

# **STATES OF JERSEY**



## **ENERGY FROM WASTE FACILITY: PUBLIC INQUIRY (P.136/2008) – COMMENTS**

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**Presented to the States on 16th September 2008  
by the Minister for Transport and Technical Services**

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**STATES GREFFE**

## COMMENTS

### Introduction

It is very unfortunate that the States are being asked to debate this matter when the Assembly has already debated the question of whether the preferred location should be La Collette instead of Bellozanne. The Connétable's report makes no mention of P.45/2006 "Solid Waste Strategy: locations for proposed facilities", which was a specific debate, following extensive public consultation, to determine where this new facility should be constructed. The States approved, by 32 votes, in favour of La Collette as the most suitable location for the new Energy from Waste Facility, this debate including drawings showing the full scale of the proposed development.

### Summary

1: There is little or nothing at all that supports the request for holding a public inquiry. The relevant time for consideration of whether a public inquiry was necessary was at Outline Planning Stage as there clearly was a departure at that time from the original 2002 Island Plan, albeit that the States had agreed La Collette as the preferred location.

2: At that time, the new Planning and Building (Jersey) Law 2002 had not come into force, and it was for this primary reason that the Minister for Planning and Environment concluded that it was not appropriate to hold a planning inquiry under Article 12 of this Law.

**Instead, as in previous decisions to depart from the Island Plan, the States Assembly had been asked to take this major decision. This decision was taken by the States in June 2006 (P.45/2006) following a full public consultation process where all relevant drawings showing the full scale of the facility had been provided to any member of the public attending these meetings.**

**In addition, in October 2007 when the Outline Planning Consent was granted, the drawings showing the re-designed facility, as designed by Sir Michael Hopkins and Partners, were publicly available and were also being used as part of the States Members' briefing sessions for P.72/2008 "Energy from Waste Facility: establishment and acceptance of tender".**

The arguments regarding the appropriate level of waste minimisation/recycling for the Island and those for or against Energy from Waste as an appropriate solution to deal with the Island's residual waste have been debated by the States on 3 occasions: P.95/2005 "Solid Waste Strategy", P.45/2006 "Solid Waste Strategy: locations for proposed facilities" and P.72/2008 "Energy from Waste Facility: establishment and acceptance of tender".

3: There has been a 3 year period, between 2005–2008, for the Environment Scrutiny Panel and their advisers and others to come up with a suitable and proven alternative to the approved Energy from Waste facility – they have not.

4: The location at La Collette has been debated and agreed. Whilst the facility is large, both the building and the surrounding landscaping have been designed by architects of international repute. These highly acclaimed experts have gone to extraordinary lengths to ensure that the quality of the design for the building is very high and the landscaping, whilst in keeping with its location, will do everything possible to screen the building. These will be 2 key factors for the Minister for Planning and Environment to consider when he concludes the reserved matters.

5: Further delay to the project is unacceptable and seriously jeopardises the Island's ability to deal with its own waste.

6: The cost of any delay to the Project will be very significant.

### Comments on the Report

The Connétable's opening remarks concerning the Department's refusal to supply certain documents to the

Scrutiny Panel's advisers are simply wrong. This was clearly explained during the debate for P.72/2008 "Energy from Waste Facility: establishment and acceptance of tender", and specifically within the Department's response (R.43/2008 Rpt.) to the Environment Scrutiny Panel's Report R.43/2008 "Environment Scrutiny Panel: Independent Review – Planned infrastructure for implementing the Island's Waste Strategy and Consideration of possible alternative approaches", which was circulated to all States Members; but for clarity it is important for members to have the full facts before them.

The Transport and Technical Services Department did supply the information in question, relating to the way in which the overall size of the Energy from Waste Facility was determined, to the Environment Scrutiny Panel. It was the Panel that did not forward this information to their advisers. Updated information that led the Department to recommend the smaller plant was not available to the Department itself until just after the Environment Scrutiny Panel adviser had published their report on 25th April 2008. This new and updated information was passed to the Environment Scrutiny Panel and their adviser as soon as it was available.

The Connétable's report outlines the requirement under the Planning and Building (Jersey) Law 2002 for a public inquiry. For the purpose of these comments, they will follow the same order as the Connétable's report in that matters relating to Article 12(1)(b) of the Planning and Building (Jersey) Law 2002 will be dealt with first.

