

STATES OF JERSEY

Committee of Inquiry Fields 848, 851 and 853, Bel Royal, St. Lawrence

THURSDAY, 24th APRIL 2008

Committee:

Mrs. C.E. Canavan (Chairman)

Mr. D.J. Watkins

Mr. R.P. Kemble

Witness:

Mr. P. Thorne (Director of Planning)

Clerk to Committee:

Mrs. J Bell-Cook

Mrs. C.E. Canavan (Chairman):

I think it is probably right for me to do the formal introductions at this stage. Thank you very much for attending. The committee comprises David Watkins, Peter Kemble, Jacqueline Bell-Cook, who is the clerk to the committee, and myself, Carol Canavan. I just want to give you a brief explanation as to how we are dealing with this process. The events surrounding this application have obviously been going on for quite a long time, dating back to 1996 up to date. You can imagine that there is a huge amount of paperwork that has been involved. We have had sight of all the planning files. We have asked for and received written submissions from various parties, and you can take it that the committee has read all the documentation. So the purpose of these hearings today and tomorrow is not for people to come along and go through information that we have already had because otherwise we would never ever finish. What the committee has done is we have gone through all the paperwork and, as you have seen from Senator Cohen's questions, we have given lists of questions to appropriate witnesses, because it would have been impossible for witnesses such as possibly Mr. Thorne and Mr. Corfield to come along to this inquiry cold without knowing the answer to the questions. We would have probably wasted far more time while people went back to look at the files again. The fact that if one particular aspect of the whole inquiry is not mentioned in these 2 days it is not because we have ignored it, it is because the information that we have was sufficient for our purposes and it has not led to any further questions. We are not taking any questions from the floor but if anything arises from the evidence that is given that has not been commented on by any party then we will give you the opportunity to write into us within the next 10 days to give your side of the particular comment or query or whatever. We are going to try and stick to our questions as far as possible but if anything does arise then obviously we will ask as we go along. I think that is all I need to say at the moment, so we will move on to Mr. Thorne. Mr. Thorne, can you please tell us whether you were a member of the department in 2001/2002 when the Island Plan was being reviewed.

Mr. P. Thorne (Director of Planning):

Yes, I was. I should perhaps make it clear that the process of preparing the 2002 Island Plan started earlier than 2001. It was initially run from within the department and it was in 2001 that we employed

consultants to produce the issues report, which I think was published in 2002, and the consultation draft and the final draft of the Island Plan, but I was involved in the process, yes.

Mrs. C.E. Canavan:

So you were involved in the consideration of the sites for rezoning?

Mr. P. Thorne:

Because of my role I led an internal departmental steering group which comprised principally of the policy team of the department who, as I said, in the initial stages we were doing it in-house, so a lot of the ground work, if you like, was done within the department. I was not personally directly involved in the detailed technical assessment of the sites, or indeed the consultation with the various departments and the utilities. I did visit all the sites prior to publication of the consultation draft of the plan and I was obviously involved in reading through, editing the various draft reports that were prepared, both for the consultation draft of the plan and for the final plan.

Mrs. C.E. Canavan:

Picking up something you said there; why was it decided that it needed to go out to external consultants?

Mr. P. Thorne:

There was a reason. We hoped that we could have culled out the time and opportunity within the department to be able to produce the plan in-house. I mean, clearly we have considerable knowledge of the local situation. In the event, while we started along that road and we got to the first stage of identifying the issues and meetings with stakeholders and that sort of thing, we were simply being pulled in different directions because of other work, and a conscious decision was made that we could not handle the rest of the work. So we appointed consultants through a competitive process, looking for a rounded practice with multidisciplinary practice to help us with the later stages, the second half, virtually, of the planning preparation process.

Mr. R.P. Kemble:

Can I just say, in essence it is a staff shortage basically?

Mr. P. Thorne:

Yes. There is insufficient capacity, if you like, to sustain a major piece of work over a long period because other things arise and we do get pulled in different directions. I should say, in terms of my involvement, I was also present at the St. Lawrence public meeting that was held on the consultation draft of the plan in June or July 2001, together with Deputy Layzell who was the committee vice-president at the time and Mr. Geoff Webber of WS Atkins, the consultants, so I was present when the public meeting was held on the sites at St. Lawrence.

Mrs. C.E. Canavan:

As far as the process for rezoning going to the States, I mean at that time what were your thoughts on the conclusions and how the debate was run?

Mr. P. Thorne:

Within the States itself, you mean?

Mrs. C.E. Canavan:

Within the States.

Mr. P. Thorne:

I have to say, I do not or did not find the process either in 2002, when it was debated, or indeed in 1987

when the previous one had been debated wholly satisfactory. Both of those plans were produced under the 1964 Planning Law which did not even make it a requirement that there should be a development plan. It gave the option to the committee of the day to produce the plan as it so wished. In terms of processing the procedures, the basic process is that we will have an intended spatial strategy for the plan, so we, for example, will be looking to exploit any capacity of existing services or ensure that new development takes place close to schools when it is generating demand for schools, on bus routes, that sort of thing. There is spatial strategy in the Island Plan which lists the various criteria that we use. As I am sure you appreciate, we get approaches from land owners to consider their sites for development. So there is an internal process, if you like, of ranking the sites that we are aware of or have identified as potentially suitable sites, and ranking them, effectively, against the criteria so that on the one hand we identify a need for housing in a specific context of housing, and then we have a rank list of sites which we can promote to meet those needs. That is simplistically expressed but that is essentially the process that is gone through. It is the same process that is gone through wherever development plans of this sort are produced. I think the law did not help us. It did not prescribe procedures for engagement with the public. We went through a process of public consultation with certainly a static exhibition of the proposals which was we rented some premises on the Esplanade to display those for a month. In that period we also did the 12 parishes on the parish road show, as it colloquially was called. But I do not find that a wholly satisfactory process for trying to bottom out the issues. It is a way of getting across that there is a plan in the offing and people have the opportunity of responding to those proposals in writing and obviously in public meetings. You may know we are reviewing the Island Plan with a view to a new one replacing it probably next year. We now have the 2000 Planning Law in beam and that is a little more prescriptive in the way in which the Island Plan should be produced. It makes it, for example, a statutory requirement for there to be a plan, the Minister must bring a plan forward at least every 10 years. In reality I am sure it will be more often than that, as things change. It also makes the requirement for the proposals to be formally publicised for a process for written representations to be made, but most importantly, and the Minister alluded to it earlier, a formal process for the hearing of those representations in public. What we anticipate is an examination in public, which is a process that is tried and tested, certainly in the United Kingdom and I think in France as well they have something very similar, where the substantive and controversial issues can be fully explored and considered objectively, and in depth where necessary. I think that will bring a far greater rigour into the process of consultation on the plan, and this would be conducted, I should say, by an independent person, probably a planning inspector borrowed from the U.K. (United Kingdom), to hear the representations, to ask questions, to call for evidence, more information, whatever is necessary to ensure that the plan at the end of the day is sound and suitable to go forward to the States for adoption.

