



26 February, 2015

Connétable A.S. Crowcroft
Chairman
Environment, Housing and Technical Services Scrutiny Panel
Scrutiny Office
Morier House
St. Helier
JE1 1DD

Dear Mr. Chairman,

Review: Environmental Policies

Thank you for your invitation to our Chairman Michael du Pré dated 18 February 2015 for SOS Jersey to participate in your review.

Michael has asked me to respond on behalf of the Committee as he is writing the CSSP Review submission and he has also completed a personal comment on the Strategic Report which is attached as requested. Some issues are inter-related and some are not and I have endeavored to draw out the issues that we should address in your Review, which I gather is to be very short. I therefore do not think that we can spare the time and resources that would need to be spent producing a long submission at this point.

I have discussed the form that our response should take with your Panel Officer William Millow, and he is happy for me to address the issues as we see them with a much briefer overview and also by enclosing a 'case study' which formed part of a previous submission to a former Environmental Scrutiny Panel. In that case our careful research over several months was torpedoed by the powers that be, and the Panel were not able to take the Review to the conclusion that they had hoped. That, Mr. Chairman, is indicative of the problems that we encounter.

The Terms or Reference for your review are clear. The questions posed are perhaps best answered in this form rather than a point by point breakdown, and I hope that you will bear with me on this. Our experiences come from dealing with the various Committees (and then Ministers) and their Departments of variously: Public Services / TTS, IDC / Planning and Environment over the past 22 years.

If we need any indication of how Environmental matters have drifted down to the bottom of the priority list over the time of the last few Assemblies, we need look no further than the title of your current Scrutiny Panel. If the Environmental Scrutiny Panel failed to bring about the necessary results, then the 'Environmental Housing and Technical Scrutiny Panel' will surely have one third of that already limited capacity?

The Tree felling at Esplanade car park - absence of consultation:

As you may know SOS Jersey is currently raising public awareness over the SoJDC Jersey Financial Centre and last week our Chairman Michael du Pré and I met with JDC M.D. Lee Henry and his Finance Director Simon Neal. This meeting followed the felling of the trees and stripping out of mature shrubs to the east on the Esplanade car park. This unannounced act caused great public concern and this could have easily been avoided, had the JDC followed best practice, used common sense, consulted with, and considered the feelings of the public. The Environment Department could have played a better part in ensuring that the conditions that were laid down (Condition no 18 specifically) were not broken.

(Condition 18 requires a Construction Environmental Management Plan (CEMP) which includes specific hours of working, to include noise being heard outside the application boundary, stating works are permitted 8am-6pm Monday- Friday. 8 am - 1 pm on Saturday and no noisy working outside these hours. Noisy clearance works using chainsaws and other equipment was undertaken all day Saturday and Sunday.)

Consultation seems to always be the key and even when our Chairman visited the Regulator the following week (on other matters), the Regulator had not investigated. Had this been an act by a private individual or developer the consequences would have been severe. Because it is a States Capital Project (albeit being carried out by a Limited Company) and has 'the green light from above' even before all conditions have been satisfied, planning protocol seems to have gone out of the window and environmental protection batted away as irrelevant.

The hazardous fill - a historic legacy:

Further down the line on this development (should it go ahead) we will be dealing with the removal of toxic fill which lies under the site and which we have monitored over the years. We are concerned by Mr. Henry's recent assertion that the fill can be treated as inert material. Historic reports such as the WRc Environmental Resources Management Report of 1999, and the Arup Rothwell Consulting Engineers Report of 2000 state otherwise and the maps supplied show the area of the intended works to be interspersed with 'graves' of incinerator ash and in some cases mixed throughout the fill many metres in depth. (Should you wish for more information we would be happy to provide it).

At a meeting with TTS Minister Kevin Lewis and his CEO John Rogers last autumn, it was acknowledged by Mr. Rogers that all of this site had to be treated as hazardous fill as the ash and asbestos pockets would be mixed and unable to be separated. Bear in mind that once excavated, asbestos contaminated material will dry out and, just a few fibres of asbestos caught in the wind and ingested could cause death maybe 30-40 years down the line. There is a huge volume of fill 10 + metres across the site. It will have to be carefully and safely excavated and buried in costly ash pits at La Collette (which has little capacity left) or exported to specially licensed landfill in the UK.

