



Environment, Housing and Infrastructure Scrutiny

Panel

Quarterly Public Hearing

Witness: The Minister for the Environment

Tuesday, 8th December 2020

Panel:

Connétable M.K. Jackson of St. Brelade (Chair)

Connétable J.E. Le Maistre of Grouville (Vice-Chair)

Connétable S.A. Le Sueur-Rennard of St. Saviour

Deputy I. Gardiner of St. Helier

Witnesses:

Deputy J.H. Young of St. Brelade, The Minister for the Environment

Deputy G.C. Guida of St. Lawrence, Assistant Minister for the Environment (1)

Deputy J.H. Perchard of St. Saviour, Assistant Minister for the Environment (2)

Mr. A. Scate, Acting Director General, Infrastructure, Housing and Environment

Dr. L. Magris, Head of Sustainability and Foresight

Ms. J. Burns, Eco-Active Programme Manager

Mr. S. Skelton, Director, Strategy and Innovation

Mr. K. Pilley, Head of Place and Spatial Planning

Mr. G. Morel, Assistant Director, Marine Resources

[11:33]

Connétable M.K. Jackson of St. Brelade (Chair):

Good morning, Minister, and welcome to the quarterly public hearing with the Environment, Housing and Infrastructure Scrutiny Panel. I will start by introducing us, namely myself, Constable Mike

Jackson, chair. The deputy chair is Constable John Le Maistre. We have panel members Constable Sadie Rennard and Deputy Inna Gardiner. Your team is, if you would like to just enlarge on them.

The Minister for the Environment:

Thank you very much, Chair. Myself, as Minister, Deputy Gregory Guida, who is Assistant Minister. I am delighted that with us also is Deputy Jess Perchard today. She has been appointed through the Chief Minister as a second Assistant Minister for the Environment, which I am very, very pleased about, and she is here today and will be helping us on the lead if we talk about carbon neutrality and so on. Also we have on board our team of officers; Andy Scate, as you know, the D.G. (director general) of I.H.E. (Infrastructure, Housing and Environment). Unfortunately, we do not have Mr. William Peggie on the environment side. We have Louise Magris, who takes the lead on various parts of the policy agenda, sustainability and carbon neutral. Also we have Jane Burns. Jane is our outreach officer on the environmental work. We have the Island Plan group with Steve Skelton and Kevin Pilley. I think we have got a very full team. It is one of the advantages of having our Teams meeting that we can bring all the talent to bear on the case. Hopefully, I do not think I have missed anybody and we are ready for your questions, Chair.

The Connétable of St. Brelade:

Lovely, thanks very much. I would take this opportunity initially welcoming Deputy Perchard to the other side of the fence, shall we say, and we certainly look forward to working with you and obviously your contributions to the environmental effort that we are all trying to make, I think, towards the necessities of modern day living. Minister, I am going to just go straight to the subject of the day, COVID and the impact of COVID on your staffing. In our last public quarterly hearing we discussed the impact that COVID-19 was having on the redeployment of staff, particularly those within Environmental Health being redeployed to contact tracing and monitoring and enforcement. What continued impact is this having on Environmental Health and its business-as-usual operations?

The Minister for the Environment:

I am going to try and sum up and then hand over to Andy Scate to talk us through the various elements of this. What I am being told now is that the planning and building team is now up to strength; Mr Scate will tell you a little bit of complications on that at times. But the main impact is on the Environmental Health team, which is still, I believe, very seriously affected, having to do essential work. I would like to say at the outset, Chair, I do believe it is absolutely right that we do give priority to the COVID work but I think it is also important just to recognise the consequences that Mr. Scate will talk you through. If I could ask Mr. Scate to speak, please.

Acting Director General, Infrastructure, Housing and Environment:

Thank you, Minister. Thank you, Chair. Yes, as the Minister has outlined, we redeployed earlier in the year quite a number of regulation staff into contact tracing. The majority of our staff are now back with a focus on sort of planning and building control first. Both our planning and building control officers are all back now working in those services, with a real focus on our economic recovery and making sure that those decisions are coming through the system so people can implement them. As has been outlined though, we still have staffing pressures in our environmental and consumer protection team, so that is the team that includes Environmental Health and Trading Standards. On a normal running year we would have just under 20 staff in that area. At the moment though we are, effectively, at half of those staff levels, so we are at about 10 staff; 2 of our staff are still in contact tracing. We have, however, had a couple of retirements, we have had a resignation, we have had staff on maternity leave but also we have got a number of staff also working on the Brexit area of life at the moment. We are quite significantly depleted still in that area. We are running at about 50 per cent staff capacity and, as a result, we are still seeing quite a stress on a number of our sort of day-to-day services.

The Connétable of St. Brelade:

At our last hearing you advocated strongly for extra resourcing in this area; has any progress been made on the prospect of added resource or manpower in this regard?

The Minister for the Environment:

Again, Chair, I will ask Mr. Scate. But before I do that I want to highlight, and what I am informed, is there is now a real worry about our ability to recruit into these important posts. There is a concern that a number of professional posts, which were recruited from the United Kingdom and have been with us a number of years, are, if you like, getting really quite wobbly about staying in Jersey because of the 2 things: the COVID experience where they are isolated of course from family connections and others but also the escalating costs and so on in Jersey that, I am told, are making it really extremely difficult to recruit. I think this does emphasise the real importance that we really do, as a Government, and the whole States in fact and the Island, need to do more about training our local people; to grow our own professional people. I think that is one of our lessons from COVID. But with that, I think on the details of the nuts and bolts of our current efforts to recruit, Mr. Scate, could you please advise ...

Acting Director General, Infrastructure, Housing and Environment:

Yes, certainly, Minister. We have got a member of staff on maternity leave and she will be returning to us in due course. We have had a couple of retirements but they were due to retire. But the timing of those at kind of a time when obviously we are under pressure for a number of reasons. We have also had certainly a member of staff resign and go back to the U.K. (United Kingdom) due to sort of family pressures around travel at the moment. As the Minister has outlined, we are intending

certainly to go back to recruitment where we can but the travel restrictions currently are placing a big problem around that in terms of securing staff if they are off-Island staff. Our only other solution now is to grow our own within-Island staff and that takes a while to come through the system. At the moment, through a variety of reasons, we will try and secure new members of staff. But, as the Minister said, trying to attract new people entering into the Island is difficult because of the cost-of-living issues that we face, and certainly housing is one of the key issues that comes up time and time again in terms of housing cost, which would prevent people either coming to the Island or indeed staying here.

The Connétable of St. Brelade:

Connétable Rennard has a question.

Connétable S.A. Le Sueur-Rennard of St. Saviour:

Yes, sorry about that. In the early days we got rid of a lot of staff, could we not encourage some of those to come back? Because some of those were good but they just did not fit criteria at the time. If we are going down this road, could we not sort of entice some of them back? Do you not feel that a lot of local people have been passed over and English people have been brought in to take the positions, when we could have nurtured what we had here?

The Minister for the Environment:

I think that is obviously a very political question there, Connétable. I mean ...

The Connétable of St. Saviour:

Yes, well this is where we are.

The Minister for the Environment:

I am kind of very much on the margins of this because I think the subject we are talking about is really what I would call in old-fashioned language what used to be called H.R. (Human Resources) or central personnel policy. Of course that responsibility sits at the heart of Government within, I think, the Chief Minister's team somewhere. What I was talking about just now is the net effect of it. I do feel sad that in the area of environment generally we have lost, during the process of this Government restructuring, a lot of very valuable professionals who had very, very long experience and knowledge of Jersey. I am sad about that; that was a corporate policy that I had no say in. But of course what we are now addressing is how we grow and how we recover for the future. I think in honest truth it is not going to be easy to do and I think that is the lesson. You did not mention the funding issue, Chair, but it is like there is not just the need to recruit people, it is having the funding stream to pay for it. Of course, this is why I rely very much on Mr. Scate as being the director general of a bigger department because my part of it is really quite small and it will be for him to find ways

of funding the acquisition of those staff. I think I did write to you recently, Chair, because you put a question. I said one of the things that we are dependent on the regulatory team is for income and, therefore, I will have to increase planning fees to be able to incur the costs of where we need to do additional recruitment, particularly where the workload, which we are looking ahead at in the Island Plan and beyond, is very much increased on the planning side.

