

# 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

**Witnesses:**

Mr. R. Corfield (Planning and Environment Department)

**Clerk to Committee:**

Mrs. J. Bell-Cook

**Mrs. C. Canavan (Chairman):**

For the benefit of the people who have joined us since we started this morning, I will just briefly go over the explanation of the process the committee has adopted in this. You will all appreciate there is a vast amount of paperwork. We have seen the planning files. We have had written submissions and from our point of view, the purpose of these hearings is not for people to sit and tell us everything all over again, which is why we have compiled a list of questions of information that we still require. The fact that we might not ask a question about an individual topic or issue does not mean to say we have ignored it. It is just that as far as we are concerned we have sufficient on that. I did say this morning that we are not taking questions from the floor and that still remains the case but I also said we would allow people to comment on matters that are new that have been raised. I think this afternoon, if we do have time, we would ask the parish representatives to make any comments if you can on what has been said that you have not covered. If you do not want to do that this afternoon or you cannot, then by all means submit it in writing, and that applies to everybody, but I think we will probably finish early enough this afternoon for us to deal with it. It will then be on tape, so everybody will know what is said. Mr. Corfield, thank you for coming. I am sorry, but obviously you are the one that has to answer the most questions, nothing personal, but you are the one that has been involved with the application all along. Can we first go back to 1996 when the site was rejected because of issues such as traffic. Can you explain why the site was resurrected and what the difference was between the traffic issues in 1996 and when it was resurrected?

**Mr. R. Corfield (Planning and Environment Department):**

The first thing I would say, I think the premise for this question is not entirely correct, because the 1987 Island Plan effectively identified the whole of the Bel Royal Beaumont area for a study requiring a development plan, and it was that planning study that was put on hold in 1996, not the particular site, it was that planning study. In that study various proposals were considered for the area and these were largely confined to recreational uses and sport uses. The housing to the north of the site was only looked at by the steering group because the landowners were not prepared to sell their land cheaply without residential value, in other words for recreational value, and so that is the only reason they

looked at it. That notion was rejected as being contrary to the 1987 Island Plan, which was the policy that applied at that particular time, because it would severely limit opportunities for sports and leisure in the area. Traffic was considered as part of that planning study, but it was largely confined to looking at the acknowledged traffic problems in Beaumont, which was the major traffic problem area inside there and has been for many, many years. The options were investigated to try and resolve the problems at Beaumont, and one of those was a traffic gyratory to the west of the Beaumont junction, there were others. As far as I am aware, no improvements have been made to the Beaumont junction in the interim, but obviously T.T.S. (Transport and Technical Services Department) are best able to answer that particular question. I think the main driver for looking at the category A housing site was the Island Plan Review, so for looking at this site in question was the Island Plan Review, which eventually led to the 2002 Island Plan, and this review gave an opportunity again to look at planning policies afresh - we had a very aged 1987 Island Plan at that time - and to investigate locations for new housing which were identified as being needed at that time. That prompted a lot of landowners to put forward their land for potential housing sites and the landowners of the site in question did as well. That site was chosen for rezoning, as you know, after a very comprehensive process based on a new spatial strategy that had been developed by the committee of the day, and even though there is no such thing as a perfect housing site there were numerous reasons why that site was selected and those are listed and well documented in all the reports that I have produced on this subject. As far as the traffic situation is concerned, in relation to the site, I think there are some relative advantages to that, which have of course been flagged up in all the discussions prior to the Island Plan rezoning. Basically it is on a major class A distribution road, it is close to the main bus routes, and also the main cycle route into town, quarter of an hour on a bicycle and you are in town. It is close to a local school and other facilities, and you have to remember that these houses are going to be around for 100 years or so, so that is a major consideration, particularly in traffic terms. It allows opportunities for road improvements and measures to encourage more sustainable forms of transport, such as bus travel, walking, cycling, and all those sorts of things. I think it is also worth noting another potential change affecting the transport situation, increasingly I think it is now recognised that transport needs to be tackled at a strategic level by strategic transport policies and there are targets now that you may be aware of in the Integrated Travel and Transport Plan produced by the Transport and Technical Services, which basically aim to reduce peak hour travel in any event by something like 15 per cent, in other words, the same as it would be on a non-school day.

**Mrs. C.E. Canavan:**

Perhaps you consider you have already answered this, but traffic was referred to in Mr. Gottard's report in 1996 and he stated that the whole area should be protected from any form of development. Again, what, in your opinion, changed?

**Mr. R. Corfield:**

Well, again, this relates to the Bel Royal Beaumont study area, basically, and therefore I would say again that I do not think the premise is correct here. The traffic considerations, as far as I am concerned, as far as I can recall, were largely confined to looking at acknowledged traffic problems at Beaumont, and alleviating those problems. The options for that were set out in what was called the Red Book a long time ago, in 1974, and it showed all the potential options and all those were taken into account and, as I said before, it included this gyratory. Mr. Gottard's report refers to a request that planning policies for the area affected be maintained and that the preferred route be protected, but not the whole area be protected from any form of development. Therefore, I do not think this would apply to the remaining parts of the Bel Royal Beaumont area, and in my view therefore nothing has changed.

**Mrs. C.E. Canavan:**

When did you first become involved with the site?

**Mr. R. Corfield:**

I was involved with the Island Plan Review process. I was coordinating the Island Plan Review, and so I would have been involved well before July 2002 in looking at, essentially, site, the valuation work, site feasibility work and so forth, which included that site.

**Mrs. C.E. Canavan:**

Can you recall the *McAuslan Report* in 2001? Can you recall who this report was distributed to, was it a wide consultation?

**Mr. R. Corfield:**

I have a bit of a problem with that one. The committee agreed to that report in November 2001 and it was the subject of a press conference given by the Professor McAuslan. The report was effectively published in December 2001 and given wide publicity in the local media and there were feature articles in the paper and on 10th and 11th December in particular of that year, but unfortunately the file is missing so I cannot recall off the top of my head who it was distributed and circulated to, other than the committee, I know, and the media. So all I can say is I can try and find the file and forward a response.

**Mrs. C.E. Canavan:**

The Spatial Strategy that was referred to in that report: is that the same document that was included in the Island Plan?

**Mr. R. Corfield:**

That Spatial Strategy referred to by Professor McAuslan was the one that appeared in the consultation draft of the Island Plan, and that was a 2-stage spatial strategy and it had a number of elements in it, 5 at the time, and those were: integration with a built-up area; does the site integrate; and then it looked at things like efficient use of land, could it be used efficiently; accessibility, was it accessible and accessible to services and all the rest of it; minimising environmental impacts; constraints on the implementation of the site; and all those sorts of things. So that was a 2-stage strategy and the Professor has made recommendations on that strategy and the final draft included a 3-stage strategy reflecting the Professor's recommendations for a new element, which was the equitable distribution of housing sites. Right at the end you look at all the suitable housing sites and then right at the end: "Do we have too many housing sites in the same area? Is that equitable?" That was included in the spatial strategy that was eventually agreed in the Island Plan.

**Mrs. C.E. Canavan:**

So, could you summarise the changes that were made to the draft Island Plan as a result of that report?

**Mr. R. Corfield:**

Basically, after careful consideration was given to the practicalities of developing specific sites, the Professor's report does not make any specific recommendations in relation to the site in question. What it does is it addresses general matters of concern about housing sites that were expressed during the representations and these things dealt with, like lots of agricultural land transport traffic and so forth, it deals with those general things. He also briefly mentions criticisms of the site in question, which were in the representations. They included things like the flooding issue and traffic problems and ecological value of the site not being properly looked at. So those were the general things he did. What he did say was that we needed to address this disproportionate and unfair distribution of housing sites that were being proposed in the consultation draft. In response to that, as I have said, the spatial strategy was revisited and over-concentrations of development were removed, effectively. So, to answer your question, no material changes were made to the site in question in relation to his recommendations, neither were such changes essential to comply with his recommendations. The site description in the final draft plan, however, is basically similar to that in the consultation draft plan. As a result of that, although there were some suggested changes to theoretical yields between the 2 documents, and there

was a call in the final draft plan directly related to those criticisms I have just mentioned, that there be an ecological assessment undertaken as part of the application process.

**Mrs. C.E. Canavan:**

Would the report have been given to States Members, or would they just have had the sections of it that you put into the feasibility study?

**Mr. R. Corfield:**

Now, was it given to States Members? I am not sure if it was given to the States Members. Are you referring to question 9 of your questions?

**Mrs. C.E. Canavan:**

No, sorry, it was one that led on to question 9.

**Mr. R. Corfield:**

I cannot entirely recall whether it was given to States Members, but it was widely publicised, basically, and I think it was given to States Members. I think that is answered in another question that you raised, so that might come out a bit later.

**Mrs. C.E. Canavan:**

In the feasibility study itself, the comment from the Health Department was: "No comment." Why was that acceptable? Was that practice to just take responses at face value?

