

FIELD 126, LA GRANDE ROUTE DE LA COTE, ST. CLEMENT: CONSTRUCTION OF HOMES

**Lodged au Greffe on 11th June 2002
by Senator C.G.P. Lakeman**



STATES OF JERSEY

STATES GREFFE

150

2002

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PROPOSITION

THE STATES are asked to decide whether they are of opinion -

to request the Planning and Environment Committee to reconsider its decision to allow the construction of 9 houses on part of Field 126, La Grande Route de la Côte, St. Clement (PP.2000/2083).

SENATOR C.G.P. LAKEMAN

REPORT

1. The Committee is asked by this proposition to reconsider its decision to allow the development of the remainder of Field 126, to build 9 homes.
2. The proposition is supported by residents and past and present political representatives of the Parish.
3. Attached as Appendix 1 to this Report are copies of Committee Acts as follows-
 - 3.1 13th June 2001
(All members present)
 - 3.2 19th July 2001
(All members present save for Vice-President and Deputy T.J. Le Main)
 - 3.3 2nd October 2001
(All members present)
 - 3.4 8th November 2001
(All members present save for Vice-President and Deputy J-A. Bridge)
 - 3.5 6th December 2001 (when the item was under the “B Agenda”)
 - 3.6 20th December 2001
(All members present, Deputy Bridge dissents)
4. For members’ convenience, they are reminded that the Committee consists of -
 - Senator N.L. Querée
 - Deputy A.J. Layzell
 - Connétable P.F.C. Ozouf
 - Deputy T.J. Le Main
 - Deputy (later Connétable) A.S. Crowcroft
 - Deputy J.B. Fox
 - Deputy J-A. Bridge.
5. The key documents are the Committee Acts but, prior to the debate of this proposition, a supplementary bundle of correspondence will be made available to members, which is the file provided by the Department save for legal advice.
6. The basis for the proposition -
 - 6.1 The Committee refused the application on 8th November 2001. There is no basis in law or in fact for them to change the decision on 6th and/or 20th December. The specific concerns about -
 - the risk of litigation by the developer;
 - the “encouragement” given to the developer by the Department;
 - the legal advice on the subject;
 - the extent to which what I shall call “the Island Plan error” (see below),
will be shown to be ill-founded.
 - 6.2 (a) The risk of litigation by the developer -

I have had access to the complete Committee file. There is a letter from the developer - who one might fairly say probably is or would be right to be aggrieved - threatening litigation. However, little or no consideration until the very late stages of the process was given to the risk of litigation. It is possible to say that there is always some risk of litigation but I believe that the Committee has placed too much reliance on a vague and unsubstantiated threat; further, it took legal advice too late and the manner in which it sought legal advice was inappropriate.

- (b) The “encouragement” given to the developer by the Department -

The Department was entitled to rely on the information before it and the guidance presented in the Island Plan. Nevertheless, the moment that the Department became aware of the Island Plan error, in my view it placed a burden upon the Department to act extremely cautiously in respect of any further development or discussions of any pending application.

- (c) The legal advice -

This is covered above under (a).

6.3 “The Island Plan error” -

Officers have been relying on two mutually exclusive statements, of differing legal impact and force in relation to Field 126.

- (a) When approved by the States in 1987, Field 126 was shown- in error - on the large format map as not being in the Green Zone;
- (b) There were, however, two documents. A large Plan, signed and marked by the Greffier as having been approved by the States; and an accompanying A3 size book which was “noted” by the States and recorded as having been noted in the Minutes, showing the field - correctly - as being in the Green Zone.
- (c) As made clear in the Act of 19th July 2002: “... it was proposed that Field 126 would then be designated as part of the new Countryside Zone in the new draft Island Plan”.

7. Accordingly, the States are asked to support the proposition.

Financial/manpower implications

8. It is possible that compensation may be payable if the proposition is adopted, but it is not possible at present to determine -

8.1 the basis of any claim and whether such claim would be well-founded or accepted by a court; or

8.2 if found due, the quantum of a compensation.

There are no manpower implications.



PLANNING AND ENVIRONMENT COMMITTEE

APPLICATIONS SUB-COMMITTEE

13th June 2001

Field No. 126, La Grande Route de la Côte, St. Clement: proposed new dwellings/formation of access.
1070/2/1/2(231)

A9. The Sub-Committee received a report dated 31st May 2001, from Mr. M. Stein, Principal Planner, in connexion with an application to construct nine, three bedroom houses with integral garages and parking on Field No. 126, La Grande Route de la Côte, St. Clement and to demolish the property known as Fairlea, La Grande Route de la Côte and form a new access with associated landscaping.