[11:45]

The Connétable of St. Saviour:

Sorry, John, I am not putting the blame in your court because you have done your best with the use of the hands you were dealt. But we are now talking once again about importing people from the U.K. and that really knocks me, I have to be honest. Because we have such a lot of talent here which we just do not seem to be taking any care of at all. But I am not blaming you, John, trust me, I am really not.

The Minister for the Environment:

What I am describing is what we see. Mr. Scate, do you want to add anything?

Acting Director General, Infrastructure, Housing and Environment:

Yes, certainly. I agree that the only way for us to staff our organisation certainly within our regulation service is to grow our own staff. We do need to take more school leavers out of school and grow them directly ourselves and put them through training. We have done that recently in planning with 3 new school leavers joining to do their degrees with us and to secure jobs. But I think that the same answer must apply in Environmental Health; we must grow local staff to do these jobs because, frankly, we struggle to import staff, we struggle to keep staff because of cost of living. I can only agree with the sentiments that are being mentioned here. We certainly need to make sure that we are recruiting locally and look at our trainee and entry programmes into Government to enable us to do that.

The Connétable of St. Brelade:

Thank you. There must be sufficient expertise in the Island in light of the fact we have got a significant hospitality industry, we have got a significant building industry and there will be people in that I am sure who are well able to undertake the tasks that you are needing them to do. Can I suggest a review of the recruitment process needs to take place and this is probably not for your department but more centrally, as you suggested earlier on? It may be there are things to learn in the whole process in order to get the right people in post. Minister, I am going to move on to ...

Deputy I. Gardiner of St. Helier:

Constable, just a very quick ...

The Connétable of St. Brelade:

Yes, Deputy Gardiner.

Deputy I. Gardiner:

Yes, a quick pick up and I thank you for a response. I do agree that we need to grow and we need to train; do you have a budget and do you have any plans for 2021 to offer a type of training that you have done in planning for Environmental Health or to other? What to expect in 2021?

Acting Director General, Infrastructure, Housing and Environment:

Yes. At the moment we do have a budget because we have some vacant posts that we do not have people in. What we have done in planning, for instance, is instead of having contract planner posts, which were, effectively, U.K. contract planners coming in, we have taken that budget to employ 3 local trainees. We will have to do similar within the Environmental Health team in terms of translating some of our permanent staff budget into more junior posts to train them. It is not easy. We could always employ a lot more people with more money but I do think we just need to look at it from a different lens and try and secure resources where we can. We have had examples, both in Environmental Health and Building Control, of employing from the local industries. We have taken 4 individuals from Construction most recently in the last 12 months into Building Control and we then train on top of that for the regulatory skills that you need in the job. We have done very similar in Housing, in Housing Standards with the Environmental Health, we have taken on 2 individuals who have come from the private sector housing background into Environmental Health. There is certainly scope there and I think that our only opportunity is to look at our on-Island resources.

The Connétable of St. Brelade:

Thanks very much. Moving on to water, we are aware, Minister, that subject to Government Plan approval there is funding sought for a hydrological survey or study. Given that the recommendation for this study was made in July 2019, what is the reason for the delay in moving this forward, apart from COVID? Are there any other reasons for the delay?

The Minister for the Environment:

I think there are 2 subjects, potentially, there you have touched upon, Chair. We have put forward bids in the Government Plan that you have reported on recently in your Scrutiny report, which obviously is going before the States next week, a decision. If we do win the resources, which I have to say in the scheme of things are very modest, in fact extremely modest but in the environmental world there are significant new resources which we need to look after our water resources rather better. That is not a criticism but I think people have done well in the past, we have some

improvements, but there is no question we have to enhance that performance. There are 2 parts of it; one is the water management plan, which is to do with work we have done with the Cleaner Water Group and with the agricultural industry and Jersey Water, where we do much more monitoring of catchment and put in place the water codes, which were put into legislation. In order to put that into effect we need to recruit a catchment officer to do that work and that has been a commitment, which has been outstanding, as you know, Chair. I think I have pointed it out before, right back from 2016. This is something I am really pleased to see and it will really give us the tools to be able to implement that real intense work. Unfortunately, we have not got Dr. Tim du Feu on the call today; he would be able to talk to you in a lot more detail. The other part to it is you mentioned about the hydrological study, this is of course related to the pollution incident in St. Ouen's Bay on P.F.O.S. (Perfluorooctane Sulfonate) and P.F.A.S. (Perfluoroalkyl Substances) and Jersey Water. We have agreed that the work that was done earlier in the year and reported on we need to follow up. Follow up because the St. Ouen's Bay aquifer and the Pont Marquet catchments are both important water resources and we have detected contamination there. We need to do a study, and Mr. Scate will talk you through the detail and technicalities, to find out more about that and what we can do about it. Could Mr. Scate speak on that one, please?

The Connétable of St. Brelade:

Indeed, please do.

Acting Director General, Infrastructure, Housing and Environment:

Thank you. Yes, in terms of the delay from the correspondence, it is literally down to resourcing. Subject to getting the resources in the Government Plan, we can move forward with that piece of work. The hydrogeological piece of work that we want to do is really just to assess the aquifer, as we will need to get some expertise recruited in terms of looking at what is happening in the water table; it is a lot of sampling. I guess the simple way of describing it is we need to understand if the P.F.O.S. and various pollutants are in the place that we think they are, whether they have moved, whether they have changed shape underground or not. A lot of it is an environmental study to understand what is happening in the water environment in that place. Then the rest of the work on water, effectively, is looking at the state of the water environment elsewhere, so pesticides, nitrates and that will involve a number of bits of extra research, whether it be groundwater research through borehole monitoring or surface water research in streams. We want to up our research and testing monitoring regime. But also, as the Minister said, the catchment area officers are an important part for us because it is the liaison person between the regulatory and environmental standard size and then land management and agricultural interests.

The Connétable of St. Brelade:

In terms of communications and engagement, is there much going on with residents of the areas affected because it seems that this has not been the case? I just wonder how you plan to keep Islanders apprised with the progress on this study and other measures being taken.

The Minister for the Environment:

I think it is a fair point. Personally, I would like to be in a position where we could do more on that. But we are having to work within scarce resources and, of course, the skill area that this project involves is our Environmental Health team. When we go back to the consequences of the earlier issues that we talked about is that some of our service levels, in terms of Environmental Health work, have had to fall and, therefore, we are concentrating on priorities. For example, where there are pollution incidents those take priority obviously because they are very, very top of the list but others are less so, and I think your point is a good one. What we have not done, and this is the difficulty I have had, the whole focus of the work that Mr. Scate and I have spoken of is on dealing with the pollution and what we can do about it. It is not investigating, reopening the past of what has gone on. For example, it is not part of the focus of that work to look at all and we have been quite open with the residents in that, and I have been criticised for it. It is not part of our work to try and reopen up the whole issue of the health profiles and if there are potential health effects from that pollution. Because not only does that not sit outside our brief, it does not help us, unfortunately, in progressing what we want to do, which is to find where this contamination is now, years after it has taken place because it is many, many years ago and what we can do about it. Can we treat it? Can we mitigate it? Can we have a plan to extract and use water? We do not know the answers to those questions. I do not know if Mr. Scate has got an idea there because Mr. Scate has been leading that work but I could not claim that we have been able to run a high-profile engagement. I think we have done our best. Mr. Scate is taking the lead in that of when we could do it.

Acting Director General, Infrastructure, Housing and Environment:

Yes. If I may just add, we have undertaken 2 reports, one most recently published; so one in 2019 and one this year. Certainly it is our intention, as we see greater environmental data being available, we keep this study work ongoing. There is no intention not to publish that data; this is the status of our environment, effectively, the report. We also need to factor that data into what we are doing with groundwater obstruction and our water supply longer term. As the Minister said, this work is not intended to open up the historic pollution case but it is about updating our own environmental awareness as to what is happening in the groundwater in that area but also across our water across the Island.

