

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 Hérisier of St. Saviour

Deputy S. Power of St. Brelade

Witnesses:

Mr. H. Baudains

Deputy R.C. Duhamel:

So, it is 2.30 p.m. Just so we can start. So, welcome, Mr. Harry Baudains. I have to read you the convening notice. So, please bear with me. Right, so it is important that you fully understand the conditions on 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 of the Panel are covered by the Parliamentary Privilege, through Article 34 and 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. The proceedings are being recorded and transcriptions will be made available on the Scrutiny Web site so, on behalf of the panel, welcome. As you know, Harry, I am the Chairman of the overall group but this review is being conducted by our Lead Member, who is Deputy Gerard Baudains, and he is being ably assisted by Deputy Roy Le Hérisier. So, this afternoon's questions will be predominantly put forward by those 2 Members, although the other 3 Members of the panel will be available on tap, so to speak, to kind of chip in as and when we feel that we need to, or ought to. So, with that in mind, having welcomed you, I think I would like to break with how I played the last 2 appearances of the Scrutiny Panel. I think I am going to pass over to Deputy Gerard and he can kick off.

Deputy G.C.L. Baudains:

Welcome, Harry.

Mr. H. Baudains:

Could I say to start with, that the letter asking me to come here is slightly wrong; in that you promoted me to being President of the Planning Committee?

Deputy R.C. Duhamel:

Acting President, was it?

Mr. H. Baudains:

I was acting for them for a time while Carl was not -- but I was 9 years Vice President.

Deputy G.C.L. Baudains:

That is obviously one of the reasons we thought you may be able to help us because of your considerable experience on the Planning Committee. How long were you on the committee and how long --

Mr. H. Baudains:

I had 10 years on the Committee, 9 as Vice President: 6 with John Le Sueur and 3 with Carl Hinault.

Deputy R.C. Duhamel:

Oh, very good.

Deputy G.C.L. Baudains:

During that time, over the period that you were on that Committee, were there any major changes, which you thought were for the better or for the worse, changes in procedure or increased bureaucracy, or whatever?

Mr. H. Baudains:

I think the main change that we tried to implement, which I do not think has worked, but at the end of Carl Hinault's term, we tried to split the Committee into 2, so that there would be an Applications Subcommittee that would hear applications and then any appeals would go to the other 4 Members. From what I hear I think that the 3 on the next Committee who heard the preliminary ones, also did the appeals. So, the whole thing did not work out. It seems as if the same people were doing both and that is wrong. I think that there is something -- one needs to have somebody else have an objective look at an appeal.

Deputy G.C.L. Baudains:

One of the other things I know we have spoken privately about, was the fact that I think, if I remember correctly, it was under Constable Le Sueur's presidency, that you went to more site visits than was, I think, common at the present time. Did you visit all sites or only contentious sites? Another thing that I remember you saying was, that you used to spend rather a long time over lunch but not for the benefit of indulging but to discuss matters.

Mr. H. Baudains:

Yes, I think that we did not visit all sites, obviously. There were far too many. We worked a 3-week cycle. One day was supposed to be applications, the next one policy, although you tend to work one in the other, and then the third week was site visits. Anybody on either of the -- in any application could say: "Oh, I want a site visit on that" and then we immediately deferred the discussion on that particular application then went on a site visit. With the lunches, yes, we sat down and we chatted. Looking back I think it was vitally important because if anybody had seen a development which they thought was very good, you would point it out to the Committee and say: "How about going to see that development? It has worked out so well." If something was going wrong you would say, you know: "How on earth did we allow that to happen?" So, you had this feedback across the 7 Members of the Committee and we got to know what the other Members felt. Whereas I have been on Committees where you just sit as a Committee, do the business and get up and go, and you never get this feedback.

Deputy G.C.L. Baudains:

So, a sort of debriefing during the site visit, almost?

Mr. H. Baudains:

Well, almost, but a continuous debriefing, if you like. Because if you are out at -- sort of having lunch at Rozel and somebody says: "That is an awful development we allowed at Trinity. Can we have a look at it on the way back?" well, you would do that.

Deputy G.C.L. Baudains:

I presume you had officers with you to explain it all?

Mr. H. Baudains:

Yes, there were always one or 2 planning officers, the ones we were dealing with. If there was anything that came up for criticism from an officer who was not there, well then we might do a site visit with that officer.

Deputy G.C.L. Baudains:

Talking about officers, one of the things that I have always been mildly concerned about is: it obviously is logical for an officer to be involved with a particular development from an early stage because a

developer will not want to draw up extensive plans and then have them rejected and not know why. So, the officers are, as I say, coming in at an early stage. But, that, in an extensive development could make them almost part of the development team. What then concerns me, or has concerned me, is the fact that when the Sub-committee, as it was recently, now the Assistant Minister with his Panel, when they look at the application the person recommending, or otherwise, that plan is the officer who has been involved with it all the time and I fail to understand how the person can be objective any longer. Did that situation pertain when you were a member of that Committee?

