

Draft Statement of the Treasury and Resources Minister

for Corporate Services Scrutiny Panel

Thursday 1st September 2011

(1) As Treasury and Resources Minister I have a duty and a legal obligation under the Public Finances (Jersey) Law *“to ensure that the public finances of Jersey are regulated, controlled and supervised in accordance with this Law and that the provisions of this Law are otherwise duly complied with”*.

My job as the Treasury and Resources Minister is to be the gatekeeper and guardian of the public purse. To really understand this complex matter I need to set out a few points clearly from the start :

- It has been reported that the loss of Lime Grove has cost the public £8m. There is no basis for this. I expect the current budget to be sufficient to deliver a new purpose built Police Headquarters.
- The comments made might reflect a lack of understanding of property and finance matters – which are complicated.
- The original business case as presented to me was at best poorly drafted and could not be implemented.
- There was unprecedented political lobbying on this matter. I have experienced nothing like this in my time as a politician.
- The original offer made was not properly authorised, was unclear and was justified by a subsequent valuation and as Minister I had not been told about it.

- As a result of the unclear offer, there was never a clear agreement between both parties to buy Lime Grove at £8.75m.
- A valuation is not an indication of what the States should be willing to pay. A transaction needs a buyer and seller and if those parties do not agree then that is something that is outside of my control. The only point at which a price has been agreed was in 2011
- It has been reported that we have somehow “lost out” to State Street. It would be wrong to compare the purchase of an unlet, decayed and empty building by the States of Jersey with the lease of the building to a uniquely interested tenant. The States should not be paying for its own Triple “A” covenant.
- The States should not be competing in the market for expensive financial services office space.
- I sought the informal opinion of a number of commercial property professionals and their views confirmed my initial concern that the building was not worth the price suggested at that stage. The latest valuation showed I was right to be cautious but I again state a valuation is not what we should be prepared to pay.
- I have evidence that led me to question conduct by officials within Property Holdings. This led me to have concerns about the independence of the States of Jersey negotiation team, added to the extreme political lobbying I had in relation to the purchase of Lime Grove. I hope the public will understand my unease as Treasury Minister.
- Had it not been for the actions of me as Minister and my Treasury officials, the States of Jersey might have entered into a project which could have become, in time, a major capital over spend.

- (2) I take my responsibilities very seriously.
- (3) Accounting Officers also have duties and statutory obligations under the Public Finances (Jersey) Law to carry out their functions in “*a prudent and economical manner*” and ensure that resources “*are used efficiently and effectively*”.
- (4) I expect officials in my Department to discharge those duties responsibly.
- (5) The proposed purchase of Lime Grove was potentially one of the biggest land transactions that the States has made. It follows that it was absolutely right for me to raise challenging questions about the prudence, economy, efficiency and effectiveness of the proposal.
- (6) As a Minister for 6 years and a Committee President prior to that, I am used to making swift, complex decisions on a regular basis.
- (7) Spending Ministers are rightly going to pursue issues in the interests of the spending Departments.
- (8) Whilst Property Holdings is part of Treasury and Resources my view is that there needs to be a segregation of duties within Treasury and Resources, which there was, with a separate Assistant Minister.
- (9) The decision to acquire Lime Grove was not going to the States for formal approval and therefore it was particularly incumbent on me to be extra cautious.

(10) As Treasury Minister, I ask challenging questions. That's my job.

(11) Normally I have such questions answered fully, professionally and in a timely fashion and I feel confident in making the many and varied decisions set before me every day.

(12) However, I need to report my confidence was undermined in a number of ways which are set out in an Annex. It is crucial to make this clear in order to understand this complex matter and I am happy to explain these to the Panel.

(13) With this one project, the acquisition of Lime Grove, I was uncomfortable not least because I was being lobbied in an extensive and extraordinary way. I found this so unusual and unsettling that I asked further questions in order to be satisfied.

(14) Scrutiny would expect nothing less. Islanders would expect nothing less.

(15) In short:

- I have a duty to protect both the public purse and the tax payer.
- This means asking challenging questions about major capital projects so as to be prudent and deliver value for money.
- It would be wrong of Ministers to yield to unreasonable pressure from lobbying. I act in the public interest.

- Whilst there is disappointment that the viable deal that I signed has not been complete, I remain confident that we can deliver an equivalent solution for the Police or better within available resources. The States is one of the biggest property owners. A solution must and will be found.

I would like to deal with the particular terms of reference before the Scrutiny Panel that the Chairman has set out in the letter of 23rd August.

