



Environment, Housing and Infrastructure Scrutiny

Panel

Quarterly Hearing

Witness: The Minister for the Environment

Tuesday, 8th March 2022

Panel:

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

Connétable J.E. Le Maistre of Grouville

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

Mr. T. du Feu, Head of Land Resource Management

Ms. K. Whitehead, Head of Regulatory Improvement

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

Mr. G. Morel, Head of Marine Resources

Mr. W. Peggie, Director for Natural Environment

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

[11:33]

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

Good morning, Ministers and team, and welcome to the Environment, Housing and Infrastructure Scrutiny Panel quarterly public hearing. We will commence with questions regarding the fishing vessel licensing regime. Could you just update us, Minister, on the current prevailing situation around the fishing vessel licensing scheme?

The Minister for the Environment:

If you remember, Chair, we came to the point where, as far as we were concerned, our Marine Resources team and Gregory and I, we finalised the number of licences where E.U. (European Union) vessels qualified. From memory, I think, we finished up around 130 licences as at the end of January. At that point we made it quite plain that all other vessels where there was no evidence of qualification under the agreement, those temporary licences expired. Therefore what we also have done is we then sent forward details to the U.K. (United Kingdom) setting out the Marine Resources proposals for how we would implement the nature and extent provisions ongoing, which are designed to ensure sustainability of fishing. Those details went forward in a long paper, I think you have had a briefing on those. We have had to ask/rely on External Relations to advise us on the process for having that dialogue with the E.U. because we are not a party to the agreement. My understanding currently is that the U.K. are still considering how those details would be approached with Europe because they are also having to take on board the requirements of the other Crown Dependencies as well. At the moment, if you like, we are waiting for that and I am afraid that has meant that what we are having to do is enforce the current licensing on the basis that what we put in the documentation, that in the meantime the provisions of the French licences would continue to apply. Our team are enforcing on that. I think the one exception to that is we gave notification to the E.U. of 2 restricted areas for the bream spawning areas, which is a closure period on the special parts of the seabed where that bream fishery is important from 1st April. We gave 30 days' notice to that. We have not yet had any response to that and so the instructions that I have given is that those bream areas are to be enforced from 1st April.

The Connétable of St. Brelade:

Thank you, Minister. In the enthusiasm to understanding fishing vessel regulations I failed to ask the team to introduce ourselves. From the point of view of the public interest, I am Mike Jackson, chair of the panel.

Connétable J.E. Le Maistre of Grouville:

John Le Maistre, Constable of Grouville, member of the panel.

Deputy I. Gardiner of St. Helier:

Deputy Inna Gardiner, St. Helier, member of the panel.

The Minister for the Environment:

John Young, Minister for the Environment.

Assistant Minister for the Environment:

Gregory Guida, Assistant Minister for the Environment.

Director General, Infrastructure, Housing and Environment:

Andy Scate, director general for Infrastructure, Housing and Environment.

Director for Natural Environment:

Willie Peggie, Director for Natural Environment.

Head of Marine Resources, Environment Department:

Greg Morel, head of Marine Resources.

The Connétable of St. Brelade:

When do you expect to announce the move to nature and extent provisions for the licences? Have you got a timeline?

The Minister for the Environment:

I have made it plain all along that I certainly do not want to countenance a delay. Unfortunately the reality is it is outside my control. We are not party to the agreement. The agreement is between the U.K. and the E.U. We have submitted our proposals to the U.K. for discussion with the E.U. Our officers are in regular contact with the U.K., I think. For more detail perhaps either Willie or Greg would come in. I am concerned about the fact that we are held up from being able to implement arrangements that we believed would be very welcome by the E.U. because they match very closely of the arrangements that used to apply for French vessels and they work for both of us well.

The Connétable of St. Brelade:

So it has been made by France in respect of invoking the arbitration clause of the T.E.C.A. (Trade and Economic Co-operation Agreement) agreement to challenge our licensing decisions. Were there any further talks with France and maybe for the Minister for External Relations and Financial Services?

The Minister for the Environment:

When I checked - I checked yesterday - as of yet no official complaint has been lodged through the E.U. on that. So although we have had those threats public they have not materialised. What has happened though, and Greg will be able to deal with this, I think we have had some request for detail on one or 2 individual licence cases, which the office is about to look at.

Head of Marine Resources, Environment Department:

Just to touch very quickly on the dispute process that you referred to. We do understand that it is still an issue. It is a live issue, which is one that France and the commission still have under

consideration, but we have no further details on what that might look like and the nature that it might take. We do not know whether it will be specifically related to Jersey fishing or whether it might be what is known as a cross-agreement type of approach they might take, which would involve the U.K. as well. Specifically in relation to licensing, as the Minister has said, we have concluded that aspect of it from our perspective, as of 31st January where the temporary licences fell away and those permanent licences came into play and there were 130, but Ministers did commit to where new evidence came forward that qualified those vessels it would be considered. The commission has sent some information to us since the end of January on a number of vessels and continue to do so. Some of that evidence, it has not been possible for those vessels to be qualified but we have had one vessel since the end of January that did provide additional data that meant that it did qualify under the terms of the agreement. Yes, data does continue to be transferred to us. Just to pick up very quickly, if I may, on the Minister's point in relation to the extent and nature question. We do press the U.K. quite hard on this and, to be fair, we have weekly discussions with them but the desire of the U.K. at the moment is to seek an agreement that applies across all Crown Dependencies. It is a unified approach they are looking to do, together with their approach to extent and nature and it is taking some time, certainly longer than we would hope it to do so. But it is something that is being done in as much haste as these things can be done with respect to international agreement.

The Connétable of St. Brelade:

Moving on to more local affairs. Granville; what is the state of the proposed B.I.P. (border inspection post) in Granville?

The Minister for the Environment:

We have asked for this continually. Every time we have had the exchange we have asked for the B.I.P. in Granville to be approved. As we speak it has not been.

The Connétable of St. Brelade:

Can you give us a summary update as to where you are currently with the implementation of the accepted recommendation of our Scrutiny report regarding the inclusion of the Bailiwick of Jersey in the T.E.C.A agreement? You may be familiar with that in that you will have had the report from us, which mentions: "The Minister for the Environment should ensure that evidence is evaluated carefully in line with the criteria in Article 10 of the T.E.C.A. before determining which E.U. vessels are licensed to fish after 1st May." You accepted that. There were others regarding the consideration of measures that can be taken to exercise powers under the T.E.C.A., and you suggested that was ongoing. Then there was the question of the challenging timetable regarding develop an ecologically and economically sustainable marine resources strategy to underpin sustainable fishing; where are we with that?

The Minister for the Environment:

On the last point, the strategy, I think we all recognise that fishing and marine affairs do require a completely fresh approach. My understanding, I had a briefing from the officers of the Economic Development Department yesterday who are preparing reports for the Deputy Chief Minister, Senator Farnham. My understanding, from what I have heard, I have had the briefing from our Marine Resources team on that work and I have to say, without too much detail, I think that the position I am advised is that work has still got a very long way to go before it addresses the things that are needed by the industry. Frankly, what I am advised is rather superficial and therefore I shall be certainly expressing that view and having conversations with the Minister to see what can be done about that. I have no doubt in my mind there are both ongoing revenue funding issues and there are also major capital investment issues, which I think will need to be addressed; neither of which I think are covered in the Government Plan. I do not know if the officers want to add to that.

Head of Marine Resources, Environment Department:

Happy to. Just picking up the last point you raised, Chair, so in terms of the marine strategy we are, and the Minister I think is fully supportive of that approach, as has been mentioned, the team from Economic Development are keen to try and move forward some specific matters that relate to the economic issues that the industry have faced in light of the T.E.C.A. coming forward. But the wider marine strategy will require some further work, particularly in relation to marine planning, which is again tied up slightly in some of the bridging Island Plan work in terms of the planned approach that we are looking to take.

[11:45]

We are quite close, I think, to delivering that and that will form the bedrock, in my view, of how you overlay the other parts of the marine strategy, which will be around the management of the marine resources, the utilisation of the space, and then how you realise and manage any economic value that you can get. They are the 3 pieces that fit together. As I say, Economy wished to move quickly on some of the matters that are pertinent now and longer term some of the others, but I think the planning aspect, which we know we have had cooking on the burner, for want of a better description, for quite some time. It has been delayed a little bit by some of the T.E.C.A. work. It is coming quite close, I think, to publication and fruition, which we will bring forward, but that I think will form the bedrock of the strategy.

The Connétable of St. Brelade:

In terms of diversification, clearly it is a task for the Minister for Economic Development, Tourism, Sport and Culture, but from your point of view do you see any channels for diversification, which the industry may be willing to take up?

Head of Marine Resources, Environment Department:

In terms of certain stocks, so there may be some diversification of stocks, if it is possible. Clearly from our perspective we always want to make sure that the appropriate stock assessments are in place to make sure that you do not simply move efforts to another place that is not sustainable in the longer term. I think in terms of diversification there are opportunities for market diversification, which is perhaps something which we think can be developed and also how you put that product in the market place. Historically we have gone into the European market, which has worked very well, but we know that that has changed significantly in recent years. Not just how you catch it but what you do with it once you have caught it; is it adding value? It is diversifying there, which I think is something that the industry will certainly be keen to look at and indeed are looking at. Of course, we are quite limited in how we diversify what we catch because we only have a certain number of species. But of course we need to be, I would suggest, agile in terms of how we take any opportunities that do come forward as things come and change. We certainly know that spider crab, for example, is benefited by slightly warmer weather, where we like it or not. We might have slightly warmer conditions coming forward so it will be how we take advantage of those developments as they go forward. But I think we need to focus on what we have got and how we use it in the first instance rather than just transferring effort into new stocks.