Mrs. C.E. Canavan:

Who would make the final decision to put the proposed land areas to the States?

Mr. P. Thorne:

That is the Minister. The law requires it to be the Minister. This process of rezoning through a development plan is the only legal method for designation of land. I do not think there is a problem with that. In this unitary authority with the States of Jersey, that is really the only effective way that we can do it. I think it is appropriate the States adopt the plan rather than the Minister, but the Minister has the responsibility of preparing the plan and putting it forward to the States in a proposition.

Mrs. C.E. Canavan:

As far as the States adopting, in a perfect world from now on, as happened last time there were 56 Members who debated each site and whether or not it should be rezoned. I mean, is that what is going to happen if this new process comes in?

Mr. P. Thorne:

I am sure it will because the States Assembly will debate things as the States debates things. But, hopefully, the process leading up to the proposition going to the States will have had this more objective, more thorough assessment of the proposals being put forward. I do not think the examination in public will necessarily replace the parish meetings; I am sure they will be held, that is the local way. But hopefully this very objective, open, transparent, public process will improve people's understanding of what has been put forward and why it has been put forward, and hopefully the fact that it has been assessed objectively will carry some weight when it is eventually debated in the States.

Mrs. C.E. Canavan:

Can you just - if you can answer the question - explain to us how land is rezoned in the U.K.? Who makes the decisions in various areas?

Mr. P. Thorne:

At a local planning authority level the process is very similar but because the U.K., for example, is a multi-tiered hierarchy of governmental bodies, the local authority is working within a much tighter context. There are national policies to be adhered to in the preparation of local plans, including regional ones in recent years, which have to be considered. Those national and regional policy guidelines will set the target for homes in a particular area and, effectively, the local authority responsible for part of that area will decide whether their allocation is going to be met. So at that local authority level the process is pretty similar to what we do at South Hill in producing a draft plan. They have an examination in public and, as I say, that is the model that we are hoping to follow. But that process is more to assist the Secretary of State, or his department at Whitehall, to approve or otherwise the plan as [it conforms] to the national and regional guidelines. At a local level it is a very similar process. They go through the same processes of draft plan consultation and so on and it will be debated by a local council.

Mrs. C.E. Canavan:

Going back to the original States debate, we have seen a report that was prepared by the department for States Members which was attached to the proposition to approve the Island Plan. Would this have been the only documentation provided to the States Members at that time?

Mr. P. Thorne:

No. The States Members had had copies and hard copies of the consultation draft of the plan in 2001, I think for your information there was no proposition or anything, and after we had been through the process of consultation, and Professor McAuslan had come in and considered the representations, the committee reviewed the plan, made certain changes, and put forward a draft plan, same sort of thing. I have not got copies with me [and] I do not know whether you have seen those. There is an inch and a half of paper with the draft policies in and so on which were lodged with that project. Also the States Members would have had various amendments that were submitted by the committee itself and also by individual Members. One other thing, there was also a presentation to States Members held in the States Chamber, I remember, with the consultants and the committee present, and myself, and I was explaining to States Members in an informal way what the plan involved.

Mrs. C.E. Canavan:

Did they all visit the sites or was that a choice?

Mr. P. Thorne:

The Members did not; the committee members did. We drove, many of us, around the Island for a day. That process was done well before the final proposition because the Members were involved in assessing the suitability of the sites as well, perhaps more from a political angle than a technical angle. No, there was no organised visit for States Members to the various sites that were put forward, but no doubt Members had particular interest in different areas and so on, so would have been aware of the

project in their own constituencies.

Mrs. C.E. Canavan:

Following on from a certain thing Senator Cohen said this morning about the number of houses; at the time when you were involved where the figure 97 was mentioned in the Island Plan, what did that mean to you? Was that an absolute figure?

Mr. P. Thorne:

No, and it was not expressed as an absolute figure. In fact it was recognised in the plan as it was, indeed subsequently in the development brief, that depending on the mix of housing and the types of housing there could be some variation to those figures. I do not agree with what the Minister had to say that we can get away without indicating some yield from the sites. This is the first question people ask. There is a pink blob on a plan, draft that. How many houses are going on there is the first question asked. From our point of view in doing any sort of technical assessment prior to putting the site forward, we have to have some idea of what the yield is likely to be. You cannot test the impact of schools and traffic and that sort of thing without knowing how many people are going to be living on a site within a broad range.

Mrs. C.E. Canavan:

Connétable Fisher lodged a proposition in April 2006 requesting the Minister to bring a proposition to amend the number of houses to be built on the site. He had to do that because the Island Plan had mentioned 97, did it not? It said approximately 97, but in order to make it the highest figure of 97 the Island Plan had to be amended.

