

STATES OF JERSEY

Corporate Services J.E.B. Sub-Panel

TUESDAY, 22nd APRIL 2008

Panel:

Deputy C.H. Egré of St. Peter (Chairman)
Connétable D.J. Murphy of Grouville (Vice-Chairman)
Deputy J.G. Reed of St. Ouen
Mr. R. Law (Adviser)

Witnesses:

Senator F.E. Cohen (The Minister for Planning and Environment)
Mr. P. Thorne (Director of Planning)

Deputy C.H. Egré of St. Peter (Chairman):

Welcome to the review panel looking into the setting up of the Jersey Enterprise Board. Last week we did talk to W.E.B. We talked to the Treasury Minister without David Flowers and also talked to the Chief Minister along with the Chief Executive. I believe you have had copies of our questions, and the normal rules apply to the way we ask and answer those questions. Right, so if we could start off with: can you see the proposed establishment of J.E.B. causing conflict with any decisions made by the Planning Department?

Senator F.E. Cohen (The Minister for Planning and Environment):

There should not be. It is important that there are not any conflicts and I cannot see why there should be a conflict, and that the proposed J.E.B. as the present W.E.B. is effectively the same as any other applicant. Now, clearly some of the issues or most of the issues they are dealing with are public interest issues, but providing you separate issues such as master planning from application decision making, then I cannot see that there should be a conflict in any way. But I think it is something that you have to keep a close eye on and to make sure that you do have the appropriate mechanisms of ensuring that at the point of application determination that very clearly there is an appropriate separation of all processes.

The Deputy of St. Peter:

What do you see as the main difference there between the role of W.E.B. and the new J.E.B.?

Senator F.E. Cohen:

Well, only that J.E.B. is effectively dealing with a larger portfolio and a larger area, but essentially I would regard the issues as being in principle the same.

Connétable D.J. Murphy of Grouville:

Yes. The picture we are building up here basically is that W.E.B. is being reversed into J.E.B. and continuing on its way but with its staff perhaps being paid by a different paymaster, I do not know. But I think where we are getting confused is the Property Services or Property Holdings, the delineation between Property Holdings and J.E.B. I am happy with the W.E.B. situation being ring-fenced, but is it a situation where Property Holdings are going to go and get planning permission and then pass it on? Is this how you see it? Or is it a situation they are going to pass the property over to J.E.B. who are then going to apply for a planning brief or a planning situation?

Senator F.E. Cohen:

I do not know the answer. All I can tell you is that from my perspective when dealing with any assets, the most appropriate way of dealing with them is for the States department to ascertain through the normal planning application and pre-application advice procedures the best value and most appropriate use of the site. I think we have very often seen that, for example, sites are put up for sale on the basis of expressions of interest without going through the mechanism of determining what the best use and, therefore, the best value of the site is. I have certainly been encouraging States departments, or in this case it would be a quasi States department, to go through that exercise prior to consideration of selling anything. It is not terribly difficult to go through the process of what is the best value for a site and to balance that with the best interests of the public before we go out and sell. So, whether it is J.E.B., W.E.B. or Property Holdings, I think the same system should apply.

The Connétable of Grouville:

What I am trying to get at, really, is the value. Where is the value going to be? Is the value going to be ...? Is the value going to be created ...? I am sorry, it probably is not your department, actually, I must admit, but I am just thinking along my own lines. Will the value of a planning permission accrue to Property Holdings or will it accrue to J.E.B.? Will it be passed? Because obviously there is an increase in value if you do get planning permission.

Senator F.E. Cohen:

I think it depends on who makes the application and who owns the asset.

The Connétable of Grouville:

Yes. Well, that is what we are trying to find out, how the assets are going to be transferred over or if they are going to be transferred over.

The Deputy of St. Peter:

Yes, I think we can clarify that this afternoon when we deal with the ...

The Connétable of Grouville:

It will probably be better this afternoon, but I just wanted to get to ...

Mr. P. Thorne:

Is it not clear in the report? My understanding in reading the report is that the Property Holdings will identify those properties which are surplus to States requirements and they will be passed over to the new J.E.B. and it is up to J.E.B. to speak to the Planning Department to find out what the possibilities are, the use, the yield, all those sort of things, normal planning advice if you like, and then they would make their applications accordingly.

The Connétable of Grouville:

So it would be creating more value in J.E.B. rather than in Property Holdings if you are going to allow them to do ... yes.

Mr. P. Thorne:

Well, I would think it is equal. Whoever makes the application to planning is going to achieve the uplift in value.

The Deputy of St. Peter:

But again we can test that this afternoon with the Minister for Treasury and Resources.

Senator F.E. Cohen:

From my perspective, I have no idea of how the split of ownership will operate. All I can tell you is whether it is J.E.B., W.E.B. or Property Holdings, they will get the same treatment.