**Mr. R. Corfield:**

Yes it was. What you have to remember is that the department wrote, as it always does with feasibility studies, to the Environmental Health Officer and asked them specifically, and that is to do with all of the housing sites: "Do they want to make any observations regarding the environmental health impact implications of these sites?" It was made clear to them that they were being put forward in the consultation of the draft Island Plan. Essentially, as you know, we received a response from the Acting Chief Environmental Officer and that response covered all 15 sites and there were some very detailed comments, some of which dealt with noise, and there were some very curt comments, in this particular case I think there were 6 sites where they said: "No comment." As far as the department was concerned then this meant that the site had been considered by the Environmental Health Department and they had no fundamental objections or concerns in environmental health matters. There is absolutely no reason, as far as I can see, why the department would not have accepted the written advice and observations of the Environmental Health Department, whether it was a "no comment" or some other comment.

**Mrs. C.E. Canavan:**

I believe that some of them say "no comment" or "no observation". Do you know if there was any difference between "no comment" and "no observation"?

**Mr. R. Corfield:**

Nothing [was different].

**Mrs. C.E. Canavan:**

No objections?

**Mr. R. Corfield:**

Well, "no comment" implies there is not a problem as far as they can see, there is not an implication, and "no objection" means that whatever the situation is they are not objecting to it.

**Mrs. C.E. Canavan:**

In that feasibility study, again, you put in a numerical table. Can you give us an idea how you worked out the scale on that?

**Mr. R. Corfield:**

I shall explain first, it was an attempt by me to give an indicative quick look, if you like, at the position of various conditioning factors relating to the sites, and so it was put at the front of the document for that purpose. It was based on the comments that we had received, detailed comments from the various consultees, and the other planning comments, and basically which were set out in full in the same feasibility study. For the purpose of the table I attempted to grade the position in relation to each of these factors, agriculture, traffic and so forth, on a scale of good, fair, poor and bad, using my interpretation of the detailed comments. I have not used a numerical scaling, nor did I think it was necessary to do so.

**Mrs. C.E. Canavan:**

The drainage situation was described as fair. What was the basis for saying it was a fair situation at that stage?

**Mr. R. Corfield:**

Again, I must qualify my comments on this. Basically the drainage situation was fully explained in the feasibility study and it includes detailed observations from P.S.D. (Public Services Department) at the time, who were the department's advisers. I accept that in those comments they basically said there was a need for off-site foul drainage works, extensive on-site water attenuation, keeping the levels of the houses above the potential flooding levels, making any development conditional upon funding of a service water pumping station. However, I do not think there was anything in the drainage comments that would suggest that there were insurmountable planning or technical constraints to the development of the site. In the circumstances I considered that the word "fair" was a reasonable interpretation for the overview purposes. The position obviously could not be described as "good" and I considered the word "poor", the next one down as it were, would convey the wrong message, because it basically would be one of inadequacy and undue constraint. In the event, I basically hedged my bets and I qualified the use of the word "fair", and therefore you will see that there are footnotes, which refer to the need for considerable off-site foul drainage, expensive on-site attenuation, and preferably a surface-water pumping station.

**Mrs. C.E. Canavan:**

Just for us to be quite clear in our own minds, the "fair" was your opinion of the situation as it [stood], that it was not insurmountable to....

**Mr. R. Corfield:**

That is right. But, the situation was there for anybody who wanted to read it in the same document.

**Mrs. C.E. Canavan:**

The Agriculture and Fisheries objected to the development of Fields 851 and 854 in the feasibility studies. Can you just explain to us for the record why those objections were overruled?

**Mr. R. Corfield:**

Well, the first thing to say is that you do not have such a thing as a perfect housing site, and you have to consider numerous factors when you are dealing with a housing site. It is unlikely that all those factors will all be favourable; it is a compromise at the end of the day, it is a weighing exercise. So you had to weigh all the relevant factors for and against the development of the site before you include it in any rezoning proposition and you also have to look at the relative merits of those individual sites before you

do that as well. It is true that Agriculture and Fisheries objected to the loss of 2 of the fields in the site, field 851 and field 854, and the department was of the view - and that was in my feasibility study work and the planning remarks - that this was outweighed by other advantages associated with providing homes on this site, not least the location advantages of the site and the opportunities for associated community developments and gains. Of course it was not me, it was the committee of the day that made the final decision on which sites should go forward in the final draft Island Plan for the States debate. Ultimately it was the States of Jersey who approved the zoning of the category "A" housing site and in so doing it too overruled the Agriculture objections in favour of other considerations.

**Mrs. C.E. Canavan:**

Again, when you were dealing with the study, was there anyone to consult other than T.T.S. on traffic at the time?

**Mr. R. Corfield:**

Historically, in relation to highway matters, the Planning Department has always sought technical advice from the traffic engineers, they were at P.S.D. and then they were at Transport and Technical Services, so that is what we have normally done for the purposes of feasibility studies. Sometimes for similar studies in the past we have consulted with various parish highway authorities, particularly where the sites are bounded by parish roads. In this instance the road bounding the site to the north is Valley Road, and indeed to the south, Route de la Haule, the road which is also on applications for the site, are main distributor roads and the highway authority for both of those was the Public Services Department, Transport and Technical Services. For these reasons no body other than that was consulted regarding the traffic implications of the development.

**Mrs. C.E. Canavan:**

But presumably the normal letter was sent out to the parish as well, the standard letter asking for comments?

**Mr. R. Corfield:**

I do not recall, in the feasibility study, doing that. Certainly it was done in other parts of the process.

**Mrs. C.E. Canavan:**

Mr. Thorne has answered this, I do not know if you were here or not, but the fact that the owner of the land was a willing seller, is that something that is taken into account in your experience?

**Mr. R. Corfield:**

I hope I do not answer differently to Peter. The answer in my view is a clear yes. The sites were being considered for rezoning and they are intended to meet housing requirements in the first 5 years of the plan, and clearly sites rezoned for unwilling sellers, then we would seriously jeopardise the chances of that being achieved, in the required timeframe anyway. So naturally the planning authority favours sites that would not have such constraints on them, generally speaking, as long as they satisfy other planning and technical requirements. The only way to overcome unwilling sellers, effectively, is to employ compulsory purchase powers, and historically there has been resistance, the Members here will know that, in political circles to use compulsory purchase powers, particularly where there are reasonable alternatives, and we were looking at a lot of sites at the time. So compulsory purchase, I am afraid, has been seen as a last resort and to be avoided if at all possible. So the answer to your question is yes.

**Mrs. C.E. Canavan:**

The Planning Committee obviously visited the site. Can you recall if the States Members visited the site, prior to debating it?

**Mr. R. Corfield:**

Certainly the Planning Committee did, because it did in 26th November 2001, it was set aside specifically to do that, and that is all the sites that were being proposed for rezoning in the consultation draft at that time. A visit to other sites as well, really wanted to firm up its decisions on those sites. But they were not finalised until 24th January 2002, so it was quite a long time before the lodging of the Island Plan report. All I can say is that lodging was in at the end of April 2002 and so States Members had 10 weeks basically to visit the sites in the interim if they had not already previously done so. I would imagine a lot of States Members would have already done so because we had been through a very long process to get to that. We had started with the consultation draft, which had 15 sites in it, that were whittled down to a final draft of 11 sites, and that took quite a long period, and in the meantime we had all these public consultations on the consultation draft of the Island Plan, widely publicised, all sorts of public meetings, exhibitions and so forth. So States Members should have been fully aware of these sites and those who had an interest in them had every opportunity to visit them, I would say.

**Mrs. C.E. Canavan:**

On paper, when you read that so many sites were visited on one day, you tend to get the impression it was a whistle-stop tour, but what you are saying is that there was background before that, consultation before that?

**Mr. R. Corfield:**

Yes. It was a whistle-stop tour, because obviously we had to pack in an awful lot of sites in one day but, having said that, there had been a lot of background information in the past, they were advised during the site visits, on site and going to and from the sites, and reminded and so forth, and they were really firming up what they wanted to do at that time, I believe, with a lot of knowledge already to hand.

**Mrs. C.E. Canavan:**

As far as the G2 criteria, are you happy that those criteria were taken into account with this site?

**Mr. R. Corfield:**

Again, I have a bit of a problem [with] the premise to the question, because the States, when they approved the Island Plan, also approved the rezoning of the housing sites. So, basically, it was at the same time as policy G2, so basically policy G2 sets out some general criteria that should apply to all developments, not to the rezoning of the site. But H2 sites, including the one in question, were selected after this comprehensive evaluation, and selection is all identified and set out in the Island Plan. They were zoned as well on the understanding that development would not be granted until we had this development brief and essentially that is recognised in policy G2 that they had to comply with this development brief. I suspect that you are really asking whether policy G2 criteria were ignored in processing and approving the development of the site. I do not think they were, but you have to see that in context, that the site had already been zoned by the States and that judgments were already made on some of the criteria in policy G2. For example, you can cite things like the effect on the character of the area, which is policy G2.1, or the impact on agricultural land, which is policy G2.3. Clearly, new housing developments on the site in question are going to have an impact on the character and the amenity of the area, and they are going to involve a loss of agricultural land, and these factors were weighed in the balance in selecting these sites for housing and basically rezoning the land. But take into account this context, I believe the other criteria in G2 have been addressed and processed in approving the application.

**Mrs. C.E. Canavan:**

This is a very lay question. Prior to 2002, the distribution of category “A” housing, did the committee ever sit down and think: “They already have 3 sites there, we must put some somewhere else” or literally was it down to the available sites or the suitable sites?

