

STATES OF JERSEY

Economic Affairs - Dairy Review Sub-Panel

TUESDAY, 12th DECEMBER 2006

Panel:

Deputy A. Breckon of St. Saviour (Chairman)

Deputy A.E. Pryke of Trinity

Deputy K.C. Lewis of St. Saviour

Deputy R.G. Le Hérisser of St. Saviour

Deputy S.C. Ferguson of St. Brelade

Witnesses:

Mr. E. Le Ruez (Director, Property Holdings)

Mr. P. Tucker (Assistant Director, Properties Management)

Deputy A. Breckon:

We will reconvene. It is 10.45 a.m. Welcome. I will just give you the background. You know it anyway but just for the benefit of the tape, the hearing of this scrutiny sub-panel is part of a joint review with the Chief Minister, the Chief Minister is involved because the Economic Development Minister is conflicted because of his family interest in the dairy industry and there was joint terms of reference that were drawn up. Promar were appointed as consultants and they have since, just in the last week, produced their final report. As you know the Treasury Minister had 2 propositions before the States to move Howard Davis Farm and a change to the covenant of that property. They have since been withdrawn. Part of our process really is to inform the States and inform the debate of what may develop, what was then but is now, whatever happens if and when. You have probably seen from publicity in the last couple days it is a bit of a moving target at the moment but as they say we are where we are. You are here because of your knowledge and positions and I will come to that in a moment. In front of you you should have the oath. I will just go through that to show that we are aware of what it is. It is important that you fully understand the conditions under which you are appearing at this hearing. "The proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, PAC and PPC) (Jersey) Regulations 2006. 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 transcripts will be made on the Scrutiny website.” I should just to add to that you will be given a copy of the transcriptions and if there is anything that you say that is factually incorrect it can be corrected. So it is not the end of it. Also we will take the “um” and “ahs” which is mainly for my benefit and not necessarily yours. For the benefit of the tape, can I ask you first, you are here individually but collectively as well. If you could just introduce yourselves and say your position. Thank you.

Mr. E. Le Ruez (Director of Property Holdings):

Eric Le Ruez, Director of Property Holdings.

Mr. P. Tucker (Assistant Director, Properties Management):

Paul Tucker, Assistant Director, Properties Manager.

Deputy A. Breckon:

I think you know all of the panel but Deputy Anne Pryke is the Deputy Chairman, Deputy Sarah Ferguson, Deputy Roy Le Hérissier and Deputy Kevin Lewis, and Nathan Fox the Scrutiny Officer is also present. As I say the proceedings are being recorded. Questions might be specifically to one or the other but it might well be that one or the other has something to add so please feel free to add to a question that might be directed to somebody else if you so desire. Can I begin, Paul, by addressing the first question to you. Did you as Director of Property Services advise the Economic Development Committee or the Environment Public Services Committee on the relocation of the Jersey Dairy.

Mr. P. Tucker:

Yes, I did. I reported to the Environment and Public Services Committee on the relocation of the dairy in November 2004 when I presented an interim report to that committee which set out to examine the known possibilities for the future of Howard Davis Farm. This was not just about the dairy, this was about the whole future of Howard Davis Farm. That report included a section on the relocation, or the proposal to relocate the dairy to Howard Davis Farm, with my recommendation as to a particular area of the farm which was considered the most suitable for the development of that commercial dairy and milk processing facility. That recommendation was based on my talks with planning officers as to what they felt was the most appropriate location. At that time the committee was asked whether in principle it was minded to support that relocation and, if it did, to instruct me as a Director of Property Services to enter into negotiation with the Jersey Milk Marketing Board and, together with the Law Officer’s Department, to consult and negotiate with any identified heirs of Mr. TB Davis for the removal of either part or whole of the restricted covenant which, on the advice of Her Majesty’s Solicitor General prevented the actual construction of the dairy on that site. The whole report was as much to do about the existing uses of Howard Davis Farm and lifting the covenant on the uses which currently do not conform with the conditions of the gift TB Davis made in 1927.

Deputy A. Breckon:

You said then the report was prepared for the Economic Development Committee and they were asked if they were minded to support that. Do you know if there is any minute that records their decision to do that?

Mr. P. Tucker:

No, sorry, that was a report to the Environment and Public Services Committee, not the Economic Development Committee. At no stage did I report to them as a committee.

Deputy A. Breckon:

In that case, do you know if anybody did?

Mr. P. Tucker:

I believe the presentations to the Economic Development Committee were by the Jersey Milk Marketing Board of the Jersey Dairy themselves.

Deputy A. Breckon:

At officer level? Would there be any officer input?