Mr. P. Thorne:

No, that is not my reading on it. There is an indication in the plan, in the brief, and clearly because it is in the Island Plan it becomes a material consideration where the Minister considers any application, or the committee before the Minister. As I recall, I cannot remember the precise wording of Constable Fisher's proposition, it was to reduce the numbers of houses to, presumably reduce the impact of the development on the area. Clearly, and specifically your question has been forwarded to me, any Member of the States at any time could bring a proposition of that nature either to reduce the numbers, to delete the site from the Island Plan, for example, which frankly I suspect was the view that was held by the Constable in that area. They, fundamentally, were opposed to development. They were concerned about the scale ... not just about the scale but also development per se on that. Maybe that is unreasonable but that is the view I had on what they were saying. Certainly I think were a Member to bring a proposition, for example, to these early sites to remove the designation, they are entitled to do it. It has never happened before, at least not to my recollection I do not recall it happening before. I wonder whether there might be issues raised were the States to designate a site and then subsequently de-designate it, particularly in a relatively short period of time when there was clearly an intention on the part of people who bought the site because of the zoning, whether there might be legal issues that would arise, possible compensation, that sort of thing, because people are acting in good faith on the basis of the designation the States have brought. That fortunately is not something that has yet been tested.

Mrs. C.E. Canavan:

During the feasibility study at the site, the famous "no comment" was returned from the Health Department. The first question on that point: are replies which are as basic as that usually accepted or would there be any onus on the department to make further inquiry?

Mr. P. Thorne:

The purpose of consulting them in the first place is to recognise that they are experts in certain areas and

for them to look at sites and make some form of assessment on whether there are likely to be any health, in the broad sense, environment health issues; noise, pollution, whatever it might be. As you probably know, the consultation with the department was on all the sites that were being considered and there were 15 sites at the consultation draft stage put forward. My understanding is that on 6 of those sites they replied “no comment” presumably, and it was not unreasonable for us to infer from that they had no comment to make. Equally, on the other 9 they made comments and for us we can infer that if they had had comments they would have made them. So, it is not unusual. It is simply a statement: “We have no comment to make from our professional perspective.”

Mrs. C.E. Canavan:

The committee at the time commented on the Professor’s report by saying: “There has always been an issue regarding the level of detailed work which was undertaken prior to the recommendation of the sites, the extent of this work was deliberately constrained in order to avoid the sites being presented as a fait accompli in advance of public consultation.” Could you perhaps explain what was meant by that word “constrained” in its context?

Mr. P. Thorne:

Frankly, I am not sure that constrained necessarily conveys what they intended it to mean. I take it to mean that the technical feasibility study that is done by us before they put a site forward for development must be sufficient to establish a site can be developed physically. It is not necessary at that stage, prior to designation, and others may take a different view, but my view is we know that a site can be developed technically, and it is reasonable to put forward. It is not necessary to establish in detail every issue that might arise technically is going to be addressed, but only to provide the solutions for those problems at that stage. Indeed, unless the States itself is the developer, which it was not on any of these sites, frankly the detail of the technical feasibility, addressing the problems, how the issues are going to be resolved, is a matter for the developer not for the department. Again, there is a resource issue there. Clearly we do not have the capacity to produce the solutions to some of the technical problems that arise. That onus is very much on the developer.

Mrs. C.E. Canavan:

The Professor suggested that parish impact assessments should be carried out in St. Clements, St. Lawrence and St. Saviour before rezoning in the various sites. The committee’s comment was: “The committee has instructed the Island Plan consultants to carry out detailed studies of areas where larger housing sites or concentration of sites has been proposed.” Was that ever carried out?

Mr. P. Thorne:

Not really. McAuslan also raised the question of equity; in fact, he wrote quite a bit about the equity, or inequity perhaps, of concentrating development in certain parts of the Island, and specifically he named St. Clements and St. Saviour in addition to St. Lawrence as the 3 examples where there had been a lot of representations made about the amount of development generally that was being targeted for those areas or being proposed for those areas. The committee responded to that first, if you like, by taking a view on this point, and certainly in both St. Clements and St. Lawrence, I am trying to think whether they did in St. Saviour. No, they did not. They left the site field subsequently and were defeated in St. Saviours but it is certainly in St. Clements and St. Lawrence. They took out from the consultation draft down to the final draft from the States and there was a site proposed in St. Lawrence behind Bel Royal School, to the south of River Ho which was nowhere near as big as the site that is subject to this inquiry but, nevertheless, a sizeable site. The residents of the area had made a number of representations; 250-odd out of 600 representations related to housing and impact of housing in particular areas, and the committee responded to that point by withdrawing the sites from those areas. So, first of all, they reduced the concentration in the areas. I cannot remember why we did not but clearly the committee finally adopted a plan. It must have been supported at the approach. Prior to the final drafting of the

plan, the 2002 draft, we did produce detailed feasibility studies, review of the studies on the basis that the sites were being taken out, but there were not area studies as such because the concentrations that were developed had been reduced, or the committee was prepared to reduce them. I am aware that the committee did direct throughout the consultants but frankly, I cannot remember. Roger might be able to answer but frankly I cannot remember why we did not do it. I suspect it was to do with reducing the concentrations.

Mrs. C. Canavan:

As far as the noise issue is concerned, would you have expected your consultants to have picked that up on this site?

Mr. P. Thorne:

Not necessarily. Clearly, they visited the site but unless they encountered noise coming from the Jersey Steel Company premises, they may not have realised what was going on, on that site. I have to say from that the consultants obviously relied on the knowledge of local people involved in the planning process. We have never had any complaints or become aware of any complaints from residents in the area of Jersey Steel. That is not to say they might go making complaints to other people but we were not aware of any complaints from adjoining residents. We were aware of problems with access to Jersey Steel through other land and so on but not any noise issues.

Mrs. C. Canavan:

That is still the case today, is it?

Mr. P. Thorne:

I am not aware of any complaints that have been made to the Planning Department.

Mrs. C. Canavan:

To the Planning Department.

Mr. P. Thorne:

Mind you, there is a special nuisance law now. It is conceivable if there were complaints, they would go to the Health and Protection Department.

Mrs. C. Canavan:

Again, with regards to this site, do you feel that sufficient work was done to address the practical problems which were identified - the traffic, schools, flooding - before it was rezoned that is, not after?

