

STATES OF JERSEY

Environment Scrutiny Panel Public hearing: Ash Disposal review

FRIDAY, 21st SEPTEMBER 2012

Panel:

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

Witnesses:

Deputy R.C. Duhamel of St. Saviour (Minister for Planning and Environment)
Chief Executive Officer, Department of the Environment
Director for Environment and Deputy Chief Officer, Department of the Environment
Business Manager, Department of the Environment
Head of Waste Regulation, Department of the Environment

In attendance:

Mr. P. White (Panel Adviser)
Scrutiny Officer

[10:02]

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

Just to welcome everybody to today's Environment Scrutiny Panel hearing, which is to review Ash disposal policy and methods. We have set aside until 12.00 p.m. this morning and you will notice on my right we have with us Phil White who is technical director of AEA who the Scrutiny Panel engaged to be our technical adviser throughout this project and he is on my right. Minister, could I ask you, would you agree to Mr. White asking you supplementary questions once we have heard your answers?

The Minister for Planning and Environment:

Yes, I am happy for that. I would like to raise a protocol issue as well. I noticed, and I informed the Scrutiny Panel yesterday, that some of the questions that were going to be asked of me were worded in a way that it appeared had been already asked to officers from my department. Under the rules of Scrutiny, I am just wondering to

what extent those meetings have been minuted formally or recorded formally and under what permissions they were able to take place?

Deputy J.H. Young:

Minister, would you accept at the moment obviously I cannot answer in detail for you because I was not present at those meetings. Would you accept that we will look into that after the meeting? I personally consider that they will be minuted, but if I will try and phrase the questions, we have tried to rephrase the draft questions that you have seen to accommodate that, and I will try and make sure that the questions we put to you do not indicate there is any preconceived opinions, if that helps.

The Minister for Planning and Environment:

Yes, fair enough.

Deputy J.H. Young:

Thank you very much. So, Minister, we need to introduce ourselves, so I am John Young, Chairman of the panel.

Deputy S.G. Luce of St. Martin:

Deputy Steve Luce, Vice Chairman.

Connétable P.J. Rondel of St. John:

Constable Phil Rondel, a Member of the panel.

Panel Adviser:

Phil White, Panel Adviser from AEA.

The Minister for Planning and Environment:

Deputy Duhamel, Minister for Planning and Environment.

Chief Officer (Environment Department):

Chief Officer for the Department of the Environment.

Director for Environment:

Director for Environment and Deputy Chief Officer.

Business Manager (Environment Department):

Business Manager, Department of the Environment.

Head of Waste Regulation:

Head of Waste Regulation, Department of the Environment.

Deputy J.H. Young:

Thank you, and welcome to members of the public and the media. Minister, thank you for bringing your officers today; that is very helpful to us because this is a technical subject. Our Adviser has been working with your co-operation and with T.T.S. (Transport and Technical Services) co-operation for some months, and obviously the purpose today is to try and bring those threads together and try and look at the possibility of alternatives to current practice. Could I start, Minister, by just asking a very general question. Minister, when you go to La Collette and you see what is being done there, what are your feelings about that? Are you content that the current regime, if I can call it that, is the right one, or is it in your mind that you would like to see some improvement and an avoidance of some of the results, particularly vision intrusion and so on, of what is currently being done? Could you just give us your broad feelings on this?

The Minister for Planning and Environment:

Yes, I can, but the comments have to be given in regard to the current applications that are still pending decision-making, so I am not at all sure, maybe officers can advise the extent to which I am unable to make the wider comments that you are looking for.

Deputy J.H. Young:

May I just check, do you have a current planning application, Minister?

The Minister for Planning and Environment:

Yes, there is a current application at the moment for a long-term disposal hazardous waste site by the Transport and Technical Services Department and indeed I think there may be one or 2 others for a different business.

Deputy J.H. Young:

So your question, Minister, is, are you conflicted, and can you give us your general opinion?

The Minister for Planning and Environment:

That is why I am asking the officers to advise me whether or not they think I might be conflicted before I open my mouth and put my foot in it.

Deputy J.H. Young:

Could we hear from ...

Chief Executive Officer:

Yes, we have a number of planning applications for various uses at La Collette at the moment, so certainly asbestos is one waste stream where we have an application before the Minister for determination. We also have an application to regularise the green waste composting now that the future of that waste stream is now known and the technical solution that the T.T.S. Department are proposing, so we have only 2 applications. We have also ongoing pre-application discussions around what other issues there may be around La Collette in relation to ash, clearly part of the discussion today, there does need to be a discussion around the planning implications or otherwise of what solution is chosen, so that is certainly not a planning application, but it is an ongoing discussion about what it is all about. The other debates we have around the La Collette area are generally around wider strategic planning around the port and fuel farm, port issues, those sort of things.

Deputy J.H. Young:

Does that mean, Minister, having heard that, you feel you cannot give us your personal opinions as a Member of the States on any of those matters?

The Minister for Planning and Environment:

No, I have not said that, and the officer has not advised me as yet as to whether or not he thinks any comments that I make in the wider context would compromise my decision-making ability in the future.

Deputy J.H. Young:

We are only dealing with ash, are we not, today?

The Minister for Planning and Environment:

I think, although we are principally dealing with ash, the issues have to be embedded into the wider context of the management of that particular area.

The Deputy of St. Martin:

If I could ask a question, Minister. The reason that we started with a very general question about La Collette is that when we were constituted as a panel, one of our first visits was to La Collette, and we stood on top of the mounds of ash there and were shocked by what was happening. We thought long-term and we decided that the process that is going on down there at the moment was unsustainable, and unsustainable in as much as, if we continue to put heaps of ash covered in soil at La Collette, at some time in the future we run out of space. I think what the Chairman is trying to ask is, would you agree with the fact that what we are doing at La Collette is unsustainable?

The Minister for Planning and Environment:

It looks as if I am not going to get offered advice to ...

Chief Executive Officer:

The problem is, for the Minister, if he is going to deal with a planning application in the future around the principle of these sorts of issues then it is difficult to then potentially give a view. But if he does give a view, it may mean that he cannot deal with planning applications. So it is a balance. We have other mechanisms to deal with planning applications.

Deputy J.H. Young:

There are major implications of that because, if it is being said that the Minister, who has 2 roles, he has to determine planning applications, he is regulatory, but he is also the setter of policy, and what we are doing here today is to discuss policy setting, a particular policy, so I think there are considerable implications if the position is that the Minister cannot discuss policy for which he is responsible because of his regulatory role.

The Minister for Planning and Environment:

Yes, and I think you touched on an even wider point, because the policy-setting ability that this Minister has does not extend at present time into waste management strategy.

Deputy J.H. Young:

That means you are free to express a view on it I expect.

The Minister for Planning and Environment:

I think I am free to express a view on that part of the policies, but not to the extent that it might have implications for any consideration of planning applications that might arise out of it.

Deputy J.H. Young:

Thank you, Minister, I think we should close that line of discussion now, I think clearly we will have to take advice on that because there are some points of principle there. But if I can go now into the questions of more detail. It has been explained to us that the current disposal options for both of the residues, both the I.B.A. (incinerator bottom ash) and the A.P.C. (air pollution control) residues involving burial in those engineered and lined pits is acceptable as current practice because this does not lead to any risk of harm to human health or pollution. Could you tell us whether it is your opinion that current method of waste disposal in your view does not lead to harm to human health or pollution to the environment, and whether there are any long-term issues arising from that?

The Minister for Planning and Environment:

I think there is acceptability in the narrow sense of the word and then the wider acceptability as to the applicability of the technologies to ash management and how they lie within the overall waste management hierarchy. At the moment, it is pretty obvious to anybody who has an understanding of the waste hierarchy that disposal options are at the bottom of the list. So, in those terms, and looking at it with an environmental hat on, it is pretty clear that it is at the bottom of the list. It is not best practice; there are better practices, and that is why we have the waste management hierarchy to guide us. That said, in environmental terms, under the regulatory powers that come through the department, through my Ministry, there has to be proper treatment of those materials in order to not generate pollution problems or human health problems. In that context, I think the department's regulatory controls are sufficient to deal with that particular disposal or treatment facility. But, that said, it does not represent, in my view, best practice and it is definitely not at the top of the waste hierarchy.

Deputy J.H. Young:

Would you agree, Minister, that means that it is, in layman's terms, acceptable in the short term but in the long term it certainly is not a long-term ...

The Minister for Planning and Environment:

This is where we find ourselves. When the incinerator project was first countenanced and agreed, there were elements of the long-term treatment of the materials that would need to be disposed of or adequately treated in a more sustainable fashion into the future, and some elements of that plan were not as worked-up when we came from the original States agreement, which decided to purchase the machinery.

Deputy J.H. Young:

So that means, Minister, that it was always recognised that there would be a further review of that current method?

The Minister for Planning and Environment:

Absolutely, the ash management regimes have always been seen as temporary ones and that is indeed why we have changes being suggested at this point in time in order to reassess the long-term proposals within environmental best practice.

[10:15]

Deputy J.H. Young:

So, in that, Minister, would you, do you find yourself in agreement that the decision that was taken at the time of building the Energy from Waste plant, the EfW plant, what was done at that time in the ash pits was the most practical option in the immediate short term and that over the longer term the department and yourself are open to alternative options in Jersey and alternative options of export to the U.K. (United Kingdom), is that correct?

The Minister for Planning and Environment:

I think the department have always been open to encouraging, as is part of the Minister's remit, a move towards higher sustainable ideals through the best application of waste management technology, and in strict accordance, as far as possible, with the waste hierarchy.

Deputy J.H. Young:

Is there a consensus, Minister, among yourself and your officers team on that, can we take that as being a firm basis for moving forward that we have a current practice that is acceptable in the short term, but there is openness to look at the long term for better ways of doing it?

The Minister for Planning and Environment:

I think that the job function of the regulator is not to provide an overview as to whether or not he thinks it is politically the best action that the States can take. The regulatory role is confined to the technical details, as I mentioned earlier, to ensure that there are no human health problems and that the proper regulatory controls are maintained in accordance with the international agreements and the law as set up in 2005 for the treatment of those materials. The political overview is the purview of the Minister and that is clearly set out within the *Waste Management (Jersey) Law 2005*.

Deputy J.H. Young:

So that means that the regulatory regime on the method of disposal, which is yours to decide, is based on those narrow criteria, whereas the wider one, which is also yours, allows you to look at the wider alternatives, is that correct?

The Minister for Planning and Environment:

The regulatory controls are well defined under the law, but what I am saying is that they have a specific health-related background, and the wider issues, as to whether or not the technologies are sufficient or best practice or whatever fall to the Minister to decide. There are specific clauses within the *Waste Management (Jersey) Law 2005* that specifically allowed the Minister, in the granting or not granting of licences to persons wishing to treat hazardous or other waste materials, it allows the Minister an element of discretion for whatever basis in order to encourage better practice across the board and an improvement in environmental efforts.

Deputy J.H. Young:

I think Constable Rondel ...

The Connétable of St. John:

As part of the regulation of ash is concerned, solely ash, that falls solely in your remit; it does not fall across the borders into T.T.S., could you just confirm that?

The Minister for Planning and Environment:

Well how do you mean?

The Connétable of St. John:

You are the regulator in relation to ash?

The Minister for Planning and Environment:

Yes.

Deputy J.H. Young:

Can I ask our Technical Adviser, any points arising from that policy-based discussion you want to pick up before I go into more detail?

Panel Adviser:

Not on the policy side, no.

Deputy J.H. Young:

Steve?

The Deputy of St. Martin:

Not on the policy.

Deputy J.H. Young:

I would like to extend now, we have spoken about the regulatory framework, which I accept is complex, having listened to answers. We are dealing here with 2 different types of ash residue, one is the I.B.A., which obviously is the larger volumes, which we understand to be 20,000 tonne a year of I.B.A. Could you tell us, Minister, does your regulatory regime apply to the method of disposal of that I.B.A.?

The Minister for Planning and Environment:

Yes, it does.

Deputy J.H. Young:

It does, so could you tell us what the issues are, or could one of your officers tell us what the issues are, in terms of the criteria in deciding how we deal with I.B.A. in the future? At the moment we are putting this in pits still. Could you tell me what the regulatory issues are?

