

STATES OF JERSEY
Environment Panel
TUESDAY, 24th JULY 2006

Panel

Deputy R.C. Duhamel of St. Saviour (Chairman)

Deputy G.C.L. Baudains of St. Clement

Deputy S. Power of St. Brelade

Deputy R.G. Le Hérisssier of St. Saviour

Apologies: Connétable K.A. Le Brun of St. Mary

Witnesses

Deputy C.H. Egré of St. Peter

Deputy R.C. Duhamel of St. Saviour:

It is important that you fully understand the conditions under which you are appearing at this hearing. You will find a printed copy of the statements I am about to read to you on the table in front of you. The panel's proceedings are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005, although at present this privilege only extends to Members of the States. As a result, you are protected from being sued or prosecuted for anything said during this hearing, although this privilege should obviously not be abused. The proceedings are being recorded and transcriptions will be made available on the Scrutiny website. If I can ask you in speaking to lean forward so that your voice is captured adequately by the microphone and not to mumble.

Deputy C.H. Egré of St. Peter:

I will try and avoid mumbling.

Deputy R.C. Duhamel:

We will start off with Deputy Le Hérisssier, I think, with an opening question, to put him on the spot.

Deputy R. G. Le Hérisssier of St. Saviour:

Colin, you have been very involved in Planning issues and what we want initially in the synopsis as opposed to the story of your many battles with Planning, can you give us a summary of the issues that have confronted you as you have dealt with Planning and issues that you think show strengths and weaknesses and then we can start digging more into your case studies.

The Deputy of St. Peter:

I would see the problems, and they are huge problems, being twofold. Firstly, in the actual Planning system itself, the actual procedures that we have had to follow. It is a very, very serious concern to me

that in the various things that I have been involved with, it would appear that decisions are made very early on in the process which affect the process. We have heard them on the floor of the Assembly. The fact that a Planning Officer can make a statement or write a letter, very early on, can be the defining moment as to whether that Planning Development is allowed to go ahead and that precedes public consultation. It precedes that Planning Application being put forward to the Planning Sub-Committee. It is a very odd way of doing business. Certainly that procedure has to be looked into because it is totally and utterly unsatisfactory. We have had, I think, 4 examples since my time in the States where concerns have been represented on the floor of the Chamber and agreed by States Members, so, therefore, agreed by the public of the Island through their States Members that things were wrong. Yet, on every occasion, we revert back to a legal opinion which states that very early on in the process a decision was made at officer level, not necessarily at highest officer level, and that is the defining moment as to whether that plan will be progressed or not. So, that is one of my major strategic concerns. The follow up to that is areas of whether Planning permissions have been given by the Committee, or by the Ministry now, and conditions are laid on the major developers as to how things should be done and what commitments they have made to that Committee and I have to say the policing of that is awful. I have had 2 experiences with 2 specific developments in my own Parish where I, in effect, have had to do the policing on quite serious issues where conditions have been laid and they have not been met and some of them still have not been met today. So, those are the 2 areas that really I have concentrated on over my last tenure in the States.

Deputy R. G. Le Hérisier:

Sorry, may I follow up?

Deputy R.C. Duhamel:

Yes, certainly.

Deputy R. G. Le Hérisier:

When you say that the House has voted for something, Colin, which you thought made eminent sense, where did you think the fault lay? Was it simply because of that legal opinion having sort of cut off further discussion or were there other issues as well?

The Deputy of St. Peter:

No, that is the main one because also a willingness at department level to take things forward, it would appear that for want of a better term, excuse was always made that the legal opinion would be the overpowering factor in the making of a decision which means, as I said earlier on, that that decision has been committed to so early on in the procedure that there was not any turning back. There appeared, certainly under the former Committee system, that there was a lack of willingness to deal with the problem. Now, I think things may be changing. Some of the people we have, certainly the Minister would appear to be suggesting that he is now looking at ways of dealing with matters rather than ways

of not. I think previously Committees have worked on the principle that they do not want to play.

Deputy R. G. Le Hérissier:

I know you have been very involved, for example, in L'Hermitage and then, of course, recently Goose Green. Were those issues to do with faults in the Island Plan or the way the Committee dealt with the Island Plan or were they Building Control issues? I always sensed you were involved heavily in both of these, in a sense.

The Deputy of St. Peter:

Well, I think all 3 because we have Building Control, we have Planning and we have the procedure. All 3 elements can be questioned. You mentioned 2, L'Hermitage and Goose Green. Goose Green sits in St. Lawrence and, yes, I have been involved, but I came into the L'Hermitage very late on when decisions had already been by the time I had become a Deputy. I was in at the hunt on Fields 181, 182 and 183, which was in the Parish, and that is the one I bought to the States on P.133.

Deputy R. G. Le Hérissier:

Can you tell us what the grounds were for you bringing it to the States, just to put it on the record, Colin?

The Deputy of St. Peter:

Certainly. The fundamental issue was that when I came back to Jersey, prior to entering into the States, I attended meetings at St. Peter's Parish Hall specifically to do with Fields 181, 182 and 183 when the Island Plan was being drawn up. The parishioners of St. Peter, and there were a lot of them at that meeting, heard from the Director of Planning, Peter Thorne at the time, that the view was that Fields 181, 182 and 183 should be developed to provide 54 firsttime buyer homes for the parish of St. Peter. Now, although there was a view taken that people were not happy with development in St. Peter because we already had the fact that one-third of our land area was taken up by the airport, which is a fair commitment for a parish, and the fact that there had been an awful lot of urban development in the Beaumont area, there was a willingness to accept this 54 firsttime buyer homes on that site. When it came to the Island Plan, of course, somehow the figures had been massaged to read 68, and again, we have talked about specific figures, 68. Not between 60 and 70, 68. When the first application came out, the magic figure of 87 appeared. This, again, appears to be a fundamental problem, which the people of Jersey do not understand how we can let people get away with that sort of manoeuvring - because it is. "Where do we start? Let's go for 1,000 and if we drop it to 500, did we not do well." This is not a good philosophy, in my view. As I say, that is how that that one matured and I think, from what I recall, there were 5 changes in site size over the period of the Planning Applications going through. It was one site but they managed to change the size 5 times and that is recorded in the Minutes of our meeting.