Mr. P. Thorne:

Yes, I do. We relied on consultations we had done internally on those various matters, T.T.S. (Transport and Technical Services) for traffic and study, Education Department for schools, the Environmental Department was part of planning the environment any way, so our colleagues on the environment side were involved to a degree in the process. I come back to what I said before. I think what we need to do before we propose the site is to satisfy ourselves that it can be developed because it can create problems. I know if the situation changes with schooling subsequently over the 3 or 4 years before the applications were made, at least we are ready to consider, just as an example. I think at that time, in the early part of 2002, and those further technical studies that were undertaken, we have done what was reasonable to satisfy ourselves that the sites could be developed. On this particular site, of course, we saw an opportunity through planning obligations to address other problems that already existed in the area. The drainage at the marsh, for example, not drainage of the marsh, but the pumping station going in to overcome the problems of flooding in the marsh from water coming down St. Peters Valley and that is essentially caused by backing up when the flap is shut and the water backs up at high tide and

high rainfall conditions.

Mrs. C. Canavan:

Is it usual for a draft development brief to be put up for consultation with the developer and interested parties?

Mr. P. Thorne:

It is unorthodox, I would agree. It was consistently done over the 11 sites that were eventually sold. That was the approach we adopted. Primarily, we did not have the resources within the department to produce drawings to show how the sites could be developed, so what we decided to do was to produce a draft brief because the developers were interested in all these sites, the site agreements, the pre-contract agreements with the various owners. There were developers and architects on board for nearly all of the sites, so we were able to produce a draft to ask them to interpret the draft and obviously they will put their own wishes in there. We would use that as the basis for the public consultation. Unorthodox certainly and not the way I would do it now, frankly. My suggestion is not dissimilar from the Minister's, although I think there is a necessity for briefs in that they should probably be in a more outlined form and included in the Island Plan with an illustration, something which conveys something other than a few paragraphs in a text, what the development is going to look like, how big it is going to be, that sort of thing. I think if we can put that in the plan, we can roll up the consultation into the plan. People have a clear idea of what is proposed any way and then the consultation will be confined then to the application process after the plan has been adopted.

Mrs. C. Canavan:

The other sites that were rezoned at the same time, the development briefs went out for each of the sites?

Mr. P. Thorne:

They were all done in the same way, yes.

Mrs. C. Canavan:

One of the questions that has arisen recently with regard to the drafts of these briefs is that the developer was given a copy of a brief in February 2003, which you do not need to refer to if you do not want to. It is document 48 which did stipulate 162 possible houses but when the brief was finalised, there was no mention of any number in the final brief. Perhaps it is a question for Mr. Corfield, but do you know whether or not there was any explanation to the developer between the 162 figure and then no figure in the brief?

Mr. P. Thorne:

I am sure Roger Corfield will be able to give a detailed answer to that. I am not sure, frankly, but what I do know is that the policy - I forget the number - in the plan talks about optimising the development yield. Certainly our objective in the department, not necessarily the committee, was if we were zoning land and we had a specific target, the more efficient use we could make of the land that was zoned the better. If we put lower densities in, then if we are going to meet our targets we need to take more land to meet the target. That does not mean maximising the densities but optimising, perhaps in the sense that you obviously go for the most that is appropriate in the particular circumstances of the site. I have seen a document which was produced internally which says that if 90 habitable rooms to the acre is a density guideline you could achieve 162, or whatever the figure was, and that a more common density, most of the sites have worked out at around about 60 to 65 habitable rooms to the acre, the sites that are identified subsequently come out of that sort of rate. The figure of 97 or thereabouts would have been the appropriate yield of that density. I forget exactly how the 97 was expressed; whether it was 97 homes for sale or whether it was 97 3-bedroom homes. We measure densities, as Mr. Kemble will know, in terms of how many homes to the acre which gives an indication of the likely number of

occupants on any piece of land. Of course, people can live in one-bedroom flats or they can live in 5-bedroom houses and so, the total number, the absolute number, is not that relevant. It is the number of people and the likely comings and goings, the amount of waste they create and all those sorts of things which is the effective determinant from a planning point of view. That is why we put the figures into the brief indicatively. I am assuming now 97 3-bedroom houses would be appropriate but it could be 120 2-bedroom houses or it might be fewer 4-bedroom houses but we do not know and it is necessarily the case that we should be prescribing in absolute terms what the maximum homes on a site should be because the private types ... the developer, will take a view of the market, albeit the market that is constrained to one's first-time buyers and social rented housing, but he will take a view on whether the amount of first-time buyers of homes is a mix of 2s and 3s and the social renting might be some smaller units, ordinary houses. While we put guides on the basis of the Housing Department's advice on the sort of mix that they would feel comfortable with, it is not a prescriptive process. That is why the figures are not absolute and it is why the briefs are not prescriptive. Although they clearly guide, they do not prescribe in absolute terms that there should be so many houses of a particular type. It is basically indicating the guides are a brief indicator to the developer of the sort of thing we would like to see them put forward that we think is appropriate. The fact of the matter, of course, is they went for the higher level density and they interpret the brief at 150 dwellings, I think it was, and subsequently applied for 140 as a formal application and obviously the process of consultation whittled those numbers down eventually to 102.

Mrs. C. Canavan:

The development brief itself, when it was signed off, was approved and signed off by the Planning Sub-Committee and not the full committee as was required in the plan. Can you explain what happened there?

