

# STATES OF JERSEY

## Committee of Inquiry Reg's Skips Limited

FRIDAY, 12th MARCH 2010

**Panel:**

Mr. J. Mills, C.B.E. (Chairman)  
Mr. E. Trevor, M.B.E., F.R.I.C.S.  
Mr. R. Huson

**Clerk:**

Mr. I. Clarkson (States Greffe)

**Witness:**

Mr. M. Yates

[14:37]

**Mr. J. Mills (Chairman):**

I would like you to take the oath. You swear that you will declare the truth, the whole truth and nothing but the truth in the present proceedings before this Committee of Inquiry which you will do so without favour, hatred or partiality as you will answer to Almighty God at your peril.

**Mr. M. Yates:**

I do.

**Mr. J. Mills:**

Thank you very much. Welcome, Mr. Yates, thank you for coming. I think you know the 3 of us. I am John Mills, Edward Trevor and Richard Huson. Could you just begin by stating for the record who you are just so we know for that purpose please.

**Mr. M. Yates:**

Mark Yates and I live at Les Ormes, La Rue de la Chesnaie, St. John.

**Mr. J. Mills:**

Which is very close to Heatherbrae Farm?

**Mr. M. Yates:**

Yes.

**Mr. J. Mills:**

We have been there to have a look so we have worked out the geography. Thank you. Now you obviously have quite detailed knowledge of this case and some of that is not really relevant to our

purposes today. Our main purpose, as you discerned from some of the discussions we have had, is to try and understand what the Planning Office did or did not do to deal with this matter as it evolved and developed and so forth. That is really the main focus of what we are trying to get out. So in a sense what we are interested to get is your sort of general view about things, but we are particularly interested, I think, in your take on how you related to the Planning Department and how they related to you when you raised complaints and so forth, and whether you felt that was effectual or ineffectual or what the problems were. Could I just ask you to begin by just explaining how from your perspective this issue began? This is effectively when you first made a complaint I think in April 2006. If I could just ask you just to outline that first period please.

**Mr. M. Yates:**

Okay. Well, perhaps just to go one step further just for the record I suppose, my wife and I brought Les Ormes at the end of 1995 and we spent quite a long time doing extensive renovations and repairs. We moved into Les Ormes, it was about the middle of 1999 having sort of been doing all that work. So then, coming up-to-date, in about March or April 2006, we became aware that Reg's Skips were operating next door and I suppose the immediate reaction was surprise because we were not aware of any application, had not seen any application and the immediate reaction was, crikey, how has this happened, you know, we missed it. I went down to the Planning Department to the office and asked to look at the public file which I did. I there saw the application. I saw that the decision had been made and there were certain conditions which had been put on to the permit. I also became aware having done that, that the actual application itself I think had been made while we were out of the Island, so it had been advertised in the J.E.P (Jersey Evening Post). We had not seen it and that is why it was pre the time when notices had to be put up outside so we were just totally unaware of it. Having ascertained that there were conditions on the permit, I think one of the first things my wife did was to call Environmental Health and Mr. Binet came to the house and spoke to my wife. At about the same time, I approached the Planning Department and said, you know, there is this permit here, there are these conditions; that certain of those conditions are being breached in respect of the hours and I also said I think, as I understand it, that there is a breach of the conditions in respect of using the mechanical digger to sort the rubbish which was effectively half of the cause of the noise. Initially, I suppose the planning officers - and I suppose I was speaking to Mike Porter I think principally - seemed to accept that there was something that needed addressing and he then took it forward. I think you have heard that he saw Mr. and Mrs. Pinel and I suppose I was then told by Mr. Porter that had happened and it then sort of developed from there on. There was obviously the application that went in and so on.

**Mr. J. Mills:**

Let me stop you there. Reg's Skips moved to Heatherbrae I think in the summer of 2005, July 2005, after getting their permission and so you first became aware of it, or your wife became aware of it, through the noise in about April 2006 which is more than half a year later. Is there an explanation for that considerable delay or length of time I should say rather than delay?