Deputy R.C. Duhamel:

Following up there, you just said that there appears to be some efforts being made by developers to go for a large number of units for development and then to scale down and then, in some ways, to see that as development plus. In your view, how should the Island be determining the absolute numbers for a particular site? There are density standards, and presumably, the plans that were put forward for that particular site were in accordance with the guidelines for the overall density to suit that particular site.

The Deputy of St. Peter:

One of the fundamental issues that I have is with the Planning document itself because there are policies within that document that conflict, lots of them. One of the policies, that development should be in keeping with the development that has already taken place in the area. Well, I made comparisons between the school estates in St. Peter's and the density levels there with the densities that were being put together for the new site and I was being told they were very similar. Well, I am sorry, I am quite happy to put on file the pictures of the density of the school estate and the density of the housing on Fields 181, 182 and 183 and they just do not compare.

Deputy R.C. Duhamel:

But in terms of applying measurement criteria to determine whether or not a particular development is successful or not, to what extent do you think that there is an over-reliance on the density measurement and perhaps there is an under-reliance on things like community facilities or how the buildings fit together in terms of village style and things like that.

The Deputy of St. Peter:

I mean, very simply, if I change hats and I put my developer's hat on and I read in a document brief that I am to maximise the use of the land area, to me that is the biggest green light to do exactly that. That is the criteria that I will use to argue my case, you know: "You sent me this document. We had a brief. You are telling to maximise and I am and I am maximising my return to the minimum standards that I can, even if it does not match the local scene because you have told me that that is what you want me to do. You want me to maximise the land area because Jersey is small." You will have seen those paragraphs in design briefs.

Deputy R.C. Duhamel:

So, you are making the statement that if there is a maximisation in terms of the absolute number that goes on the site then the other policies are disregarded.

The Deputy of St. Peter:

The other policies are disregarded. That is the over-riding one, yes.

Deputy R.C. Duhamel:

So, which things specifically are downgraded in terms of loss of quality and things like that? We do

have a set of building regulations which, one would hope, are applied as rigorously. Certainly, we have got minimum standards and you have made the allegation that perhaps we may have even gone below that.

The Deputy of St. Peter:

I do not recollect making the allegation that we have gone below those. What I am saying is it is not a good policy to run everything to minimum standards.

Deputy R.C. Duhamel:

Okay. Could you be any more specific as to things that are left out when people go for numbers rather than quality of units?

The Deputy of St. Peter:

Well, there are the usual ones: the failure to maintain infrastructure that will support maximum development, the failure to review the social issues tied to shopping and schooling and, also, some of the simple things like water drainage and water runoff. These are all secondary to the maximising of the return to the developer, in my view.

Deputy R.C. Duhamel:

Finally then, do you consider the development that takes place is proper planning?

The Deputy of St. Peter:

No. I hesitated there because I am trying to get my mindset around the question. In the plans that I have seen, again if I can use the example of the St. Peter's development, Fields 181, 182 and 183, the actual plans themselves seduce people to believe you are getting something that you are not. There is this open space. I am sick to death of open space because in the development there will be open space. Well, in Fields 181, 182 and 183 there is open space but what it fails to address is that by building around the edges of the fields with the open space in the middle, we have forgotten that on the outskirts of this development there are other houses. So, where before the people living in Ville de L'Eglise had a view over fields, now they have a close view of the back of other houses that are now overlooking nice open space. So, if that is a good way to plan development - I say it is not and I know that from the amount of people that come and phone me and say: "What on earth is going on?" It is very obvious when you look at the plans, you get a lovely colour plan with nice greens in the middle and the houses that sit on the outside are in light shadow form. All the concentration of the viewer is on this new development without taking in the big picture and that is a form of seduction which I know has been tried and apparently has worked.

Deputy G.C.L. Baudains of St. Clement:

From your opening comments, I presume the situations that appears to apply in other rezoned and areas

does not apply to the examples you have been given because what I was going to ask, the discontent that is clearly out there amongst the public, I am trying to establish whether that was a carry over from the rezoning or whether it is to do with new methods arising. In other words, to explain myself more clearly, are people opposing the design of the houses because they oppose housing in that area or have people taken on board that there will be housing and are now opposing housing for other reasons such as density or design?

The Deputy of St. Peter:

Fundamentally, the population in my parish do not like being conned and they believe that the procedure at the moment does not bear scrutiny because I go back to what I said to Roy early on, when you go to a parish hall assembly and the parishioners are there and you are told something specific like: “We want to develop 54 firsttime buyer homes for the parish,” and then you get 87 with a 45/55 split, social housing and first-time buyer homes open to everybody. That is not what was on the table at all and they do not like, as I said, the: “By the way, 54, 68 on the Island Plan and we are going for 87.”

Deputy G.C.L. Baudains:

After the initial Island Plan furore followed by debate et cetera, we had the design briefs. Now, you referred earlier to the fact that there appears to be, at an early stage, the commitments made, basically before consultation was entered into, so almost making consultation irrelevant.

The Deputy of St. Peter:

I would not use the word almost.

Deputy G.L.C Baudains:

I mean, what comments do you have on the public consultation and the design brief? Was there sufficient public input, in your view, to the design brief?