Mr. P. Tucker:

No, the only other contact I had was directly with the President of Economic Development Committee, which was Deputy Voisin at the time. I think I had a couple of meetings with him just to discuss the options.

Deputy A. Breckon:

In your position as former Director of Property Services, you were not asked to prepare a report for the Economic Development Committee?

Mr. P. Tucker:

No, I was not.

Deputy A. Breckon:

So it was a site use for the Planning and Environment Committee at the time?

Mr. P. Tucker:

Yes. More or less.

Deputy A. Breckon:

As such then, if officers, say, of the former Agricultural Committee or its latest situation, if they prepare reports would they come to you in a property reference?

Mr. P. Tucker:

Well, they did not, no.

Deputy A. Breckon:

They did not. So you are not aware of anything that was produced by the old Agricultural Committee to the Economic Development Committee regarding Howard Davis Farm?

Mr. P. Tucker:

Only what I saw in minutes of the Economic Development Committee.

Deputy A. Breckon:

But no report. You are not aware of a decision, political decision, to site the dairy at Howard Davis Farm?

Mr. P. Tucker:

There was no political decision. There was support for it by the Economic Development Committee according to the minutes. There was support for it and they supported the planning application that was made by the dairy.

Deputy A. Breckon:

That would be based on whose report then?

Mr. P. Tucker:

As far as I am aware - and I am talking second hand here because I was not at any of those meetings - it was based on presentations that were made to the Economic Development Committee by Jersey Milk Marketing Board.

Deputy A. Breckon:

In your former position as Head of Property Services would you expect, if that is States' property or States' managed property, it to be referred to you for a comment?

Mr. P. Tucker:

It was a bit difficult at that time, I think, with committees because committees were obviously operating independently on property matters. I was part of the Environment and Public Services Committee and,

as such, my involvement was because the land was in their administration at the time. Therefore that is why I got involved in the eventual negotiations in terms of the property itself.

Deputy A. Breckon:

Would any of your involvement be able to point a political decision to move the dairy to Howard Davis Farm?

Mr. P. Tucker:

Apart from the acts of the Economic Development Committee, which was an act, B14, of 2nd June 2005, that recorded that Economic Development Committee had seen and endorsed the planning application for the construction of a new dairy on the site at Howard Davis Farm and approved the drawings.

Deputy A. Breckon:

So that would be seen as a tacit agreement that they were supporting it. Would that be your opinion?

Mr. P. Tucker:

Yes.

Deputy R.G. Le Hérissier:

Thank you. Paul, these meetings you had with Deputy Voisin, they were purely exploratory, were they? There was no sense at the end of them that he might have come to some finding as a result of the meetings?

Mr. P. Tucker:

No, I think they were exploratory really. Apart from a letter which I had from him in June 2005, I think it was, where he had asked if I would take instructions from the Economic Development Committee rather than the Planning Committee because of the involvement obviously with planning matters, and to separate the 2 I was asked to report to the Economic Development Committee or represent them in the property matters.

Deputy R.G. Le Hérissier:

Sorry, and this was put into effect, was it, this arrangement?

Mr. P. Tucker:

Yes, it was.

Deputy R.G. Le Hérissier:

Did it lead to any conflict between your role, so to speak, as the overseer of the States' interest in the property and this particular role of promoting a particular use of a property?

Mr. P. Tucker:

Not really because I was obviously the Director of Property Services at the time. I was representing the Environment Committee in terms of the ownership of the property I suppose. But I kept the planning considerations completely separate. That was the important bit, that the Planning Committee were allowed to judge the planning application without any implications of the property matters. That was why it was kept separate.

The Deputy of Trinity:

Going back a little bit, did the Milk Marketing Board approach you as a committee regarding the site up at Howard Davis Farm or was it done thorough another committee at the time?

Mr. P. Tucker:

No, the first I heard about this was in about March/April 2004. The Managing Director of the Jersey Dairy made an appointment to see me to talk about a possible move to Howard Davis Farm. That was the first time that I had been aware of this potential move. I think that had followed, as I understand it anyway, a presentation which they had made to the Economic Development Committee, but I was not part and parcel of that. I just saw some copies of a PowerPoint presentation which they had made and there was this interest in Howard Davis Farm because, I suppose, they saw a synergy with the Royal Jersey Agriculture and Horticultural Society being on the same site. Also, there was mention of being near Trinity Manor, which had a Jersey herd and there was a connotation that that was to provide a tourism interest as well. But, no, it was presented as a move to Howard Davis Farm, a possible move. My involvement from then on was to try and identify a possible site within that farm area which might be suitable.

The Deputy of Trinity:

So meanwhile you had been already looking at what to do with the whole site?

