

STATES OF JERSEY

Committee of Inquiry: Reg's Skips Limited – Planning Applications

FRIDAY, 18th DECEMBER 2009

Members:

Mr. J. Mills, C.B.E. (Chairman)
Mr. E. Trevor, M.B.E, F.R.I.C.S.
Mr. R. Huson

Clerk:

Mr. I. Clarkson, States Greffe

Witnesses:

Mr. P. Thorne (Director of Planning, Planning and Environment Department)
Mr. P. Le Gresley (Assistant Director, Development Control, Planning and Environment Department)
Mr. G. Bisson (Enforcement Officer (retired), Planning and Environment Department)

[10:08]

Mr. I. Clarkson (Clerk):

We gather that Mr. Bisson is stuck somewhere, is that correct?

Mr. P. Thorne:

It is worse in the southeast, I think.

Mr. J. Mills (Chairman):

Okay, I am just going to introduce the hearing, as this is a public hearing, and then I will ask you to stand to take an oath and then we can get on. This is the first public hearing of the Committee of Inquiry which was established by the States a month or so ago and between our being established and entering on to the business we have had several meetings where we have started to go over all the paperwork and all the issues. Today we are going to - as I think people have been informed - focus solely upon the initial part of the business in question which is the issues and the history leading up to the grant of planning permission at Heatherbrae Farm in 2005. So we are going to deal with that and we will have our second public hearing in the New Year at a date we have not quite fixed yet when we will then take the story further forward. I think that has been explained to people. So, can I first of all ask both of you if you wish to take the oath or to affirm?

Mr. P. Thorne (Director of Planning, Planning and Environment Department):

I will take the oath.

Mr. P. Le Gresley (Assistant Director, Development Control, Planning and Environment Department):

I will take the oath.

Mr. J. Mills:

If you would like to stand up, please, and raise your right hand. Do you swear that you will declare the truth, the whole truth and nothing but truth in the present proceeding before this Committee of Inquiry, which you will do so without favour, hatred or partiality as you will answer to Almighty God at your peril?

Mr. P. Le Gresley:

You would like us to read that?

Mr. J. Mills:

No, you do not need to read it.

Mr. P. Thorne:

Yes, I agree.

Mr. P. Le Gresley:

I agree.

Mr. J. Mills:

We were pleased the oath was in English and not French. Okay, thank you very much. Could you first of all just introduce yourselves for the record so we know who you are?

Mr. P. Thorne:

I am Peter Thorne, I am the Director of Planning at the Planning and Environment Department.

Mr. P. Le Gresley:

I am Peter Le Gresley, the Assistant Director in charge of Development Control, which is the planning application side of it.

Mr. J. Mills:

Can those sitting in the public seats hear that? That is all right, is it? Good, and Mr. Bisson, who is a retired enforcement officer.

Mr. P. Le Gresley:

Retired enforcement officer in the department, yes.

Mr. J. Mills:

He will come shortly. Thank you very much. Now, we would like to start by asking you if you would, from your perspective as planning officers, just take us through the main set of issues from your perspective. Starting from your first contact with the company, Reg's Skips Limited, up to the point where the planning application was received. I think we might take the process of the application itself as a slightly separate point. We have tried to understand the history from the files but it is important really that you have a chance just to set out the main lines of that and that will then open the way for us to question you about that.

Mr. P. Thorne:

Can I say for my part I had no direct involvement with the applicants or the process. I can certainly advise on procedures and policy and that sort of thing. There may be a signature on the file of covering a report, endorsing a report or something like that. I honestly cannot remember but I have had no direct involvement with the application.

Mr. J. Mills:

But all the people who did have a direct involvement did report to you?

Mr. P. Thorne:

Indeed. Through Peter, yes.

Mr. J. Mills:

Okay, and you were both there throughout this whole period starting from whenever it was?

Mr. P. Thorne:

Yes.

Mr. P. Le Gresley:

I do not know how much background the Committee ...

Mr. J. Mills:

Over to you. I think we should say we have tried to understand the background but this is for the public record. I should have just said that a transcript is being taken of this. When it is typed up you will be asked to check your bits for accuracy in the usual way and we will make the transcripts available at the point when we publish our report. Over to you.

Mr. P. Le Gresley:

I will try and give as much detail as I can remember, bearing in mind that I was managing the team and not dealing with the applications directly myself. But I am sure that the Committee of Inquiry is aware that the period at which Reg's Skips were at Heatherbrae Farm is just a snapshot of a very long time that the Planning Department has been dealing with the company. It is just one chapter, if you like, of a longer story. Certainly the department ... and this is where my direct contact with the issue is very indirect, I suppose. I did not have direct contact prior to the Home Farm issues, but Reg's Skips were at several premises I believe up until the point that they were at a combination of Home Farm in St. Peter and La Prairie in St. Peter and that is where my direct knowledge starts to come in. Simply because I used to live in the Parish of St. Brelade and used to do the school run going across the north of the Island and did observe at La Prairie, which is at the top of Beaumont Hill, an increase in activity over a period on that site, which was concerning enough to me to mention it to the enforcement officer at the time, which was Gerald Bisson.

Mr. J. Mills:

What time are we talking about, please?

Mr. P. Le Gresley:

That would be, I would say, either late 2004 or early 2005. I could not put a precise date on it without checking the record. Some time during that period. As I say, simply through casual observing as one went past on a daily basis I had noticed that the activities were increasing at La Prairie to a point that was concerning. I always was aware, because I think it was known in the department that site had been allowed for storage over many, many decades and I think even predating the planning law, which is what we would call a pre-existing use. There had always been some form of storage and skips on the site. But that I had noticed over a period of time an increase in intensity of activity which led me to believe that there was something else, some operation taking place on that site at the same time.

[10:15]

Mr. J. Mills:

Mr. Bisson.

Mr. G. Bisson (Enforcement Officer (retired), Planning and Development Department):

A little bit of snow and the Island stops. [Laughter]

Mr. J. Mills:

Can we just interrupt the proceeding just so you can take an oath, please? Would you like to take an oath about your evidence or affirm?

Mr. G. Bisson:

Yes, certainly.

Mr. J. Mills:

Could you stand up, please, and just raise your right hand. Do you swear that you will declare the truth, the whole truth and nothing but truth in the present proceedings before this Committee of Inquiry, which you will do so without favour, hatred or partiality as you will answer to Almighty God at your peril?

Mr. G. Bisson:

I do.

Mr. J. Mills:

Welcome. We have only just started.

Mr. P. Le Gresley:

Just for Mr. Bisson's benefit, I was just recounting the pre-history to Reg's Skips and their presence at Home Farm and La Prairie in St. Peter. I was recounting that because I had lived in the west of Island and passed the site regularly I had noticed an increase in activity at La Prairie and I think that I had either mentioned it or dropped a note to Mr. Bisson to say: "Could you please have a look and see what is going on?" As I was explaining to the Committee I detected an increase in activity at the site which gave me cause for concern and I think Mr. Bisson went on to have a look at what was going on. Around or just after that time I think the company, Reg's Skips, were looking for a more permanent solution for their activities and I think that they were split on 2 sites if I remember and they put a planning application with the department to operate at the Homestead, which is a property in St. John. We had assessed that application. In fact the Planning Sub-committee of the day had visited the site during that process and I attended on site with them, and that application was refused. If I recall absolutely the shed which Reg's Skips wanted to operate from at the Homestead was directly adjacent to some residential properties by a matter of about 10-15 yards or so to the boundary. We had clearly looked at that and said: "No, that is too close judging by the operation that might be carried out, vehicular movements and the like." That application was refused by the Planning Sub-committee of the day. At that point, and this is where I am a little hazy on exactly what happened, certainly Reg's Skips wanted to pursue an alternative location and either they mentioned it to us or we mentioned it to them that there were possibilities at Heatherbrae Farm. I should mention that in the intervening period up until that point Heatherbrae Farm had moved from a ... gained consent from a dairy farm to a commercial operation and there were a number of users on the site. Forgive my vagueness over that because I simply cannot remember the exact timeline and the exact things that happened. So at that point I think that ... because I have spoken to Mr. Taylor, who I am sure you will hear from later, and Mr. Taylor advised me that one of my planning officers had attended ...

Mr. J. Mills:

Sorry, you spoke to him just recently?

Mr. P. Le Gresley:

No, this was ...

Mr. J. Mills:

This is going back?

Mr. P. Le Gresley:

... many, many months ago. Many months ago. Mr. Taylor told me that one of my officers had been to see him to ask whether or not he would be willing to take Reg's Skips on site, and I do not know whether that is fact or not but I have no reason to doubt Mr. Taylor's word. He advised me that that had taken place. Now, I was not aware that that had taken place. I certainly had not recalled that but at that point there was a meeting of minds, I think, and Reg's Skips duly asked for pre-application advice from us, from the Planning Department, as to whether an application, a formal application, would be considered favourably. During that process, we had a process for that sort of thing, when it was a matter like that and we put the points to the Planning Committee of the day and I think that is recorded in some minutes. The Planning Committee decided that would be a good solution for the problem, if you like, the problem that we had. They said that they would favourably receive an application and that obviously all matters had to be considered during the application process but certainly the ... if not a green light, certainly an amber light was put forward. Subsequent to that Reg's Skips did indeed put in an application. It might have been Reg's Skips or it might have been Mr. Taylor but I do not recall. But I am sure you have got the information. So an application was put forward for Reg's Skips to operate on site and we then dealt with that application under delegated powers having taken the steer from the Planning Committee previously and the consent was issued. That, in a nutshell, is my recollection of the events prior to consent being granted. Now, I am sure I have probably left chunks out but that is ...

Mr. J. Mills:

Okay, well that gives us a good start. Can I just go back a few stages to before the Homestead application emerged and then was refused, there was also an application in respect of Home Farm, and that is going back to, I think, 2003 if I am right.

Mr. P. Le Gresley:

An application at Home Farm?

Mr. J. Mills:

Yes, and Reg's Skips wanted to operate there. They were turned down and then turned down again on appeal.

Mr. P. Le Gresley:

That is not something that I recall personally but ...

Mr. J. Mills:

Can you just read out the relevant time entry for us, please? Can we just remind ourselves which one we are talking about?

Mr. P. Le Gresley:

Are you talking about an application ...

Mr. J. Mills:

This is the Home Farm.

Mr. P. Le Gresley:

In May 2003 the Environment and Public Services Committee upholds a decision to refuse application.

Mr. J. Mills:

That is the one, yes.

Mr. P. Le Gresley:

2002/2136.