The Deputy of St. Peter:

Yes, the "no idea" will do. Richard?

Mr. R. Law:

Minister, does your department have all the resources you require - in other words, within your direct control - to carry out all your necessary functions?

Senator F.E. Cohen:

Generally or in relation to J.E.B.?

Mr. R. Law:

No, I am saying generally because it is ...

Senator F.E. Cohen:

Generally. We are a significantly under-resourced department. We are a department that is not performing as I would like it to perform. We are a department of exceptionally good people frustrated in some cases by lack of resources and in other cases by perhaps a requirement to refine some of our processes. In relation to the J.E.B. issue, in that case you are dealing with predominantly, I would presume, large applications in terms of the Island. The best example of that, current example, is the Esplanade Quarter master plan and that has been a combination of predominantly work done by outside contractors - in the case of Hopkins Architects - with involvement of the Planning Department as and when required. So the Planning Department have provided the quantum in that case in association with other States departments, the creative work has been done by the Hopkins team, and the department have kept a watching brief on it. The department could not resource dealing with that master planning process internally. Firstly, we do not have the resources and, secondly, I do not think you would expect in a relatively small place like Jersey to have the necessary skills to deliver something of that quality that really is of international quality. When J.E.B., W.E.B. or whoever it is get on to East of Albert and La Collette, I would expect those principles to be applied. So, effectively, we are combining outside skills where appropriate and where we really could not cover them whatever our resources were, with a small dedicated team within the department that deals with that particular major application. So in the case of the Esplanade Quarter there is one officer who effectively deals with it all the time.

Mr. R. Law:

I should put my question into context, that I would have considered you to be unique when compared with the United Kingdom if you were fully resourced because it is the most common problem throughout all planning authorities to be able to resource themselves. When you say you bring in the skill, do I take it that you then engage, you contract to bring in whatever skills you need to support your function?

Senator F.E. Cohen:

Yes, that is right.

Mr. R. Law:

That would be a firm that are obviously not conflicted?

Senator F.E. Cohen:

Absolutely.

Mr. R. Law:

That is how you would do it?

Senator F.E. Cohen:

Absolutely.

Mr. R. Law:

I think I have seen elsewhere reference to the elements - and this is where I want help in understanding things - of work that has been carried out by W.E.B. and it seems to stem from what I would call control the quality of what materials and codes that would normally be in place, templates that you perhaps would normally have.

Senator F.E. Cohen:

Can you be specific in ...?

Mr. R. Law:

Well, I cannot give examples, but I suppose to illustrate my point it flows from maybe observations of the quality of what has been built elsewhere in the proximity of the Esplanade proposal.

Senator F.E. Cohen:

Okay, fine.

Mr. R. Law:

It is how one deals with what I would call your enforcement or control function. It is at that end of it rather than the planning application, the starting process.

Senator F.E. Cohen:

My view on that is that you have to get it right at the front end, not just at the back end. That was not very cleverly put, but you know what I mean. The poor quality we see on the waterfront is the result of having both the front end and the back end wrong. What I have tried to do, because I have not been dealing with the back end stuff yet, is to try and make sure we ratchet up hugely the front-end processes. I believe that the front-end processes are controlled to some extent, to a great extent, by the quality of the people creating the work and that is why I believe in this concentration on really good people, that if you engage the best the probability is - not always - that you will get out at the other end the very best. What you need to do is to ensure that they are empowered to make the right decisions for the Island and that you put in place a set of processes to ensure that their aspirations are not dumbed down. The example of that is to make sure that you go through from master planning to design coding to controlling the output through effective quality control mechanisms. That is what I am seeking to do

on the Esplanade Quarter and that is what I would seek to do with all significant planning applications, whether they come from J.E.B., W.E.B. or, indeed, a private applicant.

Mr. R. Law:

So those would be those detailed matters - so as I have this absolutely clear in my mind - which would be attached to the planning consent?

Senator F.E. Cohen:

Yes.

Mr. R. Law:

That level of detail would actually be, if you like, appended to it? Because you do not have the Section 106 agreements which I would be ...

Senator F.E. Cohen:

No, we do not, but we do have obligation agreements.

The Deputy of St. Peter:

Sorry, just to clarify there, you do have the equivalent of ...?

Mr. P. Thorne:

We have the equivalent of Section 106 and we have only had it for about 5 or 6 years, so it is not as mature as it is in the U.K. (United Kingdom).

Senator F.E. Cohen:

We can do quite a lot with it, but it is embryonic at the moment.

Deputy J.G. Reed of St. Ouen:

Can you explain what that is?