Mr. P. Tucker:

Absolutely, yes. For about 18 months before that there had been concerns about the uses of Howard Davis Farm and I had been looking at the future of it because we had glasshouses up there that were going derelict and unused. There was a partial problem with Acorn Industries as well in that one of their buildings was structurally failing. I was looking at the possibility of relocating them or looking at their buildings to see what could be done up there.

Deputy R.G. Le Hérissier:

Sorry, Paul, at no time were you asked was it a site suitable for a dairy, you simply accepted the remit from the ED (Economic Development) Committee ultimately. You accepted this remit and embarked upon the search, so to speak?

Mr. P. Tucker:

Well, partially, yes. I did pass comment on it. It seemed like a relatively good idea, in my opinion, and I obviously saw how I might be able to progress it. We had no alternative sites to offer the dairy and in the interests of trying to help the dairy, I suppose, and help what was being proposed, I proceeded on that basis.

The Deputy of Trinity:

Did you ever feel any pressure to say: “No, it is not suitable”? Would you have been able to say that?

Mr. P. Tucker:

Yes, I could have said that. I felt it was a suitable site in reality. There were obviously problems with the covenant and whether we would be able to either lift or amend that covenant, and that obviously was a constraint on using that site for a dairy.

Deputy K.C. Lewis:

Regarding the decision to relocate to Howard Davis, how did the close proximity of the JSPCA animal cremator figure in your decision?

Mr. P. Tucker:

There were 2 options that came forward from the dairy when I identified the area at Howard Davis Farm which could be used, which was a site of derelict greenhouses and polytunnels. They produced 2 drawings effectively, or 2 layouts. One really did not affect the pet cremator at all and the other one obviously did. It was unfortunate that the one did not encroached on land which would had been identified in the Island plan as countryside zone, and the Planning Department were adverse to that idea and that we should be containing it within the eventual site, which did affect the pet cremator. It was obvious from almost day one, at that point, that the cremator would have to be moved.

Deputy K.C. Lewis:

This is quite a technical question, I am not sure if this is in your remit or not. Do you know if there is a set distance that a cremator has to be from a food preparation premises?

Mr. P. Tucker:

I do not know the actual distance but what I did know was that this was going to be quite close to the dairy which was a food production unit and, as such, it should not be there.

Deputy R.G. Le Hérisier:

Building on Kevin's question, Paul, you said earlier that you did not have any options when you really looked at it. Did you end up in one of these policy situations where, in a sense, people appear to have found the right site and the real task of someone is to really marshal the arguments to support that initial decision?

Mr. P. Tucker:

I do not know about marshalling the arguments, my job was to try and see if we could deliver a site which could be used by the dairy. I was told at the time that the dairy had other options. I am not sure how accurate that was or what those options were, but obviously it seemed to me to be a relatively good idea. It was a use which Howard Davis Farm could take in terms of planning. It was a commercial site and it had glasshouses and such like on it, light industrial, and it was a suitable site for a dairy. So I proceeded along those lines, yes.

Deputy A. Breckon:

I understand you have been given these written questions, the second one refers to the Act A3, the Environment and Public Services Committee meeting of 21st November 2005 where it was noted that you may have inadvertently exceeded your authority. Before asking you to comment on that I will read it for the benefit of the tape. This is in reference to the removal of existing agricultural outbuildings, construction of commercial JMMB (Jersey Milk Marketing Board), States of Jersey experiment farm, Le Rondin at Trinity, and it is 477/5/2(41) and 457/13(7). The minute says: "The committee was also concerned [this is the Environment and Public Services Committee minute of 21st November 2005] that the Director, Department of Property Services, may unknowingly have lacked the proper authorisation at the time the application was signed. [It goes on to say] Although noting that he had received written instructions from the President of the Economic Development Committee, the committee [the Environment and Public Services Committee] considered that an act of that committee would be required and accordingly direct the officers to find the relevant record, which act B14 of the Economic Development Committee dated 2nd June 2005 refers." I wonder, Paul, if you could expand on that, please?

Mr. P. Tucker:

Firstly, I need to make it clear that that was a planning meeting. I do not know if you know but Environment and Public Services used to alternate with property and planning meetings. This was a planning meeting at which the committee was asked by the Planning Department to consider an application received from the Jersey Milk Marketing Board to construct their commercial dairy and how would they respond. I was not present at that meeting so I do not know what was said, but I understand that concerns were raised by some members of the committee that I had signed an application giving

authority. I assume that the committee were still thinking that this was land that belonged to them and therefore I should have reported to them that I was signing the application. I can only assume that was the case. The committee was concerned that I only had a written instruction, apparently, from the President of the Economic Committee and there was no act of committee. That was in fact untrue - there was - and you have just made reference to it. Act B14 of 2nd June 2005 recorded that the Economic Development Committee had seen and endorsed the planning application for the construction of the dairy, as I said before, and approved the drawings. It had already been agreed by the Environment and the Public Services Committee in this particular case to keep the planning completely independent of the property negotiations, that I would report to the Economic Development Committee. I signed the application on their behalf.