Mr. J. Mills:

This is Mr. Le Ruez's land at Home Farm. The paper on that, I would just like to take your mind on this. One of the reasons given in turning down the appeal in that time was that the storage of skips was an inappropriate use in the countryside, contrary to C6 of the Island Plan. That was given as a specific reason for that. I just wondered if you could comment on that briefly. Have any of you knowledge of the Home Farm case?

Mr. P. Le Gresley:

I do not, no. I did not look at it prior to coming to this inquiry.

Mr. P. Thorne:

My understanding, and perhaps Gerald will correct me if I am wrong in this, I think they were operating there anyway.

Mr. J. Mills:

They were, yes.

Mr. P. Thorne:

Prior to submitting an application. I think they were at the far end of a track which was away from the former farm buildings at Home Farm, right at the back of St. George's school, very close to the school anyway. So, effectively, they were operating in the middle of the field. There might have been some hard standing or a track or something down to them. There must have been a track obviously.

Mr. R. Huson:

This is the site that A.C. Mauger occupied as well, is it not?

Mr. G. Bisson:

That is correct.

Mr. R. Huson:

Because they had part of the site ...

Mr. G. Bisson:

A.C. Mauger were operating from there illegally as well.

Mr. J. Mills:

For many years or something?

Mr. G. Bisson:

Yes. Yes, they were moved on.

Mr. P. Le Gresley:

That is right, it is coming back to me now. I think Reg's Skips had formed a hard standing without consent and, as you rightly say, Peter, it was moved away from the collection of buildings and was effectively, in my view, an extension into the countryside at that point.

Mr. J. Mills:

The turning down of this was the catalyst for the move to La Prairie.

Mr. P. Le Gresley:

I think they might have been ... maybe the movement of their operations to La Prairie because I think they were already occupying La Prairie as well.

Mr. J. Mills:

Yes, but I am interested in ... I understand that. I am particularly interested in the reason given which is that skip storage was inappropriate in the countryside contrary to C6 and I just want to note that because we might want to come back to that at a later point, and we might want to ask you further questions in writing about that. Just pause for a second. Any points that my colleagues here want to just raise on what Mr. Le Gresley has said so far? We will come to Mr. Bisson in a minute, if we may. I am going to ask Mr. Bisson to speak to us at the end.

Mr. E. Trevor:

I have got a general question which is what knowledge did the Planning Department have of skip operations at the time of which we are speaking?

Mr. P. Le Gresley:

We have discussed this in the office.

Mr. P. Thorne:

Yes, not a great deal to be honest. There had been skip operators in the Island, still are skip operators in the Island, of course. But I think the significance of the Reg's Skips operation is that it was the sorting activities that went with it. We have had experience with a chap called Stephen Hotton down at the bottom of Ville Emphrie (St Lawrence) for example, where there was unauthorised use for the storage of skips there, and he had sort of gone beyond the authorised use. I think Gerald was involved in an enforcement notice on that case, which went to the Royal Court. But certainly skip operators have operated in the Island for many years. I think the nature of the business has actually changed, probably something to do with the adoption of a waste strategy by the States, encouragement in the 2002 Island Plan for recycling and so on. Perhaps the biggest thing, and I am speculating on this - so please indulge me for doing so - I think it probably had something to do with a hike in the prices for mixed loads being delivered to the tip at La Collette, which encouraged people obviously to sort the loads before they were delivered. There was a high rate and a cheaper rate.

Mr. J. Mills:

That was a price imposed by the States Department?

Mr. P. Thorne:

That is right, yes. For the only authorised tip in the Island effectively.

Mr. J. Mills:

Sorry, can I just press you on that. The only authorised tip in the Island effectively. Can you just expand on that, please?

Mr. P. Thorne:

Well, it is the main disposal site for builder's waste, that sort of the thing. The differential charge I alluded to there had everything to do with taking just rubble and concrete and so on, soils, what have you, as single loads rather than filling a skip with bits of wood, bit of plastic, soil, concrete, the lot, because obviously then the sorting has to be done by the Transport and Technical Services Department, as it is now. They introduced this differential charge - and I honestly cannot say when, I could probably find out and let you know - where there was a cheaper rate for an unmixed load and quite a punitive rate for mixed loads. So - again I am speculating or giving my view of the situation at that time - we were collectively in the States encouraging people to recycle waste and so there was clearly a business opportunity for people getting involved in sorting it.

Mr. P. Le Gresley:

Can I just add to that as well, Mr. Mills? That was combined with a set of policies in the 2002 Island Plan which was adopted by the States in July, I think, of that year which specifically required the Planning Department to require from developers statements of waste disposal as they come to demolish buildings and the like. We said, you know, you need to tell us what you are doing with your waste, you need to give us a statement of how much you are going to recycle on the site and how much you are going to use and what you will be taking to tip.

Mr. J. Mills:

No photographs allowed.

Male Speaker:

No?

Mr. J. Mills:

No, no photographs at all.

Mr. P. Le Gresley:

Sorry, I was just saying that the Planning Department required from developers, where there was demolition or earthworks, a statement of what they were going to do with that waste, how much they were going to recycle and obviously the pressure from 2 directions, from the States as a whole if you like, was that waste would be reduced. Waste coming off building sites would be reduced and reused wherever possible. I think, as does Mr. Thorne, that that created a market for sorting and disposing of waste in a different way.

Mr. J. Mills:

Other skip operators in the Island, you said there were several, were obviously seeking to exploit this market as well presumably?

Mr. P. Thorne:

I am not sure about that. There were ... for example, you have Broadlands at St. Peter, Wayne Le Marquand's operation... where he was receiving waste on quite a large scale. I think he operated a skip business as well, but he probably sorted on a site that was already well established as a recycling site.

Mr. J. Mills:

He had planning permission for recycling as a recycling site, did he?

Mr. P. Thorne:

No, but it had evolved into that situation over the years. It had always been a commercial site. There were coaches stored there at one stage, well they operated from there, I beg your pardon.

Mr. J. Mills:

What was the difference between that and La Prairie?

Mr. P. Thorne:

Scale. Scale, I think, and the fact that it was already established and this skip operation is just part of the business.

Mr. R. Huson:

Sorry, can I press you there. You had given Mr. Le Marquand commercial licence for his premises at Broadlands, to set up originally?

[10:30]

Mr. P. Thorne:

Well, I think the use at Broadlands goes way back in all honesty. There was a commercial evolution, if you like, in the nature of the business he operated.

Mr. R. Huson:

Now, the thing is, what you were saying about the policies that encouraged and the pressures from outside, the nature of any skip business, and Mr. Le Marquand's business, was going to change and evolve whether they were going to try and make money out of it ... they almost had to sort the skips because that is the way the business was going. So I think it is fair to say that any skip operator who had a licence was going to have to sort these skips from a certain period in time?

Mr. P. Thorne:

I would not disagree with that. I do not think that was something we would necessarily have foreseen or was understood at the time the Island Plan was adopted, simply because the other operators already had permissions or established sites from wherever they were operating.

Mr. R. Huson:

Yes, but did they have solely permission, like Reg's Skips did, to have storage of skips and then they run their business ferrying skips around, and then all these businesses just naturally evolve into sorting skips. That is the point I am trying to get to. Did they just sort of do it without permission, do you know what I mean? Do you see what I am trying to say? The business progressed from skip storage to skip sorting and onwards, and they did not even really realise that they would need some sort of separate permission or whatever to move on to this next phase in their operation.

Mr. P. Thorne:

My take on it, and Peter or Gerald will agree or disagree, is that effectively the Broadlands operation was a recycling operation in itself and things would be brought to the site ... he crushes aggregates and resupplies to the building industry secondary aggregates, so ...

Mr. J. Mills:

Is that in the countryside?

Mr. P. Thorne:

It is, yes.

Mr. J. Mills:

I think the way forward on this would be to ask you to supply us with the files relating to Broadlands, please, because I think this comparison issue is a very important one for us.

Mr. P. Thorne:

I think comparison of scale is something wholly different.

Mr. J. Mills:

Well, we will have to make a judgment but I think if we could ask you to supply those files.

Mr. P. Thorne:

Certainly we will.

Mr. J. Mills:

You mentioned one other, someone at ...

Mr. R. Huson:

Hotton, Steve Hotton.

Mr. G. Bisson:

At Ville Emphrie.

Mr. P. Thorne:

That was in the 1990s, or something like that.

Mr. J. Mills:

That is quite a long time ago, is it, before the Island Plan?

Mr. P. Thorne:

Yes, well before the current Island Plan.

Mr. J. Mills:

Well, I think if you could supply us with the Broadlands files that will, I think, help us to understand this point, then we might want to pursue one or 2 lines of questioning with you.

Mr. G. Bisson:

I can answer one thing. You talk about the progression from storage of skips to sorting of skips and whether the operators knew they needed permission. I can answer that; yes, they did know they needed permission, in particular Reg's Skips. I had told him that where he was operating at the time, another place that has not been mentioned McQuaig's Quarry in St. John's, that he could store his skips there, there was a permission given to do that, but he could not sort the skips.

Mr. J. Mills:

That was because there was a specific permission relating to storage only?

Mr. G. Bisson:

That is right. Sorting of skips and storage of skips, there is a change of use there.

Mr. J. Mills:

Okay, well we might ask you to write that down for us with the relevant papers but obviously if there was a specific permission related simply to storing then I see the point you are making. Perhaps we might ask you to send us a short note on that as well, just so we can just understand exactly the point that has is being made.

Mr. G. Bisson:

That is no problem, and I can also mention La Prairie ...

Mr. J. Mills:

Can we just come to La Prairie in a moment? We will come back to that in a moment, if I may. Edward, sorry.

Mr. E. Trevor:

One thing that concerned me was you referred to Broadlands and said that was an intensification of the use and was expected. But in some of the paperwork regarding Reg's Skips it refers to intensification of use which should not be permitted, and I wonder why some business should be allowed intensify and others should not. I would expect everything to intensify.

Mr. P. Thorne:

I am not sure I used that expression exactly. What I was trying to ... or if I did I perhaps have misled you... what I was trying to convey there was the fact that Broadlands is a much broader operation than simply a skip operation, and the level of commercial activity was already at a level there where the sorting of skips in itself was not going to create any further problems. The issue of intensification is when a use grows and becomes problematic, if you like. If we approve the storage of skips in an area, you know, skips are delivered, they are stored there and it is a passive activity. There is no activity other than the delivering and the taking away. If someone is on the site sorting by mechanical means or even by hand, throwing stuff into other skips, then that is an operation actually taking place on the site and can increase the comings and goings, it can increase noise, it can increase dust and that sort of stuff.

Mr. J. Mills:

At the relevant point the governing strategic policy was the waste management strategy which was on the back of the Island Plan?

Mr. P. Thorne:

Well, it was not governing us ...

Mr. J. Mills:

Or the waste management policies in the Island Plan?