Senator F.E. Cohen:

That is a planning obligation agreement, so it can be a whole range of things from controls over the mechanisms of quality; it can be requirement to provide funding for a particular public project or public benefit; there is a huge range of things. But from my perspective, I am a great believer in good people and that is why on some planning applications I have required as a condition - and I know they do not work very well in the U.K. but I believe they will work well in Jersey - as a condition the retention of the architect, the commissioned architect, and that the work is completed to the satisfaction of that architect, in addition to all the requirements of the department, so you do not find that, for example,

great architects - as in the case of Richard MacCormac and the BBC - are engaged effectively in order to obtain a consent for a developer and then dumped at a later date in order to dumb down the project and make it less expensive. I am a great believer in that, that great people deliver great buildings and if you rely on them you will get them.

Mr. R. Law:

I understand, I find that really -- that is new to my experience. I find it interesting because if the architect is engaged by the developer, he is accountable for their charges.

Senator F.E. Cohen:

Absolutely.

Mr. R. Law:

One thing with architects is the design and fitting all those criteria, but there is another element to the development process which is the cost plan that flows from it. There is enormous tension certainly within the U.K. as between the cost - in other words translating design into reality - and many schemes are currently in some considerable difficulty for a combination of the point I am sharing with you and the fact that local authorities now have decided which element of BREEAM environmental standard and the codes that are applicable - in other words, ratcheting up the requirements for public realm, low cost housing - and it is a little out of balance. That is all I am saying, so I am just interested that you feel that that can deliver the result.

The Deputy of St. Peter:

Which brings me to the point, the philosophy behind what you have just described is very laudable but the question I would ask is do you see any level of interference coming from the new established J.E.B. with all its responsibilities in what you are trying to achieve?

Senator F.E. Cohen:

Well, actually, again based on the people, the approach that W.E.B. currently have - that is the new W.E.B. with the new W.E.B. people, and I stress that - they very positively contribute to formulating a mechanism to deliver exceptional quality. You only have to see that -- you only have to look at their work on the weighbridge to see the evidence of their commitment to delivering work of the highest quality. Now, the suggestions I am making and the additional conditions that I am applying to some of the major consents are in addition to all the other things that the Planning Department would normally do. We are not subordinating the role of control to the architect, for example. We are simply adding in another layer which increases the likelihood of delivering a building of the highest quality, that prevents us - turning it the other way round - repeating the mistakes of the past where we seem to have a record of delivering buildings if not of the lowest quality, certainly not of the quality that Islanders would like

and admire. That is about, for whatever the reason -- I am not saying it is the developer or the applicant's fault, for whatever reason that is about through the process of application and development being able or having to cut costs. It does not matter how you try and control that and what mechanisms you use, somehow or other we have got to move from a record of delivering poor quality buildings on the waterfront area to a record of producing buildings of the very highest quality. I think the current Esplanade Quarter master plan proposals, if they are delivered in the way we are presently proposing, will deliver a sea change in that area.

The Deputy of St. Ouen:

I would just like to follow on with your comments you have just made regarding control and W.E.B. specifically delivering a high quality end product. Are you not concerned that that is not replicated or might not be replicated from other private developers on this Island? If that is a concern, then would you not agree that it is a department control issue that is actually being flagged up here rather than the benefit of having J.E.B., W.E.B. or Uncle Tom Cobbly and all?

Senator F.E. Cohen:

Well, certainly W.E.B., J.E.B., whatever it is, should be trailblazing quality. There will always be developers, private developers, who will accept the message of better quality and better architecture and better delivery and there will be those who will not. There will be those who do not understand as well. We are certainly finding that at the moment. There are certain developers in the Island who have understood the call for better architecture and better quality buildings and are starting to deliver that, and there are others who do not understand it. What we need to do is to set in place examples of good schemes that not only have been completed to the standard that I am trying to deliver, but also have been completed profitably, and that is a key because if developers do not make money then they will not repeat it. We need to use those as examples to show others what we expect and we need to be vigilant in the department and effectively not let developers who wish to propose or complete poor quality schemes get away with it. Now, that is very difficult because it is very difficult, for example, to actually properly monitor conditions applied to a planning permit as the development progresses. They tend to get forgotten and there are lots of examples of that that I have seen. So the more you can get the front-end process right, the more chance you have of delivering something of quality and the less you have to rely on the back-end processes making up for failure at the front end. It is very easy, for example, when you look at a planning application at the point of determination to add in conditions to improve the quality. You can say things like: "I want the quality improved. I am conditioning the facades for the present", but actually converting that into a good building is not very easy.

The Deputy of St. Ouen:

If W.E.B. was not there and it was just the Planning Department was required to deal with just private developers, how would -- what would the Planning Department be required to do to improve their

control mechanisms?

Senator F.E. Cohen:

I think with this ...

Mr. P. Thorne:

This is back to the resource issue again which was mentioned before. I prefer to see the -- I mean, most of the work comes from the private sector anyway. We do not have W.E.B. or J.E.B. there. I prefer to see it, provided W.E.B. and the Planning Minister are basically following the same objectives, as another layer of control. You have a better chance of getting the guarantees of quality and so on that the Minister is talking about.