**Mr. M. Yates:**

Well, you see I do not know exactly when they moved in other than what we have been told.

**Mr. J. Mills:**

Well, it was July 2005.

**Mr. M. Yates:**

The explanation that I think may be the answer is that, first of all, we were probably away for most of the summer of that year. Certainly my wife was, I think, away for virtually the whole of the summer holidays and then I would have gone away on one or 2 occasions over that period so we probably would have all come back to around about the beginning of September when school started again.

[14:45]

All I can sort of recall at the time was that it was the beginning of the following year that we started to... or certainly my wife was saying, "there is more noise" and I think our reaction was that it was the scaffolding company which we thought was in one of the buildings, which was wrong, and it was perhaps only at the beginning of 2006 that it was becoming more apparent, probably because we started going outdoors more. I mean in the winter you are not ...

**Mr. J. Mills:**

In the period leading up to that when Mr. Taylor had ceased to be a dairy farmer and turned his buildings into storage areas and so forth, were you in those 2 or 3 years conscious ... Did it appear to be a problem at all the fact that the sheds were pretty close to your boundary?

**Mr. M. Yates:**

No. There was never really a problem with noise at all and, interestingly enough, when Mr. Taylor finished farming and he converted the buildings into storage, you know, I remember a conversation with him where he said: "I am letting one of the sheds to the scaffolding company." That is why, you know, we thought ... and he said: "Do not worry. They have got to do all their work inside the building so you will not have any problem with noise." So that was just as an aside but noise was never an issue at any stage, no.

**Mr. J. Mills:**

When you did become aware of this and you did 2 things, you said your wife got in touch with Mr. Binet at Environmental Health and we have heard from Mr. Binet and he knew that, and then you said you went down to the Planning Department, you got in touch with the people at the Planning Department.

**Mr. M. Yates:**

I think I probably just, you know, I cannot remember whether it was me or my wife had contacted Planning and I think we were told over the phone there is a permit in place and then I went down and said, you know: "Can I have a look at the public file?" as you do as a member of the public.

**Mr. J. Mills:**

Did you know the people at the Planning Department at all?

**Mr. M. Yates:**

No.

**Mr. J. Mills:**

Not at all?

**Mr. M. Yates:**

No.

**Mr. J. Mills:**

How did you find the right people to get in touch with? Can you remember, because from the files we have seen, you very quickly got in touch with Mrs. Ashworth and Mr. Porter.

**Mr. M. Yates:**

I do not know. I cannot remember exactly how we got in contact with them. I certainly did not know

either of them before that and it must have been that, you know, either I or my wife was directed to them. I think my wife may have spoken to Mr. Porter first but, as I said, I do not recall exactly how I met him.

**Mr. J. Mills:**

It is just that I have the various emails and so forth here and I think we were slightly surprised to note that from the very beginning ... I mean your very first email to Mrs. Ashworth was addressed to Elizabeth and your very first email to Mr. Porter was addressed to Mike and we were quite surprised by that, but you are saying you did not know them.

**Mr. M. Yates:**

Well, the way I work typically in business, I mean mostly you address other people by their Christian names, you know, particularly if you are dealing with them you maintain a sort of polite approach and Christian names are often used. But I will call someone by their Christian name if it is clear that they are happy to be called by their Christian name.

**Mr. J. Mills:**

What was your reaction to their reaction when you and your wife first raised this? Did you feel they were giving you a hearing as a complainant as you were at that point?

**Mr. M. Yates:**

Yes, I felt they had listened to what we had said and seemed to accept that there was some basis of what we were saying. I mean part of it was very clear in relation to the hours and that was picked up, and on the question of using a mechanical digger it was something which they seemed to pick up and say, you know, yes, that is an issue which needs addressing.

**Mr. J. Mills:**

After the initial contact was made and you looked at the file and noticed the conditions, especially no doubt the key condition about operating in "the same way" as at the previous site, you then, as the file indicates, went away to do a little bit of research on the La Prairie situation.

**Mr. M. Yates:**

Yes.

**Mr. J. Mills:**

Can you just describe how it was you did that and how you got to know what you then reported back to the Planning Department?