Mr. P. Thorne:

That is right.

Mr. J. Mills:

I am with you.

Mr. P. Thorne:

Which I have with me.

Mr. J. Mills:

Could I just turn to those and could I firstly just turn to waste management policy number 2, paragraph 14.15 which refers the treatment of proposals for waste management activities. I say that deliberately because you have just tried to draw a distinction between just skips sitting on the ground or being delivered by a lorry or taken away by lorry. My reading of the Island Plan, or the waste management bit of the Island Plan, is that, quite correctly, you were trying to look at waste issues in a holistic manner. A waste management activity does a whole range of things, rather like you have just described at the Broadlands operation. So I am slightly puzzled by this emphasis on or the distinction being drawn

between just skips being put on the ground and taken off the ground by a lorry and “waste management activities”.

Mr. P. Le Gresley:

I think that just comes down to what we regard as different uses under the Planning Law. Perhaps if I can just draw a simile. We always look at dry storage, which is quite a common use in vacant agricultural sheds for instance. We look at dry storage as a different use to a commercial operation. So a commercial operation might be a warehousing use where the comings and goings are frequent, there are people employed on the site, there may be forklifts or other vehicles buzzing about and dry storage which is a much more benign use in planning terms, quite frequently goods are taken to the site but left in storage for some period. I was having a discussion only a couple of days ago with a gentleman who wanted to put dry storage in his property, and it was a furniture removals company. People who are having their properties renovated or maybe they are going travelling for a while and want to put things in storage and they stay in storage for several months and there is nobody employed on the site and it is a very quiet and benign use. The difference between that and a commercial operation is the distinction we are trying to draw here.

Mr. J. Mills:

I understand. Could I then just ask you to go to waste management policy number 3 and that refers to proposals for new waste facilities and the expansion of existing facilities and it says that these would normally be permitted where the impact was not “unreasonable”. There is an imputation there that there is inevitably some impact. Can I just ask you to comment on how you interpret that? This is the word “expansion” that I am interested in. Because any business worth its salt aims to expand, I think. Policy number 3, WM3.

Mr. P. Le Gresley:

Yes, which part?

Mr. P. Thorne:

It is effectively this introduction.

Mr. P. Le Gresley:

Yes, proposals for new waste management facilities and expansion of existing facilities. I think what I would say there ...

Mr. J. Mills:

Could you just read it out for the benefit of everybody, please?

Mr. P. Le Gresley:

Certainly. Yes, it says, just the first part of the policy says: “Proposals for new waste management facilities and expansion of existing facilities will normally be permitted provided that the proposed development (1) will not have an unreasonable impact on neighbouring uses and the local environment by reason of noise, vibration, odour, lychates, water or gas emissions, including any effects on quality or quantity of water supply and drainage.”

Mr. P. Thorne:

Then it goes on, there are quite a few other criteria which need to be satisfied as well.

Mr. J. Mills:

But it is the concept of expansion that I am quite interested in.

Mr. P. Thorne:

The policy addresses both.

Mr. J. Mills:

Because no business is static really.

Mr. P. Thorne:

The policy addresses both. When we talk about expansion in terms of planning policy it is a larger site or maybe an expansion in activity or a change in the nature of the building. But really it is meant in a planning policy context it is a single policy which is dealing with the establishment of new facilities or the extension, getting bigger basically, which are both treated the same. They have to satisfy the same criteria.

Mr. J. Mills:

Okay, thank you. Any other points on that? No? Let us turn back a moment to you, Mr. Bisson, if we may. The situation was reached ... well, I will ask you if you could just, from your perspective, explain the position as you understood it and, indeed, found it at the point where Reg's Skips started using the La Prairie site at the top of the hill.

Mr. G. Bisson:

La Prairie had an established use, possibly going back pre-1964. That is what we call pre-planning law. Michel, a haulage contractor, operated from there ...

Mr. J. Mills:

Sorry, can everyone hear? I am just wondering whether those seats should be there. I am very conscious that these people are talking to us. Would that be helpful? The acoustic in here is a little bit ... whatever the word.

Mr. P. Le Gresley:

The vibrations of the lorries outside is not helpful. [Laughter]

Mr. J. Mills:

I am anxious that people are able to hear effectively. The microphones are not for the benefit of the room, they are benefit of the transcript. Is that better? Okay. Please continue.

Mr. G. Bisson:

Yes, as I said, Michel, the haulage contractor, had operated from La Prairie for many years, possibly pre-1964. 1964 is an important date because that is when the planning law came out and I.D.C. (the Island Development Committee) became effective. Michel just kept its storage of trailers and similar items and there was never a problem with Michel. But as the haulage business changed and the skip businesses came in, we permitted storage of skips to be undertaken at La Prairie. That was not a problem. The problem was the sorting of skips. La Prairie is right along side an extremely busy main road. When the starting of sorting the skips commenced we received quite a number of complaints, and some went to Mr. Le Gresley but many came straight to me; from politicians, from residents of the west of the Island. I contacted Reg and informed him that the storage of skips is not a problem but the sorting of skips is a problem and he cannot do it. But it did take place. I must say that the sorting of skips at La Prairie was done by hand. To my knowledge no machinery was used at all there. But we would not accept any skips full of rubbish, it had to be storage of empty skips.

Mr. P. Thorne:

Unless planning permission were applied for and granted.

Mr. J. Mills:

Okay, that is very helpful. Can we just go to a general point here about the nature of this so-called pre-1964 site. Because it was in what you call commercial use - I think that was the phrase that was used - prior to the planning law, it did not need any permissions for ...

Mr. G. Bisson:

It was an accepted use, yes.

Mr. J. Mills:

Right, and what in law, in your understanding, is the trigger for moving from a pre-1964 use, if you like, to a post-1964 use? How is this defined and done? Because there must be many sites like that.

Mr. G. Bisson:

If the use stayed the same it would not be a problem.

Mr. P. Le Gresley:

I was just going to say that, if I remember, there was a clause in the 1964 Planning Law when it was introduced which pretty much said that any use which exists on the site as it is at present is, I think, hereby granted consent or is hereby allowed to continue ...

Mr. P. Thorne:

The law was not retrospective, it could not apply to uses already existing at that time.

Mr. P. Le Gresley:

I think it was a line in the sand, if you like, 1964, no planning law prior to that in Jersey, everything that exists at the moment is allowed and we move on, and any subsequent changes are covered by the law.

[10:45]

Mr. J. Mills:

These existing uses were documented by your department?

Mr. P. Le Gresley:

No, I would not have thought so.

Mr. P. Thorne:

The department would have had no reason to have documented them because there had never been an application for them.

Mr. J. Mills:

But you did not have a stock take of existing uses at that point?

Mr. P. Le Gresley:

There would have been about 30,000 premises in the Island and a department of possibly 2 or 3 people.

Mr. J. Mills:

So the concept of existing use at the point of the new law, quite a loose one, quite a difficult one in terms of enforcement, in terms of ... in practical terms.

Mr. G. Bisson:

I could say it was by personal knowledge, because I go back before 1964 and I did know that Michel's was using it prior to 1964.

Mr. J. Mills:

Is that documented on file?

Mr. G. Bisson:

I cannot remember whether it is documented there but ...

Mr. J. Mills:

Sorry, I was not clear, what I mean is was the nature of their usage documented?

Mr. G. Bisson:

No, I do not think so.

Mr. J. Mills:

We know that they were there.

Mr. P. Thorne:

Can I just pick up on something you have picked up on, on what Gerald said? That is the commercial use. Commercial use is not something we recognise in planning terms. Virtually every premise is commercial in some shape or form. What is important is the nature of the use and the degree to which the storage of skips, let us say, at La Prairie was materially different, if indeed it was, from the haulage use that had previously taken place there. My view would be that we would have taken ... we would have said: "Look, they are not materially different" whether they were storing trailers there or they were storing skips there. They would come, they would take them away and they would bring them back. But there was not actually any operational work going on to the vehicles or trailers or skips or whatever they might. So to that extent there was no material change in the use taking place purely by storing skips there and storing trailers there, or even parking lorries there. I do not know what the nature of the use was at that time but what we would have done, once the law had become established, is - and it is a question of fact - what was the use pre-1964, what is the use now, is it materially different? No. Then it is not the problem. Does it require permission for that change to occur? If it is something substantially different, yes, it may certainly require permission because it is a materially different change from what was happening previously. Materiality is not so much what they do, it is the impact of what they do. If it is something that changed which led to more comings and goings, noise or ...

Mr. R. Huson:

So you are just taking really a commonsense approach?

Mr. P. Thorne:

It is not commonsense, it is what we are there to do, which is protect amenities and ensuring ... we have a positive role as well in enabling things, places to exist where things can happen which need to happen. But obviously in looking at individual cases you have to have regard to the circumstances and, you know, if it is surrounded by housing and it has got a propensity to create noise then it is potentially going to be a problem. If it is in the middle of nowhere, although there may be other factors that occur in the middle of nowhere, it is unlikely to cause problems in that way. So the law virtually requires us ... it is not actually written but the case law dictates that we have to treat each application on its merits, but clearly we have to have regard to the policies of the plan. At that stage the plan was only another consideration we had to take into account. The new Planning Law - that is the 2002 law that came in in 2006 - actually presumes in favour of the Island Plan so the expectation is that any decision will follow the Island Plan as it exists.

Mr. J. Mills:

Okay, thank you. Can we just then carry on, Mr. Bisson, please with the actions that you took apropos La Prairie. You said just now when sorting began you received “quite a number of complaints”, could you just enlarge on that, please?

Mr. G. Bisson:

Yes, well I had complaints from the Deputy of St. Peter, the Constable of St. Ouen, and the general public. I have not been able to have access to the records because I am now retired but the names of the people, the amount of the complaints ... there was quite a number of phone complaints. Whenever I receive a complaint, the first thing I must establish is what the lawful use is. I knew that La Prairie had a commercial use for storage. The next thing I have to establish, if an application would come in, would it be approved. When somebody has broken the planning law it does not necessarily mean you have broken the law, you are nicked, you are going to court. We do not, we take a more sensible approach. Anyway, I forget who I spoke to about whether approval would be given for the sorting of skips at La Prairie but it was a planner and the answer was no. So therefore I had to enforce the planning law and said: “You cannot sort out skips.” It did continue and I do recall sending a letter to Reg saying: “Look, the way you are using La Prairie is not acceptable. If you continue then formal action will be taken.”

Mr. J. Mills:

You put this in a letter to the company?

Mr. G. Bisson:

I believe I did, yes.

Mr. J. Mills:

This is a letter from you to Mr. Pinel of 19th August 2004, is that the letter that you ... excuse the copy paper [Laughter].

Mr. G. Bisson:

Yes. Yes, I recall that.

