

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:

Deputy P.J. Rondel of St. John

[13:03]

Mr. J. Mills (Chairman):

Welcome, everybody. I would like to declare this public hearing open on 12th March 2010, the Committee of Inquiry into Reg's Skips Limited - Planning Applications, and here of course we have Deputy Rondel. Before we begin, Deputy, could I just ask you to stand while I read the oath, if you are happy to take an oath rather than an affirmation. Do 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?

Deputy P.J. Rondel of St. John:

I do.

Mr. J. Mills:

Thank you, Deputy. Could we just begin by asking you just to describe briefly for us your position with regard to this case and how you came to know about it? We have read the speech you gave in the States on 2nd April 2009 when the proposition was debated.

The Deputy of St. John:

That is right, yes.

Mr. J. Mills:

So we have got quite a bit of background, but I think, for the record, to have your own thoughts on that and we might then lead the questioning from there. Thank you.

The Deputy of St. John:

Let me firstly declare interest in 2 areas. I have known Reg Pinel all his life from school age. So that is 60-plus years. Secondly, one of the companies I will be mentioning here, back in 2004 when an incident

occurred, in fact one of my relatives now works for that company, but you should be aware in case anybody would raise it.

Mr. J. Mills:

We know that. Thank you.

The Deputy of St. John:

Yes, as I have said already, I can go back many, many years with the Pinel family, as you will know from the transcript from Hansard. I started, I think, in 2001 in relation to things to do with Reg's Skips when I was first asked to intervene on behalf of Reg's Skips in a site they had at St. Peter or they were using at Home Farm, St. Peter, and La Prairie at St. Peters, and back in 2003-04, I had meetings with the owner at that time, which was Mr. Le Ruez, over that period of time, 2002, 2003 and 2004, and on the site at St. Peters which Reg's Skips had to move from because they did not have the correct permits to occupy that land. Then things moved on and then they went to the place at the top of St. Peter's Hill which they were occupying legally, in my mind, because the site had been occupied for commercial use prior to the 1964 law coming into being and therefore they did not need permission to be operating from where they were. Being a landowner, and some of our stuff goes back a long way, there are certain laws that are not retrospective and, in my mind, that was one of the laws that was not retrospective, and I have not been challenged to that effect to date. Yet, they appeared to be getting hounded by the officers of Planning and Environment to move from the top of Beaumont Hill, and because Rita and Reg Pinel are what I call gentle people, country folk, hardworking people, they seemed to want to accommodate Planning where a lot of other people would have turned around and said: "Sorry, I am not doing anything illegal. Go away." But they just went along and the officers went out of their way, in fact the next thing I know that Reg tells me: "We are moving. We are going to Heatherbrae Farm because Planning have done the negotiations on our behalf" basically, because it had to be done between the owner of Heatherbrae Farm, Ms. Taylor, and the Department themselves, given that Reg would only have been a tenant, and these things went ahead and everything seemed to be going along smoothly and the officers were making all the running, not Mr. and Mrs. Pinel. This is to my knowledge, the way it was all explained to me and quite rightly so, and I was following these things through. I had thought that I personally would not have moved and that would have been the advice, I am sure, I did give him, but he just wanted peace of mind that he did not want Planning officers on his back every few days, saying: "This site is unsightly" et cetera, so he accommodated and moved up to St. John. Then, I think everybody knows - the story was well documented over that period - but just prior to going to Heatherbrae Farm, he applied for another place in St. John which was Homestead, which I have got the documents on. You will have to excuse some of my documents because the photocopying has faded over the years and I have tried re-photocopying it but with difficulty.

Mr. J. Mills:

Yes. We are aware of the Homestead.