The Minister for Planning and Environment:

Well I think it comes down to whether or not in my mind an application is made by any waste management operator who has been given specific licence to undertake these waste management practices, whether or not a request is made through the

regulator and through my department to export or for other purposes. Until a request has come by those persons to do those things, we are left in almost a limbo where those things will not necessarily be considered.

Deputy J.H. Young:

So, perhaps if we could focus, so I.B.A., rather than just address export for a moment, address local processing, are you dealing with current applications for local processing of I.B.A., is that on your brief?

The Minister for Planning and Environment:

The officers will have to advise me. I do not think we are at the moment because, as I say, the whole of the ash management strategy is still to be properly considered and put to bed.

Deputy J.H. Young:

So there are no current applications. Come in, Steve.

The Deputy of St. Martin:

Minister, as we all know, the current method for disposal of bottom ash is to just tip it in a pit. But it would appear to us, given the work that we have done, that there is quite a relatively straightforward and simple method of treating it to become I.B.A. aggregate, where it can be used for other things, which involves the stockpiling of it for weathering purposes, then processing over magnets and screens, and the product that comes out at the end is a much more usable and environmentally friendly product. If somebody came forward with a proposal to put something like that plant at La Collette, would you in principle, and I know it is not detailed, but in principle would that be something that you would be looking for?

The Minister for Planning and Environment:

Yes, I think it would be, as far as I am able to solicit particular applications to deal with the problem in a particular way. What can be said though is that, for all technologists who are coming forward to present a technological solution, which requires the sorting of materials or the treatment of materials after they have been mixed and sometimes at great expense, one must also have consideration of the overall principles of waste management that suggest that, if you do not mix the materials at the outset, you do not generate the similar requirements for that particular type of solution into the future. So, in respect of the metal components, for

example, in both types of ash, it must be said that, instead of picking over the materials afterwards in what sometimes represents a substandard fashion, it might be better if the waste handler decided to implement up front sorting mechanisms in order not to burn metals, which do not burn particularly well in an incinerator that is not designed to burn metals, and then to recover those metals at a later stage.

The Deputy of St. Martin:

Yes, I think we are aware, Minister, that at any part of the process that I have just described there would be a requirement to analyse what is left at the end before it is used as an aggregate, and it may well be at that stage that we realise that we are not making enough strides forward when it comes to putting the product in at the beginning, as you infer.

The Minister for Planning and Environment:

I think these are some of difficulties that are coming forward with the programme that is being undertaken by T.T.S. at the moment, where I believe that short-term trials into whether or not the ash can be stored in outside pits, washed by the rain, the leachate collected as far as possible, and the weathering process undertaken in order to stabilise the ash material, to allow it to be considered for further remediation technologies, which would put it back as secondary aggregates in a revenue-generating scheme to offset the costs.

Deputy J.H. Young:

Is that one of the problems with that, Minister, what ...

The Minister for Planning and Environment:

It is one of the problems.

Deputy J.H. Young:

What is the problem, sorry, I did not get that? You have just described an alternative method of dealing with ...

The Minister for Planning and Environment:

The problem is that the technology has not been formally established on the Island. T.T.S. are undertaking trials to see whether or not they could apply some of this technology and the jury is still out as to whether or not the application of that particular technology represents the best available technology or the most cost-

effective. Notwithstanding the other planning and strategic planning considerations of having open-air ash treatment facilities in a harbour area, which perhaps might have a greater value in planning terms than just to be using it as a landfill or a waste clean-up ...

Deputy J.H. Young:

So you see a lot of negative arguments on that particular alternative of ...

The Minister for Planning and Environment:

I think there are negative arguments and certainly, as part of any consideration that I will have to give when the application comes forward, there must be consideration, as I mentioned earlier, of other alternatives, which solve the problem without creating the problem in the first place.

The Deputy of St. Martin:

Could you allude to what some of those alternatives might be, Minister?

The Minister for Planning and Environment:

In the old days, before we moved to La Collette, the Transport and Technical Services Department purchased an overband magnet, it was used for a short period of time to take out an element of the metal components that were causing contamination of the ash, but, for whatever reasons, the machine was not used for any great length of time and the practice of allowing metal-contaminated waste to enter into the incinerator at Bellozanne continued for as long as the incinerator was running.

Deputy J.H. Young:

But is that not part of what T.T.S. are doing, Minister, trying to extract that metal? Are you assuming that they are not doing that and do not intend to do it?

The Minister for Planning and Environment:

No, what happened is that I think T.T.S. have become more aware of these technologies that could assist to bring forward a better treatment of the ash that is generated as a by-product of the incineration process.

Deputy J.H. Young:

Is that not a good thing?

The Minister for Planning and Environment:

It is a good thing; it is a very good thing, but it has taken a while before the penny has dropped.

Deputy J.H. Young:

Yes, but, Minister, we are looking forward here, so I think I would like to know whether the current trials that T.T.S. are doing towards alternative methods of doing I.B.A., whether you are supporting that in terms of going in the right direction, if I can put it that way?

The Minister for Planning and Environment:

I think I am supportive, up to a point, but I would be more supportive providing a comprehensive review of all the technologies is undertaken before any firm decision is taken as to the direction of travel.

The Connétable of St. John:

Minister, your Environment section within Planning and Environment and T.T.S., are they working together to make sure separation happens at source, i.e. parish collects ... we separate obviously in my parish, but I know other parishes do not. Do you have a group going around to the parishes selling this to the various parishes or not and, if not, why not?

The Minister for Planning and Environment:

I think there is a bit of a cross-over with some of the staff in that we do have a section that assists T.T.S. in encouraging recycling. The level to which the Minister is able through that department to direct or encourage the T.T.S. Department into higher waste management or recycling techniques is fairly limited. It is limited because the waste management strategy still rests with the operator and that is the difficulty. I have mentioned on other occasions that there has always been a long-term intention, and it makes proper administrative sense, to separate out the 3 functions, you have the operator, the regulator and the person who sets the long-term strategy and policy, and those are 3 separate functions that should not be blurred. At the moment we have the operator setting the policy and that means that I have limited powers with which to encourage the T.T.S. Department to go for, for example, higher recycling techniques that would automatically achieve the separation at source that I

think might be beneficial to the better treatment of the waste products coming out of the end of that.

Deputy J.H. Young:

So, Minister, we can note then that the organisation issue, you have said, we are going back to the specific, would you agree that in order to facilitate an alternative treatment of I.B.A. there should be attention to the waste stream to deal with such matters as electrical waste and vehicle shredder waste ...

The Minister for Planning and Environment:

Yes, absolutely.

Deputy J.H. Young:

... and excluding items such as batteries, tyres and treated wood; would you agree that all those things that are currently in the waste stream going into the energy-from-waste plant, end up causing levels in the resultant ash, which is a problem?

The Minister for Planning and Environment:

Yes, it is so obvious I am surprised that departments have not picked up on it earlier.

Deputy J.H. Young:

So part of any solution would be to also look at the waste-stream sources to try and remove some of those items ...

The Minister for Planning and Environment:

Yes, as regulator I do have powers that I can invoke after a period of time to ask for a review of the waste management strategy, in particular the component streams that make up the overall waste.

[10:30]

Deputy J.H. Young:

You would like some more powers?

The Minister for Planning and Environment:

I think personally that the setting of the waste management strategy is in essence an environmental function; I am the Minister for the Department of the Environment, and it sits fairly and squarely inside this Minister's remit surely.

The Deputy of St. Martin:

Would you then see yourself removed from a regulatory point of view, Minister?

The Minister for Planning and Environment:

The regulatory body is done at a bit of distance already and I think there is talk underway at the moment as to whether or not all regulatory functions should be set up as completely independent bodies. But the key issue in my mind is the policy setting because, if the policy is set incorrectly, then everything else that flows from it is potentially more of a problem than it might be.

Deputy J.H. Young:

Can I ask, Minister, before we leave the subject of I.B.A., can we hear what are the criteria, the technical criteria, which would allow the regulator to judge whether that material was of the right quality for its being used in recycling activities in the construction industry? Can we hear what those criteria and standards are; what we would have to meet in order to do that?

The Minister for Planning and Environment:

I think they are fairly standard things in terms of stabilisation of the product to ensure that any hazardous metal components or other hazardous materials are not encapsulated in the stabilised material that present leaching problems.

Deputy J.H. Young:

Can we check that; you said stabilisation, no leaching, and what was the other things you said, some general criteria, could we have a bit of clarification perhaps from the officers on that, what are the standards?

Director for Environment:

I think the Minister is absolutely right in that respect, stabilisation, a reduction in leachability of potentially harmful products, bearing in mind that Jersey's water courses are a carefully guarded resource that we have and we do not want to be putting down I.B.A. in a matrix tarmac or a concrete matrix that is going to potentially leach and harm our water courses, or indeed any micro fauna or flora that survived

therein. In terms of whether we have specific determinant levels of chemicals that we can accept in that; that is the work that is currently being undertaken by T.T.S. in conjunction with Knox, I think, at the University of Nottingham.

Head of Waste Regulation:

T.T.S. are doing these maturation trials in association with Keith Knox Associates to look at the I.B.A., how it matures, what leachable components will still be there at the end of that maturation process. So that is work that is being done by T.T.S. to look to utilise I.B.A. as opposed to having to landfill it at La Collette.

The Deputy of St. Martin:

But we do have some strict criteria, which they realise they have to meet, so they must be aware they have a target they are working towards? Obviously it would appear at the moment they are not making ...

The Minister for Planning and Environment:

Yes, I am pretty sure that they do, but in essence that does not answer the general questions as to whether or not the technologies that are being researched are the best available.

Deputy J.H. Young:

No, I can understand that, Minister, but in terms of the standards, why I asked about the standards, at the moment, if I hear what is being said correctly, we have contaminant materials in the waste stream that come out in the ash, therefore you are not satisfied as regulator that the ash is of a standard where it can be dried or recycled, and therefore we have no alternative to putting it in landfill. What we have also heard is that there are studies underway by T.T.S. to try and establish what is in there now and we understand they are investigating ways of getting rid of that material.

The Minister for Planning and Environment:

They are investigating 'a' way.

The Connétable of St. John:

Could I come in; you mentioned harmful products, now do those harmful products include things like mercury and arsenic and such, cadmium and so on?

The Minister for Planning and Environment:

In the bottom ash?

The Connétable of St. John:

Yes.

The Minister for Planning and Environment:

It depends on the materials that are being burned, so there is a potential for those materials to be in the bottom ash. Certainly the environmental best practice that was argued for a number of years ago in terms of the contaminated wood material that was being stored and used in composting processes; that material was chrome, copper and arsenic contaminated, so arsenic would have been in the chemical treatment to preserve that wood. All that wood was stockpiled on the understanding that it would be burned in the new incinerator, and I think all of that has been burned, so there will have been ash that has had arsenic contamination. Your other one was ...

The Connétable of St. John:

Was it mercury?

The Minister for Planning and Environment:

Mercury is a little bit more difficult, I mean you get small amounts of mercury through electricals, thermometers and things like that. We have no specific proper recycling scheme to ensure up-front that mercury contaminated materials do not get into the waste stream. There has been a bit of work that has been undertaken, which is good, from T.T.S. just recently in order to take out, as far as is possible, a number of the heavy metal contaminating materials that arise in battery production, so you have nickel cadmium batteries and things like that, as well as normal lead ones, across the board. Those materials, it has been realised, are adding, or have been adding, to the metal contamination of the waste, causing problems for its further reuse, and that is why T.T.S. I think have of late initiated a programme to take those materials out. So I think that it is pretty difficult at the moment to give a cast-iron guarantee that anything with mercury in will necessarily not get into the waste stream; I think it requires better schemes set up to encourage the public, who must be an active participant in any recycling scheme, to assist the T.T.S. Department, or any other department, in ensuring that whatever is burned does not carry with it contaminants that are adding or causing greater problems of ...

The Connétable of St. John:

So much more work needs to be done by T.T.S. in separation.

