

SCRUTINY ENVIRONMENT PANEL

FRIDAY, 23rd JUNE 2006

Planning Process Review

Panel:

Deputy R.C. Duhamel of St. Saviour (Chairman)

Connétable K. A. Le Brun of St. Mary

Deputy G.C.L. Baudains of St. Clement

Deputy R.G. Le Hérisssier of St. Saviour

Deputy S. Power of St. Brelade

Witnesses:

Mr. K. Shaw

Deputy R.C. Duhamel:

Welcome to our review. I have to read our convening notice which I will do. It is important that you fully understand the conditions under which you are appearing at this hearing. You will find a printed copy of the statement I am about to read to you on the table in front of you. "The proceedings are the power covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey Powers and Privileges and Immunities, Scrutiny Panels, Public Accounts Committee (PAC) and Privileges and Procedures Committee (PPC) Jersey Regulations 2006, and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something that they know to be untrue. This protection is given to witnesses to ensure that they can speak freely and openly to the Panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering questions and the proceedings are being recorded and transcriptions will be made available on the Scrutiny website." In giving your answers, if you can lean forward and speak into the microphone and then the officer will tell you if she cannot hear it. If she cannot hear it, it cannot be transcribed properly. As you know, I am the overall Chairman of the group but for this particular review the lead Member is Deputy Baudains and he is being assisted by Deputy Roy Le Hérisssier. Consequently, when we come to the questioning, the bulk of the questioning will be done by those 2 Members and the rest of the Members will supplement and chip in as and when. Kicking off, we have had your submission and we have read it and I think we would like to start by asking whether you wish to expand on any section within in?

Mr. K. Shaw:

No, I only hope that the comments I made came out in the best possible light. I have been involved with the Planning Department since 1981 as an active DIY-er (do it yourself) and in some respects, and I can remember quite a few of the names but probably Joe Carney but that goes back a long way. I think it is only fair to say that I have enjoyed a lot of the advice because my background is engineering: mechanical and some welding. So, I did happen to like things like steel and concrete, having built cars and a ferro-cement boat over the years so I am quite handy with my hands and I learn quite quickly. So, having advice that could save me money or time is very useful. I was one of the early guys to employ Dan Hartigan and he has gone from strength to strength. Not on the basis of money I have given him. **[Laughter]** Although he's had a fair bit of my money. I think when I first met him he had him and a phone and a kettle and a place in David Place so he's gone on a fair way since then. So I take advice well and I have been very pleased to have advice from officers although I think a lot of that advice has been whittled away over the years because they are a bit nervous about giving advice. They have then directed me to people like Ross Gower and Dan Hartigan for more technical advice that they can step back from as opposed to saying: "Well, I was told this by Joe Carney" or something. And I can see the logic in that because if that advice is taken on board but not done in a way they meant, it could fall back on them, couldn't it? I think it was Joe Carney many years ago who said: "We set the minimum standards and some people use them as maximums" and that is the scary bit about any regulations. I hopefully in my time have never wanted to leave a job behind that I thought wouldn't be substantial and outlive me or my children. I've not cut back on corners but I'm certain that there will be other people that may have done. So, in the light of that I am a big fan of the Planning Department and think they probably need to have a bit more power sometimes and perhaps better press. Their enforcing arm I think is "limp" for want of a better word probably.

Deputy R.C. Duhamel:

Is it due to inefficiencies or lack of specific details within regulations, or is it merely down to a lack of staff?

Mr. K. Shaw:

I could not say. I have got a classic example. At the moment I have got a plan in progress that is taking quite some time - plans put in place in the past, about 4 or 5 years ago, that expired - for work done internally to the house that nobody will ever see, although it would materialise, if I sold the house, as being a room that was not there when I moved in, even though the room was there but it is change of use. I put the plans in; I think it cost about £80 probably about 4 or 5 years ago. Stupidly they expired; I did not get around to doing it. I have resubmitted. In that first process I sketched out maybe an A3 sheet of my notes with a drawing of what I wanted to do and submitted the A4 sheet with the money. It was approved fairly quickly. Since then, 2004, the same plans have now expired. It now costs over £300. They have been sitting in the Planning Department now I think for nearly 2 months and there are 12 regulations I need to look at. This is full of the regulations. Well it is not full of the regulations

because there were some regulations that plain didn't apply. It is a room with no drains, no roof, no windows. You might be able to work out what that is; it isn't a fallout shelter. So there are some aspects of the 12 documents that I do not need to look at. The Deputy Prime Minister document is the thickest and that may be a reflection of the gentleman; I do not know. That is the Deputy Prime Minister's document at the bottom there, which is a fair bit of my printer at home. I think it has completely knackered my printer if not several colour cartridges. So, that is what has changed. I have seen that change. That is the information that comes often quite late in the day. I was given a 2-page sheet to warn me about that. So, I am noticing changes. That's the 2004 regs.