**Mr. R. Corfield:**

Basically, I am not quite sure what you mean by this question. Up to the consultation draft there had been this comprehensive appraisal of sites, which had looked at something like 300 sites, which was a stitching in exercise against a strategy of trying to concentrate development as much as possible in and around the built-up areas, so that is what they tried to do. I do not think there was any recognition at that time that they should be considering the issue of concentrations of sites. It was more: "Is this site suitable? Is it appropriate? Does it meet with the criteria that are set out in the evaluation process?" It was only after the Professor McAuslan report and the consultation draft that we had a situation where the committee recognised, in their view, that he had a point in his recommendation to more equitably distribute sites, that a new part of the process was added, and the committee then considered concentrations of development, and in fact acted on that. In fact, they removed one of the St. Lawrence sites, and others.

**Mrs. C.E. Canavan:**

Now, we know there was a States briefing for the States Members in May 2001, we have seen a document that was given to the States Members. What other documents would have been available to them?

**Mr. R. Corfield:**

May 2001 was a presentation to the States on the consultation draft by W.S. Atkins, our consultants. In that meeting they received an overview, if you like, of the strategy and the objectives and the policies in the consultation draft of the plan. The consultation draft of that plan was then forwarded on to them on 30th May, together with some key dates for the main process. So they would have had the consultation draft plan, they would have probably also had the explanatory leaflet that was produced, a glossy 4 or 5-page leaflet, which detailed or majored on the sites that were being proposed for rezoning, so they probably had that; that was distributed through the J.E.P. (*Jersey Evening Post*). There then followed the launch of the consultation draft plan and we had this very comprehensive consultation exercise then. So there would have been 12 meetings in all the parish halls, there were exhibitions, there was a standing exhibition in St. Helier, so they had all that and all the media coverage, so they would have known all that at the time. It is likely that they would have received a copy of Professor McAuslan's report and the committee's response to it that was produced in one document, but I would need to confirm that, I need to find that file. Then on 23rd April 2002 States Members were given advance warning of the publication of the final draft plan that was to be put to the States for approval, and the accompanying report proposition, and they again were invited to a presentation on 21st May 2002, so a year later. In advance of the States debate, before they made any decisions, they would have had that final report, [which] was also available on the website and at the library. They would have also had the committee's report proposition, and they would have had all the amendments from different Members to that report proposition, before they made their decision.

**Mrs. C.E. Canavan:**

With hindsight, and this is a personal opinion from you, was there anything that they did not have that perhaps they should have had?

**Mr. R. Corfield:**

This is a difficult one. I think they were given the material information they needed to make decisions. There was a sensitive States debate, they could have raised any queries, [and] they did raise lots of queries during that States debate. So if they had any information requirements ... in fact I believe there were additional bits of information that were provided as a result of questions asked in the States debate, if I remember. So, if they had not had all the information - and we have to remember this was at the end of a very long process and a very well publicised process - that they wanted, they could have asked for



it, but I would have thought that most people who had taken an interest in it would have had the information they needed in order to make a judgment on the various aspects of that plan.

**Mrs. C.E. Canavan:**

We all know it was a very short time before the “no comment” from the Health Department and the objections that came to light fairly soon after in 2002. Was there any reaction from the department: “We must look at this again”, or was it just left, apart from the correspondence that you obviously had with them? Was there ever an idea that we should un-zone this land?

**Mr. R. Corfield:**

Not to de-zone or whatever, or rezone, I do not think so. Basically, I first became aware of the different stance, which was not then an objection, being taken by the Health Protection 10 days after the States had zoned it, when the Environmental Health Officer suggested any development would be subject to noise from Jersey Steel and it may lead to complaints about noise nuisance. He also advised that careful consideration was needed in deciding whether the site was suitable for housing in the light of aspects of noise and potential flooding, and he was asking for my comments. At that time the ink was not even wet on the States decision to approve the Island Plan, so I do not think any serious consideration was given to reviewing the zoning of the site in question. I wrote back pointing out that the States had only just zoned the land, it had been through a comprehensive evaluation process, and I reminded them of their contribution effectively to the feasibility study where they raised no issue of noise on this particular site, although they had on other sites. I think at the time I probably took the view that there was a noise issue and it was likely that there were going to be technical and design solutions to that issue and that they could be addressed as part of the development brief process. I subsequently sought Health Protection’s views on noise emissions from Jersey Steel, how could they be reduced to acceptable levels. The other aspects that they mentioned about potential flooding had already been covered in the feasibility work. What happened then was Health Protection reiterated their concerns about potential statutory nuisance in September 2002 and they also suggested various mitigation measures if the committee was not minded to accept their arguments and be swayed by their arguments, and those measures, as you will know, were repeated in the draft development brief and eventually in the final development brief that was approved by the Planning Sub-Committee in May 2004.

**Mrs. C.E. Canavan:**

The noise problem was not raised by anybody else other than Health Protection, was it?

**Mr. R. Corfield:**

Before I answer that, did you want me to comment on when I recognised there was a noise issue?

**Mrs. C.E. Canavan:**

Yes.

**Mr. R. Corfield:**

What I would say, yes, I did recognise it as a serious -- all matters raised by consultees and others are treated seriously, and noise is clearly a material planning consideration, and it rightly warrants attention and so forth. So as soon as the issue is raised, albeit belatedly by Health Protection, it receives attention. That said, I suppose it could be argued that I recognised the issue was potentially more serious than I had first imagined when I received Health Protection’s comments on the first formal application for 140 homes. So that is really when it hit home I believe, because it was a strong objection. Basically they were saying things, their comments were predicated, unbelievably I thought at the time, but they were predicated by a statement that said: “In the opinion of this department the area is not suitable for category A housing for the following reasons” and then they mentioned the reasons of noise, but many of the other points they dealt with in that letter could not be regarded as reasons why the

site could not be suitable for housing, in my opinion. It was as a result of that letter that we set up a meeting, as a matter of urgency, between the key officers between the two departments to clarify Health's position, discuss the implications of what they were saying at that time, discuss how the proposed development could be made acceptable through constructive measures, not this confrontation that seemed to have suddenly emerged. Key agreements were reached at that meeting, [and] I think it is important that be understood.

**Mrs. C.E. Canavan:**

What date was that?

**Mr. R. Corfield:**

I cannot remember now but it was fairly soon after they made those objections to the 140 homes application. Agreements were made that the applicants would appoint noise consultants, qualified in that area, the Health Protection would provide them with a specification, and that Health Protection would review their comments that they made in the light of that. As you will know, Peter Brett & Associates were appointed, lots of experience in noise and so forth, and Health Protection did produce a specification, as they said they would, but what happened after that we had this long and torturous series of reports and correspondence between the various parties, and there were lots of twists and claims and counterclaims between those parties, you obviously have seen that, and lots of inconsistencies, I would say, in the advice that was given, and that has resulted in developers having to meet, in my view, increasingly onerous conditions with relation to noise. Basically, the Planning Department has always recognised the houses on the site cannot be subject to an unacceptable degree of noise disturbance and that you have to put in place reasonable and proportionate mitigation measures. However, the planning authority cannot go around either putting unreasonable obstacles in the way of developments, especially developments that were there to meet identified requirements on land zoned specifically for it by the States. I am sorry to go on to this but I think it is important that I say this; I believe that an acceptable and proportionate solution was found when we dealt with the application for 129 homes. That solution was put forward by Health Protection's own consultants. Basically, it involved the installation of automatic roller shutter doors on the Jersey Steel premises, and Health Protection confirmed that mitigation, combined with filling in holes on the structure of the Jersey Steel premises, I quote: "Will provide the necessary acoustic reassurance to overcome outstanding concerns of noise nuisance." I thought we were there. I accept there were provisos about occupation in the summer with the doors closed, but I thought we had reached a reasonable proportionate solution. The solution that was eventually arrived at for the 102 homes was a much greater level of mitigation was required for that, and again that was deemed to be suitable and reasonable and proportionate.

**Mrs. C.E. Canavan:**

The difference between the 129 and the 102, was that something that came from Health or was that something that came from Planning?

**Mr. R. Corfield:**

The reason for that was that the Minister refused the application for 129 homes and he has this report detailing his decision for refusal in August of the year. Essentially there were a number of reasons quoted, one of which was resolving noise to the satisfaction. There were other issues, but he did not think that Jersey Steel had been properly consulted and there were certain issues from Jersey Steel's point of view. So he refused that and encouraged the submission of a lesser scheme, which was a reflection of the objections and representations that had been received and his consideration of those objections in the light of material planning considerations. So that is why we ended up with the scheme for 102 homes, which the Minister eventually accepted and granted planning permission to.

**Mrs. C.E. Canavan:**

We were just trying to get to the bottom of when Health said: "Right, we are happy". From what you have just said, it was 129 homes; after that it was the Minister's requirement that changed that.

**Mr. R. Corfield:**

To 102, and then we had to negotiate, and the Minister agreed that it could deal with it by condition, and we had to openly negotiate a position and we took onboard the mitigation measures suggested by Health at that time and those were incorporated into the conditions that eventually Planning agreed with.

**Mrs. C.E. Canavan:**

So it took from August 2002 to the 129 homes situation for Health [Protection] to be happy, is that fair comment?