Mr. H. Baudains:

Yes, because the officer always dealt with it and would go right through. I think it is a delicate balance. I feel at times now that the balance has shifted too far, that they are giving advice. Advice -- if they are not careful advice becomes -- you give anything to an applicant and you cannot take it away. The worst example that we had was Columberie House where we said we could consider allowing it to be replaced by a townhouse. We then decided, no, we had to keep the house. They took us to the Royal Court and because we said we would consider it, it had to be allowed. I think that if a planning officer or anybody is not very careful and they say a site will take 10 houses, it is a job when it comes back to say: "No, it can only take 8." So, they have got to be very, very careful with their advice. In fact one thing I was thinking about whether it could be done, I think perhaps in a way it should be, is that when an application is published, any advice that has been given to the applicant ought to be published as well. I take, for instance -- you I think were at the parish hall the other night, St. Clement's Parish Hall, they were considering putting sheltered homes where the old school -- where the present school is and it was said there that advice has been given that the building could be -- had to be kept, the façade had to be kept but the building had to be knocked down. Now, that decision should not be taken until after the application had been published in the *Evening Post* because you have made that commitment; the National Trust, the Heritage Trust, anybody might say: "Well, that school ought to be saved completely. But you have already conceded that point." I think conceding things before they are published and before the neighbours have a chance -- we were told yesterday, indirectly, that someone with a garden in the countryside is putting in an application to build a house. Now, it is against policy and I wonder what advice he has been given. Now, if the application does come about and is published, it would be nice to be able to see if the officer, or anybody, has given the go ahead and said: "Yes, that will be allowed." It is against policy.

Deputy G.C.L. Baudains:

Do you think that could not possibly be addressed by a change in the law? I mean, as you mentioned, Columberie House, ultimately, the Court decides on law and the States make law. So, could that not be achieved by something in the law saying that, you know: "No advice or recommendations or comfort given by an officer shall have any meaning until such a time as it comes before the Panel" or words to that effect?

Mr. H. Baudains:

It is a possibility. Possibly it could be done that way.

Deputy R.C. Duhamel:

So, you are in fact saying -- well, would you go as far as saying that the procedure of allowing pre-application advice should not really be one that the department follows?

Mr. H. Baudains:

That is ...

Deputy R.C. Duhamel:

Should there be a pre-application advice service given by the officers, at all?

Mr. H. Baudains:

I think there should, yes. But, I think they ought to stick strictly to pointing out what is in the Island Plan document. Also, saying: "You have got these policies and you have got to comply with these policies." So, all they are getting, really, is the thing -- they would be told, for instance, to go back to the school house -- be told, well, it is -- I meant to look it up, I think it is a building of local interest -- told what the policy is but not a commitment made. Because if a commitment is made that is only when I think it can be wrong.

Deputy G.C.L. Baudains:

I am not sure it would be sufficient for a matter of policy within the department and maybe it would need a change in the law so that nothing said, inadvertently even, by the officer could then constrain the Minister in his future decisions. Frankly I am tired of hearing of approvals that have been given that now the Minister, and previously the Panel, did not really want to do but it had no option. I mean in my view that cannot be good planning.

Mr. H. Baudains:

No.

Deputy S. Power:

Just following on from what you said there, Harry, about advice, when you said that a planning officer may give advice to a developer on a potential site, what you are really saying - have I interpreted you right - is that if the planning officer gives advice there is not necessarily a presumption in favour of any kind of development? That is what you are saying?

Mr. H. Baudains:

Yes.

Deputy S. Power:

This does not necessarily mean you can go ahead and build 10 houses on a field when 6 may work far better?

Mr. H. Baudains:

No.

Deputy S. Power:

I just wanted to clarify that.

Mr. H. Baudains:

If advice is given to a developer and he buys the property and it goes wrong it is his bad luck.

Deputy S. Power:

Risk.

Mr. H. Baudains:

Yes, his risk.

Deputy S. Power:

Right. Last question. The other question I was going to ask you in relation to: you made reference to the litigation on Columberie House and the accounting firm that was there, and is still there, at the time. During your 9 years planning and planning process, to what extent did litigation turn up at Committee? How often? Can you recall, were letters received from law firms or and on behalf of clients or developers, was it very often, rarely or ...?

Mr. H. Baudains:

Not that often I do not think. But, I can think of 3 cases where litigation went against the committee and we had been assured. One of them was a farm at St. Brelade where we had given planning permission and when it came to development we said, you know: "We do not think it is viable." We were told at that time: "Well, we have only given planning permission so you just pay the architect's fees." But they went to the Royal Court and the Royal Court said: "You have got to allow it." That was a learning curve at that time. The other one - litigation - was about giving planning permission. We had the conditions drawn by the -- I think it was the Attorney General's office, the Crown Officers, and it was overturned by the Royal Court. So, there was litigation but not as much, I think, as there is now.

Deputy S. Power:

To that extent. Just the last.

Deputy R.C. Duhamel:

You said that.

Deputy G.C.L. Baudains:

I think that may be a reflection of the type of development we have at the moment where there are significantly larger development firms than there used to be and, as I understand it, they retain lawyers, almost full time, making sure that they do not miss any things that they could possibly achieve and we are simply not really able to compete as I see it.

Mr. H. Baudains:

Possibly. Yes.

Deputy R.G. Le Hérissier:

Just another one of these broad questions, Harry: when you left planning what were the matters that you thought were in need of reform?

Mr. H. Baudains:

We did not have many matters. We had just set up a Sub-committee, the Application Sub-committee. Really it was to see how that would work and try and make that work. That was the first task to see how things went and unfortunately I left the Committee. Nigel Queree got the presidency, so end of task.