Deputy R.C. Duhamel:

So, it is a case of over-bureaucratic --

Mr. K. Shaw:

I do not know. In my particular case it could be overkill. Perhaps a bit more guideline. That is why I probably suggested here that perhaps there could be an introduction document or something with outline pointers. I am fairly IT (information technology) literate. I can pick up most of these things off the Internet but if people are not, it does hamper some people who want to do things from getting information from the relevant authorities and they may decide to go a different route. I have got a very thick file at the Planning Department of things I have been doing over the years so I have probably about 10 different things in 3 different houses - walls, extensions, new roofs, windows, garages - so my file is fairly thick with not just the formal documentation but where I have been engaged in conversation as well which is useful. Especially for someone who doesn't want to put a foot wrong. I am a States employee. I do not want to be hauled up in court for many things; least not falling out with another States department. I doesn't make a lot of sense, does it? We have all got the same employer really so I am quite happy to engage in that respect. So my file is full of also my notes and letters and responses. I have seen a massive 100-fold increase in the documentation from them but sometimes I wonder if it is advice or regulation; I do not know.

Deputy G.C.L. Baudains:

One thing I was going to ask of your experience over the 15 years: what has changed and has it been for the better or for the worse? What we seem to be hearing is an increase in bureaucracy which may not be justified in all cases?

Mr. K. Shaw:

Yes, I think so. I think it is because the information is not there up front. So, if I am going to apply for a conservatory, what do I need to do? What are the regulations? I still think you are not supposed to have heaters in conservatories; I am not sure if that is true or not but they are there now because people put them in afterwards. Miraculously pipes just appear. Or there are commercial conservatories that

have heaters in there. Maybe they are not called conservatories. I don't know. Maybe they are called something else, maybe an extension to a dining room. But if people give more guidelines they might be more -- not more keen to go through the planning process because it is not cheap now anymore but we were promised speed. So, if I am paying 5 times more for the same application using the same drawing more or less, I am wondering what I am getting for my money now. I have burnt out a printer and several cartridges. I should have checked. The Office of the Deputy Prime Minister one was a killer.

Deputy R.G. Le Hérissier:

Keith, from the way you are talking you get all this, in a sense, indiscriminate promotion recommended.

Mr. K. Shaw:

I'm lucky. You know where I work so I have got no technical expertise on tap, usually free. If I had to go to a structural engineer, I am paying for their insurance policy as well so if the IDC or the Planning Department want that I have got no choice. I am quite happy with that because most things they - once they have drawn it out for me using their skill, I can understand the drawings so I can easily comply with their minimum requirements.

Deputy R.G. Le Hérissier:

Have you said, for example in the case of a conservatory, have you found a person you can speak to in Planning, not to give the kind of almost qualitative advice you got from Joe Carney in the very early days, but someone you can say: "I wish to build a conservatory. Will you kindly tell me what all the conditions are; what kind of drawing is acceptable? Thank you very much."

Mr. K. Shaw:

No, I do not think I probably have. I have been remiss. I probably should have found out. Is there an enquiry desk? I do not know. Is that facility there to give - I think the Planning Department are getting a bit nervous about giving advice because it tends to go down the route where: "So-and-so said I could do this" and that is a difficult thing. If there were a whole series of guidelines - whether available on the net or States library - that may be very much more useful so people would know what the steps are. In the past I have probably not circumvented anybody but thought, in my limited knowledge, I know what I am doing. A little bit of knowledge can be a dangerous thing.

Deputy R.C. Duhamel:

I think the building regulations, certainly the new revised ones, were intended to allow flexibility of approach to builders and developers providing they met certain criteria for fuel efficiency or whatever. The rules and regulations are there principally to check to make sure the work has been done to a sufficient standard. But there should be an element of flexibility in what you are doing which was not there before. That said, there is a different class of interpretation when you are putting in permissions or

asking for permissions on the planning front because the things that need to be decided require a greater level of judgment. As an engineer you would know, and if I tell you that there has to be so many air changes in a particular room, or the lighting has to be applied to a certain proportion or intensity, you can do those calculations. But if you are putting in a planning application then it has to be determined in design terms, then those interpretations can be quite differently interpreted by different people.

Mr. K. Shaw:

All that worries me though, I was given a 3 page sheet - I probably haven't got it here now – from one of the guys when I found out my recent thing had expired. He said: “You have got to do this now.” As a guideline sheet he gave me somebody else's; maybe a standard one. I'm wondering if it is almost like doing self-certification which scares the hell out of me. I know the Fire Service are going down that way where they will be moving towards regulating the formal orders. If you do that all they are doing is hiding behind a piece of paper that says: “I plan to do this.” I would hate that to take away the inspection process because if you buy a property and someone has filled that form in, okay, you might get a suit in a few years because they have told Planning Department X, Y and Z and may not have been very accurate. If the inspection process is not as rigid as the documentation it is pointless.