The Deputy of St. John:

Yes. I made some notes on or about the time, if I can find them somewhere. I have got some notes somewhere on them, but on or about the time, give or take a few weeks, because I did not make them on the site that day, because it was on site. Now, there was a visit by Planning and Environment to Homestead in St. John. When I got there, I thought: "Well, the Connétable is bound to come along. He is on Planning and Environment." That was Connétable Dupré. Anyway, I made inquiries at that time from the people onsite. I said: "Is Richard coming along?" "No, he has declared an interest" because he had previously acted for the family or Reg's Skips over a period of time prior to that, so he thought he might be conflicted. Anyway, the Committee came along. These are the details I have got: the people I believe were onsite at the time were Jerry Dorey, Mike Taylor, Jacqui Huet, Guy de Faye and Philip Ozouf. There was Phil Claremont, Mr. and Mrs. Pinel, Mr. and Mrs. Pirouet and obviously officers

from the Department. The notes I made at the time or thereabouts: "Planning Committee attended minus the Constable of St. Johns, R. Dupré, who declared that he had represented Mr. Pinel therefore considered himself conflicted." During the time of their visit on the site at Homestead Farm, St. Johns, I spoke to Deputy Mike Taylor and asked him what he thought about this application and being a member of the Committee, and he told me he was against it. I did not think more of it than that, but Mr. Pinel obviously noticed that I was talking to Mr. Taylor and he took me to the side and said: "Do you know Mr. Taylor's daughter and son-in-law own a skip haulage business?" I asked which one and he said: "Langlois". Over the next few days, or week, whatever it would be, I did some research and found Mr. Pinel in fact to be correct because the skip company was in fact R.G. Romeril and Langlois Haulage. Therefore, later on, either in the States Chamber or somewhere else, I challenged Deputy Taylor as being conflicted, given that his daughter and son-in-law were in the haulage business and would obviously have been competing against Mr. Pinel. From there on, and we went through 2 appeals on this one, the Deputy of St. Clement took no further part in any of the decision making. He stepped aside. Obviously it was an error that he had not obviously realised that he was in fact conflicted. At that meeting, the owner of the property at St. John or, and I have made a note here, the owner's wife actually, was a bit outspoken to the Committee as to the use of the site, asking if double standards were operating within States departments, which I thought may have created a bit of a barrier immediately. That said, that is the notes I have made. At the appeal, which would have been held at South Hill some time later, as I say, the Deputy of St. Clement took no part so he had obviously taken note of that. From there on, that site went on to appeal and so forth, but nothing came of it and so we now get back into the Heatherbrae scenario.

Mr. J. Mills:

Could I just ask one question of you at that point, please, Deputy Rondel? Planning turned down the Homestead application. That was confirmed on appeal.

The Deputy of St. John:

Correct, yes.

Mr. J. Mills:

You were involved and you spoke on their behalf and so forth. Did you get an impression that although there were perhaps good grounds for turning down the Homestead application because the houses were very, very close, did you get the impression that Planning were trying to be helpful or they were bound by their rules?

[13:15]

The Deputy of St. John:

In fact, and the minutes will show, I am sure, if there were minutes taken at that meeting, that Planning were trying to be very helpful, but I asked one or 2: "Which way are you going on this?" "I will probably go with this" and whatever, and I thought because the Connétable of St. John is out of the equation and if the Deputy of St. Clement had been out of the equation, we could have had a tied vote, quite easily, from the impression I was getting, or in fact maybe even gone in favour of the family, although the officers had made recommendations to the contrary. I have got a note somewhere among all the paperwork, I think. Yes, I think this is the one, yes, from M. Baxter: "I am writing with regard to the above site", this being Homestead. "While I sympathise with the very stressful situation you currently find yourself in, I feel it is appropriate to write and confirm with you the current position with this site. I realise that you are keen that Reg's Skips occupy the site and I have now received a formal application from them. However, there is no guarantee that the use of the proposed site ..." and it goes on, et cetera, basically telling them that it is not going to happen.

Mr. J. Mills:

Yes, okay. Sorry, I interrupted you. I just wanted to clarify that point. So we can turn back to Heatherbrae now.