The Minister for the Environment:

If I may come back, obviously what that illustrates to me is your point about the importance of that work and your recommendations. Absolutely agree with that. I think though it is going to be a big task. It is going to be one of which I think largely falls to the new Minister to take on. Now I do not think there is any quick fix, particularly if there is no money earmarked, enough money in the Government Plan, to do those things. I think the industry are champing at the bit for it. I think there is potentially, and I will flag this up, an organisational issue because at the moment, like many of these difficult issues, they cross across Ministries. When you get that, I think you can get ... it does not work. The system does not work. Perhaps dysfunctionality comes in and it slows us down. It is why - I think you will see very shortly - I bring in a proposition as a private Member that I think in the future we should be prepared to change some of our structures of our Government Ministry. This is not a new situation. There has always been a question: is fisheries an economic issue to manage or is it environmental? Either way there needs to be ... I think there is an opportunity there to try and shake it up, to get this work done. So on that last point, 100 per cent behind it, a lot of discussion going on, bringing that to fruition I think is going to take ... is going to have to fall to the next Minister. The other point you said, on the other 2 points in your report, I

believe the first point was about making sure nobody gets a licence is not qualified. I feel absolutely confident that is the case. We have rigorously stuck to the terms of the T.E.C.A. to make sure the Island is in a position where we could not be challenged, that if this arbitration legal issue arose that we would be able to defend our case and uphold it 100 per cent, and we have done that. The middle point I cannot remember but I think it was in line with that.

Head of Marine Resources, Environment Department:

If I remember rightly, Minister, it is around the ability for us to deliver management under the T.E.C.A., and so this is whereby we do and the Minister does have the ability to manage those resources under a precautionary principle in terms of making sure that you deliver those fairly and all that. I think from our perspective it is something that is developing. The Minister referred to the protection that we put in place recently by amending licence conditions around the nesting areas. We brought it in last year but it was a bit late I think, to be honest. We are still finding our way is the best way to make that work and how that happens but we are and will, and not withhold any recommendations to the Minister on things that we need to do simply because it is difficult or it is a process that we have to go through, we will continue to do that. So it does happen but it does take quite a long time and there are process issues to deal with in terms of moving those measures forward simply because we have moved from a situation under the Granville Bay where it was very much in our gift, together with colleagues in France and a local level, to make those things happen, albeit with the challenges that we had under that regime as well. Let us not forget. So a situation where we have to go through the U.K. and the commission as well to get those things embedded.

The Connétable of St. Brelade:

We have seen, I suppose, Madame Girardin in the French Parliament expressing her views. Do you feel that we are developing a better relationship with Brittany and Normandy?

The Minister for the Environment:

The feeling I got is that the relationship has been good with Normandy. I think recently there were meetings taking place with Brittany. Similar good positive signs of improvement. Of course our French colleagues in B.I.A.N. (Bureau des Îles Anglo-Normandes) have been enormously helpful in bringing that about. Sadly, I think, I was not present at the meeting with Madame Girardin, maybe I can turn to my Assistant Minister colleague who was physically present with the Minister of the Sea in Paris, as to whether you have a view. My own view is that if this continues through to the election and the next Minister and we are still in the same place where we are part of an agreement where we are inhibited from being able to implement our management of the stocks because of that agreement, I think some action is going to have to be taken by the next Minister to deal with that situation in whatever way we are legally entitled to do. It is not satisfactory.

The Connétable of St. Brelade:

I would be interested in Deputy Guida's views on the effects that the French elections may have on this whole situation.

Assistant Minister for the Environment:

The last meeting we had with Minister Girardin was interesting because she was still very much on the same principles but she really ran out of arguments. We explained exactly how we decided on every single licence and we showed her the whole principle. She was obviously running out of arguments even though her stance was the same. The interesting result from that is that they have now delegated the discussion to the regions. So Brittany came to us saying, which is quite extraordinary, we have been told by the President, by Mr. Macron, that we should now talk to you directly and try to sort things out directly, which of course we welcome. So the first meeting was a little bit awkward. Because it was supposed to be in person, the weather was horrible we were not able to go there, it was on Zoom they had 16 or 17 people on their side, we had 8 on our side; it was a very difficult meeting but it is the first one and I think it is an excellent step forward. We are now able again to argue our problems among neighbours rather than having to go to Paris.

The Connétable of St. Brelade:

That is really good news, is it not?

Assistant Minister for the Environment:

It is good news. The T.E.C.A. exists, the roundabout way that all formal communications, requests, have to go still exist so we still have to talk to the U.K., the U.K. talks to the E.U., who then tell the French what they have decided and vice versa the other way. But smaller problems can be discussed at our level and then brought around in the official way, which is something that we have begged for a year ago. Many of the problems were exclusively communication problems. A lot of the problems that the French fishermen had were just because of communication they were not because we were trying to stop them from fishing. I think this is a massive step forward. It also, you were talking about the election, again - knock on wood - but it also shows that the subject has been discarded as an electoral item. They have many other things to talk about, including the recent events. So it seems that they have dropped this as an electoral football, which is nice for us because now we can do it on purely technical aspects.

Deputy I. Gardiner:

A quick question. I know, Minister, you mentioned that we need to do organisational change. As the fishery industry we have Environment, we have External Affairs, we have Economic Affairs, and it is very complex to address all the issues together. Do you plan to create or commit something that will basically meet all once a week, once in 2 weeks, once in 3 weeks, to get these overarching

views how to bring the industry forward? I do not think it will be possible even with restructuring that will be done by one Minister, as it is complex. We need some proper communication, ongoing communication, because the same issues will be discussed about new markets and different things. I remember 3 years ago and obviously we did not manage to move forward. Are there any plans or ideas to create a forum that will operate an engagement?

The Minister for the Environment:

I think your ideas are good ones. I think the reality is, is that what has happened is during the post-Brexit situation and the T.E.C.A., what we have had to do is to bring those meetings together on an ad hoc basis. They all have, until now, been focused on trying to find our way through what has been a highly-charged international debate that has taken Jersey to the front pages, if not the worldwide media, in trying to manage that. I think now we are through that; touch wood. I think peace has broken out hopefully and it stays out in terms of this area anyway. There is a need, I think, for greater co-ordination. At this stage, let us be frank, we are in a dying States, as this is my last meeting before the Scrutiny Panel. What I am trying to do, I am not allowed to bring forward new proposals now under the purdah rules; after Thursday anyway. One has got a huge volume of work to complete, in my case, which we are going to go on to talk about; Island Plan, carbon neutral, planning law changes, a whole raft of stuff, and by then I think we have run out of time. But I am sure the officers are here and I think forming such a group will be a good thing. We have already got, of course, the Marine Resources panel, which our director general chairs, where we bring the industry together with a regulatory side. My recollection is that officers of Economic Development have come in at those meetings. We have not had External Relations on board in those meetings, I think. They tend to be a bit of an outlier in this.

Head of Marine Resources, Environment Department:

Historically States Members are provided a very general oversight of our relationship on the panel.

The Minister for the Environment:

But I think your point is well made.

Director for Natural Environment:

It is well made and conversations have certainly been had, from an officer perspective, around the ongoing evolution of the draft marine resources strategy and the rural economy strategy about exactly that; an ongoing forum for, certainly at the officer level, to ensure that everybody is talking to each other. That is what we are doing now. I know we have got meetings this coming week to try to progress forward with the marine side of things. We have had discussions between officers from Economic Development and Action Environment to take forward the rural economy strategy

because that historically has been lodged in between 2 separate departments as well. So yes, there is a good working forum there but I would accept that ...

Deputy I. Gardiner:

External Relations.

Director for Natural Environment

Yes, absolutely. An interesting time to be considering that as well because there is a changing of guard, as it were, within External Relations and, of course, we have had our own restructuring governmentally as well at an operational level. So it is time to be considering who would sit on those panels and boards.

Assistant Minister for the Environment:

To be fair, the political aspect of our problems with fishing one hopes will disappear.

[12:00]

So it was quite exceptional that External Relations would be involved in this, apart from trying to negotiate new contracts. It was quite exceptional that they were involved because our relationship with our neighbours was affected by this. Again, we hope that this will not be the case in the future. It will be a purely technical matter.

The Connétable of St. Brelade:

Moving on to the Wildlife Law 2021.

The Connétable of Grouville:

I think this is Deputy Guida's remit again, but I might be wrong.

Director for Natural Environment:

Can I ask that we bring Tim du Feu in and perhaps release Greg to the wider world?

The Minister for the Environment:

You are absolutely right. Deputy Guida will be taking the lead with the officers on this one.

Director for Natural Environment:

This is Tim du Feu who is our head of land resource management.

The Connétable of Grouville:

Could you update us on the current status of the drafting of the guidance to accompany the Wildlife Law, which was last June?

Head of Land Resource Management:

Yes, I am pleased to say it is going ahead. We have subdivided it into 2 levels of guidance. Tier 1 guidance, the legal definitions under the law, so that is dealing with things like what is disturbance, as defined by the law, and what is interference. Tier 1 level is with the law officers at the moment getting reviewed. I think what we were talking about was the tier 2 level, which is more the practical guidance issued to stakeholders and what we want to do there is make it absolutely clear, make it accessible to the stakeholders, and make it a one-stop shop so all our guidance with departments speak to each other and we are not contradicting each other. That is moving ahead. We have issued guidance of the ... it is about to be issued, a general overview of the Wildlife Law guidance. Also about to be issued is a tree and hedgerow guidance which I think was a contentious point for the farmers. We have since met with them and resolved those issues. Japanese knotweed, the department is working on that and has issued that guidance. The remaining guidance to be issued is development guidance, and that is still awaiting on our conversations with planners and by the diversity checklist that we are going through, and guidance to land managers. It is on track. We have a comms plan to get that guidance out, meeting with stakeholders, explaining it to them as required by the law, so they are assured of what they should do under the law, and development of the website as well to get all this accessible to stakeholders.

The Connétable of Grouville:

What is the timeline?

Head of Land Resource Management:

We are hoping by August. We have been constrained by just one officer implementing the Wildlife Law and hence your other recommendation of the external review. It was important for the start to get the licensing system out under the law because that was required by the Law Officers' Department, so everybody now who needs to be licensed is licensed. We just have the larsen trap and pheasant shooting licences to do. We have just undertaken a licence review of the framework required by the law, so that has been complete, together with terms and conditions and importantly competencies as well of licence holders, so that is all ready to go and we will be issuing those as and when they come up. That also includes guidance on how to apply, what competencies you need and how to get those competencies.