**Mr. R. Corfield:**

That is a fair comment I think, yes. I do not think Health [Protection] is ever happy. If I may say this as just an aside, there is a difficulty in dealing with Health Protection on noise, because they are also the regulators. If you ask somebody who is an engineer to design the foundations of a building there is a good chance he is going to put a bit extra in because he is ultimately liable if the building falls down. Maybe there is a bit of similarity if you ask the regulator of the noise nuisance law to comment on noise nuisance, whether or not their comments are affected by the fact that they are the regulator who has to deal with any noise complaints.

**Mrs. C.E. Canavan:**

It could lead them into a conflict situation.

**Mr. R. Corfield:**

I am not saying it will; I am just saying it possibly could. You said: "Was the noise problem raised by anyone else during the feasibility study?" I have to say, not as far as I can recall. You would have expected Health Protection to have raised the noise issue if there was a noise issue, and they did not. I would also say that I was fairly familiar with the area, because I was involved initially with the Bel Royal Beaumont planning study that I talked about, so I have been to that area quite a number of times. It is an area with a lot of residential properties around it and a nursing home up the road. Again, I have been there in that area as well, because I was involved with the application for the nursing home as well. So, with all of that and my site visits involved with the feasibility study, it was not clear to me that there were going to be some insurmountable problems, I have to say, from noise from Jersey Steel. I had not heard lots of activity on a number of occasions that I had been there, I had not heard a great deal of activity on most of those occasions at Jersey Steel, so I think that was probably on my mind at the time as well. But I also think it is quite interesting that when we did have our meeting with Health Protection, which was on 21st December 2004, it was confirmed that Jersey Steel was not regarded by them as a statutory nuisance at the time, and that, although there had been some previous concerns and complaints about noise at Jersey Steel from residents in the area, those had all dried up when Jersey Steel was made to work to sociable working hours. So I think that is quite an interesting comment on the noise situation at that time.

**Mrs. C.E. Canavan:**

Just on that point, and it is just something that has occurred to me and it might crop up later on, I think you have just said that there were huge delays because of this problem with Health Protection. Is there any other issue that stands out that caused delay, or can you give the opinion that it was Health Protection?

**Mr. R. Corfield:**

I think there were delays throughout the whole process; I think the process had built-in delays into it,

starting with a process where you needed extensive public consultation to approve the development brief. Normally development briefs would have been approved by the planning authority in consultation with the various technical advisers, not subject to a fully public consultation exercise. I think that was a change. That obviously involved an extensive process of a lot of work and a lot of time involved in that. There were other things that caused delays. There were things like the change to ministerial government when basically the new Minister came in who had completely different ideas on design and what was acceptable design and what was relevant to Jersey and so forth, built-in delays as a result of that sort of change in the process, late on in the process. So the politicisation of the process, you might argue, created delays. The vast amount of time involved in public consultations and so forth and the implications of those would have had implications for time in dealing with the process. Even though they were not part of the actual process, many of them, they did extend the time. But, having said all that, I think we were dealing with a big site with clear complicated issues associated with it and there were benefits also from extensive public consultation that was carried out. I think when you are dealing with a big site like that and you are dealing with complicated issues, it would be normal to expect that there would be a protracted process involved. Obviously there were other detailed looks that caused delays, but I cannot remember them off the top of my head, and nothing that really could contribute to your considerations.

**Mrs. C.E. Canavan:**

Now, as I understand it, the feasibility study, which was carried out before, did not include the preparation of an environmental impact report, is that correct?

**Mr. R. Corfield:**

Yes.

**Mrs. C.E. Canavan:**

Can you tell us why there was not?

**Mr. R. Corfield:**

First of all, the main purposes of the feasibility study were to examine the planning and technical matters relating to the rezoned development sites, or those being proposed. It is also to look at likely constraints to development on those sites, to address their general suitability, and also to inform decisions on site evaluation and selection. It was not considered necessary or indeed practical, given the limitation of resources that we had at that time, for them to be subject to consideration for fully-fledged environmental impact assessments. If the feasibility study had indicated there were severe unfavourable environmental effects this would have been weighed in the decisions regarding site selection. So in terms of the feasibility study, it was not normal practice to have asked for E.I.A.s (Environmental Impact Assessments).

**Mrs. C.E. Canavan:**

Unless something [was to] jump out at you on a particular site?

**Mr. R. Corfield:**

Yes. The site may not have been rezoned if something had jumped out of a sufficient scale. I do not think any of the sites had environmental impact assessments required as a result of the feasibility study.

**Mrs. C.E. Canavan:**

We have dealt with the question of noise I think, but then we do come on to the environmental impact at the time of the development brief. Why was that not a requirement?

**Mr. R. Corfield:**

None of the briefs for the H.D. (Housing Development) sites had any requirement for E.I.A. as far as I am aware. This was also the case for the development briefs for the large tranche of land that the planning authority had to bring forward in 1999, the development briefs for those. So in historical terms it was normal for such briefs not to include a requirement for E.I.A.s. Basically, you have to recognise as well that the briefs do set out frameworks of guiding principles, that is what they do, and they flag up environmental and other issues which need to be addressed by the application. But it was not considered a requirement that we have any E.I.A. In fact it was not considered that we need an E.I.A. at all in the development. Do you want me to explain that?

**Mrs. C.E. Canavan:**

Yes.

**Mr. R. Corfield:**

Basically the issue is addressed in the Minister's report on the application for 129 homes; he specifically addresses that question. The development brief, as I said, did not require an E.I.A., nor had this been made a requirement of any of the subsequent applications. However, you could argue that the applicants have provided the equivalent of an E.I.A. in any event. They were required to provide a range of supplementary information relating to a whole load of issues in the development brief, [as] a requirement. Now, we were talking about flood risk, we were talking about foul and water drainage, design, acoustic reports, transport assessment, waste management reports, ecological landscape reviews, pre-surveys, site works, fill exercises, lighting, layouts and so forth for external lighting, so they were required to do all that. They were also required to put this all together in a summarised version in what they called an environmental statement to help inform the decision making and avoid gaps and inconsistencies in environmental information. So, taken together, and on the advice of the Environment Department, this information, in my opinion, provided virtually the equivalent of what was required in an E.I.A. scoping exercise, and in my opinion, I believe, also of the Environment Department, who were responsible for producing those scoping exercise. So basically the information requirements and the requirements in the overarching environmental statement were agreed by the Environment Department; that was in December 2004. That was also a decision in response to the 140 homes that Health Protection is concerned. At that time the Environment Department did flag up other environmental information requirements needed to support the application and they included a finalised drainage report, they included additional information on storm water and foul drainage, they included the waste management plan, which I just mentioned, the noise report, which I have mentioned, and the traffic impact assessment report, and it was for these reasons I think that the Minister decided it was not necessary to have a separate environmental impact assessment report.

**Mrs. C.E. Canavan:**

[That was] because everything had already been looked at. Again, because we have been asked to look at the process itself, in your opinion if that E.I.A. had been asked for from day one, would that have made any difference to the speed of the process?

**Mr. R. Corfield:**

I think it is difficult to say that. Requiring an E.I.A. at the outset may have speeded up the process, I am not sure it would have been by very much. The real delays in the process stemmed from this highly politicised nature of the application and the level and nature of public opposition to it, among other things. The information that had been provided in the various environmental reports and the environmental statement were pored over and challenged at every turn by the scheme's opponents, and I can only imagine they would have done the same if it was called an E.I.A.

**Mr. D. Watkins**

In respect of an E.I.A., is it normal for the developer to produce the E.I.A.? It seems they have an

interest in developing the site and so perhaps the advice they give may or may not be biased in terms of their own interests.

**Mr. R. Corfield:**

That is often a charge levelled. I think it is a question of resources and professional responsibility. Essentially, when an E.I.A. is required, my understanding of the situation is that the Environmental Department is called upon to produce a scoping report through consultation with all their technical advisers of all the environmental issues that need to be addressed and what needs to be addressed in association with them and then that is agreed. There is a planning condition requirement attached to any permit that says you must produce an E.I.A. The applicant has to do that. He has to appoint suitably qualified people to do that and demonstrate they are suitably qualified people who obviously have professional responsibilities and so forth. The report, which probably looks something like that in most cases, is put back to the Planning Department to assess. They use the Environment Department and their advisors to assess what is in the report and comment and provide observations on that E.I.A. But, to answer your questions specifically, the onus is on the applicant who is given the permit to arrange for the production of the E.I.A.

**Mrs. C. Canavan:**

Jumping back to the Health Protection again, from the documents we have seen, we saw correspondence in August-September 2002 where you went back to Health Protection but then there does not seem to be anything between you until November 2004, as you have said. Is that the situation you were referring to earlier on, when you got no comments from them for basically 2 years?

**Mr. R. Corfield:**

I am not sure what I referred to earlier on. I think I was talking about the fact that they had made one set of comments and then later on made another set of observations that were different.

**Mrs. C. Canavan:**

When it was 140?