Mr. P. Thorne:

It was early on. We had a change in committee only about a month before and Deputy Le Fondré resigned and Senator Ozouf replaced him as the President of the Committee. It was at a time when we were a totally new committee ... sorry, not a new committee but we were 3 members that came from Deputy Ryan's committee. There were new members on the committee and a new President. As I understand it and as I recall it because I remember Senator Ozouf asked me to deal with it, we had a scheduled meeting with the Planning Sub-Committee and an application was made on 4th May and the other members of the committee were invited to come along to that to sign off the Development Brief. In the event, for whatever reason, those members did not turn up but the Planning Sub-Committee made the decision. The brief had already been to the former committee's meeting, which I think was in February, and effectively I cannot say exactly whether it was agreed or not, it would not have been agreed because there was still an agreement outstanding, but certainly they considered it. That is where the issue of there being a technical seminar was raised and the Planning Sub-Committee agreed the brief. Effectively, it might have been delegated, I suppose, to the Planning Sub-Committee and any other members of the full committee turned up to that meeting, although there is not any decision to record that. It was just an off-the-cuff decision, I think, taken by Senator Ozouf. Normally it is for the committee. Ordinarily, it would not be a matter for the Planning Sub-Committee but the new President at that time was thinking of rejigging the way the committee operated any way. He was thinking of splitting the policy functions and this was the Environmental Public Services Committee, so they had all the T.T.S. responsibilities as well. It was a much bigger portfolio. It was effectively treated as the Planning Sub-Committee and was dealing with planning matters of significant policy matters and the run off of that, which I think he called the Policy Sub-Committee, it was effectively taking the decisions on T.T.S. work and major planning policy work. In this particular instance, I recall the President asked to let the other members know it was going to be discussed at the Planning Sub-Committee on 4th May and they were welcome to come along at the end of that meeting and make the decision. In respect of your question number 19 - I do not know if you have moved on to that or not - the decision of the sub-

committee did not change by 11th May. The Planning Sub-Committee - and I was only checking the minute yesterday - did take into account; they approved the brief effectively, subject to they would be in the technical seminar later in the year, but there was not any additional information required to agree with it. The purpose of the technical seminar was they were asking the developers to take a lead there, to bring their experts along to explain to the public in their area. They were clearly still very concerned about the issues of flooding and traffic in particular. There were other issues, the schools and so on, but the technical seminar, I think the idea came from Deputy Le Fondré, who was the previous President and obviously one of the Deputies of St. Lawrence, and he was particularly aware of the concerns of the residents clearly. So back in February, when he was still President, that is when it was decided there would be a technical seminar but the Planning Sub-Committee in the agreement brief were not aware of that. They had sufficient information to agree the brief but the technical seminar was essentially to try and allay the fears of the residents of the area and they were given the opportunity of talking to the experts, if you like, in the traffic and flooding areas so that they had little to fear.

Mrs. C. Canavan:

The wording of the noise issue in the development brief says that the funnelling measures are to be considered. From a planning point of view, what does that mean?

Mr. P. Thorne:

At the time, this was effectively after Health Protection had come out with the sarcasm and said: "Work and development" or words to that effect because of the potential noise disturbance. Clearly, the developer was aware of that. We put into the draft brief potential mitigation measures of bunds, planting and that sort of thing, but I think the developer would have been under no illusions that he was to sort out this problem to the satisfaction of the Health Protection Department. It is not a question of an option or a command. It was just one of those he had to go through to get his permission at the end of the day and there was absolutely no illusions on the developer's part that he would need to address this, not to our satisfaction but to the satisfaction of the Health Department.

Mrs. C. Canavan:

Presumably, alongside the written documentation, there were quite often meetings between the developer and the department?

Mr. P. Thorne:

Certainly we would have advised them of the responses we were getting and that sort of thing because I interpreted the brief at the outset; they were effectively coming in and they needed to know. They were part of the process. Roger Corfield is much closer to that than I was and he will, I am sure, have chapter and verse on exactly what happened if you require it. They would have been made aware and may well have been metered, so I am not sure. They probably were metered on a couple of occasions that I had meetings with them, obviously involved in meetings with them on various aspects of the development.

Mrs. C. Canavan:

The fact that the decision on the design brief was made by the sub-committee rather than the full committee, was that ever discussed as a flaw in the process?

Mr. P. Thorne:

No, I do not believe it was a flaw in the process. The committee itself had the opportunity to say: "Well, look, we set that aside. We were not all there." If it was a committee meeting, it would not have quorum with 3 members, so implicitly, if not explicitly, the committee was satisfied that the brief had been adopted appropriately.

Mrs. C. Canavan:

Were there any practice guidelines at the time which needed to be followed for the sub-committee on decisions on the development?

Mr. P. Thorne:

Not really. The Planning Sub-Committee primarily was there to determine applications. The fact we had a Planning Sub-Committee at all, that was their main *raison d'être*. As I say, we were in this period of a change. I think there were those that had only been there a month or so and he was trying to approach the way we managed this portfolio in a different way, as I was saying before. It was clear that the people who were present on 4th May have the authority of the President and nothing else to make that decision on the committee's behalf. It is interesting that the 3 members who were the Planning Sub-Committee were the 3 members who had come across from the previous committee, Deputy Hill and Deputy Taylor and I forget the other one, sorry. It is recorded in the minutes any way but they were the 3 members who were common to the February decision and the May decision.

Mrs. C. Canavan:

The next one calls for a personal opinion on your part. Following the decision to rezone, what do you think caused the problems on this site?

Mr. P. Thorne:

Clearly, there had been opposition to development of the land any way. That had come through in the consultation on the consultation draft. That is recorded in the minutes and, as I have already mentioned, there was a sort of underlying fear that there should not be any development. I think there were 2 issues primarily and I think the principal one was that the developer interpreted the brief at the maximum development yield. So in the local public's mind's eye, they were expecting 97 and all of a sudden here was a proposal coming forward for 150, a 50 per cent increase, if you like, in the yield. I suspect that really was what elevated this as an issue, as a bigger issue. I think there is another factor, and Deputy Le Fondré would not mind me saying it, one of the problems we had, and it is one of my suggestions for doing things differently in the future, the Island Plan in 2002 was adopted in July of an election year. We had elections in the autumn and we had a significant number of Members in the new States which started in December 2002 and I sensed it with Members who came along to the Environment and Public Services Committee. There was no sense of ownership. Certainly, Members felt free, new Members felt free, to disagree with the States adopted plan because they were party to its preparation and adoption. As I say, I encountered it perhaps closer to home than on the sideline, this is where we have Members appealing the planning applications and so on. The States agreed, like: "You know, I do not think that is the right thing to do" and that led to issues. I am sure that same thing happened, and I hope Deputy Le Fondré will not mind me saying so, but that was probably the case in St. Lawrence as it was in other parts of the Island as well. We had Deputy Gorst coming in from St. Clements for example and took us in the line that seemed not to accept. I can understand why; I am not criticising. It was just a change in circumstances and these Members came and felt that all the States agreed: "This is the new States, and we feel we have the right to challenge some of the decisions that were made." I think that commendation, in fact, was probably what elevated this as the new Chairman complained in St. Clements. The only 2 sites that really became very controversial ... and, interestingly, we had 2 other sites of similar size, the Mont a L'Abbe site, there were objections to it but there was a more measured response: "How can we ensure that it does not damage the local area too much?" Similarly, there was a large site at St. Peter inside the yield where there was not the same sort of public opposition or political opposition. It just indicates, I think, that in different areas, for whatever reasons, there was not a consistent opposition along all the sites we put forward. People do not like things necessarily but they respond in different ways to it.