The Connétable is correct in stating that moving the Energy from Waste (EfW) plant from Bellozanne to La Collette is a departure from the 2002 Island Plan. Unfortunately, what the Connétable fails to consider and comment on is that in 2006, the States considered P.45/2006 "Solid Waste Strategy: locations for proposed facilities".

It was this very debate that concluded that a departure from the Island Plan was appropriate for a number of reasons that were outlined in the Report associated with that debate.

At the time of the debate on P.72/2008, consideration of whether co-operation with Guernsey sending its waste to Jersey for disposal in a new joint plant had been finalised and Members were aware that this option had been discounted by the States of Guernsey.

To state that the decision to move from Bellozanne to La Collette was as a result of a relatively late amendment to the Solid Waste Strategy debate is misleading. The amendment from Deputy Fox (P.95/2005 Amd.(2) "Solid Waste Strategy (P.95/2005): second amendments"), which was also accepted by the Environment and Public Services Committee, recommended the option of moving the EfW plant from Bellozanne to La Collette and to bring back to the States the fully worked options.

Following the Waste Strategy debate on P.95/2005 "Solid Waste Strategy", much work was undertaken to evaluate La Collette as a site. Before the matter was brought to the States in the form of P.45/2006 "Solid Waste Strategy: locations for proposed facilities", public consultation was undertaken in the form of public meetings with the Havre des Pas residents, public meetings and a 2 day open public consultation event.

The decision to buy up properties within a certain radius of the waste treatment plant at Bellozanne was relevant with regard to the Bellozanne incinerator now, and remains so into the future, as there are no current proposals for relocation of the Sewage Treatment Plant and other industrial activities; therefore, it has little or no impact on the decision to move the EfW facility from Bellozanne to La Collette.

The reference to the location of the EfW plant at La Collette taking up valuable land for the development of the Island's light industry is again misleading. Referring to the Island Plan Drawing No. 202/A clearly indicates which land on La Collette is to be designated for the development of light industry. The location of the new Energy from Waste Facility is not within this designated area and no land will have been lost. Therefore **all** the references contained in the Connétable's report on pages 4, 5 and 6 are totally irrelevant.

At the time of Outline Planning Consent being granted, one of the Reserved Matters was for the Transport and Technical Services Department to demonstrate that the small area of land lost for the proposed amenity space would be compensated by an equivalent area within the site. This has been done and will be one of the matters for consideration by the Minister for Planning and Environment when he considers the Reserved Matters.

Turning to Article 12(1)(a) of the Planning and Building (Jersey) Law 2002, the Connétable states 6 reasons why paragraph (1)(a) has relevance.

All 6 reasons have either been considered by the States through P.95/2005 “Solid Waste Strategy”, P.45/2006 “Solid Waste Strategy: locations for proposed facilities” or are being addressed as part of the overall development for La Collette. Careful consideration has already been given to the location for the EfW facility and whether it could have any detrimental impact on future development.

#### **Comment on Reason 1:**

There is no denying that the Energy from Waste incinerator is a large building. This has been clearly stated at all of the many public meetings and States Members’ briefings on the Solid Waste Strategy. At all of those meetings, drawings showing the full scale of the facility have been on display, and to suggest that it is only a montage in a colour brochure that has been used to show the full size of the plant is, once again, completely wrong.

The size and location of the new incinerator has been considered in architectural terms by the Minister for Planning and Environment who has insisted that the building structure has to be to a design reviewed by a leading firm of architects of international repute. To satisfy this requirement, Sir Michael Hopkins and Partners, the architects involved in transforming the Esplanade development into the new Waterfront Quarter, have been engaged. They reviewed the original design and, through their involvement, the building was re-designed from the original with a curved roof to one with a more geometric form. This revised design was submitted formally as part of the Outline Planning Application process.

To suggest that a public inquiry should be provided with an honest assessment of what the proposed building will actually look like is again misleading, as the drawings showing the building have been on public display and have also been released to the media. The final design must be approved as part of the Reserved Matters submission, which again involves further public consultation. In any event, the planning application process itself is a comprehensive variant of a public inquiry.

Although a section of the designated recreation area stretching from Fort Regent to La Collette will be removed to accommodate the new EfW incinerator, it is a relatively small section that will be fully compensated for as part of the overall landscaping for the area. The linear landscaping will still provide a screen from the east of the Island to the more industrial complex of the La Collette II development site. It should be noted that public access to the La Collette Area is now discouraged by the Planning and Environment Department following assessment of the risk of a Vapour Cloud Explosion at the Fuel Storage Facility.