**Mr. R. Corfield:**

Yes, when we got to 140. They were basically comments that were quite destructive comments and objections. That position is outlined in the chronology that I produced on 30th March, so you have seen that. I cannot find any records of correspondence between the Planning Department and Health between those periods, basically until they were formally consulted on the formal application. I do not think it is as strange as it sounds given Health Protection's position was known to the department and the brief reflected that and also included a contact number and address for them to be consulted by the applicant in response to the brief. Okay, it was a long, drawn-out period but a lot of things happened in that period. The draft brief was approved in that period; the public exhibitions of the brief and the developer's initial scheme took place in that period; the associated public consultation with that took place in that period; the approval of the final development brief and also the technical seminar that was required. All those events happened in that period. I would have thought that Health Protection, if that is what the inference is, would have known about that. They were all widely publicised exercises and they probably attended the various events; although you will have to ask them that, but I think they probably did. So it was only when I got their comments in response to the 140 homes that basically we started quite a detailed process of trying to resolve those.

**Mrs. C. Canavan:**

There is a question here about the chronology and dates but I think we have dealt with that, so we will move on from that.

**Mr. R. Corfield:**

I can let you have what notes I have if you want, if that would be helpful?

**Mrs. C. Canavan:**

That would be helpful, yes.

**Mr. R. Corfield:**

Okay, fine.

**Mrs. C. Canavan:**

That would be. Do you know why the approval of the development brief was carried out by the sub-committee rather than the full committee?

**Mr. R. Corfield:**

Okay. Have you got a question number, because I know that was one of the questions?

**Mrs. C. Canavan:**

Sorry, it is number 41. 39 and 40 dealt with the noise, which I think we have covered. It is question 41: "Why was the decision to approve the development brief not referred to the full committee as it should have been?"

**Mr. R. Corfield:**

Okay. Well, I think we need to put this in context, basically. The Planning and Environment Committee considered the draft development brief in March 2003 as the basis for public consultation. I think this coincided with changes of committee and so forth, it might have even been your committee, I am not sure. It was later on decided among the committee members - there is nothing documented on this but it was decided among the committee members - that approval of the brief should be addressed by the planning sub-committee of the day and any other members of the planning committee who wished to make a contribution. Initially a special meeting was set up at the end of Deputy Hilton's planning subcommittee basically to deal with this matter. So that was when it was scheduled for and that was on 23rd April 2003. Unfortunately that meeting got deferred on various occasions and finally, as you point out now, the sub-committee met and approved the brief on 21st May 2004 on the understanding that there would be a technical seminar. So there was agreement among members of the committee how they would deal with it. There is little documented. What I would say is that the approved brief was substantially the same as the draft brief that was agreed by the committee in the first place.

**Mrs. C. Canavan:**

In your report dated 13th March 2007 - this is your report to the Minister - you state that the positive benefits of the scheme outweigh any remaining concerns and the importance of providing homes to meet community requirements. That links in really with the question I suppose we asked about the agricultural condition or the agricultural view. Has this been a key driver for this development of the site?

**Mr. R. Corfield:**

Well, I think you will find that my report was on 16th March 2007. It was on the 102 homes application. It was a detailed report, addressed all the outstanding material issues as far as I could see, and at the end of the summary section I did say, among other things: "In the circumstances and on balance it is held that positive benefits of the scheme outweigh the remaining concerns." I also list what those benefits were or what they included and that is: provision of affordable homes, road improvements, new facilities, that is for public transport users and cyclists and pedestrians, a public

amenity area that was going to be provided, and flood mitigation measures. So those were the benefits. I am not sure where the other statement came from, [as] it is a big report obviously. But when you talk about the importance of providing homes to meet community requirements, although I would not disagree with that sentiment at all, what I do say in the summary is the scheme should be of great assistance in helping to achieve the States' objectives of achieving, if you like, or ensuring the Islanders have good quality, affordable homes. So this is really the key driver for the rezoning of the land in the first place, these States' objectives, and I believe the key driver for the development of the site is, in turn, the States' decision to rezone the land in 2002 to help meet a specifically identified category of housing needs.

**Mrs. C. Canavan:**

We then asked a question about the actual site that was rezoned. Obviously you are aware that there have been comments made about the actual site size changed. That is very difficult for us to understand from paperwork, so would you be able to give us an overview of the problems with the site size or the variation to the site size?

**Mr. R. Corfield:**

Right, okay, yes. There is only a limited amount of development which encroaches on to open land beyond the eastern boundary of the rezoned housing site. They are referred to in my report and they include vehicular access to the site, a community building, a 25-space car parking area, and proposed play areas for children and teenagers. In my report I also say that the only encroachment beyond the boundary which is exclusively part of the housing development is a small residential parking courtyard and the corners of 2 domestic gardens. I wonder if it is beneficial just to show these on the plan. Would that be helpful?

**Mrs. C. Canavan:**

Yes.

**Mr. R. Corfield:**

Shall I come up there?

**Mrs. C. Canavan:**

Yes, please.

**Mr. R. Corfield:**

This is the housing site [and] St. Peter's Valley Road, Le Perquage Walk, the housing site, Field 853. It is on the east. You can see that this dotted line shows the boundary of the site designated and there is a playing field outside out of this boundary. There is a small courtyard for parking. Outside of the boundary there is the community building. There is communal parking of 25 spaces and there is the access road. So those are all the elements that are outside the designated eastern boundary.

**Mrs. C. Canavan:**

So what category of land is this?

**Mr. R. Corfield:**

This is open space, I think it is called, zone 4 in the Island Plan, and this is indicated as an amenity area as part of the development brief and the rezoning land. This will be an amenity area.

**Mrs. C. Canavan:**

What is the difference between the red line and the black line?



**Mr. R. Corfield:**

Basically the black line is definitely the site boundary. The red line I assume ... I cannot remember what the red line is. I assume that is where the housing site projects into, as far as the developers, the applicants, are concerned, the area to the east of that site boundary; in other words, to provide the access, in their view, and this small element of ... because it is built up a pergola.

**Mrs. C. Canavan:**

But obviously the developer owns all this?

**Mr. R. Corfield:**

Yes. Why was it allowed then?

**Mrs. C. Canavan:**

Yes.

**Mr. R. Corfield:**

Well, in my report on the application I basically talk about these various developments outside the boundary and say why, in my view, I think these are acceptable developments outside of the housing site boundary. Of course, it is for the Minister to decide on that, which he did. In fact, the Minister had previously ... because there were more discrepancies and more encroachments in the past, when the scheme had 129 homes, he had refused that scheme for 129 homes and one of the reasons for that was those discrepancies. But he dealt with the matter again when we had the revised application in for 102 homes and that is extensively dealt with in his decision report of that time where he points out that the level of encroachment beyond the boundary is very much reduced from what it was on the 129 homes scheme and that he felt he could deal with the remaining matters as a matter of fact and degree. In his report he reasoned that vehicular access had been relocated down there in direct response to public representations to take it further away from the junction of Route de la Blanche Pierre. It also allowed good access for the adjacent site. I should have stayed up there. Basically there is an adjacent site which has an access point on to the road which could now come and make use of the new improved access with visibility space and so forth. He also felt that the community building was intended for use by the wider public and was well located in relation to the access and communal parking area, so he felt that was justified. He felt that the 25 car parking spaces intended for communal parking was reasonable because they would be serving the public amenity area plus the community building. So he saw these as incidental uses, if you like, to those activities. He felt that the play areas were essentially open spaces anyway, so they were basically compatible with the open space designation for that area in the Island Plan. He felt that the corners of the 2 private gardens and the small car parking courtyard was not particularly materially significant in the scheme of things. I think, again, it is worth putting this in context because I think it will help. You will have seen from that plan I have shown you that the boundary of the side to the east is fairly arbitrarily drawn; difficult to see the alignments accurately. It does not follow any field boundaries and it does not follow any site features. So it is arbitrarily drawn and one could also note that a large proportion of the site that was identified for housing and rezoned for housing is not being used for housing; in other words Field 853 immediately adjacent to Le Perquage does not have any housing on it at all. I am not saying those are reasons but I just think they are interesting things to note in the context of the Minister's decision.

**Mrs. C. Canavan:**

I think that has clarified it for me because, as a lay person, I think I was thinking that because that piece of land was not rezoned that meant in my head that you could not do anything on it. But that is not the case, is it? It is not category "A" housing land but that does not prevent plans being put in for something that is not category A housing.

**Mr. R. Corfield:**

It does not prevent plans being put in. Every application must be considered on its merits, having regard to all the facts. The Minister has made a decision, having looked at the facts. In this instance [he] has taken the view that where there are encroachments beyond the rezoned site, those are in his view reasonable and not justification for refusing or again refusing the application. That is basically the position. Obviously there are policies that apply to the open space which are generally to prevent them from being developed and so forth but you have to see all these things in ... A lot of these questions, if I may say so, are dealing with individual specific points of detail but it seems to me that you also have to have an overall picture of what is happening here and see it in the round because if you just concentrate on tiny bits of detail you can always find reasons why something is not exactly right. But that does not mean that in the fullness of your considerations that is an unreasonable thing to have happened, if that makes sense.

**Mrs. C. Canavan:**

Yes, it does. We take on board, or I certainly do, when you say you do not agree with the context of the question. That is us, as lay people, asking you why it was done and how it was done that way. So we benefit from you explaining that we should not maybe be so picky about little bits but see the overall picture. But it is difficult when you are going through the documentation, as we have, not being experienced planners. You tend to pick up on the minutiae and that is what we are trying to do, is get the whole picture.