Mrs. C. Canavan:

Other than the factors, the suggestions you have made so far, is there anything else that you think could

have been done to better the process?

Mr. P. Thorne:

I think we have timed the current review to get a draft out at the end of this election year, to be debated by the new States in the New Year, so at least we have the 3 year-term and numbers on side and planning ownership in that. I think the new procedures, which we have already talked about, the examination in public, the greater rigour in the assessment before a plan is adopted, will make a substantial difference. The zoning of land is always going to be a controversial process. People fear change. In many cases, a fear of the unknown but people do not like change; particularly they do not like it on their doorstep. We have a difficult job in trying to find sites to meet the Island's housing and other development needs but principally housing. Against the background of people not wanting development, there is always going to be this sort of issue and there is always opposition. It is just a question of how intense it is. I think if we can take some of the emotion out of the process with a more rigorous objection examination in public hopefully that will improve the situation.

Mrs. C. Canavan:

Do you believe the late arrival on the scene of Health Protection has caused major delays and problems on the site?

Mr. P. Thorne:

Yes, I do and I am not altogether happy that their position changed from one of no comment in 2001, whenever it was, to making requirements in excess of best practice in other places. We seem to have gone from a situation in a relatively short period of time where there did not seem to be an issue, and that was the view we took into account prior to zoning, to sort of ratcheting up the requirements that have to be met. It is not satisfactory from our point of view because we obviously rely on the advice we get from the various departments and for there to be a fundamental shift in the view of a department, having relied on their first view, made life difficult, extended the process and created a great deal of frustration, I am sure, for the developer and indeed for the Planning Department.

Mrs. C. Canavan:

We have probably already covered the next question. It is the design development brief. You have said it should be more flexible in the future but at the time of this development brief, again from your point of view, was it a flexible document or was it too detailed?

Mr. P. Thorne:

I think all the briefs are too detailed. As I have said before, I think we would be better off going for a less detailed outline brief which conveys sufficiently to people what is required, and the developer; not just the local public, make it part of the plan. So instead of the 2 or 3 paragraphs that we had as a description of each site, [it would be better] to show drawings and perhaps an illustration of what the development could look like. I know there is a resource issue there but frankly, if we had a resource at the time, we would have saved a hell of a lot of time later and it could have been used more productively on other things.

Mrs. C. Canavan:

With hindsight, do you think there were problems with the planning process in general during this period or just with this application?

Mr. P. Thorne:

I think in part I have answered that. I do not think there were problems with the process itself. I think the process of the briefs was longwinded. They tried to do too much I think. There was a common element to all the briefs which was talking about changes in the standards for open space and car parks

and those sorts of things on various sites, which would ordinarily be covered by other documents the department put out anyway, so it was unnecessary, I think, to burden the briefs of a particular site with all this general information. That said, those other documents were out of date in the department at the time and that was the prime reason for trying to put them in to make the changes towards updated standards. There was too much in them. The developers know what they are about and the advisers they have. We know what they are about, as long as the public are aware of what the issues are and how the development is likely to turn out, which pieces of landscape we keep, where the houses are going to be, this sort of thing. It is far more important to portray the landscape as opposed to the subsequent stage after the plan has been adopted.

Mrs. C. Canavan:

There have been criticisms of the procedure on the grounds that one member of the Planning Department was too involved in all stages of the process, including the rezoning and the application itself. Can you explain to us what the usual procedure is when you allocate sites or developments such as this to officers' [caseloads]?

Mr. P. Thorne:

Can I say first of all, I do not accept the criticisms that were made [at the time]. They were made publicly and unreasonably and they impugn the integrity of an officer whose work on this development has been exemplary and his general work is of a high standard. He is one of my better members of staff. I think it is most unfortunate the Constable, certainly in the first public meeting when the application was considered, made these comments. I have to say that was the approach we adopted. We took the view that the person had produced a brief - and would no more than any other planner in the department - of the specific site conditions and so on; it made sense for that person to see the application through. You mentioned whether there are any general problems in 2001. We did have some particular resource problems in development control at that time and our normal applications processing team and I think to take on these large items would have just totally disrupted the normal application channel through the department. Roger Corfield has probably spent 2 and a half years of his career dealing with this site in terms of full-time work and you simply cannot handle that and the normal development control casework. We made a decision at the time that made sense on these level sites for the person who produced the brief to see it through. In nearly all cases, that happened. One site I think, or possibly 2 sites, changed simply because staff had moved on to other things and we had to put somebody else on to it. In most cases, the person who did the brief dealt with the application.

Mrs. C. Canavan:

What happens in those situations? Are the reports of the officers signed off? Does somebody look over his shoulder to see what is going on all the time?

Mr. P. Thorne:

Not all the time. Roger Corfield is a senior professional in the department with 30-odd years experience in planning, so it is not as though we are holding the hand of somebody who does not know what they are doing, but we do not rely equally on somebody just dealing with it themselves. Certainly when reports come forward for a committee or a panel or a Minister these days, they are signed off; they are endorsed by a more senior officer, and they are all in the department now. Certainly the mandate is that they have to be signed off by myself, by Peter Le Gresley, the Assistant Director dealing with applications, or the Chief Officer. On this particular site, I signed off the 129 houses application, the ministerial report that Roger Corfield had produced. I was not present for the second one, the 102, but I suspect Paul Nichols, the Chief Officer at the time, had signed that.