Deputy R.C. Duhamel:

Yes, there are difficulties within the system, I know, and part and parcel of the revision was to determine whether or not they should put the prices up - last time - in order to pay for extra staff in order to provide sufficient funds to justify the staffing requirements to ensure that the levels of quality control were in place. We are still hearing stories that perhaps that level of checking is not as high as it could be.

Mr. K. Shaw:

It can't be. I have a lot of friends who work in building firms who are amazed they never see inspectors on quite big projects.

Deputy R.C. Duhamel:

There was also talk when I was on the Committee of parcelling up the regulatory system and giving it back to the architect or the building surveyors in order to offload that particular function in a way that perhaps the private sector will be more able to offer the service that wasn't being provided by the department themselves.

Mr. K. Shaw:

Is that not poacher and gamekeeper type thing, I think?

Deputy R.C. Duhamel:

No, I think that's where we are at the moment. I think the suggestion was that if you look at the

architect's remit, in the old days certainly, the architect organised the building surveying work and the whole contract. Certainly architects of late tend to rely on the services of other specific professional bodies to do some of those things.

Mr. K. Shaw:

Is that not the problem; we get things like this building? (- holds up a Jersey Evening Post article referring to Lezardrieux, St. Clement)

Deputy R.C. Duhamel:

Absolutely right.

Mr. K. Shaw:

I cannot believe there are no drawings for that place. I'd been in the house before it was pulled down. There were people living there for several years beforehand. They must have lots of photographs. I cannot believe the Planning Department have not got quite good memories or fair knowledge because that property must be at least 12 - 15 feet higher than the previous one.

Deputy R.C. Duhamel:

We heard earlier on from the Minister that they have to apply the test of reasonableness in order to determine whether or not if a particular application has been built, not in direct accordance with the plans that were agreed, the extent to which the developer has gone over and how unreasonable it will be in that case not to then give retrospective permission to allow the building to continue to be in existence in the form it has been built. Certainly if you have got 7 foot increases in the overall height it makes you query as to what is significant and what isn't in terms of material changes but what appeared to be coming out from the Ministers is that, notwithstanding their own particular design preferences, if indeed it is reasonable in terms, and those terms really need to be battened down and buttoned up, they are obliged under the Law to accept a retrospective application to regularize.

Mr. K. Shaw:

Those drawings must have existed for probably by the looks of it 2 years. The judgement of reasonableness must be on the drawings as opposed to the end result, surely?

Deputy R.C. Duhamel:

I do not know. What we are hearing this morning is that the planning process is not as rigid as perhaps the public expects it to be.

Mr. K. Shaw:

Yes, I would agree with that.

Deputy R.C. Duhamel:

In which case the general issue is whether or not the Planning Department are quite happy to pass that on to the general public so that everybody is under the same interpretation of the law and can be as flexible as perhaps some developers are and get away with it.

Mr. K. Shaw:

There is no indication of the general public - I do not know about the architects - that in the application process there is any penalties. It appears to be a fast track to ignoring what you need to do.

Deputy R.C. Duhamel:

That is right.

Mr. K. Shaw:

You put it up and ask for it afterwards.

Deputy R.C. Duhamel:

That is part and parcel of...

Mr. K. Shaw:

You pay the same amount of money and you don't have to hang around. When I put my first conservatories on, and third conservatories on and so on, I paid a fair bit of money on planning my conservatories over the years, but I have changed it to my own views. I have changed it to save me money overall - I've given the Planning Department a lot more money - but the first one took 5 months to come through. Now, I was quite surprised at that because it is only if you stand on someone else's garage can you see what my conservatory will look like. I had to lay my patio backwards. I was hoping to lay the patio in front of the conservatory forwards so I had the patio laid and I waited for another 2 or 3 years and I have just started now. But the retrospective thing seems to be the way to go forward. I would recommend anybody to go that method.

Deputy R.G. Le Hérissier:

Keith, you raised the issue of municipal buildings and you have been observing a construction as you drive...

Mr. K. Shaw:

I do not think you should talk about that in the planning process apart from the fact that they do seem to cost a lot of money.

Deputy R.G. Le Hérissier:

That was basically the planning implication. I was trying to draw out from you what are the planning implications of your observation because you are saying that criticism - which as you know is fairly common - is that the States is a bit extravagant and maybe misplaced in the kind of features it puts into buildings. What do you think is the planning implication of what you are saying about the design in places like Hautlieu?