Deputy A. Breckon:

Does anybody have anything arising from that? Can I move on to you, Eric? If there is anything in the other discussions, Paul, please feel free. Eric, is there anything you want to add to the questions of Paul? Anything you would like to say on that?

Mr. E. Le Ruez:

No.

Deputy A. Breckon:

Because obviously you had another hat on at the time, so you would have no knowledge of that anyway really?

Mr. E. Le Ruez:

That is correct, yes.

Deputy A. Breckon:

This is a question for you, Eric. Why does no formal agreement exist between Property Holdings and the JSPCA regarding the crematorium?

Mr. E. Le Ruez:

The short answer to that really is I do not know. I am doing some research back to the time when the cremator was built. I understand an application was made to Planning in early 1995 and permission was granted to the end of 1995, but the details in terms of the arrangements between the then Agricultural and Fisheries Committee and the JSPCA I have not had sight of. I have had a brief discussion with the former Chief Officer of Agricultural and Fisheries, Peter Bastion, and his understanding was that there was informal agreement that land had been found at Howard Davis Farm for the construction of this cremator, with pressure being put on the committee at the time because animals were otherwise being

disposed of at La Salle and that was causing some problems with carcasses being exposed and complaints from the public. As far as he was aware the total cost of construction and the plant within the housing were found from the JSPCA. Again, I have not seen a record to confirm that. Coming right up to date, when Property Holdings was brought into being at the beginning of this year, the fact that there was no formal arrangement between JSPCA and the public for this cremator was noted but at the same time - as you know - discussions were taking place about the potential relocation of the dairy, and therefore setting up a formal agreement with the JSPCA has not been pursued at this stage.

Deputy A. Breckon:

Would you comment, because this was raised by the Public Accounts Committee about 4 months ago, that the situation really is still in limbo because of the uncertainty? So you would say professionally you would wait until that was more conclusive before you do anything, really?

Mr. E. Le Ruez:

Yes, that is correct. Until we are certain one way or the other whether the cremator is going to be relocated, there seems no point in entering into a formal agreement after 10 or 11 years have lapsed with --

Deputy A. Breckon:

But it could well be, wherever they may be, that there could be more of a landlord and tenant arrangement than there is at present, just so people know where they are really.

Mr. E. Le Ruez:

We would certainly want to set up a formal agreement in the future, yes.

Deputy A. Breckon:

Does anybody have any comments from that?

The Deputy of Trinity:

Do you see that they would have to move definitely if the dairy was relocated up there?

Mr. E. Le Ruez:

I think as Paul has said, with the current planning approval, which places a new building very close to the existing cremator then, yes, I think it would have to be relocated.

The Deputy of Trinity:

Have you got any evidence to show that it would need to be relocated?

Mr. E. Le Ruez:

No, I have not. It is simply as Paul has said, that the food processing unit would literally be a few feet away from the animal cremator.

Deputy A. Breckon:

Moving on to some of the points that were raised in the comments of the Public Accounts Committee to the proposition that does not exist anymore - and something that was raised in there about relocation costs of the structures to be removed at the dairy's expense and the value of the land had been calculated to include these costs - can you explain to us a little bit of how some of the calculations were done on this and how it was integrally involved with the valuation?

Mr. E. Le Ruez:

Well, first I would make it clear that I am not a valuer; we rely upon the valuers we employ within the department. But I would want to clarify that the costs of removal, demolition, et cetera, of these structures would have been the responsibility of the purchaser. So those costs are over and above the figure, the consideration for the site. I think there may have been some confusion in that it was felt that those would be deducted, but that is incorrect. The exception to that is the subject we have just been talking about - the cremator - where the relocation costs would be borne by the public.

Deputy A. Breckon:

Was there any estimation about how much they might be? It is ongoing because of the possible siting of it; there was nothing definite about the cost of it, was there?

Mr. E. Le Ruez:

That is correct, yes. Finding an alternative site is certainly a problem.

Deputy R.G. Le Hérissier:

Thank you, Eric. I wonder, by the way, if you could speak up slightly into the microphone. From the story as we elicited from you, Eric, it appears you were not involved, obviously, with all the discussions and you have obviously come late into it. But having observed what is going on, what observations have you made about how the process has proceeded? Have you said, for example: "We really need more information in this area. We have not got enough information in that area" and so forth? What was your comment when you were presented with this situation? Were you happy with the way things were proceeding, or did you say: "Look, we really have to stop and look at this again"?