The Deputy of St. Peter:

Just reminding ourselves, what we are talking about here actually is not W.E.B. We are talking about the Jersey Enterprise Board and this is the new board that is up for proposition. So tied to that, what do you see as your role in the Regeneration Task Force?

Senator F.E. Cohen:

Mainly stimulating good master planning; that regeneration is primarily about master planning at a macro level and a micro level. Regeneration is various different tiers from master planning a huge area, as somebody is going to have to do with East of Albert ...

The Deputy of St. Peter:

But if I can just focus you down a little bit. Within the proposition itself there is a very definitive development of the Regeneration Task Force. What is your view of that?

Senator F.E. Cohen:

My view is that it is appropriate for the Planning Minister to be involved in the Regeneration Task Force because it is important that the Regeneration Task Force operates from the beginning of projects in a manner that will deliver good projects for the Island.

The Deputy of St. Peter:

But what do you see as their role directly tied to the Jersey Enterprise Board?

Senator F.E. Cohen:

The Regeneration Task Force?

The Deputy of St. Peter:

Mm hmm.

Senator F.E. Cohen:

Would be to ensure that J.E.B. delivers appropriate regeneration that fits into a grander scheme of things. It is the master planning grander scheme of things that I believe the Planning Minister should be inputting into all of these processes. Peter has something to add.

Mr. P. Thorne:

Well, there has to be a process of deciding what it is you are going to do in the regeneration and the Planning Minister's functions are not only about dealing with applications; they are about preparing planning policy as well. As far as regeneration is concerned, as certainly most of you will know we have commissioned and had produced a report, a strategy for regeneration for St. Helier. That is going through certain testing at the moment, in particular traffic testing, testing on the traffic model of certain proposals in that, but that is very much a planning function. That is one of the important reasons why the Minister should be on the Regeneration Task Force. There is also the issue of taking it forward and the advantage of the task force is in bringing together those main players and working, if you like, to the same agenda with the same priority in moving things forward. I see J.E.B.'s role there very much in terms of implementing whatever is in the strategy. That is their role in procuring development and ensuring development takes place. Our role in planning is basically to decide or at least propose what it is that we want to achieve.

Mr. R. Law:

You mentioned profitability and if I can just understand that better -- and I am using my experience of the U.K. that quality is the aspiration and sustainable schemes. In other words, I am looking at the scheme as opposed to a developer and making profit, and you want something that is viable and sustainable and that the whole life cycle costings will also be a fundamental element of sustainability. Now, the price for all of that is quite often within regeneration unable to be met from, if you like, the scheme, so we have the benefit of calling upon European funds *et al* to fill the gap. You do not have that in that sense of the word. You do not have that available, as I understand it. So how do you -- because it seems there is an enormous tension between the cost - and I am deliberately not bringing a developer into this - and getting your aspiration for quality. How do you manage that?

Senator F.E. Cohen:

Well, in a town sense the current rental values of offices, shops and the retail sale value of new residential accommodation in my view is sufficiently large to enable the department to insist and deliver high quality constructions. If you look at office rentals, we will talk in a range of £26.50 to £28.50 and possibly people are talking about new buildings now of the right standard of B.R.E.E.A.M. (British Research Establishment Environmental Assessment Method) excellent or in good locations up to £30 a

foot and capital values of £400, £500, £600 a foot, should enable us to deliver significant quality. When you look at the evidence we can see site costs of approximately £100, £120 a foot, and I can give you some evidence of that. There is plenty of meat left in there to deliver high quality construction and high quality profits for developers.

Mr. R. Law:

Yes, but what about public realm, the open spaces, the highways and the like?

Senator F.E. Cohen:

Well, you need to combine the 2 and that is what we have been doing with the Esplanade Quarter. We have been using the significant profits that the developer can potentially generate from the scheme to deliver not just public realm and highways but exceptional quality public realm and highways. That is the role of grander master planning. Now, on a lower level in terms of regeneration opportunities in smaller areas where you do not have this grand opportunity, clearly you are more limited. But there is evidence, if you look at areas like Broad Street, Charing Cross, which I was actually involved with, and York Street, to see that relatively small public investment in regeneration does tend to deliver significant results. As an example, the simple application of a granite-paved piazza, some public sculpture and some -- a number of art projects regenerated the York Street/Charing Cross area and still today, if you talk to the retailers in that area, that was the turning point for them. So you end up with better profitability for retailers, better land and property values for a relatively small amount of money. That, of course, has at its core the economic success of the Island, and if the Island is succeeding economically then the reality is that the land values and sale values do tend to support better quality schemes. We are fortunate we are in that period.