The Deputy of St. Peter:

Well, I can relate to my notes because at the public meeting we had, there were 160 people in St. Peter's Parish Hall and they made their views very clear, making the points that we started with 54 units and the standing vote, which was unanimous, supported the original comments of 54 firsttime buyer homes maximum, and that was public frustration. But post that consultation; still we had the Planning Applications that came in at 85. So, the view of the people of Jersey, or as expressed within my parish, is that we have lost control of the Planning system, totally. Public consultation is worthless. Now, that is a very dangerous statement but that is the feeling which is echoed through my parish.

Deputy G.C.L. Baudains:

Were the parishioners basically aware that the design brief would be the blueprint for what the developers would build?

The Deputy of St. Peter:

No.

Deputy G.C.L. Baudains:

It was not made clear to them?

The Deputy of St. Peter:

No. A design brief is a very gentle statement.

Deputy G.C.L. Baudains:

Obviously, you recall the road shows that went around in 2001 before the final plan debate where the public were consulted about, though you will no doubt comment, it seems to be a presentation more than a consultation, but the public were consulted about the rezoning of sites.

The Deputy of St. Peter:

Yes.

Deputy G.C.L. Baudains:

What is your opinion on the design briefs? Do you think they should have had more consultation, more public input? I mean, my own personal view is they almost seemed to go through without anybody noticing. There was not the same degree given to them.

The Deputy of St. Peter:

The design brief, when it had gone through, was not consulted upon. If we look at the process again; the parish was seduced into 54 which they accepted as a sensible development on those fields. Then a design brief went in and they were consulted, sorry, they demanded consultation when they suddenly found there were these big numbers coming up because they said: "Excuse me, this is not what you told us," and it was not. It was not what they were told. Therefore, people started to look pretty carefully, at that particular stage, as to how that development was going to progress. The difficulty there, at every meeting that we had post that event was of no consequence because it had already been decided.

Deputy G.C.L. Baudains:

Yes. That is exactly the point that I wanted to come to there. There is a stage -- the design brief was prepared by the department. It is then approved, or otherwise, by the Committee. Now, once that design brief is approved by the Committee, essentially there is no going back. Did the consultation that took place in your parish precede, to your knowledge that is, the Committee decision or did the Committee decision come after the consultation because if the consultation was after the Committee decision on the design brief, then clearly, consultation was a waste of time.

The Deputy of St. Peter:

The first consultation was a pre-signed brief, that was pre-Island Plan, and that was consultation in my view, specifically to a site and specifically dealing with numbers. Then the design brief came out and when we had this meeting in the parish hall in the presence of Deputy Hilton who was the Chairman of the Sub-Committee at that time, along with the President of Environment and Public Services who was also there, the Chief Officer and the author of the Island Plan was also there, that was consultation post the design brief. So, it was a waste of time; 160 people attended a parish hall meeting, they made their views absolutely crystal clear and it was a waste of time. That is what they are concerned about.

Deputy S. Power of St. Brelade:

Again, Colin, relating to the design, it has been said to me that it is not so much a design brief as a legal brief from which the developer can push what he would regard as almost a right that the design brief legitimises the status of that site from that period on and anyone who tries to change or reduce the size of the development faces litigation.

The Deputy of St. Peter:

The answer to that is yes. That is exactly how I perceive it and that is the point that I have tried to make on the floor of the Assembly when we were dealing with the Goose Green: at what stage is a development determined and it certainly is not by the Planning Committee or the Minister at the end of the stage because it would appear that that determination is made very, very early on in the process.

Deputy S. Power:

Can I just have a follow on question? So, to clarify what I have said, and I think you are agreeing with it, once those design briefs post 2002 Island Plan were in and the number of sites that we are all struggling with, from then on it becomes litigious.

The Deputy of St. Peter:

Yes.

Deputy S. Power:

Therefore, the design brief essentially enables developments which are not appropriate in certain areas.

The Deputy of St. Peter:

I fully agree with that as stated by you.

Deputy R. G. Le Hérisier:

Colin, were you informed at any time about what the impact of the design brief was?

The Deputy of St. Peter:

No.

Deputy R. G. Le Hérisier:

When you saw this sort of gradual increase in numbers occurring from point to point, did you ever seek, and indeed, did you ever receive an explanation as to why numbers were creeping upwards?

The Deputy of St. Peter:

No, I did not. There was a defence that was always made, and it goes back that we need the houses and we need to maximise the use of land in Jersey because Jersey is a small Island. Well, I can cope all those 3, yes, but it does not mean to say that we then design estates the way I have described earlier in this meeting.

Deputy G.C.L. Baudains:

We have heard about consultation being either too late in the process and thereby almost becoming an insult to those invited to partake and various other issues on the periphery of that. How do you think we can, in the future, avoid such problems which clearly generate a lot of ill feeling? I mean, do you have any ideas yourself how this can be better managed, or of better processes?

The Deputy of St. Peter:

Yes. Firstly, get the size of the site right. Secondly, follow some of the policies that sit in that document already, like building houses that actually match in with the local environment. You know, if the local environment has urban design, then you continue with urban design. If it is rural, you continue with rural. If you give a figure to somebody and you write it down on a document, do not change it, or certainly not to the levels that we have seen. I mean, 54 firsttime buyer homes moving to 87, split 45/55 social housing and first-time buyer homes, is not the same animal.

Deputy G.C.L. Baudains:

Do you believe that the public or your parishioners in this case, were kept adequately informed as things developed along the way, as changes occurred in numbers or design or whatever?

The Deputy of St. Peter:

No, they picked up via closer scrutiny themselves, in documentation that is available in the JEP (Jersey Evening Post), on the various Planning Applications, and they were asking the questions but, at that particular point, there was absolutely no interest in supporting the view of the people in the parish, none. You know, disregard the people who talked about flooding. It did not flood. Well, I have pictures of 3-foot of water. Disregard the fact that the headmaster said he could not cope with the number of children that were going to come out of that development. Disregard the fact that we have a problem with traffic in St. Peter's, yet alone down the bottom of Beaumont. All these things were of no

importance at all because the deal had been struck.

