper public representation on this.

The Minister for Planning and Environment:

I would not go that far; I do not think the public are being denied and I think I have already expressed that if there are individuals who require further advice from the Department that is to fill in the overarching reasons for making their objections then they bang on the Department's door and that sort of advice will be available in order to meet the deadline.

Deputy J.H. Young:

But, Minister, would it not be true that the fundamental changes that you are asking for consultation on include abandoning any concept of sheltered housing in the villages, for example?

The Minister for Planning and Environment:

I did not think that sheltered housing was in the villages; that is one of the things that we were looking at.

Deputy J.H. Young:

Well, is there not a current policy, Minister, under the Plan that we have at the moment, that allows parish communities to look at opportunities or need for sheltered housing for over-55 housing in their area; is there not such a policy? Because I cannot see this in there anymore, in the new draft you published.

Chief Executive Officer, Department of the Environment:

What we are doing in this new Island Plan amendment is reflecting the housing need that the planning system, is the land use side of the equation, we have to make land available through the Island Plan to meet housing needs. The advice we are receiving is that those housing needs are predominantly social rented needs and for affordable housing for purchase, and therefore not for sheltered housing purposes.

Deputy J.H. Young:

All right, so we are clear, then this Plan now amends the current Plan, there is seen not to be a need for sheltered housing?

Chief Executive Officer, Department of the Environment:

I think we also need to put it into perspective, there is a lot of over-55 housing already in development and being delivered, so what this Plan does is seek to zone land for up to around 300 homes and specifically target the need that exists at the moment in the Island, which is predominantly social rented and affordable housing for purchase.

Deputy J.H. Young:

Does the information available to you indicate that need for sheltered housing is being met throughout the Island?

Chief Executive Officer, Department of the Environment:

Well what we are saying is there is a more compelling need for other forms of affordable housing, rather than sheltered housing.

Deputy J.H. Young:

So thank you for clearing that up, now we know what the proposal is clearly.

The Deputy of St. Martin:

We are talking about having to rush to get all this done, Minister, and there is obviously some need to try and save some time here. In St. Martin we have for a number of years now identified a field where we want to build affordable homes for young St. Martin families, which you have listed as now a potential site for social rented. That does not seem like very joined-up thinking to me.

The Minister for Planning and Environment:

That is your comment and it is not necessarily the one that I would share, particularly in your description of housing for rental, and the proposals are absolutely clear, within the policies, that is for affordable housing, which incorporates housing for rent and housing for purchase, so it is not one or the other, it is both.

Deputy J.H. Young:

I think one last question, Minister. Will you consider extending the consultation date even by a short period to allow community organisations, parish communities, and others, and States Members, to present well-presented and argued comments, albeit brief, but at least do the job properly, to the review, will you consider that?

The Minister for Planning and Environment:

I have reconsidered once already and I am not in possession of any great list of persons who are going to be disadvantaged by the timetable as set out. If indeed all of those bodies were prepared to write to me formally asking for me to reconsider their position to allow them extra time to put forward these cut-down arguments to enable them to be part of the planning inspector process, then obviously an informed decision could be made in that regard. At the moment I do not have that information and I suspect I am unlikely to be given it in the time that I have available to make up my mind.

Deputy J.H. Young:

Well that is clear, Minister, thank you for that. You have clearly said that you invite, if people do have that view, they should write to you and let you know straight away, in which case you will consider it.

The Minister for Planning and Environment:

But we must be abundantly clear, and it must be reported as it being abundantly clear, that people are not being asked to write their life history or very large tomes as to what all the arguments are going to be, the process is absolutely fundamentally clear and will be further advertised to ensure that it is clear to those persons who think they are in a disadvantaged state, to indicate to them the level to which we are expecting replies is fairly narrow, they have to outline their argument in the areas that they would wish to make a submission on in greater detail at a later stage, and I think that is not asking people too much to do within the time that is available.

Chief Executive Officer, Department of the Environment:

I think it is also worth recording that it would have a potential implication on the date of the States debate and it would be my duty to advise the Minister that, if we extend the timescale, it does put at risk the debate in 2014, which then puts the debate possibly back into new States Assembly in 2015.