The Connétable of St. Brelade:

Yes, indeed. Is it in the mains water supply? Is P.F.O.S. in the mains water supply now? Are you working with Jersey Water to mitigate the effect of that if that indeed is the case?

Acting Director General, Infrastructure, Housing and Environment:

I know that Jersey Water have to mitigate a number of ... obviously they take raw water into the system from the Island in various sources, so they constantly treat it and blend it to meet all the relevant standards. I guess we could get a bit more of a detailed briefing from Jersey Water as to exactly what their intake is in certain areas. But I am certainly aware that they avoid using any of the obstructions around the St. Ouen's Bay area where we know that there are some very high levels of P.F.O.S. But they obviously have extractions and supply elsewhere in the Island as well.

The Connétable of St. Brelade:

Indeed. It may be a question for Dr. du Feu but could you update us with a brief summary as to the current position regarding Jersey's water quality?

Acting Director General, Infrastructure, Housing and Environment:

Yes. I think, as a whole, we are seeing the general trend in nitrates in water is coming down. It is still probably higher than we would like to see but it is certainly in regulatory limits. We have seen a positive trend though mainly due to better farming behaviour because we have seen better targeting of products and probably less product being used. As the Minister said, the Cleaner Water Group has been working very well, both across industry and government in terms of targeting what gets placed where on land, what farming behaviour is compared to the soil types and catchment areas. We need to do more of that work. But nitrates are generally coming down, they are below the 50 micrograms per litre limit, if that is the right measurement - it is the 50 limit - that is generally coming down. We do see the odd hotspot around pesticide use and that is something the team are constantly on, effectively, to make sure that the proper products are applied in the proper places. Generally water quality and certainly mains water is a very good standard. It meets the drinking water inspectorate standards, E.U. (European Union) limits, et cetera. Jersey Water needs to do a lot of work to maintain that position and, as a result, because the raw water we have in the Island is subject to a number of chemicals that get applied on land, et cetera, but that is not unique to Jersey. I think that that is pretty much a similar position that we see across Europe and certainly across the British Isles in any areas really, so that is just something that industry has to deal with.

[12:00]

But we are not complacent about it. I think our main focus has got to be, potentially, on those private water supplies where there is arguably less control. We would argue that we would certainly advocate that any owner of private supplies gets their water tested on a regular basis and, unfortunately, very few people do currently.

The Connétable of St. Brelade:

Are we in a position to provide testing facilities in the light of the work having to be done by the testing laboratories? There is the water-testing area, do they have the capacity to offer that service?

Acting Director General, Infrastructure, Housing and Environment:

Certainly our official analyst service does a borehole water test for Islanders. Personally I have used it ourselves at home, as well as others I know of, so that gives you a good sort of health reading in terms of a screen on terms of bacterial content, nitrate content, et cetera. They also now do a P.F.O.S. screen if the Islanders want that, which will give a basic understanding as to the level of P.F.O.S. in water, if indeed there is any. There are also additional detailed surveys available via Jersey Water. Jersey Water sends a lot of samples off on a regular basis to accredited labs elsewhere within the British Isles and that is also a service that Islanders with a private supply could utilise; they just need to get hold of Jersey Water and a sample can be taken off in the same batch sort of thing. That is something if you have got a private supply that you need to pay for yourself though.

The Connétable of St. Brelade:

Thank you. Just finally on water storage, Jersey Water indicate that their storage capacities need increasing, maybe it is going to be influenced by the bridging Island Plan. Has any more thought been given to where this additional storage might take place in the Island?

The Minister for the Environment:

As you have said, Chair, this is very much an issue for the Island-planned work, which is ongoing. To answer all the technicalities of that question, part of the evidence-base has been to look at what may seem strange, but a study looking at both the mineral needs of the Island and our solid waste strategy in terms of inert waste and water. Those 3 subjects may not seem at first sight that they are connected but that piece of work has been done. It is clear there are some difficult choices in that strategy. We have now got the draft of that evidence-base. As you know, the way the Island Plan project works is these various pieces of work are done to give us the evidence because everything that comes forward in the draft plan needs to be evidence-based and so we are now in possession of that. It is too early to say what the draft plan will conclude. I think that perhaps would be premature to go into that in detail. But there is no question, we do need to have a strategy for meeting future water demands in Jersey. The evidence is that we have already got a shortfall of supply. Mr. Scate I am sure can give us the numbers or Mr. Pilley perhaps, because I think Mr. Pilley on the line has done the core evidence work. But of course with a future growth in population, we know what the forecasts of that water demand will be. I do not know whether it is appropriate at that time. I think probably, Mr. Scate, if Mr. Pilley gives us those numbers, it would probably be a good plan, Chair, if he came in.

The Connétable of St. Brelade:

Indeed.

Head of Place and Spatial Planning:

Yes, thank you, Chair. While I perhaps will not pick up on the specific numbers, Minister, I think, as you rightly say, the challenges that Jersey Water have identified relate both to increasing population levels in the Island but also the effect of climate change on their levels of water supply. A lot of their water is from groundwater and obviously that is affected by climate change. As the Minister rightly said, it is a complex area and we have been talking to Jersey Water as part of the Island Plan review process and we will continue to do so as the draft plan is put together. But, as the Minister rightly says, it is an issue where the plan has to make provision for both the Island's water requirements but also its requirements for things like minerals and the disposal of solid waste, and this revolves around the various holes that we have in the Island, which perform part of those strategic functions.

The Connétable of St. Brelade:

I am sure you will continue to look into those holes. Connétable Le Maistre has a question.

Connétable J.E. Le Maistre of Grouville (Vice-Chair):

Yes, sorry, I have had to leave the office for 10 minutes. I hope this has not been covered and stop me if it has. With regard to water quality, what is the current state of the water from Jersey Water compared to, say, 10 years ago with regard to nitrates?

The Minister for the Environment:

Andy, you mentioned that earlier on, what was the figure you ...

Acting Director General, Infrastructure, Housing and Environment:

Yes, effectively, Jersey Water and I might get my units mixed up here but it is either micrograms per litre or milligrams per litre but it is a 50 per litre limit. Certainly Jersey Water meet that level, they consistently meet that level mainly through blending but also use of different water supplies. Obviously it does get impacted if they use the desalination plants. They constantly blend water to make sure that anything in the public supply meets those limits. Increasingly though, as I said slightly earlier, our nitrates in water in the Island are coming down. We have done a substantial amount of work, both this Government but also with industry, farming and other land managers in terms of behaviour around the countryside. The state of the raw water within the Island is getting better. But we cannot be complacent, we still have challenges around that. It does tie into the point about water storage because water quality, water storage but also water use is quite an important equation to balance, so that we do need Islanders to look at their water use. Demand management

is also quite important to make sure that the resources that we have are used sensibly and we save water where we can. We make sure that new appliances and new buildings are water efficient because the more we do in that front the more water there is to go around without investing in quite expensive storage solutions. It is all part of the same equation, making sure that the water we have got is used wisely, it is of good quality and if we then need to store it we can store it.

The Connétable of Grouville:

The question was really around nitrate levels because it is my understanding that the work that your department, along with Jersey Water and the farming community, has been a massive success. You are right, we should not be complacent but it has been a massive success which goes unnoticed, it appears to me. Reducing nitrates further will take time but that is a scientific fact whatever we do. This is a political question, maybe the Minister would recognise how far all 3 parties taking part have come in reducing nitrates to a point where now I do not think Jersey Water have had a dispensation for a number of years. Historically, going back 10 years, it used to be a regular occurrence that they had to get a dispensation if they were over the level. I am just wondering, and getting on to the question, why we need a water officer, a new post, when the work that is being done can clearly be shown to be a successful route to take.