Deputy S. Power:

Can I ask a supplementary question on that? To summarise your views on public consultation, would you go so far as to say that public consultation in these processes is a window dressing exercise?

The Deputy of St. Peter:

Totally.

Deputy S. Power:

That the form in which public consultation is structured, not only does not take in those views expressed at your meeting with those 160 people, but it is essentially a public relations exercise and there is no weight at all in the Planning Process?

The Deputy of St. Peter:

I think it is an inconvenience to the process.

Deputy R.C. Duhamel:

A new issue from Deputy Le Hérisier.

Deputy R. G. Le Hérisier:

I mean, in a way, Colin, of course, we have all been guilty because it is quite clear, in my view, I do not know what yours is, that our analysis may be, the St. Clementé difference, our analysis of the Island Plan was nowhere as microscopic and broad as it should have been. Then, all of a sudden, applications started flowing in, houses started springing up and people have started being caught on the back foot. This is a leading question, do you think as a parish, when the Island Plan was announced, you should have sat down and dissected it from the point of view of the parish, and as you have subsequently done from the point of view of the western parishes, to try and build up a better idea of what all the kind of pressures were going to be as development started?

The Deputy of St. Peter:

I think there was a naïve trust on the part of the parish. I say naïve now, in hindsight, because the road show, as it has been referred to, came round and painted a different picture. So, when it went through to the States, the perception of the people of St. Peter's was that they were going to get what they asked for, but they did not, and it is hearsay because I was not a Member of the Assembly at that time, but I know efforts were made to get reassurances about certain aspects of the Island Plan which were made and have since not been honoured.

Deputy G.C.L. Baudains:

Just going back, if I may, a stage, you mentioned that the issues of infrastructure and the ability of that infrastructure to support the new development and, of course, Planning either called for or expect, as a matter of course, submissions from Transport and Technical Services for roads and trains and matters like education for schooling, but it would appear that you are saying that these analyses may not, in actual fact, be terribly accurate. Have you any idea where the problem may lie? Is it a problem with Planning? I mean, surely, Planning should be able to rely on these other agencies to have a fairly accurate analysis. Where was this going wrong, in your view?

The Deputy of St. Peter:

It is going wrong because 30 or 40 years ago the people of the day did not put into place an infrastructure that would support an Island that was developing at a fair rate and I think what we have seen in the last decade are excuses because you cannot come up with a solution. The solution of Beaumont, we laughed in the States Assembly the other day, of building a 2-lane highway across the bay. That is the only solution. We are not going to take that route. So, the problem has just been exacerbated as each development is taken forward. You know, we talk about the so-called sustainable transport policy. We have not seen it yet. All these buses that we are supposed to get on do not exist. Certainly, we are very poorly serviced in the western parishes. In the 1950s and 1960s when I was a boy in St. Mary's, we were served by 3 bus routes which we could easily get to. They do not exist. Some of the perceptions that come out, you have heard me refer to this in the States Assembly, of people car sharing as being a solution is cloud cuckoo land but yet people say it and worse still, some people believe it, you know, which is daft, absolutely daft.

Deputy S. Power:

Can I ask a supplementary question? On infrastructure, given that there are, I think, 1,100 houses coming up for completion in the 5 western parishes this year, exponentially where do you see the congestion on Beaumont Hill and Beaumont Roundabout in the next 5 years?

The Deputy of St. Peter:

Well, it is going to get worse. You know, we have not got a major traffic jam situation in Jersey at the moment. We have times where traffic comes to a halt, which is inconvenient if you are trying to get 5 miles down the road. We are not used to it. It is going to get an awful lot worse and we are going to get grid-locked at some stage. This is the biggest problem. Our infrastructure does not support an accident occurring. If we have one accident on Route de la Haule, bang, everything stops. There is no one here. We do not have an alternative routing system as such, not to meet the requirements that we would want. If I could just quote you, we are talking about traffic impact assessment. This was a quote from the Planning Sub-Committee minutes on the L'Hermitage development from Mr. St. George, the Traffic Engineer. "The Sub-Committee received correspondence from Mr. St. George, the Traffic Engineer of the Public Service Department in which it was stated that the level of traffic generation from the proposed development could be estimated as likely to be higher than the existing hotel and that any

reduction in the scale of the development would be welcome from a traffic consideration point of view.” Now, that was to do with L’Hermitage. At that stage we had not had the St. Ouen’s developments. We were not going to have the St. Peter’s developments. We were not going to have the developments in St. Brelade. We already have a problem here and, I remind you, the mitigation of the problem via the developers was that they would put on an extra bus and that people would car share. That is the mitigation and that went through against that mitigation. Crazy.

Deputy S. Power:

So, the Planning Process does not take any account of infrastructure overload, for want of a better phrase. The fact that there is no excess of school capacity in St. Peter’s, St. Brelade, Les Quennevais School is 5 over its maximum...