Mrs. C. Canavan:

When the second officer signs off, can he suggest amendments?

Mr. P. Thorne:

Yes. It is not just a question of putting a signature on the bottom of a report. You read the report and if you disagree with it you will speak to the person who has produced the report and agree what the changes may be or maybe not agree. Rank can be pulled in those situations. I have to say I saw the other reports for the second application and I thought they were exemplary reports and I do not think I have ever seen reports on applications as thorough and as detailed addressing all the concerns as the 2 reports produced on those 2 applications.

Mrs. C. Canavan:

The scrutiny panel carried out a report. Have any amendments been made to policy or procedure following that report with regard to development briefs?

Mr. P. Thorne:

Not as such. There was not really a policy before. We made a decision in the department effectively how we were going to do them but I think lessons have been learnt. The Ministers, some have learnt lessons and I made suggestions about the length of the briefs, the detail in them, and possibly we can approach things differently. I think the advantage of what I am suggesting, particularly with the more rigorous process for adopting the plan, or prior to adopting the plan, is we will make the process simpler. On this particular site, there was consultation on the Island Plan, there was a draft Island Plan although it was not a public consultation exercise, there was the interpretation of a brief, there was the application for 140 homes, an application for 129 homes, an application for 102 homes. There were 6, possibly 7 points at which public consultation could have taken place and, frankly, it is overkill. It simply was not necessary for that many stages and it confused people, created suspicion. It simply was not necessary to go through all those stages and I have to say, when we produced the consultation draft of the plan, we had not intended that the production of briefs would necessarily be a public consultation process. Interestingly, it was in the St. Lawrence meeting, the parish meeting I referred to earlier, in response to a question from the floor, would there be consultation on the development brief, that Deputy Layzell effectively committed us to go through a process of public consultation on.

Mrs. C. Canavan:

You will know that it has been said by the parishioners in St. Lawrence that they were consulted and they were ignored. Do you have any comment on that statement?

Mr. P. Thorne:

Yes, several. Firstly, it is a comment we often get when people's views apparently are not taken into account in making decisions. As I say, the normal application process, now that has gone open, we get people now much more aware that their concerns are taken into account. They may not get what they are asking for at the end of the day, but they are certainly not ignored. In this case, they clearly were not ignored. Had they been ignored, we probably would not have had such a long process of consultation and the various stages we have gone through. There were several episodes of consultation when things were taken into account. They were always fully answered and addressed, the points that were raised and indeed, amendments were made to proposals largely as a result of those consultation exercises. What you put in quotations there in the question is something we often get when people do not get the outcome they were looking for. It does not mean they were ignored. It simply means they were taken into account but perhaps were not of sufficient weight or whatever to cause a change or a decision they wanted.

Mrs. C. Canavan:

The criticism with regard to the date of the actual decision, do you have anything to add to what Senator Cohen said this morning?

Mr. P. Thorne:

Not really. The meeting was held on 20th March. He obviously slept on it. He said at the public meeting he was not going to make the decision then but Roger Corfield advised me that the Minister had told him the following day: "I am going to approve this. Can you produce the conditions?" and the fact that there were so many conditions is one of the reasons that it took some time. There were a lot of complex issues in there. The Minister had indicated, as he did to you this morning, that he was prepared to allow development under certain constraints which meant he would oppose conditions put on the application to deal with issues prior to the planning obligation agreement being signed and that is one of the reasons there are so many conditions. A lot of those were effectively discharged by the fact the planning obligation agreement has now been signed and there are conditions that you were given by Senator Cohen that will demonstrate that, I am sure. Apart from that, no, I have nothing to add. Just to confirm that 31st March is when the third party appeals came into force, but just for your information really, that was the effective date.

Mrs. C. Canavan:

Do you know when that decision was conveyed to the developer, or is that a relevant question?

Mr. P. Thorne:

I understand really from what the Minister has told me, he mailed local representatives, the Constables and the Deputies, within a few days or mentioned it in the States on both possibly, and we will have obviously advised the developer that, subject to a detailed draft of the conditions, the Minister had agreed the application for 102 homes.

Mrs. C. Canavan:

The question we have asked previously about the development being so far advanced without the planning obligation agreement being signed, together with another question on that, is it usual for a planning obligation agreement to have so many conditions? Was this a usual case?

Mr. P. Thorne:

It was a large, complicated application in the Jersey context. It is unusual to have that many conditions certainly, but then not all applications raise the same number of issues. I have explained the fact that the planning obligation agreement had not been signed at that stage - in fact it has only been signed in recent weeks as I understand it - it was necessary to deal with some of those issues with conditions, things like temporary drainage and so on and releasing tranches of the work before that agreement had been signed. A development to go so far in advance of the planning obligation agreement being signed is unusual but it is not unknown. The Minister mentioned the West View development at St. Martin for example [which was] a slightly different issue there. We granted permission, issued permission on the advice of the Grand Officers because we knew that the agreement that the developer had with the owner of the land was coming to an end and that they wanted to renegotiate it at twice the price. In the interests of those seeking to buy first-time buyer houses, passing on another £50,000, or whatever the figure was, was not achieving the objective of providing affordable homes for first-time buyers and we took a view from the then Solicitor General, and she said she thought in the circumstances, it was reasonable and can be justified to issue the permit with caveats in there. The first condition required the planning obligation agreement to be signed in, I forget the period, but a certain period of time and it put the onus on the developer to agree the planning obligation agreement. There are other instances I am aware of; The Boathouse redevelopment at St. Aubin for example. The planning obligation there was only signed quite recently and the development has been opened 2 years. There are certain lawyers that do take time sometimes to take a previous agreement to fruition.