Deputy R.G. Le Hérissier:

Another issue which you briefly alluded to: there is an allegation sometimes made that officers - while it is good to have continuity and work with developers - they do get close to developers and that this might influence their judgment as the application proceeds. Did you ever get that feeling?

Mr. H. Baudains:

I think in a way it is good. Rather, it can backfire against the developers. I remember one developer and whenever he produced plans we always said: "Well, go and measure the site because he has got an elastic tape." [Laughter] I think it is good to know the developer: he can be bad and he can be good. I mean he can get to know the developers that he can trust, and trust what they are doing, and he can get to know the developers that he has got to be careful with. But, obviously, we have to be very careful, and they have, that there is no getting too close.

Deputy G.C.L. Baudains:

During your time on the Committee what sort of percentage of time did you spend on policy compared with actual determination of applications? Because one of the things I am thinking about - in fact we have asked previously this morning - is to do with a planning over-view; the fact that currently the

situation is each application is determined on its own merits, regardless of the consequences of a whole lot of individual applications may have on an area. Was this ever in the minds of the Committee at that time?

Mr. H. Baudains:

I do not think that aspect was. I do not think it affected us much. I think that over-view would have been taken more so on -- I am trying to think. P.57 always rings a bell in my mind, when we took a lot of sites for the house or re-zoning. Well, at that time you would take an over-view of the whole thing. But there was not the amount of development that is taking place now in areas and they do not seem somehow to have done their homework. I mean Bel Royal Schools, they cannot take children at Bel Royal. It seems to me an extraordinary situation.

Deputy G.C.L. Baudains:

Well, that probably leads on to my next question because I think we challenged that during the Island Plan of 2002, wondering whether, in fact, the infrastructure was capable of handling the increased densities and we were assured it would do. Do you believe that the 2002 Island Plan was properly managed, both in its compilation and presentation to the States? I am wondering what your views are and how we might perhaps achieve a better result next time? Would you think it was --

Mr. H. Baudains:

I had better not be too rude. **[Laughter]** I think the main thing was the thing that you and I were involved in and the more I think about it -- for those members who were not there, the map changed a lot of sites. A lot of gardens moved from agricultural priority zone to building sites and the neighbours were not aware. The neighbours did not have a chance because of that. It was a sort of development by stealth. Now, there should have been a map showing where it was changed so that the people living next to those sites would have had a chance to see what was happening and to make application. It is no better, no worse, really, than somebody suddenly deciding: "Oh, yes, we will allow 10 houses in a field next to somebody's house without publishing the application, without hearing them or anything." I think it was very bad. I think a lot of the policies in the Plan -- I am not too sure whether I have got an up-to-date Plan; the one I have got is a draft. I think it was the draft that was accepted, but there were a lot of policies that I think could have been used to mitigate but they do not seem to have been used. I was reading one the other night about not impinging on the visual aspect. Well if you know the Priory at St. Clements, they built in the car park completely hiding the countryside. Now, if that was not in breach of one of those policies I do not know what is. Those policies seem to have been ignored and just the policy on building.

Deputy G.C.L. Baudains:

Would you agree that, I think my understanding of the 2002 Island Plan - you mentioned those policies - was that the policies were the tools to enable the Committee, as they were at that time, to have

greater power to resist inappropriate development and gain some control over what was going on. But, in fact, the problem may lie more so in the interpretation of that Plan, rather than a fault in the Plan itself?

Mr. H. Baudains:

Yes, well I wonder, you know, if the policies are there but if a planning officer, or someone, has given an indication to a developer he can put 6 houses on a site, it is very difficult afterwards to claw that back and say: "Oh, but it has a visual impact on the area so you should only put half the number." You can then have a developer who has bought the sites, got a lawyer with him and says: "Well ..." and if the Committee have not got the -- or the President does not wish to fight the battle... At times one has to fight.

Deputy G.C.L. Baudains:

Well, going back to a question, I think, that Deputy Power asked a few moments ago: to what extent were you - how can I put this - concerned about the possibility of litigation? It does seem to have been in recent times that the Committee, I am not sure if it continues through to the present ministry but, certainly, under the previous Committee I got the impression that as soon as a lawyer came through the door it was: "What is it you want?"

Mr. H. Baudains:

Well, no, and I can even instance one perhaps, you know La Godillerie in Trinity, a lovely old house. The developer pulled the innards out because they had to repair it, part of the development, and then came to us and threatened all sorts because it could not be developed. We just said: "Bad luck. Rebuild it" and they did. But they had lawyers with them saying they could not and engineers and everybody. We said: "Do it" and they did.

Deputy G.C.L. Baudains:

So, it would seem that the litigation is more of a current issue than previously?

Mr. H. Baudains:

Well, it has got to be looked at by the law officers to see whether the Committee has made a mistake, whether wrong advice has been given or not. But, if it is a matter of interpreting policies, well, the policies either need reinforcing or you should stick to your guns.

Deputy R.G. Le Hérissier:

There was a point, Harry, that came up this morning about this whole issue of officer advice. I did not push it as much, as I was so wrapped up in other issues. Take the Goose Green thing, Harry, where there is this -- people do not want it. Unfortunately, sadly, although there is the odd call about: "Let us keep it as a nature reserve, the thing" sadly, it has moved on. There is this debate going on, a bit like the

Hermitage at St. Aubin's Bay went on, should there be - was it 97 or 129 houses?