The Deputy of St. Peter:

But the stories change. If we were looking at a 25-year period, I accept that things change but it would appear in Jersey we can change things very dramatically in about 6 months. We can have capacity 6 months ago and suddenly, strangely, we have not got it any more. Now, someone is not doing their job properly, in my view, under those circumstances. Now, sorry, if I can just add, because you were talking about pressure on infrastructure. On L’Hermitage development, it is not just pressure of traffic but nature of traffic. On L’Hermitage development they forgot, initially, to give a brief on the waste management structure for that site. When it did come out it said that they were going to have to move 17,000 tons of material off that site. Now, that is being put on big lorries. Those big lorries, although they have design axle weights and have got lots of wheels, still have created a huge amount of structural damage to the roads, especially between the filter in turn on Route de la Haule. It is damaged. You can see the damage in the road. Now, that tends to be ignored but, worse still, we found that someone had made a mistake in the process because the developer actually had to move 27,000 tons, not 17, off the site. Oops. Now, if my surveyor had made a mistake of that proportion, he would not be working for me for very long. But that is a fact, those figures, and all that had to be removed and taken to La Collette. Now, these were not issues that were considered during the Planning Process and they should have been. Also, within the Planning Process, we recall the development at the Pavilion, on the Pavilion site, the shale that was being removed from the Pavilion site was actually delivered to the L’Hermitage site and the L’Hermitage site became an industrial area for crushing that shale, much to the delight, as you can imagine, of the neighbours, not so much because of the noise but because of the dust. Now, these are all issues that should have been taken into account at the Planning stage. You know, Jersey is being abused by some of the major developers. The L’Hermitage site again, bearing in mind they were moving thousands of tons of clay off the site, in winter, did not have a wash down system, and the roads were absolutely shocking. By force of argument, they eventually got a wash down system running but that should have been a Planning requirement. If we were talking about 2,000 tons- we are not. We are talking about a considerable amount of loading.

Deputy R.C. Duhamel:

It certainly is within the law at the moment that lorries from any industrial sites or building sites do have a requirement to clean their vehicle wheels before they go on to the roads.

The Deputy of St. Peter:

Yes..

Deputy R.C. Duhamel:

So, whether or not a blind eye has been turned, I do not know.

The Deputy of St. Peter:

Well, it was blind both eyes because it went on for a considerable amount of time and it was me that created enough noise to get something done about it, and again, I have pictures of the lorries and pictures of the dirt on the road because otherwise people say 'it is not really a problem'.

Deputy G.C.L. Baudains:

How do you think this came to be? Clearly there has been a failure there. I am wondering. Others have made the comment that planners are concentrating on design and not concentrating on Planning. Is that a valid statement?

The Deputy of St. Peter:

I think from what I have described the answer is, yes, it is a very relevant statement. The term I use is big issue, the big picture. They do not see it. They start the action off and: "Oh, by the way, oops," and when I say oops, we are dealing with the real world. These big boys, and we are talking about big boys now, they know exactly what they are doing. They knew that they were going to have to take off 27,000 tons but the timing is crucial as to when that information is passed on to the Planning Committee or to the planners because by the time that information was available the actual structure on the site had already been put up.

Deputy S. Power:

Is there a flaw then in the Planning Process whereby at the pre-planning stage, where the developer is in negotiation with the Planning Department, that these estimates, these quantities should be seriously looked at by Planning Process because it is not being done. You know, where you said earlier that in earth waste, that 17,000 tons was the original estimate to come off the L'Hermitage site, in actual fact you said it came off closer to 27,000 tons.

The Deputy of St. Peter:

And it certainly didn't take into consideration the recycling site that was also created from the Pavilion.

Deputy S. Power:

Yes, and you were saying that material was hauled from West Park Pavilion to L'Hermitage for processing.

The Deputy of St. Peter:

That is exactly what I am saying.

Deputy S. Power:

In the Planning Process, therefore, the Planning Department should spend more time and resources in looking at the estimates of materials that have to go on and go off these sites, is that what you are implying?

The Deputy of St. Peter:

What I would say is, if I am employing a Planning Officer at not inconsiderable salary, I would expect him to do his job. Now, part of that job is to ensure that the result of a Planning decision when it is made for a development to go ahead, that all the issues are taken into account. When I say all the issues, things like moving 27,000 tons off site.

Deputy R.C. Duhamel:

I find this surprising because it is only during recent years that the Planning Department have instigated a new part of the Planning Process which does require the developers to fill out a comprehensive schedule to determine their inert waste handling plans for any particular development. So the inference, from what you are saying, I mean I could understand it if you were making the argument going back maybe 10 or 15 years before this particular procedure had been put into place, but if it is not happening now and we have got the procedures set up ...

The Deputy of St. Peter:

Somebody is incompetent.

Deputy R.C. Duhamel:

Well, maybe it is not being looked at as closely as it should be but I am surprised.

The Deputy of St. Peter:

What I have just been describing are facts.

Deputy R.C. Duhamel:

Yes. For example, I mean, you made reference to the fact of shale from one site being transferred to another site. I mean, that is a clear policy for the inert waste handling facilities to ensure that inert material that would have otherwise gone to the La Collette reclamation site and filled up that site in a

shorter time frame and any of those materials are reused as far as possible and I would have thought that, from a sustainability point of view, it was a sensible move.

The Deputy of St. Peter:

I would support that policy 100 per cent but I would remind the Scrutiny Committee that 27,000 ton was taken off site and put into La Collette. Which bit of the system do I not understand?

Deputy R.C. Duhamel:

So, quantity surveying, perhaps that is at fault.

The Deputy of St. Peter:

Well, no. I have - not a suspicion - I am aware that the plan was to store the soil on site and then to use that for infill on the Bel Royal development but they got the timings wrong. But this was not in the plan. This was not in what was put out to public consultation. This was a private plan. It cost the developer a lot of money to dump that amount down La Collette. They did not want to do that. They already had the big picture of infill at Bel Royal.

Deputy R.C. Duhamel:

So, in your view, it is fair to assume that all of these difficulties should be envisaged at the inception of the planning stage rather than tackling them, in a live sense, on site.

The Deputy of St. Peter:

Absolutely.

Deputy S. Power:

Can I just clarify that then, if I may? You are saying that part of the Planning Process for a development, specifically L'Hermitage, should have been far more detailed estimates from the quantity surveyors and the surveyors themselves as to what the likely movement of ...