The Connétable of Grouville:

How much consultation has been going on with stakeholders? Who have you met?

Head of Land Resource Management:

During the preparation of the guidance we, or the consultants, met with the stakeholder groups for those initial conversations. As the guidance is developed and then is made available to the public it is in our comms plan that we will meet with the stakeholder groups moving ahead. We have also had meetings with stakeholders on the licensing framework and provisions of that as well. That is all moving. We were constrained by the fact that we were operating under the former Government Plan of £60,000, so that is all we had to spend with one officer. So we have been doing this work with interns. Last year that money was spent on the licensing framework, on the statutory guidance notes. This year I am a bit more fortunate I will use that £60,000 and will employ somebody. We have somebody starting in May who is practically minded and his first role is to get the guidance out, meeting with the stakeholders and will get these 2-way conversations going.

The Connétable of Grouville:

Could you give us some examples of what type of licences you have issued?

Head of Land Resource Management:

Yes, well I guess the most complex area are licences for bat research and bat workers, ecological firms who do all our planning work. That is a whole range of licences. What we did was we engaged local consultants, the Jersey Bat Group, and also the Bat Conservation Trust. So they looked at the U.K., they looked at the Welsh and Scottish licensing system. Looked at that and then, if you like, remodelled that for what we require in Jersey; it is quite complicated their system so we wanted to make it a bit simpler and make it more understandable. So those licences have been produced. They are not yet issued because people are already on a licence, according to the new law, and as and when they come up for renewal they will be renewed with a proper bespoke licence according to that licensing framework. We have others. As I say, the pheasant shooting and the use of larsen traps historically used on the Island have not been issued yet. We see those as being licences rather like the Jersey scallop licence where you can apply online, collect your details, there will be an expense. We will give an I.D. (identity) tag so we can I.D. the larsen trap in case we get complaints against it and make it easier for licensees to apply for those. We have educational licences as well, which are being drafted for schools undertaking field work and that sort of thing. That is all ready to go as well.

The Connétable of Grouville:

What work is planned to raise awareness of the obligations on the law within the community? Because I suspect the 3 things you have just mentioned, probably people would not have a clue about.

Head of Land Resource Management:

No, well we are hoping that will come with the new officer, when he comes into post in May. As I say, we do have a comms plan and that will be rolled out. It will be centred around explaining primarily the guidance. We are in contact, of course, with licensees who we normally operate or issue licences to, such as pest control and that sort of thing. So, yes, it is an ongoing process but whether or not we have a big launch of the guidance when it is online and everything, that is yet to be decided but that would be around August this year we hope.

The Connétable of Grouville:

Could you update us on the progress and outcome of the department's review of resources in the natural environment team and the regulatory team within I.H.E. (Infrastructure, Housing and Environment) to identify whether sufficient resources and expertise are now in place in respect of the implementation of the law?

Head of Land Resource Management:

Certainly. As I say, before we were constrained with just one officer doing the work, so that was a welcome recommendation from the panel; thank you very much. Although your recommendation said an internal review, we decided to make it external and try to capitalise on the knowledge of the Environmental Agency. So we had a team over in November, they had various meeting with the planners, the regulation team and ourselves and then produced a report, which I believe has been forwarded to the panel. It is not public yet. It went alongside really the changes in the target operating model, the separation of regulation and natural environment, and we wanted to seize the opportunity to work out, to coalesce the challenges we had with the Planning Department. So the Wildlife Law, you know planners understand the Wildlife Law and can update pre-application advice, provide checklists and all of that. So that ran alongside. We also needed to work out the formalities of how an actual offence would be investigated. That has been done now. It is planned that the officers for the natural environment being experts would be first on site. Say a bat roost had been potentially removed from a premises, we would make an initial assessment and then if we needed more formal investigation we would call upon our colleagues from regulation, the new land and habitat team, to come onsite and they would take care of the investigation. We have field tested that quite a few times now and it works quite well that you have trained regulators who are in charge of the regulatory aspects and then we come on the back end in charge of the science, talk about the impact, put in the expert witness statements, and we have issued a few warning letters to that effect under the new law as well with that modelling process. Now that has been developed we can push forward. An external review on the basis of that came across and looked at all these systems and then looked at the resources we need going forward, which basically is ... we have the officer already in post, which is good. Two officers below that officer have been recommended. One of those is already funded, as I said, through the current Government Plan funding, although that is funded through climate emergency, so we are looking to continue that funding past the

Government Plan period. Also another officer coming in for that outreach that we just spoke about. We do a lot of work with planning, reviewing planning applications and such like, and that takes an enormous time, ecological reports and stuff. So that officer will also take care of that as well as the enforcement of first offences. So that is the natural environment side. Along the regulation side it is one officer, whether or not that is spread across the land and habitat team or one bespoke officer has pros and cons, but that is looking at the formal investigation we just spoke about, to carry that through and also then to follow up on the conditions that we place on the planning permits to make sure that if conditions are placed that they are adhered to and from the science team go out and make sure that they are working. So the bat roost is being inhabited by that bat species and they are fit for purpose.

The Connétable of Grouville:

One final question on the guidelines - sorry to go back to the guidelines - you mentioned the tree and hedge management, are those guidelines available and are there licences involved in that area as well?

Head of Land Resource Management:

No, there are licences involved at the moment. I believe we are going to talk about the tree strategy going forward and we have been involved with that. What we do not want to do is produce our own guidance and the tree strategy comes out and they are in conflict. But is extremely handy is we did not want to replicate the stakeholder group who produced the branchage guidance basically and we were all saying the same thing. It is an extremely good stakeholder-led piece of guidance, and you see the way branchage is done around the Island is really catching on. We did not want to replicate that or indeed put impractical measures on that as well. I think there is one there the farmers were worried about to undertake a thorough inspection of the hedgerow prior to doing your branchage with a tractor. That is totally impractical at 6 o'clock in the morning with a big queue of cars behind you. We resolved that. We met with the J.F.U. (Jersey Farmers Union) and had those discussions and resolved it with them.

The Connétable of Grouville:

Moving on to the formal housing supply and delivery review we undertook. Recommendation C1 of our review recommended process improvements to expedite planning applications for housing schemes, especially affordable housing, and this should include a formally agreed pre-application process and appropriately set fees for applicants. Your comments in response note that this recommendation is under consideration. Can you elaborate specifically on how this recommendation is going?

The Minister for the Environment:

Yes, I wonder if I can bring in Kelly Whitehead now, the director of regulation, because I think your question relates to planning applications or pre-apps for ... I think I can deal with some way in which the, if you like, affordable housing applications, the steps they would go through. At the moment, of course, in the bridging Island Plan we are proposing policies and there are a number of amendments which will set the framework of the policies. There will need to be supplementary planning guidance issued by the Minister if the planning policies on housing are adopted. That supplementary planning guidance will involve both the Minister for Housing and Communities and indeed the Parish communities where the sites are developed. There will be consultation, which as you know supplementary planning guidance has a statutory requirement for consultation. That will then set, if you like, some of the rules. I think we are in a process where policies are changing. In other words, in a matter of weeks, if the States approve the draft plan, there will be a period of hiatus because there are planning application meetings happening that are scheduled in April and May.

[12:15]

They are doubling up on the number of meeting days they are doing to try and clear as many planning applications as they can before the purdah situation. We will not get a new Planning Committee in place until September, I do not think. There will not be a Planning Committee and so we will be running on the new policies. Why I have asked Kelly to come into the room ... the question, Kelly, was about pre-application advice on affordable housing and the issue of fees, which I think is, for me, a downstream issue. What I was just addressing in my answer just now was trying to put across the fact that we are going through a transition, a change, and therefore pre-application advice would need to advise interested persons because we do not know who those applicants would be, whether they are going to be the landowner or Andium or whoever the department has to deal with. I think it is important that the department has both the new policies in place and also clarity on the supplementary planning guidance before it can give pre-application advice. The supplementary planning guidance will of course deal with things like the housing mix, the number of units, issues about open space on site, community facilities, planning obligation agreements and a whole host of things. I do not know whether Kelly or Mr. Scate wants to elaborate on that. We now have Kevin who is the drafter of the policies. There is a lot of work to be done, we will go through this period ... I think there will be hiatus but I am told that is not unusual, it happens every time there is new Island Plan so it is nothing to worry about.

Head of Place and Spatial Planning:

If I may, Chair, just in terms of the supplementary planning guidance, clearly in terms of the preparation of the draft plan we have done a lot of work to look at the sites that are under consideration for the development of affordable homes. The parameters of the supplementary

planning guidance for each of those sites is effectively in gestation at the moment and you will have seen some of the details that we have published as part of draft planning preparations, identified issues and challenges around each of the sites. Effectively that work will inform the supplementary planning guidance and the development briefs for each of the sites. In terms of any pre-application discussion, while as the Minister said there will be a hiatus before the Minister is able to formally adopt a supplementary planning guidance, if developers, applicants are wanting early advice on the progression of those sites then we are able to provide that on the basis of the work that we have done thus far.

The Connétable of St. Brelade:

We know that pre-application advice is currently free and the law change will require to allow a charge to be levied. Would you not think that by making a charge for it there would be some obligation that that advice be supported, shall we say, down the road?

The Minister for the Environment:

I am struggling to remember exactly but I do not think I have committed to say that there should be fees; I do not think I have done that. I think I have committed that it should be looked at. One cannot separate out the issues of resource management. As you know we have been through a period of COVID where the department has been severely affected by the same things that happened to a lot of activities in the Island and Government, but we are coming out of that and, of course, you have been, to us, Chair and committee, very supportive of our work to gain new resources. Obviously by understanding is that building back up the team is well in place and in progress but at the end of the day it is a choice, where are the priorities. From where I sit the choice is do you concentrate on clearing current applications that people have paid a fee and they are entitled to a service or do you put the priority on to people who want to come along and get ahead of the queue? I do not know but I accept the fact that government affordable homes have their own special case, which is why I tried to answer in the context of the work on supplementary planning guidance. Perhaps we ought to bring Kelly in. I am not committed to fees, I do not think.