Mr. J. Mills:

Could you just read it out, please, for the benefit of the hearing?

Mr. G. Bisson:

Yes. “I refer ...”

Mr. J. Mills:

Sorry, the date of the letter.

Mr. G. Bisson:

Sorry: “19th August 2004. Dear Reg, Reference: La Prairie, Beaumont, St. Peter. I refer to your skip storage at the above property. I think Mr. Le Ruez, owner of this land, may have spoken to you following my telephone conversation with him. For the avoidance of doubt I would confirm that the storage of skips is in order, however the keeping of skips full of waste material is not. Please see the attached photograph. I fully understand that there may be occasions when the various tips are closed and the odd full skip may be left there overnight or the weekend, but not a regular basis. I am sure you will appreciate that the site is in full view to passing members of the public. I hope you will be able to continue using this site in a manner which will not give rise to complaints as to its visual condition.”

Mr. J. Mills:

Thank you. The letter does not refer to sorting of skips, it refers to the ... you are saying that storage of skips is okay ...

Mr. G. Bisson:

I believe it started off with full skips coming in and being left there.

Mr. J. Mills:

You say: "However, the keeping of skips full of waste material is not in order. Please see attached photograph." So you obviously saw some skips full of waste.

Mr. G. Bisson:

Yes, that is right.

Mr. J. Mills:

But you are not saying here that the sorting of skips is not permitted.

Mr. G. Bisson:

Not at that stage because I do not think at that stage the sorting of skips was taking place. I believe the sorting of skips was taking place elsewhere.

Mr. J. Mills:

Okay, so what happened on the back of this letter of 19th August? What, in your recollection, then happened or was there a further history around it?

Mr. G. Bisson:

Yes, well I believe he stopped bringing in full skips, apart from the weekend or late afternoon. This line was taken from court action with Stephen Hotton where it was said that it would be permissible for him to bring in a full skip at night or at the weekend when the tip is closed. So we felt it is only fair to allow another operator to do that. But to bring in these skips full over a period of days, that would not be acceptable.

Mr. J. Mills:

That is not a commercial use then, going back to the pre/post-1964 issue. Is that a material change, the skip is full rather than empty?

Mr. G. Bisson:

Well, skips were not around in 1964.

Mr. P. Thorne:

Maybe it is a moot point. It sounds as though the issues at that time are more to do with appearance of the stored full skips on the site, possibly concerns about people getting access to it, I honestly do not know, but I do not think it was an issue of noise and disturbance, necessarily, as appearance. I do not know whether you concur with that, Gerald?

Mr. G. Bisson:

Yes.

Mr. J. Mills:

Thank you. Could I ask you please just to let us have a short note just so that we are clear, so everyone is clear, on exactly who complained about La Prairie and when ahead of this action that you took as

enforcement officer in August 2004? I am quite anxious that we are crystal clear about the complaint history. I am sure you will have that on the file.

Mr. G. Bisson:

Not necessarily on file because a lot of my investigations I treated as very confidential but they would be possibly in the computer or something like that. Enforcement used to protect complainants. We would not divulge names to people who we were investigating on who complained. We just would not do that.

Mr. J. Mills:

But you have enforcement files, do you? Does the enforcement division, or whatever you call it ...

Mr. P. Thorne:

We have records.

Mr. P. Le Gresley:

There are records, yes.

Mr. G. Bisson:

There are records maybe in the computer.

Mr. J. Mills:

But what you are saying is you tried to keep a kind of wall between the two?

Mr. P. Thorne:

Well, it avoids things like intimidation, and so on, or even reprisal.

Mr. J. Mills:

But I think we are asking you as the officers of the department if you could just let us have a note to specify the exact nature of the complaints that were made. I think that would help us to understand the position.

Mr. E. Trevor:

I think it is important that we do know about what people complained. You said this morning you had complaints, you have not said about what they complained.

Mr. G. Bisson:

Say again?

Mr. E. Trevor:

I think it is important that we know about what people complained. This morning all you have said is you had complaints and you have listed a number of complainants, you have not said about what they complained in general.

Mr. G. Bisson:

About the condition of the land.

Mr. P. Le Gresley:

We will look for whatever records we have. We will see what we have got at the office.

Mr. P. Thorne:

When we talk about complaints in this context it is anything that is drawn to our attention, it is not

necessarily so many persons who complained. It could be somebody has seen something which does not look quite right and they bring it to our attention.

Mr. J. Mills:

But you have a system for tracking that you make a note of ...

Mr. P. Thorne:

Yes, we record them. We record the complaints on the system.

Mr. J. Mills:

Yes, I think if you could set that out for us that will extremely helpful. Thank you. Mr. Bisson, what happened then? Did you have any more involvement with La Prairie?

Mr. G. Bisson:

Well, I sort of monitored it, when I drove past had a look and things like that, and I think it was used correctly for a time but then it started ... skips started turning up on site, staying there and you could ... one complaint came in said they were sorting skips on that site which I think I contacted Reg, maybe by letter or maybe by phone, and said: "Look, you just cannot do this, you must stop."

Mr. J. Mills:

At that particular time - this was 2004 moving into 2005 - were you as enforcement officer conscious of any other skip activity in the Island, especially in the countryside zone where this was similar issue or possibly a simply issue.

Mr. G. Bisson:

Yes, Steven Hotton at Ville Emphrie .

Mr. J. Mills:

At this time?

Mr. G. Bisson:

No, I think before that. Steven Hotton was well before 2004.

Mr. J. Mills:

To your knowledge were there other skip sorting businesses in a countryside location?

Mr. G. Bisson:

Yes, there was Broadlands. I am just trying to think who the other skip operators were.

Mr. R. Huson:

There is Sandy ...

Mr. P. Le Gresley:

Sandy Hugh?

Mr. R. Huson:

Sandy Hugh, he has had a skip company for a long time. Would that have been in operation then?

Mr. G. Bisson:

I have not come across him at all, no.

Mr. J. Mills:

But there were others?

Mr. G. Bisson:

There were others, yes.

Mr. J. Mills:

Did you have any complaints in respect of them?

Mr. G. Bisson:

I had complaints about Broadlands. Later on, in recent years ... another skip operator started off within the last 4 years and I had complaints about him bringing in skips and sorting at his so-called depot. The name of the person is Pallot in St. Saviour.

Mr. R. Huson:

Graham Pallot.

Mr. G. Bisson:

Yes, Graham Pallot.

Mr. J. Mills:

Did you have many complaints about Broadlands, and what action did you take on that?

Mr. G. Bisson:

Mainly from one person, a Mr. De Charteris. He lived right next door, but he has passed on and the complaints have stopped now.

Mr. J. Mills:

I see. But what action did you take on those complaints?

Mr. G. Bisson:

I recall going in there and having a look and seeing what was taking place. There was quite a lot of activity there. It was a lot of skip sorting taking place.

[11:00]

The site was in the countryside but it was in an area which had been used commercially for many years, going back to just after the war, I think.

Mr. J. Mills:

That is just what you said, La Prairie had been used as a commercial activity. Are you saying there was a difference of degree that meant that you were not concerned about the sorting skips at Broadlands?

Mr. G. Bisson:

There was a mixture. I recall speaking to one of the senior planners about it and he did not think there was a problem at that time, but things escalated and skip operations at Broadlands got a lot bigger.

Mr. J. Mills:

What did you do about it? Did you do anything about it from an enforcement or planning policy point of view?

Mr. G. Bisson:

Yes, I do recall when John Le Sueur was president the Committee going up there and having a look at the site.

Mr. J. Mills:

This is quite a while ago but I think it is important that we see ...

Mr. P. Thorne:

You have asked for the files already so

Mr. J. Mills:

Yes, so that will help us, and the enforcement side of that as well, please.

Mr. P. Le Gresley:

Did we not subsequently ask for an application from Broadlands in more latter day ...

Mr. J. Mills:

You asked for it?

Mr. P. Le Gresley:

We have asked for one, yes.

Mr. P. Thorne:

Yes, and there is a current one.

Mr. P. Le Gresley:

That is right, but that came in before the fire that they had at St. Peter there.

Mr. R. Huson:

What exactly was that application for?

Mr. P. Le Gresley:

We had, I think - and Peter will correct me if I am wrong - regarded the eventual change over the years from the original commercial uses at Broadlands had got to a point where we saw there was quite a distinction ...

Mr. P. Thorne:

It was becoming material.

Mr. R. Huson:

Much more intensification, more recycling ...

Mr. P. Le Gresley:

A change as well; a change in use. It is easy to look back and say at Broadlands activities started changing 10 years ago, 12 years ago, whenever it was. These things happened incrementally and day by day if you had gone you would not have noticed much change but if you look back over a 10 year period you would say: "We have really moved from A to B now." We took that conclusion a couple of years ago, if I remember, and said to Mr. Le Marquand at Broadlands: "We need an application from you now to ..." because the skip business is a small part of Le Marquand but I think they do a far greater haulage operation which involves - as Peter Thorne alluded to earlier - recycling of aggregates, crushing and grading, selling it back to the building industry, moving soil around, a lot of earth movements which is

quite distinct to Reg's Skips which is a much clearer operation in terms of its skip operation.

Mr. R. Huson:

It is skips only? I have only ever driven past Broadlands once, what is the sort of exact measure? Is it in a valley and how big is it compared to a football pitch, for example, say?

Mr. P. Thorne:

It is quite a large operation.

Mr. R. Huson:

Is it like Langlois down at La Collette, as big as that?

Mr. P. Thorne:

No, but it does the same sort of activity.

Mr. R. Huson:

Yes, I appreciate that but what size is it? Is it in a valley or how is it ...

Mr. P. Thorne:

It probably is about the size of a football pitch. It is on a promontory where the Mont Fallu valley and the St. Peter's valley come down. It is a promontory between those 2 roads. It is up on the top. You only really see it from across the valley, you will not see from in the valley because it is up on the top. But we became increasingly concerned about it because they were starting to spread and they were also operating machinery up there in a position where it was ... the noise was escaping from the site as opposed to being contained within it, because the actual sorting operation or threshing operation takes place in a bowl virtually. So we were concerned, as Peter was saying, that the nature of these have changed to such an extent that we felt a change in use had occurred and it needed to be regularised, the use they were now operating. It has to be said, in terms of the Island's waste strategy they actually perform a very important function because they are certainly the biggest private operator. There is the La Collette one which is obviously done on licence through the Transport and Technical Services Department. So that was an issue where, if you like, there had been ... well it probably was an intensification of use of Broadlands but it had also changed the nature of the use which made it material in planning terms. You mentioned earlier the Le Gros Puits and Graham Pallot. He has skips but he is primarily a refuse collector.