The Minister for Planning and Environment:

It does, but, that said, I am encouraged that we do have the makings of a battery recycling scheme and perhaps other materials can be added to it. For example, the tyres; we are still burning tyres, which does not really make a lot of sense in this day and age. There are several other recovery routes that are cost-effective in terms of generating revenue to pay for the process of sending them away to treatment plants that are specifically designed for those materials. Basically that all really comes back to my view about a waste management review and who is leading the waste management strategy. Because I think we have our regulators dealing with the problems as they arise, are trying to stop the problems, but it would be better if the waste management strategy were promulgated by this department up-front and then up-front sorting technologies would be the order of the day.

The Connétable of St. John:

Do you know of alternative methods and have you discussed them with T.T.S.?

The Minister for Planning and Environment:

For up-front sorting? It is not my job to do that at the moment specifically unless I specifically call for a waste management review.

Deputy J.H. Young:

Minister, I think you have really made that point very clear that has to be an element in any solution, but if we can go back to dealing with the I.B.A. before we close the subject. I think, Steve, you want to get in again?

The Deputy of St. Martin:

Yes. Minister, I think we understand where you are coming from, there could be a lot more work done before product gets to the incinerator, but we have an incinerator and we have a product that leaves the incinerator as bottom ash, which needs to be dealt with. Do T.T.S. have in front of them a chart, a list, a requirement or the quality, and I use that word in inverted commas, of the bottom ash before you would consider allowing them to treat it and use it as an inert replacement in aggregates. Is there a

spec list that they must get to with the quality of the bottom ash before it becomes, in your view as a regulator, an inert product that they can use?

The Minister for Planning and Environment:

No, I do not think there is, and there could be one, but, as I say, that would mean that I would have to retain control of the strategy setting as I mentioned earlier. The characteristics and the hazardous nature of the ash are dealt with in terms of the sufficiency of the lined pits, the extent to which the materials are creating a leachate that needs further treatment, the quality of the water and the effluents that come out of the leachate treatment process, they are issues that the regulator looks at. But they are in chemical terms according to the chemical hazards that are being presented. They are not necessarily tied in to suggestions towards business methods that would perhaps take those problems completely out of the picture because, as part of running a business and dealing with ash remediation, you are engineering a product that has to have a secondary use or further use or an economic use, or otherwise there is not much point in being in the business to do the remediation.

The Deputy of St. Martin:

But surely, if we have 2 options, bottom ash that comes out of the incinerator that we have to put in an engineered pit because it has some stuff in it, it has not been weathered, it has not been crushed and separated, and the alternative is to put the bottom ash through a process that then allows us to do something useful with it, surely that is what we should be aiming for?

The Minister for Planning and Environment:

Yes.

The Deputy of St. Martin:

Do T.T.S. know what they are aiming for? Do they know that, if they come to you with a product, which analyses X, Y, Z, that you will allow them then to put it through the process?

The Minister for Planning and Environment:

I think that is why they are doing the research at the moment, because we have indicated to them, not just in my capacity as Minister, but in my capacity as Chairman of the previous Environment Scrutiny group, that they have had it indicated to them

over many years that the creation of secondary products for further resale and value-adding to what would otherwise be a waste product that could only be disposed of by digging a pit and throwing away the key, is not necessarily the best way forward.

Deputy J.H. Young:

But then, Minister, I wonder if I can now bring in our expert, Mr White, who wants to ask questions that will probably close on I.B.A.

Panel Adviser:

It is just on that point, it might help to explain, would you expect T.T.S. to come forward with you following their testing with a site-specific risk assessment that would then demonstrate, based on those results, there would be no risk of pollution in Jersey?

The Minister for Planning and Environment:

Absolutely, yes.

Panel Adviser:

I think we would be looking for that rather than set limits because I think it is depending on the receptors I think, I may help with that issue I think.

The Deputy of St. Martin:

The only reason that I pushed the point is that I just want to be sure that T.T.S. have a target that they are aiming for and it is not just something floating around out there and it is all very well saying: "You have to get better, you have to improve", but I just would like to know that they have a target that they need to get to.

The Minister for Planning and Environment:

I think that they do have a target but the question in issue is who is setting the target. If the targets are set by the regulator there are going to be a lot of interventions that can take place at the lower end of the waste hierarchy that do not represent best practice necessarily, according to the hierarchy, but nonetheless can be regulated in a fashion that renders them safe in human toxicity terms.

The Deputy of St. Martin:

Minister, would you not have to regulate a processing plant for I.B.A. to turn it into aggregate?

The Minister for Planning and Environment:

I would do, but I would have to have an application from a department or another body first of all to ask that I give them permission or consider that application ...

The Deputy of St. Martin:

But would that regulation not include a specification that says, "If you want to put bottom ash through this process that bottom ash must be of this quality"?

The Minister for Planning and Environment:

Yes, I think it would do, but I do not, as far as I know, have anybody lined up at the moment making applications to do an I.B.A. processing plant, other than what is coming forward through T.T.S.

Deputy J.H. Young:

All right, but, Minister, I would like to close this I.B.A. session, but before I do can I take it from what you have said that although the issues are complicated in regulation, you are generally supportive of looking at alternative methods of dealing with I.B.A., including improving the waste stream that goes into the thing.

The Minister for Planning and Environment:

Absolutely, I am, yes, as far as I am able to.

Deputy J.H. Young:

Thank you.

Panel Adviser:

Just one more. You mentioned, Minister, earlier on, that T.T.S. are looking potentially at one option of treating I.B.A. for a viable end product. Commonly in the U.K. and Europe I.B.A. is treated using a combination of processes to extract metals, to crush the material, to weather it, to grade it to meet product standards. I have not seen the detail, but I think that is what you are saying T.T.S. are beginning to look at trials of that type of approach. Are there alternatives that you believe exist rather than that?

[10:45]

The Minister for Planning and Environment:

Yes, there are alternatives, and the alternatives have been highlighted in some of your questions that are coming later. The plasma vitrification process is one, and you have accelerated carbonation methods as well; that is just starting to come on to the market, is a second. There are other techniques for metal washing, which I am not at all sure at the moment the extent to which are going to be followed by T.T.S.'s programme. But generally there are other methods.

Deputy J.H. Young:

All right, so maybe I think we should now move on to A.P.C.s, which I think may take us back to these other methods. I think at this point we give you a table; this is a table that we have been given of the various alternative methods for dealing with the A.P.C., which is the air pollution control residues, and which are classified as hazardous. This chart that you have there sets out both alternative methods of disposal, recovery, in both Jersey and in an E.U. (European Union) country, and of course we should all be cognisant of the fact that, an export to an E.U. country for disposal, as opposed to recovery, requires us to obtain a derogation from the E.U. authorities. This chart sets out an opinion based on a traffic-light system of colours, there are 3 categories: "red" that we do not think are available, considering the current state of the technology or the market and economic achievability; "green" on the other hand where we have been advised that they seem to be available with a good degree of certainty on current technology in the current market and economic acceptability; and a middle option that you might call "amber" where they are potential possibilities. So this chart has been provided to us for discussion, if you like, so there are a number of questions we have to put to you. I suppose the starting one is, I do not know if you have seen an earlier version of this chart, Minister, but if I perhaps ask Mr White to explain what these options that have been looked at as part of this project, can you see any gaps in it of options that are not on this list, Minister? Maybe that is the starting point. Because you said earlier you thought there were lots of other options; do you want a minute to think about that?

Panel Adviser:

Shall I talk through while you ...

The Minister for Planning and Environment:

No, I can tell you now. The management option that is not there is up-front sorting in order to minimise the toxicity or the hazardous nature of the material that is coming out as an ash material by best practice.

Deputy J.H. Young:

We will add that on.

Panel Adviser:

Could I just explain; that is taken as being an up-stream control where you would look to implement that in front of any of these technologies, so I understand your point entirely, and it is there as a recommendation also.

The Minister for Planning and Environment:

But it shows the nature of the thinking from the body that is putting forward the proposals. The waste hierarchy is absolutely clear to the Minister for Planning and Environment at least and his department in that you start at the top in terms of best practice and you work your way down. This is working kind of through your way down to deal with the problem that perhaps has been created by poor practices of waste management in the first place.

Deputy J.H. Young:

Understood, Minister, but what we are seeking to address here today is how we move on from that situation and what options we have for dealing with the ash that is there now and also our legacy of many years of ash and I think the points you have made about the waste stream are absolutely well made, I think my colleagues would agree, but we are where we are, so in terms of the list ...

The Minister for Planning and Environment:

I think we are where we are but the point is, if we are where we are, then we should be considering the legacy aspects of the ash that we have, plus the short-term transitional period that would maybe be required in order to get working practices up to a higher performance level in order to achieve a better quality of ash up front with better segregation, and that really should be at the forefront of any suggestions that are coming forward by any authority to deal with materials, otherwise you are down to what I was trying to describe as requiring the regulatory authorities to deal with the sufficiency of the technological processes as they arise, which has to be right under the legal requirements to do so. But it does not address wider issues, which are the

political dimensions, as to why we are making the problem and then spending lots of money on expensively trying to solve it.

The Deputy of St. Martin:

Perhaps we could split the A.P.C. into 2 discussions then, Minister, could we discuss first maybe the A.P.C. that we already have stored at La Collette and what we do with that, and then we could come on to the discussion of what we do in the future. We have a problem there that needs to be addressed; we would very much like to make sure that we do the right thing with the ash that we have stored, the A.P.C., at the moment. If we use the chart ...

Deputy J.H. Young:

I think we are all in the same direction; I think at this point, Phil, if you can just talk us briefly through the options that you have looked at in the paper, because people will not have seen this paper. So if you could just briefly, very briefly ...

Panel Adviser:

Can I perhaps start with saying this is all with up-front separation of materials, but would you accept that, even with that in place, we would be looking at either current operations for disposal or an alternative such as one of those listed on this table, so even regardless of an up-front separation process that would not negate the need to deal with A.P.C.?

The Minister for Planning and Environment:

No, not completely, but it would raise issues if you were going to do the job properly as to the quantum of the cleaner materials that were arising and that may present different options, one of which might not be the requirement for any further treatment of those materials had the separation been done to maximum efficiency.

Deputy J.H. Young:

Minister, we accept that reservation, but I think we still need to look at these technical options, so can you just sum up each of them please briefly?

Panel Adviser:

So for those of you that are not looking at the table, we have a table in front of us with potential future management options for A.P.C., 7 in Jersey and 8 as an export option, with a large degree of overlap, because a number of those options could be

on-Island or off-Island. So for on-Island disposal, the analysis shows that really current practice is considered the only acceptable method, whereas options to create a slurry almost from the A.P.C. residue that would then be tipped and would set in the landfill are not considered acceptable. For on-Island recovery, we are very restricted for those options that need investment in infrastructure in the short term, but 2 of those options come forward as a medium to longer-term solution once that sort of time period for planning and developing the next structure has passed. There are restrictions on those 2 processes, which you mentioned earlier on, vitrification using a plasma arc and accelerated carbonation technology, different constraints that we can explore maybe in more detail. For the export options, as the Chair said, the disposal options require a D.R.R. (duly reasoned request) from the receiving competent authority. The only reason for the 3 disposal options I find at the moment to be coloured amber is a relatively conservative position, because your department has to go through the process of obtaining the D.R.R. if any of those options was followed. But should that D.R.R. be successful then those options would be coloured green in this analysis and it would give a better view of this whole chart in terms of the number of options available. Then finally export to recovery options, largely they are excluded because either there is not planned capacity or commercial viability, i.e. other than the material that is already dealt with by those processes in the U.K. or in Europe, there is no planned headroom to take other materials in, or with those technologies there is just too much risk associated with them at this stage to consider them as being options for the future. So the only one that comes forward as being a potential option is acid treatment to the material to generate a synthetic gypsum, which is generally used as an input to cement manufacture as a replacement component of ordinary Portland cement. So in general terms that is an overview of the analysis that is taking place; we can go into it in more detail.

The Minister for Planning and Environment:

Yes, that is fair enough, I think we are going to need to discuss at some stage the requirement or not, as the case may be, for duly reasoned requests and the extent to which the Basel Convention has been signed up to by Jersey authorities and indeed our own *Waste Management (Jersey) Law 2005* has been promulgated in the Island and affords us the possibility of acting in the capacity as an independent person or country rather than having to tug at the shirt tails of the U.K.