The Connétable of St. Brelade:

Just focusing on fees, I note that private companies are advertising planning application consultancy guidance.

The Minister for the Environment:

I saw that too. I did wonder, and maybe my colleagues could tell me, have you had any approaches? Is this done with our blessing? It is not, as far as I am concerned. This is pure commercial speculation by somebody who thinks they can offer wisdom on the subject.

Director General, Infrastructure, Housing and Environment:

I can comment. I think there is always a set of the private sector who want to advise potential applicants on how to get through the planning system. We do have some planning consultants in the Island, there are more planning consultants ... I think there is certainly a market for that. Applicants are asking for that. We are the only planning authority under the regulation directorate. If there was a view needed from the regulation team then there is only one of those. We do not mind who we talk to I think is the message. The guidance that the Government produces in the Island Plan is there for everyone to interpret and to assess so I do not think any of the issues facing planning applications should be new to applicants, very often it is how it is interpreted. Certainly a pre-application service is one of those where we do need to look at what we need to do to resource that. A lot of applicants we have just want an answer and it comes straight into an application status. They would rather do that at the moment rather than get pre-application advice. It is something we would need to have more time and effort on.

The Connétable of St. Brelade:

Maybe it is something that the department should not be involved with. If it is done externally then you are free to make the decisions for the Government.

The Minister for the Environment:

I must admit I do feel pretty cautious about it because it is open to people using it to, to be honest, jump the queue. Then you have a risk, and I am sure the department is skilled enough not to put itself in this position where my experience, when I was working in this field many years ago, applicants want to put you on the spot, they put you in a position where they are trying to drag commitments out of you and then they will play those commitments against you later on. So I have been very cautious about it. I think we should bring Kelly in on this subject, the practicalities of pre-apps.

Head of Regulatory Improvement:

The practicalities of pre-apps. I think when you receive a pre-application advice usually it is quite speculative, so there is very little information, it is usually an idea and people want an indication from the department whether it is a good idea or not. It is not a formal application so it does not have the scrutiny, it does not have public consultation. We do not always seek views of consultees so effectively there is a lot of information missing. What we try to do in pre-application advice is to give a very high level indication of potential issues that could arise in the formal process. So when we do go through the formal process that has the benefit of the full range of information for consultation with the public and we get new information from that, information from our consultees which we get new information for, and we can ask for additional information and then the department makes a formal decision. They are 2 very different processes, different levels of information, and

it is quite right, as the Minister said, for us to prioritise the formal application process. In terms of pre-app generally, I think there is scope for improvement within regulation and we would certainly be looking at doing that in the next year with our increased resources.

The Connétable of St. Brelade:

I do not think there is any doubt that an application process is complex for the smaller applicants. I think the larger applicants have their in-house teams and they can deal with it but there is certainly an advantage to have some input for smaller applicants.

The Minister for the Environment:

I do understand that. One of the things I did ask, but again I think COVID has probably not helped us, is to try to see what we could do in terms of more simplified processes than what you might call householder-type applications. Ordinary householder type things. But nonetheless I think the reason why we have ... why regulation has become, if you like, tighter is the pressures on the Island are increasing and increasing. The complexity of the planning system, of things that they are required to look at and the legal rules and so on, come from outside and the whole issue of third parties and the legal challenges forces ... one has to have discipline, a proper process and so on and it is finding our way through that. I think myself from where we sit now, I think our planning services are upheld pretty well. I think from the figures that I saw recently the vast majority of applications get published. There was a period of delays. Those delays I think are coming down and I think we are ... as you know, I have been required to answer questions in the States from Deputy Mike Higgins who has issued a lot of challenges on this and I have committed to publishing a report, which the officers have provided me with, on the various improvements that we have been able to make to that system and those which I still believe can be done in the future. But, going back to the issue of fees, I can be clear, in my term I am not proposing to introduce fees for pre-application services. That will be a decision for any future Minister.

The Connétable of St. Brelade:

I suppose this is a good place to raise the issue of the hospital. We have had pre-application advice, submissions have been put in and yet it has been refused or recommended for refusal, if I can put it like that, by one of your officers.

The Minister for the Environment:

We are in quite difficult territory here because we have the director of regulation and we have the ...

The Connétable of St. Brelade:

Well, from the point of view of the person in the street, it is difficult to understand and I would like to have some clarity on the process for why it has ended up like that. It just seems a waste of resource.

The Minister for the Environment:

I am just thinking how best to answer this because it is difficult.

Director General, Infrastructure, Housing and Environment:

I can answer on the process if it helps from a project perspective. There are very clear, defined roles for everyone within the process and I think where potentially there is confusion in the wider community is where the Government is applicant, regulator and policy setter all in the same regard. That is where there is confusion. All I would do is invite the panel to think about it in terms of applicant, policy maker, decision maker, and there are very clear, defined roles for each team that we have within Government to do their professional job effectively. So it would only ever be thus I would say. If it was not thus then we would have a complete blurring of applicant, policymaker and regulator for the benefit of Government and I do not think that would be give us good probity in our decision-making. The planning system is there to make an independent view of policy. The policy team is there to make a view of what the longer-term policy for the Island should be and obviously applicants - in this regard the Government is an applicant - are entitled to make applications for various things and we would be expected to have those applications judged in the same way that every other applicant in the Island gets judged upon. So I would probably just summarise in that regard really that there are some very clear, defined roles. Where it does become a bit mystifying because it is a G.o.J. (Government of Jersey) headline on all of it but if we take a step back we have a regulator, we have a policy setter, we have an applicant, therefore the rules should apply to Government as it should apply to everyone else.

The Minister for the Environment:

If I could just come in there. What has been said there is the perspective for the director general, who has the difficult task of putting in place protocols so we achieve that separation. I have certainly raised this with the chief executive. I am assured, I have seen the protocols, that there are very clear protocols in place. For the panel's benefit, Kelly is newly appointed as the regulation director, the political instructions, if you like, that I have given to both her predecessor, which was Mr. Le Gresley, and to Mr. Peggie, who stood in for that role for 18 months, was that the planning officers who were asked by the applicant to give pre-application advice in respect of the Government's own hospital application should do so without fear or favour and they were to advise me if there was any attempt to produce undue influence on them that would breach those protocols. I am pleased to say that that has been maintained, there has been no breach.

[12:30]

I, myself, have made sure that I do not get myself into any meeting where the applicant or the application is discussed. We have a proper process in place. I have called an independent planning inquiry. The planning officer's evidence is all there for all to see, as I have explained in my comments to the media. So is all of the applicants' evidence. There are hundreds of documents on the independent planning inspector's website, which will all fall to be dealt with at the inquiry. It just so happens that the media has decided to cherry-pick the planning officer's advice. I think what it says to me is that the independent ... I admire and I support our planning officers in giving independent advice because I have done this job myself and I have seen in the past where political pressure has been put on planning officers when a matter of great controversy occurs in respect of their opinions. That is something that I am not prepared to countenance, I have made that quite plain. It is far from ideal. It is a consequence of a government structure that was introduced that I did not have a hand in. I personally do not think it can remain that way. You know my view, we have spoken on it many, many times. It needs review but that is now a task for the next Government and not me. But in the meantime I am absolutely confident that we have maintained the probity and independence of the planning service because if that were to break down I think the Island is in dead trouble.

The Connétable of St. Brelade:

I am sure you have but what implications does it have for us providing a new hospital at Overdale?

The Minister for the Environment:

I am not responsible for management of the project. We have a situation where project management lies outside my responsibility. I have withdrawn from every single debate and discussion in the States. I make sure my declaration of my interest is on the record because I have the duty in law, whether I like it or not - I would like to be able to escape it but I do not think I can - to make the decision on the planning inspector's report. What I have tried to do is to make sure that the inspection process and the independence of the process is as good as it can be and therefore to take out any political inference. I can see why people do not like it. If I was in another part of Government there are lots of things I would say and do differently but I am not. I am sorry but you are going to have to put your questions to those that are, not me.

The Connétable of St. Brelade:

Thank you for that and I think the probity of the officers involved is creditable and I am sure the Hospital Review Panel will be digging deeper into this in due course and asking pertinent questions. I would like to just move on to our review on housing once again. You rejected recommendation 7 of our report which recommended that Government identifies the extent to which the planning team

is short on personnel sufficient to support the planned increase in housing production and once this shortfall is clarified a recruitment and retention strategy should be developed, which aims to have planning and housing enabling staff classified within the definition of a key worker. Can you summarise for us why this has been rejected?

The Minister for the Environment:

I think it was Mr. Scate who is leading on this.

Director General, Infrastructure, Housing and Environment:

I can answer as the department as a whole in terms of what we do around resourcing within I.H.E. We employ a lot of professions across I.H.E., from stone masons to vehicle maintenance staff all the way through to planning officers, et cetera, so we have a vast range of jobs. We are struggling to recruit in a number of areas and housing is one of those areas where it is clear, not just to us as an employer but to other employers, housing costs are a challenge for us, either to retain staff, Islanders who live here are looking elsewhere potentially to live, or to get new staff here from elsewhere. We have work underway within Government to look at key worker homes, from a practical perspective, in terms of what we provide, with a view of trying to supplement the number of key worker homes we provide. Then there is the problem of housing. We have a problem of housing supply full stop, in the sense we know we need to provide more homes. The Island Plan is responding to that in its direction. We as a property department within I.H.E. are looking at where some of our own properties could be refurbished. We have a project underway at the moment for a site that has been repurposed for key worker homes, for instance, that government owns. There are some steps forward in both provision and supply. The policy framework, government as well, as an employer, are also looking at the rules around who gets key worker housing once it is there. Our traditional route on key worker homes has been around the health and maybe education fields, so those 2 big departments in C.Y.P.E.S. (Children, Young People, Education and Skills) and H.C.S. (Health and Community Services) tend to call upon the key worker housing we have. We have a bit of key worker housing in our blue light services but, overall, it is a bit of a patchwork. It probably is not enough, so Government's response is across all those areas in terms of looking at what we own to bring back into use what is being refurbished at the moment, work with Andium, in terms of our housing arm's-length in terms of supply and whether we can get Andium to manage more key worker housing for us. The key to it is supply. If we have more of it, there is more access available to employers, including ourselves, and we as Government can identify where our housing needs are. We know our health workers and education workers tend to be the bigger draw of the key worker homes, but increasingly we are going into recruitment conversations across all the other professions, and if housing is an issue, it is a challenge for Government to try to meet somehow. I do not think we have all the solutions before us at the moment, but certainly those conversations are going on.