**Mr. M. Yates:**

I think that obviously the La Prairie site is on the main road, so I think most people who use the road would at least have been conscious of its existence, and I certainly was of the view I think that I had never seen them sort of sorting rubbish there, I think it was just a store for skips as far as I recalled. I think I spoke to one of the owners in the cottages who I know through work, he is a director of the Financial Services Commission, and I think I spoke to Paul Pinel at the Tile Barn and just sort of said, you know, how did the site operate. They were not particularly specific other than really sort of confirming that there was not an awful lot of activity going on on the site other than the storage, so that was really the basis of that assertion.

**Mr. J. Mills:**

I am going to press you a little bit on this because you came back to Mrs. Ashworth in a further email about 4 days later on 2nd May and you set out in really some considerable detail your views on how the

La Prairie site was operating, as if you clearly had some quite detailed knowledge.

**Mr. M. Yates:**

Well, as I say, I think it was on the basis of speaking to Mr. Sumner and, in fact, I think I also spoke to the neighbour next door as well, I cannot remember her name, there was a lady next door and certainly, you know, Mr. Pinel.

**Mr. J. Mills:**

I will stop at that point and ask my colleagues to ... If we just look at this first bit first, Richard, do you want to ...?

**Mr. R. Huson**

No, I am happy.

**Mr. J. Mills:**

Edward?

**Mr. E. Trevor:**

Not on the first bit, no, thank you.

**Mr. J. Mills:**

Okay, let us jump forward a little bit then. Can you just describe to us then your view of the process as it developed, as things got a little more difficult? As the request for reconsideration then went in, you objected quite strongly and there is a lot of to-ing and fro-ing in the emails. Was there anything you want to add to that? I mean we have tracked the papers that were on the file.

**Mr. M. Yates:**

I mean I suppose the only thing I would say is that as a member of the public in dealing with the Planning Department certainly at the time it was sort of slightly opaque in the sense that you put in your submissions and what you wanted to say about it and it was limited what came back. It was really only what the planning officer might say to you as to what ... but you are certainly not aware of other submissions or responses to those submissions that go in so, in some respects, it is quite frustrating in that you put the submissions in and do not really quite know where they are, but having said that that is the way the planning process works and you sort of understand that.

**Mr. J. Mills:**

How do you think they viewed you because you were perhaps not an entirely ordinary complainant? You are well versed in the law and an Advocate of the Royal Court and a person of substance in the Island and so forth. Do you have any sense at all that they treated you differently or dealt with you differently because of that?

**Mr. M. Yates:**

I do not think so. I mean I am certainly not an expert on planning law and I was just, you know, putting forward the contentions on a straightforward interpretation and certainly I had not done any research or anything like that, looked at it from a legal point of view. I am not an expert on public law. I was there as a neighbour saying, you know, I do not think this was right in the first place in the sense of the decision made. I know the decision has been made, now we have this permit here, you know, you have put some conditions on there, it should be down to you to enforce those conditions, you know, please can you do it.

**Mr. J. Mills:**

So your reaction when the enforcement was done and then undone?

**Mr. M. Yates:**

Well, I suppose if the Enforcement Order had remained that would have been the end of it because essentially that was the main thing that we were objecting to was the noise generated by the sorting, you know, one of the main causes of the noise, so probably had it remained that would have been the end of it and we would not have had to take any further steps.

**Mr. J. Mills:**

So that was almost the trigger then when you realised that the planning process was not going to deliver what you would have seen as ...

**Mr. M. Yates:**

That is probably a fair comment in that it seemed that Planning had said ... I have a feeling that even the planning officers had said to me, you know, they did come and say the enforcement or the appeal against the Enforcement Order is not going to be progressed. We are going to effectively withdraw from it and effectively they were saying, "we cannot do anything more."

**Mr. J. Mills:**

Which is when you thought that you would then try and do something else?

**Mr. M. Yates:**

Yes, and so that is when we sort of then went the civil route.

**Mr. J. Mills:**

Yes, okay, that is helpful.