PB/2001/2083

The Sub-Committee noted that both the above field and the property were situated in the Built-Up Area of the Agricultural Priority Zone. The Sub-Committee was apprised of the details of the scheme. It noted that 40 letters of representation had been received in relation to the scheme. The Sub-Committee also noted the contents of additional correspondence which had been received following the issuing of its agenda papers. It was advised that, due to the size of the field and the fact that it was not attached to an agricultural holding, the Department of Agriculture and Fisheries did not object to the loss of field from agriculture.

The Sub-Committee received Deputy G.C.L. Baudains whom, it noted, wished to make representations on behalf of the parishioners of St. Clement. Mindful of the total number of representations which had been received and the level of concern which had been generated as a result of the submission of the application, the Sub-Committee decided to refer the application to the Planning and Environment Committee for determination at its meeting on 5th July 2001. It agreed that a site visit should be conducted during the course of the aforementioned meeting and Deputy Baudains agreed to address the main Committee at that time. The Principal Planner was instructed to liaise with the Deputy with regard to the exact time of the site visit in order that those individuals who wished to attend could do so.



PLANNING AND ENVIRONMENT COMMITTEE

19th July 2001

Field No. 126, La Grande Route de la Côte, St. Clement: site visit
1070/2/1/2(231)
PP/2000/2083

A1. The Committee, with Connétable S.J. Le Cornu and local residents in attendance, met at the site known as Field No.126, La Grande Route de la Côte, St. Clement regarding an application for the construction of nine three-bedroom houses with internal garages and parking. It was also proposed to demolish the existing property known as Fairlea and to form a new access to La Grande Route de la Côte with associated landscaping.

The Committee received a report, dated 31st May 2001, prepared by Mr. M. Stein, Principal Planner and substantial associated correspondence including 38 letters of objection. It was noted that 17 of these related to originally submitted plans, 13 to subsequent revised plans and eight to the final revised plans. The objections were noted as outlined in the Principal Planner's report.

The Committee was advised that the site was located in the Built-Up Area as defined on the Approved Island Plan (albeit zoned as Agriculture Priority Zone on the Built-Up Area Map R which was contained within the document). However, the site was also agricultural land for which there was usually a presumption against loss to alternative uses. The Committee was further advised that the Agriculture and Fisheries Committee did not object to the loss of the site, as it was a small field not attached to any agricultural holding, and that at a recent Review Board test case (namely in respect of Field No.1514, St. Helier) it had been established that it was unreasonable to resist the loss of agricultural land when it had been zoned as within the Built-Up Area.

The Committee was apprised of the situation regarding access and noted that the applicant had purchased a property known as Fairlea which was proposed to be demolished to provide access. Whilst visibility could be achieved to an acceptable standard, it appeared that the splay to the west was over land which was not in the ownership of the applicant and the owner of that land was unwilling to commit to an agreement to enable visibility in perpetuity until a decision regarding this application had been determined. The Committee noted the strong views expressed by the Connétable of St Clement and local residents that the proposed access onto La Grande Route de St Clement was hazardous due to the busy nature of the road, particularly at peak times in the morning, and the speed of traffic passing the area. Furthermore, the proposed access was opposite the Brig Y Don Nursery which already created considerable traffic problems due to parents parking along the main road at pick-up times.

The Committee recalled that a previous application for development of the field had been refused, inter alia, on the grounds of overdevelopment of the site. The Committee was advised that the current revised proposal, however, was considered acceptable in terms of design and layout and that the residential density was less than that previously refused. It was pointed out that a covenant precluded the development of Fairlea. The Committee, however, recognised that this was a matter for the developer to settle.

The Committee had regard to the aforementioned discrepancy in the designation of the site in the Island Plan 1987 and noted that the position of the boundary lines had been corrected in the new draft Island Plan which was currently in the process of public consultation and that it was proposed that Field 126 would then be designated as part of the new Countryside Zone. The Committee, recognising the sensitivity of the situation, decided to take legal advice regarding the possibility of compensating the developer in the event of development being refused, prior to taking the matter to the States for clarification, with a view to rezoning the above field within the existing Agriculture Priority Zone.

The Principal Planner was directed to take the necessary action.