Deputy S. Power:

129, at the moment.

Deputy R.G. Le Hérissier:

Yes, and I think they want to reduce it to 97. Now, when you were on the Committee did officers give you minimum and maximum numbers, which of course if you do, presumably the argument only goes on between those 2 sets of numbers. I mean, how can you give advice which is not going to legally compromise you but which allows for a reasonable debate about how many houses that site can sustain?

Mr. H. Baudains:

I cannot remember. I mean, as I say, we did P.57 or P.67, whatever it was, which was Sydney Crill Estate. There was one in Le Hocq Lane. They were all over the place. I do not think there were any arguments to any extent afterwards but I think perhaps we did not put a maximum in, in the first place. Certainly, if you look at the one I always like, Broadlands in Le Hocq Lane, I mean the density is about half what some of them are. I think that unfortunately they have been advised sort of on what is the maximum and too high and now you cannot pull back.

The Connétable of St. Mary:

Because it is one of my thoughts that I have in that respect and obviously density is to the benefit of everybody except, possibly, the house owners themselves, do you think that density is being driven more so by the developers and that there is not enough control from the Planning Committee? Should they have more say in the matter because, you know, they make a ruling, minimum amounts and requirements, and such like, but do you think that Planning should have more authority to dictate what should be put upon?

Mr. H. Baudains:

I would have thought they had the authority but they are not using it. I think that there is a lot of bad design. I mean, if you go to another one I like is Lesquende and there is an open area there in the middle. If you go into the modern ones there is no open area, you know, they are all jammed in on one another. I think in the 9 years I was there, not through me but through John Le Sueur mostly and Carl Hinault, we kept the density down and we went in at times on -- I remember going into St. Peter's Village and there are open spaces there. Someone had said, you know: "Let us build some more houses there" and he said: "No, you need open space." They wanted to knock down Grassett Park so they could put twice the number of houses on it and we said: "No, repair the ones that are there." Le Cinq Chenes, the same thing, there were areas there. "Can we put a few here?" "No."

The Connétable of St. Mary:

Do you think therefore that you, as a Planning Committee, had more say and more power, more jurisdiction than what the present Committee have? I am not saying you did not adhere to but that they adhere more rigidly to the guidelines and set lines that are and if they do not allow the request they are then fearful of litigation. Do you think you had more control over the thing than possibly they have now?

Mr. H. Baudains:

I would not have thought so. You would need to read the laws to see where they differ. I would not have thought that we have got more powers but I think that we used them more I think. If you look at all the different policies in the Island Plan I think you could find policies there to cut down the numbers. I do not think those policies are being used.

Deputy G.C.L. Baudains:

Do you think in some regards the problem is simply the pressure on the Planning Committee to provide homes, and this is what is affecting density and allowing developers - or shall I say encouraging developers - to seek legal means of gaining what they want, and that sort of thing?

Mr. H. Baudains:

A lot of it I do not think is anything to do with sort of providing homes. I think it is developers who are looking for sites to develop and they naturally want to get the maximum on them.

Deputy G.C.L. Baudains:

So, is it profit led more than ...?

Mr. H. Baudains:

Well, profit led. If they bid a high price for a house and they want to knock it down and put 4 and the Planning Committee say: "You can knock it down and put 2" it does not stack up. I cannot follow the policies that they are using on this. I mean you have got old houses like Greenwood Nursing Home. It is a good house. The house opposite has got to be preserved because it is newer than the one that they allowed to be knocked down. They put 3 in there and I think they are too tight. There is not the parking. If you visit a lot of these places there is nowhere to park. No, I think it is just too tight.

Deputy S. Power:

Can I bring you back to a comment you made about 10 minutes ago about Bel Royal School? Given your own experience - 9 years in the planning process - if I were to say to you that, in the 5 western parishes, that is: St. Ouen's, St. Lawrence, St. Mary's, St. Peter and St. Brelade, there are over 1,100 houses coming due for completion in this calendar year and yet Les Quennevais School is full. It has no capacity. It is over capacity according to the figures we saw - some figures we saw yesterday - as in Mont Nicolle and La Moye. Do you think that the process somehow has failed because all these houses

are coming on-stream and yet the Education Department do not seem to be in sync with the Planning Department? Do you think that is part of the planning process?

Mr. H. Baudains:

It should be part of the planning process. But, if you are building 1,100 houses, where are the children coming from? Now, obviously, you are not creating children, they already exist somewhere on the Island. Are you causing a vacuum somewhere else or are they already in St. Brelade living with mother and father? They are going to move out from mother and father's house and have their own house? But, it should have been analysed beforehand. I am a bit surprised in one way because I know someone who works in Mont Nicolle School and that is, I think, cutting down on the number of people that it is taking.

Deputy S. Power:

It is at capacity as far as I am aware. Yes. They may be reducing but it is --

Mr. H. Baudains:

I thought it was sort of a one and one half entry year and they were doing a one or something. I am not too sure how they --

Deputy S. Power:

It is a 2 stream.

The Connétable of St. Mary:

It is a 2 stream because my grandchildren are there.