Deputy J.H. Young:

Could you also ... could your Chief Officer also confirm that the Minister does have the opportunity to review the timescales in that order, ministerial order, and change it?

The Minister for Planning and Environment:

The Minister does, and the Minister already has done on one occasion.

Chief Executive Officer, Department of the Environment:

The Minister, in drafting up the current order, has listened to States Members in terms of what they wish to be involved with and we must not forget there is a 3-month lodging period within this process to allow States Members to be involved.

Deputy J.H. Young:

Well I think I am going to close these discussions.

The Deputy of St. Martin:

If I could just, before we finish on the changes to the Island Plan, Minister, I see that there are some proposals to change or to modify the Airport Safety Zone. Can I ask whether you understand that might impinge on the proposals proposed, ideas of Harbours and Airports to build a new fixed-wing operation up there and to move the freight facility into this area between the hangar and the fuel farm? Has that been a consideration?

Chief Executive Officer, Department of the Environment:

Yes, we are just literally reflecting the factual implications of the fuel farm, with or without a boundary of a safety zone, that issue around safety of the fuel farm would have been an issue for that planning application in any case, so it is our duty to take that into account; clearly that is an issue for any proposal in that vicinity, it is something we would need to work with.

Director, Policy, Projects and the Historic Environment:

If I could just add, clearly the Planning and Environment Department and the Jersey Airport were aware of this work that was being undertaken to review the safety zone, so the airport were aware of that work being undertaken in the proposals to consider other land uses within the airport boundary.

[15:30]

The Connétable of St. John:

Yes, while we are on safety zones, will you please make sure that you review the area around Kosangas in St. John please?

Deputy J.H. Young:

All right, I think we are going to move on now to the subject of Master Planning.

The Deputy of St. Martin:

Yes, Minister, just 3 short questions to start with, how many Master Plans have been completed or are in force at the moment; how many are presently being worked on; and how many new ones do you see coming forward in the next few years?

The Minister for Planning and Environment:

Can the officers assist? I probably have more than I have told them about. **[Laughter]**

Director, Policy, Projects and the Historic Environment:

Well certainly you will be aware the Minister has approved the North of Town Master Plan; that is a piece of guidance that is in place.

The Deputy of St. Martin:

Is that now for general public consultation?

Director, Policy, Projects and the Historic Environment:

Well that is (overspeaking 3:30:56) approved and also clearly the Master Plan for the Esplanade has been approved and is in place. The Minister has also issued guidance for areas such as Le Masurier's landholdings in Bath Street, guidance has been issued. So those are the key area-based Master Plans that have been adopted. In terms of work that is ongoing at the moment, the Minister has instructed officers to review key development sites around the Mont de la Ville area, so that includes sites at La Folie, Les Galots, Fort Regent and South Hill.

The Deputy of St. Martin:

Does that include the harbour, the La Collette area of the harbour?

Director, Policy, Projects and the Historic Environment:

Well at the moment that work is limited to those key sites, however the Minister does have aspirations to extend that area beyond those sites. The Department is also undertaking work to look at the area around La Motte Street, Don Road and James Street; that work is in train at present as well. So that is, off the top of my head, most ...

The Minister for Planning and Environment:

There are a number of others.

The Deputy of St. Martin:

Do you think, Minister, you will get a chance to issue a Master Plan for the La Collette area before they completely fill it in?

The Minister for Planning and Environment:

I think so.

The Connétable of St. John:

Referencing the Esplanade Quarter Master Plan, and given the development, and also there was an article in the media last week in relation to the Esplanade Quarter, in which it claimed that the underpass would not be going ahead. How does that affect the Master Plan, it includes a second road, when in fact the developers, and obviously Lee Henry is quoted here, that the project does not involve sinking the La Route de la Libération, it does not involve public money, and therefore current public parking spaces will be lost before, during and after the project is completed. The gist of it is that is not going to happen, so therefore your Master Plan has gone out the window, surely.