Deputy J.H. Young:

I think we will come back to that, Minister. Just a couple of points on this table, I think you have said that you want added to it obviously the up-front sorting best practice, which I think was an assumption underlying all of these. Do you have a preference at the moment, I accept the fact they all have to be studied and all of the qualifications and reservations you put, but do you have any broad indications at the moment for your immediate preferences? For example we have Jersey options, we have off-Island options, and so on, on that chart.

The Minister for Planning and Environment:

I think, as long as we are working in line as far as possible with the waste hierarchy, I would always try to achieve the highest route available within that guideline. So I think disposal options, as I said earlier, come down the bottom of the list, any recovery processes come at the top of the list, and even higher than that comes not generating the problem in the first place.

Deputy J.H. Young:

All right.

The Deputy of St. Martin:

We do have a problem there at the moment, Minister, which is not going to go away.

The Minister for Planning and Environment:

I agree, so if you want to draw me on what we do with the legacy material I think recovery methods could be operated in situ, so that could be plasma arc vitrification in ground, which is a technique that has developed in a number of places, would obviously be high on the list. Thereafter would be recovery technologies that would be operated in a different place and would require an export requirement to remediate the products by a company that is specifically set up to operate on that material.

Deputy J.H. Young:

Supplementaries?

Panel Adviser:

Could I just ask, in terms of the vitrification process, we have undertaken as part of the review a visit with T.T.S. to a vitrification plant in the U.K. We will leave aside any economic considerations, but the process has a couple of residue outputs, one of

which is a liquid acid output, the second of which is the process itself needs an air pollution control system in place to deal with any small particulates that you kind of then pass back through the process, you always have a very small, 1 or 2 per cent, output stream of A.P.C. residues from that process itself. I am interested to hear more about the suggestion that there is an *in situ* process that could be applied in the relatively short-term to deal with the legacy that would not necessarily need that.

The Minister for Planning and Environment:

Yes, it is my understanding that the plasma arc torches can be applied to landfill quarries so that the vitrification process can take place within the columns that support the plasma torch.

Panel Adviser:

My view on that, without going into too much detail, I am aware that you still need a large capital expenditure and a formal process with air pollution control to get to that point.

The Minister for Planning and Environment:

Absolutely, you still need those 2 things and the overall costs have to be taken into account. But that raises the higher political kind of dimensions as to whether or not an Island that is making large sums of money through financial works, whether or not that Island is in a position to afford the best remediation treatments possible and whether or not politically it is seen as a more environmentally and sustainable thing to do by a government that is in such a fortunate position.

The Deputy of St. Martin:

Minister, does the cost of what we do with this ash have any bearing on your decision at all?

The Minister for Planning and Environment:

I think it has a limited bearing in planning terms, but it does have a bearing when you consider the BATNEEC (best available technology not entailing excessive cost) considerations because the best available technology is not entailing excessive cost, so cost has to be a factor. That said, I think the overarching position in terms of what this Island produces in terms of its G.D.P. (gross domestic product) and everything else necessarily encourages us, or should encourage us, to take into account

whether or not an Island that is financially embarrassed in a positive way should not be looking for the best treatments wherever they are possible, irrespective of cost.

[11:00]

The Deputy of St. Martin:

If I could just change the subject slightly on best treatments; and I know you would prefer to deal with A.P.C. on Island, but one of the options that we list here is disposal in an untreated state in salt mines, and currently in Germany disposal in salt mines is best practice. Would you have a view on the export of the A.P.C. product to salt mines?

The Minister for Planning and Environment:

I think if it is being argued within the European Directive that was set up to deal with these things that disposal in a salt mine is a recovery process then indeed everybody will fall into step and into line and that becomes a recovery process and recovery, as I have said, is higher up than disposal. So automatically I would have to be supportive.

Deputy J.H. Young:

So it is an option?

The Minister for Planning and Environment:

It could be an option, but only if there is a categorical assurance that across all E.U. community states that have bound themselves to the protocols that the definition is the same everywhere.

The Deputy of St. Martin:

I am aware that there is at the moment a difference between the U.K. and Germany in as much as the U.K. will just stack it in the salt mine and will not fill up all the voids and in Germany they will do that and they look upon it very differently in Germany as a different way of treating it.

Deputy J.H. Young:

I wonder, I am sorry, I hope I have not interrupted. Minister, I think our Adviser would like to ask you about your comment about plasma arc vitrification.

The Connétable of St. John:

Can we just finish here?

Deputy J.H. Young:

I am sorry, I do beg your pardon.

The Connétable of St. John:

What is the Minister's view on storing this on-Island in say old German tunnels?

The Minister for Planning and Environment:

I think that was looked at by the T.T.S. Department and that particular suggestion was ruled out, probably because they are not German salt mines and they do not have the same geological properties.

The Deputy of St. Martin:

No, I think we are all agreed, Minister, that storage of A.P.C. anywhere where there could be leaching out is just a non-starter. I mean, our German tunnels are very damp and ...

The Minister for Planning and Environment:

This is why stabilisation recovery is at the top of the list in terms of treatment methods and I feel quite strongly that in anything that is coming forward we should try as far as possible to achieve best practice according to the hierarchy.

Deputy J.H. Young:

Storage has to be dry, is that not correct? The storage conditions have to be very dry. Is that correct?

The Minister for Planning and Environment:

Yes, I think it is.

Deputy J.H. Young:

I think we are getting nodding from the officers.

Director for Environment:

I have had the experience of seeing these in the U.K., the Winsford Salt Mines; they are remarkably dry because of the geological setting against the geology.

The Deputy of St. Martin:

Also from a geological point of view they are immensely separated from anything where the pollution could occur.

The Minister for Planning and Environment:

It does seem somewhat bizarre that these arguments are being put forward that storage in geologically stable salt mines might be a way forward but we also thought that we were safe with the fracking that has started to be undertaken where we are getting increased productions for gas out of mining in areas which are showing now contamination of water supplies. So, I think although the present kind of state of analysis is perhaps suggesting that salt mines are more stable than the oil reservoirs that are being so treated I think with any of these things it is a case of risk analysis and what you put in the ground one day might come back in some shape or form if something happens into the future. So, it does not necessarily represent the best way of storing things. Particularly if the A.P.C. is not being treated in a fashion to stabilise the potential metal contaminants that are within the material and that is why I would favour, if we are going to store any of these materials anywhere, storing them in a remediated state so that they are inert or finding secondary uses through that value adding process to put them back into circulation, secondary aggregates, makes better sense than using geologically stable mines as a toxic waste dump and hoping that nothing happens into the future to cause any environmental problems.

Deputy J.H. Young:

Thank you, Minister. Mr White wants to ask a question about your comment on plasma vitrification.

Panel Adviser:

Minister, it is only briefly on vitrification on Island again. I think you mentioned that as a possible option for dealing with the legacy material and considering how long the current cell containing the bags of A.P.C. will last before it would need to be covered and properly capped off and completed. Does that still remain an option for dealing with that legacy material? Because it is in a timescale for implementing ...

The Minister for Planning and Environment:

I think it does. I mean, I have been told from a visit the other day by T.T.S. that the A.P.C. cell has been designed to store material for up to the next year and a half or 2

years. Of course that might well change if indeed Guernsey wish to export some of their material to be burnt in our incinerator to generate extra ash and extra A.P.C.

Deputy J.H. Young:

Why would that change, Minister?

The Minister for Planning and Environment:

You would have more ash so the sufficiency of the cell would not be enough. We have engineered the cell at the moment according to the amount of materials that we suspect are unlikely to burn into the future. We have not taken into account Guernsey's waste.

Deputy J.H. Young:

Are you suggesting, Minister, that we would import Guernsey's refuse and then put the ash in the cells? Are you suggesting that is a possibility?

The Minister for Planning and Environment:

No, I am not suggesting it is a possibility; I am suggesting that at the moment if the disposal route that were undertaken for A.P.C. ends up as on-Island disposal in specifically lined and treated cells then the quantity of those cells becomes an issue.

The Connétable of St. John:

Can I come in there, Minister, please? Given that Guernsey have a much higher clean-up rate i.e. at disposal time before it gets to the incinerator, the quantities of ash produced by the Guernsey shipments would be considerably lower coming to the make-up.

The Minister for Planning and Environment:

They could well be, yes, which begs the question as to if Guernsey can achieve these higher kind of up-front recycling technologies why Jersey, who are in a similar position, cannot do the same?

The Deputy of St. Martin:

Minister, I think we all agree that it would be nice to do the best we possibly can with everything but would you agree that there is a possibility that we should look at the legacy residue from the A.P.C. differently as where we are now and where we will be in the future in as much as, would you concede that we should maybe consider doing

something different with the stuff we have back? We have stopped ... given that we could treat the ongoing product in the future differently.

The Minister for Planning and Environment:

Yes, I agree entirely. I think that they are 2 separate problems potentially and could have 2 different treatment systems. In exactly the same fashion I think the same argument could be applied to the legacy asbestos material that we have and whatever is going to happen with that type of material in the future.

The Connétable of St. John:

Are you happy, Minister, that our legacy material is stored at La Collette and it is a reclamation site, given there have been one or 2 breaches of the outer rock armour which is of concern to myself? Are you happy that it is stored in that particular area?

The Minister for Planning and Environment:

I think all I can say, bearing in mind the applications, is that the Island, from the planning point of view, did not embark on a strategic environmental assessment which is wider than the usual environmental assessments which would have taken into account the sense or nonsense of putting an industrial waste site in a position that it is at and co-locating other facilities in proximity to a burning plant like the fuel farm. Strategic environmental assessments are designed to look at those wider, bigger problems and before the States decided on the location of the incinerator at La Collette and the other facilities; that work was not done.

Deputy J.H. Young:

Minister, I would like to ask you about your view about the other aspect of harm, not just in potential environmental impact, visual impact. The current method of disposal involves a creation of a mound, or hill, up to 20 metres high. You do not have a current planning application on that so presumably there is already a consent there so I am asking for your opinion on that. Are you happy with that? Is that something you would like to see an alternative found to it, and that situation avoided?

The Minister for Planning and Environment:

I think it does not represent best environmental practice. The previous planning committees that I sat on, and I was party to early master plan considerations, was to design a hill and I have no problems with the design of a hill, if it were just a hill, in order to separate out for safety purposes and amenity purposes, the Havre des Pas

end of the La Collette site for leisure and the other part for industrial purposes. Now, since that plan came forward it has been overtaken and the suggestion was made and steps taken to re-engineer that hill concept to cover up a repository site for ash. At the end of the day the ash has not been stabilised. There are materials that are still inside there that are active chemically and although we have covered it over it still, in my mind, represents an ash dump covered by some trees rather than a hill that has been specifically engineered for amenity purposes to facilitate the future enjoyment of the La Collette area.

Deputy J.H. Young:

This is the legacy ash?

The Minister for Planning and Environment:

Yes. So, I think in those terms that is why I think longer term if indeed the new master plan that some consideration takes a view that perhaps the remediation of the ash inside the ash pits that we have in the current hill that has been created is a longer term better solution in order to stabilise that material and having the hill there this is probably acceptable in planning terms. But having a waste site in the site that it is at and still having materials that are chemically active, albeit that we have done our best to stop any potential future pollution problems, does not, in my mind, represent best environmental practice.

Deputy J.H. Young:

The other problem with the hill is what is in it.

The Minister for Planning and Environment:

That is right.

Deputy J.H. Young:

But if we can avoid having a hill at all and therefore we could have land for other uses ...

The Minister for Planning and Environment:

Well, yes, I think we could do but as I said those other issues might also incorporate the hill because the hill concept was not just to cover up ash or other hazardous materials, there was an amenity issue and a safety issue in providing a backdrop against explosion potential for the fuel farm against increased use that might take

place on the Havre des Pas site were it to be used for more marine-type leisure amenities.

Deputy J.H. Young:

Would it be true, if we can find a solution on ash disposal, would this facilitate us having this master plan that you are talking about?