Deputy R.G. Le Hérissier:

Harry, as building got even more intense on the Island the Planning Department, as you know, came under more and more pressure. In order to deal with this, as you know, they bumped up the price of applications and the trade off was: "You will get better service" because they would be able to employ more staff, as they told us this morning. To the extent they did that. They got a bit tangled up with bigger staff cut backs. Were you aware of that when you were on the Planning Committee? Was it struggling to process applications?

Mr. H. Baudains:

I would not say struggling but they always had difficulty. I was a critic at times when I was on the Committee and, you know, I used to look down occasionally and see how long it might have been there and ask, you know: "Why has this one been delayed so much?" But I think at times some of the planning officers had to work excessive hours, I seem to recall.

Deputy R.G. Le Hérissier:

Did you find out why they were being delayed? Did you get a picture of what was happening there?

Mr. H. Baudains:

It was individual ones and usually there was an excuse somewhere along the line that they were waiting for a report from somebody else. It could be a report on whether the sewage pipes could take the extra development or it could be any sort of delay. There usually was a genuine reason but I always thought you needed to do that. Keep them on their toes.

Deputy R.C. Duhamel:

Do you think the authority of the Planning Department, certainly, in terms of its long-term planning function, is being diminished by the creation of other bodies, notably, WEB and others, in siphoning off some of the functions of the department into other places?

Mr. H. Baudains:

Well, I am not too sure to what extent WEB is independent of Planning. They seem to be at times independent and if they are, well, that is totally wrong.

Deputy R.C. Duhamel:

Certainly, there is reference now to other bodies. I mean I believe the Chief Minister, the Constable of St. Helier, and a few others - I think the Economic Minister - have convened another body, along with EDAW Consultants, to look into the redevelopment of the town proper. So, it strikes us that perhaps some of the difficulties of the planning process are that you do not have authority in one place any longer?

Mr. H. Baudains:

Well, I think it should be one. You cannot have 2 bodies working independently of one another. I mean if the -- to take it to the extreme, but if the body of St. Helier wanted to completely pedestrianise the whole place the other body looking after the rest of the Island, would that be creating another town elsewhere for the shopkeepers? You have got to have a co-ordinated thing. You cannot do it separately.

Deputy G.C.L. Baudains:

On the question of WEB, of course the Waterfront Enterprise Board and the Planning are both State spawned bodies. Certainly, during the Queree administration seemed to be antagonistic towards each other, but both aim towards the same goal in some respects. During your time on the Committee, what was the working relationship like with WEB? Were you working in parallel? I mean I have always found it difficult, while I understand each one's remit I have never quite understood how they are supposed to work together.

Mr. H. Baudains:

Well, WEB were in their infancy. I mean, I left the Committee 7 years ago and WEB had not really got the bit between their teeth at that stage. I think things were working very well. I think there was a bit of a divergence of opinion on the Island site about how much should be kept. Of course that has since been resolved.

Deputy G.C.L. Baudains:

Now it seems that they may be marginalized by this supremo which has been appointed to look over the whole of the site, so we live in interesting times.

Deputy R.G. Le Hérissier:

Sorry, I am not sure that this is -- Harry, coming back to one of Gerard's very early points, there is this feeling that permissions given for a few houses — Samares Lane is quoted -- I suppose Jambart is an over the top example. Then all of a sudden other things start sprouting and before you know it you have got an ad hoc village that has appeared but it has never been designed according to any, you know, overarching set of principles. Did you feel when you were giving permission to a few -- I just want to press that a bit more, did you have that broader picture in mind: what is this going to look like if there is creepage, as there undoubtedly will be?

Mr. H. Baudains:

Well, I think if you look at the old Island Plan, there was not the ability for creepage. The boundary, or built up zone, was so tightly drawn that there are only little pockets. In Samares Lane about the only one I remember was Sefton that was William Meneth's and he wanted to develop it. But the line that went through did not include him. His packing shed and one green house, I think, were in the built up zone and the other green houses were outside. We said: "Well, you can just develop that little bit." The house opposite was Anne Dupre's. I forget the name of it. It was just partly in the built up zone and partly in the green zone, in the agricultural priority which is: "Oh, no, you cannot." But now it has been expanded so you have -- it was this expansion on the -- without thought, I think that caused the problem.

Deputy G.C.L. Baudains:

Do you believe that the policies within the Island Plan should really cover that and they are not being applied? I mean I am thinking of 2 properties in Samares Lane where, when I spoke to the Director of Planning about it I said: "If an application comes forward for one then you will not be able to refuse the one next door. But the 2 together are more than either the parish or yourself could want." So, without that over-view how do you stop it? It seems to me we are in a system which we are, once again, having to allow things that we do not want which surely is not planning. One should be planning for the Island as a whole. I mean ...

Mr. H. Baudains:

Well, I do not think that they are planning. I do not think that -- the one that horrifies me is the old Magnolia Hotel opposite Coronation Park. Now, that is a block of flats built up looking into the next-door neighbour's field. Well, if a next-door neighbour is sometimes given permission to build an equal block - and why shouldn't he - they will be able to open their windows and shake hands with their neighbours. I mean that was done without thought of what is going to happen to that field. That block of flats completely negates any chance of developing the other one, which was totally unfair to the ...

Deputy G.C.L. Baudains:

Yes, but the difficulty, as I perceive it, is how can you be harsh on the first application? I do not think you can.

Mr. H. Baudains:

Yes, but the first application needs to rely on his own area to give him sunlight, not rely on the person next door.