Mr. K. Shaw:

I think somebody could look at things they put into buildings. The classic case is Haute Vallee School which won prizes but it doesn't win prizes amongst the staff. It is a very inefficient building. When I first went there we had to all find the main office. You ask the children and they say "It's behind you". It is a bit like a pantomime really. You walk there and you've actually walked past the entrance. There are a lot more signs there now. It may have won design awards but the functionality is poor. I gather there may be a lot of on-costs for that building, apart from the fact it has not got a big enough canteen for the students and some parts of the main hall have never worked since the first month. Things like that. So, people that work there see issues that are not small money.

Deputy G.C.L. Baudains:

On that subject, what are your views on the amount of influence planning officers have on design, especially on things like municipal buildings? We have heard quite a high percentage of the design of developments are actually generated as a result of the development brief which, of course, is drawn up by the Planning Department. You talk about Hautlieu. One of my pet hates is the girl's college; looks like some sort of fish factory from the outside to me and it is not very functional inside, but I would very much doubt personally whether the Education Committee and its architects had the majority of the say in that. Are you aware of any of these issues or what are your views on it?

Mr. K. Shaw:

I think people think the Planning Department has got that overview and they should be able to advise on a building's function. It is nice to have cutting-edge technology. I don't know if we all subscribe to that though. Do we buy the brand new car? Do we wait until the teething problems have been sorted out? Somebody was saying yesterday that one of the problems with Hautlieu and the heating problem is that it is controlled from Bristol. That is fine, a good phone link to somebody but there may be issues about that. Why is it controlled from so far away? I think people expect that the over-arching look at States developments which is the biggest bulk of their purchase - we have had £100 million worth of schools in the last 10 years which is probably - if that equates to UK prices probably 3 or 4 times dearer than what we'd buy them off the shelf for in the UK. They expect perhaps a little bit more for their money. I know there are on costs to building in Jersey, shipping and things, but sometimes the designs do not appear to materialise into functionality. They might be very pretty looking but sometimes we have got to

talk long term here, haven't we? If they do not get up and running fairly quickly, the on costs to some of these buildings is enormous. The Girls' College is a classic one, the Hautlieu... In the college where I work we have the apprentices and they are on every site in the Island, especially the big ones. There are employers. They are constantly talking about what they see and hear going on. They are also taxpayers. The young ones are probably not much of a taxpayer but their bosses would be. And they see it as being a bit of a drain sometimes. They see a lot of work going out of the Island, to no apparent value. Big bucks going out of the Island for consultancies, for design and then they are picking up the pieces and the costs are still there. The product has been bought in, doesn't function as it should do and now it has got to have remedial work done or even scrap some part of it. And that is quite sad.

Deputy G.C.L. Baudains:

What you are suggesting is that the design tends more towards flair and a personal preference of either the Planning Department or architect as opposed to quality long-lasting design?

Mr. K. Shaw:

Do you go and buy a car based upon a fixed top-level price or do you go and buy what you need? I think they have a sum of money that is bandied around and the people work to that sum of money and go: "We had better have the top." So, they know most schools cost £30 million so they spend £30 million. There is no incentive for good housekeeping. There is no incentive, I don't think, from the public's point of view, to spend money that carefully and buy what you need. It is just "fill the space up with technology" sometimes. That is what it appears to be. We are already talking about £60-80 million for a new incinerator. So, it will not be any less than that, will it? If somebody finds one for £40 million it will not be punted forward. It will be £60 - £80 million.

Deputy G.C.L. Baudains:

I remember attending a presentation on school costs at the Condor Hotel some time ago where an equivalent sized school in the UK I believe to Hautlieu could have been built for about £8 million and we are talking about £30 million in Jersey. It is difficult to find out where the difference is.

The Connétable of St. Mary:

Leading on from that, do you think it is a kind of a chicken and egg, or horse and cart? Would you believe it is the money that is put forward and then sent to the architects and say: "Build something for that money" or do you think it is the architects that put the extras on to their own gain rather than to the benefit of all?

Mr. K. Shaw:

Through the percentage. They are paid by percentages.

The Connétable of St. Mary:

That is what I am saying. Is it that they are given that amount initially? Do you think that the architect should be more responsible? That they should go within reason and say which should work better rather than put a façade on it?

Mr. K. Shaw:

We have got good examples of buildings all over the place. We have got France on our doorstep; we have got England where we can actually talk, if we cannot speak French, to the architects. Those designs are probably available on the internet. I mean, Japanese have been copying designs for cars for a long, long time and they make what we have made over the years better. You take the product, strip it down to its basic parts, see how it works and you can make it better. When the Japanese have copied our cars they do not leak oil and the doors close properly and they do not rattle as much. It is not rocket science. If you see a school you like somewhere, copy it.