Mr. E. Le Ruez:

Could you clarify; are you talking about the whole question of the relocation of the dairy or ...?

Deputy R.G. Le Hérissier:

Yes, sorry, the dairy.

Mr. E. Le Ruez:

Well, as you say, I came into this quite late. It did seem that there was some urgency in terms of the dairy finding an alternative site and that although potentially there were other sites in the Island that might be suitable, this location at Howard Davis Farm did have advantages and seemed really to be the best site to go for. There was, as we know of course - or there is - difficulty in terms of the covenant that applies to the whole of that site. That has been and continues to be a problem. But I think every effort has been made to talk this through. Legal advice has been taken long before I was part of Property Holdings/Property Services. I felt really that this was the best approach. As problems have come up they have been tackled and continue to be tackled.

Deputy R.G. Le Hérissier:

What was the original briefing you received re the covenant, Eric?

Mr. E. Le Ruez:

The briefings were received prior to my arriving at Property Holdings and there have been further meetings and correspondence since. I think what has been made very clear is that it is quite a tight description of activities that are permitted on the site, so we have a situation where over time those activities have moved away from the actual description of what should be going on on the site. That is a problem. The problem lies, I think, in the fact that it was relevant back in the 1920s or whatever. It is no longer so relevant today. That is where we are. We have to address that.

Deputy R.G. Le Hérissier:

This was raised - although long forgotten - this was raised in questions with Senator Ozouf when he was President of EPS (Environment and Public Services). Do you think in fact the placing of the Environment Department there is perhaps stretching things somewhat?

Mr. E. Le Ruez:

I entirely agree, yes. The covenant is quite specific and use of that site as offices for environmental staff is outside the strict definition of the covenant. Certainly some of their activities, not all of them.

Deputy A. Breckon:

Can I ask of the covenant - and you might like to comment on this as well, Paul - about is it normal process for a covenant to be taken back to court and agreed between the parties about a variation, as opposed to a political process? My understanding is with neighbours, if there is a covenant they might agree between themselves and one may pay the other a sum of money to have a covenant varied or lifted

or whatever. Would that be the normal process; that is to say, before the court rather than before the States?

Mr. P. Tucker:

Yes, I think it depends on the type of covenant. In this particular case Her Majesty's Solicitor General had advised that in making the gift to the States in 1927, TB Davis had put no reversion clauses in or whatever in terms of whether it proceeded to his heirs, or if it ceased to be an agricultural States farm or whatever. There was nothing there. As such, any heirs to TB Davis would have no real right - in legal right anyway - to intervene in whatever the States decided to do. It was therefore suggested by the Solicitor General that the only way forward here was really to abrogate the covenant in some way. She also advised - and is the course that we tried to take - was that we should involve any known members of the family. As you are probably aware, we had extreme difficulty locating any.

Deputy A. Breckon:

Can I come back to the valuation and price of the land and the use. Is it a usual and indeed a normal practice between a willing buyer and willing seller to have something as fixed as this, or would it be open tender? What would be the normal process be if the States had land that they were seeking to maximise income from?

Mr. P. Tucker:

That is a difficult one because in some circumstances we would go out to open tender for a piece of land. If there was a piece of land which was not subject to the covenant and all the rest of it, we would have probably gone out to open tender on it. But having said that, there was obviously a proposal put forward which seemed a logical one and we did not approach anybody else in terms of seeking another tender for that land, or another buyer for that land at that stage.

Deputy A. Breckon:

You have pre-empted my next question, which was anybody else invited to tender. But the answer to that is no, so the price was specifically tailored to the use of the dairy?

Mr. P. Tucker:

It was tailored to what we considered to be the correct value of the land for --

Deputy A. Breckon:

Was that in-house, or did you take external advice on that?

Mr. P. Tucker:

That was in-house. That was based on what the planners at that time were prepared to permit in terms of

development, which did not include residential development I would hasten to add.

Deputy A. Breckon:

With your planning hat on, Paul, could you give an opinion on whether that planning outline would have allowed something like a fulfilment company on the same site?

Mr. P. Tucker:

It possibly would have done, yes. Industrial type of buildings like that, yes.

Deputy A. Breckon:

So that would be in the same category in planning purposes as, say, a fulfilment company?

Mr. P. Tucker:

I think so, yes.

Deputy A. Breckon:

Light industrial --

Mr. P. Tucker:

I am not a planner but yes.