Mr. R. Huson:

That is right, he does refuse collection.

Mr. P. Thorne:

But he picks up plastics and he picks up glass as well. The skips in his shed at Le Gros Puits are to put those things in and then he - I do not know - at the end of the week or whenever it gets full anyway, the skip lorry comes along and takes it to La Collette or wherever the recycling point is for that material. So, again, he is not really a skip operator, he uses skips as part of his refuse collection business.

Mr. R. Huson:

Overall business.

Mr. J. Mills:

Okay, that is good. Can I just go back to one other sort of general point. I am looking at the period when the first enforcement activity in relation to La Prairie took place in 2004. Could you just explain for the committee's benefit the way in which, with the department, the enforcement operation worked

and how it related to, if you like, the operational side and how this was actually governed?

Mr. P. Le Gresley:

The enforcement section is a small team of 2 officers. It was at one time 3 officers but it is now 2 officers and it comes under the management line of development control, which is myself, and building control which is Morris Roscouet.

Mr. J. Mills:

This was the case also in 2004, was it?

Mr. P. Thorne:

Primarily it was under you.

Mr. P. Le Gresley:

It was primarily under me, yes, I think that is right in 2004. Since we have started to move into more building control related matters in enforcement, we have shared the management line but, yes, probably myself. We would meet as and when necessary or speak as and when necessary on any matter that was an enforcement matter. Mr. Bisson has referred to conversations with senior planners where he would go and speak to the senior area planner for that area, who would be one of my staff, to get his advice on whether the person concerned thought there was a change of use or whether there was a need for an application or, indeed, whether, if it was clear that an application was required, whether it was likely that planning consent would be granted. Mr. Bisson referred to a conversation, I think, with one of the senior area planners in those terms.

Mr. J. Mills:

What protocol did you have in place to govern, if you like, the initiation of enforcement action? Because there is a spectrum from having conversations with area planners through to the writing of formal letters and the issuing of notices, what protocols govern this?

Mr. P. Le Gresley:

That was very much within the purview of the team itself. They would take whatever action they felt was necessary.

Mr. J. Mills:

With your endorsement as line manger or not?

Mr. P. Le Gresley:

It depends on what level. If they were simply writing letters and having telephone calls or visiting people then I would not necessarily be aware of those. I would be aware that they were dealing with the case but I would not be looking at every single letter and be party to every conversation. But when it gets to the stage of papers being prepared to a sub-committee of the Planning Committee of the day then I would clearly see those because I would endorse those before putting them on to an agenda for discussion. Indeed, if matters were getting serious we would clearly discuss what the appropriate action might be.

Mr. J. Mills:

So you are saying as manager of the enforcement division you would have the say at the point when an enforcement officer thought a matter should be put before the committee. Obviously the enforcement officer would not go to the Committee or Sub-committee without your ...

Mr. P. Le Gresley:

Certainly not, no.

Mr. J. Mills:

Is that of course you would?

Mr. G. Bisson:

Yes, well obviously when a complaint comes in a lot of research has to take place, we have to check on all the information we have to establish if everything is okay. Then initial visits to the premises to have a look and photograph if necessary. Quite often I would take further action, if necessary, sending out letters. But when it came to committee reports or prosecutions even, I would refer it to my line manager, which was Peter in those days. Not everything went to committee, if it was a prosecution it did not go to the Committee at all, it went straight to the Law Officers.

Mr. J. Mills:

But there was not a protocol governing how this worked, or was there?

Mr. P. Le Gresley:

It was just custom and practice over the years, to be honest.

Mr. P. Thorne:

Yes, it was not written down, but certainly there was a point, which obviously depended on the issue, when Gerald or his colleagues would refer it further up the line.

Mr. J. Mills:

Yet you said, going back to the files, that you kept your own files in a sense and they did not go to that side of the ...

Mr. G. Bisson:

That is right, on the computer side of things we keep a lot of information there and not everybody can have access. Peter has access, and obviously I do, and that is about it. Our IT people can obviously get into that because some things are fairly delicate. We have investigated relations with the people in the department, we have even investigated the Crown officers so it is sensitive information. It is a policy I introduced myself.

Mr. J. Mills:

But this policy was not protocoled, if I can use that word?

Mr. P. Le Gresley:

It was not written down, Chairman, no.

Mr. G. Bisson:

It was just something that evolved over the years.

Mr. P. Le Gresley:

Do not forget Mr. Bisson had been doing enforcement matters in the office properly longer than I have been alive so, or almost as long. So he almost invented these things himself and came up with these procedures which were ... you know, for good reason, to make sure there were clear lines.

Mr. J. Mills:

Edward, any further points on that?

Mr. E. Trevor:

Not on those points, no.

Mr. J. Mills:

Okay. Let us move on now. We got to the point where the signal had clearly been given by your actions to Reg's Skips Limited that La Prairie was a difficult place for them to work so, as we understand what then happened, they started looking around somewhere else, that is pretty obvious because things were not quite satisfactory for them. Could you just take us through, from your perspective at the Planning Department, what happened in the lead up from this La Prairie enforcement action to the point where an application for pre-application advice was submitted and then considered?

Mr. G. Bisson:

When they left La Prairie I had no further dealings at all with Reg's Skips.

Mr. J. Mills:

Okay, so you are out of the loop on that one, all right.

Mr. R. Huson:

How long was that period from when you served an enforcement notice until it left then?

Mr. P. Le Gresley:

Well, we did not serve an enforcement notice.

Mr. J. Mills:

Just wrote a letter.

Mr. G. Bisson:

We were building up to that but then Reg moved on.

Mr. R. Huson:

But what was that period in time? Three months, 6 months?

Mr. G. Bisson:

Well, from the beginning to the end, he was there for a year or so.

Mr. R. Huson:

No, from when you wrote that letter to when they left, roughly?

Mr. G. Bisson:

A matter of months I would say, 6 months maybe, something like that.

Mr. R. Huson:

Six months maybe, okay.

Mr. G. Bisson:

Yes, it might have been over a winter period. If it had been the summer period it would have been a little bit more urgent.

Mr. J. Mills:

Now, you said when you spoke at the outset that it got to the point where somehow or another Heatherbrae Farm was identified as a possible site and you said that it might have been mentioned to

you by them or you mentioned it to them. Can we just dig into this a little bit, please?

Mr. P. Le Gresley:

Just setting aside the application at the Homestead - which was a separate application - for a moment, to the best of my recollection I do not know whether or not an officer went on site but I suspect that that is the case because Mr. Taylor, as I said, has told me so and I have no reason to doubt him.

Mr. J. Mills:

Okay, we will pursue that in our questioning this afternoon.

Mr. P. Le Gresley:

I also do not know how the Heatherbrae site was introduced as an idea. I do not know whether Reg's Skips themselves came up with the idea and they had heard of it or that we were aware of it because we had dealt with a change of use at Heatherbrae from dairy farming to storage and other uses, whether we came up with the idea ourselves or whether it was something that was mentioned to us: "Have you thought of this?"

Mr. J. Mills:

Can we just put Heatherbrae Farm in context? It was a dairy farm and in the agricultural downturn of 7 or 8 years ago, there was a change of use application. We will ask Mr. Taylor about this as well but can we just have ... in your Planning eyes, Heatherbrae Farm was a site that needed to have a change of use and to be utilised?

Mr. P. Le Gresley:

Maybe I can just comment generally because I do not think I was involved in the Heatherbrae Farm change of use application. I do not recall being involved but generally speaking there were a number of farming units - and still are occasionally - which come out of agriculture and there are vacant buildings and assets on the site which the owner has obviously got every right to wish to exploit and I think that discussions may be held and an application may be put in for a commercial use. I think from an asset point of view ... clearly the buildings are not going to disappear, we do not want them to fall into disuse and disrepair and unsightliness, and there are clear needs in the Island for lots of uses, storage is one, adjoining workshops, skip sorting operations, that there are lots of uses which do not have a home and these seem to be ... they can be a good fit. Obviously you have to look at the issues.

Mr. P. Thorne:

It is probably important for you to note that there was concern about the size of the Island herd at the time.

[11:15]

The States Agriculture Department were encouraging, or they were offering the ability for the dairymen to get out of the industry. I understand they were prepared to consider changes of use, from their point of view, because of the fact it was agricultural land and so on, to other uses. So they were supporting farmers at that time, coming up with new uses.

Mr. J. Mills:

Understood. So we will explore further later on today the exact process by which Heatherbrae Farm emerged as a possibility. Could we then just ask you to describe to us, first of all in a general sense, the process around the pre-application advice before you turn to the specifics in relation to this?

Mr. P. Le Gresley:

I would like to deal with that matter, unfortunately, for some reason, my nose has just started bleeding and ...

Mr. J. Mills:

Let us just pause for second.

Mr. P. Le Gresley:

Can I just take 2 minutes ...

Mr. J. Mills:

Let us just stop for 5 minutes.

Mr. P. Le Gresley:

Do excuse me.

Mr. J. Mills:

Comfort break for 5 minutes. Are you okay?

Mr. P. Le Gresley:

I am fine, I feel fine. I do not know what happened.

[11:16]

(Break)

[11:21]

Mr. J. Mills:

We have got to the point now where obviously some discussions had taken place and a request for pre-application advice from the committee apropos Reg's Skips and Heatherbrae Farm was in the offing. The first question is, before we go on to the specifics, can you just explain how the pre-application advice process works, is designed to work, is publicised and so forth.

Mr. P. Le Gresley:

Certainly. The process is different now as to what it was.

Mr. J. Mills:

We are looking at it as it was.

Mr. P. Le Gresley:

As it was, we would simply take a letter or an inquiry from a customer and we might, in the process, have a discussion with them or try to elicit some more additional information but the process was simply preparing a short paper to the Planning panel of the day attaching the letter and, if necessary, any additional information that would be required. It was simply for an indication because people genuinely found it difficult to get advice about the planning process and their natural tendency was to go to the ... I do not want to use the word "organ grinder" but they would want to go to the panel on some occasions rather than get advice from officers. So they would say: "Can we get advice from the Committee?" We said we would try and, as I say, they would send that letter and we would prepare a short paper. That was intended just to get an indication from the Committee, whether it was worth an application being made. It was not a granted permission, it was not ... but it was certainly something that the department would look at if the Committee were favourably disposed to something, or at least considering it. There

was no publicity on these items at all. We would not advertise these as we do planning applications. Certainly the process for advertising a planning application these days is far, far more complex than it used to be, even back in 2005, and prior to that. So we would not publicise the matter at all.

Mr. J. Mills:

You would make clear, presumably, that whatever advice was given was without prejudice to the actual formal decision-making process?