The Minister for Planning and Environment:

I do not know. I have not read that article; I have heard of it. The decision on the first part of the Esplanade by officers was submitted, it was clearly conditioned by myself to ensure that, before the first building, or indeed any other buildings went ahead, in any shape or form, that there was a requirement to satisfy the Minister for Planning and Environment of the extent to which and the timetable in which the infrastructure that had been promised as part of the Master Plan was to be delivered and to satisfy myself further that there was the financial wherewithal within the completed project to deliver on all the things that made up the Master Plan, and that is something that I think has been agreed by the conditions placed on the permit, and it is certainly something that I would be expecting to be given in terms of assurances that I have asked for, and the conditions that have been placed by way of obligation, and I do find surprising the comments that you are making that have been made in a public place.

Chief Executive Officer, Department of the Environment:

I think we need to look at the context of those comments, I am just reading that headline up-side-down, but I think Mr Henry is commenting on the current proposals, which are with the Planning Department.

The Minister for Planning and Environment:

He may well have been saying that ...

Chief Executive Officer, Department of the Environment:

He is saying that those planning applications that are currently with us do not involve the dropping of the road and that is factually correct.

Deputy J.H. Young:

I want to make this clear if I can, so there is a Master Plan?

The Minister for Planning and Environment:

Yes.

Deputy J.H. Young:

The Master Plan currently requires whoever is developing the whole area that does include managing the road?

The Minister for Planning and Environment:

Yes.

Deputy J.H. Young:

Burying the road?

The Minister for Planning and Environment:

Well that was all part and parcel of the Master Plan.

Deputy J.H. Young:

The Master Plan was approved roughly when?

Chief Executive Officer, Department of the Environment:

2008.

Deputy J.H. Young:

2008. So, since then we have had one application and you are saying that those conditions apply on that application?

The Minister for Planning and Environment:

I do.

Deputy J.H. Young:

You have just said that the Master Plan should be achieved?

The Minister for Planning and Environment:

Yes.

Deputy J.H. Young:

We now have a new application and what you are saying is that you would expect the States of Jersey Development Company to meet the same requirements of the Master Plan in their new application?

The Minister for Planning and Environment:

I would.

Chief Executive Officer, Department of the Environment:

If I can add though, further to a ministerial meeting on the first building that we saw, the first planning application, the Jersey Development Company stated that it is their current intention to follow the Master Plan and until they are instructed otherwise they will be following the Master Plan.

Deputy J.H. Young:

All right, so if there is an issue we could speak to the States of Jersey Development Company ourselves.

Chief Executive Officer, Department of the Environment:

Just reading that comment, the International Finance Centre part of the Master Plan does not involve dropping the road because that predominantly focuses on the Esplanade car park site. If they then go on to develop the Master Plan as a whole that will involve dropping the road.

The Deputy of St. Martin:

If you are saying that they only implement the first 2 or 3 stages of the Master Plan, they would not be obliged to drop the road?

Chief Executive Officer, Department of the Environment:

Well, yes, I think there have been a number of promises made in the States Assembly as to when that decision is made by the States Assembly and when the instruction is given to the development company to progress further, so ...

The Deputy of St. Martin:

Surely there must be an obligation on the people that start developments, so phase 1, phase 2, phase 3 building, there must be a financial obligation on them to contribute to the sinking of the road. You would not want to end up getting to the end of the Master Plan and saying, "Sorry, guys, you came last, but you have to pay for the road".

Chief Executive Officer, Department of the Environment:

The Minister has been very clear on that in granting certainly permission for the first building, he wanted to see the infrastructure plan for the remaining part of the Master Plan area.

The Deputy of St. Martin:

But do S.O.J.D.C. (States of Jersey Development Company Limited) have to put some money aside to contribute to the sinking of the road?

The Minister for Planning and Environment:

How they do it is entirely up to them; how it is done, it just has to be shown to be ...

The Deputy of St. Martin:

There is an obligation to them to do this work then, if they commence?

Chief Executive Officer, Department of the Environment:

There is a planning obligation that then passes the first building, but there is an outline planning obligation, outline consent for the wider Master Plan area, which has also been granted. So, yes, as I said, he has been very clear, in granting that first building he is very clear that he wants to see the infrastructure plan for the remaining part of the Master Plan area.

Deputy J.H. Young:

So just to clear up then, there is an overall planning obligation agreement, which you have signed, Minister, for this area, with the States of Jersey Development Company that provides for that Master Plan?