PLANNING AND ENVIRONMENT COMMITTEE

2nd October 2001

Field No. 126, St.
Clement: construct
nine three-bedroom
houses
1070/2/1/2(231)

PP/2000/2083

A10. The Committee, with reference to its Act No. A1 of 19th July 2001, recalled that it had deferred an application to construct nine three-bedroom houses with integral garages and parking at the site known as Field No. 126, St. Clement and the demolition of the property known as Fairlea to form a new access. Legal advice had been sought regarding the possibility of compensating the developer of the site in the event of development being refused.

In connexion with the above, the Committee received a report from Mr. M. Stein, Principal Planner and associated correspondence dated 3rd September 2001, from H.M. Solicitor General.

It was noted that H.M. Solicitor General, whilst advising that the level of encouragement given to the applicant by the Department needed to be taken into account further advised -

“...in my opinion the fact that the site was rezoned in error (assuming that it was) and that there is on record a discrepancy between two things, both apparently approved by the States, would provide sufficient ground for re-butting the presumption in favour of the development. I am, therefore, of the opinion that the Committee is entitled to refuse development if, on consideration of the matter, it is of the opinion that the development is in an area where development should not take place.”

Notwithstanding the above, correspondence dated 14th September 2001, from the applicant had since been received to advise that they had been unable to achieve the necessary visibility splays over neighbouring land.

The Committee decided to refuse the application due to the following -

- (a) the application site did not have sufficient highway frontage to provide a suitable access with adequate visibility splays and the proposal would therefore be prejudicial to highway safety;
- (b) notwithstanding the zoning of the site on the Island Map, the proposed development represented an unacceptable extension of development into the open countryside, contrary to Article 2(c) of the Island Planning (Jersey) Law, 1964, as amended;
- (c) the proposal represented the loss of agricultural land contrary to Policy CO25 of the approved Island Plan; and,
- (d) the proposed development, by virtue of its siting, would be injurious to the amenities currently enjoyed by neighbouring residential properties.

The Principal Planner was directed to advise the applicant of the above prior to issuing a refusal notice to afford the applicant an opportunity to respond, in accordance with advice from H.M. Solicitor General.



PLANNING AND ENVIRONMENT COMMITTEE

8th November 2001

Field No. 126, La Grande Route de la Côte, St. Clement: appeal - proposed construction of nine houses, demolition of Fairlea and new access.
1070/2/1/2(231)

A9. The Committee, with reference to its Act No. A10 of 2nd October 2001, recalled that it had refused an application to construct nine three-bedroom houses with integral garages and parking at the site known as Field No.126, St. Clement and the demolition of the property known as Fairlea to form a new access. It also recalled that it had refused the application in principle notwithstanding that the site was in the Built-Up Area, as a result of which there was a considerable history of officer advice having been given in support of the principle of the development of the site.

PP/2000/2083

The Committee received a report dated 30th October 2001, from Mr. M. Stein, Principal Planner, in connexion with revised plans for the construction of the above.

The Committee was advised that the officer's original recommendation of approval had conceded the principle of development on the site on the following grounds -

- (a) the site was located in the Built-Up Area as defined on the approved Island Map;
- (b) a Review Board panel had found against the Committee in a case where agricultural land was also zoned as Built-Up Area (Field No. 1514, St. Helier); and,
- (c) the size, scale and design of the proposed development was considered to be acceptable.

Notwithstanding the above, approval had only been recommended on the following condition -

“Permission is entirely contingent upon legal agreement being reached with adjoining property owners to ensure that visibility splays of two metres by 50 metres onto La Grande Route de la Côte were achieved without obstruction, in perpetuity. This agreement would need to be submitted as part of the detailed planning application.”

The Committee was also advised that the case made by the appellant in terms of supporting the principle of development on the site was convincing, and furthermore that the appellant was likely to appeal the matter to the Royal Court under Article 21 of the Island Planning (Jersey) Law, 1964, as amended, should the Committee maintain its refusal.

The Committee reconsidered correspondence dated 3rd September 2001, from H.M. Solicitor General in which

was opined -

“I did, however, advert in paragraph 15 of my previous letter to the potential problem which would arise if an applicant could show that he was in some way encouraged by the previous refusal to think that if he amended his application he might obtain a consent and that he has expended monies in reliance on that encouragement. I note from the letter of 28th April 1999, that the writer of the letter identified a number of issues shown on the sketch scheme. I do not know whether the recipient of the letter then acted in reliance upon the indications which had been given. If it did so, it might well have ground for the argument that because it has acted to its detriment in reliance upon indications in the letter, it would be unreasonable in all the circumstances for the Committee to refuse an application.”