Deputy R.C. Duhamel:

So, essentially what you are alluding to is that perhaps long-term planning is not as strong as perhaps it used to be within the department?

Mr. H. Baudains:

Possibly. Yes.

Deputy R.C. Duhamel:

In that respect would you recommend the reintroduction of some of the policies that perhaps have come out of the current Island Plan? The one I am thinking of at the moment is, going back a number of years we used to have a skyline development policy which prohibited development poking above hills. Certainly, some of the references have been made to the development that has taken place down at Pontac, which would not have been allowed in the past, but which is being allowed now. Do you think that some of these old laws, or old policies, should be reintroduced?

Mr. H. Baudains:

Well, I did not know that it had gone but perhaps it had. I mean we worked -- on the sum that any house in the green zone could have 10 per cent. That one that you are alluding to, Pontac, I should think is 200 per cent.

Deputy R.C. Duhamel:

Yes, and substantially higher.

Mr. H. Baudains:

There is another one up above St. Clements church. I do not know what they are building but the scaffolding suggests a skyscraper block.

Deputy R.G. Le Hérissier:

When you were on the Committee, I was not around but I saw a lot of the results, Harry, there was this great push -- I think it was pioneered by Constable Le Sueur to sort of go back to the old Jersey vernacular. May be in a more modernised way of course Senator Cohen, as you know, has spoken at great length to us this morning about design. How can a Planning Committee influence design? I mean was it just the view of one person who thought: "Let us recreate old Jersey" in your day, or do you think there was a real attempt to bring about both good modern as well as traditional design?

Mr. H. Baudains:

I think at times, yes, we did try to go back to the traditional design. I think Safeway Supermarket shows that. But there was a time there when the Committee would not have brick for any price. But the flats overlooking the harbour are. What are they called? Just above us here.

Deputy S. Power:

Yes, the States...

Mr. H. Baudains:

The States -- on the old building site. That was all brick.

Deputy S. Power:

They are quite nice.

Mr. H. Baudains:

But it blends in well with the background. They do not stand out because it is reddish brick against the reddish granite. We allowed that. I have never discovered what is Jersey architecture.

Deputy R.G. Le Hérissier:

Yes. We're struggling with that one. **[Laughter]**

Mr. H. Baudains:

I think we had a very interesting girl came over - or young lady - and did a preliminary survey for some developments around Springfield. She went round taking photographs of all the buildings, the Victorian buildings, and then brought it to the Committee and the committee was flabbergasted, they had not seen a lot of them. She had, you know -- "Well, where is that? That is lovely. Where is that?" We do not sort of appreciate the -- but that was all Victorian architecture, which I think you would probably find in the south coast of England. The Jersey farmhouse you will find in Normandy and Brittany. The only

thing that I know of that I think is Jersey is a dormer window with glazed sides.

Deputy G.C.L. Baudains:

You would perhaps have some in your house?

Mr. H. Baudains:

Yes, unfortunately.

Deputy R.G. Le Hérissier:

Did you get permission for those? [Laughter]

Mr. H. Baudains:

I would love to know when they were put in.

The Connétable of St. Mary:

Changing tack completely, and it is only just as I was listening to you regarding the restrictions and the large amount of buildings and estate that has gone on. Obviously, these days especially it is more grim because of the main services that are available that has been brought about, mainly for main drains and not allowing for soakways. You have to have tied tanks, et cetera. Was that a big issue in your time? I mean, were you restricted at all to that extent because, you know, the majority of these large estates are driven by that because the more rural parishes cannot have it, and it is a problem because there are not the main drains available to put all that on. Do you think that is what is driving more so? Because until such time as there are main drains Island-wide well there is never going to be any large estates, or such like, out into the rural countryside. Do you think that has a factor on the --

Mr. H. Baudains:

Well, it always did. It was not until the main drains came out, about 1970, out as far as Grouville, that you had any large-scale developments. As the drains were extended so the housing was extended. In our time it was very rare that we allowed a house to be built without main drains.

The Connétable of St. Mary:

In that time you mean?

Mr. H. Baudains:

Yes. At times we would allow an extra house to be built among a cluster, provided the whole cluster was put on a pumping system and put on to main drains.

The Connétable of St. Mary:

So, there were no soakways or anything of that type?

Mr. H. Baudains:

Not if you could help it. No. It would have to be -- I mean you could not stop a farm being built in the countryside because it did not have main drains. There were plenty of them with soakways and septic tanks. It was on a rare occasion we broke that rule.

Deputy G.C.L. Baudains:

I wonder if I could just take you back to the Island Plan debate of -- well, before the Island Plan debate of 2002 and then take you forwards to the future. During that road show, as it was called, the purpose was to engage the public in debate. I do not think that was very satisfactory because the public came away with the impression that they were consulted and then ignored. Have you any views on how that might be better achieved during the next round when that comes, or is it an impossible task, there is virtually no point in engaging the public?

Mr. H. Baudains:

I think the one difficulty with the public and with that sort of road show, a lot of the public cannot read a map and you put a map on the wall and they cannot -- I mean there were States Members who could not read a map. You put up a road show and they do not really appreciate that the garden next to them - that was in the countryside - is now going to be a building site. Well, I think somehow you need to almost go door-to-door and show if you are going to get a meaningful response. I think I went to one of the road shows but I did not -- I felt I had left the Planning Committee and so I felt -- well, step back and do not be the person who has lost out and, therefore, is telling them what to do. So, I did not take too much notice and unfortunately I think we left it a bit late to get involved.