The Minister for the Environment:

I think there are 2 parts to that, if I may come in, Chair. Certainly it is absolutely true that the work of the Cleaner Water Group has been successful in bringing the levels down below the 50. If we had Tim du Feu here he would be able to give us the exact numbers. My recollection tells me that the trend is downwards but it is equally true that we still have a relatively high level of nitrate in our water supplies. I think Mr. Scate mentioned about how Jersey Water really work hard to make sure that they keep the levels low or below in our drinking water. They do it by blending, which sounds a posh word but really what it means is that they have to identify those areas where we have got higher levels of nitrate in our groundwater and ensure that that is mixed with water of a lower level and they have to pump the water around from one place to another. There are times even when we have had a situation where a certain catchment has had to be closed off, so exceedances do occur. The general trend is positive but there are still areas of intense agriculture, unfortunately, which the Cleaner Water Group work on, where we do have these exceedances and that is why monitoring and checking and those codes are necessary. The water catchment post was a position that the Cleaner Water Group asked for; it was their idea. This is not a thing that we have been imposing on people, we are fulfilling a longstanding obligation. Deputy Guida, my Assistant Minister, chairs that group; I do not know whether Gregory wants to come in there and just add to that because I think that they are getting the balance that is really quite right, I think. Yes, there has been progress but I think complacency is definitely not the order of the day.

The Connétable of St. Brelade:

I am not sure if Gregory could get in. I know that he had technical issues. Gregory, are you there yet?

Assistant Minister for the Environment (1):

Sorry, I am present.

The Connétable of St. Brelade:

Thank you. Can you add to that, Gregory?

Assistant Minister for the Environment (1):

Very little but I think that the most important point here is the addition of the water catchment officer because the action for Cleaner Water Group has one effect, it is agriculture working to use less product and there is a ceiling to that; there is only so much that they can do. But much more important is exactly how that affects groundwater and then streams and table water. We really need to further that and that is why the catchment officer was so needed by the group.

The Connétable of St. Brelade:

Thank you. Minister, I am going to move on now to the Draft Wildlife Law. The panel has received a submission from the Jersey Farmers' Union, which expresses their disappointment in not being suitably consulted after expressing some of their concerns with the Draft Wildlife Law back in 2018. What further communication, if any, have you had with the J.F.U. (Jersey Farmers' Union) on this matter recently and what has been the outcome, if any? This may be another one for Deputy Guida.

The Minister for the Environment:

Yes, I think it will. But I would just like to say one thing. I think Deputy Guida and I, this is a very longstanding piece of work and obviously both of us have picked up this work. Deputy Guida has made tremendous efforts to try and progress it. I think Deputy Guida will give you an update on that and be best placed to answer your specific questions.

The Connétable of St. Brelade:

Thank you.

Assistant Minister for the Environment (1):

Yes, indeed. We have had an extremely fruitful meeting with the representatives of the farming community and they have told us about 3 or 4 sticking points in the law. I think we have cleared up 2 or 3 of them and there is one remaining, which is about the definition of a deliberate act and how that is considered by the law. We are looking at this because it is quite convoluted and involves

international law, so we have to make sure that we are still compliant with all the international agreements that we have signed up to but also make the law that is straightforward and logical and does not go further than it needs to. It is, at the same time, a little bit more complicated than easier in Jersey because there is not the width of activities that you would find in the whole of Europe. We do not catch foxes, for example, so that does not need to be taken into account. The result of our meeting is that we understand exactly where their problem is and from the National Environment team we do not have an issue in solving it. We are going to try to find the exact wording to put in the law to make that effective. But I think we agree with their problem and we are definitely trying to solve it.

The Connétable of St. Brelade:

Thank you. With regard to the building industry, have you had any feedback from them during the public consultation carried out in 2018 and, if so, what were their concerns, if any?

[12:15]

Assistant Minister for the Environment (1):

Indeed, certainly a lot of feedback but as far they are concerned the law does not change very much, so the same activities that were protected before are protected in very, very much the same way.

The Connétable of St. Brelade:

What about the public consultation, was it advertised to ensure as large a reach as possible to stakeholders and interested parties was done?

Assistant Minister for the Environment (1):

I participated in the original consultation and I have absolutely no problems with it. I think it was done very, very widely. It was advertised and we got all the interested parties around the table and, again, I participated in some of the debates, so I am pretty confident that went well. What did not happen is that we did not have a second round of consultation and some of the parties expected ... all the changes that we brought were communicated to them but they expected a second go at complaining about the new amendments or the new changes in the law and that did not happen. I think it was just a problem of resources and time that we were not able to do a complete second round of consultation.

The Connétable of Grouville:

Just to go back to what Deputy Guida said about the discussions he has had with the farming community and he thinks there are some possible solutions to those problems. But he said that

they would be in the law; does he mean they will be in the law or will they be in the guidelines because there is a subtle difference or a big difference?

Assistant Minister for the Environment (1):

Yes, I was hoping not to change the law but I think that is probably the most fruitful part of our meeting, that they did show us that there was a basic problem with the definition of “deliberate”. I am quite ready to make an amendment to the law so that this becomes acceptable for the farming community.

The Connétable of Grouville:

I am not speaking on behalf of the Chair but as a panel we are looking at these issues as well. Is there a way that we can know what you are doing, what you are proposing because obviously we all want to get a wildlife law across the line and it is due for debate towards the end of January, I believe? We do not, as a panel, want to delay that. Could you keep us abreast of what you are proposing so that we are not duplicating anything?

Assistant Minister for the Environment (1):

Absolutely. There is no point in making changes and making it a surprise when we come to the Assembly. We need a little bit more work because, again, there are international implications, so we must make sure that our law is compatible with the agreements that we have signed. After that we want to satisfy the farming community. We will have those talks internally and as soon as we have a solution we will let you know and discuss it with the farming community. We want to have them on board before we go back to the Assembly. We understand that there is no point in trying to get this voted without having the farming community agreement.

The Minister for the Environment:

Just to say, Chair, I fully endorse that and in fact it is only very recently that we have had a chance to hear the outcome of those meetings that you have referred to. It is quite clear there is some work for us to do. But I think rather than to go into the ins and outs further we would best be taking that offline and come back to you because involving you, as a panel, and the industry is important.

The Connétable of St. Brelade:

Good, thank you very much. Right, now carbon neutral strategy, Minister. How are you progressing with public engagement on the carbon neutral strategy in advance of the anticipated citizens' assembly early next year? Is it still on schedule?

The Minister for the Environment:

I want to ask Deputy Perchard to lead on this. But before I do so I am going to say I am absolutely delighted that the project is now back on track. Deputy Perchard, with the assistance of Louise Magris, I am sure will outline that to you but it is really exciting.

Assistant Minister for the Environment (2):

Thank you, Chair. I might start by thanking you for your welcome at the beginning, it is much appreciated. Obviously there have inevitably been some delays caused by the pandemic, however, I am delighted to have been able to share with you yesterday the updated schedule. In terms of the input phase, which is what you are referring to, we are looking at mid-February. That is the opportunity for members of the public to share their policy ideas and their vision and their hopes for how we achieve carbon neutrality going forward. I think you simply asked about timing initially, so mid-February.

The Connétable of St. Brelade:

Good, thanks, I am pleased to hear that. With regard to the citizens' assembly, there has been much discussion in States circles about the selection of individuals for the citizens' panel, how are you proposing to deal with that?

Assistant Minister for the Environment (2):

I have not yet been sighted on that because my understanding was that your questions today were about the input phase; that is what I have been prepared for. But if you would like I am happy to hand over to officers who might be able to assist.

The Connétable of St. Brelade:

Indeed. Sometimes you will find these odd questions coming left field. I am just interested to know what your approach might be. We have seen the approach from the hospital point of view and I suppose I am interested to know whether you will be following the same guidelines or, shall we say, selection process. Minister, is there anybody in the team who would have any input on that?

Assistant Minister for the Environment (2):

Yes, absolutely. I am going to hand over to Dr. Magris, who will be able to cite you on that information.

Head of Sustainability and Foresight:

Thank you, Assistant Minister. Yes, so absolutely the right question, how are we going about the stratification process to ensure that we have representatives from all of our population? We are not following the process that the Hospital Citizens' Panel adopted. We are using a randomised approach whereby 8,000 invites will be sent out and they will be sorted according to age, gender

and background, those sorts of important criteria. Then 45 participants will be selected from that 8,000 in order to participate in the citizens' assembly process itself. This is quite a scientific process and we are using our expert advisers from the U.K. to help us do this. They are adopting the same approach that was done for the U.K. citizens' assembly as well and other assemblies that have involved participatory democracy, so that is the approach that we are using. I suspect you might have some further questions, so shall I stop at this point?