With reference to correspondence dated 16th October 2001, from the appellant, it was evident that, in making the application, it had been heavily relied on the fact that there were no policy reasons given on the previous refusal and also based on continued encouragement from the officers.

The Committee considered the appropriateness of rescinding the reasons of refusal which precluded the principle of development on the site and either -

- (a) approving the application subject to condition which required the necessary visibility splays to be achieved and the application to be submitted as part of a detailed planning application; or,
- (b) refusing the application because the visibility splays at the current time could not be achieved.

In respect of sub-paragraph (b) above, the Committee considered that the Royal Court would be mindful of the condition that had been recommended which might facilitate an agreement between the appellant and neighbour which would have enabled the visibility splays to be achieved.

Having given the matter due consideration, the Committee decided to approve the application subject to the condition that necessary visibility splays must be achieved and the legal agreement in respect thereof submitted as part of a detailed planning application.

The Principal Planner was directed to take the necessary action.

Deputies A.J. Layzell and J-A Bridge were absent for this item.



PLANNING AND ENVIRONMENT COMMITTEE

6th December 2001

**Confidential:
exemption**

3.2(a)(xi)

Field No. 126, La
Grande Route de la
Côte, St. Clement
1070/2/1/2(231)

B5. The Committee, with reference to its Act No. B16 of 22nd November 2001, received correspondence dated 28th November 2001, from Senator C.G.P. Lakeman, thanking the Committee for accessibility to the file concerning Field No. 126, La Grande Route de la Côte, St. Clement.

The Committee also received correspondence dated 22nd November 2001, from Deputy G.C.L. Baudains, in connexion with the above matter.

The Committee noted the request of Senator Lakeman to rescind the decision to grant permission for the development of the said field and was advised that the Director, Planning and Building Services was to meet with H.M. Solicitor General to discuss the matter further.

The Committee was also advised that the original letter sent to H.M. Solicitor General requesting advice on the matter had included incorrect assumptions upon which H.M. Solicitor General had based the ensuing advice.

The Committee was further advised that it was imperative that H.M. Solicitor General was made aware of the detailed technical planning factors and that all facts should be made available prior to the Committee deciding whether it was appropriate to cancel the permit.

The answer to the question to be posed to the President in the States on 11th December 2001 was agreed. It was also agreed that the applicant should be informed that the Committee had been requested to revoke its decision and that this would be considered at a subsequent meeting.



PLANNING AND ENVIRONMENT COMMITTEE

20th December 2001

Field No. 126, La Grande Route de la Côte, St. Clement: consideration of rescindment of planning permission.
1070/2/1/2(231)

A17. The Committee, with reference to its Act No. B5 of 6th December 2001, recalled that it had deferred a decision in respect of the requested revocation of planning permission granted for the development of Field 126, La Grande Route de la Côte, St. Clement, by Senator C.G.P. Lakeman.

Having given further consideration to the application and the representations mad on it, the sequence of events which had lead to the granting of planning permission, advice previously received from H.M. Solicitor General and correspondence dated 16th October 2001, from Mrs. Cotillard, applicant, the Committee decided that it would maintain approval.

It was agreed that Senator Lakeman, Deputy, G.C.L. Baudains and Mr. S.J. Le Cornu, former Connétable of St. Clement would be informed of the decision prior to the matter being released to the media.

Deputy J-A Bridge requested that her dissent from the decision be recorded.

States of Jersey



Planning
and
Environment
Committee

South Hill
St. Helier
Jersey JE2 4US

Telephone 01534 725511
Facsimile 01534 768952

www.planning.gov.je

APPROVED

St. Langlois (1991)
situated
Oxford Road
St. Helier
JE2 4LJ
Planning Application
Number PP/2000/2083

The Planning and
Environment
Committee, having
considered your
application hereby
GRANTS
PERMISSION IN
PRINCIPLE ^[1] to:

**1. To construct 9 no. 3
bedroom houses with
integral garages and
driveways. Demolish
existing property
known as Fairlea and
provide new access to La
Grande Route de la
Cote with associated
landscaping. Revised
plans. REVISED
GRANTS.**

to be carried out at:

**Plot 126, La Grande
Route de la Cote, St.
Helier.**

In accordance with plan
number accompanying the
application, subject to
compliance with the
following conditions
of the approved plan(s):

Standard Conditions

That if no application for detailed permission is received within three years of the decision date, the permission shall cease to have any effect.