Deputy K.C. Lewis:

In considering the Howard Davis site, you were obviously aware of the covenants; why was the decision to sell considered? Would either of you express an opinion on the lease option?

Mr. P. Tucker:

Well, the sale option was considered because that was really what the dairy wanted to do; they wanted to buy land, I guess. There was no objection raised by anybody, at that stage anyway, to not sell it. It seemed a reasonable way of raising some capital as well, albeit that since then of course ideas of putting that money into trust and suchlike have come to the fore. But at the time it was seen as a way of raising some capital as well, which is what we are basically about. In terms of a lease option, there is no objection to a lease; a lease is perfectly practical. But of course the dairy would need a fairly lengthy lease because they were investing a huge amount of money in a new dairy - something in the order of £4.5 million or something in a dairy - which clearly you need some security with that. So you would need a really long lease and some security to know, I suppose, that your company, whatever it was, had some security in the knowledge that if something happened it would have at least something by way of an asset.

Deputy S.C. Ferguson:

You would confirm, in effect, that businesses which have leased property in effect do get bank support and so on for indebtedness?

Mr. P. Tucker:

In my experience, long term leases they can get financial support, yes. But we are talking something in excess of 50 years probably, it seems to me that banks are happier with, but I am not a banker so I would not know.

Deputy S.C. Ferguson:

The other question, when you looked at the total between you - I think this is the both of you - when you looked at the overall project and so on and the interest of the JMMB and the dairy in the land, did you get the impression that they obviously preferred this option because the land was in fact available to them at a better price than they might have got on the open market?

Mr. P. Tucker:

I do not think that was the case at all. As I said before, we valued the land at what we thought was the correct value based on what Planning were prepared or likely to approve on the site. As an industrial site, the value of that land that we offered it at, in my opinion, was slightly above what it probably would have been valued at. But it was -- it certainly was a perfectly legitimate value to put on that piece of land. Now, they may have found another piece of land cheaper than that, they may have found another piece of land with identical planning approvals or constraints or whatever on it that would have been equally as dear or the same amount of money. If it had been residential land, which I hasten to add it was not, because I know there is a feeling that residential would have been permitted on that site. At the time we were told that no residential would have been permitted at that stage anyway on that site, and therefore we could not value it as residential land, therefore the figure which we offered was what we thought was a correct figure.

Deputy S.C. Ferguson:

Have you had any opportunity in the interregnum over these last few months to discuss this perhaps with somebody external to the department, to just sort of bounce ideas off or something like that?

Mr. P. Tucker:

Informally only - informally with other estate agents and surveyors on the Island we have discussed it - and there seems to be no objection or argument with what we did. But only informally.

Deputy S.C. Ferguson:

Yes, and obviously a market price is what a buyer would be prepared to pay?

Mr. P. Tucker:

Yes. I have to say that the Jersey Milk Marketing Board thought it was worth considerably less.

Deputy R.G. Le Hérissier:

When Alan asked you all about occupants, you suggested that indeed a fulfilment company could possibly have moved there. Surely one of the arguments put forward which might have made it attractive to the Davis family, and which perhaps does make it attractive, is that of course it was obviously very strongly agriculturally-related. You must have come to the conclusion that you really have to confine yourself to something you could argue was agriculturally-related; is that correct?

Mr. P. Tucker:

I think that supported the idea of moving the dairy there, yes. I mean, we did not consider any other options for that site at that time. The fulfilment industry, for instance - a building which might accommodate them - that certainly would not fall within the remit of the covenant and we would have had to have done something about the covenant if that was going to go ahead.

Deputy A. Breckon:

I wonder, Paul, if you would like to comment - and I know it is not on your watch - but there are various rumoured valuations of the existing dairy site at Five Oaks. You may or may not have heard that but it is significantly higher than valuations for similar sized land at Howard Davis Farm. I wonder if you would like to comment on that at all? The reason I say that is, it is swings and roundabouts if we are buying something we want at that price; if we are selling it we want to sell it at a higher price. That has been said elsewhere. I wonder if you could possibly comment on that?

Mr. P. Tucker:

I can to an extent. We have not done any valuations at all on the site at Five Oaks. That is not part of our remit and it is in their ownership, so there is no reason for me to do it. Obviously it has different planning considerations. I understand that some residential development would be permitted on that site and there may be other uses as well. That is entirely up to the Planning Minister to decide what those uses might be. But because of that and because of presumably any intending buyer and what they may want to do with it, they presumably have offered a higher amount of money for it, based on the idea that they can develop that site, certainly in a more economical way or a more valuable way than Howard Davis Farm.