The Connétable of St. Brelade:

Yes, that is helpful. In terms of facilitating the meetings of the citizens' assembly, do you have anybody lined up, shall we say, to facilitate that because it is quite important?

Head of Sustainability and Foresight:

Absolutely. Exactly the same thing, we are using our independent advisers who will be running the facilitation process and they will be training local facilitators who have some experience. There will be a mix of on-Island trained facilitators who will be overseen by the independent facilitators from the consortium that we are working with. Again, those facilitators have a lot of experience in participatory democracy and they will be running the specific sessions and table groups and discussion forums of the participants at the forum and ensuring that their feedback and recommendations is fed into the overall report. You are absolutely right, Constable, the important point is that the facilitators run the process in a transparent and consistent way, and that is what we really aim to ensure.

The Connétable of St. Brelade:

Indeed, thank you very much. I am going to just slip over to sustainable transport initiatives within the parameters of your department of course, Minister. What do you hope to have achieved by the end of 2021 in respect of sustainable transport initiatives, having been rolled out and specifically in terms of their desired outcomes in reducing carbon emissions?

The Minister for the Environment:

I always have an issue with this because obviously sustainable transport, as we all know, comes under the Minister for Infrastructure but, nonetheless, we share the objectives. But before I answer that a little bit more, can I just highlight as well how we have got a great opportunity with the carbon neutral strategy? We have got C.O.P.26 (Conference of the Parties) coming up at the end of next year and so it really is a great opportunity for the Island to show just how we can engage our community with the most important environmental challenges ever and how we, as an Island, are tackling it. If it goes to plan, and I am very excited about it, then I think we can show the Island is really an exemplar. Sustainable transport, obviously we have spoken about how we link together, the Minister for Infrastructure and myself. Where I think we really are making great progress is

because our officers, we are sharing the same team of officers being led by, I think, Steve Skelton there and supported by Louise and others. I think I would probably like to give them an opportunity, rather than it is just me go give a negative item, well it is not mine. I want to see this happen. There are some early actions that are being published. Could I ask Mr. Skelton to just elaborate a little bit on that, please?

The Connétable of St. Brelade:

Indeed, thank you.

Director, Strategy and Innovation:

Thank you very much, Chair, and thank you, Minister. As was set out, the S.T.P. (Sustainable Transport Policy) was brought by the Minister for Infrastructure. He has in the last day or 2 been able to lodge a report, which provides a status update on the S.T.P., which similarly to the carbon neutral work, and you will recall that they were both lodged by the end of 2019 and both debated earlier in this year, just before the pandemic hit; both were similarly delayed. The S.T.P. status update provides information about the impact of the pandemic on progress in delivering both the strong-start projects, the funded initiatives and the wider policy work. Perhaps in the context of the Minister for the Environment's role, it is worth drawing out the overlap has been suggested, so not only are we managing with additional resources from the Government Plan to develop an integrated policy team to take this forward, there is also a lot of overlap between the carbon neutral participatory process that we have just talked about and sustainable transport, simply because we know that transport emissions are a significant part of our carbon emissions. We do expect to be talking in an integrated and aligned way about both of those things in those public engagement processes that will follow in the new year and in the citizens' assembly. While the Sustainable Transport Policy has a number of rapid policy action plans which will be developed in the coming months, we do intend, and the S.T.P. set out, that we will bring those together in that long-term carbon neutral roadmap that we will be producing next year. There is a very clear overlap between the 2 agendas and, helpfully, we benefit from leadership from both Ministers, which we can meet from the same team.

The Connétable of St. Brelade:

Thank you, Steve; that is helpful. Going to the other sticky subject of Brexit and Jersey's territorial waters. Could you update us, Minister, on Brexit-related implications relating to Jersey's territorial waters, please?

The Minister for the Environment:

Chair, I will do my best as to what can be done at the moment in the public forum. I think we all know from listening to media and the newspapers that there is a huge amount of uncertainty and various conflicting positions being spoken of, which makes it extremely difficult for us, as an Island,

to kind of forecast what is going to be the outcome. Of course it is all - in my view and this is a political view - far too late but, nonetheless, we have got to deal with it. I think there are 3 possible scenarios, which, hopefully, in the next few days maybe we will know. One is that the U.K. does succeed in getting a free trade agreement with the E.U., which includes fishing matters, and Jersey agrees to being part of that agreement; that is one scenario. The other scenario is that there is no agreement between the U.K. and the E.U. and of course there is no agreement for Jersey to be part of, so that is very clear cut; there will be no agreement for us.

[12:30]

But the middle possibility also exists, that there is an agreement with the E.U. but that does not work for Jersey. Those are the 3 scenarios. I think the Minister for External Relations has been very, very clear that that outcome, of which fishing will be a key part, will be subject to a States decision. Although obviously while I will have a view on it, and so will the Minister for External Relations and possibly the Council of Ministers will, but nonetheless this is of major importance. Obviously fishing is one of the 3 matters that are being spoken about openly as being key points; I will deal with fishing. I think what is for Jersey absolutely vital is that we have the ability to ensure the sustainable management of our marine resources. That means that Jersey Ministers alone must be the ultimate decision-maker on the management of those waters. That is something that we, as one of the 3 Crown Dependencies, are looking for and the Minister for External Relations has made absolutely, I think, outstandingly good communications with the body in the U.K. - I think they call it Taskforce Europe - where our lines of communication as a Crown Dependency into that are giving us blow-by-blow information, which we are not at liberty to publicise, I regret. We have to stick to that because that is an international protocol. But clearly the position is that the situation is massively unclear. What has been coming out of that has been very different and seesawing and conflicting, if you like. I think we remain to see where it finally lands, and I think that is a phrase I have heard from the Minister for External Relations, where the deal lands or does not land. I am sorry, I do not know. In private session perhaps we could go further. I do not know, Chair, have you had a private briefing from the Minister for External Relations?

The Connétable of St. Brelade:

Not recently. I think Greg Morel is on your team today, am I right in saying that? It would be useful to understand what communications are going on with the fishing industry to keep them abreast of what you can keep them abreast of.

The Minister for the Environment:

Before bringing Greg in, I certainly spoke to the chairman of the Jersey Fishermen's Association on the telephone yesterday. Obviously, like everybody else infected with Brexit, there is huge anxiety

among people with business interests. It does not matter whether you are a national player or you are a major shipper of goods. You listen to people from the U.K. this morning, we heard Doug Bannister from the Port of Dover telling us about the issues there. Our fishermen are very, very anxious, really anxious. Our fishing industry needs to know the result. So I spoke to him yesterday. The Minister for External Relations and I, when these talks got down to serious business, we both had a meeting with the chairman of the Jersey Fishermen's Association and did our best to explain to him what we were able to say. So there is real recognition of the communication needs. But we are of course inhibited by international protocols here. Because we are not at the table and we all know that. We are at the long chain outside of it, just like the other 2 Crown Dependencies are. So they are in the same position. Do you wish Mr. Morel to add to that?

The Connétable of St. Brelade:

I am keen to hear that, and I am pleased to hear what you said regarding communication. I am keen to hear that the fishermen are included in discussions that are going places that materially affect their livelihoods. Maybe at ground level Mr. Morel will know what is going on there as well. So, yes, I would be pleased to hear from him.