The Minister for Planning and Environment:

That is right.

Deputy J.H. Young:

Well I think we will be coming back to that. Thank you for that information, Minister. Are there other Master Plan issues, did you have any other ...

The Connétable of St. John:

I have. What about the cleanup of the site at the beginning and where is all the waste going given there is ash and everything else that has been dumped in that site? If they are starting building or digging out for footings, et cetera, what is happening to all the waste, because it is highly contaminated?

The Minister for Planning and Environment:

I think the whereabouts of certain dirtier components of the materials that were deposited in the site are well known to the Department and I think in much of the instances the site does not cut across the dirtiest part. But, that said, anything that comes out has to be treated under our environmental regulations seriously and properly and there will be ongoing and further requirements for monies to be paid in order to assist in cleaning up those materials to T.T.S. (Transport and Technical Services) or the departments currently involved in their cleanup. Certainly we would not be shirking our responsibilities in order to encourage the development of this particular site without paying due regard and attention to the environmental responsibilities that have to be heeded.

Deputy J.H. Young:

Is there a dialogue going on about this contamination issue between your department and T.T.S.?

The Minister for Planning and Environment:

I would hope so, as has certainly been referred to by a number of third-party bodies who have a particular interest in the issues, along with the Department.

Deputy J.H. Young:

Could you explain why, when we met with the Minister for Transport and Technical Services it was said that they were unaware of the implications of this Esplanade site work; they were surprised to read news of it that this would be proposed?

The Minister for Planning and Environment:

That what would be proposed?

Deputy J.H. Young:

Well the fact that they would have to take responsibility for clearing up a lot of mixed ash, where at the moment they are well advanced on solving the problems, if you like, of the ash?

Chief Executive Officer, Department of the Environment:

I do not know why there was a surprise, clearly any construction waste coming out of the site will need to be dealt with by the Island as it deals with all construction waste. Clearly the applicant as S.O.J.D.C. are aware that they will need to assess and test what is in the ground they are building into and they will then make the appropriate measures and solutions available for that, whatever that waste stream is. They have undertaken a number of initial samples, but they will need to do a much better testing regime, bore holes and things like that, to understand what they are dealing with, where it is, and then what the (overspeaking 3:40:35)

Deputy J.H. Young:

So you will regulate that?

Chief Executive Officer, Department of the Environment:

We will under the waste management law and ...

Director, Development Control:

It is in fact a condition on the permit.

Deputy J.H. Young:

All right, thank you for that. So I think we will move on now to the Energy Efficiency Scheme. I think the aspect I wanted to clear up with you today, because I think this has surfaced in a number of meetings, is this question of the constitution of this scheme. We originally had received evidence that this body was going to be set up as a trust and therefore it would be kind of ring-fenced and it would operate very separately. Minister, it does not look as if that has been the case. We want to establish with you whether you agree that it has not been constituted as a trust, whether you are happy with that, and what are your proposals ongoing to the future for the constitution of this scheme please?

The Minister for Planning and Environment:

I think setting up as an independent private trust, a semi-private trust, I think I would possibly always have reservations about that. I do not think that semi-private trust represents the best organisational structures in order to spend taxpayer money in ways that the taxpayer would wish them to be spent without necessarily having kind of greater controls through political Members. But, that said, it has always been my intention that longer term, rather than moving closer towards a trust, establishing an independent body, that we have the interests of those persons within the group, all their interests added into a much larger organisational structure, which is what is being proposed within my energy strategy. I am proposing an energy partnership, which will take onboard the interests of the service, plus any other individual private parties who may be called to as members of that group.

Deputy J.H. Young:

I mean the issue, so that is the direction, Minister, I mean this fund does in fact receive and pay out a lot of money, does it not?

The Minister for Planning and Environment:

It does, yes. It is not a great deal of money, it is a sizable chunk as far as monies that coming to Planning and Environment are concerned, but ...

Deputy J.H. Young:

Well that is what I mean, relative ...

The Connétable of St. John:

What is approximately the figure per annum please?

Chief Executive Officer, Department of the Environment:

Yes, it was set up in 2009, it was linked to the vehicle excise duty, so £1 million initially was set aside for this budget ...