The Connétable of St. Brelade:

In those terms you are probably unable to let us know where you are in terms of filling the vacancy suggested.

Director General, Infrastructure, Housing and Environment:

Yes, we are doing a piece of work first. We have a workforce plan across the department looking at ... we have about 100 jobs vacant at the moment across the department, so we know where they are. We have had an approach whereby jobs get advertised for a period of time. We hopefully hook somebody. We are opening up conversations about having “always on” campaigns. That is where a recruitment advert is always open. We know we always have engineering jobs available, property jobs, regulatory jobs, so the recruitment side of it is one thing. The money coming into some of the regulatory services through the Government Plan is very helpful for us to move forward with some recruitment plans there. It comes down to attracting people, so some of it is about attracting, some of it is about growing our own staff as well from school. It is a bit of a cocktail of measures we are working on this year.

The Connétable of St. Brelade:

What do you do to attract people leaving school?

Director General, Infrastructure, Housing and Environment:

It is about telling them the offer, the amazing opportunity that Government can provide for their careers. We would, in the department, across our directorates, probably employ every profession you can think of outside of medical professions. We have a lot of skilled trades, skilled manual work, a lot of professional white-collar work, we have a lot of environmental work. Some of it is the offer that government can provide to people, to give Islanders leaving school a better opportunity to look at different career paths. Some of it is how we sell ourselves, being a lot more upfront about the career pathway we can give to people, and also sometimes being a bit clearer with people that they do not have to stay with us for ever. We may hold on to somebody, we train them, they may have a career with us for 5 to 10 years and that is okay. They can move on and do something else in the economy. We have to sell ourselves better as a route for school leavers.

Deputy I. Gardiner:

What, if any, engagement do you have with students that come here off the Island? They are studying but they will graduate in a year or 2. Do you have forums; what engagement?

Director General, Infrastructure, Housing and Environment:

A lot of our engagement is quite at a person-specific, so I do not think we do not do anything in total. If we have students off-Island, there is not one single place for them to email us and say they are

coming back and ask what is available. That is one of the ideas that we need a point of contact for I.H.E. or Government if you are a student off-Island and wanted to come back. A lot of it relies on either your own contacts or your parents or your carers contacts to get you to see somebody that they know.

Deputy I. Gardiner:

We do not have an idea how many students come in to study to be an engineer and will graduate?

Director General, Infrastructure, Housing and Environment:

As Government, we probably have an idea how many students we help go off-Island for funding and we will probably know the number of that. What courses they do, I do not know. I never see any data myself as to how many engineers we are training off-Island, for instance. As part of our recruitment offer is looking at things like sponsorships of degrees or bursaries. There are a number of ways we can keep in contact with young people leaving the Island, going to study, coming back to us, whether it is work experience, internships or even job offers as a result of bursaries. We are looking at all of that this year as part of our workforce planning. It is clear to us we have to do something different to what we have been doing. A traditional advert out for 2 weeks hoping you will attract someone has not been working for us, so we will need to look at different things.

The Connétable of St. Brelade:

Can I ask, you spoke of workforce planning, so under which Minister does that come? Is this the Chief Minister's Department area?

Director General, Infrastructure, Housing and Environment:

The People Services Department we have sits under the Chief Operating Office within the government structure, the H.R. (Human Resources) Department. Effectively, it is the responsibility for each director general to be responsible for their department and how their department is discharging its function, what it needs, resources, people, et cetera. In an I.H.E. context, that would sit with me advising the Ministers what pressures and challenges we have, what we can do and what we cannot do. That is how it currently sits.

The Connétable of St. Brelade:

You probably will not like this next question, then. What is the current position in respect of the backlog of planning applications? This may be for Kelly. This invariably resulted from a lack of resourcing from within the team. What number of applications are still waiting a decision and what is the current turn round time for consideration?

The Minister for the Environment:

I will ask Kelly to think about that as I add an extra thing to what Mr. Scate said. I am clear that at the moment I do not believe there is Ministerial accountability in any way for staff recruitment issues. The view currently taken in the structure we have is these matters fall under the States Employment Board and under the director generals. As a Minister responsible for services, I do not see, other than raising it with the chief executive, which I certainly have done, both the present one, setting the task, and the past one, which was that these staffing issues are vital to the services we provide. We cannot provide the high-quality environment for planning services that require a high degree of professional training, skills and experience, unless we are able to have structures and policies and remuneration arrangements in place to be able to recruit the people. It is people who deliver it. Money is part of the story, but it is people. You know my view. We went through a very bad period of H.R. policies under our previous chief executive, that I believe caused very significant damage, and that damage is a factor, and it is not the only one, of course, in our current situation with the difficulty we have in recruiting. I am hearing what I have heard from Mr. Scate. I am very encouraged there is at least a recognition of the problem. I think politically, there is somehow a need to put some clout behind what we are doing and if we have to pay people a lot more and up our offer, we need to do so because we cannot be in a position where we cannot provide those services. I do not think this is just a problem on my part of I.H.E. I think this is a government-wide issue that you perhaps have put to the Chief Minister or the Deputy Chief Minister or the chairman of S.E.B. (States Employment Board).

The Connétable of St. Brelade:

To clarify, you said there was 100 vacancies. What percentage would that be?

Director General, Infrastructure, Housing and Environment:

We have the best part of 650 staff, so we are running at nearly 20 per cent of our workforce. Some of those are jobs we want to grow, as some of the pressures we have around Brexit, the new areas, so that would include some of those new jobs as well. We are seeing double-digit percentage vacancies across our business as usual services as well, plus we have a few additional jobs we know we will get some investment to do some extra things as well.

The Connétable of St. Brelade:

That will be dire for any organisation.

[12:45]

Director General, Infrastructure, Housing and Environment:

It is one of the biggest challenges we have within I.H.E. We run the baseload for the Island effectively. It is infrastructure, decision-making, protection of environment. It exists effectively so

a lot of other things can happen in the Island and a lot of other businesses can run and people can live their lives. We are acutely aware of our responsibility to keep the Island running and it is making certain teams around our department very frayed around the edges, I would say, because of the work pressures on them. We do get recruitment successes. It is not always a negative. We do attract people. We have a very compelling offer for individuals. We never not attract people. If people look at our jobs, they think it is an amazing portfolio we run, what impact they can make on people's lives. That is really positive, then some of the harsh realities kick in about the cost of living and things like that. That is where we have to attack it slightly differently.

Assistant Minister for the Environment:

It is probably fair to recognise that there is a very similar problem in private industry. We know of several, including finance, and there are plenty, who have similar levels of vacancies.

The Connétable of St. Brelade:

Indeed. I will ask Kelly to answer my question.

The Minister for the Environment:

I apologise. I wanted to give Kelly thinking time.

Head of Regulatory Improvement:

In terms of the level of vacancies in staff in the Regulation Department, we have around 7 vacancies that are B.A.U. (business as usual), which is the position we were in at the end of 2021. We received funding from the regulatory improvement Government Plan bid as well as Brexit, so those introduced 26 new vacancies. If I was to say that was a total of 31 vacancies, that might seem quite extreme but the 26 have only come online since January, so we are starting to actively recruit for those. Within the Planning team we have 14 planning officers in post with no B.A.U. vacancies at the end of 2021. As part of the Government Plan, we have 3 more positions that have come online from January, so we are looking to recruit. As part of our planning officer offer, 4 of those positions are training planner positions, so they are school leaver or graduate positions and we take them through the Masters in town planning. It is a 5-year career path to become a chartered town planner. One of those 3 new posts as part of the Government Plan is another training planner to grow our own and 2 of those positions are a senior planning officer. In terms of the current position of backlog, we are in the same position as we were at the end of last year with approximately 300 applications we see as a backlog. We have employed 4 contract planners from the U.K. who have been employed specifically to clear that backlog in 3 months. Within the next 3 months, that backlog is targeted to be cleared. Underneath that backlog of 300 applications are minor applications still being processed by the team within the targeted 8 weeks on the whole. Our major applications, as the Minister explained, we are trying to push as many through our Planning

Committee, the 2 committees we have left, in March and April with double sittings. Inevitably, it will create another delay or backlog while we are transitioning to the new Government and we initiate a new committee, to August or September. We take this on board. It is not our first Island Plan. It is not our first change of Government. The team is prepared. We have managed the expectations of our customers. Most of our agents and architects are aware of this. We factor in the change in the Island Plan policies in all our pre-application advice. This transition period for us, we have done it before and we are prepared for the change.

The Connétable of St. Brelade:

We noted that post-build evaluation processes for all new developments with the aim of ensuring the planning policies are fit for purpose, at a practical level once schemes are developed was under consideration in your response. Can you elaborate further why this recommendation was put under consideration and when we might expect it?

The Minister for the Environment:

I apologise. I am struggling with this one. This is post-evaluation of completed developments. What particular aspect were you focusing on, constructional issues or how successful they were as developments design-wise?

The Connétable of St. Brelade:

You suggested you should ensure there is a post-build evaluation process put in place for all new developments and consultation with the industry and consider the concept of a post-build log for new developments that assesses both successes and challenges at delivering schemes according to planning requirements. The aim would be to ensure that planning policies are fit for purpose at a practical level during and once the schemes are developed or if a policy needs revisiting.