Reason: The Planning and Environment Committee reserves the right to reconsider this proposal consequent on any future change of circumstances or policy.

This permission does not authorise the carrying out of any development or works until a detailed application has been submitted to and approved by the Planning and Environment Committee.

Reason: This notice is not a statutory permission under the Island Planning (Jersey) Law, 1964. Before any works or development can proceed on the site the subject of this application, it is necessary to receive detailed permission under the aforementioned law.

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dition(s)

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This permission is entirely contingent upon legal agreement being reached with the adjoining property owners either side of the access to ensure that visibility splays of 2 metres by 50 metres onto La Grande Route de la Cote are achieved without obstruction, to be maintained in perpetuity. This agreement shall need to be submitted as part of the detailed planning application.

Except where they have been identified for felling on an approved landscaping plan, all the trees on the site shall be protected for the duration of the development hereby permitted in the following ways and thereafter maintained -

- i) no demolition, site clearance or building operations shall commence until suitable fencing, of a height not less than 1.3 metres, has been erected

and each tree or group
of trees, on
or
overhanging
the site, at a
radius from
the trunk of
5 metres or
around the
crownsread,
whichever is
the greater.
Such fencing
shall be
maintained
until
development
is complete;

-

APPROVED

- ii) no trenches, including any trench for services or drains shall encroach within the crownspread of any trees which are on or overhanging the site;
- iii) the burning of materials, including any obtained by site clearance or demolition, shall not take place within 6 metres of the furthest extent of a canopy of any tree or group of trees on or overhanging the site;
- iv) no topsoil or other spoil from excavations shall be disposed within the crownspread of trees within the site;
- v) no tree shall be felled, lopped, topped, or in any way destroyed or removed, unless the prior written

sent of the Planning
and
Environment
Committee
is received.

No development shall take place on the site in pursuance of this permission until all of the information required has been submitted to and approved by the Planning and Environment Committee through the submission of a detailed planning application. This information shall include:

APPROVED

a) Plans to show the siting, design and external appearance of each building;

b) Plans to show the floor level of the building(s) relative to the existing and proposed site ground levels;

c) A description of the external materials to be used;

d) Information to show the treatment of all the external windows and doors, this should include a typical example, including colour and materials;

e) Plans to show the extent of the cartilage attached to each dwelling;

f) Information to show the means by which any cartilage is to be enclosed;

g) Plans to show the alignment, layout, dimensions and surface treatment of the means of vehicular and pedestrian access to the site and the standard of inter-visibility to be provided within the boundaries of the application site between the vehicular access and the existing highway;

APPROVED

h) Information to show a landscaping scheme for the site, including existing trees and shrubs which are to be retained and proposed tree and shrub planting;

i) Information to show all hard landscaping proposed for the site, including internal walls and surfacing materials;

j) Plans to show how the Planning and Environment Committee's standards in respect of car-parking provision and maneuvering on the site will be achieved;

k) Plans to show any works required in connection with the provision of foul and surface water drainage.

The development

by permitted of the site shall not commence until the access shown on drawing no. 630.PL.02 has been constructed to serviceable standard.

Prior to the commencement of the development hereby approved, full details of a scheme of planting which will provide a screen along the north and south boundaries of the site shall be submitted to and approved by the Planning and Environment Committee. This scheme shall include details of:

APPROVED

i) all existing trees, hedgerows and other plants, walls, fences and other features on that boundary;

ii) the position of all new trees and/or shrubs including the species of plant (s)/tree(s) to be planted, their size, number and spacing and the means to be used to support and protect them; and,

iii) the measures to be taken to protect existing trees and shrubs; and,

and must be implemented in the next available planting season after completion of the development approved.

Prior to the first use/occupation of the development hereby permitted visibility lines must be provided in accordance with the approved drawings. Everything within the visibility sight

s, including gates, walls, railings and plant growth is to be permanently restricted in height to 900mm above road level.

A detailed proposal for the landscaping of the site shall be included as part of the detailed planning application. This must include details of the number, species and location of both existing and proposed trees and shrubs. The drawings are to be supplemented with a programme of implementation with details of:- (a) the method to be taken to protect existing trees and shrubs; (b) the method of planting to be adopted; (c) the arrangements to be made for the maintenance of the landscaped areas.