The Connétable of St. John:

Well that is a sizable sum of money.

Chief Executive Officer, Department of the Environment:

... the budget currently is at around £900,000; I will give you the exact figure outside the meeting, but it is around £900,000 a year. It does not go to the trust, it sits within the departmental budget, so the Department is responsible for that as part of our annual revenue for the Department's budget, and so the Department is in charge of it and the Department has a team, which manages that fund and the grants that are given out as a result of that fund, and the trust, it is called a trust, it is not a trust in the financial sense of the word, it is not an arm's length trust, it is an external governance board that we have put in place to give the Minister some external advice and we have some experts on that board who advise on policy direction and sort of energy and carbon savings, so the board is called the Energy Trust, it was set up in 2009. There was a potential aspiration for that to become an arm's length body at some point, as per the Energy Savings Trust or the Carbon Trust in the U.K., we said we would have that debate as part of our energy policy, and the energy policy debate is going and we are now moving towards that being (overspeaking 3:44:32)

Deputy J.H. Young:

But the Minister, given his current thinking, that would not be the case?

Chief Executive Officer, Department of the Environment:

That is correct, yes.

Deputy J.H. Young:

So would it be fair to say that, as at the moment, and since it has been running, the body of people that form the purported trust, as it were, are kind of an advisory body?

Chief Executive Officer, Department of the Environment:

That is correct, yes.

Deputy J.H. Young:

Can I ask you, you as accounting officer, do you sit in the meetings in that advisory body and where the decisions are made?

[15:45]

Chief Executive Officer, Department of the Environment:

Yes, we have 5 members of the board, there is a Chair and 4 other members, one who is an expert in this area, one who represents energy, one who represents the community, and one who represents the team in terms of the operation of energy functions. We have an officer team that sits as well and I attend those meetings and the officer team ...

Deputy J.H. Young:

So you are there as, as it were, the custodian of States finances when you are (overspeaking 3:45:25)

Chief Executive Officer, Department of the Environment:

Yes, this sits within the Department's budget, so ultimately, yes, I am responsible for that.

Deputy J.H. Young:

Are you satisfied that arrangement does not present any conflicts with you; that you are able, if you are say in a minority in those meetings, that you are able to exercise that proper governance over States funds?

Chief Executive Officer, Department of the Environment:

Yes, because ultimately, yes, ultimately the budget sits within the departmental structure, it is not the trust's money. We have some rigorous debates with the trust as to how the money is spent and, for instance, we had a debate going through the C.S.R. (Comprehensive Spending Review) process as to whether this grant pot should be reduced in line with C.S.R. and we did reduce this by 10 per cent in line with other C.S.R. targets across the rest of the Department. We felt it was only fair, this was a chunk of budget in the Department that should also be reduced. We had a good robust discussion with the board but ultimately the Minister and me, as the accounting officer, are in charge of this money, so, yes, they are there to give us professional input, and to give us some of the profile for the scheme as well, they have been very useful in giving us (overspeaking 3:46:26)

The Deputy of St. Martin:

What is the largest amount of money you have put into a single property over the ...

Chief Executive Officer, Department of the Environment:

That is very, I do not have that before me, but we produce an annual report, which in effect goes down to the pound as to where we put the money in. It would be a community grant or a community building would have received that; that the scheme has been involved. For individuals, it still deals with individual vulnerable householders, over-65s, mainly on income support, but there are a number of tests to see who can get the money. We evolved the scheme last year into community buildings and those community buildings are where vulnerable householders or vulnerable Islanders are also present. So the vulnerable house, the vulnerable persons mindset does run through all of the grants that we (overspeaking 3:47:12)

The Connétable of St. John:

So it could be going to Housing?

Chief Executive Officer, Department of the Environment:

No, we have been very clear that it has not been to any Housing sites; it is privately owned dwellings of vulnerable householders, not States Housing. We have had some community buildings though, so I can give you a list of the (overspeaking 3:47:29)

The Deputy of St. Martin:

How soon, Minister, would you hope that we can roll the scheme out into the able-to-pay sector?