The Deputy of St. John:

Yes, and Heatherbrae, obviously the doors all appear to be opened by Planning because they wanted to resolve a problem that was being created up at the top of St. Peter's Hill, but in fact they never did resolve the problem because even today we have got a skip yard at the top of St. Peter's Hill. So all they did was create a problem for a bona fide person who was occupying something legally and they never produced any evidence to the contrary that it was an illegal site and, because it is still in use, obviously they could not. I felt that they had helped, were trying to help, but they were creating additional problems for somebody on the way through and, from there on, come the end of 2005, obviously I retired from the States so I was out of the equation until the end of 2008 when I got back into the States, and trying, along with the Connétable of St. John and other politicians, including the Minister for Planning, wanting to get this resolved one way or another. I found a site at La Saline Quarry for the family because they were halfway between Heatherbrae and McQuaig's Quarry in St. John, of which there are not dissimilar circumstances that could arise where we have a lawyer living across the road from McQuaig's Quarry who has already written to us, or the Parish and to myself and to Planning, asking for a decision on whether or not that site is being operated legally or illegally. So I could see all sorts of problems arising so I went out of my way and I found the old States tip that we have adjacent to La Saline Quarry as an alternative site. Deputy John Le Fondré came down, had a look, and various officers, and everybody on the political side wanted things to happen. Unfortunately, there are a number of hurdles to climb over because some of it was unstable, but there was an area that could be ideal for the skip company if, and only if, these hurdles can be overcome.

Mr. R. Huson:

You mean planning hurdles?

The Deputy of St. John:

Planning hurdles, yes. At the moment, I believe there is an application in, to try and resolve the problem by allowing them to use part of that site down there which was in fact the carcass quarry where they used to dispose of animal waste, et cetera, on La Saline. That is where we are at the moment. Have you any other questions you would like me to answer?

Mr. J. Mills:

No, that is very helpful. We were keen to get your take on the background. You took no further part in, any formal sense, obviously, in the 3 years you were ...

The Deputy of St. John:

In the 3 years I was out of the States, no, because obviously Deputy Lewis would have taken over any dealings.

Mr. J. Mills:

But were you in the loop informally, so to speak, so that you knew what had happened over that period of time?

The Deputy of St. John:

I did keep myself reasonably well up to speed on what was going on obviously through the media, and if I saw Reg or Rita, they would tell me, but in no way officially. So it would be either through the media or if I saw Reg and Rita, but obviously running a successful little business, as they do, although running obviously a tight ship, they do not get much time to themselves just to socialise or anything else. They

are just trying to keep their heads above water and so you do not see a great deal of them around socially.

Mr. J. Mills:

Yes. Just so that we are clear for the record, Heatherbrae Farm is in your patch? As a Deputy?

The Deputy of St. John:

Correct, yes.

Mr. J. Mills:

Homestead too?

The Deputy of St. John:

Correct.

Mr. J. Mills:

Yes. Obviously one of your main duties is to know your patch. I am sure you do. Was there any sense in the patch of concern about the skip company, or the reverse? Was it an issue in the Parish?

The Deputy of St. John:

As far as the parishioners were concerned, other than those who were directly affected, no, until now when they are using McQuaig's Quarry which is, as you call it, in our patch, because that has also got a number of properties adjacent to it and, because of traffic movements up and down from McQuaig's Quarry, that is creating a number of bits of correspondence from residents in the area. Hence, myself and the Connétable are trying, along with others, to see if we cannot find somewhere which is on the main road, good access, away from everybody. As I say, La Saline Quarry or the dump adjacent to the quarry, in our mind, was the ideal spot, but some of our civil servants think that, for whatever reason, that it is going to be a non-starter, although the Property Services and the Connétable and myself - and I cannot speak for the Minister, but I know he has told me he wants to resolve this - would be keen to see it used.

Mr. J. Mills:

Yes. Just one more question and I will ask my colleagues to come in. In your dealings with the Planning Department, I mean, specifically on this case, have you found that, particularly as a Deputy, as the relevant local Deputy but also as a citizen, have you found it an easy department to approach and to relate to and do business with, make representations and so forth?