Deputy G.C.L. Baudains:

But, no, I mean it is something that has exercised my mind because obviously one wants to work together with the public; houses must be provided on occasion but everybody does not want it in their backyard or their parish. So, how do you solve that conundrum?

Mr. H. Baudains:

I think that some people are bound to be annoyed. You are going to have developments in somebody's backyard. You cannot possibly avoid it. But they must be given the opportunity, I believe, to make their point before the decision is taken. This is the thing I feel so much with preliminary advice and with the Island Plan. There should have been 2 maps: an old map and a new map to show -- or a map showing the difference.

Deputy G.C.L. Baudains:

It is probably slightly outside our terms of reference but I did think, personally, at the time that rather than bolting on extensions to existing housing estates, and thereby overloading the infrastructure, we

might have been better off starting with a new village somewhere in Jersey, wherever. I mean I know they have been looked at. It is not one of my ideas but they have been looked at previously. But, when I did ask the President of the day, Senator Querée he said it has been looked at again and ruled out. What are your views on that, starting with a clean sheet so to speak?

Mr. H. Baudains:

Well, I think that I will go back to something I said, oh, 16 years ago, 20 years ago, we have got problems with global warming. Now, building on the flood plain at Beaumont to me is stupid. I do not know if there are any thoughts, or plans, of what will happen. I do not know to what extent La Colette is above sea level. We had a working party, Mike Romeril and Roger Thebault and Roger Culverwell and we looked at the implications of global warming and we asked that the development west of Albert be raised, and it was. It is higher than it would have been. Now, I do not know what level La Colette is but I do not think it is that high above sea level. We are going to have nowhere to put rubbish and yet that one will not be high enough. I do not know if there is any planning but there should be long-term planning. When you are building houses you are not building them for 5 years.

Deputy G.C.L. Baudains:

Talking about planning, we have discussed buildings. What are your views on Planning's attitude towards agricultural land which possibly is no longer viable, and that sort of thing? Is that sufficiently addressed, or not, and leading on from that, also, is the question of re-zoning it and whether we have the right policies for doing that?

Mr. H. Baudains:

Well, re-zoning it for ...?

Deputy G.C.L. Baudains:

Well, for building. When it is re-zoned it seems to be that we want affordable housing but never achieve it. Is there a balance to be had here or ...?

Mr. H. Baudains:

I suppose that must be reason enough but we are re-zoning land but we have got sites in town that are not being developed. I think one of the sites -- I mentioned that lady did the -- looking round Victorian houses was for the site in -- oh, I always forget the name, I should know it, next to the big new Co-op in the Stopford Road area.

Deputy R.C. Duhamel:

Gas Place?

Deputy R.G. Le Hérisssier:

The golden site, yes.

Mr. H. Baudains:

Yes, well, the one on the other side is ready for housing. It is in the administration of Housing. It has been in the administration of Housing for years and yet it is not built. In Great Union Road, a church was knocked down for housing. Not built. Yet we are building in the countryside.

Deputy R.C. Duhamel:

Do you think the planning process, as we have it, encourages the building of houses but does not particularly encourage the creation of communities? Is the focus in the wrong place?

Mr. H. Baudains:

I think a community -- how do you create a community? I think it is designed in a way in the housing. I would say you go back to Lesquende I would think you have probably got a community because you have got a -- the cars are eliminated from the middle and the houses give out on to that area and possibly you have got more of a community than if you have got -- as in Jambart Lane which seems to be a road with houses on both sides. But, anyway the communities spring up there. It is the people that make the community not the house.

Deputy S. Power:

Given your knowledge of the planning process, Harry, and given your well documented reference back on the 2002 Island Plan, to what extent have mechanisms been ignored or have mechanisms not been used within the Planning Department that could have offset the worst excesses? What has happened in these infill windfall developments in the last 3 or 4 years?

Mr. H. Baudains:

It is a difficult one for me to be -- the easy answer is: they are being completely ignored. I should do more research before I say that but that is my gut feeling. I do not think they have looked at the other policies. I think they have just said: "Well, that is an area we want houses and we can put 4 there and that is it" but not looked at the impact on the area as a whole.

Deputy S. Power:

So, your knowledge of the planning process meant that part of the infill developments that have taken place in the last 3 years have not taken account of the local impact, neighbourly impact and environmental impact on those areas?

Mr. H. Baudains:

Yes, that is my feeling.

Deputy S. Power:

Your experience in the planning process would mean you will have taken those factors into account?

Mr. H. Baudains:

I hope so. I hope we would have. Yes. It is very difficult to decide what one would do with hindsight or what one would have done if you had been -- if I had been there.

Deputy S. Power:

Given your well documented reference back in 2002 are you disappointed 4 years on that what has happened has happened?

Mr. H. Baudains:

Yes, very disappointed. Yes, when Alistair Layzell answered all our worries and sat down and he listed all policies, I have not listened to him again and perhaps you have. If you have you are in a better position to judge whether they have been applied, or not. But I feel that those policies have not been applied and the Priory now is a glaring example. I think the Jambart one, again, the top end is built right up to the road. It should have been kept well back with a screening of trees. But there are houses there that are 5 foot from the road. I think it is too close.