Mr. R. Law:

So you are, as a Planning Department, therefore, confident of the viability?

Senator F.E. Cohen:

Yes.

Mr. R. Law:

Certainly the scheme that I was privileged to see the launch of clearly demonstrated that.

Senator F.E. Cohen:

Yes. Also remember - and we must be careful not to spend it 10 times - but remember that we do for the first time have the potential of a significant capital sum, being £50 million guaranteed and possibly another £25 million cash through overage, that we can scatter about in order to stimulate regeneration. Now, the big caveat is you can only spend it once and everybody will be trying to get their share of it,

but if we are prudent with it and responsible it can have very significant impact on regeneration.

Mr. R. Law:

May I put to you just one point there? It is if the scheme delivers in the way that there is the overage, because experience now is that there are quite a number of schemes that were coming to completion 2 and 3 years ago that were not achieving the trigger point for overage.

Senator F.E. Cohen:

That is why I would concentrate on the £50 million.

Mr. R. Law:

Now, of course, we have a much more difficult problem because most of the profit, if I can use the word loosely, in a mixed-use scheme was coming from residential and the massing of that delivered the best return. That day has gone in the main.

Senator F.E. Cohen:

Well, I would comment firstly ...

Mr. R. Law:

In the U.K. I am not -- all my remarks relate to the U.K. experience. In other words, the market has turned quite savagely.

Senator F.E. Cohen:

Yes. Well, I would comment in 2 ways. Firstly, I concentrate on the £50 million, which as I understand it would be bank guaranteed, although I have not seen the deal. That is a private arrangement between Waterfront Enterprise Board and the developer, but I am told, as have all other States Members, that they have or they will have a bank guarantee for £50 million. So the way I look at it is you have got £50 million and with a bit of luck you may get some more. As far as the trickle down effect, as far as I am aware we have not seen evidence yet of a slackening off of demand for good residential in Jersey. Now, I cannot tell you it will not happen, but we are in, to a certain extent, a unique economy in relation to demand and supply of residential accommodation.

The Deputy of St. Peter:

Just again to clarify a point in my own mind because we were talking about planning issues, regeneration and the detail of that regeneration, from a general perspective what I am seeing is the development of the Regeneration Task Force and the establishment of J.E.B. as the facilitator to the policies set by the task force. How confident do you think or what conflict do you think there could be in the role of J.E.B. against what you are trying to achieve?

Senator F.E. Cohen:

If it is properly set up with the right people administering it, I do not think there should be a conflict because we are dealing with 2 very simple terms and I think you are better off to try and keep it as simple as possible. The Planning Minister's role is front-end master planning and then testing and application against that master plan. That is the ideal role and, therefore, there should not be a conflict. If you keep the Planning Minister's involvement to those 2 areas and do not tinker between the 2, then there should not be a conflict.

The Deputy of St. Peter:

But is there any dilution in the role of the Planning Minister in relation to his role as being one member of the task force along with another 4?

Senator F.E. Cohen:

Well, I suppose that if you end up in a position where the Planning Minister's obligation to master plan in the interests of the Island is compromised by the other members, then yes, but it is up to the structures to make sure that the Planning Minister does not get watered down and that the Planning Minister's view on master planning prevails. I do think we need a concentration on master planning. I am no master planning expert but I have learnt in the last 2 years the advantage of actually creating a clean sheet of paper and properly recognising the issues that surround master planning, instead of the past where we do a little bit and do a little bit and then try and work out what to do with the bit in the middle.

The Deputy of St. Peter:

I think you have clarified my point. I know James is trying to get a question in.

The Deputy of St. Ouen:

No, it was basically to look at how you are aiming to maintain your independence. You have put a lot of emphasis on individual people and the reliance on those people in enabling you to deliver a particular plan or result. However, we are all well aware that people change and certainly past experience has shown that difficulties were created due in part to certain individuals and related to W.E.B. and the conflict that developed between the Planning Department and W.E.B. So I am struggling to understand how we can ensure that that system does not happen, but I would like to go on to the master planning because I think that there are a lot of gaps that -- and we sort of jumped the gun perhaps in looking at proposals to regenerate St. Helier when we are presently reviewing Island plans, we have not seen a regeneration strategy, we have not gone through and finalised everything in that area. Perhaps maybe you could help me to understand how do you see the stepped process and progress towards ultimately a company or individual developing a regeneration of St. Helier or elsewhere?

Senator F.E. Cohen:

Well, firstly, as far as the criticism of the way we are doing things, you are absolutely right, we are doing things very often back to front. But that is simply because of the circumstances in which we find ourselves. We should have been master planning the whole of St. Helier before we started master planning the Esplanade Quarter, but the fact is that there were schemes on the table when I got the job that did not deliver the best for our community and I was not able to say: "Stop for 5 years while we master plan the rest of the town." I was only able to say: "Look, stop for a while and hopefully we will be able to deliver something better for everybody." It would have been better if the EDAW work, East of Albert, Esplanade Quarter master planning and La Collette had all been done before we laid a brick or a block or a piece of granite. But you have to deal with the practical conditions on the ground and there is no alternative to that.