**Mr. R. Corfield:**

Sorry, it was not meant as a criticism.

**Mrs. C. Canavan:**

No, I am just trying to explain to you that we are not criticising anybody here either. We are trying to put it all into place. Perhaps we have already touched on this and there is nothing further to say, and if so, say so. Can you suggest any ways in which the whole process could have been dealt with faster? This is a question from the process point of view, not this application in particular.

**Mr. R. Corfield:**

As I have said before, [in] major applications nearly always the process is slower than would have been expected. The application process associated with this site's question has been protracted because it is a major application with major issues to resolve. I say "major". It is the size of the development, the complexity of the issues, the level and nature of public opposition, the highly politicised nature of the application from the outset; all those things build in, if you like, delays. The process from the submission of the first application to the decision to grant planning permission took 2.5 years. Now I would say that seems to me to be totally unprecedented. I cannot think of any other housing developments where that level of time has been spent. It is clearly for the committee of inquiry to determine what factors, if any, are responsible for the undue delay in processing this application. I believe you do have all the evidence to make a judgment on that but you have obviously to turn your attention to is it the process itself or is it the parts played, it seems to me, with those involved in the process. So you would be looking at the applicants and their agents and the statutory consultees; and those opposing the development, the part they played; and those with the responsibility for appraising it, the part I played basically; and those involved in making the decisions in relation to it, the parts of the former committees and the Minister. So I think it is difficult for me to answer that question directly and in detail because obviously I am a States employee and I have certain loyalties to my employer. I should give you opinions without fear or favour but there are certain difficulties there. So if I am asked for a response I would like to keep to generalities, if that is possible. With all its faults and so forth, I do not think the application itself, this process itself, was responsible for slowing progress, unduly. I do not think it was that; although I am not convinced, as I have said before, it was necessary to go through a

whole public consultation exercise on a development brief for the site. But I believe that producing the development brief at the outset was a good idea in principle. It was a good idea. Basically it provided a guiding framework which should have assisted progress. If I am brutally honest about it, I think the progress could have been significantly faster if the advice and the steers and the decision-making of the planning authority had remained consistent throughout the whole process. I think it changed in the frame of that process. You have talked about some of changes already. If it had remained consistent, that would have helped enormously in making the process faster. I also think that if the advice and requirements of all the statutory consultees, all of them, had remained consistent, that would have made the process a lot faster; and in that I have particular regard to Health Protection advice which appeared to become increasingly onerous throughout the application process.

**Mrs. C. Canavan:**

There are a few questions there about trees but I would like to, if I could, come back to trees at the end. Again, it might seem like one of those particular questions that you referred to earlier on, but we did have questions about the provision of this community centre in the area. Was this a requirement that there should be a community centre and what considerations were taken into account as to whether or not there should be one put there, if there were any considerations taken into account?

**Mr. R. Corfield:**

In association with the site, you mean, generally?

**Mrs. C. Canavan:**

Yes, when it is not -- it is still on the bigger site but it is not on the rezoned site.

**Mr. R. Corfield:**

Right. So basically was there a need for a community centre and then should it have been where it was?

**Mr. D. Watkins:**

Who made the decision to include one?

**Mr. R. Corfield:**

Well, I think you have to be clear then what the requirement was for because the development brief sets out what the requirements were and that said: "Some form of small-scale community facility [implying a building] to offer a social focus for the new residents." So it was not a community centre as such but it was some form of community facility, small scale. Then the brief justifies this because of the scale of the proposed development - it was one of the 2 very large housing sites being proposed - and the limited nature of community facilities in the immediate locality. This seems to me entirely reasonable for that stance to have been taken. Similar requirements were previously made of Les Jardins du Soleil site. I do not know if you know that site, OTC redevelopment, and also Oak Tree Gardens which was the former Elysée Estate at Trinity Hill. Also similar requirements were being asked of the other very large site, H2 site, at Mont-à-l'Abbé. Those requirements were never set in tablets of stone in the development brief which, in my view, clearly allows for negotiation and future agreement. But the brief does call for a flexible building and gives examples of the uses that might be used in it; so a base for Housing, social services offered by Education and Public Health, Social Security, hosting small groups of residents, young mothers, playgroups, crèche, youth drop-in centre, clinics for mums, family nursing services in other words, meetings for community activity, local landscape interpretation. So it makes all these suggestions of what the building might be used for but it is not prescriptive in those potential uses and it asks basically or calls upon the applicants to liaise closely with the departments that provide relevant services. So in the light of all that, it would not have been regarded as necessary to demonstrate in advance the need for, as you describe it, another community centre. That said, when the draft brief was approved, after that, the department did consult with welfare service providers, including Housing,

Social Security, Education, Health and Family Nursing, Jersey Childcare, Youth Services. It consulted with all those people to determine, if you like, if there was any interest from them in operating a building. So it did all that. That was in March 2003. There was some positive feedback from Family Nursing and Homecare who regard it as an opportunity to provide clinics for mothers and babies. Social Security raised the possibility of providing a medical centre. Jersey Childcare Trust strongly advocated development of community facilities which could be used, in their view, for a variety of purposes and they have suggested, for example, childcare facilities, day care, after school holiday clubs and all those sort of things, youth services and things like that. They also pointed out they are aware of childcare providers, not necessarily in the area, who are in unsuitable premises and all that relevant correspondence was passed to the applicant's architect. So there was a trawl, if you like, to see what interest there was among welfare providers. Did the requirement for a community centre and amenity area specify/refer to the development at the outset, is that what you want to know?

**Mrs. C. Canavan:**

I think you have just answered the question. Originally was the intention for a facility - I have used the word "centre", I am sorry for that - intended just for that development but it has expanded beyond that? It is for the locality.

**Mr. R. Corfield:**

The brief calls for a small-scale community facility. I think you could infer from the headline in the brief that it would be solely used for residents but I think the examples that I have just quoted to you demonstrate that it is suggesting a wider potential use and, as I say, the brief was not prescriptive on that matter really.

**Mrs. C. Canavan:**

I think that has answered the community facilities questions. If we move on to the retirement homes, the number of retirement homes that were eventually approved. Could you explain to us why that number was reduced so much from the first proposal?

**Mr. R. Corfield:**

The development brief, as you know, talks about the social rented element of the scheme, having some retirement homes within that of, I think, between 15 and 20 sheltered housing units and the argument being that it would help contribute to the identified needs at that time of between 200 and 250 homes over the 5-year period to 2006. But, as I keep on saying, the brief was only offering a guiding framework and one would naturally expect that the treatment of matters such as this in the brief would be affected by changing circumstances, new information and negotiation over a period of time. So the brief was something that would evolve and in the event the Planning and Environment Committees that dealt with the first 2 applications, for 140 homes and 129 homes respectively, considered the proposed provision of 7 sheltered units in both of those schemes and they considered that to be acceptable. In both instances, that equates to roughly 5 per cent of the total number of units. In arriving at that conclusion they would have considered the fact that approval had been granted for 150 similar type homes just up the road at L'Hermitage Gardens, there was already a very good supply of such homes in comparison with the requirements for the identified needs up to 2006, and that the provision of 5 per cent of homes basically complied with Island Plan Policy H12 for that type of home. Furthermore, I think it is important to say that the Housing Department, who advised on the original tenure requirements, were very supportive of the original application with the 7 units in it, which they said, if I may quote: "... make a significant contribution to meeting the Island Plan's objectives for the provision of category A housing and would offer an attractive new housing estate for both first-time buyers and those seeking social rented housing." I suspect that Housing's position, although you may be asking them but I suspect their position, reflected the fact that the former housing committee had a keenness for a predominance of larger family houses on this site, and in fact that is the key message if you look at the

brief. That is the key message of the brief, larger family homes. So, in his decision on the 129 homes, the Minister made no reference at all to the 7 units that was being proposed. It did not feature as an issue in his report but it did in his second report when he was dealing with 102 homes, funnily enough. Originally, when this application was made, I do not know if you will remember this, there were not any sheltered homes or elderly persons' homes in it and there was obviously public objection and that was revised and 5 homes appeared in it; the equivalent of 5 per cent again. So it was basically in line with the 2 previous schemes in terms of the proportion of homes for elderly persons. The Minister explained the position regarding that and why the numbers had been reduced in the successive application. I think he gave you a note that I produced for him this morning, did he, which dealt with that? I think he gave that to Members as well. In view of the potential future requirements of such homes, he decided then to reserve his position on the number of homes and the permit was conditioned accordingly. In the event, he agreed to 5 units. I think, again, he has answered that question today why he did that; so hopefully he has already explained those reasons why he agreed to 5 units.

**Mrs. C. Canavan:**

Those are rental units, are they not?

**Mr. R. Corfield:**

No. In the brief it talked about them being rental units. We have not finalised yet the actual tenure requirements. The Island Plan says it should be 55 per cent conventional first-time buyer homes and 45 per cent social rented. The planning obligation agreement reflects that but both the permit and the planning obligations allow for reconsideration of the tenure requirements to allow for shared equity type homes if and when the Minister gets approval in the States and I think a report proposition, if it has not already been lodged, will be lodged shortly to that effect. If that is the case, of course, and becomes 55 per cent conventional first-time buyer, 45 per cent I think it is called Jersey Home Buy but shared equity type homes, then they will all effectively be private homes.