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To ensure that there is adequate visibility onto La Grande Route de la Cote, St. Clement.

To protect the trees on or near the site.

The application is for planning principle only and these matters require approval through the submission of a detailed planning application before any works can commence in pursuance of this development.

In the interests of highway safety.

To ensure that the development is not harmful to the visual amenities of the area or to the amenities of the occupiers of neighbouring properties.

In the interests of highway safety.

To ensure that before development proceeds provision is made for a landscaping regime that will enhance the appearance of the development and help to assimilate it into the landscape.

: following plan(s) has/have
been approved.

APPROVED

Location plan
Site plan and floor plan
Roof plan and elevations

November

1
ned
Director

**COPY OF LETTER FROM MRS. M.B. COTILLARD TO
MR. J. YOUNG, CHIEF EXECUTIVE OFFICER,
PLANNING AND ENVIRONMENT COMMITTEE**

**“ Petit Catel
Rue des Landes
St John
JE3 4AF**

16th October 2001

Tel: (01534) 863215

Mr. J. Young
Chief Executive Office
Planning and Environment Committee
States Offices
South Hill
St. Helier JE2 4US.

Dear Sir,

Planning Application No. PP/2000/2083
Property No. 12795/E/00

It goes without saying that I was very disappointed to learn that the Planning & Environment Committee have decided to reject the application to build nine three bedroom houses on Field 126, La Grande Route de la Cote, St. Clement. In fact would go so far as saying that I was amazed at the decision in view of the joint efforts between G.R. Langlois Limited and their architects, and your officers at the Planning Department.

Since April 1999, when we received a letter confirming that Field 126 was within the Built Up Area of ‘The Island Map’ of the ‘Jersey Island Plan’ and also confirming that there is no presumption against the principle of developing in the Built-Up Area, we proceeded to draw up plans after full consultation with the Department’s officers, only to arrive two and a half years later, after considerable expense, at a point where it now appears that your Committee feels that, notwithstanding the field zoning on the Island Map, they do not now wish to see this field developed.

At the time of writing this letter, if I am not mistaken, your Committee has been charged by the States of Jersey to find building sites for additional homes as a matter of urgency. Your new Draft Island Plan includes the rezoning of green field sites for housing and yet here is a site already within the building zone, with agricultural agreement for the field to go out of agriculture, being rejected.

For your information the history of the site is as follows:-

Plans were submitted for eight four bedroom houses in 1999. These were rejected on 6th December 1999, for four reasons, every one of which has been addressed as follows:-

- 1) **Access road not wide enough** - this has been overcome by the new entry system, demolishing a house along the coast road. There is also an alternative back up scheme using a one way system (exiting from the Shakespeare end for which we have Public Services Committee’s agreement in writing.
- 2) **Contrary to the presumption against agricultural land** - this has been overcome by the enclosed letter from the Department of Agriculture, agreeing to the loss of the land.
- 3) **Inadequate parking spaces** - this has been addressed in the new proposals which have been developed in conjunction with advice of officers from P & E.
- 4) **Over development of the site, re density standards** - this has been overcome in the same manner as 3) above.

At no point did the Committee reject the proposals on the presumption against building on this land, i.e. by stating it was **not** in the building zone.

As stated, G.R. Langlois and their architects, through extensive negotiations, addressed all of the above points, including the Agricultural Sub Committee visiting the field in September 2000 and agreeing that because of its size, shape and the fact that it was not attached to any holding, they would have no objection to its development.

Itemised below are excerpts from some of the correspondence from your department appertaining to Field 126, which was all taken into account in the revised application.

- Miss S. Karch's letter dated 28th April 1999 to Mr. Mark Le Boutillier states, "It is considered by the Department that the remainder of Field 126 is included within the Built Up Area of 'The Island Map' of the 'Jersey Island Plan'. There is no presumption against the principle of developing in the Built-Up Area." (**First letter in writing stating site in built up area**).
- The same letter states "The comment of the Agriculture & Fisheries Committee in respect of the agricultural value of the land **will be taken into account when any application is determined.**" Unfortunately, their comments have been totally ignored when the Committee considered this application.
- M. Stein's letter dated 26th May 2000 states "I would encourage the acquisition of the 60's house to enable access to Field 126." This refers to the property Fairlea.
- M. Stein's letter dated 27th July 2000, states, and I quote various phrases "the site is located in the Built Up area" (**Second letter in writing stating site in built up area**) "because Review Board finding on a similar proposal" "Sub-Committee would encourage three bedroom houses, because it is this house type for which there is greatest local need".