#### **Comment on Reason 2:**

The question of waste volumes and the size of the incinerator required to deal with the Island’s residual waste were debated at length in P.72/2008 “Energy from Waste Facility: establishment and acceptance of tender”.

It is as a result of the new Housing Needs Survey published in April 2008 and the decision of the Minister of Transport and Technical Services to increase recycling from the original rate set out in P.95/2005 “Solid Waste Strategy” to 36%, that the annual processing capacity of the new incinerator was reduced to the 105,000 tonne facility set out in P.72/2008 “Energy from Waste Facility: establishment and acceptance of tender”.

***The reference made to the Minister for Transport and Technical Services’ comment to the Environment Scrutiny Panel is entirely correct – this comment was however made in the context of the fact that this was unlikely, given the expected waste growth on the Island.***

The Department’s position with regard to funding for recycling has been clearly identified since the Solid Waste Strategy was approved in 2005. The position is that the 32% target within the Strategy would be achievable with the resources identified within the Solid Waste Strategy in place. Additional recycling would require additional resources. The 30% recycling rate achieved in 2007 was 3% higher than that required within the Solid Waste Strategy. It is only through the tremendous effort that has been placed on promoting recycling that the Island will

be able to manage with a smaller capacity incinerator, when all other factors such as migration and number of households are taken into account.

To state that this is in stark contrast to the City of Cardiff is somewhat surprising. Cardiff achieved a recycling rate of 20% in 2006/7, 2 years after opening its Materials Recycling Facility, which collects all the same recyclable products that the Jersey kerbside system collects. Had the Connétable examined the Solid Waste Strategy waste arisings model that was made available to him as a member of the Environment Scrutiny Panel, he would have seen the various commodities that TTS proposes should be recycled, the rates required and when these would be achieved by.

#### **Comment on Reason 3:**

There is no denying that the cost of the new facility is significant, but as all Members saw from the Cost Comparison Report submitted as Appendix 2 to P.72/2008 “Energy from Waste Facility: establishment and acceptance of tender”, all other treatment technologies, when considered as a complete package, were even higher.

The question of opportunity cost for the land at La Collette is valid but, as already stated, the land being used for the new Energy from Waste facility was not originally earmarked for development. In contrast, by releasing land at Bellozanne through the redevelopment of the existing Energy from Waste facility, this land will be used for other waste-related activities, thereby saving on alternative land throughout the Island that might be required. Therefore, the lost opportunity cost against this development is not valid.

#### **Comment on Reason 4:**

Locating the Energy from Waste facility at La Collette has been considered in detail when studies for the development East of Albert have been undertaken. By locating the plant in the location as outlined and approved in P.45/2006 “Solid Waste Strategy: locations for proposed facilities”, there is little or no impact on the proposed commercial development of La Collette I and II reclamation sites.

When the UK Health and Safety Executive’s (HSE) reports were issued in relation to the Buncefield explosion, a detailed Site Specific Risk Assessment was carried out for the proposed EfW plant by the same lead consultants who undertook the review of Buncefield and prepared one of the reports for the UK HSE.

The report concluded that the location of the plant did not pose an unacceptable level of risk for either the surrounding area or the occupants of the structure.

#### **Comment on Reason 5:**

A number of extracts from the 2002 Island Plan are provided in the report. The Connétable claims that “although the area covered by the incinerator project does not extend into the RAMSAR site, there is a risk that the latter will be prejudiced by the development.” This comment is not supported by any evidence and was not raised as an issue for the Minister for Planning and Environment when the Environmental Impact Assessment was considered as part of the Outline Planning Application. Had any issues been raised at the Outline Planning Stage through the public consultation process, the Minister for Planning and Environment would have taken these facts into account when determining the Outline Planning Application.

#### **Comment on Reason 6:**

1: Since the Solid Waste Strategy was approved by the States in 2005, there has been considerable opportunity for the public to influence the subsequent decisions taken by the States in P.45/2006 “Solid Waste Strategy: locations for proposed facilities” and P.72/2008 “Energy from Waste Facility: establishment and acceptance of tender”.

These opportunities have been in the form of public consultation exercises undertaken by the Department and through the formal planning process whereby the Outline Planning Application was advertised in accordance with

protocols and the application was heard in a public meeting. Further opportunity will arise when the public consultation on the Reserved Matters takes place.