Deputy A. Breckon:

Would it be true to say then that your professional opinion would be it is not fair necessarily to compare the 2 sites because of what you have just said?

Mr. P. Tucker:

No, it is certainly not, no.

Deputy S.C. Ferguson:

In your original report on the future of Howard Davis Farm which you did for Planning and Environment, what did you envisage for the site?

Mr. P. Tucker:

That particular site? Where the dairy was?

Deputy S.C. Ferguson:

You were talking about the Howard Davis complex, which will obviously include the Howard Davis land which is covenanted, and the Le Rondin Farm which is not covenanted. It all falls within a white area for planning. In the 2002 Island Plan I think it was rezoned.

Mr. P. Tucker:

Yes, apart from the countryside-zoned parts of it, yes.

Deputy S.C. Ferguson:

Yes. What was your general recommendation for the farm and the land surrounding it in your original plan?

Mr. P. Tucker:

In the report that I did in November 2004, which was that one, I made recommendations as such in terms of the dairy, because it included the dairy on the site, which we now know. I made recommendations in terms of Acorn Industries, because they were -- they are on the north side of Howard Davis Farm, which you probably know. At that time the Island Plan had identified the site to the north where Acorn are as a possible residential development and therefore I made some recommendations in terms of that as well, and relocating Acorn on to the main Howard Davis Farm site to use what was left of the existing greenhouses and land available. Basically that was it. Then the future of the buildings themselves was to remain as offices temporarily - but that was hinged around the wish of the President of the Environment and Public Services Committee at the time, who had the wish to bring Environment and Planning into one set of offices - and we were not sure at that time where that might be, so a temporary use would continue on offices. But all of this obviously depended on the release of the covenant, which I made very clear in this report, and what would need to be done to release that.

Deputy A. Breckon:

That was 2004, that report, was it not?

Mr. P. Tucker:

November, yes.

Deputy A. Breckon:

That was to the Environment and Public Services Committee?

Mr. P. Tucker:

It was, yes.

Deputy A. Breckon:

What was the month of that, sorry?

Mr. P. Tucker:

November.

The Deputy of Trinity:

Did that include the fields to the south; the Le Rondin fields south of Howard Davis Farm?

Mr. P. Tucker:

There was mention made of them, and there was mention made of all the fields that were originally part of Le Rondin Farm, the idea of transferring the cider apple orchards to the National Trust for Jersey, and the possibility of those 2 fields to the south being used as part of the RJAHS. They were looking for additional land, because I think they had taken on the artificial insemination responsibility and they were looking for land to keep their bulls and such like on close to there. So mention was made of that, yes. I do not know if any of you remember, but there was at that time an idea which Senator Vibert, I think it was, had put forward about an idea of having a big garden, Inspirational Gardens I think it was called, at Howard Davis Farm. I was also involved with the inventors or the perpetrators of that, whichever it was, and talking to them about how much land they could have as well. That was an alternative use for the land, which was in some ways closely allied to what Acorn do, but there did not seem to be much rapport between the 2, I have to say.

Deputy R.G. Le Hérissier:

Just sort of switching back to Eric - and maybe Paul might have some comments here - having now reviewed this situation, Eric, having come in fresh so to speak and untrammelled by its previous history, how optimistic are you that you can now bring this forward to a successful conclusion? **[Laughter]**

Mr. E. Le Ruez:

Well, ultimately it is going to be down to States' Members to decide what to do. We are in the situation now where the department has been in touch with the family to try and get more details in terms of their opinion as to the relocation of the dairy, and whether the existing uses on the site can continue or should continue. That is in progress at the moment. It is difficult, of course, dealing with most of the family members, who live in South Africa and are not familiar -- none of them, to my knowledge, have visited the Island or Howard Davis Farm, so it is quite difficult for them to understand quite what is going on. So the proposals that will probably be put forward will be for a variation of the covenant, and of course the proposal would be the relocation of the dairy on the basis of a long lease rather than the sale of the freehold. You asked how optimistic am I; well, I think we will do whatever we can to try and achieve the best result but there is a lot of hurdles to be overcome yet.

Deputy R.G. Le Hérisier:

When you say, Eric, you were talking to the family; have you identified authoritative spokespeople for the family?

Mr. E. Le Ruez:

That in itself is a problem. As I think Paul has already mentioned, the gift from TB Davis was left with no links, really, to descendants or any legal right for descendants to play a part in how that gift was managed. Nevertheless, we feel that in the light of fairly major changes that are being proposed - and of course the major changes that have taken place since the gift was made - that note should be taken of the family's views. The difficulty of course is that a family is not a sort of object that you can readily identify. We have relatives who live in the Island who are not blood descendants but nevertheless they are relatives of the family. In South Africa there are those who signed the affidavit which was sent in a couple of months ago now; they have opinions and among that group of 8 or 9 there are 2 that we believe are blood descendants that we did not know existed until very recently. Now, it may be that it is the blood descendants, perhaps, who should have the greatest say, if there is to be any say, as to variation or lifting of the covenant and how we move forward with the use of Howard Davis Farm.