The Connétable of St. Mary:

Would you say there should be more control by the Planning to make sure that if they see that it is more façade that they should have more control over the design?

Mr. K. Shaw:

Yes. I agree. Look at the airport: you have 15 or £25,000 of doors that have never opened at one end. Lovely looking doors. I do not know what the hell they are doing there. The police car parks in front of the John Le Fondre doors, doesn't he? Lovely looking doors. What are they there for?

The Connétable of St. Mary:

So, there should be more planning control?

Mr. K. Shaw:

Yes. It is a style statement if you can afford it. The building is twice as high as it needs to be. It is twice as high as any other European airport I've ever been to. There are no buildings with areas that high; you cannot heat or cool it.

Deputy R.C. Duhamel:

Deputy Power?

Deputy S. Power:

Going back to your strongly held views on the cost of States' developments on the Island, if I say to you that the States go out to competitive tender on a lot of their projects, why is a £6 million school in Maidenhead or Middlesbrough £30 million here If we are using a competitive tendering process?

Mr. K. Shaw:

I do not know. Why did Hotel de France go to Germany for their people? Why did they get Deerglen in for their extension? I don't know. They did not employ anybody locally. I think they went worldwide. I think perhaps we could do competitive tendering locally, although I know there is a mark up for local firms, isn't there? They used to be allowed an 8 per cent mark up, did they not?

Deputy R.C. Duhamel:

There used to be. I think it has been stopped.

Mr. K. Shaw:

There are people who are having houses shipped in from elsewhere, out of the Island. There are Dutch houses being built locally. There must be a reason for that.

Deputy G.C.L. Baudains:

The Jersey premium has now been removed.

Mr. K. Shaw:

I do not know how it works. I think Jersey has looked many times at the cost of building and I do think that we should keep as many local firms in business as possible, both as suppliers and local businesses because that is our tax paying revenue income so it is not good to go outside the Island but I do not know how it works. It is obviously not a cartel but some of the prices come in very, very interestingly.

Deputy S. Power:

Do you think that the planning process that any States development goes through adds to the cost in your own experience? Do you think it is so different to the UK that there is a multiplier effect where it is more expensive?

Mr. K. Shaw:

Well, no, because it is a hidden cost, is it not? You do not get billed for that. You get a bill for the planning process. We do not see how much work goes on behind the scenes. I do not know how much time it takes for someone to look at my conservatory; I have not got a clue. I know what I pay for that. Obviously it does not probably reflect – well it cannot, even on a small job – reflect. The £80 wouldn't have reflected some time ago. The £300 now may reflect the time it takes. I am sure just to process it is an hour of admin per application, even if they do not open the drawing envelope. Then you want technical expertise to look at it and somebody else to say: "Yes, it will fit in with the environment". So you have got the technical side and you have got the planning side, haven't you? So all of those are separate entities and they will have on costs of labour and normal employment costs. I do not know if

the planning process adds significantly to the price of the project; it adds to the cost to the taxpayer.

Deputy S. Power:

The point I was trying to get to is if you have a large project - for instance an extension to a hospital or school - that design process involves an architect, an engineer and a surveyor. To a large extent the planning process then approves the basic design frame, the basic shape, structure and foundation. But to a large extent, compared to, say, your conservatory or my extension, they do not have to go into detail on the wiring, fittings, and all that because that is overseen and certified by the engineer and surveyors. I would have thought that for the planning process there was not such a cost implication.

Mr. K. Shaw:

I see your point. What they have stepped back from, they are using the expertise of the client's staff and their indemnities, are they not? As long as the overall structure conforms to the planning requirements then the inspectors will just give a perhaps lesser degree. I should imagine that they probably do watch me more than Dandara or any other building firm.

Deputy S. Power:

I doubt that the Planning Department are seriously worried about the air conditioning or heating system now in Grainville School now because it is signed off. The fact that they saw the actual installation on paper and the fact that now it is not working the way it is supposed to be working or there has been reservations or it has broken down or there has been one small fire in it means that it has gone way beyond the planning stage.

Mr. K. Shaw:

Yes, but the general public are still picking up the bill because if that is not sorted out within the teething problem time, the eventual costs will be there long term because those schools, well most schools, are supposed to last for 30 or 40 years we hope and the ongoing costs of maintaining something far outweigh the installation costs in the end.

Deputy S. Power:

You mentioned in your submission, which was very interesting, that if you build an extension or you put on a conservatory or you build a house you have competent skills. It is clear from what you have told us that you have competent skills and I presume that means that you can wire, plumb and do bits and pieces like that. Do you feel you should be allowed to do more of that kind of work then have it certified by an electrician or a certified plumber?