The Minister for the Environment:

That seems to be a very laudable objective. Why I would put it under consideration is because it is extremely complex to deliver. At the moment there are a number of ingredients that I would be hopeful, and I have to say the word “hopeful”, are helping us towards that. What one knows is the pressure for development is extremely high. It is like an escalator that constantly churns out these new, so devoting time to stopping the escalator delivering new applications is a bit of a treadmill. You need to make the time and resources to be able to break out to do that. Throughout my term as Minister I worked very well, and I am very pleased about this, with the Jersey Architectural Commission. They do certain work on applications throughout the year and I have given them a very clear mandate that I want them to try to help us deliver better standards of design, design being placemaking to the ability within the context of the areas because I thought there are a sufficient number of developments that have gone that are quite heavily criticised by the public, and correctly,

because the design falls short in many ways. I have seen the draft report that I asked to be published shortly - that is the report of the Jersey Architectural Commission that I have received - that covers a lot of those issues about the work they have done and their aspirations for design, so that is one part of it. The other part of it, that I have to say has been less successful, when the appeal process was introduced in 2014 the Minister for the Environment was effectively taken out of the planning system in terms of its ongoing responsibility. Therefore, the Minister for the Environment gets involved on the appeals and tries to keep their hands clean so they do not prejudice anything. That has meant the Planning Committee operates effectively in a completely separate way. One thing I put in the planning law, I am sure I had a hand in it, there should be a regular report from the Planning Committee to the Minister, highlighting areas where there were policy problems, where there were issues. I do not recall having seen that report for a couple of years. I do not know whether the officers can put me right but I think it has broken down. Also, I have expressed the view that I think we certainly need to put much more effort in assisting out Planning Committee to be up to speed, on board with the planning policies, because I think, frankly, there have been some decisions that bring that quite seriously into doubt. It is an area of work I will set the challenge. In the future there needs to be a greater cross-working between the Planning Committee who make these decisions and the Minister. It is not ducking that. It is a difficult area but I think having a Planning Committee that operates in a completely standalone situation and does not have a hand in developing planning policies, because the Minister has that role to develop the planning policies. We have created a structure now where the developers of the policies are even more arms-length away from the Planning Committee. Mr. Pilley now is in a function that reports to our chief executive. There is that separation. All that has meant I think there are gaps in doing what you are wisely recommending, Chair, that I think is a big challenge and will be a major task for a new Minister. I am sorry, I cannot duck it. I do not know whether my officers feel free to speak your views.

The Connétable of St. Brelade:

It is not only for the Planning panel but for officers too, who have to give pre-planning advice. If we are repeating mistakes, it will not be any good for anybody, is it?

The Minister for the Environment:

No, it is not.

Head of Place and Spatial Planning:

If I might add, in terms of the Island Plan review, clearly, we have gone through a process of reviewing all the policies in the Island Plan, and as part of that process we engage with colleagues in regulation in terms of the efficiency and effectiveness of the policies they use on a daily basis. As the Minister says, the Planning Committee are required to produce a report that flags up any

issues they feel are problematic in terms of Island Plan policy. That may have been affected by the pandemic in terms of their production of reports. We also look at appeal decisions and look at issues planning inspectors raise, and we have also engaged with the development industry itself, so talking to the A.J.A. (Association of Jersey Architects) for example, and the Chamber and the Construction Council about the operation of policies we set out in the draft plan. There are various mechanisms for us to monitor the effectiveness of policy and some of the challenges, but as the Minister said, there are issues that arise as a consequence of some of the governmental regulations.

Head of Regulatory Improvement:

If I could speak to the report, because it is produced by the Regulation Department, we have that report currently in draft. It is supposed to be submitted to the Minister on the first quarter of every year and we have missed 2020 and 2021, but we have it in draft, ready for quarter one. The other point in training is that the Planning Committee annually have site visits where they review built sites that they have determined themselves and go and have a look at it from all the different perspectives and challenges physically. It is part of their annual training programme for the Planning Committee where they revisit the sites that have been constructed.

The Connétable of St. Brelade:

From the point of view of input from the public, there are probably sore thumbs that stick out here and there. Would there be any advantage in those being transmitted to the department?

The Minister for the Environment:

When I was a civil servant, I asked if we could publish schemes that never made it to development. The eyesores, things that the Planning Committee saved the Island from. I was told, no, I could not do that because it would cause embarrassment. I think as a minimum, one thing that needs to be done, and I put my hands up, this has not been done and probably I should have intervened, is there should be every time the Planning Committee make a decision to disregard or step outside a planning policy, there should be a report of it. An example of that is it has emerged, and I was not aware of it until this week, that in the case of historic buildings we have lost 17 historic buildings where decisions were made to go against a planning policy that, as Deputy Labey reminded me, has no flexibility in it at all. It says: "You shall not demolish a listed historic building." That is not a new proposal in the new plan but that is an example where we lost 17. There are lots of other examples, so you are pushing an open door. I put my hands up. It is an area I have not achieved. It is an area, if I was asked for a legacy report, I would be saying we should be doing.

The Connétable of St. Brelade:

Thank you. We now go on to the draft bridging Island Plan. We will be debating it starting next week, which I am sure you are looking forward to, Minister. Much has been said about the

compressed timescales resultant of the revised Island Plan review process to deliver this interim bridging Island Plan, particularly the challenging timescale to consider the inspector's report and recommendations, and for States Members to be able to lodge amendments following this. What are your views on how the process has been undertaken and do you feel the compressed timescales compromise the process in any way?

The Minister for the Environment:

To start with, no, they have not compromised it, but it has been a major challenge and there are both pluses and minuses of what we had to do.

[13:00]

There is no question in my mind. It is a necessity that plan was completed and I believe it is a necessity the States is able to agree a new plan in a couple of weeks' time, but we were forced by circumstances to change procedure. The most immediately apparent thing that has caused such a huge number of amendments. The good news about that is I believe we have achieved a very high level of engagement in States Members, much more so than has ever been done before. Previously, the States Members were not involved in the gestation of the plan. They saw the thing at the other end and those that felt motivated brought forward amendments. Also, there was no review of those amendments. They went straight to be considered by the States and there was no process of review. So, greater engagements. If the timescale has been allowed, I would have liked to produce the revised plan after the first iteration of States Members' amendments. In other words, if you remember, we published in April and we closed it down at the end of July. There were about 60 States Members' amendments during that first phase. We could have then gone through a process of assessment, made revisions of the plan at that point, so those issues we could have resolved at that point would have fallen away. We did not have a chance to do that but we pushed all the amendments with the plan to the planning inspector and asked the planning inspector to do that for us, which he helped us do. He produced a report. Then, States Members have an absolute right to express their democratic responsibility on behalf of the public before that plan is adopted, so we had to include a provision for post-inspector's reports amendments. We have seen about another 50. There are various categories of those. The rules we set for that, because it could not be unlimited because that would not be right, because these new amendments do not go through. They will not go through the planning inspection process, so they have not been subject to scrutiny of the inspector. They have not been subject to public comments in an open forum. What are those amendments? They were all matters that the inspector will, at some stage, have addressed in a report. A lot of these amendments relate to sites where landowners put forward sites. They never featured in either my recommendations or the inspector's report. He said no,

no, no, but they have come back, so they have to be heard. That means the States will have to spend a lot of time on amendments in that category.

The Connétable of St. Brelade:

What you said about States Members, we want to be kept fully informed, and the times we have met officers have been extremely helpful, as a States Member or as Parish representative. But would you accept that the general public were not aware that all of these housing sites would be brought back at such a late stage and that once the inspector's report had been issued, not agreeing to a vast majority of them, people living in those areas would not have expected those amendments to be coming back? We were aware because we were told of the timeline and I think that may be one area that I can see why people would think that would be ...

The Minister for the Environment:

I think there is no question that what we have seen is a flood of amendments in certain parts of the Island. Ironically, in other parts of the Island we have got pretty much silence and complicit silence from what we can gather. The debate is not yet. We are receiving emails, all of us as States Members, on those matters now. You open the paper every day and there is stuff there. I think people are making their views heard. It will be for States Members to make a judgment. My job will be to give the advice of what the professional view from the planning evaluations, all the processes we have run, the inspectors, on those sites.

The Connétable of Grouville:

I was really questioning the process and whether you would accept that the general public would not have been aware that amendments were going to be brought just over a month ago.

The Minister for the Environment:

We have had a situation which is quite variable, for example, if we are really talking about the developments which are located in different Parishes; different Parishes have taken different approaches to the way they have dealt with this. Some have been very, very sort of structured and quite focused and organised in the way that they have engaged their communities, others do not appear to have done that. We have got quite a variation there. Would I revise the process next time? The answer is yes. I personally think what the good points are is that I believe that all Members' amendments should be subjected to a planning inspector's planning inquiry. I think had the timescale allowed I think we could have run a process that did not create this last-minute rush of amendments, a lot of which I think step outside the planning inspector's and my recommendations and all that. But we are going to have that debate. But there is no question, given the urgency of the situation we have got into as housing, we have to deal with that in the Island Plan. We have got to take actions to increase the supply; there is no avoiding it. It is always a difficult choice; this

time it is the hardest of the lot. It is not the only areas, the infrastructure in the plan, there is numerous stuff which we know. I do not want to go on and make my speech on the Island Plan but there is so much.