1. To examine the recent project to re-provide property accommodation for the Police Services, with particular reference to the events which have led to the failure by the States to conclude the transaction to acquire Lime Grove House.

A willing buyer and a willing seller are needed to conclude a property transaction. From what I have seen the vendor has chosen to treat with a leaseholder on entirely different terms than had been discussed with the States. That is a commercial decision that the vendor is entitled to take and does not represent a failure on behalf of the States.

I set out below a timeline of events to help the Panel.

January 1999 – a review of the Police estate concludes that buildings require substantial investment in refurbishment, repair and maintenance. A subsequent strategic brief for the project concludes that buildings fail to meet basic requirements

of operational efficiency as well as Home office guidance and health & safety requirements.

August 1999 – JR Knowles (construction contract consultants) report concludes that relocation of the Police is required and Wetherall Green and Smith prepare a report assessing alternative sites.

Year 2000 - Lime Grove House was constructed. The building comprises 33,000 sq ft (net internal area) of office space located on the edge of the business district at the roundabout at the eastern entrance to the Tunnel.

November 2001 – Colin Smith & Partners review previous reports and assess alternative sites. 24 sites assessed and the report concludes that the Island Site annexe as the most appropriate. Subsequently a site was identified on the Esplanade car-park.

Early 2002 – some parts of the service move to the Summerland knitwear factory site was seen very much as an interim move to alleviate overcrowding and maintenance issues at the Rouge Bouillon site and was envisaged to be a 3 year move.

July 2002 – the full feasibility study was completed and presented to the Home Affairs Committee.

September 2003 – Concerns were expressed by the P&R Committee over the proposed location with the Committee also noting that the F&E Committee are not in

support of this location. The Director of Property Holdings is asked to review alternative sites and reports back.

November 2003 – a review re-assesses all 24 sites previously reviewed and identifies 8 which meet basic criteria. Of these, 3 were identified for more detailed review (Summerland, Esplanade and Parish yard, Westmount). Summerland was identified as the most appropriate. The P&R Committee endorse this recommendation.

April 2005 – feasibility No 2 was completed which the Home Affairs Committee consider and approve the recommendation of the Summerland site.

November 2006 – following a detailed design and value engineering process, a full planning application for a scheme on the Summerland site was submitted to the Planning Department.

July 2007 – the Police, having initially signed up to the Summerland scheme, declared that it did not believe it was fit for purpose. Work on the project was halted.

March 2009 – with support from the new leadership of the Police work was undertaken to critically review all the requirements of the building, in particular space requirements.

August 2009 – Policy occupancy assessment report completed by the States of Jersey Police.

November 2009 – an area review workshop took place which resulted in a significant reduction in the area requirements for the new development.

December 2009 – an options report prepared by JPH identified two remaining options, new build on the Summerland site or the purchase of Lime Grove House and the redevelopment of a smaller operational station on the Summerland site. The Police believed a split site to be beneficial operationally and identified this as their preferred option. Both of these options required significant (c. £8m) additional funding to budgets already voted.

March 2010 – Jersey Property Holdings made a conditional offer of £8.75m on the building, subject to contract and Ministerial and States approval. Buckley & Co revert with a counter offer. No response is made by Property Holdings.

October 2010 – Jersey Property Holdings included the Police project in Phase 1 of the office strategy. The Police project was to form part of a larger project so as to release site value which would fund the gap between the expected costs for the Police project and the approved budget.

February 2011 – Work began to review the business case with the aim of identifying an agreed way forward. This work includes the refinement and review of the options to deliver the requirements of the States of Jersey Police.

In particular, this work included the development of plans for the occupation of Lime Grove, which were subsequently costed to provide a firm basis for the projected budget.

April 2011 – As a result of the review of options a political meeting agrees the preferred option to be the acquisition of Lime Grove and the refurbishment/redevelopment of facilities at Rouge Bouillion. This option requires additional funding of c. £2m which the Council of Ministers agrees to include in the provisional 2012 Business Plan via allocations of £1m in 2013 and 2014.

May 2011 – the Minister for Treasury and Resources formally considers the options and agrees the preferred option of acquiring Lime Grove House and refurbishing/redeveloping the remaining operational facilities. Negotiations with the vendor are continued by the Acting Chief Executive, supported by an independent negotiator, with the aim of achieving both an acceptable price and clarity over which party would bear the costs of snagging, remedial works and dilapidations.

June 2011 – Negotiations are concluded leading to agreed Heads of Terms. The Minister for Treasury and Resources reports the proposed acquisition under Standing Order 168.