**Mrs. C. Canavan:**

So the 5 will fall into private?

**Mr. R. Corfield:**

Yes, but the Minister will have to make that final decision and he will only do so when he has had a look at the implications of the latest housing needs survey which is soon to be released.

**Mr. D. Watkins:**

Is there any divisional insight as to which houses are which or is it just any house could be either way?

**Mr. R. Corfield:**

There is a requirement for them to show that and demonstrate that.

**Mr. D. Watkins:**

On the site [plan]?

**Mr. R. Corfield:**

But they have not done so, so far, because I do not think they have fully finalised what that split will be. But they will have to do so in time to comply with the requirements of the planning permit and also the planning obligation agreement in the fullness of time.

**Mr. D. Watkins:**

The properties, as I understand it, are being sold.

**Mr. R. Corfield:**

Yes, so they obviously...

**Mr. D. Watkins:**

If they all sold how can you...

**Mr. R. Corfield:**

They know that there is a threshold that says: "You cannot sell any more than 55 per cent conventional first time buyer in any event," and there is an ongoing discussion, if you like, to be had about what the other 45 per cent are going to be used for, 5 of which will be elderly persons' homes.

**Mrs. C. Canavan:**

Can we go to the trees?

**Mr. R. Corfield:**

Is that 47?

**Mrs. C. Canavan:**

Sorry?

**Mr. R. Corfield:**

Question 47 is it?

**Mrs. C. Canavan:**

I think it is probably easier for you and for us if you just, if you can, off the cuff, tell us chapter and verse about the trees and what has happened and why it has changed. I think that will be easier certainly for us.

**Mr. D. Watkins:**

Bearing in mind we have never seen any trees because they had all gone by the time we started.

**Mr. R. Corfield:**

Okay. Essentially the approval for 102 homes also approved some trees for retention and some trees for removal. There was a row of oak trees, 12 or 13, along St. Peter's Valley Road that were approved for removal in association with what was also approved for road improvements to St. Peter's Valley Road involving road widening, pedestrian refuge, pedestrian extensions, pavement extensions and so forth. Consistently throughout the process, all the way through virtually, the committees and the Minister had taken the view that it was necessary to take down these trees in the interests of highway safety to achieve these road improvements. Basically the permit reflected that. What happened then to change the circumstances is that the developers began, as approved part of approved site clearance, chopping down trees. As a result of that there was a public outcry and the Minister went on a site visit to the site and he decided to provisionally list 2 of the 3 remaining trees in that row of trees and he then, after due process, approved 2 of those trees remaining on the list of protected trees. What it meant that the developers could not comply with the terms of the permit to achieve the road improvements and they could not satisfy, as they had to do under the conditions of the permit, T.T.S. requirements for road safety improvements. So they were in a real quandary and that led to the delays. That detail is what led to delays. The situation, as you may know, has changed again since in that the Minister has since approved the felling of one of those 2 protected trees because it was later found to be in a poor condition. By doing so, he has effectively freed up the situation for the developer who can now propose substantive -- not the whole road improvements that were approved but substantially, most of the road improvements that were approved and, therefore, the situation means that they still have to submit them

but they can get on and submit details of the proposed road improvements which will then satisfy T.T.S. and ourselves. So that is the situation, if you like, with the roadside trees.

**Mrs. C. Canavan:**

While we are on trees, the Minister this morning gave us an update on the state of play on planning conditions, which I think you prepared, but the query that I have, I think we mentioned before, is what does “the conditions have been overtaken” mean?

**Mr. R. Corfield:**

Well, these relate to the 25, 26, and 27 which all relate to children’s play areas. What has happened in the interim is that it has been agreed that the children’s play areas will no longer be equipped play areas. That followed consultations between the Minister and the Constable, and possibly the Deputies as well, I cannot remember, about how the recreational areas should be dealt with. The Constable at the time was saying these should not be outside the area of the site and an agreement was reached that they would no longer be equipped areas. Therefore, those areas will now be essentially grassed areas and they will effectively form part of the public amenity area but will be there for children’s play. Therefore, the conditions which relate to getting the equipment right and acceptable and all the rest of it, governing the security fencing and all those sorts of things, no longer apply.

**Mrs. C. Canavan:**

So again, just to confirm from your point of view: “The following conditions are outstanding or ongoing,” all of those have got to be completed before the houses can be occupied, unless an application for planning is made?

**Mr. R. Corfield:**

No, only if there is a specific requirement that they be completed before the housing is occupied. All the conditions have different requirements. Some will be conditions that extend beyond -- you know, after the housing has been finished. For example, there will be failure to survive condition [trees]. That will go on for a number of years. There will be other things that need to be put in place before it is occupied. Some have got no timeframes at all and some have got specific timeframes but what will have to happen is that all those conditions will have to be complied with. Some of these conditions have been extended - I think one of your questions talks about that - because there are opportunities for any applicant to apply to vary conditions. So some of those conditions have been extended and the deadlines have been changed accordingly but they all have to be complied with in any event.

**Mrs. C. Canavan:**

Now, we have noted from the paperwork that the parish was not minded to take over some of the facilities on the development, which is up to the parish obviously. Is what happens to those facilities then governed by the planning obligation agreement?

**Mr. R. Corfield:**

Yes, it is.

**Mrs. C. Canavan:**

The upkeep and care of [those facilities]

**Mr. R. Corfield:**

Yes, it is. Basically if the parish, as they have done, are not willing to take on the estate roads, the community building, the public areas, if you like, the public amenity area and all those sorts of things, then what that does is it just gets rid of one option for dealing with the future management and maintenance of those areas. It does not mean the developer does not have any obligation to deal with

that. He still has obligations to deal with that and they are written into the planning obligation agreement to guarantee the future maintenance and the future management of those particular areas. I can tell you what their proposals are and what has been agreed for those areas if you want to know.

**Mrs. C. Canavan:**

It is not private any longer, is it?

**Mr. R. Corfield:**

No.

**Mrs. C. Canavan:**

Yes, it would be helpful.

**Mr. R. Corfield:**

Well, as far as the public amenity area is concerned, the developers are now holding on to that area in the short term while they try to explore other options and in the interim the planning obligation agreement makes provision for completing landscaping works, maintaining the areas and the future possible conveyance to an appropriate body. So that is how it is being dealt with. The play areas, as I said these have been agreed as informal grassed play areas rather than equipped ones now and for the purposes of the planning obligation agreement they are included in the public amenity area. The estate roads, these have now become defined as part of the housing site infrastructure and the costs of the long-term management has now been apportioned among the owner, who in turn have to appoint an agent or a management company. As far as the community building is concerned, the developers are now considering offering that to a suitable third party for appropriate community uses, although they retain ownership at the moment, and the planning obligation agreement makes again provision for its future maintenance, future possible conveyance to an appropriate body or to a management company and the new house owners have a share in it. So basically there is one option less as a result of the parish stance and that means that they cannot use that option in achieving and guaranteeing future management and maintenance of those particular facilities.

**Mrs. C. Canavan:**

But the future management is guaranteed under the obligation?

**Mr. R. Corfield:**

Through the obligation, yes, which is [a] legally binding [document].

**Mr. D. Watkins:**

They would be private roads, will they not, not public roads?

**Mr. R. Corfield:**

Well, effectively they become private. If the parish had taken over them, they would be public roads but that is not the case. If, as I have just described, they will be taken over, apportioned to the house owners, they will effectively be private roads maintained by a private management company in which all those house owners have a share.

**Mr. D. Watkins:**

Should we ask the Constable is there any policing difference in the 2? We will come to that later.

**Mrs. C. Canavan:**

In your experience, have you ever been involved with a development that is so far advanced before the planning obligation agreement has been signed up?



**Mr. R. Corfield:**

I had better just confirm something, just to be clear about the P.O.A. (Planning Obligation Agreement) right at the outset. It has been signed by all the parties now, I do not know if you know that, and it only remains for it to be registered in the Royal Courts. So that has happened. Also [the] P.O.A. is a relatively new thing, so we have to remember that. They were only possible, if you like, from a States' decision to change the planning law in June 2002; so they are relatively new things. That said, I think it is fair to conclude it is not normal practice so far, from the uses of it, to allow development in advance of the P.O.A. being signed, let alone allowing development to be so far advanced before that agreement is in place, and clearly pursuing such practices is not something that is ideal or something to be contemplated in all the circumstances. It puts you in a weak position basically because if you give a permit, allow some development and the onus is on the developer to agree, you are in a weaker negotiating position. So it is not good practice but in circumstances, with some sites, it is deemed to be necessary and basically the Minister in his report, his decision report of May 2002, explains why he decided that he would allow works in advance of the P.O.A. At the time those involved site preparation works and 2 housing blocks and he pointed, quite rightly, to the precedent that had already been set by another H2 site at Westview in St. Ouen's, Rue des Cosnets. He also argued that it would obviate the need for the developer to lay off a large number of his workforce, a large proportion of his workforce, and he addressed that matter in planning condition number 3 which makes provision for him to allow further construction on the site in advance of the P.O.A. as he thinks fit. In the event, as you imply with your question, that the Minister has on various occasions permitted quite a lot of development on the site in advance of the P.O.A.: 71 units out of 102 units and the associated garages with those. I think the driving force for his decisions, which are all on public record of course, are the real threats that have been to the developer's workforce and that has in turn been caused by the delays and the length of the protracted period in resolving all the issues that related to the various applications on this site. Having said all that, the Minister's decisions were clearly in accordance with the terms of condition 3. So they were perfectly proper decisions and they were on the understanding that it was all done at the developer's risk; so if things had not gone right with the planning obligation the risk was with the developer. It was also on the understanding that none of the homes would be occupied until the P.O.A. was in place. I think the H2 site that I have mentioned at Rue des Cosnets, not only does it provide a precedent for starting development in advance of the planning obligation agreement, it also provides a precedent for a heavily advanced development before the P.O.A. is signed. I believe there is also another H2 site which has since been granted permission and allowed to commence before the P.O.A. is signed at Rue du Maupertuis at the moment. That will need to be checked by the way but I think that is the case.