The Minister for Planning and Environment:

It certainly would but what has happened over the last few years is pretty clear, that the longer term aspirations for public use down at La Collette have been somewhat set aside due to the Buncefield considerations and safety considerations and the fact that we are using the site as the primary storage of materials that perhaps should be treated in a different fashion.

Deputy J.H. Young:

Do you think that is a situation to be accepted and regarded as a constraint forever when we are dealing with this ash?

The Minister for Planning and Environment:

My view, and it is my view, I do not think anything is necessarily forever, particularly in planning terms. We build houses and things and they may last 50 years, 150 years or whatever. So, I think in exactly the same fashion the ongoing redevelopment of the La Collette area is something that has to be considered in planning terms and in Island use terms and I think the facilities that we have there at the moment will not necessarily be there in the future.

Deputy J.H. Young:

Are you saying that they are prejudiced by the current method of ash disposal?

The Minister for Planning and Environment:

I think certainly they are prejudiced because the Buncefield considerations have told us that with the new safety working radii that the public do not have the same potential access availability to go down to the area on the Havre des Pas site.

[11:15]

The Deputy of St. Martin:

What is the greater problem, Minister, for you with public access to La Collette? Do you see Buncefield as a great problem than ash?

The Minister for Planning and Environment:

I think they are 2 equal problems and I would not place a priority or preference on one or the other. In planning you have to take a balanced view across all of the material considerations, so they are both issues in my mind.

The Deputy of St. Martin:

You have suggested an alternative to the ash; it could be remediated and the heat could be taken down and put back in an inert form. I know we are digressing here, but very briefly, is there an alternative to Buncefield and the problems with the fuel farm?

The Minister for Planning and Environment:

There is, yes, definitely. There is early consideration of the re-siting of the fuel farm but if it is going to be done at La Collette, again, having an incinerator next door poses extra problems.

The Deputy of St. Martin:

Given Buncefield and the areas around it, surely there is no place on the reclamation site where it could go and still allow public access.

The Minister for Planning and Environment:

There are places.

The Deputy of St. Martin:

There are places?

The Connétable of St. John:

Minister, if you want to re-site the fuel farm, would it not be wise to re-site it away from this end?

The Minister for Planning and Environment:

I think it would be.

The Connétable of St. John:

In that case, have those sites been looked at, or are they being looked at?

The Minister for Planning and Environment:

There has been early consideration but these things are very expensive and in the light of the States infrastructure projects that will require funding in the next 20 to 25 years and I think this probably has to take its place.

Deputy J.H. Young:

Minister, one final question on this kind of broader aspect and I will close it and take us back to the ash specific. If we do not have an alternative and we have the ash mound and so on, do you think the point will be reached where we effectively run out of land to dispose of our ash and then we will have to have another land reclamation site?

The Minister for Planning and Environment:

I think the answer to that is pretty clear because what has already been said from the T.T.S. point of view is that there are methods that can be considered and are under active consideration for reducing the volume of ash that requires disposal in lined pits.

Deputy J.H. Young:

So, would you regard it then as essential that we do find alternatives so that we avoid that situation or that scenario happening in the future?

The Minister for Planning and Environment:

I think it would constitute better longer term planning just considering that these things are going to be there into the future and I think certainly it is untenable to suggest that the incinerator that we have and the volume of ash that it produces through the process is definitely going to be the same type of incinerator process or heat treatment process, or whatever process, that we are going to have when the current machine comes to the end of its life and those comments have been picked up in the forthcoming energy strategy document where it has been said quite clearly that machines that rely on burning do generate extra ash materials do not necessarily represent the best available technology, perhaps now and certainly not necessarily into the future.

Deputy J.H. Young:

Does that mean we do not need to worry about it because there will be better plants available? Is that what you are saying?

The Minister for Planning and Environment:

No, I think what it means is that the suggestion that if we continue with the proposals that have been put forward for ash management through lined pits and a hill that the hill is going to get longer and longer and we will need another reclamation site that goes out into the sea or whatever and some other ploy to fill up the ash. I think that is not necessarily the best solution but will be considered when the time comes to consider it.

Deputy J.H. Young:

I would like now to move to the question of these approvals if we were to export A.P.C. residues off the Island to the approval process. I understand there is a system called D.R.R. Could you tell us, who makes that request to the U.K. authorities? Is that you, or is that the environment department, or who?

The Minister for Planning and Environment:

It comes through the department in my name, I think.

Deputy J.H. Young:

And you sign it?

The Minister for Planning and Environment:

I think I do sign it.

Chief Executive Officer:

Yes, if I can just explain, previously that is just a working relationship with the Environment Agency that we have as officers in the environmental protection, so it is done at an officer level.

Deputy J.H. Young:

What sort of information do you have to give them when you do it? Can you help us with that?

The Minister for Planning and Environment:

The information I am being told that is required is that you have to show that you are incapable of dealing with materials in your own Island or country situation. I am not at all sure that that necessarily applies under the waste management law that we have.

Deputy J.H. Young:

Sorry, I am a bit puzzled. We have to show them that we can deal with it, or we cannot?

The Minister for Planning and Environment:

I think there is an element of uncertainty as to whether or not this is a process that we have to definitely subscribe to or not.

The Connétable of St. John:

Would your officers know?

The Minister for Planning and Environment:

I can ask them if they know but I think at the moment the jury is out and I have asked my officers for proper legal advice as to whether or not we are in a position to act as independently as is suggested by the waste management law or whether or not, as I mentioned earlier, we have to hang on to the coat strings of the U.K.

Deputy J.H. Young:

Accepting there are obviously issues for you to resolve, could you help us a bit and say, I think interpreting your answer, basically you do not know. There are differences of opinion. It would help us if you could identify what those issues are.

The Minister for Planning and Environment:

I think I know. I will certainly take interpretation but from my reading of the law I think that having signed up to the waste management law that this Island is entitled to speak to any signatory of the Basel Convention for the transboundary movements in hazardous materials and we are allowed to be party to any of the export or import licence agreements that other countries avail themselves to, providing we stick to the letter of the law. What appears to be ...

Deputy J.H. Young:

Whose law? Our law or the E.U. laws?

The Minister for Planning and Environment:

Our law which is picked up on the international law which we have agreed to. What I am being told at the moment is that that understanding is perhaps the wrong one and that there is a further requirement because the quantities that the Island produces are reported on by the U.K. but the U.K. through the Defra Department have to have oversight or say-so in what we do.

Deputy J.H. Young:

So there are 2 different issues there.

The Minister for Planning and Environment:

What appears to be coming out in discussions I have had with other ministries from other jurisdictions in other Crown appendices, in particular the Isle of Man, is that they have been able to argue duly reasoned requests and they are at the moment, although they do have capacity for disposing A.P.C. materials in their substantially larger Island than Jersey, they are exporting that material to the U.K. for disposal somewhere else.

Deputy J.H. Young:

So, disposal somewhere else would be an option for us and you feel that ...

The Minister for Planning and Environment:

I think there is a misunderstanding. So far as my reading of the law goes it states that the Minister is entitled to consider applications for import or export of materials for disposal or recovery. Specifically where it starts to get coloured, no pun intended, is that if materials are on the green list and they are freely tradable or there are less restrictions, if they are on the amber list they are hazardous materials and there are further requirements to ensure that you have filled in the right documentation and we are not going to poison some other third-world country that is not a signatory or indeed that people are just dumping the material in some kind of environmentally unsound fashion causing hazardous human health problems somewhere else. Then of course there is the red list which includes prohibited items like radioactive material which we do not have.

The Deputy of St. Martin:

Sorry, I am a little confused. I know it is easily done, but are you saying that a duly reasoned request would be decided by you and not by the Environment Department in the U.K.?

The Minister for Planning and Environment:

No, I am not saying that. I am saying that I am not at all sure whether or not the Island has to go through a process to argue a duly reasoned request before it is entitled to enter into an agreement with a consenting party through the Basel Convention.

The Deputy of St. Martin:

So, we could come to an agreement with a disposal method in Germany or in the U.K. that would not need a D.R.R. to export their product?

The Minister for Planning and Environment:

That is what I am thinking at the moment and that is what I have asked the legal officers to look into to see whether or not there is the potential for Jersey. If the U.K. suggest that as is coming forward that there is no potential for exporting these materials to the U.K. for whatever reason, and they are entitled to do that, it does not necessarily apply that through the law no other course of action is able to be taken by any other signatory to the convention and we have offers of help to export this material coming from France, if we indeed wish to go there, and I am in negotiations with companies at the moment and are looking to see whether or not I am going to cause a constitutional crisis or not by asking, or wanting to ask, the French authorities to deal with our waste in a way that perhaps the U.K. might not wish to.

Deputy J.H. Young:

Who is "we"? You say "we have had offers". Who is that "we"?

The Minister for Planning and Environment:

The department.

Deputy J.H. Young:

T.T.S. or yourself?

The Minister for Planning and Environment:

No, the Department for the Environment.

Deputy J.H. Young:

T.T.S.?

The Minister for Planning and Environment:

Environment.

Deputy J.H. Young:

So, Environment have had offers from other jurisdictions other than Britain to accept this material for disposal or recovery?

The Minister for Planning and Environment:

Either.

Deputy J.H. Young:

Either, and you are investigating with the legal officers whether or not you are legally entitled to do that?

The Deputy of St. Martin:

Without a duly reasoned request?

The Minister for Planning and Environment:

If it needs one between a different party and the other party is willing then it seems to me that that is not an issue. At the moment what appears to be coming forward is that a duly reasoned request has to be sought from the U.K. authorities and any export potential is only available through the U.K. I do not think that is the case.

Deputy J.H. Young:

All right. So there is an issue there to resolve, which you have taken legal advice on?

The Minister for Planning and Environment:

Yes.

Deputy J.H. Young:

Will you be prepared to release that letter of requesting legal advice to us so we know what the issue is? Because it seems to be quite important. Not now, but at a later date.

Chief Executive Officer:

I would like to just clarify. We have a very good working relationship with the U.K. Environmental Agency in relation to waste streams that arise in the Island. We already have had a D.R.R. for a number of waste streams in the Island and that includes hazardous chemicals, pesticides, agricultural chemicals, the gas holder sludge, for instance. There are certain waste streams that are generated in the Island ...

Deputy J.H. Young:

That are already in place.

Chief Executive Officer:

... which we cannot deal with in-Island. So, there are duly reasoned requests already for those, it is going to be reviewed, we have had recent conversations with the Environmental Agency around those sort of waste streams and the Minister has asked us to clarify, if you like, our jurisdictional position in relation to the Basel Convention and the waste management that we have in place as to whether that is contact only with Defra in the U.K. or with another European jurisdiction so that is where we currently are.

Deputy J.H. Young:

Does it matter? Could you do both? I mean, in practical terms.

The Minister for Planning and Environment:

That is the nature of the query at the moment. That is why we had preliminary discussions with some of the Defra Officers the other day. So, I was not wanting to put myself in a position where I was going to create waves and upset the U.K. authorities if I went and spoke to France.

Deputy J.H. Young:

So, is there currently any request that has gone forward to offer a D.R.R. as far as A.P.C. residues? Is there currently a request that has gone forward?

Chief Executive Officer:

As officers we have started that conversation with the Environment Agency, yes.

The Deputy of St. Martin:

On the basis, Minister, that you were saying that you think there might be a possibility of exporting waste into specifically France without a D.R.R. if you could get to an agreement with the contractor, would I be right in thinking if that was allowed that T.T.S. would be allowed to come to an agreement with a German company for the disposal of A.P.C. without a D.R.R.?

The Minister for Planning and Environment:

They might well be able to but at the moment it is this Minister who decides on the licences. They would not be able to operate directly, I do not think. They would have to come through to this department to ask for a specific licence to do it.

The Deputy of St. Martin:

But if they did not need a D.R.R., would they need a licence?

The Minister for Planning and Environment:

I think they would still need a licence.

Director for Environment:

They would still need a D.R.R. to export from Jersey to another country because a D.R.R. is a mechanism between the 2 ...

The Deputy of St. Martin:

But to be clear, Minister, do you think ...

Head of Waste Regulation:

Could I just try and clarify this. There are 2 stages to it: the D.R.R. is a process pack whereby you get in principle agreement to the export of waste for disposal and then following that in principle agreement you also have to get a consent for the specific site that it is going to go to in the country where it will be disposed of. So, they are the 2 stages to the process.