Funding details as at June 2011	
Source	Amount £m
2005 Capital Programme	£8,060

2007 Capital programme	£4,053
Transferred from Inflation Reserve	£1,698
2009 Capital Programme	£4,254
Total to Date	<u>£18,065</u>
2012 Indicative Capital programme	£2,000
Total Budget Allocation	£20,065
Less Expenditure to Date	-£0,921
Budget Available	<u>£19,144</u>

As can be seen from this timeline, this project has a long and complicated history. This project has made the most progress in the period since responsibility for the direction of the project was moved to the Deputy Chief Executive of the Chief Minister's Department.

A global financial services company, State Street, has now **leased** the building. As a result, a new solution needs to be found for the Police Headquarters and Jersey Property Holdings will continue to work with the Home Affairs Department to arrive at a satisfactory solution to meet the accommodation needs of an important public service.

Work is already underway on identifying alternative sites which will meet the needs of the Police and which I am confident will avoid the need for the States to be occupying premium office space. We had reached a compromise on Lime Grove

largely because it had been empty for 10 years and there was no competition for the space. The circumstances changed and the vendor took a commercial decision to accept a higher offer from State Street. We will find a viable alternative.

2. To ascertain the financial implications for the States of the failure to acquire Lime Grove House, in particular the impact this may have upon the ability of States departments to deliver their planned CSR savings.

Officers have carefully reviewed the schedule of CSR savings and there are no implications for the delivery of those savings arising from the loss of Lime Grove.

It is important to note that despite some inaccurate media comments that the original business case presented by Property Holdings in October 2010 would have cost £28 million against a budget of £18 million at that time. The business case proposed a complex web of asset sales in order to fund this significant gap. It included using proceeds from the disposal of South Hill, a very valuable development site, to help fund the Police Headquarters at a time when the property market was at a low ebb. Furthermore, it did not facilitate the release of the Summerland site for affordable housing, delivery of which is a key priority for the States. Had we proceeded on that basis it is possible that Scrutiny would have cause for concern.

It was the hard work and diligence of the Deputy Chief Executive of the Chief Minister's Department and the Assistant Chief Executive that resulted in a revised proposal involving the acquisition of Lime Grove and the

refurbishment of the Police Station within budget, I have every confidence in them.

We are now actively working on delivering an alternative location for the Police that will meet their requirements and provide value for money to the taxpayer.

Once a properly costed alternative is developed in the near future the financial implications for the States will be made clear. What I can be clear about now is that officials have been tasked with bringing forward a solution within the budget for the project. The current budget (including £2m in the 2012 Business Plan) is £20.065m of which £19.145m remains. The first SO168 MD shows the next lowest cost option (build new office on Summerland and refurbish) to be c £1.8m more expensive (£23m compared to £21.2m). But we are exploring a range of options.

There are no implications for the CSR programme. The issue of the CCTV project (CSR saving HA-22) has been raised. The upgrade was going to be integrated with the move to Lime Grove but will now go ahead independently. The SoJP will make £40,000 savings in 2012, either from the original proposal or by alternative means.

It is planned that the relocation of Customs and Immigration (JCIS) to cheaper accommodation will still go ahead at a later stage (CSR saving HA-4) but this is totally independent of the Lime Grove project. The original business case identified the move of Customs to Elizabeth Terminal but this plan was not fully developed and consequently the proposed timing needed more investigation. The project is now being fully evaluated with a view to completing the move as part of the overall office accommodation strategy.

3. To determine the effect the failure to acquire Lime Grove has had, or is likely to have, on related development opportunities within the States property portfolio.

It has minimal effect on the overall office strategy, as other parts of this strategy are not dependent on the Police relocation.

Whilst this work has yet to be completed, it is expected that any future solution for the Police is likely to have the same benefits as the Lime Grove option, in particular it will:

- provide appropriate office accommodation that will result in a significant reduction in floor space.
- enable the whole of the Summerland Site to be released for housing.
- enable the implementation of modern office space standards.
- enable the States of Jersey Police to improve its ways of working.

The Integrated Business Improvement Programme (IBIP) comprises the following projects which link closely together:

- Comprehensive Spending Review (CSR).
- Financial Management Improvements.
- Organisational Development.

- Fiscal Strategy Review (FSR).

Again, it is difficult to see any direct impact on IBIP as a result of not acquiring Lime Grove.

4. To identify if there has been, or is likely to be, any damage to the reputation of the States as a result of the way in which the Lime Grove House acquisition has been conducted, and if so, the consequential effect upon the States' ability to pursue future transactions in the private property sector.

The States has in the past been criticised for proceeding with capital projects that have subsequently gone over budget: The Treasury and Resources Minister was determined that this was not going to happen again.