The Deputy of St. John:

It is a yes or no answer. It depends on the problem. On enforcement, it can be difficult because people can only do so much, and I am thinking of somewhere else where we have a problem in the Parish at the moment, an enforcement problem and a change of use problem. Let me put it in a slightly different way. If you have a very strong Committee or Minister, then things can actually happen, but sometimes, because they have made a decision, it goes against what is said in the Planning Law and which comes back to bite us on the behind at some time in the future. Sometimes these things open a door for other things to happen, and unless you are going to do them by the book, then sometimes common sense has to apply because if you do everything by the book, you will never get any common sense, and you have to have a common sense approach. This is what I have found with Planning, that they walk a tightrope because they do things by the book and then, historically, the President, more so the Minister today, would have made a decision which turned everything on its head because the Committee of the day had looked at the big picture and not just what the book said, but people use that historical decision to challenge the Department today. So they have got a very difficult job to do because they, unlike the

Committee today, i.e. the Minister and the Assistant Minister or the Planning Panel, they can see black, white and shades of grey, but the officers are only permitted to deal in black and white. That is probably the best way of describing it.

Mr. J. Mills:

That is helpful. I understand the point.

Mr. E. Trevor:

Following on from that point, in your experience in the States, how often are decisions made which are contradictory to the views of the officers or recommendations of the officers?

The Deputy of St. John:

If a planning decision is made by the officers, and they are permitted in some cases to do so, usually they will use, as I say, the black and white, but when it goes to the Planning Panel or to the Minister, they are entitled to override those in the interests of the community, a whole host of interests which they are allowed to bring into the equation. So it is a very difficult question to answer. Every case has to be dealt with on its own merits, and I do not know if I have been able to answer your question.

Mr. E. Trevor:

If the members did not change the recommendation, would it not therefore mean - *if* they did not - would it not therefore mean there is no point in having members?

The Deputy of St. John:

Correct. Absolutely. It is the common sense that you get by being an elected person, that the public, or in this case Mr. and Mrs. Pinel, they can go and see an elected person and try and bring common sense to bear on the situation where, if you just have to totally rely on a document, it falls black or it falls on the white side, then of course common sense does not apply because of the black-and-white situation. It has been drawn up, it has been adopted by government, and this is where common sense comes in whether you have a Planning Appeals Panel or the Minister's final decision.

Mr. E. Trevor:

Is it not true that not every planning application is either black or white?

The Deputy of St. John:

Absolutely. I do not have to explain. I think you probably know when you put the question. You are absolutely right.

Mr. E. Trevor:

Thank you, Mr. Chairman.

Mr. R. Huson:

Thank you. If I could go back to the site at the top of Beaumont, you said that Mr. and Mrs. Yates were operating their business, albeit legally ...

The Deputy of St. John:

Mr. and Mrs. Pinel.

Mr. R. Huson:

Sorry, Mr. and Mrs. Pinel, from that site legally because they were in the pre-1964 Law, but you said they were being hounded by the enforcement officers and that.

The Deputy of St. John:

Did I use the word “hounded”?

Mr. R. Huson:

You used the word “hounded”.

The Deputy of St. John:

Possibly, yes.

Mr. R. Huson:

Okay. The thing is, and this is one of the cruxes of this whole case, what they were allowed to do there, and then when they had their permit to go to Heatherbrae, what they were allowed to do there. What are the exact words Ian, in the same ... on the permit?

Mr. I. Clarkson:

The business effectively should operate in the same way as ...

Mr. J. Mills:

“In the same way” was the phrase.

Mr. R. Huson:

“Same way” or “same manner” or something like that. With my experience of planning, luckily I have not had any of them hounding me, but they are quite an official body. I would think anyone with any common sense would sit up and take notice if these people come around to you and start hounding you because they do have some far-reaching powers and you cannot just tell these people to go away unless you think you are on the right side of things because that particular thing is open to quite a lot of interpretation, and it has made a complete mess of this whole case, quite frankly, that thing.