The Deputy of St. Martin:

Who has to give the consent to the specific site?

Head of Waste Regulation:

It is the Minister's Department that is involved in the negotiation of the D.R.R. and then also in giving consent. The jurisdiction of where it will go to also has to give its consent, so there are 2 jurisdictions involved at the later stage but both have to give consent before a moment can happen for disposal.

[11:30]

Deputy J.H. Young:

So there are 3 consents that need to be in place. If we take it off-Island it is the receiving end that has to give consent. The Minister has to give consent under the waste law and also arguably we have to have a D.R.R. and that is still to be determined you said. We have them already but whether it applies to ash you have raised queries with the law officers.

The Minister for Planning and Environment:

The thing is, although we have them for some materials we do not have them for all materials.

Chief Executive Officer:

Just to clarify, we have started that in principle discussion with the Environment Agency around that waste stream to enable it. Clearly there are other waste streams that already require a D.R.R. because we do not have the capacity in the Island to deal with that waste but we have started that in principle discussion with the Environment Agency in the U.K. on A.P.C. residues. Clearly that is only one very early stage. Obviously there are a number of other stages ...

Deputy J.H. Young:

Do you have any preliminary indications from them as a result of that process that you started off as to what might be the criteria or the outcome of that?

Chief Executive Officer:

I think the general view of the Environment Agency in the U.K. is that if there is clearly not an environmental and financially sustainable way of dealing with that waste stream in the Island then that would be something they would entertain export of. I think it comes down to a very, if you like, simple question: "Can we deal with this waste in-Island in an environmentally sustainable way with the geology that we have

here and the technology that we have here?" If the answer to that is no then I think clearly it does open up a sensible conversation that it clearly has to go somewhere else to be treated then.

Deputy J.H. Young:

Is that for recovery or disposal?

Chief Executive Officer:

It could be both.

Deputy J.H. Young:

Both.

Chief Executive Officer:

I think the key question is, can we deal with that waste in the Island? If we cannot then obviously we have a sensible conversation about the options.

Deputy J.H. Young:

Is that the dialogue we have had with the authorities in terms of all the D.R.R.s we already have? Is that the sort of dialogue we have had? So there is nothing different about this particular one from that point of view? We are well used to getting these, we have them ...

Chief Executive Officer:

Yes, in simple terms. It is another form of waste and therefore we have had many forms of waste generated in the Island over many years, some of which we can deal with and some of which we cannot deal with. So, we would see this as another waste stream. It is a new waste stream for the Island but we need to have that sensible solution for the regulations.

The Deputy of St. Martin:

Could I just ask about the ability to deal with; you say we can deal with or we cannot deal with. On one hand we are saying we can deal with the A.P.C. because we can deal with it by building a plant. On the other hand we are saying we cannot deal with agrichemicals because we do not have plant. There is incompatibility between those 2.

The Minister for Planning and Environment:

This is why I think the “requirement” or not to go for duly reasoned requests has to be looked at. As I say, my understanding of the waste management law is that any 2 parties wishing to deal in the transfer of waste for disposal or recovery are entitled to broker any deal in order to deal with those materials in a sustainably sensible fashion and providing they toe the line in terms of the international legislation requirements to ensure that we are not polluting our third party territories indiscriminately and we are not poisoning people, that we are not setting up transportation systems to take it from A to B that are going to break down half way and cause international pollution agreements but the essence of the D.R.R. appears to be that it is a hurdle that has to be passed which suggests that permission can be withheld and Jersey put into a position perhaps where it has to deal perhaps unreasonably with a particular waste stream at a whim according to the U.K. body.

Deputy J.H. Young:

Why would it be withheld, Minister, unreasonably?

The Minister for Planning and Environment:

This is the interesting point. In researching the law it does state that in the Basel Convention any signatory body wishing to prohibit the import or export of particular waste materials has to record these things in a specific register and I think the essence of the international legislation is to try and ensure as far as possible that all signatories behave in the same fashion and that is why I mentioned the uncertainty that has just come to light in terms of the Isle of Man being able to export even though they do have significant facilities to dispose of those materials *in situ*, in their own Island, and yet it would appear that maybe the suggestion might be coming back to this department that we are not able to the same.

Deputy J.H. Young:

Minister, what are we seeking to achieve here collectively? Does it matter, as long as we get consent to export it? I am missing the point, I think.

The Minister for Planning and Environment:

You are missing the point. I think the point is that I think it is possible under the waste management law at the moment to enter into agreements with any signatory to the Basel Convention ...

Deputy J.H. Young:

Why does the D.R.R. stop us doing that?

The Minister for Planning and Environment:

... and the position from the U.K. that I am receiving advice on, but it needs to be corroborated, is that perhaps the permissions have to be sought from the U.K. and the export has to go through the U.K.

The Deputy of St. Martin:

Which would preclude the work you are doing with your French ...

The Minister for Planning and Environment:

Which might preclude any work that is undertaken with any European signatories, or indeed anybody else. If that is the case then it raises jurisdictional issues as to the position the Island is in in coming forward promoting waste management laws that are ostensibly written in a way that show quite clearly that we are international personages in our own right in respect of that law, whereas something else might apply.

Deputy J.H. Young:

Is this not overcomplicating things, Minister? Is not what you are describing a bit of a legal and constitutional minefield? Is it likely that we might get lost in this and end up with being unable to export this material?

The Minister for Planning and Environment:

No, I do not agree. I cannot operate outside of the law and if I do so then I am liable to the penalties like anybody else operating outside the law would be.

Deputy J.H. Young:

So, how long do you think it is going to take to resolve all this?

Chief Executive Officer:

If I can just clarify. The Basel Convention was extended to Jersey and other Channel Islands and other jurisdictions by the U.K. Government when the U.K. Government signed the Basel Convention. So, the U.K. Government is the primary signatory to that international convention. It was extended to the Channel Islands under the name of the Queen, in effect, and that is why we have it here. We have a very good

working relationship with the U.K. Government in Defra and the Environment Agency. Anything that we do here as a waste management authority, disposal authority gets reported under the U.K. reporting lines. So, it is the same for many other international conventions, whether it be Kyoto on carbon or Ramsar for wetland areas, these sort of treaties were extended to Jersey on behalf of ...

The Deputy of St. Martin:

I am sorry, the Minister is shaking his head, does that mean he disagrees?

The Minister for Planning and Environment:

I disagree, and that is why I am asking for legal advice on this matter because if you read the 2005 waste management law it says: "A law to provide for the control of management and waste operations within Jersey; to regulate the transboundary movement of wastes as far as they involve Jersey and in accordance with certain international agreements relating to such movement and for related purposes." That is quite clear that that law is giving us the authority to act in line with international law as an international personage in our own right.

The Connétable of St. John:

Who did you ask for the legal advice from, the Attorney General's Office?

The Minister for Planning and Environment:

That goes through the Crown Office.

The Connétable of St. John:

Through the Crown Office. That in turns goes to the U.K., or is it just dealt with in the Crown Office?

The Minister for Planning and Environment:

I do not know. I am not party to how the law officers get their information.

The Connétable of St. John:

When did you ask for the advice from the law officers?

Chief Executive Officer:

The advice has been asked for in the last fortnight. The situation is that the Basel Convention was extended to Jersey by the U.K. Government on behalf of the Queen

and that is how that jurisdictional relationship works. Clearly Her Majesty only has one Government in the U.K., therefore the U.K. Government has to act on behalf of that process and therefore that is why we do have a formal relationship with Defra and with the Environment Agency in those respects. What is also clear is that any, if you like, transboundary movements of waste that we do, or Guernsey et cetera do, get reported under the U.K. banner because there is only one U.K. Government so there is, if you like, a formal capturing of our behaviour here on behalf of the U.K. Government. What the Minister has asked us to clarify is whether we are able, as an independent nation, to contact other independent jurisdictions without the say-so of Defra in effect. That is the relationship we have been asked to clarify.

Deputy J.H. Young:

Thank you for clarifying that.

The Connétable of St. John:

On that point though, if the U.K. signed up on our behalf to the Basel Convention et cetera, why do we need D.R.R.s to move materials around?

The Minister for Planning and Environment:

That is the point.

Chief Executive Officer:

It is a difficult constitutional issue. We still have to move ... it is still technically a waste export from the Island and therefore it is done under that process.

Deputy J.H. Young:

But putting aside these legal and constitutional issues which are important but not immediately focused on the ash, because we already have them for other things, what I am hearing is that the Minister wants to pursue options of exporting to France. Does the obtaining of a D.R.R. stop that happening?

Chief Executive Officer:

No. I will give another example. We have had a D.R.R. previously for the export of a specialist form of oil which was being created in the Island. Ultimately that was disposed of in Belgium but it was done with the agreement and conversation with Defra as to where the most appropriate place for that would be.

Deputy J.H. Young:

So, therefore, if that is the case my question is, why allow this important issue of alternative treatments of ash to be bogged down in legal and constitutional issues? The last one I can remember that this happened was international fishing agreements which I think we are 2 and a half decades after still trying to argue these points and it is constitutional issues of international jurisdictions. Minister, is it worth it? If we can get a D.R.R. that allows us to export to France, is that a problem?

The Minister for Planning and Environment:

What about the converse? What about if a D.R.R. comes back suggesting that under whatever kind of codes and practices that are in place at the moment to look at these things the suggestion is that the U.K. is telling us that we should look after our waste in a way that we would not wish to do.

Deputy J.H. Young:

But then we can argue and from what we have heard they have not argued before.

The Minister for Planning and Environment:

Well, they have not argued before because we have not, as far as I am aware, made overtures to any other party to the Basel Convention and that is what needs to be done.

Chief Executive Officer:

I think the simple response we get from Defra and the Environment Agency is: "Do you have the facilities in-Island to deal with this waste stream in an environmentally sustainable manner?" That is the first question they ask you. If we answered yes to that they are clearly unlikely to say: "Well, you can export it to us or anywhere else." If the answer to that is: "No, we do not have the capacity to deal with that in the Island" then there is a sensible conversation: "Okay, so where should the waste go?"

The Minister for Planning and Environment:

The argument at the moment is only going to go in one direction, I feel, because we already have a lined pit storing the A.P.C. material. It is sufficient for the next couple of years and others might well be able to be introduced.

Deputy J.H. Young:

But that is for disposal, is it not? Minister, is that not for disposal?

The Minister for Planning and Environment:

Disposal or recovery does not come into it.

Deputy J.H. Young:

Is it not the case that recovery does not require a D.R.R.?

The Minister for Planning and Environment:

That is true.

Deputy J.H. Young:

So, the essential problem you are highlighting applies only to disposal residue?

The Minister for Planning and Environment:

That is only if the D.R.R. is required and that is something that I am looking to ascertain from the lawyers.

Deputy J.H. Young:

Phil, I think you wanted to say something.

The Connétable of St. John:

Yes, it would appear to me that we get bogged down in these things. Minister, is it your view that the Island should start taking charge of its own affairs when it comes to dealing with these types of things?

The Minister for Planning and Environment:

Absolutely, as far as we are able to, yes. It is something that we are encouraged to do.

The Connétable of St. John:

Because Defra and the U.K. seem to be pulling our strings in so many different ways.

The Minister for Planning and Environment:

Yes, but I think it should be done, if it is going to be done, in a fashion not in a way that upsets our U.K. partners of the past but in a way that reflects our growing environmental credentials and our ability to stand on our own 2 feet and to argue our own cases internationally.

The Deputy of St. Martin:

Minister, have you indicated to T.T.S. that you think there might be an option in France that they should pursue?

The Minister for Planning and Environment:

I have, yes.

Deputy J.H. Young:

So, in summary, your fear is that not only is there a constitutional issue but we might not get the consent that we need. Basically there is a prospect that we would be refused. That is your concern?

The Minister for Planning and Environment:

I do not know. I think there is a question mark. It is not a fear and I do not think there is a suggestion at the moment that this is going to take years and years to kind of sort out. What I am saying is that it would appear, from my reading of the law, that the Island has more options to enter into agreements with capable bodies who are quite capable of dealing with our materials on a disposal basis or recovery basis or both in countries that are signed up to the Basel Convention and that is what we should be looking at.