Mr. P. Le Gresley:

That is correct. Yes, I mean it is obviously known that ... if it is not known we try to specify that the advice is without prejudice because with the best will in the world, I think because the publicity process does not take place, issues can arise during consultation or whatever, which you are simply not aware of at the time you are giving the advice.

Mr. J. Mills:

Okay, but you are saying that process is changed somewhat now?

Mr. P. Le Gresley:

Yes, it has.

Mr. J. Mills:

Is it more transparent now?

Mr. P. Le Gresley:

It is not more transparent in the way that we still do not advertise the fact that we consider pre-application inquiries. For many people, our clients in particular, our customers, there may actually be a reason that they would not want it to be publicised because they may be ... they do not want the matter to become public until they are ready to make a formal application for whatever reason. But we deal with them in a much more ordered process than we used to. We have just introduced a mechanism of storing those on our computer in the same way that we store a planning application, so we give them a numerical number in the same way as we do a planning application. I do not want to bore you with the details but ...

Mr. J. Mills:

Is it fair to say - we are not looking at the beginning of 2005 - that this was quite common business for the Sub-committee, there were quite a lot of these things. This was a period when there was quite a lot of activity in the planning and the land market, as I recall.

Mr. P. Le Gresley:

It would be difficult for me to recall precisely but certainly a planning committee's agenda of the day would be made up of a number of different parts. One part of which would have been pre-application inquiries, another part would have been planning applications, and maybe enforcement matters in another section.

Mr. J. Mills:

The point is that when a sub-committee was faced with a pre-application advice paper, it was not ... they had quite a lot of these?

Mr. P. Thorne:

The important thing to remember of course is the Committee meetings were not open to the public at that stage.

Mr. J. Mills:

Okay, that is helpful. Let us just turn to the specifics. Can you recall for us how - you said this very briefly at the outset - this appeared on your agenda, so to speak?

Mr. P. Le Gresley:

Certainly, I think the planning case officer dealt with the matter at the time and I simply would have been a signatory to their report. But the planning officer was a Miss Emma Baxter, as she was then, and she, as I understood it, had looked at the papers we had received and had a look at the policies and done a short paper, prepared it for the committee agenda at the time and put it through and I would pass that through.

Mr. J. Mills:

You would sign off such a paper?

Mr. P. Le Gresley:

Usually, yes.

Mr. P. Thorne:

It is an endorsement of the report and its recommendation.

Mr. P. Le Gresley:

If I am not there, if I am on holiday, for instance, it might be Peter or one of my subordinates, but usually ...

Mr. J. Mills:

But you had process for signing off?

Mr. P. Le Gresley:

Yes.

Mr. J. Mills:

The Planning Sub-committee met on 9th March 2005 and all its members were present, Deputy Dorey was chairman, Constable Dupre and Deputy Taylor, and when we got to this item I see that Deputy Taylor expressed an interest and did not participate, so you just had the ... I do not know what that interest was, it does not really matter. So, it was Deputy Dorey and Constable Dupre, that was quorate.

Mr. P. Le Gresley:

At the time it would have been, yes.

Mr. J. Mills:

That is good. Can I just ask you to confirm, this is the official minute of the eleventh meeting of the Planning Sub-committee, 9th March 2005, part B, marked confidential. It is item B2, could I just ask you to ... I think the first 2 paragraphs ... perhaps you could just read it out for us, just for the record so we are all clear on what was said.

Mr. P. Le Gresley:

Item B2: "The sub-committee with reference to its minute number A5 of 31st July 2002 received a report dated 1st March 2005 from Miss E. Baxter, Assistant Senior Planner, in connection with a request for pre-application advice in relation to a change of use from dry storage to commercial at the site known as Heatherbrae Farm, La Grande Route de St. Jean, St. Helier. Deputy Taylor expressed an

interest in the above application and accordingly did not participate in the sub-committee's deliberation of the matter. The sub-committee was advised that the property was located in the countryside zone but that it was considered the proposed change of use would not have a detrimental impact upon the character or amenity of the area given that it had been intensively used for dry storage. Having noted the above, the sub-committee agreed that it would be appropriate for the applicant to submit a more detailed proposal. The Assistant Senior Planner was directed to take the necessary action."

Mr. J. Mills:

Thank you very much. Mr. Clerk, have we got the actual paper that the committee had before it, please?

Mr. I. Clarkson:

Yes.

Mr. J. Mills:

This is the change of use, that was the one that changed the use from dairy to storage. We are looking for the paper for the meeting on 9th March 2005; is that it?

Mr. I. Clarkson:

I believe that is the actual paper.

Mr. J. Mills:

Yes, you are absolutely right. I better ask you all, if you can just confirm that that was the paper before the committee for that occasion. It did not look as if it was but I think it is, is it not? Can you confirm that it is?

[11:30]

Mr. I. Clarkson:

That is the paper that I have withdrawn from the bundle supplied by Planning, it does appear to be the paper judging by the dates on the background paper at the bottom.

Mr. P. Le Gresley:

This copy is not signed or dated and I do not know why but it certainly seems to be the paper. It is titled in the correct way.

Mr. J. Mills:

I might just ask you to read a little bit of this just so we are quite clear. The planning issues on this little bit here, can I just ask you to read those out. It is really for the benefit of everyone else here so that they can be clear about it because this would not have been a public paper at the time.

Mr. P. Le Gresley:

"Before this business makes an application for the site and bearing in mind their difficulty in finding a suitable site previously it is proposed to seek the committee's advice with regard to allowing the proposed change of use at pre-application advice. Policy considerations: the site falls within the countryside zone but already has consent for a dry storage use. However, Reg's Skips is slightly different in nature as they process and sort materials on site and are therefore considered a commercial use. While it is not desirable to see a large site given over to commercial activities in the countryside it has proven difficult for Reg's Skips to find a suitable alternative site in the built up area that would not detrimentally affect neighbouring residents as they only propose to use a small proportion of the shed, and outside storage areas for their business, the use is relatively low key and shares certain characteristics with the approved dry storage use. Impact on neighbours: the nearest neighbour to the

site is the owner who has approached the department with this suggestion. It is considered that while it is proposed to convert a small part of the shed to a commercial use (rather than the whole site) this will not be damaging to the character of the countryside as the use is similar in nature to those already located on the site. Access car parking and highway considerations: the proposed user has 4 skip lorries which it would operate from the site, 3 are stored off-site (out of business hours) and the fourth would be stored here. A detailed site plan indicating the staff parking area and sorting area has not yet been provided but would form part of any application.”

Mr. J. Mills:

Thank you very much. Have you got any points you want to raise?

Mr. E. Trevor:

Not on that point, no.

Mr. J. Mills:

I think we want to just have that clearly on record. The outcome of that was what appears to be a fairly easy decision on the part of this small sub-committee which was essentially encouraging an application to be made. Ian, can you just remind me, the application itself was submitted by Mr. Taylor very shortly afterwards, indeed extremely shortly afterwards, was it not?

Mr. I. Clarkson:

The record I have from Planning's files is that Emma Baxter wrote to Mr. Taylor on 10th March 2005 and...

Mr. J. Mills:

That is the day following.

Mr. I. Clarkson:

... and that the department received a stamped planning application with a cheque dated the same day, 10th March 2005.

Mr. J. Mills:

We will ask Mr. Taylor to confirm that this afternoon but that appears to be what happened. Can I just ask you one other general question? I think we were, when reviewing the file, quite struck by how speedy that was. Does it strike you as unusually speedy for the gap between pre-application advice and an actual application?

Mr. P. Le Gresley:

It is certainly very quick. I mean certainly I would expect our department to turn round a letter within a day or 2 of the meeting. But I would imagine, from Mr. Taylor's comment, that Mr. Taylor was waiting to make the application following the discussions that were held previously, but you will have to ask him.

Mr. J. Mills:

Then the application was received very soon after and was duly advertised in the newspaper on, I believe, the 22nd of the month. I think we have a photocopy of the ...

Mr. P. Le Gresley:

I certainly remember providing one.

Mr. J. Mills:

We have a photocopy of the advertisement on 22nd March and then you clearly had no ... did you have any comment in response to the ...

Mr. R. Huson:

It says: "No objection raised."

Mr. J. Mills:

Nothing in response to the advertisement?

Mr. P. Le Gresley:

I would have to refer to the file but I do not remember any objections, no.

Mr. J. Mills:

It was then resolved under delegated powers because the committee had already given a view, in a sense, had they not?

Mr. P. Le Gresley:

Yes, they had and also, there being no objections, one of the things that might trip an application up from being a delegated matter into a committee matter might be the number of objections received because it simply became too contentious for the department to deal with.

Mr. J. Mills:

Would just one or 2 objections have triggered that? I am asking a general question.

Mr. P. Le Gresley:

Certainly I do understand. I do want to assist but it depends on the nature of those objections. If somebody had objected on non planning grounds, for instance, then perhaps the officers would have said: "Well, those are not planning grounds, we can safely take a decision." However if there were 2 strong objections on grounds of amenity or impact or vehicle movements or something which was a planning matter then I think that would be the point at which I would have felt: "No, I do not feel safe taking this decision."

Mr. J. Mills:

But with a positive pre-application advice and no objections received that is safe territory for a delegated decision?

Mr. P. Le Gresley:

Quite proper for the department to deal with it under powers delegated to it.

Mr. J. Mills:

The delegation is to whom; to you?

Mr. P. Le Gresley:

It is to the director.

Mr. P. Thorne:

It is to specified officers, it is not just the director.

Mr. P. Le Gresley:

That is right, yes.

Mr. P. Thorne:

Peter has those powers and, indeed, the level below him have those powers.

Mr. J. Mills:

So you exercised this delegated power in this case?

Mr. P. Le Gresley:

I do frequently. In fact far more commonly than Mr. Thorne does because it is simply my area of work. What I meant was that the permits go out in the name of the director, not myself..

Mr. J. Mills:

But the actual file would land on your desk and it would be your duty to exercise that delegated power, having regard to all those factors?

Mr. P. Le Gresley:

Absolutely.

Mr. J. Mills:

Looking back to 2005; what length of time was the requisite time between the appearance of the public advertisement, 22nd March, and your point of decision? Do you have a protocol on that?

Mr. P. Le Gresley:

There was not any at the time.

Mr. P. Thorne:

Not at that stage. That came in the 2006 law. It is actually an order made by the Minister after the new law came in. In 2005, there was not any prescribed period. In fact we were not even required under the old law to advertise applications at all.

Mr. P. Le Gresley:

It was, again, a custom and practice that developed over the years because we felt it was necessary to publicise the fact that a planning application had been made.

Mr. J. Mills:

Have we got the date of your actual decision? I am looking to you, Ian, to help me.

Mr. I. Clarkson:

From going through the files, I understand the permit was issued on 23rd May 2005. I am not in a position to say ...