Assistant Director, Marine Resources:

Good afternoon, Mr. Chairman, Ministers, panel. It has been, as the Minister has referred, Mr. Chairman, a very difficult time for industry. They have had a succession of problems that have come down the track and the Brexit-related work has obviously been an ongoing problem they have had for a number of years. But also COVID restrictions, the change in the hospitality sector across the piece. So it has been very, very hard. As the Minister has alluded to, it has again been difficult for us because there has been some information that we have been able to share, but also some that it has been very difficult to share. We have tried to keep the various sectors of the industry up to speed as much as we can. That has been difficult. We have to accept that what businesses really want is some sort of certainty as to where they might have to go, how they might have to change the direction of their business, or whatever it might be, new markets. That has been the hardest thing to give people, which has been incredibly frustrating from our perspective as well. Because we have all agreed that not knowing is the most unsatisfactory position. But unfortunately it has just been the way that it has been. We have tried to again keep in touch with aquaculture guys as well as the fishing industry. But I just have to try to communicate as best we can. But we certainly understand some of the sector's frustration in not being able to know what is going on and how their businesses might be affected. Officers are out continuously around the ports, around the harbours, trying to keep fishermen up to date on what is going on as best we can. But that is really where we are at this moment in time.

The Connétable of Grouville:

A question for the Minister really. The U.K. Government have intimated that they might use our fishing waters as some kind of bargaining chip. What are your thoughts on that and what are the implications of that?

The Minister for the Environment:

Both the Minister for External Relations and myself have expressed our views in person to the U.K. Minister. We have made it quite plain that the decision to include a permissive extent clause, which is a device that the U.K. put in the Fisheries Bill, which is probably an Act now, which gives them the authority to be able to take action in our territorial waters, which of course extend 12 miles. The U.K. accept that Jersey has done nothing in the past to warrant that. There is, they anticipate, no need to use it. They just see it as important to have it in there for their own reasons. Therefore the Minister for External Relations has gone further and so certainly there is no need for it from a fishing point of view, and it would go against entirely the whole principle of us managing our own fisheries. So that is clear. The Minister for External Relations has made it clear that there are real constitutional implications of such a thing. I think there are many reports in the press and there has been speculation that the U.K., in doing that, intend to sell us down the river by taking over our waters. I have not heard anything from any authoritative source that says that is the intention. There are plenty of rumours around. But I cannot see that would be in any way acceptable. In fact I would do everything I can. But I cannot believe the States would accept it, nor the public of Jersey and so on. So I think we should put that aside. What has happened is during the negotiations the Crown Dependencies were asked to put forward their situations. Each of the 3 Dependencies have done so, the channel of communications, so that those positions are clearly understood, and that is why I said, when I said: "What are the key positions?" It is paramount that we are able to control our waters and ensure their sustained management ourselves. We have the law; we have the skills and the experience in our marine team. They are an exemplary team and everybody recognises that. We have the infrastructure to do so and we are adding to it with both the refit of the vessel and the replacement in a few years and also the amount of money in the Government Plan to do so. So we are in an absolute position to manage our own waters and deliver. If there is a deal that works for us, we will be able to manage it ourselves. I do not know if that helps the Connétable but I do not think we should listen to rumours of takeovers or anything like that.

The Connétable of St. Brelade:

Just going back to legislation or possibly emergency legislation, do you have any idea when it might be lodged and will it be this side of Christmas?

The Minister for the Environment:

What emergency legislation is that, Chairman?

The Connétable of St. Brelade:

Brexit-related fisheries legislation. Will there be anything this side of Christmas?

The Minister for the Environment:

There has not been a decision yet but I am sure, from what I have heard the Minister for External Relations say, and of course we have a Brexit ministerial meeting immediately after this hearing. But my expectation is that, in the event of the scenario where there is an agreement, the Minister for External Relations has given notice that he will seek to have a special States sitting to have the decision made by the States before the end of the year. So I know we are running out of time. On legislation, I do not believe that we are talking about a need for legislation on this. I am not an expert. But our Fishing Management Law is up to scratch. There are improvements we want to make to that but I do not know that they necessarily fall within the category of what you would call an emergency. I know that there is a piece of legislation, which is nothing to do with fishing, that we may have to bring forward, which is to do with the Island Plan procedure. I do not know if you want me to mention that, Chairman, do you?

The Connétable of St. Brelade:

Please do.

The Minister for the Environment:

As you will remember, we have had discussions with you giving notice of this during the in-committee debate. Of course you are doing your review about the interim Island Plan process. We know that the modified process we have had to adopt to do the transitional plan will require some law changes. They may look complex, but they are not. In reality, what they do is they provide more opportunity for States Members to make amendments to the draft plan on a different timetable. That is what they do. We will need to bring that as a change, as an emergency piece of legislation, and we are hoping to lodge that by the end of the year. But, Chairman, that is to ensure that we can have the dialogue with you as a Scrutiny Panel. But we want to get it lodged and then we want to have that work with you and that dialogue before the States are asked to approve it. But we need to do that in order to be able to progress the Island Plan. I am getting a message from Mr. Morel that I have overlooked something and so I do not know if Mr. Morel wants to add to what I have said about the fishing legislation.

Assistant Director, Marine Resources:

The Minister has alluded to it, but we are not sure at this moment in time because of the ongoing uncertainty. But there is still a possibility that we might have to move a very minor amendment to licensing legislation that would allow us to licence vessels other than Jersey vessels. We have as a panel possibly considered this before. It gives the Minister scope to provide, if that is required,

depending on what the agreement might be, the Minister's ability to do that. That is something that we may have to move forward quite quickly with. I do not know exactly the timetable, whether it be this year or early next year. But it is something that we have to accept that we might need in relatively short order.

[12:45]

But it is not a complicated piece of legislation I would suggest; it is a minor amendment that just gives the Minister scope to licence more vessels than he can at the moment if indeed it is required. Depending on what the agreement might be. Apologies, there seem to be lots of caveats in that answer, but I hope that makes sense.

The Connétable of St. Brelade:

Indeed it does. Thank you very much for that. Just finally on the Brexit and territorial water issue. What measures are being considered by Jersey's Government to mitigate against any implications that may arise from decisions being made in Westminster?

The Minister for the Environment:

There are 2 sides to this. One is what support can be provided for the industry and the other side is the technical backup to help with systems and processes and paperwork. So Mr. Morel would be best placed to deal with that part. But just dealing with the resources, I have certainly made political commitments that resources will need to be found to support our fishing and agriculture industries, whatever the outcome of those negotiations. Because it is a fact that none of those outcomes will give us as favourable a situation as what we have had in terms of being able to export produce tariff-free and with a minimum of bureaucracy and so on that existed under Protocol 3. That has gone. So that means that there is procedural paperwork, bureaucratic barriers that we need to deal with; if there is no deal, worse than that, tariffs. So I have made it plain, and I will stick to this, it will not be my decision where those resources come from, it will be the Minister for Economic Development, Tourism, Sport and Culture who will need to carry that forward. So I think that there will need to be support. What form that support will take needs to be discussed. It depends on what the situation is as a result of the negotiation. It will probably need a continuation of temporary support and longer term. Because in the longer term I want to see the industry get more support in terms of marketing support and in infrastructure to be able to gear ourselves up rather better. So if the industry has to change itself in order to respond to the fact that we are no longer part of the E.U. and therefore a third country and subject to all these bureaucracies and complications that we have not had for, I do not know how many years, 40 years, then they need some support from Government to help the industry to do it. I will be pushing for that. I do not know if Mr. Morel wants to talk about the paperwork side. It is probably what we can do there, if you want to do that, Chairman?

The Connétable of St. Brelade:

Yes please, Greg, let us hear about that.