[11:45]

The Deputy of St. Martin:

Are we talking here, Minister, about general refuse that is picked up at the moment and put in the incinerator?

The Minister for Planning and Environment:

No, no, we are just looking at the materials; that is the 2 forms of the ash and the other thing would be the asbestos.

Deputy J.H. Young:

Phil, do you want to get in on that?

Panel Adviser:

Your preference is in France; can you confirm that process and technology is in France that you identified.

The Minister for Planning and Environment:

There are a number of companies in France and the processes involved are the usual. So, it ranges from disposal in lined pits, as we are proposing putting over here perhaps, to full remediation across the board.

Deputy J.H. Young:

Do you have a preference for any of those routes?

The Minister for Planning and Environment:

Well, as I said earlier recovery is higher up the hierarchy than disposal.

Deputy J.H. Young:

So, it comes down to economics probably?

The Minister for Planning and Environment:

Economics is a consideration and a material consideration but it should not be the only one or the overriding one.

Panel Adviser:

Can I just ask, why France? Particularly if the options are going to be disposal options, why ...

The Minister for Planning and Environment:

It does not have to be France. It could be further afield.

Panel Adviser:

Why not the U.K., if that is potentially a simpler option?

The Minister for Planning and Environment:

On the basis of that, if you apply your proximity principle arguments you should be doing things environmentally that are as close to your doorstep as possible and France, when I looked on the map last, was closer than the U.K.

The Deputy of St. Martin:

Minister, how do you balance distance and recovery versus disposal if, for example, there was a recovery process which was of great distance away and a disposal option very close. How do you balance the 2 when you talk about the environment and miles?

The Minister for Planning and Environment:

That is a balancing factor but the decisions that I would have to take cover the licensing of the operation and the setting up of assurances to make sure that we are covered from a legal point of view in terms of safety and all the rest of it, as opposed to making the application for the commercial contract which would have to come from the person who has been in with the weight, which would be T.T.S.

The Deputy of St. Martin:

So, the distance would be a considerable issue then in as much as there would be a safety factor if product had to travel a great distance on the road?

The Minister for Planning and Environment:

Yes, but that is undertaken by the legislation itself which has to give assurances of the transportation materials in a safe fashion according to whatever transport methods are used from A all the way to B.

Deputy J.H. Young:

Minister, how keen are you to find a solution alternative here?

The Minister for Planning and Environment:

I am very keen.

Deputy J.H. Young:

How soon do you think you are going to be able to overcome these?

The Minister for Planning and Environment:

It is only recently that the Minister for T.T.S. has agreed in his comments to the media that he was happier to follow an export rather than a long-term hazardous waste site.

Deputy J.H. Young:

Right. So, that is good news.

The Deputy of St. Martin:

Is that not specifically to do with asbestos, Minister?

The Minister for Planning and Environment:

No, that covers all bases, ash as well.

Deputy J.H. Young:

So, that has gone forward. Has there been any specific discussions on ash, or are those discussions suspended, pending the advice that you get?

The Minister for Planning and Environment:

The informal discussions are still taking place with myself and the other Minister.

Deputy J.H. Young:

Are there any preliminary indications? For example, is it likely that the visual impact of what we are doing at the moment under current disposal at La Collette will have any bearing on whether or not they gave us that consent?

The Minister for Planning and Environment:

I think you are back into material consideration and that will be part of the licence application. I am not allowed to give a comment on that.

Deputy J.H. Young:

No, but as far as they view cases. Not about your decision but about their decision.

The Minister for Planning and Environment:

I do not think that that would be an issue that the U.K. would necessarily have to take into account or not. So, I am of the opinion that as an independent body we are entitled to broker whatever agreements with consenting parties who are a party to the Basel Convention across the board.

Deputy J.H. Young:

I see. So, it comes back to the point that you are concerned about not getting that licence and therefore that is a driver for your raising this issue.

The Minister for Planning and Environment:

Yes.

The Deputy of St. Martin:

What is your view on the visual impact then, Minister, generally?

The Minister for Planning and Environment:

It is a good view standing on the top of the heap but it is not particularly good standing on the bottom.

Deputy J.H. Young:

What about risks about future sea level rises and risk of ...

The Minister for Planning and Environment:

Those are all risks that have to be taken into account for the long-term general planning of the La Collette area which is underway.

The Deputy of St. Martin:

Sorry, just to go back, as our Jersey Minister for the Environment, you feel the visual impact is not good but you feel from an environmental point of view in the U.K. that they would not take visual impact into account?

The Minister for Planning and Environment:

No, I think if you put the emphasis on visual impact then that is not necessarily as strong as suggesting, as we mentioned earlier, that you have a hill which is just hiding the fact that you have toxic materials stored underneath.

The Deputy of St. Martin:

Well, I appreciate that. I am just trying to ascertain whether you feel that the Environment Agency in the U.K. would use visual impact as part of a D.R.R. decision.

The Minister for Planning and Environment:

I think they probably would not, no.

Chief Executive Officer:

I think it is very clear from the discussions we have had with the Environment Agency and Defra that they would be looking at the environmental sustainable way of dealing

with this waste stream in the longer term. So, we would need to take into account the hydrogeological factors in Jersey as to whether we can physically dispose of this form of waste in an appropriate manner for the long-term or not and the debate really starts on that technical level as to what is appropriate for this waste stream and what ability do we have in the short-term or in the longer term? We may get a D.R.R. which gives us a number of years pending the fact that we may get another technology solution at some point in the future that D.R.R. will then cease and it will no longer be an export and we would deal with it in Island but those sort of conversations are based on a technical scenario. Clearly the Environment Agency will ask us the question: "What plans do you have for this waste stream?" If the plan is not for 5 or 10 years time then clearly we need to have a sensible conversation with them prior to that as to what happens in that period of time.

Deputy J.H. Young:

Do you think they currently believe that the way we are dealing with it now is an adequate means of disposal?

Chief Executive Officer:

Not in the longer term, no.

Deputy J.H. Young:

Right. So, they see it as a short-term ...

Chief Executive Officer:

As I say, we have started the conversation at an officer level as to what that D.R.R. could be for this type of waste stream if there were no other options on the table.

Deputy J.H. Young:

So, accepting the uncertainty, you could take a view that from what you have just said that there is a prospect that we would get a derogation in the future?

Chief Executive Officer:

For this specific waste stream, yes.

Deputy J.H. Young:

Yes, you could but equally the uncertainty is that the Ministers ...

Chief Executive Officer:

Yes, clearly if there was a plant built in the Island to deal with this sort of waste stream clearly the Environment Agency would say: "Well, why are you not dealing with it yourself?"

The Deputy of St. Martin:

But at the moment if they asked the question: "How could you deal with this in Jersey?" The answer is: "We do not have a plant."

Chief Executive Officer:

We would struggle to give them that environmental sustainable answer.

Deputy J.H. Young:

I want to go on to Guernsey ash, unless you have one?

The Connétable of St. John:

I have one other. Minister, do you agree with myself that we should not be leaving legacies for our children to clean up; we have to clean them up as we make the mess?

The Minister for Planning and Environment:

I do. I think that is sound advice and sound environmental responsibility.

Deputy J.H. Young:

Before we close the session, just dealing with Guernsey, you mentioned earlier: "That was a factor in our decisions." Does that mean as far as you are concerned there is a proposal actively under consideration at the moment for us to increase our waste stream to deal with Guernsey's waste in our EfW (Energy from Waste) plant?

The Minister for Planning and Environment:

I would not know about that. The department that is potentially looking at this is T.T.S. and I am not privy to their conversations.

Deputy J.H. Young:

So, at the moment you are not aware of any proposals on the table or discussions with Guernsey to do that?

The Minister for Planning and Environment:

All I am aware of is some of the reported media statements by the Chief Officer of T.T.S. to the effect that he is having officer to officer conversations with his counterparts in Guernsey with a view to looking into the potential of importing Guernsey's waste, or some of it.

The Deputy of St. Martin:

Minister, if we could ... I am not going to use the word "accept" but if we just take an idea that we burn Guernsey waste in our incinerator, would you agree with us, because the advice we are getting is that it would be extremely unlikely that we would get permission to export the waste whether it be A.P.C. or I.B.A. back to Guernsey. Would you agree that if we found ourselves burning Guernsey waste the export of the ash back to them would be unlikely, from a regulatory point of view that is?

The Minister for Planning and Environment:

It really depends on whether or not the loopholes are going to be entertained by the authorities who are looking after those regulations.

The Deputy of St. Martin:

You are regulator, Minister.

The Minister for Planning and Environment:

I am but only in part.

The Deputy of St. Martin:

Which part are you regulating and which part are you not?

The Minister for Planning and Environment:

The part is the extent of which the U.K. is calling the shots or not in terms of what the Island, or the Islands, can do within the ...

The Deputy of St. Martin:

So we are going back to the Basel Convention.

The Minister for Planning and Environment:

Absolutely, yes. From my own point of view I think it is unwise for any jurisdiction to have international laws that were signed up to that are interpreted in different ways in different places. I mean, that is not the essence of international law.

The Deputy of St. Martin:

So, you are saying depending on the different interpretation of the Basel Convention the U.K. may have a say or not in the export of ash to Guernsey from Jersey?

The Minister for Planning and Environment:

I am saying that if A.P.C. can be exported at the moment by the Isle of Man, which is a Crown entity, and they also have the facilities for dealing with it in similar ways that we could deal with it over here or purchasing other equipment to remediate materials *in situ*, or whatever, they have managed to get an export option between themselves and the U.K. Now, if we are being told perhaps in the future that we cannot do a similar thing it seems to me that it would set up another legal nonsense if then Guernsey were told that they could, nonetheless, export their waste to Jersey to be burnt but we could not export any other waste anywhere else. So, we would be being seen as the open dustbin.

The Deputy of St. Martin:

There are inconsistencies in the whole thing.

Deputy J.H. Young:

Accepting that, Minister, but do you see any positive attractions environmentally or even economically in terms of waste management for us taking on board Guernsey's waste?

The Minister for Planning and Environment:

Economically, no. Environmentally, no.

Deputy J.H. Young:

So, you would be opposed to that? Presumably you would have to give a licence for bringing ...

The Minister for Planning and Environment:

I am not saying I would be opposed to it. I would have to consider all of the material considerations but at the moment if you apply the orthodox stance of environmental

ethics just because you have a machine that is capable of doing a particular job does not automatically imply that you must use the machine to generate a lot of pollution that would have to be cleaned up further down the line.

Deputy J.H. Young:

Would you have to give a licence to import Guernsey's refuse?

The Minister for Planning and Environment:

I would.

Deputy J.H. Young:

So, you have control of that.

The Minister for Planning and Environment:

Yes.

Chief Executive Officer:

Yes, the Minister has powers under the waste law firstly to grant import and also to grant export, so that sits with the Minister for Planning and Environment under the waste law for both of those. The waste law provides some key test as to when the Minister must object to either import or export or could object to either import or export. The waste law is being put together under the Basel Convention parameters, so we would need to go through a process of assessing imported waste to the Island, whether that complies with our own policies on the Island for that waste stream and whether it complies with any other solutions in that other jurisdiction to deal with that waste stream, so a number of tests in the law around that. Also, with an export we also have requirements under the Basel Convention for exported waste. Again, we would have to go through the same process again as to how is that waste going to be dealt with and are we then in breach of our convention requirements that we have imposed on us. So, there are 2 discussions to be had: there is one to be had on import and we have to go through that same process because we cannot, as a responsible jurisdiction, then sanction the export of a waste stream if it is not going to be dealt with in an environmentally stable manner.

Deputy J.H. Young:

It does seem inconsistent that you might argue: "We do not have the capability here to process it in order to get a derogation" and yet at the same time we attract

Guernsey's refuse to us. It seems to be those 2 arguments are contradictory. Would you agree with that?

The Minister for Planning and Environment:

I think they are and that is one of the reasons that I want it to be looked at properly by the lawyers. The other thing that needs to be said is that if we are operating this particular scenario it has to be between 2 signatories for the Basel Convention and at the moment I do not think the legislation is in place as it is over here with Guernsey and that is one of the things that we have to ...