**Mr. P. Kemble:**

The introduction of P.O.A.s is developed from essentially the U.K. (United Kingdom) has it?

**Mr. R. Corfield:**

Essentially, yes.

**Mrs. C. Canavan:**

Are they a good thing?

**Mr. R. Corfield:**

Well, I think you could argue they are a good thing. Planning decisions relate to the land that the application relates to, so you can use planning conditions to guarantee things within the site boundaries. Where there are off-site considerations, very difficult and probably contrary to planning law that you can somehow try and put controls through the normal planning application process on what happens off the site. So planning obligation agreements come into their own there because you have got legally binding

agreements that can guarantee, if you like, in the case of this particular site, that flood mitigation works are put in place on another site completely but which are related to the decision or taken into account in the decision; you can ensure that road improvement works outside of the site boundary are guaranteed you have a planning obligation agreement in place. So they have advantages and they are another part of the armoury of the planning authority in dealing with more controversial and more difficult planning applications.

**Mrs. C. Canavan:**

As far as the drains are concerned, we have just noted on the 8th February site visit notes that you gave us that the developer was looking at the feasibility study at that stage and we just wondered is that rather late in the day to be looking at feasibility studies or was it because the plan itself has changed for the drains. It is a new feasibility study on a different drainage system.

**Mr. R. Corfield:**

I do not think it is as ominous as it might appear. Planning permission was already given for drainage infrastructure and that in turn includes approval of the storm water pumping station and a car park on Rue de la Houghue to address potential flooding and the proposals for that pumping station - which is what this question refers to and my meeting notes refer to a pumping station - were supported in principle at the time by T.T.S. Drainage. It has always been recognised that they would need details which would need to be agreed and the proposals would have to be covered by a legally binding planning obligation agreement. So it was agreed as necessary and the permit carries a conditions recognising that the pumping station was to be designed by T.T.S. Drainage engineers and requiring that it be put in place and operational before the development is complete. My note reflects a change in circumstances whereby T.T.S. Drainage have now agreed with the developers that the developers can design the pumping station as long as they use T.T.S.'s framework consultants, Brinkmeyer, and they submit designs for T.T.S.'s approval. I think the developers wanted to speed up the process but I think it was a bit of a poisoned chalice there. It transpired then that there were options for the detailed design of the pumping station and the consultants were appointed by the developers to examine the relative feasibility, if you like, of those options and come up with a design specification for T.T.S. approval. So I am not sure I could say then, to answer your question, it is unusual, given the unique nature of the application and I think the term "feasibility study" is a bit of an unfortunate phrase to use because what it really is is a detailed design exercise. Having said all that, I was surprised, I have to say, that there were design options being considered, not all totally in line with what was envisaged and approved for the pumping station, so I did have some concerns about that and still have some concerns about that and that is an ongoing discussion.

**Mrs. C.E. Canavan:**

The next question, I suppose, again calls for your opinion, and it is your opinion, we accept. Do you believe that the developers followed the planning requirements as they have changed, or has the developer driven the planning?

**Mr. R. Corfield:**

A bit of loaded question, that, was it not?

**Mrs. C.E. Canavan:**

Very [loaded].

**Mr. R. Corfield:**

Well, in my opinion, the developer has had absolutely no choice but to follow the planning process and to comply with all the requirements along the way. The only thing he could have done, I suppose, is appeal against some of the requirements. But really, he has had no choice. I think it would soon

become obvious if you had a discussion with the developer that that is the case. The length of time involved in the application process is probably unprecedented, as I have said before. It is certainly not in the normal best interests of a developer to be involved in a process for such a long period of time. So, he has followed the process and he has not driven it.

**Mrs. C.E. Canavan:**

Then obviously there is the personal question that you have been heavily involved. Should there have been basically more planners involved with it rather than just you and did you ever feel that you were in a conflict position throughout the whole process?

**Mr. R. Corfield:**

That is quite a difficult thing for me to answer and I know that that criticism has been levelled on a couple of public occasions throughout the application process. I think it is completely without foundation, but I think it fails to understand the nature of the relationship between members, decision-makers and officers, advisers. I also deeply resent any inference that there may be behind a question like that, that I may have acted in a partial or a biased manner. It is true that I have been heavily involved with co-ordinating and formulating the Island Plan 2002. I was the co-ordinator for that project. I have been involved in evaluating the Category A housing sites and I was involved heavily with the feasibility studies. I was involved in preparing most of the development briefs for the H2 sites. I negotiated with developers on the sites in question and I have been involved in processing the applications. In that process I have made numerous recommendations, I have offered loads of advice and the main decisions, basically though, have been taken by either former committees or the Minister. They make the decisions, not always in accordance with my recommendations, as you will know. I think the negotiations with the developers, which is one of the inferences, before and during the application process has primarily been to assist them in understanding the planning issues and to provide advice on the former committees and the Minister's requirements for the site. Throughout all those processes, including the application process, I think I have endeavoured to remain impartial and objective and I have only concerned myself with material planning considerations. Obviously as a member of the R.T.P.I. (Royal Town Planners Institute) as well I have certain obligations to meet the code of professional conduct, which seeks, among other things to act with confidence and honesty and integrity and exercise judgment fiercely and impartially and discharge duties, care and diligence and all that sort of thing and not to discriminate. I cannot think of any situation where I felt personally there has been a conflict. There have, of course, been decisions that I would not personally have agreed with, but nevertheless, you have to accept those and act upon those. In my opinion, the whole development brief and application process has been fair and transparent. It has actively promoted and accommodated public consultation and involvement. All the representations have been fully taken into account. My involvement in the process is clear from the file record. There have been lots of extensive reports that I have written and various proposals for the site for former committees and the Minister and I believe they are comprehensive, balanced and impartial and that is the position I take on it.

**Mrs. C.E. Canavan:**

Going forward, because we are looking at recommendations for future, do you think that it would be wise if there were the resources to put more than one person on one particular site?

**Mr. R. Corfield:**

I wish there had been a different person on this site. We basically divvied up the sites in the Forward Planning Section because we had had involvement in the Island Plan process so we divvied up the sites to free Development Control from what would have been major applications and you could say I got the short straw in that respect. I think resources are limited in the Planning Department, but all the officers there act professionally and objectively and there should not be any conflicts of interest if they follow their code of practice and basically concern themselves, as I say, with material planning considerations.

So, I do not think there is an issue to resolve there. I think there are technical issues for the future inasmuch as the procedures now associated with applications are very much, as internal procedure, more complex than they ever were in the past. So I think perhaps the situation will not arise in the future because it will only be officers who are familiar with the application process and all the procedures that have been put in place recently that will be in a position to practically deal with future planning applications. Otherwise, somebody from another section will have to learn the ropes in terms of those procedures, which I think would probably be not particularly practical.

**Mrs. C.E. Canavan:**

One final question from me and it is more to do with current housing requirements more than anything. The design brief mentioned that there should be a mix of apartments and terraced homes. Where did the apartments drop out along the way?

**Mr. R. Corfield:**

Right at the beginning they dropped out. Basically the development brief provided guidance. The applicants wanted to pursue family homes. At the time there was an over provision of flats in the housing market which was widely publicised. The key message of the brief, as I have said before, was predominantly provide 3-bedroom family homes. That was the key message. Yes, it talked about a mix of different types of homes and ideally we would like to achieve that. The Housing Department was happy with there being no flats. As I have said before, I have mentioned in a previous answer, successive committees and the Minister were not opposed to this and eventually planning permission was granted that reflected this. What we do have is still sustainable development in the form of terraced housing, what we do not have is sustainable forms of development in the form of flats. But, having said all that, the basic requirement of the Housing Committee to predominantly have family units on that site is achieved and has been satisfactory from the responses we have had from the Housing Department who initially were the people who provided guidance on 10-year requirements.

**Mrs. C.E. Canavan:**

Thank you very much. I am sorry we have grilled you.

**Mr. R. Corfield:**

Okay. I will leave some answers for you because there were some questions you did not ask. There were some interesting data which I have developed on the department's records on dwelling completions over recent years and there is also quite a bit on the events leading to the tree protection, putting that in place.

**Mrs. C.E. Canavan:**

Yes, that would be very helpful, thank you. So anybody who is interested [please] come back at 2.00 p.m.