The Minister for Planning and Environment:

I do not know; that is a bit difficult to determine, because, as you know, the energy strategy has a numerous number of threads that I would like to have kind of running and being woven all at the same time, so I think this is just one aspect of the energy efficiency and the strategy, so I would not necessarily put it at the top of the priority list as being the most important part of it.

Deputy J.H. Young:

But in the meantime the current policy will continue? I mean you recently, Minister, announced some change to the policy, did you not? What was that?

Chief Executive Officer, Department of the Environment:

Yes, from 70 to over-65s.

Deputy J.H. Young:

So everybody that has had it would be over 65?

Chief Executive Officer, Department of the Environment:

Not everybody, obviously there are a load of other criteria that apply. Obviously very wealthy over-65s who are not vulnerable would not be eligible, for instance.

Deputy J.H. Young:

So what is very wealthy?

Chief Executive Officer, Department of the Environment:

We would say they would have to have assets of no more than £50,000 of assets, that includes house and things like that, then also the vast majority of the money, as I said, is spent on those on income support and those sort of groups, so I can give you a breakdown of the sort of (overspeaking 3:48:44)

Deputy J.H. Young:

Is there any maximum grant that anybody can get?

Chief Executive Officer, Department of the Environment:

A lot of it has been spent fundamentally on property, so I think there is a limitation in terms of how much we spend on a property, but boiler replacements have been added, generally it is loft insulation, wall insulation, cavity and other pipe insulation, low-energy lighting and controls. The most expensive addition probably lately has been boiler changes, and then that's on individuals. Community buildings have had, generally they are focused on heating changes in community buildings and some of those ...

The Deputy of St. Martin:

Does the scheme make an effort to monitor the difference in cost in those properties before and after?

Chief Executive Officer, Department of the Environment:

Yes, the annual report, we have literally just published an annual report, which we can share, and some of the energy savings in some of the community buildings I have seen are in double figures, so there are very big energy savings and the payback periods are in the report. So, yes, we still feel it is good value for money. Clearly we are acting under a States decision to bring this scheme in and implement it, so, yes, we are at the vagaries of future budget decisions and futures States Assemblies.

Deputy J.H. Young:

I was going to ask you about that States decision. Does that States decision effectively earmark funds from the customs duty?

Chief Executive Officer, Department of the Environment:

It was, when it was originally discussed, it was going to be hypothecated funds, so to speak, from vehicle excise duty into this scheme. I think that the debate in the house at the time decoupled the discussion between impôts and the revenue increase, so we received the revenue increase without the taxation being agreed.

Deputy J.H. Young:

All right, so we can say they are separate?

Chief Executive Officer, Department of the Environment:

Yes.

Deputy J.H. Young:

So it is like any other area of your Government Department.

Chief Executive Officer, Department of the Environment:

Now it becomes just part of our general revenue budget, yes.

Deputy J.H. Young:

I have one last question and then move on to policies. I notice when looking in the States accounts that, whereas grants are listed individually, in the case of the Environment we just have, "Various recipients in the annual report Energy and Efficiency Service 2012: £745,000-odd; 2012: £977,000-off." Why is that? Was that agreed by the Treasury that this would be the reporting arrangement?

Chief Executive Officer, Department of the Environment:

Yes, I think we looked at the most practical reporting arrangement and also bearing in mind trying to keep people's confidentiality in there as well, so a balance was struck between reporting individuals' receipt of energy improvements and we are happy that we complied obviously under Treasury direction with the Council of Ministers ...

Deputy J.H. Young:

All right, so it is just that I noticed that there is, in the accounts, I am not an expert in this area, but I noticed that they tend to use a lot of other people receiving public money in other areas are identified. Was that discussed with Treasury?

Chief Executive Officer, Department of the Environment:

Yes, I think all of our accounting and reporting goes through our Finance Director and discussions with Treasury, so the obvious answer would be we would reflect what the general protocol is.

Deputy J.H. Young:

Well I will come back and we will check it out.

The Connétable of St. John:

Of the £900,000 or thereabouts that is spent on this, what percentage actually goes towards your Department to pay staff wages?

Chief Executive Officer, Department of the Environment:

There is generally an overhead on any budget, on any grant budget, because obviously you do need people to run the scheme, you need people to go through with people their eligibility and advise people of what they are eligible for. It is probably about 10 or 12 per cent of the total budget.