The Deputy of St. John:

I can understand what you are saying there, but I have ...

Mr. R. Huson:

You cannot just tell these people: “Get off my site and leave me alone.”

The Deputy of St. John:

Put it this way. I have got a person that I have dealt with in the past, a parishioner, in fact, who has done that, who, when the planning officers go up on-site, he will listen to what they say and totally ignore them or say: “Sorry, what are you here for today? I do not want to see you” because it is a person’s right, at the end of the day. If you believe you are operating correctly, let them serve you with a notice and then you can take action, but if they are continually, over a period of time, coming up and seeing you and making your life ... because the ordinary guy in the street takes these things very seriously.

[13:30]

Other people will take them quite light-heartedly. It depends who you are, and I have got it on record at home where 2 or 3 people, and I am thinking of one that is happening at the moment, where I have had complaints from the public. I have been in touch with the Department and had to speak to the Minister to put a stop order on the site. A fortnight afterwards, the public are still ringing me up because this place is being excavated considerably, not far from Heatherbrae Farm, as it happens, and the stop order he had asked his officers to do has not been put in place. So I have to speak to him again in front of the C.E.O. (Chief Executive Officer) of the Department and he gave instructions for them to happen, but

some people just totally ignore what they are being told, whether it is in the Department or the developer themselves or the landowner themselves, and that does happen. I can think of 2 immediately that are live incidents going on. In fact, both sides of Heatherbrae Farm where people will just go ahead and do their own thing. That is that attitude: "Let them serve me with a document to show me where in the law it says I cannot do X." That is the way some people handle certain things.

Mr. R. Huson:

Okay. When they had this pre-1964 law, I think it said the site was to be used for the storage of skips and really nothing else.

The Deputy of St. John:

Pre-1964, there would not have been anything. There was no law.

Mr. J. Mills:

There was nothing written for pre-1964, and the application in 2005 said that Heatherbrae should be used in the same way as the other one, i.e. for the storage and sorting of skips, and that is where the ...

Mr. R. Huson:

That is where a lot of the confusion comes, does it not? You felt they were right just to try and follow Planning and do as they did?

The Deputy of St. John:

They were trying to accommodate Planning. That is what they were doing: they were accommodating the wishes of the Planning Department, although Planning had not produced any law to say what law they were breaking, because usually they will tell you: "You are breaking this law" or that law or the other, or they will just allow things to continue without passing comment.

Mr. R. Huson:

Okay. The other thing you said was that you felt that the Planning Office was trying to facilitate the move to Heatherbrae. We heard from Mr. Pinel that the first instance that he knew about there was a possibility to go to Heatherbrae was from Ged Sparks who was already occupying a site at Heatherbrae, and that was the first instance how he heard about it. He did not hear it from Planning per se, and then it moved on to Planning.

The Deputy of St. John:

That is quite possibly correct. I can only tell you what I know.

Mr. R. Huson:

That was your take on it?

The Deputy of St. John:

That is my take on it, yes.

Mr. R. Huson:

Okay. That is all I wanted to ask.

Mr. J. Mills:

Could I just you finally, Deputy Rondel, if you could put on your hat as Chairman of the Environment Scrutiny Panel. One of the issues that has emerged as we have gotten into this is the impact or lack of impact of the Solid Waste Strategy and the great push from the Island Plan of 2002 towards greater recycling of building materials and so forth which in turn has had an impact on the skip industry in the

Island, as we know.

The Deputy of St. John:

Absolutely.

Mr. J. Mills:

We have had some interesting evidence from one or 2 sources about some of the financial incentives that have emerged in this market towards ensuring that skips are sorted properly and so forth. With that hat on of yours or whatever other hat, have you observed whether this has entered the consciousness of the Planning Department or indeed the States administration generally other than those who are directly concerned with it?