The Deputy of St. Peter:

Initially, the view was that nothing was going to come off site and I am sorry, how can you equate that to the fact that they were building an underground car park? It does not make sense. But, initially, in the Planning Process, everything was going to be used on site. Now, what in fact they were saying there is that the products of demolition were going to be recycled and used on site but the perception at the time was that nothing was going to come off site.

Deputy R.C. Duhamel:

Should policies be implemented to penalise developers if they get their calculations wrong?

The Deputy of St. Peter:

Yes. But on certain occasions I would firmly lay the blame within the Planning Department and if I can give you another example from the L'Hermitage site, within one of the conditions was the fact that the granite wall that borders the road Rue de Beaumont between the canon and the filter and turn, the granite wall was to be retained. Well, they knocked it down, part of it. Now, I red carded it and they said 'it will be rebuilt'. The bit that we did not know is that the cottages, and there are 6 of them that were going to be butting up against the road, up against the pavement, their front doors were going to be coming out on the road. So, the granite wall is going to be rebuilt with 6 nice entrances going into the houses. Now, for anyone who travels that road, any car that stops outside a front door causes mayhem as far as the traffic is concerned. Now, one of the things that concerned me is I brought this to the attention of the Director of Planning and he said 'that cannot be right'. I also brought it to the attention of the developers and they said: "We have permission." Now, that permission was granted, by an officer, after the actual Planning Application had been passed. Now, I cannot blame the developers for that. They asked and someone said yes. Now, anybody in their right mind would have said no.

Deputy R. G. Le Hérissier:

Supplementary, Mr. Chairman, did you find out the reason as to why they said yes, Colin?

The Deputy of St. Peter:

No.

[Laughter]

The Deputy of St. Peter:

I am sorry to be so blunt but the body language I read from the Director was that he was astounded that it had happened but, obviously, the defensive mechanisms kick in and it becomes 'we are where we are'.

Deputy R. G. Le Hérissier:

The thing that intrigues me about all this, as our Chairman said, there are all sorts of regulations in place which we all assume, maybe naïvely, are being implemented. From the picture you are painting, Colin, you get this impression that there were no controls being overseen basically; that maybe there was a good intention, maybe things had been written down, but essentially there was very little control or regulation going on or overseeing. Is that correct?

The Deputy of St. Peter:

Totally. Again, if I can use the L'Hermitage site as the classic example, the person responsible for the site was the Deputy Director, Peter Le Gresley. Now, his workload, I am sure, was such that he could not give the attention that was required for one of the major developments going on in the Island. It is a major development. We are talking about 156 units. Now, it should not be up to individuals to police

the system. I mean, that site has caused me more headaches than any other. An example, what happens with the site, as I have learned, there is an amount of emotion that sits around the passing of that development. When the site starts, that emotion even gets to a higher plane because things go on which should not at that particular time. Once the structures are starting to get in place and the system starts to settle down and things start to get cleaned and the noise starts to drop then the protests, for want of a better term, also reduce. But the example I will use on L'Hermitage, there was a plan, as part of the original brief, to utilise the southeast corner of the site for the storage of demolition waste. That was the plan - and the recycling of demolition waste. The difficulty is that plan was not adhered to because they moved, the same developer, moved the shale, and there was a considerable amount of it, from the Pavilion site into the area which had already been designated for dealing with the rubble that was created from knocking down the development. So they had to put it somewhere else. So, they put it in the northeast corner of the development but the problem is, the reason why they chose the southeast was because there was no population down there, no surrounding houses. North, there was. Now, if I can just paint a picture for you. On a sunny, bit like today, Saturday, in the morning, there was a pile of granite just outside someone's house on the site. Early in the morning, that granite was being lifted by a JCB digger and dropped into a lorry, a metal lorry. The lorry then drove 25 metres down the field where it emptied this load, then another JCB was lifting it and piling it a little bit further down. I have a picture of that happening. There was dust and the noise generation was beyond belief. I went down, in my capacity as Deputy, with my hardhat on and my yellow jacket and asked the contractor to stop. He did. I was then chastised by the developer and by the contractor's boss saying I had no right to order anybody to stop, even as the Deputy, when I reminded them of the fact that I had asked and they stopped. Thank goodness I asked, but that is one example and the woman was in tears on the other side because she saw this as what was going to be happening for the next several months. We have the saga of the double mountain and I have pictures. I am showing a picture, a copy of which I will make available to you, that is a clay mountain. It does not meet health and safety standards at all.

Deputy G.C.L. Baudains:

Approximately how high is that?

The Deputy of St. Peter:

It is very difficult to estimate but a considerable height. I mean, you are talking about 40 feet plus, I would think. Now, I took this picture to Peter Thorne in his office saying: "This is dangerous. It borders on to a private garden where children play and there is no barrier between the boundary." He agreed with me. He said "something will be done". I went away for a week to England. When I came back something had been done. It had doubled in size. Right? Now, you can imagine the way I felt and the way my parishioners felt. Well, I went back to Peter Thorne and showed him that picture and, funnily enough, something was done fairly quickly. But it should not be me policing it at all. It should have been picked up in the planning: "What are you going to do with all of this? Oh, you are going to put it into Bel Royal, but that has not been passed yet. What are you going to do with it?" It was not

planned for.

Deputy G.C.L. Baudains:

You referred just a few moments ago about changes to the wall which intrigues me because clearly I presume it is Building Control changed the design after the design had been passed by the Planning Committee. Do you believe that such changes occurring as they do after the Committee has passed them, providing they are anything more than minor, should in fact go back to the Committee and be advertised accordingly as well, so that the public are made aware that these changes are about to happen because, from what I can understand, whilst the public are made aware of planning applications, they are not generally made aware of changes afterwards and this is where the public get the idea that the developer is getting away with murder when in fact it has been authorised by the Planning Department through a different route?