Mr. K. Shaw:

I do not know. There is a fine line there. I know my limitations so I tend to do, on things like plumbing

and anything electrical, to confine it to getting the major items in place, basically because it is cost-effective to me. I am not paying myself. If I am paying somebody who is a qualified electrician or a plumber to do the menial tasks if he has not got someone with him, I am still paying the same amount of money and he is doing the less important things. So, I would try and do as much preparation as possible. I do not mind doing very very minor tasks but I would not want to get into – I think it is Section 7 of the Electrical Regulations, where a qualified electrician needs to be registered. I would not want to do that. I think that should be to a qualified electrician. I took umbrage with Mo Roscuët, who I met as a planning officer on my site, when they had that problem with the school, a school that had electrical problems I think. A nursery school? There was a statement in the paper that said: “Householders should get documentation from the Planning Department and ensure that the electricians complete this document.” I have never heard of that document and I do not think many householders have. Neither had the nursery school that employed the electricians. I got a list of electricians from Mo, in April, some of whom apparently appear on the list but who are no longer qualified – I need to check that. That was only a note in *The Gazette* 3 or 4 years ago and my question was: if that is the case for tasks like conservatories, kitchens - anything above a minor task - he must be getting hundreds of forms in a month. There must be 50 or 60 bathrooms or kitchens fitted in Jersey in a month otherwise the local firms would not be in business. So that must equate to lots of forms coming in. I do not think they are getting double figures. So somewhere along the line although they got the process in, the checks and balances are not in place to ensure it has been done. The electricians do not like filling them in. They do not mind being qualified but they do not like filling them in. If they are not given one to fill in, the punters who are buying the kitchen or suppliers of the kitchens will not propose the idea so it means the suppliers do not know about it. I’ve fitted about 5 bathrooms over the years, probably, and I have never been told by a local plumber about dual flushes. They’ve never said to me: “The Bye-laws say you should have a dual flush” or whatever it is. I think that is one of the Bye-laws. I’ve never been told. That is bizarre.

Deputy R.G. Le Hérissier:

Just one of the underlying themes of your submission, Keith, and of course it is a fairly popular one, is the inconsistency in the way planning regulations are applied. You do give the case of garages where you have laboured mightily and produced 2, completely according to the regulations.

Mr. K. Shaw:

Yes.

Deputy R.G. Le Hérissier:

But you observed in your area 5 or so and then you have observed, in estates like Maufant, garages used for other purposes. Did you have any evidence that these 5 you observed were under planning regulation, albeit defective planning regulation or did you just pick this up?

Mr. K. Shaw:

I am just puzzled. Having followed very closely the guidelines they gave me, I did want a nice looking garage in the first one and I was quite happy and the regulations said they should not swing out over the pavement or footpath - a lot of common sense there - unless you only have access from the outside. That way you won't swing out and knock somebody over or hit a car or pedestrians walking past. But I have noticed other ones have been fitted and so I am surprised. But people may not expect to have that level of detail to what they want to do. I think people generally would believe that they can do more or less what they want, and that goes to fitting windows, fitting doors and things. I know that I have had scrutiny because I designed it and I said I wanted to do this, so there was scrutiny there but I do not think the general public is aware in some cases there is a planning process that they need to go through and that is plainly obvious with things like satellite dishes and things like that. People pop those up in sometimes inappropriate places and then they find out that they've not confirmed with the Planning Department. Satellite dish fitters know what the regulations are. They plainly follow the requirement of their customer and they do not mind going back to refit it when they have to.

Deputy G.C.L. Baudains:

Could it be that the regulations have now got so complicated that it deters people from going down the line of finding out whether they need to apply or whatever? Because in some cases people will know that once they have asked whether they have to comply and been told they do then they are advised to but if you do not know, well --

Mr. K. Shaw:

There is a lot of that. That is the retrospective route I think. I think if you do not ask the question you cannot get the answer you do not want. You hope to be able to face the problem off later on by a gallic shrug and get away with it you hope unless the enforcing officers are adamant that you cannot have what you have got there for lots of other reasons. It is not an easy task for enforcing officers, I must admit, because nobody can admit that they did not know -- that they knew what they were doing was wrong.

Deputy G.C.L. Baudains:

What I am thinking is that the purpose of regulations is to ensure good quality and safeness and all that sort of thing but it may be counterproductive if it is too onerous.

Mr. K. Shaw:

Yes, but I think there is an element of information that needs to come out and I think that is where there is a bit of a gap. I think people generally do not know there are certain things they should comply with. They may be simple things like satellite dishes but somewhere along the line I think there is a gap between what you expect to have to ask for and I think that most people would quite happily say that

they can do almost anything within their house without asking anybody about it because it is their house. Nobody else will see it so what are they worried about, and they get quite surprised later on when, perhaps if they do try and sell their house, that the house does not match up with the Planning Department. It is a different house.