Assistant Director, Marine Resources:

As quickly as possible, the Minister is absolutely right. Unfortunately, being a third country in relation to trading with the E.U., particularly in terms of fishery products, is a significantly more complicated process than being within the club, so to speak. Chairman, you have alluded to various systems and processes that are required. We are moving as fast as we possibly can with all of these and that is a combination of marine resources, officers within Natural Environment, but also a number of colleagues, particularly in Animal Health, in Plant Health, and also in Food in the regulatory directorate as well, the Environmental Health team. Because all of those parts of the business are required to provide some sort of certification and processes. Because of the timescales that we are talking about now, and the Minister has alluded to the fact that it is still going on and should have been resolved a long time ago, we are probably going to look to have some sort of possible stopgap scenarios just in the short term to allow businesses to carry on trading. A more longer-term solution will have to be put into place. Various options are available piggybacking on the U.K. systems, which may be a way forward that we will certainly consider in the fisheries perspective in the short to medium term before we can ascertain exactly what is needed for Jersey boats to carry on trading. So we will certainly be working with businesses as closely as we can to make that process as easy as possible. But we still do not know what the French authorities, the European authorities, might require or might not require in various timescales. So it is again one of those areas of uncertainty, which is just very unsatisfactory for everybody. But we are hoping that we will have some clarity to give businesses soon. The main point will be to have the ability for those businesses to carry on trading. That has to be the primary driver for this. If we have to put in systems that almost just fill a gap for a short period of time, we might have to accept that. So that is where we are in terms of the systems that we are looking to move forward with. Just very quickly if I may, just on the support perspective, the Minister is absolutely right. Our view at the moment is we are considering possibly again a very short-term stopgap scenario just to keep people moving. That will be working with Economic Development colleagues on that. But also the piece that is very important is the longer-term sustainability and the longer-term infrastructure and support that the industry might and will need to make that whole sector more fit for purpose, for want of a better description, going forward. I do know that there is a piece of work that is started already with Economic Development colleagues and the Jersey Fishermen's Association, which is starting to look at those longer-term support mechanisms that I hope will provide a direction that we can move in quite quickly. Because we do need to move quite quickly on this.

The Connétable of St. Brelade:

In terms of the aquaculture industry and also those shell fishermen who are landing in Granville and St. Malo. What is the status of the French landings at present?

Assistant Director, Marine Resources:

The last we heard in conversations with France, but obviously this is again subject to any further discussions that might come from the E.U./U.K. agreement, Granville is still very keen as a port to be as open as it possibly can be for business and the ability for certain Jersey products, particularly direct landed products and aquaculture products for relaying in France. That would appear to be an option. We are not entirely sure at this moment whether there will be certain facilities in ports along the French coast for reception of goods in general. We are not entirely sure whether smaller ports, for example Carteret, which is very well used by a number of our fishermen, will be able to receive certain products at this time. We are still looking for confirmation of which ports will be able to receive which goods. But we are hopeful that the ongoing discussions with France that I know the Minister and the Minister for External Relations have on a fairly regular basis will continue to provide that ability. It is pretty clear that on a local level those ports are very keen to carry on doing that business. It is very good for them and our fishermen would like to carry on landing there. But, as I say, we are hopeful that they will be able to, but still waiting for this clarity in terms of which ports can do certain things.

The Connétable of St. Brelade:

Moving on to the bridging Island Plan we alluded to before. We are due to have a briefing in private in relation to the bridging Island Plan in the next couple of weeks. But for the benefit of the public, could you just please provide an update as to where you are in this particular process?

The Minister for the Environment:

I will just say a very brief couple of words and then hand over to Mr. Pilley, if I may, Chairman. The project is bang on track to publish the draft plan in the middle of March. All the elements are coming together. There is this point about the legislation, which I highlighted that we are aiming to be able to lodge the legislation change under the COVID changes to the Planning and Building Law, which are entirely procedural. For States Members they are positive because they give Members more chances to be able to make amendments to the plan before the States are asked to approve it. But the timescale and the way of doing that is a bit different. Of course the other thing, it means that it will excuse me from having to produce a plan for 10 years. Because the law at the moment requires that and I cannot do it. But we need of course to work with you on that. So in terms of the detail, there is only one element I will highlight. I have heard reports, and you may have seen some emails, around that S.o.J.D.C. (States of Jersey Development Company) are holding stakeholder workshops and some of the things coming out of that are getting quite negative press in some quarters. I would just like to make the point at the moment that, if you have seen that material, what

is going on there is an attempt to have public engagement as the supplementary planning guidance I issued says. But of course public engagement means that you get engagement whether it is positive or negative. What I have said to all those people who are upset about that is, look, what matters is what is in the draft Island Plan and when it is in the draft Island Plan you will have ample chance to have your say and have a planning inquiry and debate. There is a lot of water to go under the planning bridge yet. So, having said that, nobody should panic on that. I am sure you are not, Chairman; I was not implying you were. I meant that some of the emails I have seen, people are perhaps getting quite animated. Could I ask Mr. Pilley please to pick up on telling us how the project is going?

Head of Place and Spatial Planning:

As the Minister has said, we are working very hard to ensure that we can meet that deadline to publish the draft plan in March next year. At the moment, Chairman, we are receiving a number of the evidence-based studies that the Minister referred to earlier. Just finalising those before hopefully some of those will also be published in advance of the draft plan being published so that members of the public can see the evidence base on which the plan is being prepared in advance of the plan and have a chance to digest those pieces of work. On the back of that, we are working to prepare some of the draft policies that will shape the new Island Plan. You will recall, Chair, that we issued an invitation to come and talk to the Constables and other States Members about key issues that are germane to perhaps their particular Parishes, but also planning issues relating to the Island Plan in general. So we are also undertaking that piece of work to ensure that we engage with States Members as part of this process as well.

The other element of work that we are undertaking at the moment is to assess the site submissions that were made to us earlier on in the year and to look at the potential suitability of sites that might feature in the draft plan. Again, those matters will be the subject of discussion no doubt with Constables and other States Members when we meet with them. Although I would say that, because that work is policy in development, that we will be assessing those sites in a way that means that the detail behind that will remain confidential until such time that the draft plan is published in March. Then obviously the draft plan may contain a number of those sites. But at the same time we will publish the full assessment of all the other submissions that have been made to us, so people can see how the various sites have been assessed against the planning criteria that we use to determine whether they are helpful in terms of meeting the Island's housing needs. So that is the work that we will be doing in relation to the call for sites.

As the Minister said, we are working hard on the law-drafting instructions to change the process temporarily to enable this short-term bridging plan to be brought forward. As the Minister said, we are very keen to engage with Scrutiny as soon as possible in relation to that so that we can bring

that forward as soon as possible to enable the very tight timescale that we are working to, to happen. So we would like to facilitate that with you as soon as we might.

Perhaps the only other issue to mention is that the Island Plan review process will remain subject to an examination in public, and that will take place in the autumn of next year. We have recently advertised for planning inspectors to undertake that process.

[13:00]

So that procurement of an independent planning inspector is in the public domain at the moment so that we can ensure that we have an inspector or inspectors in place once the draft plan is published. So there are a number of workstreams that are progressing, Chair, but hopefully that gives you a picture as to where we are at currently.

The Connétable of St. Brelade:

Indeed, thank you. Clearly I suspect it is a completely different workstream, but the proposed hospital being built at Overdale clearly is going to involve a significant amount of work for the department. Minister, how do you propose to deal with that?

The Minister for the Environment:

I have not got all the answers but I have already had discussions with the officers. This is going to be a huge planning application and indeed certainly I am proposing, and speaking to Mr. Scate, I think we will have to find a way to ensure there is a dedicated planning team to be able to ensure prompt, and that may involve us having to recruit or indeed contract out. I do not know at the moment. That will be funded by the planning fee, which will be charged on that development, which will be a very significant planning fee. That is why I am proposing to remove the cap on planning fees because that will certainly enable us to be able to make sure we are adequately resourced and with the experience. We need the most experienced planning officers on that one. What I am still in discussion with the officers, and I am not able to form a view on yet, is what is the situation with these enabling works. It is quite clear at the moment that any permission or any application for enabling works by way of infrastructure changes, in my view, has to be tied absolutely to the main planning decision to build a hospital on that site. I have already made it quite plain in my supplementary planning guidance that I have issued that the hospital itself will be subject to a planning inquiry. That should not come as a surprise to anybody. So more than that I cannot say at the moment because I do not have the information on what the team's intentions are. As you know, I have intentionally, because it is really important that I avoid any conflict of interest or be in any way influenced, influencing the regulatory role on that project, which falls to me as Minister, because of the fact that this is a States project, so I am therefore reliant on the information flow that

I get through those channels. Chairman, you may have to make wider inquiries of the team itself to find out what its aspirations are.