Head of Place and Spatial Planning:

Just perhaps on there, just a point of clarification in response to the Constable's question, I think it is worth considering the Island Plan review process that we are running now relative to what might be viewed as a normal Island Plan review process. I think, as the Minister rightly said, under the normal Island Plan review process States Members can lodge amendments in relation to a draft plan that has no bearing on what has been considered previously. In a sense, the process that we have run this time around where States Members can only raise amendments on issues on sites that have been substantively raised through the consultation process and through the examination process, is in fact more publicly transparent and has engaged the public more than the normal process would have done. In the sense that, as I say, States Members under the normal process can lodge amendments completely unrelated to anything that has gone before, which could include new sites, whereas the provisions we have put in this time around mean that that second round of States Member amendments has to have been related to something that has been considered before. I think we would accept that different sites have had different levels of publicity because clearly those sites sponsored by the Minister in the draft plan for affordable housing were the ones that were originally considered by the public as being those sites that would be the ones that might come forward, ultimately, in the plan for affordable housing. However, at the same time, information about all the other sites that were under consideration was in the public domain; that was published at the time of the draft plan. People were able to submit representations about those, either to support them or to resist them. Of course the planning inspectors then considered the merits of those sites as well during the examination process. I think we accept that there has been a different degree of public consultation and perhaps public perception about which sites might finally emerge in the plan. But I am not sure it is entirely fair to say that this process has been deficient relative to other processes that we might have run in the past.

The Connétable of Grouville:

Under normal process, if a States Member put forward an amendment later on, does that not then get inspected by people ...

Head of Place and Spatial Planning:

There is no prescription in the law to do that. There is no prescription in the law to consult the public on that. As a matter of practice and, if you like, natural justice, we have run what we called mini examinations. We did hold very compressed examinations with the planning inspectors to

consider those States Members' amendments but it certainly was not as open and engaging as the consultation process that we have run this time around.

Deputy I. Gardiner:

I think that there is a point about plan A and plan B about the sites and you are right, you said there was different engagement, depends on the Parish. St. Helier is a bigger Parish, maybe we need to have a different type of engagement the next time with the public, not with the States Members because we have concentrated on very specific builds for specific builds. The new builds that were added in plan B, they completely slipped under the radar in St. Helier.

The Minister for the Environment:

Can I challenge that, Chair, if I may? I understand the question. What I explained is that the period for a States Member's amendment closed, as it were the first chunk, around about the end of July, I think. What became then clear is that my plan A list of preferred sites that were in the plan, there were major challenges to that, major challenges from amendments saying these should not be approved. Therefore, I thought it prudent that ... but, equally, there were propositions adding sites from other Members, generally sites in the countryside. I decided that I would do it, it was myself, I added to the terms of reference to the planning inspector. Would he look at the sites that Members had put forward? I did not come out with any out of the blue. The ones that Members had put forward, which were not on the plan A list, would he look and tell me which of those should be considered for development? If you remember that included a number of sites, I think, in St. Clement. I make a correction there, it was an amendment on St. Clement but we went through all the evaluations, ranked all of the sites and then the plan A list was the top 16, I think, or thereabouts. But immediately below that was a rank of sites, which I asked the inspector. Most of them had planning, had other Members supporting them; I asked for a view. On St. Clement, for example, we had 400 representations on the plan B sites before the inquiry. They spent a long time on it and the inspector decided, no, that they should not be developed and so, therefore, I dropped those. Therefore, what we have is a situation, is we have a number of sites that are on the plan B list where the inspector supported the amendments that the Connétables had brought. I cannot remember, Kevin will know which particular sites they were; I cannot carry it all in my head. But certainly there were a number of sites where there was a very clear consensus ... I think St. Peter was one area certainly, I think, where there was strong support for. But of course since then what has happened, and I published that information I seem to remember, I think it is around about 25th November I seem to remember, before 28th November which was the deadline we set. That information has been out in the public domain since then and here we are in March. Of course what has happened is we got another round of amendments, which have not been tested and the States is going to be required to deal with it. Is it an ideal process? No. Can we improve it and change it? Yes. But I think States Members' engagement has been really good. I am surprised at one thing, in the

past most Parishes have all held Parish meetings with their communities about these zonings. As far as I know, I think there is only one that there is a prospect of that that is likely to happen; I do not know of any others.

The Connétable of Grouville:

Yes. Getting on to a different subject, we had made a proposal as a panel to remove Policy ME2, the Passivhaus requirements for affordable homes. When we received some evidence from our review it was not thought necessary to be the best standard and that there are other standards and that Passivhaus may not make the most comfortable of houses. They may be incredibly warm and incredibly environmentally friendly but they are sealed units almost.

[13:15]

The Minister for the Environment:

Okay. I think this is an open secret but I can speak about it. Certainly I have had representations from the Minister for Housing and Communities. He has had representations from Andium Homes, as a result of an amendment which, I think, I have progressed, it is not intended to pursue that explicit requirement. I do not intend to push for that Passivhaus standard to be mandatory. I do not know if Kevin wants to outline what we have put in its place.

Head of Place and Spatial Planning:

That is right. There are 2 policies at play in the draft plan. There is ME1, which deals with something called the target energy rate and then ME2, which deals with the Passivhaus standards. There is a relationship between the 2. Clearly we are in the position of bringing forward the draft Island Plan in advance of the carbon neutral roadmap being published but the plan sought to provide some policy framework to enable the carbon neutral objectives to be taken forward. Clearly they are performance of buildings, with energy performance of buildings is one of those. I think, as the Minister said, we have listened to the issues that have been raised both by yourselves and by those in the industry. I think as a consequence of that the Minister is looking to secure the benefits that might have been delivered through the Passivhaus route through policy ME1. By driving harder, if you like, on changes to the target energy rate we can achieve a similar outcome in terms of the carbon neutrality objectives, as we would have been able to achieve through ME2; that is likely to be the position that is presented to the Assembly for the debate.

The Connétable of Grouville:

Thank you. Finally, on this subject, the Minister voiced his concern over the proposed amendment put forward by the Minister for Infrastructure to the plan to designate 2 fields near the airport for the construction of a vehicle testing centre. You said that these plans are late and he will consider

allocation of greenfield land in the Island Plan. You also argue that Deputy Luce has chosen an option, a single government-run inspection centre over individual garages carrying out the tests should be reconsidered.

The Minister for the Environment:

I think probably I did not choose my words as diplomatically as I could. I was considering that site. The inspector, if you remember, one of the things that was put forward in the evidence, there is a shortage of industrial sites in the Island and the draft Island Plan does not propose any additional sites. The inspector suggested that I consider proposing adding that site as an industrial site. But of course that site is in the middle of an area ... I think the site is in St. Peter, it is in St. Brelade, is it? It is the last building in St. Brelade and of course their Deputy, Deputy Monty Tadier, has put amendments in that he is unhappy with the urbanisation of that part of the Island. I think the amendment I have put in proposes that we produce a master plan as a proposal for that area, which would allow us to make judgments of what are the appropriate uses of that field. There are a number of factors, it is right next to the airport, it is airport land. Personally, also we have got the factor that the plan talks about - and I think you probably, Connétable, may have put in an amendment - a secondary centre. From my point of view, as you know, I am concerned about sustainability and in terms I did think that a planning process needs to happen after this bridging plan to look at potential uses of development of employment land in that area, which might be all sorts of things associated with the airport, might even be an airport hotel or what have you. Because there are lots of issues, potentially, to be worked up but they need to be done with the community in a master plan because it is important that we get that right. Therefore, when I saw this amendment from Infrastructure saying never mind all that, bang, have a vehicle testing centre, you saw my reaction.

The Connétable of Grouville:

Do you think the allocation of greenfield land for this purpose is going to set an unwanted precedent?

The Minister for the Environment:

What I was concerned about is it seemed to me that it was like shortcutting the planning process and really trying to put forward an application because really it is a plan, it should go through a planning application process, go straight into the plan and say: "I want to make this a vehicle testing centre." Yes, is that the best use? Is that the right centre? Does that work? Unlike now, I did ask myself: "How does that work with the hospital"? We did put the hospital in the Island Plan but that was because the States have made a decision, where the States have made that decision on the vehicle testing centre, as far as I know. Kevin wants to get in.

Head of Place and Spatial Planning:

All I was going to say, Chair, perhaps just for the record, I am not sure the Minister did express the view that he preferred one option over the other, I think his words were more flexible than that.

The Connétable of Grouville:

Reconsider ...

Head of Place and Spatial Planning:

I am not sure it even went that far, he said there were 2 ways of skinning a cat essentially. I think one of the issues around the nature of this proposal relative to the Island Plan review is that when the representation came in in relation to the site it was not supported by a great deal of information. I think certainly from a policy-setting point of view some of the key questions about, first of all, have you undertaken the work to determine that single-site option is the best option? Has that been undertaken? Secondly, have you done sufficient work to look at the availability of other sites? Has that work been undertaken? From an Island Plan point of view we were not aware of that work because it had not been submitted as part of the representation. I think we are now discovering that that work in fact has been undertaken and that work is available to help inform those decisions. I think it is whether it was a question of timing relative to the Island Plan review process or not. I think the Minister was not seeking to shut those options down, it was just really to say basically show us your workings in terms of if we are going to put forward a proposal here that allocates some green field land, on what basis are we making these decisions?

The Minister for the Environment:

But, hopefully, all well because I put an amendment in which says, okay, look, it allows for the possibility of another site somewhere else. I am advised that I think it likely that the Minister for Infrastructure will accept that, which if he does I will be very pleased because it means we have resolved that particular issue, which I accept I was a bit undiplomatic to the Minister, and I perhaps should apologise to him.

Deputy I. Gardiner:

I am aware about the time. I will take very quickly maybe a couple of questions into related themes, the first on the long-term water storage strategy. I know for the short-term solution we had suggestions about increasing capacity of the desalination plant but we would be grateful if swiftly you will share with us your views for the long-term solutions for the Island's water storage and what discussions did you have?

The Minister for the Environment:

I think I am going to ask Kevin to do all this ...

Deputy I. Gardiner:

Obviously you understand how it is related to the next questions.

The Minister for the Environment:

It is a very technical issue.

Head of Place and Spatial Planning:

Yes, clearly as part of the draft plan preparation we discussed Jersey Water's requirements with them, and you will be aware they have a number of options that they wanted to explore. We commissioned a piece of work looking at minerals waste and water and as part of that work we looked at the options, the best options for the Island in terms of the Island's strategic interest in terms of how various sites are used for various purposes. Arising from that the options for Jersey Water were not considered to lie with the La Gigoulande Quarry option, which had been identified by them as one of their options in the first instance, simply because of a number of technical challenges associated with that, not least it is still a working quarry, it has got consent for a waste management operation there, which, again, is a requirement of Island need. But also that there are other options available to Jersey Water to look at the long-term water storage issue in the Island.