In March 2010, whilst there was an initial offer made of £8.75m there was never agreement about the conditions of sale and, therefore, there were risks of additional costs being incurred that had not been quantified in a timely fashion by Jersey Property Holdings. State Street are not taking this risk because they have entered into a lease and this means that these liabilities fall to the lessor.

There is potential for damage to the States' reputation whichever way we turn. If we were to proceed with a capital project without first being satisfied of its economy, efficiency and effectiveness we would, quite justifiably, be criticised. If care had not been taken in the process leading up to Standing Order 168 notification to the States we could be facing criticism of acquiring property without having undertaken due

diligence on the fabric of the building and been faced at a later stage with unexpected costs. Furthermore, the business case from October 2010 contained a proposal for selling one of our most valuable sites at a time when the property market is depressed.

State Street have leased the building for £860,000 per year as the headline rent with a lease break in 16 years. Consequently the terms of the lease with State Street only reinforces my view that the building was flawed, extremely difficult to let, and far from a prime investment. State Street have leased the building with significant tenant inducements, including a 50% rental discount for the first three years valued at over £1.25m, together with fit-out and other inducements valued I understand at an additional £2m.

Furthermore the building owner was indeed fortunate to secure State Street who were a 'one off' tenant . They were already using the parking spaces in the building and occupy another building nearby. The synergies of being able to walk between their two buildings was a unique aspect relevant only to State Street and there were consequently unique reasons for State Street renting this building.

Comparing the purchase of an unlet and unloved building by the States of Jersey with the lease of the building to a uniquely interested tenant is not a valid comparison.

It is my view that even with State Street as tenant and bearing in mind the location of Lime Grove that with a tenant in occupation for only a guaranteed 16 years that the value of the building in the current market is still not significantly more than the £8.75m initially offered by Property Holdings.

5. To investigate the impact of the failure to acquire Lime Grove House on future plans to deliver benefits to the States through rationalisation and consolidation of the States office portfolio.

Having decoupled the redevelopment of the Police HQ from the remainder of the States Property Rationalisation the impact is limited. There will be some timing issues in redeveloping other sections of the States Office Accommodation Plan as considerable resource has been applied to providing the new Police HQ. I believe the other elements that were originally contained in the business plan must be delivered in order to provide modern accommodation to the public service and dispose of redundant assets.

6. To examine any further issues relating to the topic that may arise in the course of the Scrutiny review that the Sub-Panel considers relevant.

I referred at the start of my submission to the fact that when I am asked to make a decision on a matter as important as the acquisition of a new building that I raise questions about the prudence, economy, efficiency and effectiveness of the proposal. Normally I have such questions answered fully, professionally and in a timely fashion and I feel confident in making the many and varied decisions set before me every week. With this one project, the acquisition of Lime Grove, I was

uncomfortable and asked further questions in order to be satisfied. I set out in an annex some reasons for my disquiet.

ANNEX

A LACK OF CLARITY IN PROPERTY HOLDINGS' COMMUNICATIONS

Property Holdings made an offer of £8.75 million for Lime Grove in a letter to Buckley and Co of 25th March 2010.

This offer was made without the Treasury and Resource Minister's knowledge. This is extraordinary for such a high profile and costly project and should have been raised not just to Ministerial level but to Council of Ministers, such was its importance. However, the position on the acquisition of Lime Grove was being represented differently to Buckley & Co (through no fault of their own) and they were told in writing that Minister was briefed on the "details".

It is regrettable that a Jersey Property Holdings official wrote to Buckley & Co on 10th May 2010 saying: "*we have made significant progress with the Ministers involved in this project having briefed the Ministers and Assistant Ministers for Home Affairs, Health and Treasury as to the details, rationale and need to complete the purchase of Lime Grove. They have all confirmed their understanding and support*".

The Minister can fully understand why Buckley & Co believed that Ministers had been fully briefed.

The letter says that Ministers had been told "*details*". In contrast, in an internal memorandum of 12th May, Property Holdings say "*JPH representatives met with the Minister on 5th May 2010 to consider indicative proposals for a solution to the current Police HQ and station....*" Furthermore, no mention is made in this memorandum to

me of an offer having been made by Property Holdings to Buckley & Co of £8.75 million on 25th March. Property Holdings were not being clear with Buckley & Co as to the level of briefing for Ministers that had happened at that stage, nor were Property Holdings being clear to Ministers about the extent of negotiations that had already taken place. I believe this divergence later contributed, understandably, to a lack of confidence in Buckley & Co's dealings with the States on behalf of their client on this project.