Mrs. C. Canavan:

Just out of curiosity, in those cases then, taking The Boathouse as an example you have just given us, where it is up and running, what happens if that planning obligation agreement cannot be agreed? I suppose it relates to the conditions.

Mr. P. Thorne:

It is a fair question because the planning obligation agreement is a bilateral agreement. They might simply refuse to do it at the end of the day. It is really a question of taking a view on whether you are reasonably certain that things are going to come in. The planning obligation agreement on The Boathouse, for example, required the payment of a sum of money to assist in the provision of parking facilities in the St. Aubin area and, although the agreement was not signed, we already had a cheque in the bank in escrow at Treasury. So the commitment had been honoured, if you like, even though the formal agreement had not been signed. Here on the Bel Royal site, we knew and we have the safeguards in place to ensure the developer could not benefit from the development through occupation and selling off and so on until the agreement was signed, even though he was able to get on with it and build. One of the factors the Minister did not mention, there was the very real concern that the developer was going to have to lay off quite a large number of tradesmen and they had been banking on this development coming in at a certain stage and it had been delayed and they had no work for obviously not all of the workforce but a number of their workforce.

Mrs. C. Canavan:

Can you add any more about the legal situation with regard to Le Perquage?

Mr. P. Thorne:

Frankly, I did not know about it until I saw the question. I was only talking to Roger Corfield yesterday when I became aware of what it was but it is certainly not a planning matter.

Mrs. C. Canavan:

Again, this is probably a very general question. There are a substantial amount of conditions on the planning permit. Is that usual?

Mr. P. Thorne:

It is unusual to have that many conditions but it is not unknown. There have been developments, perhaps not quite so many, but this, as I said, is a large development in a difficult local context. A number of those conditions were imposed to cover the absence of a signed agreement which was an unusual factor in itself but, nevertheless, that was a reason for a number of those conditions. Frankly, the nature of conditions on planning permissions is there are certain tests covering their reasonableness and so on, and, of course, their ability. They were put on here to deal with the various issues. Drainage, for example, the next question about fundamental issues of drainage; a number of drainage issues on there. The temporary attenuation permit, attenuation of the pumping station for the marsh, when that comes in, what work to be done to procure that and so on. They are covering all those little details which, had the planning obligation agreement been signed off quickly, could have been dealt with, I am sure, through that process rather than through conditions. In the absence of that agreement, they have to be dealt with by conditions and that contributes to the time taken between the Minister making his decision to the conditions being drafted and printed and sent out to the applicant, and indeed to the people who have made representations.

Mrs. C. Canavan:

The document the Minister gave us this morning about the outstanding conditions, which we will need to go through; it says the following conditions have been overtaken, on the second page. Could you explain what that means?

Mr. P. Thorne:

Frankly no [I can't], because I have not read that document.

Mrs. C. Canavan:

Perhaps I could leave that for Mr. Corfield. If Mr. Thorne cannot answer it, we will leave it. If it is your area, we will deal with it when we come to it. We do have specific questions on the tree situation. Is that something that you are familiar with?

Mr. P. Thorne:

I know of it, certainly. Fire away; if I can answer, I will.

Mrs. C. Canavan:

Obviously we will deal with this with the proper people as well. We understand there was a report commissioned in April 2007 from Dr. Young with regard to protected birds on the adjacent site which was published in June. We also understand that permission was given to fell the trees before that report was published. Is that correct?

Mr. P. Thorne:

Yes. The permission to fell the trees was implicit in the planning permission that had been granted. It was necessary to create the access for the visibility splays and so on. The report was produced subsequently when there were complaints about the felling of the trees. The Minister at some point in time, I cannot remember exactly when, designated them or protected them which created a contradiction clearly because there was permission to fell them and a later decision to protect them. There were clearly concerns about the felling of trees in the nesting season. I have not read that report but I think it addressed those sorts of issues. That is about as much as I know of the tree situation.

Mrs. C. Canavan:

During the application, was consideration given to the wildlife or the Article 6 in it or was that overlooked?

Mr. P. Thorne:

I am not sure it is wholly relevant that we are talking [about] the law. We would presumably have regard to if there were known habitats, that sort of thing; we would take those into account in the application process. There were certainly requirements for replacing trees that were lost or were intended to be felled.

Mrs. C. Canavan:

As far as the other bits and pieces, I think we will deal with Mr. Corfield on them.

Mr. D. Watkins:

Just a general question on the department and the way they look at planning. Once a site is in the Island Plan, do you feel it is incumbent on your motivation, your authority to deliver that site, i.e. to deal with all the problems or whatever because you have to deliver it? Is that what the motivation is to make the site happen?

Mr. P. Thorne:

Up to a point, yes because we have designated the land for a particular purpose and part of our remit is to ensure that the Island is developed to meet its legitimate requirements. As I said at the outset, the process of rezoning land is first to know what it is you are looking for; how many homes, what type, tenure and so on. What we try to do is look at built-up areas first to try and meet the requirements but if it becomes necessary to go beyond the built-up areas into green fields, then we will have to do it that

way. I do think we feel as though we are on a mission to make things happen but we have an obligation to an applicant to deal with applications in a timely manner. Obviously, an application for a development like this raises a lot of issues. It is not going to be dealt with quickly but we should not unduly delay things. If we do achieve, one of the criteria we do use in looking at what sites are suitable is their likelihood of coming into development because it is pointless rezoning land if the owners are not willing to come forward. We know then that it is not going to happen; there are going to be delays. If we were adamant they have to go ahead, we are probably going to have to use compulsory purchase and it is not necessarily the best way to go. We are pragmatic to the extent that we recognise it makes sense to zone fields as land that people are likely to want to develop. It is part of our objective to ensure there is adequate housing on the Island, adequate industrial space; that is part of our responsibility as the Planning Authority, to ensure the infrastructure is there, if you like, to meet society's and the economy's needs.

Mr. D. Watkins:

Thank you.

Mrs. C. Canavan:

Once again, we did advertise that Mr. Corfield will start at 10.30 a.m. I do not think it makes much difference but I think procedurally we ought to wait until 10.30 a.m. before we start with him.