Deputy J.H. Young:

So, Guernsey is not in?

The Minister for Planning and Environment:

They are not in at the moment, no.

Deputy J.H. Young:

It does not sound very likely. Steve, do have anything on that?

The Deputy of St. Martin:

It was just on the same line, Minister, if we found ourselves in a position where we could do like the Isle of Man, and export A.P.C. product to the U.K. for treatment, if we had 2 options, an accelerated carbonation technology in Jersey, or the equivalent plant on the south coast of the U.K. where they could readily make better use of the end product, would you consider exporting A.P.C. for A.C.T. treatment in the U.K. as a better alternative to an expensive plant in Jersey where the end product was not always easily used?

The Minister for Planning and Environment:

I think the decision would not necessarily be mine to take because the cost factors would come into play. I think both would be acceptable in environmental terms and regulatory terms but the other decision that would have to be taken was whether or not the cost of doing it with a bigger plant, capable of delivering economies of scale somewhere else was cheaper than investing in a similar plant to deal with smaller quantities regenerated in Jersey.

[12:00]

The Deputy of St. Martin:

That was the reason for my question in the hope that maybe a larger plant with a lower cost per tonne ...

The Minister for Planning and Environment:

Certainly in environmental terms it makes sense because these plants are specifically geared up to deal with the problems in a better environmental fashion.

Chief Executive Officer:

Can I just clarify, the Minister is correct in saying that Jersey and Guernsey have not signed the Basel Convention; it was signed by the U.K. Government and extended to both Islands as part of that process. So, while we are not signatories to the Basel Convention we are nonetheless covered by it, as are Guernsey.

The Connétable of St. John:

On that point, given the U.K. signed up to it, what happens between the Islands happens between the Islands, surely.

Chief Executive Officer:

I cannot speak for the U.K. Government but I would imagine that the discussions they had with the Isle of Man, or we have discussions with Guernsey, they would say as, to be honest, similar to county councils talking to each other in the U.K. They are part of the waste reporting ...

The Connétable of St. John:

Yes, but we are not county councils.

Chief Executive Officer:

No, but they would like us to talk to them because they are the primary signatory; they have made that very clear to us.

The Connétable of St. John:

They might like us to talk to them but if you read Lord Coutanche's memoirs he makes it quite clear that the least amount we deal with Whitehall the better, and this is where we should be paddling our own canoe. This is where the waters are getting muddied by agreements that the U.K. have signed up to and I am thinking, for

instance, anything to do with nuclear waste we have a nuclear power station on our doorstep, the U.K. cannot deal with issues for Jersey to do with nuclear issues because they are a nuclear country and they turn around and tell us that we have to deal with those ourselves and yet with something like this that we want to deal with our neighbour, i.e. Guernsey, neither of us have signed up, other than through the U.K., these items seem ludicrous to me. They can deal with the bits they like to and they dictate into the Island to do certain things and yet, Minister, we seem to want to kow-tow to the U.K. in a number of these things when, the way I am reading it, we do not have to.

The Minister for Planning and Environment:

I could not possibly comment on that, other than to say that these are the legal niceties that I am asking to be looked into.

Chief Officer (Environment Department):

In international agreements clearly the Queen signs up on behalf of the nation. She asks her Government in the U.K. to ratify that, if you like. We are a Crown peculiar. I think that is a good word. As a result, there are many grey areas as to what works and what does not work.

Deputy J.H. Young:

If these issues did not exist that we have just discussed do you see any potential benefit of us investigating the bringing in of Guernsey's waste?

The Minister for Planning and Environment:

The jury is out. I think I sit here as part of the decision-making process and I have to be seen as impartial as possible.

Deputy J.H. Young:

You are completely neutral, Minister?

The Minister for Planning and Environment:

I am neutral.

Deputy J.H. Young:

Thank you very much. Do any of my colleagues, Scrutiny Officer or Mr. White want to follow up any of the areas of questioning we have done so far? I want to close the

general questions but I want to give members a chance to pick up on any points so far.

The Deputy of St. Martin:

I would just make one comment, Minister. We spoke earlier about the front-loading of the incinerator and there is a lot more work can be done in Jersey before we incinerate our products, but you would accept that in Guernsey they are a long way ahead of us when it comes to that. So the burning of Guernsey waste is not quite as controversial as the burning of Jersey waste.

The Minister for Planning and Environment:

Waste burning is waste burning.

The Deputy of St. Martin:

Yes, but there will always be some waste to burn at the end of a process.

The Minister for Planning and Environment:

I think my stated position on incineration, even when I was on the Scrutiny panel chairing the reviews against the purchase of incinerator, was that I was not, *per se*, against incineration. It was the level and the quantum at which the machine would operate. As far as I am concerned, I think the Island is in a poorer situation environmentally compared to Guernsey in that Guernsey, for whatever reason, have managed to achieve higher recycling targets and levels in a way that minimises the residual waste that requires further treatment. I think, in that respect, I take my hat off to our Guernsey counterparts and hope that perhaps Jersey can take a leaf out of their book and bring in extra kerbside recycling or whatever to achieve it.

The Deputy of St. Martin:

Yes. But, Minister, their residual waste requires further treatment and goes into a landfill site.

The Minister for Planning and Environment:

Yes, but landfill, as you can see, is not necessarily the big bad bogeyman that everybody thinks it is. I mean there is documented evidence at the moment that landfill sites that were created in the past 10 or 15 years are now starting to become economically viable to re-mine for the materials within them.

The Deputy of St. Martin:

Not on La Saline where we dumped asbestos 30 years ago.

The Minister for Planning and Environment:

Not at La Saline, no, and dead cows as well.

The Connétable of St. John:

Just for clarification and for the record, my comments that I made about Lord Coutanche may not have been 100 per cent correct but they were along those lines.

The Deputy of St. Martin:

But they sounded good at the time.

Deputy J.H. Young:

Minister, obviously thank you for covering all the complexities with us. You explained that you are the regulator and that T.T.S. is the doer. Are you having meetings with the Minister for Transport and Technical Services and officers to try and resolve some of these problems for the purpose of looking at alternatives to what we are current doing? Is there a process going on where you are working constructively together to find this answer?

The Minister for Planning and Environment:

I think had you asked me that question a couple of months ago I would have said no, but I think I have made strenuous efforts to find ways to speak to the Minister for Transport and Technical Services in a way that we have found a new accord and an opportunity to begin to address these problems together.

Deputy J.H. Young:

So we are all pointing in the same direction?

The Minister for Planning and Environment:

I think we are beginning to point in the same direction. There may be a few officers to point along the way, but we are, politically at least I think, starting to sing from the same hymn sheet.

Deputy J.H. Young:

Will there be any particular subjects in this subject, Minister, that you feel you are coming closer to together on, whether they be export or ways of treating A.P.C. or front-loading techniques?

The Minister for Planning and Environment:

It is export and remediation. That is the first 2. Personally, I would like to see a lot more work done in order to re-establish our recycling targets to a much higher level and to thereby reduce the amount of material that needs burning.

Deputy J.H. Young:

Especially your export prior to both A.P.C. and I.B.A. or are you open to I.B.A. local processes?

The Minister for Planning and Environment:

I would like a legal position that treats all hazardous materials in the same fashion and I think there is potential within the law to do that.

The Connétable of St. John:

The imposition on I.B.A. is that it is not a hazardous material until it is tested and is proven to be so. Is that your view on I.B.A. in Jersey?

The Minister for Planning and Environment:

That is not necessarily my view. It depends on what the testing results come up with.

Deputy J.H. Young:

It goes back to this issue of waste stream.

The Minister for Planning and Environment:

Yes.

Deputy J.H. Young:

So you are open to it being non-hazardous if what is in it is okay?

The Minister for Planning and Environment:

If it is non-hazardous then there is less of a problem.

Deputy J.H. Young:

Thank you for that.

The Deputy of St. Martin:

We have just spoken about it but there might be one specific subject I would like to return to. I would like to be quite clear, Minister, that T.T.S. have a target that they are aiming for when it comes to I.B.A.; a target that they are told by yourselves as the regulator. If you can achieve this target with the quality of I.B.A., we will regard it as inert and we will then look at processing it at La Collette.

The Minister for Planning and Environment:

I think that is certainly something that my officers could look at.

Chief Officer (Environment Department):

The question of: "What is clean," is invariably the question: "Is this clean or not?" It depends on the nature of what is being produced, where it is being used, how it is being used and then a risk assessment on those various receptors as to where it is being used and in what sort of context. It is very hard for the regulator to say: "This product will never cause pollution under the Water Pollution Law," or at what instance. Therefore, we would expect T.T.S. to certainly take a risk-based approach, looking at all the research around this sort of product and the case law that provides for us to take a view on whether it is appropriate to use it.

The Deputy of St. Martin:

I am just trying to get to an agreement between T.T.S. and the Environment Department whereby T.T.S. know where they are going, so that they are told by yourselves as regulators: "This is what we feel you should be aiming for and when you think you can get there" ... because they are trying at the moment to make their I.B.A. better quality and they are going to continue to try. But, to be fair to them, I just think that they should have a target so that, when they get there, they know that they have achieved what they are trying to get to.

Director for Environment:

I think I would like to clarify that. How that would translate into officer-to-officer, scientist-to-scientist, engineer-to-engineer discussions is that a proposal would be made by T.T.S. to say: "Following the research that we have undertaken and discussed with you along the way, this is what we are proposing to use, i.e. this material which has a leaching capability of X, and this is the location in which we are

intent on using it. Here is some risk assessment that we have undertaken to determine that there is very limited risk to the receiving environment. Are you, regulator, happy that we can take it forward?" Whilst we would never say we are happy, we recognise that they had undertaken the optimum amount of work and the optimum amount of research to determine that they and we can conclude that there is limited risk to the environment. So it is very much a working-together process.

Deputy J.H. Young:

Is that process working now, where you are having that dialogue?

Director for Environment:

That process, across the board, works now in terms of all discussions. We do not just deal with T.T.S. in respect of this specific issue obviously, but on all environmental issues.

Deputy J.H. Young:

But we have taken the point at the moment. I have certainly picked up that under I.B.A. it does not meet the standards. There is doubt. You are saying there needs to be testing and so on. The Minister has made the point there does need to be improvements in the waste stream to reduce the chance ...

Chief Officer (Environment Department):

I think the clarity is there is no defined European standard, if you like, for I.B.A.A. (Incinerator Bottom Ash Aggregate). As a result, you go down a risk-based approach on every single case as to what the product is and how it is being used and ...

The Deputy of St. Martin:

But "every single case" presumably does not mean if you want to put this bit of road stone in that site or this site or that site, does it? Is it down to that specific ...

Director for Environment:

If you compare this with a contaminated land assessment in the U.K, which your adviser will be familiar with, there used to be a prescribed set of tables which said: "If your resultant material that you have excavated from hole A and want to compact into hole B contains a percentage of arsenic/cadmium/chromium that is lower than a specific level then it is acceptable to put it in that hole." That is essentially what you are alluding to here.

The Deputy of St. Martin:

That is what I am asking for, yes.

Director for Environment:

The approach now taken by the competent authorities in the U.K. and indeed by us here is that that is not necessarily a very safe option. You cannot generalise to that extent because there could be fluctuations in the quality of the receiving environment; ground water or whatever it might be, depending on your receiving environment. So it is better to do a risk-based approach on the specific receiving environment there at the time. That is not to say that we cannot get an idea of the generality of the types of fluctuations between the lowest level or the highest level that might be acceptable, but we would not tie it down to a specific level in a table that perhaps you are trying to allude to.

The Deputy of St. Martin:

Maybe I could rephrase my question. Minister, do you have any generalities that you could intimate to T.T.S. that they should be aiming for?

The Minister for Planning and Environment:

Yes, I do: as clean as possible. Is that general enough?

The Deputy of St. Martin:

That is very general, thank you.

Deputy J.H. Young:

Thank you. I think you have given us food for thought, Minister. Thank you very much. With that, if there are no more questions, I will formally close the meeting. Thank you all for attending and thank you for your information.

[12:13]