Mr. P. Thorne:

The intention, though, is to bring them together in the Island Plan, which is currently being reviewed at the moment, and hopefully once those projects are consolidated into the broader picture for the Island and the States has agreed an Island Plan we will have something which will say: "Well, look, this is the policy that everybody is following."

The Connétable of Grouville:

We are talking master planning and several times in our discussions with the Treasury Minister and the Chief Minister the question of J.E.B. going East of Albert came into the conversation. Have you got that -- have you thought about it? Have you given it any direction? Have you ...?

Senator F.E. Cohen:

Yes. I have a very firm view. My view on this is very specific and that is that the Planning Minister should direct the master planning of East of Albert. Now, whether that is paid for by J.E.B. or whether it is paid for by planning or it is paid for by somebody else, the actual appointment and brief should be laid down by the Planning Minister, not by J.E.B., W.E.B. or whoever else it happens to be.

The Connétable of Grouville:

Even though you would possibly have to be doing joint enterprises with the existing landowners?

Senator F.E. Cohen:

Well, we would not have to do anything. It is planning.

The Connétable of Grouville:

No, I am saying that the overall plan would obviously include land that is not owned by the States at the moment, East of Albert. There would have to be some give and take perhaps.

Senator F.E. Cohen:

Our job would be to set down the brief and to ensure that the best people were commissioned to do the job.

The Connétable of Grouville:

Okay, in the best traditions of: “No surrender, we will do it our way”? Right, okay, I have got it.

Senator F.E. Cohen:

If you do not establish that principle you have got compromise from the start and I think it is absolutely key. You may be lucky and get away with it if you do it another way, but I think you reduce the likelihood of planning having laid down a competent master plan.

The Connétable of Grouville:

Very reassuring.

The Deputy of St. Peter:

You mention again the current master plan and the revision of the Island plan. Also, in talking to Property Holdings, they are developing their strategic plan for property. How premature do you think it is to be looking to establish J.E.B. when you actually have not got those 2 foundations in place yet?

Senator F.E. Cohen:

I think you can always delay and you can always find a reason to delay. There is always a better way of doing things because you are never actually starting at the beginning, if that makes any sense. You are starting in the middle. I think that the people at W.E.B. who will be the people at J.E.B. are good and they are committed to the Island, they understand for the first time what the Island wants and I think they should be given a chance. Whereas the timing may not be ideal if you took an holistic view of the whole, I think it is the best we can do.

Mr. R. Law:

But you say W.E.B., good people, now doing a good job, and we have seen some of the product of that last week. Why J.E.B.? Why is J.E.B. necessary?

Senator F.E. Cohen:

Because J.E.B. will take on a larger role with a larger portfolio and enable the corporate to take a more holistic view of the objectives of the Island.

Mr. R. Law:

But you mentioned that very clearly at the start, but just as a new lease of life was given to W.E.B. by extending it for 10 years, it could also be given a new lease of activity and geography footprint as well. Is it not easier? All I am putting to you is that there is a structure that is delivering. Clearly your view is that it is doing a good job and yet it seems that -- you know, why is it necessary to have a J.E.B. when you just changed W.E.B. to J.E.B.?

Senator F.E. Cohen:

I am not sure that is really a question for the Planning Minister to answer.

Mr. R. Law:

No, I am just getting your view because you are very clear about the functionality and the quality of the people and that, and I apologise if I have expressed my question ...

The Deputy of St. Peter:

I think the position you are being put in is that you actually are being nominated within the project as being part of the strategic group that will be setting the policy, so based on that I think the question is valid.

Senator F.E. Cohen:

Well, I would say that the change from W.E.B. to J.E.B. without the framework that goes around it I think is good in its own right because I think a name change will do them good and I think it is a shame it is not more than one letter. **[Laughter]** There is a difficult history with W.E.B., as one of your questions alludes to. W.E.B. in the past, as I understand it - remember I was not in politics at the time - have not understood what the Planning Department and the States as a whole wanted. I think that is the source of the tension, historic tension, between the 2. When I got the job and took over with my very different ideas, it certainly made matters a lot worse. But out of that has come a refreshing new body and for that reason alone I think a change is warranted. How extensive that change is to some extent is down to you chaps, but the principle of a change I think is a jolly good idea. Shame it is only one letter.

The Deputy of St. Ouen:

What input have you actually had in the current proposition to establish Jersey Enterprise Board?

Senator F.E. Cohen:

Other than ensuring that the Planning Minister's role is protected, not a lot.

The Deputy of St. Peter:

How is that going to be assured?