**Mr. E. Trevor:**

I think we have a note that when they wanted to cover over the slurry place you objected to that and I wondered why on the basis that it was hoped that would reduce the amount of noise.

**Mr. M. Yates:**

Yes, we did object to it and we looked very carefully at the drawings and the submissions that had been put in and we had asked an acoustic engineer ourselves and said, "would this solve the problem?" Our acoustic engineer told us, "no, it would not solve the problem and actually it might even exacerbate it" so that was the principle reason why we were saying, "this is crazy, you cannot ..." and this was part of the objection. You cannot build something which does not guarantee that it is going to solve a problem and our advice, our evidence, was that this was clearly not going to solve the problem, nowhere near it, and that was really the basis of the objection.

**Mr. E. Trevor:**

So you were not really prepared to give it a trial on the basis that some expert said to you it is not going to work?

**Mr. M. Yates:**

No, because our expert was saying, "it will not work. Even if you build this, it will not work. If you are going to solve this problem you would have to do it in a different way" and the way in which it was

being proposed our expert was saying it would not solve the problem.

**Mr. E. Trevor:**

Thank you. You also complained about the amount of traffic at times according to the paperwork which we have had and I wondered how much you were affected by Mercury who are on the adjoining site?

**Mr. M. Yates:**

Mercury are on the adjoining site and their access is just the very first part of the track which is quite to one side so it is not immediately in front of the house.

**Mr. E. Trevor:**

So it does not really affect you?

**Mr. M. Yates:**

No. The traffic does not really affect us.

**Mr. E. Trevor:**

Thank you, that is all for now.

**Mr. J. Mills:**

Just on that, what about the traffic from the Reg's Skips operation itself? Can you just say a little bit about that, the noise, because the track or the roadway comes down behind your house?

**Mr. M. Yates:**

The roadway comes down the whole way down. It runs the whole way down the boundary and the skip lorries ran down probably two-thirds of the track and then turned off between the buildings and then behind the building and, you know, that was the other half of the noise which was being generated. I mean skip lorries are noisier than other vehicles because they have all the sort of moving parts and so on.

[15:00]

**Mr. R. Huson:**

I wanted to go back to when Mr. Taylor ran it as a farm and you said you really never had any problem with that. When we questioned Mr. Taylor he said, you know, it was a 7-day a week operation and starting very early in the morning and obviously cows smell. Did you really never have any issues ... I mean I know perhaps you moved into the country because perhaps you expected cow smells and that but did you never really have any problems at all with that or any issues with that at all, especially in the summer time obviously when you are in your garden more?

**Mr. M. Yates:**

Yes, obviously living next to a dairy farm occasionally there were, you know, smells.

**Mr. R. Huson:**

When you have a southerly wind it would go straight past your place, would it not?

**Mr. M. Yates:**

It would depend upon possibly the wind, it would depend upon whether the cows were in, it would depend on the time of year, it would depend on when the stables were cleared ... I think this is what happened, when you got the tractor in and cleared it and that happens from time-to-time. You might get a whiff of a smell as that was being done. The silage smelt from time-to-time when that was being

used. Yes, so ...

**Mr. R. Huson:**

Yes, but I mean all the cows, did they not make a fair amount of noise when they were being moved around?

**Mr. M. Yates:**

No. I mean the one thing I remember more than anything else about the noise was we used to hear the hum of the milking machine and then you would hear tractors from time-to-time, but it was a farm. It certainly was not suggested that it was there every day from the early hours of the morning. You just do not recall that at all. It was intermittent and ...

**Mr. R. Huson:**

Tolerable.

**Mr. M. Yates:**

Sorry?

**Mr. R. Huson:**

It was intermittent and tolerable.

**Mr. M. Yates:**

Yes. As I say, the only noise which I remember which was fairly continuous, there was the hum of the ... I suppose it was probably the cooler rather than the milking machines.

**Mr. R. Huson:**

But you did not find that unacceptable because it was just a hum in the background?

**Mr. M. Yates:**

Yes, it was harmless.