The Deputy of St. Peter:

Yes. It is unbelievable that such a change was made at officer level without coming back to the Committee because it did have huge impact on the actual traffic management on that site. It came as a shock to the Constable.

Deputy G.C.L. Baudains:

What I am driving at, without any ability for the public to be consulted about it or have an input before the decision was made.

The Deputy of St. Peter:

Absolutely. Even the fact that it would appear that the Director of Planning was not aware of it and that he was somewhat concerned about it when he found out, well, I mean, that says it all to me. We need to put some facility in place very quickly that flags this sort of thing up, so that it can go back to proper consultation, even if it is talking about Transport and Technical Services looking into it and saying think about this before you allow that one to go through.

Deputy R.C. Duhamel:

Have you any evidence as to whether the problem is being caused by inexperienced Planning Officers or experienced Planning Officers with not enough time to do the job properly?

The Deputy of St. Peter:

Well, all I can do is relate to you the fact that the person responsible for that development was Peter Le Gresley and leave you to draw your own conclusions. Again, just to cover sort of ongoing, while we were talking about granite walls, one of the conditions laid down on 181, 182 and 183 is that the granite wall on Rue de la Pointe should be retained and made good where necessary. There was an application made to allow an entrance into the site to be built into that wall which was approved and it was

approved by the Constable as well. What was not approved is that they knocked over 100 metres of wall down which was very convenient into their building design a bit further down the road. See, 100 metres is not an entrance.

Deputy G.C.L. Baudains:

It is a wide entrance.

The Deputy of St. Peter:

It is a very wide entrance.

Deputy R. G. Le Hérisier:

Well, I am coming to the end, Colin. Just basically are there any issues, I mean you have made obviously a very strong and robust presentation. Are there any other issues, Colin, you wish to bring to our attention? Are there any other issues in the Planning Process which you think bear attention by us or greater scrutiny by us?

The Deputy of St. Peter:

The current process requires changing. That is my view, because it is not functioning on behalf of this Island. It might be functioning on behalf of developers. It is not functioning on behalf of this Island. That is what I would want the Scrutiny Panel to take away with them, and secondly, that when planning decisions are being made at officer level they do take into account the big picture because it is obvious from what I have been describing that in certain cases they have not. We are not talking about minor errors; we are talking about major errors.

Deputy S. Power:

One follow up question on that, Roy. It has been indicated to the States that there will be a fairly major review of the Island Plan 2002, largely because of what it has thrown out in the last 3 or 4 years and the amount of development it has caused. Do you think, given your experience since 2002, that the Planning Process, which almost carries on invisibly, is as much at fault in what has happened in the last 3 or 4 years as is the Island Plan 2002 and, if you were to attribute cause and effect, where would you attribute cause and effect?

The Deputy of St. Peter:

Without any shadow of a doubt, I would attribute the cause and effect in process because, if we had taken the Island Plan as writ, we would find that there would not be as many problems as we are having and the comments I will make in regard to numbers, 68 in the Island Plan going up to 87 units, trial by developer, and we have lots of other sites where there have been huge increases in numbers. So, we go back to the process rather than then Planning document. There are lots of inconsistencies in the Island Plan. The presumption that one can build on anything coloured white on the Island Plan was not one

that was brought to the fore when it came to the States but we do have developers who actually send people out on hunting expeditions looking for, purchasing, the white space and they are doing it for profit, not because we need the houses.

Deputy G.C.L. Baudains:

On the same theme, in the Island Plan the numbers attributed to the rezoned sites, and these words are inscribed on my brain, this site could accommodate approximately x number of houses. It appears to me that the Planning Committee took these to be, or subsequent Planning Committees, took these to be minimum numbers whereas others, I think, and especially during the debate on the Island Plan, took them to be an indication that would later be...

The Deputy of St. Peter:

What is the definition of the word “indicative”?

Deputy G.C.L. Baudains:

... which would later be amended in the light of infrastructure, school provision and that sort of thing, I mean what are your views on that? Does the problem go back to the Island Plan debate?

The Deputy of St. Peter:

In part it goes back to the Island Plan debate but after that, also, again, it goes to process. There were failures in the Island Plan but they have been expanded - way, way beyond failures in the Island Plan - by process.

Deputy G.C.L. Baudains:

The thing which springs to mind is, I mean, could it be that the sites chosen in order to supply these roundabout 2,000 homes, I think it was, that was said we needed to provide by rezoning, could it be that the sites chosen were inappropriate, they were the wrong ones for the job, that were chosen for expediency over appropriateness?

The Deputy of St. Peter:

I will give you 2 examples. Fields 181, 182 and 183 in St. Peter's sit comfortably at the bottom end of a triangle of a rural development and I would have argued in the States, if I had been on the Planning Committee, that that was an ideal place to carry on a rural development, dare I say with 54 first time buyer houses on. Then I looked at another site that was allocated; the Bel Royal site and anybody who has any idea of the complications that would follow by choosing that site, well, I am sorry but whoever went down that route, again, I would not want to employ them.

Deputy G.C.L. Baudains:

How do we overcome this in the future, because unless something dramatic happens it looks like we

shall be continuing to build unfortunately, some may say, for the foreseeable future? Now, clearly the Island Plan has produced many unhappy people; you are suggesting the process is at fault, others have suggested we have perhaps chosen the wrong sites, but certainly during the consultation period on the Island Plan, one got the impression it was really a presentation because, I mean, in my parish for example when we voted on whether we wished to approve the sites as put forward...

The Deputy of St. Peter:

I would agree the style was presentation seeking approval.