Senator F.E. Cohen:

Simply by making certain that the Planning Minister is involved at master planning stage and the Planning Minister retains the ability to determine applications. When the Planning Minister is determining an application he is testing a J.E.B., W.E.B. or whatever proposal in the same way as Joe Bloggs' proposal.

The Deputy of St. Peter:

If I could just put a scenario to you which worries me slightly, here we have an outward looking Planning Minister sitting on the Regeneration Task Force that is overseeing the whole of the role of J.E.B. That task force comes up with a proposition which he is not really too happy with, so he goes away and still has the responsibility of determining that planning application. Is there not a conflict there?

Senator F.E. Cohen:

I think that if he is not happy with the proposal I think you know the likely direction the determination would go. It will be important for a Planning Minister, whoever it is, to make clear his views at the embryonic stage, at the master planning stage, to ensure that those who are delivering do not go off in the wrong direction and produce something that is likely not to meet with the Minister's approval when it comes to the point of determination. To a great extent the proof of the pudding is in the Esplanade Quarter where that is the process that has been going on, where you have got all this mix of different people, all actually somehow or other working together. If you tried to break it down, you would probably find 100 different reasons why it should not be as it is but it is working well. It is just a matter of having common aspirations. If your aspirations clash, you are better off to know it at the front end.

The Connétable of Grouville:

I think you are covered there, Minister, if I can just say so. I have a letter here from the Chief Minister's Department in April and the new company would have 3 major roles: 1, 2: "Implementing and co-ordinating the development for the whole of St. Helier Waterfront including the greater harbour area of La Collette in accordance with approved development plans and other relevant guidance prepared by the Minister for Planning and Environment." So that puts you right at the top of the tree, I think, as regards decision making.

Senator F.E. Cohen:

Yes, providing we are sure ...

Mr. P. Thorne:

And the planning function.

Senator F.E. Cohen:

Providing we are sure that that is not diluted and the Planning Minister does direct the master planning.

The Connétable of Grouville:

Well, this is what it says here so you can take it from us you are in charge.

The Deputy of St. Peter:

This Regeneration Task Force, though, it would appear to be a fairly important group in regard to the way the Jersey Enterprise Board will operate.

Senator F.E. Cohen:

At a political level, yes.

The Deputy of St. Peter:

Yes. How is that going to be established? Is it going to be on a voting system or does the task force come up with a proposition and the Planning Minister says: "Yes, I want" and the other 3 say: "No" and ...?

Senator F.E. Cohen:

Well, I presume that the way you would work an organisation, an operation like that ...

The Deputy of St. Peter:

Just to summarise, perhaps what I am after ...

Senator F.E. Cohen:

I do not know whether it is a vote. I do not know that.

The Deputy of St. Peter:

Perhaps what I am saying, is there a terms of reference for the Regeneration Task Force?

Senator F.E. Cohen:

Not at the present that I am aware of. Not a specific terms of reference that will cover the areas that will be of concern to all.

The Deputy of St. Peter:

Do you feel that terms of reference should be available before this projet goes through bearing in mind the role that the Regeneration Task Force has been given?

Senator F.E. Cohen:

I think that you can develop a more formal terms of reference ...

The Deputy of St. Peter:

But you refer to a more formal; it would appear we do not have one.

Senator F.E. Cohen:

Well, I think there was an implied terms of reference. Would you not, Pete?

Mr. P. Thorne:

Yes, I would go along with the view there, there probably needs to be something a little bit more explicit, certainly as far as decision making is concerned vis-à-vis the separate departmental responsibilities.

Senator F.E. Cohen:

You see, going back just a tiny bit, you know, you said is there going to be a vote. Well, if the master planning is going to be under the effective direction of the Planning Minister, as I believe it should be, there is not actually much point in having a vote because if the Planning Minister is against and the others are all in favour, you end up going in a direction that is going to deliver one thing, which is a refusal. So I am not sure that a voting structure would ever work. You have to have a commonality of purpose.

The Deputy of St. Peter:

That is understood. I think the view that I would take at the moment is that if the terms of reference are not specifically laid down for an organisation that is going to sit overseeing the role of the new development of ...

The Connétable of Grouville:

Would you agree that we are talking really benevolent dictatorship here?

Senator F.E. Cohen:

No, you are talking about the statutory obligation of a Planning Minister to provide master planning direction.

The Connétable of Grouville:

I agree. It is certainly black and white here that you are in charge and that is it. As long as the dictatorship is benevolent then there is no problem.

Senator F.E. Cohen:

Basically, it is about getting the right chap to make the decision.

The Connétable of Grouville:

Yes.

Senator F.E. Cohen:

However much you surround the process, if you have the wrong chap you are going to get poor decisions.