Having addressed all the points in the original rejection and included all the recommendations from your officers, mentioned above, a second application was submitted. Reading our Jersey Evening Post in July this year, we discovered that Planning were going to take legal advice from the Crown Officer regarding the zoning of Field 126. I do not feel this to be a satisfactory way of finding out the progress of the application.

The next information I heard regarding the application was the recent rejection notice. This once again gave four reasons for refusal:-

- 1) **The site does not have adequate visibility splays** - Mark Le Boutillier of G.R. Langlois has mentioned to Mr. M. Stein that they are better than the Hodge site. He has also stated that the splays are achieved, it is just that they go over the neighbouring property. If the owners of that property put anything in place that obscured our visibility, it would also destroy their visibility. I reiterate that an alternative scheme for a one way system can be implemented (see fourth paragraph of the next page).
- 2) **Notwithstanding the zoning of the site on the Island Map, it is an unacceptable extension into open countryside** - this appears to be a political decision, not a Planning one, as at no time in the last two and a half years has anybody questioned the zoning of Field 126, (or indeed the problem of an extension of development into open countryside). In fact, we have three letters from your department stating that it is within the building zone and not the countryside zone. **Presumably the wording "notwithstanding" in the rejection notice is due to the Crown Officer's confirmation that Field 126 is within the building zone.**
- 3) **Loss of agricultural land** - In a letter, already mentioned above, from Miss S. Karch, dated 28th April 1999, it states that the comment of the Agriculture & Fisheries Committee in respect of the agricultural value of the land "**will be taken into account when any application is determined.**" Unfortunately, their comments were totally ignored when the Committee considered this application, even though the Committee is well aware that Agriculture & Fisheries hold no objections to the loss of this field to agriculture.
- 4) **The development would be injurious to the amenities currently enjoyed by neighbouring residential properties** - this surely refers to the planning of the properties on the site and their aspects etc. as to how they affect neighbouring properties. I believe extensive negotiations with the senior planning officer for the area, Mr. M. Stein, have been undertaken and only when he was satisfied, were plans submitted.

Further to point 1) raised as a reason for refusal an alternative exit to address the visibility splays over the property Sable

d'Or is to exit the site from the opposite end by the Shakespeare Hotel. This has been discussed with Mr. M. Stein and enclosed is a letter from A.S. Muir's dated 27th April 1999 to Mr. Mark Le Boutillier confirming that, as access is approximately 5.00m wide and the visibility at the main road junction is secured because of the planning condition for visibility on the access of the bungalow on the corner, the Public Services Department would raise no objection, in principle, to the development. Using this method would effectively create a one way system. However, Mr. Stein felt that the preferred option in his opinion was to enter and exit as proposed on the recent plans, as the visibility splay lines are actually achieved, albeit over the neighbouring property.

In view of everything stated above, I would like to ask the Committee to consider whether it has come to a reasonable decision in view of the above events. I have written to your Committee concerning removing Field 126 from the built up area in the new Draft Island Plan and have been copied with a letter from Roger Corfield's dated 21st June 2001 to Mr. Mark Le Boutillier confirming that the land in question is designated as Built Up Area in the current Island Plan and our current application, therefore, will be considered in the light of that designation and the present policies contained in the Island Plan. **(Third letter in writing stating site in built up area).**

It would appear that your Committee is intent on removing my field from the built up area, where there is no presumption against development. Should your Committee not be prepared to give permission for development of the site, I would like to request an extension of the twenty eight days in which I have to legally challenge the decision, to give both parties time for further negotiations.

Due to the considerable costs that have been incurred to date in direct response to the encouragement received from your officers and that your Committee never mentioned in its rejection in 1999 any doubts concerning the zoning of the site, ultimately the whole matter will be referred to the Royal Court, should the Committee's decision remain unchanged.

Yours faithfully,

Mrs. M.B. Cotillard ”

[1] CAUTION

This decision is purely permissive and in no way absolves the parties concerned from obtaining, nor does it overrule, any other permission that may be required under any other law. In addition, it does not overrule any private property rights, nor does it absolve an applicant from the need to obtain the permission of the owner of the land to which a permission relates.