The Connétable of St. Brelade:

Yes, indeed. Just really focusing purely on the planning issues, you indicated a necessity possibly to raise the cap on charges. This is a significant project for the Island and whether you make charges through your department to cover your requirements is probably neither here nor there to the public who are paying for it. Do you envisage your charges raising the overall cost of the project to the Island? Are we talking millions, are we talking hundreds of thousands?

The Minister for the Environment:

We are talking about £200,000. So it is hardly material in the context of an £800 million project. In fact you could argue the other way. That if we geared up well to add value, and when I mean that there is no question, planning officers really have the potential knowledge and the skills. They have the knowledge and skills to be able to improve applications. There is always an ongoing process. What comes out is often improved and indeed what people do not want to see is avoidable delays. So that is what the ability ... it may be a bit of a technicality for me, but I do need to be able to make sure as Minister that the department is doing its work, is properly resourced with the right level and the right skills. Because we will not just be seeing the hospital application. I think there are about 14 major developments that potentially could come forward at once. Apropos our earlier discussion with Mr. Scate about staffing, we have lost key people. At least one senior planner to the private sector. We have backfilled with less-senior officers who are yet to gain the experience. So, having got this flexibility that I just spoke about to deal with the major applications will help us.

The Connétable of St. Brelade:

Will you be able to source that additional staffing from within the Island or will that have to come from the U.K.

The Minister for the Environment:

I do not know, Chairman, I will have to let you know. I would hope we can do it from the Island but I am afraid that at the moment I cannot say.

The Connétable of St. Brelade:

In terms of the present planning application timescales, what is the status of that? Have you got the staff to be able to provide an efficient service at present or is that still constrained?

The Minister for the Environment:

The latest report I had, and I spoke to the development control team a couple of weeks ago, is that they have embarked on a process to try to catch up with applications by doing a number of internal changes and focusing on the backlog. They have been able to reduce it because we have been quite open about that there was this backlog. Unfortunately, of course, that principally concentrates on minor applications and more routine ones. Of course I do not know whether you have yet heard, but I was informed yesterday that the Planning Committee have effectively cancelled their December meeting because of COVID. It is now not safe to have those Planning Committee meetings and therefore that means that major applications will be delayed. I am not complaining about that, Chairman. I think that is absolutely right. The chairman of the committee is absolutely right to make that decision. I am afraid we are in a COVID crisis.

The Connétable of St. Brelade:

Indeed we are. Thank you for that, Minister. Moving on to Statutory Nuisances Law. In response to a written question from Deputy Gardiner on 17th November, you stated that it is your intention: "To carry out what I view as a long overdue review of the Statutory Nuisances Law and bring forward an improved legal framework for dealing with such cases. However, there is currently no timetable set for this work, which is resource-dependent." What aspects of the new law do you feel need particular review?

The Minister for the Environment:

There are 2 things. First of all, what is the definition of a nuisance? I began to form the view, and this is only my anecdotal impression because the steer, I will be relying on the officers who have got the experience. In fact one of our environmental team did an L.L.M. (Master of Laws) dissertation on the comparison between our environmental health nuisance law and English law. His dissertation I have asked to be ... but at the moment a lot of the complaints that I get are about noise, dust, and vibration, basically from building sites. Demolition ... this year I am aware, for example, and I am going to name it. I might be criticised. But certainly when Hotel de France was demolished the residents in that area, I had numerous reports over the summer of really damaging nuisance from demolition dust, which filled their homes and so on. The environmental law officers had to really work hard with the services of notices and interventions with the contractors to try to improve some changes. There was a measure of success so it was not as if that completely failed; that intervention. But we need a better basis of law to do it because the number of tools that the law has for **[offline]** ...

Deputy I. Gardiner:

You are back, I can see.

The Minister for the Environment:

I apologise I do not know what happened there. My screen suddenly got completely lost and it said they were trying to reconnect me but, anyway, I existed and re-entered again. So, sorry, Chairman, if you are still there. Perhaps one of the officers could tell us whether we are still in session and connected.

Deputy I. Gardiner:

Minister, I can hear you. It is Deputy Gardiner. We can hear you.

[13:15]

The Connétable of Grouville:

This is a bit of a nightmare.

The Minister for the Environment:

It is. Do you think we ought to draw stumps now?

The Connétable of Grouville:

I think so. We got up to our last question, which we did not explore fully, but we have overrun time anyway. It was only an hour and a half, was it not, so we have done pretty well. Mike has just joined us again now. Leave it to you, Mike.

The Minister for the Environment:

We were just discussing whether - we had covered the ground in your absence - we should wrap up.

The Connétable of St. Brelade:

Yes, indeed. I am sure, it was really getting a feel of the statutory nuisances. One other point I wanted to highlight was the implications of major developments on surrounding neighbours and, as you suggested, one in St. Saviour's Road may have been the case, but we have seen others in your constituency down here. I feel that, as a Government body, whether it be down to planning or whoever, there ought to be more consideration given to surrounding neighbours who sometimes will have to suffer significant difficulties for 2 or 3 years. It really is, in my view, unfair. Have you any thoughts on how that might be dealt with?

The Minister for the Environment:

Yes Chairman, in fact early on in my role as Minister I did declare an intention that I do think we need a special law related to the management of construction sites, to manage their impact on neighbouring properties. We do not have that. So it is on the list of legislation to be progressed.

But unfortunately there are no resources. It is not just a question of nuisance; it goes beyond that. This relates to a previous life. I am aware of situations that have occurred where significant damage has been done to adjacent properties as a result of construction sites. Where properties even have been rendered unliveable because of structural damage, et cetera. At the moment, those persons that suffer that, their recourse is through the civil courts, which is not sufficiently satisfactory. I know that in parts of the U.K., for example in London, I believe they have a law on what they call party walls, where people do a thing on one side of a party wall there are legal restrictions affecting the others. At the moment, my understanding is that where these issues occur the only way that people can deal with that is by recourse through lawyers and insurers and so on. Unfortunately, it causes serious trouble. So you have the spectrum. You have nuisance which is minor, heavy major nuisance where people suffer intolerable situations, and then major damage. I think that is why we need that. I am concerned about it, Chairman. But it is on the list. But overall one final point, I am concerned that we continually see a flood of financial services legislation through the States as a Member, but social legislation always drags behind. At the moment, I accept the fact that our law resources are heavily taken up by COVID. But, in the longer run, I want to see a shift to be able to see some of this socially-important legislation be given priority.

The Connétable of St. Brelade:

I think that is very helpful.

Deputy I. Gardiner:

Minister, you mentioned several nuisances. Most of my engagement with Environmental Health over the last year and a half were around heavy smoke that is coming out of the bakeries and other places. Biosolids spread on the fields and the food, so it is all around the odour and clean air. I am looking into the notes that were taken after the Environmental Health investigation on biosolids. The action that should be taken is to review procedures, reduce disturbance of residents, and to review the statutory nuisance licence to include this subject. Do you know if anything is taking place to be prepared for some of the outcomes?

The Minister for the Environment:

On biosolids, if my memory serves me, it was about the spreading of biosolids on farmlands.

Deputy I. Gardiner:

This particular incident was around the pet carb in Haute Vallée School in the highly built area on the Haute Estate, but there are several incidents that happened obviously.

The Minister for the Environment:

Mr. Peggie and his team unfortunately are not on the call and Tim du Feu, are responsible for those codes of practice. My understanding is that they are in the process of revising those and trying to work with the industry so those things do not happen. Because I did mention just noise and dust, but you are absolutely right, fumes. Of course I do frequently get letters about bonfires. I get letters about wood-burning stoves. It does seem that there are certain places where the complaints say that people are acting antisocially by doing the wrong hours in the summertime when people are trying to sit in their gardens. So there is that kind of level of nuisance. But at the moment the law is that there is a very strict interpretation of what is a statutory nuisance and there needs to be a lot more powers to define those separately.

The Connétable of St. Brelade:

Thank you, Minister, Have any of the remaining panel members any further questions for the Minister? Thank you, Minister. Thank you, Deputy Guida and Deputy Perchard and your team for attending and for your answers and discussions today. We look forward to meeting you on a further occasion. I thank you and close the meeting.

The Minister for the Environment:

Thank you very much.

[13:22]