The Connétable of St. John:

Could you please ...

Chief Executive Officer, Department of the Environment:

Yes, I can, yes.

Deputy J.H. Young:

I think we have probably reached the end on that now. Do you want to come back on to the ...?

The Deputy of St. Martin:

No, not really, just looking at the 2 numbers at the last time ...

The Connétable of St. John:

I am a bit worried about the 10 or 12 per cent, given that the Minister feels that just under a million pounds is not much money, but when you are talking about £90,000 to £100,000 being spent on spending £1 million it seems to be an awful lot of money to me, and therefore, given the way he

has described the small amount of time that was involved by yourself and your staff, I would be very interested to see how that is broken down.

Chief Executive Officer, Department of the Environment:

That does not include obviously the other time that we put in, so my time is not costed against that, or some of the other team's time. There is also a functional thing, there is a big chunk of money to get out the door every year and you do need people to engage with members of the public and contractors to get that money out the door, so ...

The Connétable of St. John:

So if your time is not being booked out to this when you are doing this particular work, who is it booked out to? To the developers who are applying for permits?

Chief Executive Officer, Department of the Environment:

No, my time individually or the department as a whole?

The Connétable of St. John:

Well yours and the Department's.

Chief Executive Officer, Department of the Environment:

Well in terms of our accounting, I guess I appear as a departmental overhead, if you want to call me that, and I get apportioned out across all of the functions in the Department. As I said, this is part of our general revenue budget, so this is part of the day job I guess.

Deputy J.H. Young:

I think the last topic on the agenda, Steve, do you want to open up on this?

The Deputy of St. Martin:

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

The Minister for Planning and Environment:

Have they applied?

The Deputy of St. Martin:

I believe there is an application on your desk.

The Minister for Planning and Environment:

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

The Deputy of St. Martin:

So the answer is no.

The Minister for Planning and Environment:

No, I have not said that.

The Deputy of St. Martin:

All right, let me rephrase the question, if the Department reapplied and ...

The Minister for Planning and Environment:

If the Department reapplies then the application will be reconsidered. At the moment the application that has been awaiting a decision was for a permanent disposal facility to allow us to remain open until I think it was 2030 at which point it was to be covered over and the key thrown away, and that was a permanent disposal facility. In the intervening discussions that have taken place with myself, the Minister for Transport and Technical Services and others, it has been established that there are other technical alternatives that would be of use and of value in order to follow best management practice in terms of dealing with waste, particularly hazardous waste, in order to recover those materials into a state that does not pose any problems according to their toxicity. But that has not been applied for as yet. If indeed it is applied for then I will consider it, but at the moment I have on my desk an application for a permanent disposal facility and an indication that perhaps, due to the softening of approach and the work that has been undertaken by my departmental officers in the intervening time, since the application was made, to look at other alternatives, which do appear to be perhaps of substance and use to the Island were they to be adopted as best waste management practice. Perhaps a temporary storage facility of some description, which would not necessarily be the designed hole that has been spoken about for permanent disposal, it might well be something that could be contemplated. But at the moment, as I say, that application is not on my desk and until it arrives I do not think it is right to speculate as to the outcome of that application.

The Deputy of St. Martin:

Thank you, Minister. I think the next time that we meet I might ask you if you have reached a decision on that application.

The Minister for Planning and Environment:

Well I hope that if the new application is forthcoming that will represent a serious coming together of minds and budgets and other things, not only on behalf of the 2 Ministers directly involved, but of all Ministers and other States Members across the board, to properly establish design criteria and overall guiding criteria that puts our waste management practice at the forefront of what is deemed to be best practice, rather than at the bottom end.

The Deputy of St. Martin:

Well I think that is a major step, thank you, Minister, for that. I mean I do not think it has ever been the intention of the Scrutiny Panel that we wanted the asbestos burying forever and a day and I think it has always been our intention that the facility was subterranean, temporary, and would be opened up if facilities in the future could be used for the treatment.

The Minister for Planning and Environment:

But you have to be careful because a temporary storage method does not necessarily imply that it has to be subterranean, and it does not necessarily imply that it has to be in the facilities that are being designed for it for an alternative purpose.