Deputy S. Power:

Last comment, Chairman. Given my limited experience and your vast experience, in the planning process in relation to the 2002 Island Plan, it seemed to me a fatally flawed phrase to say that we have all these re-zoned sites and then to qualify it, or to attempt to qualify it, by saying there was no presumption in favour of development on these sites, is a fatally flawed statement.

Mr. H. Baudains:

Yes, in a way. Yes. It would not have been flawed if they had said to the developers: "Well, there is no presumption in favour. It has been made quite clear and, no, you cannot develop. No, you cannot knock down that large house in its garden to put 6." It requires determination in not taking the easy way out.

Deputy R.C. Duhamel:

So, would you say overall then that the current planning process is perhaps pandering too much to the desires of the developers?

Mr. H. Baudains:

Yes, I think possibly. Yes. They need to say: "No" more often or look at the other policies. People say, I do not know whether it is true or not, that if you want to put 4 houses on the site you apply for 6 and they will knock you back to 4 and you will get what you wanted.

Deputy G.C.L. Baudains:

Could I just take you back to the comment you were making about the Jambart site where the houses are, as you said, quite close to the road and there is a field and I think it is a 3 storey house also on the corner. I have been advised by the developer that, in fact, that if he had been left to design this he would not have put it like that at all and, in fact, it was all due to the design brief which was prepared by the department. How much input do you think officers should have into that sort of thing and how much was there in your day?

Mr. H. Baudains:

I do not think there was much in our day and the Committee would have been aware of it. Now without a Committee I do not know whether the Committee know what is the design brief, whether they look at a design brief before it goes out. But, you should see the design brief. It goes out in the name -- or it used to go out in the name of the Committee, and if the Committee have not seen the design brief how on earth can they then turn down something which they virtually approved? Another one that we found was a mistake was the design competition and then a few of those -- you ended up with the winner has the contract and it may be a horrible building and you may not want it, but you have got it. They have won the competition.

Deputy R.C. Duhamel:

I notice that we have got a couple of minutes left. I will take one last question.

The Connétable of St. Mary:

One that I was thinking about: in your time in that then did you ever go off Island to do some visiting for general ideas, and such like? Because I am just wondering where the - as you just mentioned before about design and such like - where the Committee and the architects of the Planning Committee - did you ever have discussions on ideas that what should be or should not be not, so that when applications came at least you were thinking on the same wavelength as such. Then did you go away and get ideas? Because it is difficult, I would have thought, for somebody to be on a Committee not having any ideas, possibly, of the future and the change of process. So, as I say, did you go away and was there discussion between yourselves and the actual Planning architects?

Mr. H. Baudains:

I do not think we ever went away looking at architecture. I cannot remember us having done it. We had been away a few times. I think it was Housing always. When I left Planning I joined the Housing Committee and we did site visits then. I am trying to think. But we did have discussions - some heated discussions at times - on whether we would accept modern architecture or not and whether it was fitting. One I remember bitterly fought over was the new building, Equity and Law building, La Motte Street, the modern one. I think the modern one eventually approved and -- Robert you might have been on the Committee at the time.

Deputy R.C. Duhamel:

Oh, do not blame me. [Laughter]

Mr. H. Baudains:

Eventually it was approved 4 to 3.

The Connétable of St. Mary:

Was that a discussion between yourself and the Planning architects or yourself and the developer's architects?

Mr. H. Baudains:

I think the developer's architects would have made a presentation and then we would have had a discussion without the developer's architects there, about whether a modern building like that was fitting in that street. It is always difficult if you do not allow anything modern you preserve the place as it was, but if you allow something modern people criticise you.

The Connétable of St. Mary:

Do you think it would have been advantageous for yourselves, as a Committee, to go away to get general thoughts, ideas and that elsewhere or do you think it was always, you know, reliant upon local knowledge, as it were?

Mr. H. Baudains:

Well, I think we always travelled independently so we would always see other developments and we are not living locked up in the Island so you do know. But, I think visits are, or can be, beneficial especially to the *Evening Post* so they can criticise the expense. [Laughter] I should not be facetious.

Deputy G.C.L. Baudains:

Just a closing question, Harry, on the modern buildings: to what extent did the Committee you were on attempt to ensure that not only did modern buildings fit in with their surroundings but 2 modern buildings in the same street would compliment each other as opposed to clash?

Mr. H. Baudains:

I think we did. I think we looked at the whole thing. I was looking at one of our developments and if you are in the car park opposite the cinema, look back and see, you had the 60s building, the Marina Court, and we built 2 and we allowed 2 buildings to build up to it, sort of to mitigate it. If you look at that by itself, I think it looks good. Unfortunately, there is another building now been built that is taller than the others so the whole exercise is wasted but, no, we did try to make things fit in.

Deputy S. Power:

Are you referencing the building that is on the Marina Court side of the bottom of Gloucester Street?

Mr. H. Baudains:

Yes, you have got one - they are 2 rather similar buildings and they sort of build up to the Marina Court. But then you have got one the other side of Gloucester Street now that spoils it.

Deputy R.C. Duhamel:

Right. Well, on behalf of the panel I would like to thank you for coming along and giving us your comments. They have been very useful and thank you for coming.

Mr. H. Baudains:

Well, I hope they have been useful to you.

Deputy R.C. Duhamel:

Yes, they have.