**Mr. R. Huson:**

When Reg's Skips started - John mentioned about this time lag - obviously people used their garden in the summertime, it was really that that triggered your senses to say: "Look, hang on, there is something going on more than there was before"?

**Mr. M. Yates:**

Yes.

**Mr. R. Huson:**

So you did not really hear it in the house an awful lot?

**Mr. M. Yates:**

Well my wife was saying during the winter: "It is noisier. It is getting noisier. There is more traffic." Because at that stage there was no fence; you could see some of the vehicles either parked or going up and down the track through the trees. So she had heard it during the day. I am not there during the day.

**Mr. R. Huson:**

But it was basically as the summer progressed and you were out in the garden more and you began to notice. In what order would you call the nuisances? Because I have seen the photographs and you had dust, you had the noise of the digger and you also had the noise of dropping things into the skips.



**Mr. M. Yates:**

Yes.

**Mr. R. Huson:**

So in what sort of order would you say those annoyed you? Is it predominantly the digger or is it predominantly the clanging or the vehicle movements? Was it the banging in the skips of stuff or ...?

**Mr. M. Yates:**

Initially when we complained it was what we felt was almost the continuous use of the mechanical digger; it was sorting new rubbish, so it was going on throughout the day and it was picking things up, dropping things, shifting things around into different skips. Then you would have the backwards and forwards movements of the trucks as well at the same time.

**Mr. R. Huson:**

So it was really the mechanical digger was the problem. I am not sure from the view from your garden, and obviously when there is not a lot of foliage in the winter, did you not see this mechanical digger working very often over the wintertime or do you feel that, because it had been suggested...?

**Mr. M. Yates:**

No, we would not have seen it because it was sort of behind the shed.

**Mr. R. Huson:**

It was behind the shed? Okay, so you would not really get a take on whether this thing was working or not?

**Mr. M. Yates:**

No. No, there are trees. In fact, there is quite, sort of a thick block of trees, even though it is evergreen there. Further down the track is not evergreen on the western side.

**Mr. R. Huson:**

So you do not have a visual thing of what is going on at the bottom there by the clamp?

**Mr. M. Yates:**

No, no.

**Mr. E. Trevor:**

There is one question which you are probably expecting and that is, are you friendly with any of the other witnesses that we have heard or seen when you have been present on the basis that you may not know everyone we have seen?

**Mr. M. Yates:**

I can say that I did not know any of the planning officers; any of the other witnesses prior to this. Clearly, when you deal with people you get to know them but it was purely in relation to this. The only person who I spoke to about anything other than the current issue was probably Mike Porter. I think I saw a picture of his car in his office and I said: "Well, that is a nice car." We got talking about old cars. I think I may have met him at a car show where he had taken his car and I had taken mine.

**Mr. E. Trevor:**

When was that?

**Mr. M. Yates:**

That was probably ...

**Mr. E. Trevor:**

Some time ago?

**Mr. M. Yates:**

Some time ago, yes. I did not know any of these people before. Certainly, I do not recall having met any of them before.

**Mr. E. Trevor:**

That is people in the wide sense of the Planning Department?

**Mr. M. Yates:**

Yes.

**Mr. E. Trevor:**

But we have seen other witnesses as well. You do not know any of those other witnesses?

**Mr. M. Yates:**

The only other person I knew in the Planning Department probably more than anybody else was ... she was Karen Woolley. I do not know whether she was Karen Woolley at the time she was at Planning. I think we sang in the church choir together and she ended up in Planning and at some stage I think our paths crossed.

**Mr. E. Trevor:**

I was asking you if you knew anyone who was not in the Planning Department that had been a witness.

**Mr. M. Yates:**

No. No, I do not. No, sorry, I misunderstood the question. No, I have never met them before.

**Mr. E. Trevor:**

Thank you.

**Mr. J. Mills:**

I think we are done unless you want to tell us anything else. I think we have heard the key points we wanted to hear from you.

**Mr. M. Yates:**

Okay.

**Mr. J. Mills:**

We have a lot of material on our files which helps us form a view. Thank you very much.

[15:08]