The Deputy of St. Ouen:

In the report accompanying the proposition to establish Jersey Enterprise Board, it suggests that the Regeneration Task Force would provide clear terms of reference including a planning remit to Jersey Enterprise Board. What in your view is the responsibility of the Planning Department in that area and do you see any conflict in, if you like, 2 different bodies delivering or responsible for planning remit?

Senator F.E. Cohen:

Well, what you are really talking about there is a combination of master planning and development briefs and that is the perfectly normal process that the Planning Minister and the Planning Department operate under. Whether it be in relation to a private developer or public development, you set it out in a brief and you expect the body to deliver it in some form or another. You test the delivery against the brief. Now, as I have made very clear, my limited experience with briefs, development briefs, in Jersey is that they often do not -- or from what I have seen they often do not work to the advantage of the department and actually work to the advantage of the applicant. What they tend to do is to establish a line from which the applicant tries to negotiate, and I have often said that some of the applications I have had to deal with I wish I had not been constrained by a previously agreed development brief. I think again it is just about getting the processes right of starting at the beginning properly, with making the right decision at the beginning when you set out the policy in relation to a particular area of development and ensuring that you stick to the principles right the way through. I do not think that is a conflict.

The Deputy of St. Ouen:

Is it not the case, though, that it is a planning responsibility to determine use of a particular site, property or land ...?

Senator F.E. Cohen:

It can be.

The Deputy of St. Ouen:

... and it should not be driven by developer or owner?

Senator F.E. Cohen:

Well, it is not.

Mr. P. Thorne:

But surely paragraph 3(2) of the report actually addresses that issue, where it says that J.E.B. will need to agree with the Minister for Planning the use, specifically, but I think by extension it will deal with other planning related matters as well, probably in the form of a development brief which the Minister will issue.

The Deputy of St. Ouen:

I was just looking at experience to date and looking at the waterfront obviously because that is current. It was quite clear that a decision was made by the States to develop a use for the site, development and use for that area, and over a period of time the uses have changed, the boundaries have changed. We are also aware -- we are told that one of the main roles of W.E.B. is to maximise return to shareholders. Obviously there is a desire to produce the best return for a site. Now, what I am trying to understand - but maybe you can explain - is how you balance return, maximising return for a piece of land, to actually meeting the requirements of the master plan and the planning requirements?

Senator F.E. Cohen:

Well, let us take as an example, because it is current, the Esplanade Quarter. There we have Planning Department, other States departments involved, and we have Waterfront Enterprise Board and a private developer. So the developers are the Waterfront Enterprise Board and the private developer. The quantum and mixes have been specified by the Planning Department having taken advice from other relevant States departments. So we have taken advice on retail quantum, on residential quantum, on office quantum. We also have taken advice from Transport and Technical Services in relation to traffic and the traffic implications. So the department takes all that advice, it sets down the quantum and those are the quantum upon which the development brief or the master plan is constructed. If the developer wishes to change those, it is up to the developer to make a proposal and the Planning Minister or the planning applications panels if it happens to be them will consider that against the established brief. So, for example, if, let us say, presently there is 400 apartments proposed in the Esplanade Quarter master plan, that will be what we are expecting to be delivered. If suddenly the developer says: "Well, actually, there is only demand for 5 apartments, I want to drop 395" we will then consider that against the master plan and determine whether or not it is in the interests of the Island to agree to that modification. The principle of setting the quantum in the first place is that if the developer complies with the master plan quantum and other issues in the master plan, they would have a reasonable expectation of getting a

consent. If they want to vary it, they have no expectation of getting a consent.

The Deputy of St. Peter:

This is a process that you would see being replicated in J.E.B.?

Senator F.E. Cohen:

Absolutely. Yes, absolutely. Remember that J.E.B. will not be dealing only with huge applications; it will also be dealing with smaller things, fitting smaller projects into the overall framework of the town. You are not going to go to the same detail in laying down the development brief requirements or master planning requirements in small applications as you will for large ones, but you certainly expect to see a similar process for East of Albert, for La Collette, et cetera.

The Deputy of St. Peter:

With the Jersey Enterprise Board any part of the Island that was in ownership of the States?

Senator F.E. Cohen:

Yes.

The Deputy of St. Peter:

Dan?

The Connétable of Grouville:

No, I have said it.

The Deputy of St. Peter:

Okay. Richard?

Mr. R. Law:

No.

The Deputy of St. Peter:

Gentlemen, time has moved on. I like to try and keep to my timings. We are one minute early. Is there anything you want to sort of add to what you have said so far?

Senator F.E. Cohen:

Is there a drink? [Laughter]

The Deputy of St. Peter:

That is a very good question and I see your water is still in front of you. Anyway, I now declare the meeting as formally closed and thank you for your honest and open answers.

Senator F.E. Cohen:

Thank you very much.

Mr. P. Thorne:

Thank you.