The Deputy of St. John:

The biggest problem is the States have put in place an environmental initiative but they have not put in place all the checks and balances which are needed, i.e. if we are going to be doing all of this recycling, where is it going to happen? The States yet again, you know: "It is a good idea", "We want to recycle up to 50 per cent", I think were the latest comments I have been hearing. We are currently in the region of about 36 per cent, somewhere in the region, but every time we take on a little bit more, what support are we giving to the industry who have to do the recycling, i.e. Reg's Skips, for one? There is no support. Fine, okay, if you are doing it as a States department; they can find the resources. We have got one or 2 buildings full of televisions and electrical goods which have to be disposed of. So a States department can do that rather than use that building there or use a farm at Trinity or the top of Queens Road, wherever, but all these people we ask to take on recycling, whether it is timber, whatever it may be, we are simply putting blocks in their way when they start doing it. There is no joined-up government when it comes to these things, unfortunately.

Mr. J. Mills:

In using the present tense there, I think you are implying that that has been the position since these policies were developed.

The Deputy of St. John:

Yes, this goes back right the way through in a number of areas. We will decide it is a good idea to do X within T.T.S. (Transport and Technical Services). Fine, but as soon as you bring in outside contractors, they need somewhere to operate from. You have got a prime example at this very moment with Victoria Avenue where it is being totally redesigned, for want of a better word, resurfaced and everything else. We have brought in an outside contractor. Jersey contractors across the Island have tendered. They have got buildings and staff headquarters to operate from and workshops, you name it. What do we see? They bring in an outside company because it is cheaper, but they are operating as workshops and holding areas, compounds, the entire length of Victoria Avenue, which they do not pay any rent for, or if they do I am not aware of it, and you think: "How can they be operating?" because that was never designed as compounds for building materials and the like, so I am not seeing any planning applications, although the States do not have to apply for planning applications, but generally they do. I have not see change-of-use papers - I am not saying it has not happened - for any of Victoria Avenue to be used as a builder's yard.

Mr. R. Huson:

Because that is effectively what it is.

The Deputy of St. John:

That is correct. This is exactly how the States seem to operate. They do not put all the checks and balances that are required for somebody who is operating legally, and then they will allow something

else to happen. I can recall when they were putting main drains in St. John 4 or 5 years ago, 10 years ago. The contractor leased one of our fields, which was fine. They skimmed it just to put their machines and so on in. The Public Services of the day - it was not T.T.S. then - put their portacabins in there. Nothing was said. Towards the end of the contract, those portacabins were removed and, goodness gracious me, within a couple of weeks, I had a letter asking me about reinstating this field because the contractor was still there, but he had only been there for 18 months to 2 years. These are the types of checks and balances which are not in place, and this happens continually. Getting back to the environment, we want environmental things to happen but we need to put all the building blocks in place as we go along. Whether it is recycling oil, paper, you name it, we need to make sure that we have the correct compounds to work from, and this has not happened. Yes, one or 2 companies will have the right premises but when you look at it, we have not done what is right by the people we are telling ...

Mr. R. Huson:

To do it.

The Deputy of St. John:

We are rolling out later this year ... more Parishes are going to come on board with separating their waste and additional facilities are going to be required, but there has been no forward thinking on the part of Planning where they are going to be doing these things. This is the problem. There is no foresight. If you are going to do something, you should be forward thinking. You should be saying: "Right, we want to increase recycling 50 per cent. We are going to need these yards for doing this type of recycling [et cetera]. Where is it all going to happen?" None of that has come to the fore; not as yet.

Mr. J. Mills:

Okay. What you said just then was not a total surprise, but thank you very much for saying it. I think we have heard what you had to tell us, Deputy Rondel. Thank you very much for coming.

The Deputy of St. John:

Thank you for your time and I hope it has been useful.

Mr. J. Mills:

Okay. We will pause a moment because the next session starts at 2.00 p.m. and we will start on time. So pause for 10 minutes or so.

[13:40]