Deputy J.H. Young:

Can I just clear up possibly, certainly it has always been my understanding, and every meeting we have had with the Minister for Transport and Technical Services, that the application was for temporary.

The Minister for Planning and Environment:

No, it has never been temporary.

Deputy J.H. Young:

But you are saying that, if it was temporary, you would give it serious consideration?

The Minister for Planning and Environment:

If the existing application for a permanent disposal facility for asbestos were to be withdrawn and a request made inside a long-term policy in the best interests of advancing the environmental credentials of the Island in terms of guaranteeing best practice in waste management, i.e. it was a temporary phase, a transition phase, it was not going to be permanent, and that the materials could be done in a way that minimised cost and provided maximum advantage in environmental terms, then it necessarily would have to be considered in those terms, which would be better than the terms that have been put forward at the moment, which were for permanent disposal.

Deputy J.H. Young:

Have you communicated that clearly to the Minister for Transport and Technical Services?

The Minister for Planning and Environment:

It has been communicated to the Minister for Transport and Technical Services for years and he says ...

Deputy J.H. Young:

But by yourself, have you spoken to the Minister for Transport and Technical Services?

The Minister for Planning and Environment:

I have spoken to the Minister on several occasions and he has been digging the hole that he wants to bury it.

The Deputy of St. Martin:

Is the word "subterranean" an issue?

The Minister for Planning and Environment:

The word "subterranean", I mean just as we discussed earlier, it is wrong for applications to be predetermined, so in asking me whether or not I would be in the position of giving predetermination to a subterranean store of asbestos material, you are not giving me the opportunity to weigh up whether or not that method constitutes the best transient temporary storage solution and whether or not by giving an indication that it would be subterranean I am putting myself in the position of prejudging that application.

The Deputy of St. Martin:

Which is a problem that we have with a lot of people out there, Minister, with the Planning Department, where ...

The Minister for Planning and Environment:

It is a problem that the Minister for Planning and Environment has.

The Deputy of St. Martin:

... they ask for pre-application advice and they are given it and they put an application in and then it is refused.

The Minister for Planning and Environment:

The advice that could and should be given in this respect is that there is a material difference, a substantial material difference, not just a marginal one, between long-term storage or the short-term storage proposals with to dealing with those hazardous materials in a substantially sound environmental manner are being put forward, or whether or not the applications are for the dirty end of the spectrum, which is just dig a hole and bury it.

[16:00]

Deputy J.H. Young:

Minister, have you made sure that there is an ongoing dialogue, if not with yourself, with your officers and T.T.S. officers?

The Minister for Planning and Environment:

What has happened since the meetings that I took part in and encouraged officers to make, and have been made by my officers, the Health Inspectorate officers and officers from T.T.S., in visiting plants of this particular kind of technology, is that I think there has been a warming, if you like, towards the technology itself, and a realisation that perhaps there is a potential to use that or similar technology in situ in the Island or indeed off-Island with Basel consenting countries. Both those issues were in dispute over the last 2 years and that is why I am pleased that the officers have done what I asked to happen early on for them to go and see for themselves and not to be just doubting Thomases, and I think the outcome of the report that just landed on my desk a couple of days ago is such that we are looking perhaps towards a proposal that might accommodate the remediation of these materials in Ireland at a future date. If indeed a request is made in order to assist in the storage of the material until such time as a decision has been taken and we are moving definitely towards remediation of those products, in order to deliver the environmental benefits that I have outlined, then that puts a different complexion on things and does represent a softening of all parties in moving towards a commonsense proposal in the middle.

Deputy J.H. Young:

All right, so you 2 Ministers are now at a point of reaching a solution?

The Minister for Planning and Environment:

We are not quite there yet, because at the moment I still have an application for a permanent disposal site, and the Minister has stated that he will not withdraw that application.

Deputy J.H. Young:

Well we will check with the Minister, but hopefully next time that has all been sorted out, so I am going to thank ... does the Committee have any other extra questions? No? I am going to close the meeting and thank you all for attending. Thank you, Minister, and your team, for being so helpful.

[16:02]