Deputy G.C.L. Baudains:

Yes, but in St. Clement's Parish Hall, it was unanimous, no we did not want this. I think that was reflected round the Island, so if the planners went down to consultation on that basis they would come back with nothing. How in future do we actually get land that we need through true consultation? Have you any views on that?

The Deputy of St. Peter:

One of the things that I would say is, going back to St. Peter again, we did not say no; we actually said 54 at that time. We actually agreed with them for the reasons I have already outlined. If we are looking at a process that will follow up on revisions of the Island Plan, what we are going to have to do is take on board, and I over-use these words, the big picture, because that is where the failing lies. Something might look very seductive on first view but unless you take the overall picture of what is going to happen if you do that, what complications are there going to be? You are going to end up with more Bel Royals.

Deputy G.C.L. Baudains:

Yes, so the planners should do more planning?

The Deputy of St. Peter:

Yes.

Deputy G.C.L. Baudains:

And long term planning.

The Deputy of St. Peter:

Yes, absolutely.

Deputy G.C.L. Baudains:

What are your views on area planning? This is a question we did put to the Minister some time ago. Because getting away, moving away from the zoned sites, the windfall sites where one house is knocked

down and 4 are built and things like that...

The Deputy of St. Peter:

I do not regard that as windfall, I regard that as an abuse, but that is a personal view.

Deputy G.C.L. Baudains:

Well, I was just wondering, you know, how you thought that fitted into the process?

The Deputy of St. Peter:

I think the point I made, that the developers seem keen enough to employ people to look at the current Island Plan on areas that are coloured white in order to maximise their return on their Island development. I do not think they have an interest in the welfare of Jersey.

Deputy G.C.L. Baudains:

Carrying on the same thing, do you think this could be achieved by, as you call it, the bigger picture? Looking at it in a slightly smaller scale area identifications of planning for an area as opposed to, I mean, the example I always give...

The Deputy of St. Peter:

I think we are moving now into fairly big, broad strategic views because before we go rushing around, looking at the number of houses we want to build, we have got to start looking at how many people we want on the Island and that is the chicken and egg bit, so before we start redesigning, do we want Jersey to be another, you know, Hong Kong? My answer is no and I do not think there are very many people here who do, even those that have come in to abuse our Island, if I can be as dramatic as that. Because they quite like what we have got here, I do not want to get to a point that they do not like it and go away.

Deputy G.C.L. Baudains:

What I am trying to achieve is obviously good quality planning so things that are not appropriate are not built.

The Deputy of St. Peter:

And good quality houses as well.

Deputy G.C.L. Baudains:

Of course the example I usually give is Samares Lane in St. Clement because I know it so well, where there have been, as you say, a number of developments on the white areas and the argument I would put forward is that if they all arrived simultaneously, I would imagine the planning authority would reject them, but they come one at a time.

The Deputy of St. Peter:

Death by stealth.

Deputy G.C.L. Baudains:

Each one is approved on its own merits. Do you think that is a correct way of going about planning, or whether one should have the overview of the whole area in to which that fits?

The Deputy of St. Peter:

If someone had taken an overview of the St. Clement problem some 25 years ago, we would not be where we are now. They did not and you are absolutely right, the piecemeal approach to development results in the destruction of a parish, or the complete changing of character of a parish, and I knew St. Clement quite well before I left to join the Royal Air Force and it is not the parish that I left by any shape, manner or form, and that has been through piecemeal development.

Deputy G.C.L. Baudains:

So we could improve the way the Island is developed with old buildings replaced with new ones. If not new ones by having a better structured process where planners are looking at the bigger picture more so than the detail of each individual house, for example.

The Deputy of St. Peter:

But I go back to the point that I made earlier; the important thing here is to take the strategic overview of where we want this Island to be. It is that, that is the driving force as to, you know, where and how development will continue in the future.

Deputy S. Power:

I mentioned cause and effect there, a few minutes ago when I was asking you whether if you were asked to directly attribute blame as to where St. Clement is, where St. Peter is, where St. Helier is, you said fairly quickly that you would attribute it to process. Given that there will be a review of the Island Plan 2002 fairly soon, in sections, where do you think the next wave of accommodation is going to come from? Because there are those who say that we are going to encourage 500 plus, essentially employed people to come in here, which may bring up to 2,000 people in. How do you think they will re-jig it so that the Island gives the yields on this type of accommodation that we need, and we are talking at the moment about there is a desperate need for starter homes and there is going to be a very like need for sheltered housing for our aging community. Where do you think the yield is going to come from?

The Deputy of St. Peter:

We, as a Chamber in the States, are going to have to make some fairly serious decisions soon, about where we want to be. Again, there is an awful lot of seduction that goes on. We need first time buyer homes, yes we do. We need first time buyer homes that do have a life beyond just being first time buyer

homes. The example I would give, in my own parish, is Ville de l'Eglise where houses were built down there, which were 3 bedroom houses with a garage, which is where the majority of the people would like to be. As families expanded, there was a facility, because of the nature of the site, the development, to add an extra bedroom if necessary, on top of the garage. This was done in some properties. The way we are developing now, we are not doing that. There is no big picture. When we design to minimum standards, that is exactly what we get and we know full well that the history of people living under minimum standards result in a huge number of social pressures. To encourage people, the first time buyer, to go into a one bedroom flat is like asking a couple to live in a hotel room facility for their first 3 or 4 years of married life. Well, it does not surprise me that we get so many break-ups in partnerships at early stages because you all need space, and what we are doing, we are designing out space and we do that at our peril.

Deputy S. Power:

Well, back to the planning process again.

Deputy R.C. Duhamel:

Right, well I think on those comments you have probably stopped us in our tracks. If there are no further questions, I would like to thank you on behalf of the Panel for all your comments and we will send you a copy of the transcript.

The Deputy of St. Peter:

Thank you for your time.