Deputy G.C.L. Baudains:

One of the favourite ones at the moment is if you want to seemingly innocuously convert a living room or a study into a bedroom, immediately you face the problem that bedroom equals one extra occupant, therefore you need one extra car-parking space.

Mr. K. Shaw:

I have been down that route, yes. I had to trade off rooms for car spaces and all that sort of stuff.

Deputy R.C. Duhamel:

We did hear this morning that the department are somewhat strapped for cash, in terms of resources, and they have actually cut back and they would like to do other things and being a direct response to that they have changed the legislation somewhat to allow for exempt developments which do not require permissions. Perhaps, part and parcel of that move, in order to bring the number of applications that they were processing in previous times down to more manageable proportions, perhaps there is an element and an exercise that needs to be undertaken in order to advise the public more closely as to what is exempt and what does specifically require permission?

Mr. K. Shaw:

How will that be related to the public, though?

Deputy R.C. Duhamel:

Well, I mean certainly if you look at some of the documentation that you can get at the department, it does indicate these new things, as to what is exempt. So, for example, I mean some satellite dishes, I mean they will be exempt providing they are located in particular positions. Likewise if you are applying for a conservatory, conservatories can be built without an application providing there is specific capacity. But, maybe the department are not quite getting their message across.

The Connétable of St. Mary:

Just to add to that, Mr. Chairman, one thing that was going through my mind just then and how you would think that one could inform the public because we are talking about the planning and planning invariably means a change from the rule to that. But there are, I am sure, many people within their own houses who change internally their bedroom or their bathroom or such like, but they do not know the requirements up to the law. Now, how would you think one could go about that to inform the public?

Because it is easy to say they should know or they do not know but there has to be information given to some good. How would you foresee planning could distil that message out to the general public? Because it is not everybody that needs permission to change or get planning permission just to do internal structural alterations.

Mr. K. Shaw:

I mean I suppose there are several ways of doing it. I mean I would not want an Island mail drop. There are things you could do probably on house purchase, for example. So, before anybody decides. I mean they only buy a house and the first thing people do is they knock things about. They may not think at the time, in their rush to change what they have just bought, they may not realise. There could be something on house purchase where people begin to realise that, you know: "You have just gone through the planning -- quite a serious process of spending a lot of money and tie yourself down for a while, but, you know, should you want to do something in the future these are the basic steps you need to follow." I think the Web site is obviously an advantage for those people who want it. But, I think -- I do not know. There is still not the readily available information. I do not think the Planning Department are doing themselves any favours. I think they need to be slightly more public and slightly more friendly and slightly more -- I do not say: "Open and above board" but perhaps out there in the public's face, you know, and be involved in more things; especially if they have got something like this, they have got exemptions. People always want exemptions. It is like having a moratorium on, you know, having something you do not want, is it not, you know, getting rid of all your old -- at the moment it is knives and things, is it not, or drugs or -- it is like an amnesty, is it not? That would be rather nice, would it not, to have an amnesty and then -- I mean unfortunately there is an amnesty in some of the things -- well, if there is an amnesty for set things you are okay. You still will not find out [Laughter] the ones you have got to find out about. But, I do not know. I think it almost seems as if the people who go about things in the regular way, or follow the guidelines, the people get penalised. My application expired for this room. It is my fault. So, I have to go back and the rules have changed. So, it was not rubber-stamped. That was my first shock. To find out it is going to cost me 3 or 4 times more was the second shock; then to find out the documentation I have got to fill in was shock number 3. Then buy a printer as well. So, things do change and it was -- you know, perhaps if I had taken the effort, or if there had been somebody that could have talked me through the process. You know, if it were a bit like a critical friend, it would be useful. Somebody who can give a bit of guidance to say: "Look" you know. When I got the documentation I realised I did not have to worry about lots of it but I had to make a statement to say -- that said I had considered it. So, I have signed to say I have considered all those things and done -- you know, I filled about 3 or 4 pages of notes in, having referred to documents that were applied to me and was able to say: "Not applicable." So, perhaps I should have made more effort to find out if there was somebody available to talk me through it, more than at the desk, probably, at Planning. Because I did meet somebody there who gave me 3 sheets of paper to look at and the application forms.

Deputy R.C. Duhamel:

So, is it right then to assume that you are strongly of the view that any applications to be made to the Planning Department - in respect of particular applications - should be able to be made by any person, rather than having to go through a third party to provide assistance to fill in the forms in order to get what it is you are applying for?

Mr. K. Shaw:

Yes, I mean I think to rule out the average "Joe Public", like myself, from doing certain things is counter productive.

Deputy R.C. Duhamel:

It is going too far. Right.