The statements made by the Connétable about the assumptions used to reduce the size of the Energy from Waste facility from that proposed within the 2005 Solid Waste Strategy are wrong. The decision to reduce the size of the Energy from Waste facility from that proposed in the 2005 Waste Strategy to that proposed and agreed by the States in P.72/2008 “Energy from Waste Facility: establishment and acceptance of tender”, was as a result of increased recycling, and reduced anticipated household growth, both of which have an impact on waste arisings. When all of these factors were considered, the Minister for Transport and Technical Services proposed and the States accepted the smaller capacity plant.

The position taken by the United Kingdom government referred to in the Connétable’s report is as a result of there being a key driver in the UK that does not apply to Jersey – that being a requirement to divert 65% of biodegradable waste from landfill by 2020.

Even though this legislative driver is not relevant in Jersey, the principle being applied by the UK in terms of minimising waste creation, re-use of products and recycling before recovering energy from waste are exactly the same as those being applied in Jersey, the nett result being that Energy from Waste facilities are required in both jurisdictions to deal with residual waste. Interestingly, the UK approach includes EfW and there are currently 18 facilities planned for implementation in the UK over the next 2 years.

2: The time for considering whether alternative strategies that will result in a smaller facility has passed. This should have been done by the Environment Scrutiny Panel and others as suggested by the Connétable before P.72/2008 “Energy from Waste Facility: establishment and acceptance of tender”, was debated. No proven and sustainable alternative to that proposed by the Minister for Transport and Technical Services and accepted by the States was put forward.

3: There can be no doubt that the existing Energy from Waste facility at Bellozanne is amongst the dirtiest in Western Europe, as it is the only known facility operating without any form of modern flue gas treatment. It is not only the pollutant level from the existing plant that dictates that the new incinerator must be built without further delay, it is the fact that the Island has no viable alternative disposal route for the residual waste stream and the current Bellozanne plant is in a dire condition.

The current plant is clearly at the end of its life and without a replacement being built as quickly as possible, the Island is jeopardising its future ability to dispose of its own waste. Delay for no good reason would not be an acceptable argument to advance with the UK/European authorities to seek a dispensation to export waste if the current plant fails completely. To date, due to the continued breakdowns of the Bellozanne plant and the chimney problems, there is over 15,000 tonnes of waste stored at La Collette. This amount is likely to increase between now and the new La Collette facility being commissioned. It is unlikely that the La Collette site will have sufficient capacity to stockpile the predicted volumes of untreated waste which cannot be burned at Bellozanne between now and 2011, therefore further waste storage sites will be required. Any delay beyond 2011, due to a public inquiry now, will only lead to the requirement to find more sites for the Island’s waste.

### **Financial and manpower implications**

1: The Connétable’s report suggests a cost not exceeding £100,000 for a public inquiry. This figure might be correct for the cost of employing an inspector to hear and report on the principle that is being questioned for public inquiries in the UK of waste-related projects. It does not, however, in any way address the other very significant costs that will result from this delay.

2: The tender sum for the Energy from Waste contract expires on 31st October 2008. After that time, various assumed rates for currency, labour and materials within the contract are permitted to increase in line with publicly available indexes. Details of these delay costs are commercially confidential, but the expected impact at current indexing rates are in the order of £800,000 per month. The Connétable suggests that an inquiry will be complete by the spring, which will result in a 4–6 month delay which equates to between £3.2 and £4.8 million at current rates. This also assumes that the contractor remains willing to delay commencement of the works and does not

withdraw from the contract to pursue better opportunities elsewhere, as the Contractor is entitled to do after the end of October 2008 and a number of the earlier tenderers to the contract have already done. If this were to happen, the delays associated with re-tendering and re-negotiating, together with the costs associated with buying a new facility in what is rapidly becoming an overheated market, are likely to rise significantly beyond the figures currently approved.

3: The delay will result in more waste from Bellozanne having to be stockpiled at La Collette, resulting in more land being taken up, more specialist pits being constructed at a cost of approximately £80,000 and £100,000 each. In addition, significant additional resource will be required to haul the waste and stockpile it from Bellozanne to the pits at La Collette.

4: The environmental impact of storing tens of thousands of tonnes of waste in pits at La Collette will be significant. Given that complaints from the Havre des Pas residents in connection with the current compost operation are already considered unacceptable by the Connétable and some other St. Helier Deputies, it is inevitable that further nuisance will be caused if tens of thousands of tonnes of additional waste are having to be stored for a number of years.

5: **Members are urged to reject this proposal for a public inquiry on the grounds that all of the issues that would be considered through an inspector's inquiry have already been considered and addressed by the Assembly throughout 3 debates over a period of 3 years.**