Deputy S.C. Ferguson:

Given that the original site at Five Oaks for the dairy was a greenfield site, for which planning permission for an industrial site was given especially for the dairy - I think they brought it, if memory serves me right, for about £3,000 many years ago - would you consider that a long lease is a more equitable solution, balancing the interests of the public of the Island with the interests of the dairy industry?

Mr. E. Le Ruez:

I think in terms of the capital investment it either has to be a long lease or freehold. From the public's point of view I think the capital sum as an alternative to a sort of premium and ongoing lease is one, one could argue, that could go either way. But I think if one considers the covenant on the site and the perception of how the public should manage that gift and the covenant that was placed on the site, that it may be that a leasehold is perhaps a more favourable option, because it keeps ownership of the whole of the site with the public and therefore the covenant or a varied covenant will apply to the whole without any separation. If the freehold part of the site goes to another body then you may have difficulties with the covenant.

Mr. P. Tucker:

Could I just add there that any intention to lease would be at a proper rental. It would not be in any way a peppercorn rent that we would be recommending anyway. It would be a fair and proper rent for that particular site based on its value.

Deputy A. Breckon:

I just wonder if you would like to comment - and you may not - about the complexities of the covenant combined with this statement in the affidavit. There is probably some tension there. The Treasury and Resources Minister has made a statement to the States on 5th December in reference to the dairy proposal to move there, and his estimate is that would be done before the end of the year. Bearing in mind those complexities, do you think that is realistic that a proposal could be formulated within 2 weeks?

Mr. E. Le Ruez:

I think it is certainly possible. The intention was not to set aside the complexities of the covenant, but to speed up the certainty in terms of whether the dairy could relocate to that site or not. The approach would be that instead of trying to deal with the covenant over the whole site, a proposal would be put forward to simply amend the covenant to allow the dairy to relocate as an initial step, with the covenant remaining as is on the rest of the site, and bring forward shortly after that terms for the long lease of the site to the dairy. So it is possible. As I say, the discussions are still continuing with the family.

Deputy A. Breckon:

Would you see it as being a problem if, instead of negotiating with Jersey Dairy you were negotiating with a possible PLC (Public Limited Company)? You might be aware of developments in the last few days where that could be something instead of the Jersey Dairy. Would that be something you could comment on?

Mr. E. Le Ruez:

I do not think I want to comment on that at the moment. That would be something that we would

discuss with the Treasury and Resources Minister.

Deputy A. Breckon:

But could it be back to the drawing board if it was not Jersey Dairy? If it was something instead?

Mr. E. Le Ruez:

I would not want to comment.

The Deputy of Trinity:

Just to pick up from that point there, what Alan just said, you are aware that there are 2 farmers who are interested too about the dairy? Have they approached you about anything at the Howard Davis Farm or Le Rondin fields?

Mr. E. Le Ruez:

No, we have received no approach from any other party.

The Deputy of Trinity:

If they approached you?

Mr. E. Le Ruez:

If we were approached we would discuss that with the Treasury and Resources Minister.

Deputy A. Breckon:

Something you mentioned earlier, Paul, was Acorn Enterprises and the glasshouses; do they use any of the existing glasshouses at the moment for anything?

Mr. P. Tucker:

Yes, they do. They use some which are part of the Philip Mourant Centre and they grow seedlings and suchlike there.

Deputy A. Breckon:

They would be affected if things were knocked down?

Mr. P. Tucker:

No, they would not be affected in fact, because that particular glasshouse, the uses that are in there would be relocated into the large glasshouse which still exists on the site, which currently is licensed on a monthly or 12-monthly basis, I think, to a local grower. The intention would be that part of that would be used for that purpose in the future.

Deputy A. Breckon:

Does anybody have anything else? Thanks for your answers and obviously the work that you have done beforehand to look back and refresh yourselves. The only thing I would say, is there anything that you would like to say to us or to ask of us at the conclusion of this? Anything at all?

Mr. E. Le Ruez:

I do not think so.

Mr. P. Tucker:

No.

Deputy A. Breckon:

Okay. Well, again, thanks for your time and effort. It is appreciated and it is useful in informing where we are trying to get to. We are not quite yet where that is going to be but we do appreciate that. Thank you very much. I will now adjourn.