Mr. J. Mills:

That is what this says. Just to get the chronology clear. The committee considered the pre-application advice on 9th March. A letter went back to the "applicant" on 10th March and the application came in on the same day with the cheque and all the rest of it. Then 12 days later on 22nd you put it into the newspaper, that seems very reasonable. I have got here on this chronology that we have put together ... let us just be clear we go through it.

Mr. P. Le Gresley:

Mr. Clarkson has just passed me a copy of the planning permission.

Mr. J. Mills:

I am just going back to the chronology that we have got. Ian, I wonder if you can help me. This is the chronology that we put together on the basis of the files received.

Mr. P. Le Gresley:

Yes.

Mr. J. Mills:

I am just going to ask you, as our clerk please, to read out the relevant ... we know where we are up to 10th March. It says: "Chris Taylor writes cheque out, submits planning application for Reg's Skips." We are clear at 10th March. At the other end of the thing we have got 23rd May where: "The Heatherbrae permit is issued (unclear by who) with conditions." We have got a little chronology here between 10th March and 23rd May. Ian, could you just read out the lines in that chronology for our record please so everyone can hear it.

Mr. I. Clarkson:

Based on my reading through of the submission I received from the Planning Department I recorded: "14th March 2005 Planning invited the Agriculture Section and the Public Health Department to comment on the Heatherbrae application."

Mr. J. Mills:

That was normal practice obviously?

Mr. P. Le Gresley:

Yes.

Mr. J. Mills:

Good.

Mr. I. Clarkson:

15th March 2005 I had a note indicating that Emma Baxter had been appointed case officer for the Heatherbrae application. "22nd March, Land Controls and Agricultural Development section responds to Heatherbrae planning application consultation. No objection raised. 4th April 2005 Planning Department receives a letter from Wayne Le Marquand objecting to a perceived lack of detail in the advertisement highlighting the Heatherbrae application. 8th April Planning receives consultation response from Mr. D. Binet, Public Health, raising no objection in principle but noting commercial uses could cause noise or smell problems. 8th May 2005 [this is an estimated date] there is an unsigned Planning file note referring to sorting loaded skips to allow disposal of collected materials. Some noise impact, no worse than scaffolding company. 10th May 2005 ..." That is a confidential entry so I am not going to read that out, Chairman. "13th May 2005 G.B. (Gerald Bisson) saw an enforcement officer, observes a lot of full skips at La Prairie who notes that it looks 'a mess'. 17th May 2005 Assistant Director of Development Control advises enforcement that Reg's Skips has permission to operate from Heatherbrae Farm."

Mr. J. Mills:

Who is the Assistant Director of Development Control?

Mr. P. Le Gresley:

That is me.

Mr. J. Mills:

So you obviously have a conversation you two about ... I presume from that, that you, Mr. Bisson spoke

to Mr. Le Gresley again about La Prairie, which you say here looked a mess because that is what the file note says. Then you, at that point, said ... I presume you said something like: "Look, it is not really an issue now because they have got permission to go to Heatherbrae Farm."

Mr. P. Le Gresley:

Yes, but I am slightly concerned by that because if the chronology that Mr. Clarkson has just read out is correct of course they would not have had consent at the time I made that statement.

Mr. J. Mills:

We will send you this, which is our understanding of the chronology, and invite you to confirm it to us.

Mr. P. Le Gresley:

Yes, okay.

Mr. J. Mills:

This might not be 101 per cent accurate. We might have just got one or 2 dates wrong.

Mr. I. Clarkson:

I must admit, I need to confirm that because I cannot find the paperwork that refers to that specific date so I would like the Committee to note that there could be an error with that. 18th May 2005 I noted: "Deputy P. Rondel writes to Peter Thorne demanding an update for Mr. and Mrs. Pinel in respect of Heatherbrae Farm. 19th May 2005 Emma Baxter writes to Deputy Rondel advising that Peter Le Gresley has been given a recommendation to approve, decision expected in a couple of days."

Mr. J. Mills:

That was presumably from Miss Baxter?

Mr. I. Clarkson:

That was Emma Baxter's note. "23rd May 2005 it is indicated that Heatherbrae permit was issued, unclear by who and with 5 conditions."

Mr. J. Mills:

We will ask you to confirm that chronology. It is very important that we are quite clear about it but that was our reading of your files. Just a couple of points arising from it. I mean the first one is that there was a letter received on 4th April which could be held to be an objection. It is an objection to a perceived lack of detail in the advertisement highlighting the Heatherbrae application. Was that drawn to your attention in your recollection?

Mr. P. Le Gresley:

I do not recall it but then it was some time ago.

Mr. J. Mills:

That sort of thing would be on the file, would it not?

Mr. P. Le Gresley:

It is on the file, I remember seeing it on the file.

Mr. J. Mills:

That is the file you would have in front of you when you were ...

Mr. P. Le Gresley:

Absolutely. I have no reason to doubt it was not on the file at the time. It would be the sort of objection one would look at it, as I described earlier: “Well, is that a planning ground objection for this application?” and I think I would have taken the view that it was not.

[11:45]

Mr. J. Mills:

Would you have taken a view about the person who submitted the perceived objection or the putative objection?

Mr. R. Huson:

Because they were not even a neighbour or something like that?

Mr. P. Le Gresley:

I would have certainly looked at whether they were a neighbour and whether the objection was based on proper planning grounds in the locality.

Mr. R. Huson:

Or sour grapes.

Mr. P. Le Gresley:

Not for me to say.

Mr. J. Mills:

The one other point that was raised: on 8th April you received a response from Mr. Binet at the Public Health Department, that was across the way: “Raising no objection in principle but noting commercial uses could cause noise or smell problems.”

Mr. P. Le Gresley:

Correct.

Mr. J. Mills:

Would that be a fairly ... we are going to see Mr. Binet later but would that be, in your view, a fairly normal response from the Public Health Department to a manifestly commercial application?

Mr. P. Le Gresley:

It is difficult to recall back to 2005 and what was a normal environmental health response in those days. Certainly these days environmental health responses are far more full and descriptive and I think they have the benefit of working with the Statutory Nuisance Law for some years now and our consultation with them is very significant these days. One would have to say, from the benefit of experience on sites such as this, our consultation is quite thorough with them. On the surface of it, looking at it from the outside if I indeed could take that perspective that does not seem like a very detailed response to me.

Mr. J. Mills:

You probably could have read from that that this was not something that was really going to cause ... you know, they were not sort of saying: “Gosh, this is dreadful, you must do something about this.”

Mr. P. Le Gresley:

They said no objection in principle, if I recall.

Mr. J. Mills:

So on that basis you had the grounds for taking your decision on the delegated powers, which seems as far as one can judge entirely proper in the circumstances. Can we then turn to the conditions of the planning application? That is as far as we are going today. We are going to carry on with what happened later on. Obviously in any decision on the planning application the conditions are the crucial bit almost when you take all the formal language out. Can I just ask you to read out the ... I mean some of these are very standard. It is the key ones if you could just read them out for the benefit of the committee.

Mr. P. Le Gresley:

There is the first standard condition (a) which is that ... a standard condition on all planning permissions that: "If development has not commenced within 5 years of the decision date the permission shall cease to be valid." There are a number of conditions, as you say. Certainly the first condition is the one over which there was subsequent concern, so I think if I just read that one out. Condition number 1: "The owner of this site shall notify the department on the commencement of the use hereby approved on this site within 3 months of that commencement of the approved use at Heatherbrae Farm. The operator's existing site on La Route de Beaumont (to the east of Tile Barn and northwest of field 814) shall permanently cease. The use of this site shall operate in the same way as the current site, as a skip sorting yard only and for no other purpose."

Mr. J. Mills:

That is the key one, is it not? Carry on though. Let us just get it on the record.

Mr. P. Le Gresley:

Certainly. Condition 2: "The permission hereby granted shall enure for the benefit of Reg's Skips only and not for the benefit of the land or for any other person or persons having an interest in the land. (3) Notwithstanding the provisions of the Island Planning (Use Classes) (Jersey) Regulations 1965, or any subsequent amendment thereto, the building and land in question shall be used for the storage and sorting of skips only and for no retailing and no other industrial business or manufacturing use. (4) the permission hereby permitted shall only operate between the hours of 8.00 a.m. and 6.00 p.m. Monday to Friday and 8.00 a.m. to 1.00 p.m. Saturday and not at all on Sundays and Bank Holidays. (5) The area approved for use by Reg's Skips shall be limited to the one outside area (former silage clamp) and one indoor area (in the southern portion of the shed) indicated on the plans hereby approved. No other areas shall be occupied by this user without the written permission of the Environment and Public Services Committee."

Mr. R. Huson:

I think it is the second point that said that the use must be the same as skip storage and skip sorting at La Prairie; is that what it says?

Mr. P. Le Gresley:

It was in the first condition.

Mr. R. Huson:

Just read that out again, please.

Mr. P. Le Gresley:

It is the final sentence of condition 1 and it reads: "The use of this site shall operate in the same way as the current site, as a skip sorting yard only and for no other purpose."

Mr. R. Huson:

That means that you have given permission for them to use Heatherbrae, the same as La Prairie which is

skip storage and skip sorting? Is that how I read it?

Mr. P. Le Gresley:

Yes.

Mr. R. Huson:

So in that phrase you have alluded that skip sorting is permissible at La Prairie, am I right?

Mr. P. Le Gresley:

No, we have said that ... I know what you are getting at but I do not think that is how we would interpret it. We have said that basically the use must be the same at Heatherbrae as it was at La Prairie. Now we knew that they were sorting at La Prairie but that was what we had a problem with, with their use at La Prairie, because we knew that that historical site had only been used for storage. That is why we moved them or wanted them moved from La Prairie. So we knew that there was sorting taking place because Mr. Bisson had told them not to do it. But we obviously knew that Reg's Skips required a sorting area.

Mr. R. Huson:

Mr. Bisson's letter did not tell them not to sort skips. It said there should be no loaded skips left there. It did not say that. Although, Mr. Bisson, you did say that you thought, from your observation and so forth, that there was some sorting going on.

Mr. G. Bisson:

Later on, yes, I did mention by letter or in conversation that they cannot sort skips there. The initial one was the bringing of full skips to the site.

Mr. R. Huson:

And leaving them there for days and days on end?

Mr. G. Bisson:

Yes, that is right.

Mr. J. Mills:

Your second letter was after the permission for Heatherbrae had been granted. You wrote again, I believe, in June or July 2005, it is in our chronology somewhere.

Mr. P. Thorne:

We had 3 months to clear La Prairie.