A LACK OF CLARITY IN PROPERTY HOLDINGS' DEALING WITH BUCKLEY & CO. AS TO THE OFFER OF £8.75 MILLION AND WHAT WAS INCLUDED WITHIN IT.

Property Holdings agreed a price but not a whole deal.

In an internal email of 12th April 2011, the Director of Property Holdings describes the situation as "*All in all very messy and totally unsatisfactory*". In an earlier email of 6th April, the Director of Property Holdings counsels "*against reducing the headline price by accepting responsibility for completing the snagging and defects in the building as this would expose the public to any inherent defects liability*". Looking back it is clear why this problem arises.

In the offer letter from Property Holdings of 25th March (VI p27) the offer of £8.75 million is made subject to conditions, namely "*that the property is sold in the current condition save as to any snagging and remedial works required and secondly that a proper electrical supply is in place for the building*".

Buckley & Co's letter of 31st March 2010 in response to Property Holdings (V1p30) says *"We also discussed this morning the two additional caveats set out in your offer letters i.e. relating to snagging/remedial works required and secondly the installation of a proper electrical supply of the building. My understanding is that these items will now be contained within the revised fit out sums which have been identified by Drumcoille as being substantially less than the £1.5 million cost originally envisaged"*. In other words, Buckley & Co have not accepted that they will meet either the costs of *"snagging/remedial works"* or the costs of providing an electricity supply. This is a significant change to the States offer. The vendor did nothing wrong in making a counter offer. Regrettably, Jersey Property Holdings failed to respond. At this stage Property Holdings had not costed the snagging and remedial works, nor at that time had they costed dilapidations

I have not seen a response in writing from Property Holdings to Buckley & Co questioning Buckley & Co's counter offer either agreeing to it or re-stating Property Holdings' original offer. Nor have I seen any communication from Property Holdings to me, the Assistant Minister or Accounting Officer to advise us of Buckley's counter offer and its impact on what the States would be getting in return for £8.75 million. How can I be sure of economy, efficiency and effectiveness in these circumstances?

This lack of clarity and the failure to communicate effectively to key decision makers was drawn to my attention in Hugh McGarel-Groves' report of January 2011, in which he also adds a further point about the lack of an independent valuation *"a formal offer of £8.75 million was made by JPH in March 201 to purchase Lime Grove House for use as a Police HQ, without prior approval by the Accounting Officer or by the Minister and without verification by an independent valuer"*. (V1p151).

The independent valuation by BNP Paribas is set out in a report dated 2nd June 2010, more than two months after the offer was made by Property Holdings. Knowledge of this further valuation work being undertaken after a written offer had been made further undermined my confidence in Property Holdings' approach to this project.

LACK OF PROGRESS WITHIN PROPERTY HOLDINGS.

In November 2010, the Home Affairs Minister raises concerns about the progress of the project with the Treasury and Resources Minister and the Chief Minister.

Meetings are convened with appropriate Ministers and Assistant Minister in order to agree a way forward that meets the needs of an important public services whilst at the same time achieving best value from taxpayers' money. With the benefit of hindsight, perhaps I should have done more to oversee the work of the Assistant Minister in this area. In any event officers have, prior to this Scrutiny Review, introduced changes which bring the formal decision making by The Assistant Minister within Property Holdings into the routine and established process that we have within Treasury and Resources for dealing with Ministerial Decisions.

LACK OF CLARITY OVER TOTAL PROJECT COSTS AND FUNDING.

In December 2010 The Deputy Chief Executive prepared a report for the Chief Minister, the Treasury and Resources Minister and the Home Affairs Minister. In this

report the Deputy Chief Executive identifies "*a number of serious concerns with the Business Case as presented*".

ACTION TAKEN TO PROVE RESPONSIBILITY FOR THE PROJECT.

Given the lack of progress within Property Holdings, concerns from Buckley & Co who had been given to believe that the acquisition would be through the States before the recess of the summer of 2010 and the concerns of the Home affairs Minister with whom I was working closely to find a solution for the Police, there was little alternative but to move responsibility for the project to a higher level. Once the Deputy Chief Executive became responsible and appointed a new project manager, the full extent of the problems associated with this project were exposed for the first time.

I should make clear that there are many areas of Property Holdings activities, particularly in the areas of building maintenance and the management of capital projects that work well and effectively and staff do a thorough and effective job. It is a shame that good work within Property Holdings as a whole may be obscured and overshadowed by this project.

Failings within this project have already been addressed in a staff disciplinary process which is outside the scope of this Scrutiny Review.