We presented our very well documented case on the incinerator construction events (see attached "***What Really Happened at EfW***") to a former Environmental Scrutiny Panel as an example of how even States Capital Projects can go wrong, but more importantly that if they do there is no guarantee that the agreed procedures will kick in. We fear that this situation is ongoing. Planning is evidently seen by some senior States members and others as an irritation, merely a box ticking exercise. Scrutiny is seen by many as having no teeth and by the aforementioned individuals as no threat to their agenda but it can be an irritation and Scrutiny can (we believe) unearth issues that otherwise would not be raised.

The regulatory problem:

The Environmental Regulator is **not independent** and that is one of the main problems. If we had a truly independent Environmental Regulator there would be an immediate improvement. Our excellent former Comptroller and Auditor General Chris Swinson, a man with total integrity, showed us that it can be done. But not for long. Events showed that in some circles politically he was not welcome and the island lost a strong, fair and intelligent 'ombudsman'. As maybe a lesson to be learned, and lived with, we also have the police station sited in the worst possible place.

The current situation at the Waterfront:

So what to do? Well its really boils down to a change in mindset. What is really important to Jersey? Yes we still have beautiful beaches, coastline and cliff walks and so on. But the environment encompasses the town of St. Helier and the Waterfront. The town is where most people live and work and we all visit, including tourists and overseas business representatives, and is our built environment. The Waterfront is the first gateway for visitors by sea. It is a disgrace and acknowledged by most people as such. At La Collette we built a huge unnecessarily big and ugly eyesore and for 15 years we have piled up in an extremely exposed position, hundreds of rotting containers full of asbestos contaminated material, thus endangering our population. Now we intend to dump 6 huge glass soulless glass cubes (already out of date with BREEAM International 2013 standards) on the attractive Esplanade car park with only a nod to the environment with only a small park for public use, and that in maybe 20 year's time.

Because (presumably most of) the COM support this scheme, whereas the public are very nearly all against it (our recent 24 hour snap survey of 300 people using the car park showed 95% are against) there is nowhere for those opposed to the 2008 Masterplan changes to make their case. We watch these Reviews carefully nonetheless. They are not cheap especially with the ingrained and expensive policy of bringing in consultants from the UK, often unnecessarily in our view. The last consultant we met in Scrutiny would not look at some glossy photos (of pollution happening at the incinerator construction at La Collette) we brought along specifically to show him. We wondered why until being informed later that 'he now worked for TTS'. SOS Jersey operate with no financial budget or admin support at all and our advisers give their time freely because they, as we do, love our island and are deeply concerned. We are able to find qualified consultants in all fields who gladly give their time for no financial reward.

Looking to you for a solution:

So in a nutshell, the question really from us to your panel is this: How are you going to elevate the concerns outlined and protect our environment if the experiences that we describe and that we are today still experiences allowed to continue? We know from our surveys, social media and website that the public are sceptical, very unhappy with the protection that the environment has from Government and think that far too much money is wasted. They are loathed to write to their elected representatives (as we suggest they do) to or the Departments. (In the instance of the tree felling at the Esplanade car park, we wrote on behalf of the many people who contacted us, to you Mr. Chairman, in an email dated 9th February 2015.) The public usually say "What's the point" and "We tried before but its no good". This lack of faith in Government actually helps those in Government who wish to continue to carry out these projects with little scrutiny. This has perpetuated and is the reason our Waterfront is a mess and our Town has been degraded.

Restoring public faith in Government:

The one spark of hope was that the public united against the Port Galots scheme and as a result it will be re-thought. People power in Jersey is a rare thing for reasons stated. It was interesting to note that following the cancellation of that ill thought through scheme, over 300 individual objections have now been sent to Planning to object to the next Building in the JDC scheme (Building 5). The public may be regaining some faith in the system? If Building 5 is passed then

they will stop believing that it is worth writing to voice their views on current Planning applications, writing to their elected States Members, or ultimately, to voting at election time.

We attach the report : '**What Really Happened at EfW**', and a comment on the Strategic Report by Michael du Pré, Chairman, SOS Jersey.

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