Deputy I. Gardiner:

What are the options which were considered like this?

Head of Place and Spatial Planning:

Yes, Jersey Water have identified those in their water management strategy. You have mentioned in the short term one of the issues is around looking at the capacity of the desalination plant. What we have done in the plan in response to the discussions that we have had with Jersey Water is to provide them with a policy framework that enables them to bring forward proposals if they need to in the short term, so over the bridging plan period, to deal with immediate challenges. But we have also set out in the plan a proposal that we will develop with them a long-term water management strategy for the Island which will deal with those longer-term challenges that ...

Deputy I. Gardiner:

We need still to develop our long-term strategy, we do not have some draft plan of how we will ensure a water supply.

Head of Place and Spatial Planning:

Clearly, Jersey Water have options that they would like to explore further and they recognise that it would be helpful to have discussions with Government as part of that work. That is a proposal that

is in the plan and that will be progressed as part of the work that we do during the bridging plan period to inform the subsequent Island Plan review.

Deputy I. Gardiner:

Simon Sand changed its policy position to permit further sand extraction, the position changed. Will you summarise why the position was changed, why you decided to change the policy? Yes, let us start from there, yes, what led ...

The Minister for the Environment:

First of all, the quarry had reached the limit of the extent of its site, which has been approved through the planning process. Therefore, the policy that is in the existing Island Plan is that that extraction would cease. That plan was set in 2011 and that has been communicated and known by the operator at that time. But of course the inspector heard evidence and heard evidence of the issues about the difficulties in importing construction material, the fact that the port is not able to ... we cannot move to a position whereby we can import all of our construction materials, just we have not got the land, the harbour facilities to do it. Therefore, using existing sources of construction material is a very powerful argument. There was the issue of cost but that certainly was not my prime consideration; yes, it was to assure availability. I did think that this was a case where they had made sufficient argument and you yourself, Chair, I think that ... I cannot remember whether the Scrutiny Panel had put forward views. We did have a discussion about it earlier. I thought it was a case where I should be prepared to reconsider that and I did reconsider that. But I thought it really important that there were some very clear conditionalities set out on that because although it is only a safeguarding, it is not a planning application, one ought to identify, first of all, the need for a restoration plan, which has been the case since the 1970s, which we have not had to the point ... I think it is only in the last year or so the department has received a draft plan for restoring. There needs to be arrangements in place to get that done because at some stage it will end. There was also the need for a hydrological study because in reference to your previous question about water I am advised that Jersey Water do need to extract more water from that area, from the underground because the site sits on top of the aquifer and a source of fresh water. At the moment they can only draw up 5 per cent, I think it is, from there because of the presence of pollution. Their concern is that they want a hydrological study where it affects the migration of the plume and our ability to be able to extract more mains water from that site. Those sort of conditions I put forward, and that is in an amendment, which I hope deals with it but at some point that site will run out.

Deputy I. Gardiner:

You mentioned the restoration plan. Will you please advise how government officials engage with the landowners to reach a satisfactory outcome for this ...

The Minister for the Environment:

There is a whole history. I am not too sure whether we have got the team here to be able to cover that. I think Mr. Scate may know some but basically it's going on with the development control team, is it not, for ...

Director General, Infrastructure, Housing and Environment:

This is for Simon Sand specifically.

The Minister for the Environment:

Yes.

Director General, Infrastructure, Housing and Environment:

Where the situation currently sits, the planning permission for Simon Sand, effectively, has been exhausted for what it has got in current consent.

[13:30]

The Island Plan gives a new context for ...

Deputy I. Gardiner:

No, it is about the restoration plan.

Director General, Infrastructure, Housing and Environment:

Okay.

Deputy I. Gardiner:

How the officers say they actively engage with the landowners to make sure the restoration plan is in place because without the restoration plan they cannot continue to extract because this is a condition.

Director General, Infrastructure, Housing and Environment:

Yes. The current consent is very clear, what is the expectation on the private owner of that site? Is it a private quarry? The private quarry owner has a responsibility to come forward with that restoration plan, as per their planning permission. Any new planning consents will undoubtedly have an environmental impact assessment and restoration and probably legal agreements attached to them, which will give them additional weight to be delivered. I think it needs to be clear that the responsibility for the restoration sits with the private owner on the site ...

Deputy I. Gardiner:

From what we know some of that has not been ... because as a panel we visited them, we engaged and what we have seen, like email exchanges, and I am sure that you have seen some, the owners saying: "I have sent several restoration plans but I cannot see actions from the officers that are engaging with me and guiding me through."

The Minister for the Environment:

I can deal with that. The last information I had on this, because we are really talking about planning applications, was when Mr. Peggie was in Kelly's position and he is also a director in terms of waste regulation. The draft plan I think was received in June, I believe, last year. It was reviewed and said it would require a new planning application because it went further. It was, effectively, bringing in material from outside which would, effectively, become waste operating and, therefore, it requires a new planning application and consent.

Director General, Infrastructure, Housing and Environment:

That is right, yes. It is the responsibility of the private owner to propose the plans, it cannot be for the regulator to design the plans for them, so that the private value, the value from the site has been delivered by the private owner. The requirement is on them to come forward with that restoration plan. As the Minister said, the plan that is being outlined - I would say it is an outline because it is not a full restoration plan - big strains from much of the planning permission requirement in terms of a lot more material being needed than was originally consented. The Island Plan framework change, if it goes through the Assembly, will give a new framework for that site. I think that is a real opportunity to tie any restoration plan into a legal agreement to ensure it is delivered.

Deputy I. Gardiner:

Would the Minister of this case follow up with the relevant officers because it feels that it is somewhere stuck in the middle? Because ...

The Connétable of St. Brelade:

Yes, the breakdown in communication.

Deputy I. Gardiner:

That there has been some breakdown in communication and we hear differently.

The Minister for the Environment:

No, I think we need to be clear, Chair, this site has been privately owned for many, many years. There has been a valuable consent on that site for decades allowing the extraction of value. The States, I can tell you this, when it originally approved that required money to be set aside, they did

this by a States decision, in a fund in which they were paid for the restoration. I have seen no evidence that was ever fulfilled. The obligation of producing restoration and paying for that has not been fulfilled, in my view; that is the advice I have had. Therefore, now it is absolutely right of the owner to come forward and say they want to have an extended consent. What do they require on that? They need a change of policy, which I have agreed to do. But it will then be for them to follow up and invest money producing the restoration plans and meet all the conditions, the same that applies to every single private developer that carries out a development; that is the principle. As Minister, I have been asked ... I have had approaches asking to meet to negotiate. No, it is not for me as the Minister. I have to act in a regulatory capacity because probably I would have to adjudicate on an appeal of a planning application if there was one. But I have said to the officers: "Please meet" and you have offered. I believe the officers have written and offered to meet and discuss these details. But I am afraid, where does the prime responsibility lie for getting that site restored and properly managed environmentally? It rests with the owner.

The Connétable of St. Brelade:

I do not think there is any doubt about that but I think the issue was over moving goalposts and out of anybody's control with regard to P.F.A.S. (perfluoroalkyl substances) and so on and the change in ...

The Minister for the Environment:

There is no moving the goalposts, Chair.

The Connétable of Grouville:

It clearly was because the original plans were for a boating lake and this, that and the other and fishing and that has been constrained by the P.F.A.S.

The Minister for the Environment:

No, I do not accept what you are saying.

The Connétable of Grouville:

That was made pretty clear to us by the owner. If we can move it on to officers.

Director General, Infrastructure, Housing and Environment:

The original planning consent, effectively, was fairly silent about the use of the site. I would call it a wet restoration, therefore is a lake, effectively, that was going to be beautified to a degree from what it is now; as an operational site into a lake environment. The original consent, effectively, expected the restoration plan to be a lake environment to be created. The planning consent required details to be submitted as to how that was going to be put into effect. As of this date those

details have not been put into effect and discharged. The owner has been talking about a different form of restoration, which is a reduced water body, therefore a lot more material would need to be brought into the site, which the regulation team were very clear stepped outside of the consent that was originally given; that would need a new consent. That has been made very clear to the owner, that if a substantial amount of more material is going to be brought in to reduce the lake size that would need new planning consent. It would be subject to an environmental impact assessment and probably a planning inquiry or something of that scale; that is where it currently sits. Associated with that and running alongside is the conversation about whether there is any more sand in the area to extract, and that is what the Island Plan debate is about. The Island Plan debate gives us an opportunity to tie the 2 together to ensure that if there is more sand to be extracted, then we can get a formal legal agreement to ensure the delivery of that restoration scheme. At that point any restoration scheme would then have to declare who owns the land, is it publicly accessible, has it got recreational or whatever it may be? That was ...

The Connétable of St. Brelade:

Will the department be giving pre-application advice in a situation like that?

The Minister for the Environment:

My advice to the applicant would be to engage professionals that are able to deal with the sort of conditions that would be, certainly I believe, required as part of a planning consent. Indeed, the policy amendment I have put makes that very plain that it is part and parcel of that new policy, that there will be these conditions. Because I think it is imperative that we have the arrangement in place, that if we are to allow extended sand extraction for economic reasons, then I have said, yes, we will do that, provided we can deal with these environmental conditions. I am dealing with a law here, first of all; it requires an environment impact assessment under the law. Secondly, there are issues about the water law and there is also the Waste Management Law. There are a whole series of statutory requirements that, if you like, get engaged with this matter. It may well be that those things, all that legislation we have now got in place, was not there when the site started up years ago but I am afraid it does now.

The Connétable of St. Brelade:

Minister, we have run out of time. There were lots of other questions we would have liked to have asked and if I may ask that we follow those up in writing in due course.

The Minister for the Environment:

Okay, certainly.

The Connétable of St. Brelade:

Thank you all for your attendance and for your frank explanations.

The Minister for the Environment:

Thank you.

[13:38]