Mr. J. Mills:

At that point I think you were then told by someone in the Planning Department that, in fact, N.F.A. (no further action) because they were moving. But at the point of the planning application, you as a department had not inhibited Reg's Skips Limited in a formal way, or even an informal way, from the sorting of skips on the La Prairie site; is that correct?

Mr. P. Le Gresley:

We had not. I do not think there is any paper trail to say that we had done, Mr. Mills.

Mr. J. Mills:

Thank you, that is important. Your language in the planning conditions for Heatherbrae, as you just said, I think clearly implies, that you understood that sorting was operating at La Prairie and you were content for that to continue.

Mr. P. Le Gresley:

We were granting consent at Heatherbrae for that use because we had found that use. We were aware of it and we had found it unacceptable at La Prairie. It may not be written in Mr. Bisson's letter but we were certainly aware that there was some sorting.

Mr. E. Trevor:

Did you have a written note of precisely what went on at that site because it refers elsewhere to having the same uses at Heatherbrae as it was La Prairie? Was there anything on your files which showed that you knew what was going on in detail at the first site at La Prairie?

Mr. P. Le Gresley:

As far as I am aware, we have given you everything we have but Mr. Mills did ask earlier whether we could give you a short note on whether the operators were aware of the difference between storage and operation of skip sorting and whether or not there was any record on the La Prairie file or in our enforcement records about that, and we will look again.

Mr. J. Mills:

The other quite interesting thing about this, perhaps interesting, about the planning consent you granted was that it was ... although the applicant was Mr. Taylor the consent was just for Reg's Skips Limited, it was limited to Reg's ...

Mr. P. Le Gresley:

Yes.

Mr. J. Mills:

Can you just explain the thinking or the practice behind that?

Mr. P. Le Gresley:

It is a very unusual condition. Usually planning permission runs with the land, the law says so in fact, and it is not for any particular person, however subject to the particular issues on the case it is permissible for the Minister to say: "We are giving consent for this particular person" because we are giving consent on a particular basis of an operation that we are looking at and we would not want another operator to come in and work in a different way from that without at least having a look at their operational basis.

Mr. J. Mills:

That was the basis of your delegated powers decision to put it in that way?

Mr. P. Le Gresley:

Yes. We were trying to confine the use so that it did not go into another operator or a different manifestation of a similar use but slightly different which might have been disturbing.

Mr. J. Mills:

"Which might have been disturbing." So your judgment was this would not have been "disturbing"?

Mr. P. Le Gresley:

Not at the time because clearly we granted consent.

Mr. J. Mills:

Including for sorting.

Mr. P. Le Gresley:

Yes.

Mr. R. Huson:

I just want to come back at this point, to one little thing on this note here of the Planning Subcommittee. I think we seemed to have glossed over this. It says here: "The sub-committee was advised that the property was located in the countryside zone but that it was considered the proposed change of use would not have a detrimental impact upon the character or amenity of the area given that it had been intensively used for dry storage." What does that phrase "intensively used for dry storage" mean?

Mr. P. Le Gresley:

Well, I did not write it, Mr. Huson, but I can imagine that ...

Mr. R. Huson:

That is quite a wide phrase.

Mr. P. Le Gresley:

Yes. Maybe Mr. Taylor can help assist you later because I am wondering whether this part of the shed that Reg's Skips were intending to use was, in fact, used for a previous storage use that may have taken place on the site. But also in the back of our minds or in the back of the panel's minds, I am sure, was the fact that this was a pre-existing dairy unit with a relatively reasonable level of activity involving obviously cattle but also the movement of vehicles and machinery and whatever. So, I am sure that the panel and, indeed, the department were bearing that in mind when looking at a question about the intensity of use. You asked us a question earlier and I just wanted to go back to it because you asked us a question about Home Farm, and I think it was Mr. Mills said: "Can you explain to me what you meant by extension into the countryside in that case?" That was a case where there were no buildings on that part of the site at Home Farm and we believe that a hard standing had been formed and something was taking place where there was no previous activity on ... I would not say virgin land but on undeveloped land. Here we had a case where we are judging an application - or a pre-application inquiry in direct response to the question you asked me - and we are looking at a different scenario because we have uses which existed on the site prior to that which carried their own level of activity with them.

Mr. J. Mills:

I understand; I do understand what you are saying. We will need to sort of weigh it, I think, in relation to ... but that is very helpful.

Mr. R. Huson:

Perhaps Mr. Taylor will answer this later, but how long had this site where Reg's Skips occupied and the clamp, how long had that been vacant, do you know?

Mr. P. Le Gresley:

I am sorry, sir, I do not know that, no.

Mr. R. Huson:

You do not know, okay. Okay, that is all I have to ask, John.

Mr. J. Mills:

Could I just go back to the Island Plan for a moment? Have you got it there?

Mr. P. Thorne:

Not all of it.

Mr. J. Mills:

Well, no, not all of it, but I am looking at C6(10).

Mr. P. Thorne:

No, I have not got that with me.

Mr. J. Mills:

It is one of the exceptions to the no development in the countryside thing, and it refers to development that has been proven to be in the Island interest and cannot practically be located elsewhere. I just wanted to ask you from where you sit in the Planning Department, how do you make a judgment about the Island interest?

Mr. P. Thorne:

I think it is difficult because it ... it is difficult to give you a succinct answer anyway because it will depend what the interest is and how important the development is in supporting that interest. I suppose one is weighing 2 factors. We have a use which on the face of it ... Reg's Skips, on the face of it, is performing a function which is important for the Island. It is undertaking a recycling exercise and a refuse removal and disposal indirectly, so that is important. But it was not a particularly large operation and you weigh the decision.

[12:00]

If it had been to allow the operations that operated in Home Farm, for example, we would have said: "Well, you know, it is important, it makes a contribution to waste recycling, but we are not going to allow it in the middle of an open field because that has a downside in terms of the impact on the countryside." Weighing it up at Heatherbrae it is clearly different. I mean, the use was going into part of a shed and into a silage clamp which were already existing structures. So, it is how you balance depending on a number of factors, really, and in different situations it will be totally different considerations, clearly.

Mr. J. Mills:

As a general point ...

Mr. P. Thorne:

You are weighing cost against benefit, if you like.

Mr. J. Mills:

But as a general point, this is obviously an issue that comes up all the time, but as a general point do you make that judgment on your own within the Planning Department or do you make it your business to take a view from other parts of the States organisation; for example, the Economic Development Department or the Regulation of Undertakings Department or whatever? Or do you tend to make that judgment, saying yea or nay to, let us say, a tricky development in the countryside?

Mr. P. Le Gresley:

I think, if I may give a couple of examples by extreme, certainly when we looked at the Energy for Waste plant that could be described as a development in the interests of the Island outside of normal planning policy. Obviously you would not normally approve large structures such as that, but we would obviously consult on a major piece of infrastructure quite widely. On a smaller operation like this, it was not our practice at the time to consult widely with bodies like Economic Development. In fact, I am

not even sure whether Economic Development were in existence in 2005.

Mr. J. Mills:

It was the Industries Committee at the time, and I declare an interest. I was its Chief Executive.

Mr. P. Le Gresley:

Then you have me at a disadvantage. **[Laughter]**

Mr. J. Mills:

My general point is that obviously it is quite a ... your job is to make these judgments all the time and then weigh it and get the committee to decide. But you tended to do it on your own, this was your ... you formed a judgment?

Mr. P. Le Gresley:

On an operation of this scale, yes, absolutely.

Mr. J. Mills:

Yes. How far at this time, going back to 2005, which was when the Island Plan was still fairly new - it is still not that old, but it was fairly new then - and the other thing that was current then was the States were on the point of agreeing this so-called strategy to grow the economy at 2 per cent per year. It was a strategy without a lot of teeth but it was an intention. There was also a new strategy about the rural economy which was all part and parcel of that. Were you consciously weighing these things with those kinds of strategic policies in mind?

Mr. P. Le Gresley:

I would say yes. I would say yes.

Mr. J. Mills:

Were you in the administrative loop that was working up those documents before they went to Ministers?

Mr. P. Le Gresley:

You would have been, yes.

Mr. P. Thorne:

Certainly the department was, certainly on the rural economic strategy I was certainly involved, but equally colleagues in Planning were involved in the waste strategy, for example, which came a couple of years later.

Mr. P. Le Gresley:

My colleagues who deal with the application and myself would have been aware of the formulation of these documents. We would have been kept in the loop, although we would not have necessarily been directly involved in their production.

Mr. P. Thorne:

Because we talk to each other in the department.

Mr. P. Le Gresley:

Absolutely, yes, we talk about the need for generating economic drivers in the countryside in order to stimulate the economy.

Mr. J. Mills:

Okay. I think we are almost finished, actually. When the application went to pre-advice in March and the report says it was ... this reflects what was said in the document: "It was considered the proposed change of use would not have a detrimental impact upon the character or amenity of the area." How did you as the delegated officer satisfy yourself about that? Did you go and have a look, for example?

Mr. P. Le Gresley:

No, I did not visit the site, no.

Mr. J. Mills:

You relied on Miss Baxter who ...

Mr. P. Le Gresley:

I would have, indeed, yes. Just to put that into context, at the time 2,500 planning applications were coming through the department every year, and I am the authorised signatory on many of them, a large proportion of them. It would be impossible for me to visit every individual site, but the case officer themselves would have visited the site once, if not more than once.

Mr. J. Mills:

Did you have a kind of warning light or traffic light system so that ... for example, applications in the countryside zone, which are often quite sensitive, that needed a little bit more attention than, say, greenhouses in the urban zone or whatever it might be, or not really?

Mr. P. Le Gresley:

Not in the way you describe. I think that my sensitivity would be heightened on any application which I felt was controversial or contentious for whatever reason, whether that is a public controversy or a policy controversy. I have to say that my senses were not heightened on this particular application at the time.

Mr. J. Mills:

You have had no objections from neighbours or from concerned members of the public except the one, the sort of half objection almost ...?

Mr. P. Le Gresley:

No, except the one we discussed from Mr. Le Marquand, yes.

Mr. J. Mills:

Okay, that is good. Well, I think we have got up to that point. There is more to come. May I thank the 3 of you for attending this morning. There are some follow-up things which we will make sure that ... I know Ian is very diligent in keeping a note of those things, so we will just formulate those and invite you to let us have that information. We will be meeting again at a date that is not fixed yet but will not be before the beginning of February for a range of reasons. I expect at that point we will want to see you again perhaps with one or 2 other of your colleagues to talk about some of the things that then happened once Reg's Skips had moved to Heatherbrae Farm. Thank you very much for attending and I hope you get your aeroplane, Peter. **[Laughter]** You might be lucky.

Mr. P. Thorne:

Get home and back again, that is the worry!

Mr. J. Mills:

Okay. We are adjourned.

[12:06]