Mr. K. Shaw:

I think it - but in some respects perhaps it is - whenever you go through that form, the application form which has to be filled in, maybe one should ask that question about, you know, there should be a thought in there saying: "Now, what is the application for?" Maybe the forms should be -- because there are about 12 categories of fees, there could be 12 categories of forms. Because very often the form that I filled in was asking about curtilage of land, main drains, septic tanks all the things I did not need to worry about. I am not saying you should have more forms because they cost a lot of money. But if you add more detailed forms based on the costs, you could provide more information at that stage by saying, you know: "Do you realise?" You know, in a friendly way. It still would not catch the ones who like the respective route because they do not go applying off it anyway, unless they are hauled in there, perhaps, kicking and squealing.

Deputy R.C. Duhamel:

New Subject from Deputy Baudains.

Deputy G.C.L. Baudains:

Just looking through the early part of your written submission, I see that you have converted 2 cottages, a 3-storey house and fitted 2 septic tank systems. I am wondering, therefore, whether you have been involved at any stage in drainage work or other services on the jobs you have done.

Mr. K. Shaw:

Yes, in building septic tanks.

Deputy G.C.L. Baudains:

What I am looking at is it has been a cause of concern to a number of people that if you are doing drains, especially in the road, you can only employ one of about 5 or 6 approved contractors, which appear to

be quite expensive. It has been suggested that why cannot your builder, if he is capable of doing it, do that work and providing it is suitably checked by people like Transport and Technical Services or Planning or whoever. Why should it only be able to be done by a small number of people? What would be your comment on that?

Mr. K. Shaw:

Stick with the 6. You have got more... otherwise you would have bureaucracy there. Presumably, if there were 6 people doing it, 6 named firms, I would not mind betting that Transport and Technical Services (TTS) leave them alone and do not even go and inspect.

Deputy G.C.L. Baudains:

That is correct but I am wondering whether you ...

Mr. K. Shaw:

I mean when I did my first work in St. Peter the Jersey Electric Company (JEC) had to come out and test the work of the electrician. It is only a cursory check, really. It depends. I think if they used an electrician there was less checking to do. Then he pulled a few plugs and sockets off and made sure that the work -- JEC have moved away from that now. That is in self-certifying. I think I can see the logic of that because it is easier. But, when you start opening up roads it is a bit like a doctor, you vary your problems do you not? You do not -- and it is difficult to call somebody back to a problem and prove it was theirs. I do not know. I have never luckily ever had to open any roads and things. I mean I have done septic tanks and soakaways on private land.

Deputy G.C.L. Baudains:

No, as I say it is just something that --

Mr. K. Shaw:

I would be a bit worried about that because you are going to have all manner of difficult -- they will be wanting to do it when they feel like it. I think if you have got 6 people -- it is easier to manage 6 businesses and watch them as opposed to 66. Then you have got to find out who are the qualified ones and then they will need some sort of certification or clarification. I think it could be a nightmare.

Deputy G.C.L. Baudains:

No, it was just a suggestion --

Mr. K. Shaw:

I can see the logic.

Deputy G.C.L. Baudains:

-- by a few developers that they found it quite bizarre that they could lay the drains throughout the entire estate but when it came to the edge of the road, their builder was no longer competent and they had to employ somebody, at what they reckon was probably 10 times the price their builder would charge, to go down the road and make the connection.

Mr. K. Shaw:

Well, I think perhaps the prices need to be looked at then and perhaps certifying more people and --

Deputy G.C.L. Baudains:

Well, this may be the problem with only having half a dozen certified ...

Mr. K. Shaw:

Yes. I know that waterworks have always been quite expensive to do connections and that is the last bit. I have had some water connections. I have been very lucky that it was not long-distance. I was lucky in St. Helier that they wanted to replace the lead pipes, which I was more than happy to have replaced, so they got as far as I needed to get to and we ran our pipes where we were going to. So, there is no -- it was just a fee, £200. It was a nominal fee because they were doing work at the same time. It is difficult. I mean it is hard because in the end you cannot watch everybody all the time. Your own -- and all those workers are only as good as the people doing the job and they may not be the people who have got the qualifications unfortunately, or the certification.

Deputy R.C. Duhamel:

Any other issues? No. Well, in that case unless you would like to make any closing comments?

Mr. K. Shaw:

I do not think so. I have been a big -- I mean I hope it did not come out that I was knocking them too much. I think they have got a difficult task and they are doing it very, very well. They probably need more publicity, more help, more clout and more recognition for the work they do. I think it is probably not a thankless task because they are not going to -- well you might make some friends but you will not make many friends, you know.

Deputy R.C. Duhamel:

Right. Well, in that case, thank you very much on behalf of the panel for your comments, most useful.

Mr. K. Shaw:

Thank you. My pleasure. A very enjoyable process.