

Scrutiny Report

Jersey Tourism: relocation and lease of new office accommodation

Chairman:
Deputy G Southern

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States 
of Jersey

CONTENTS

INTRODUCTION

The Shadow Scrutiny Panel

Rationale for this review

Terms of reference

Call-in

KEY FINDINGS

BACKGROUND

PUBLIC HEARINGS

TO CONSIDER WHETHER THE PROPOSED NEW LOCATION OF JERSEY TOURISM OFFICE IS IN THE BEST PUBLIC INTEREST.

TO REVIEW THE TERMS OF THE PROPOSED LEASE OF NEW OFFICE ACCOMMODATION FOR JERSEY TOURISM.

TO ENSURE THAT THE COMMERCIAL ARRANGEMENTS REGARDING THE PROPOSED LEASE ARE APPROPRIATE.

CONCLUSION

APPENDICES (can be found in the submissions area of this review)

- A. Scrutiny Briefing Paper, Department of Property Services
- B. Footfall Chart: pedestrian links to town and waterfront
- C. Operations Model, Waterfront Enterprise Board

1 INTRODUCTION

1.1 The Shadow Scrutiny Panel

For the purposes of this review the Panel was constituted, as follows –

Deputy G. P. Southern, Chairman

Senator P. V. F. Le Claire

Deputy M. F. Dubras

Deputy J. A. Martin

Deputy J. A. Bernstein

Officer support : Mr M. Haden

1.2 Rationale for this review

The Panel decided to undertake a review of the proposed relocation and lease of new office accommodation for Jersey Tourism in order to clarify the reasons behind this move and to assure itself that the proposal was in the best public interests. The Panel was aware that some members of the public had expressed concern about the appropriateness of the new location in comparison with the present premises on Liberation Square. In addition, doubts had been expressed that the new lease represented value for money.

The Panel hopes that, as a result of the review, States members will be better informed about the issues involved when the proposition comes to be debated in the States.

1.3 Terms of reference

1. To consider whether the proposed new location of Jersey Tourism office is in the best public interest.
2. To review the terms of the proposed lease of new office accommodation for Jersey Tourism.

3. To ensure that the commercial arrangements regarding the proposed lease are appropriate.
4. To report to the States on the Panel's findings.

1.4 Call-in

The Panel agreed to undertake this review as an experiment in 'call-in'. This mechanism is an innovation which has formed part of the local government modernisation programme in the United Kingdom. In approving P.79/2003 on the Establishment of Scrutiny Panels and the Public Accounts Committee, the States charged the Chairmen's Panel with making recommendations on the desirability or otherwise of introducing a 'call-in' mechanism as part of the reforms of the Machinery of Government in Jersey.

The Panel is grateful for the co-operation of the President of the Economic Development Committee in agreeing to this experiment and in deferring the States debate on the proposition for a two week period. The Panel is also appreciative of the fact that key witnesses agreed to attend a public hearing with the Panel at very short notice and assisted the Panel in providing information and papers.

Experience of this review has shown the Panel that the 'call-in' mechanism is resource expensive particularly in terms of the time requirement for both States members and officers. The Panel will be in a position to draw more considered conclusions at a later date.

2. KEY FINDINGS

- The choice of the new site for the Tourism Office at the western corner of the Island site appears to have been taken without serious consideration of alternative solutions. No evidence has been presented to the Panel to show that any consideration was given from the outset to the possibility of splitting the Visitors Centre and the administration offices. The appeal of an iconic site, at neutral cost to Jersey Tourism, meant that there was little incentive for the Economic Development Committee to investigate different options. By the time other options were investigated in 2004 the time for change had really passed.
- The views of the Tourism Board should have been sought at an early stage before the relocation of the Tourism office had become a settled decision. The Board could have fulfilled a timely scrutiny role in relation to relocation of the Visitor Centre before the decision was too far advanced to be changed.
- The addition of an additional floor on the planned building may have possibly undesirable consequences for future development in the area as other applicants may also seek to follow this precedent for five floors.
- Evidence given to the Panel suggests that by the time the iconic building is ready for occupation by the Tourism Department in two years time, the configuration of the Department will already be very different and the building may be too big. This raises further questions about the decision to relocate the Visitor Centre to that site particularly when there are ongoing discussions about retaining a significant 'shop-front' presence on Liberation Square.
- In view of the importance of the site of the present Tourism Building in relation to the scheme for the Island Site and the fact that the States will be a 'blue chip' tenant in the new offices, a much harder bargain with the developer might have been driven on the part of the public.
- The Panel was unable to fully evaluate whether the proposed lease provides good value to the States as it was not granted access to the financial details of the scheme. The key to assessing best value depends on knowing the balance between

the benefit for WEB, and thereby the public, and the profits to be gained by the developer with a 150 year lease on this land. Unless such details are known the Scrutiny process can never evaluate best value.

- The Panel recommends that the Finance and Economics Committee inform external agencies with whom the States do business that Scrutiny may have access to financial information held by the Finance and Economics Committee.
- The Panel is aware of a conflict between commercial confidentiality and public accountability revealed in this investigation. It recommends that the Finance and Economics Committee review the terms on which information can be shared with Scrutiny without the need for confidentiality before the introduction of the full Scrutiny function.
- The Panel is satisfied with the assurance that the requirements of due diligence have been fulfilled.

3. BACKGROUND

In approving P.45/2002, the States transferred the administration of the Island Site to the Waterfront Enterprise Board (WEB) and charged the Board with the task of developing the derelict site as a Transportation Centre at no cost to the States. Coolwater was selected by WEB in late 2002 as the development partner.

Under the proposed development scheme, the Jersey Tourism building came to be seen as the gateway to the Transportation Centre. So the purchase of these premises by the developer became integrated within the larger development agreement for the Island Site.

In early 2003, WEB instigated initial discussions between the Coolwater and the Chief Officer of Tourism about the relocation of the Tourism Department from its current premises. From the outset, options for a new location for Jersey Tourism focussed on identifying a solution within the Island site and a position on the western corner, opposite Jubilee Wharf, was selected.

The proposed new Tourism offices have been designed according to the specifications of the Tourism Department. The lease for this property, which is the subject of Proposition P.22/2005, is a free-standing transaction between the States and Islands Development Limited which was formed as a Special Purpose Vehicle to deliver the development of the Island Site.

The Department of Property Services became involved in the relocation and lease negotiations in March 2004 by which time the decision to relocate the Tourism office to the western corner of the island Site was well advanced. The Department's role has been to advise the Committee on the terms of the lease and to assist in negotiations with the Architects, Axis Mason, to ensure that the design of the building is appropriate to the requirements of Jersey Tourism.

Alternative sites for the Tourism administration offices were considered at the request of the Tourism Board in 2004 but no suitable States-owned premises were available.

The proposed move to the western corner of the Island site was approved by the Economic Development Committee in July 2004 on the basis of a number of conditions -

- The space in the new building was appropriate to the Department's operational needs;
- The full cost of the relocation would be covered by the developer;

The ongoing rental costs would be cost neutral to the Committee, including the provision of suitable accommodation for the despatch and bulk storage operations and permanent day/night parking for three vehicles;

The Department of Property Services would be allowed, should the need arise, to sub-let two floors of the building during the period of its lease; and

The inclusion of a break clause exercisable after nine years without penalty to the lessee.

Commencement on work on the Transportation Centre is now subject to the relocation of Jersey Tourism and the execution of the lease on the new office accommodation.

4. PUBLIC HEARINGS

The following witnesses attended a public hearing on 3rd March 2005 -

Deputy G. Voisin, President of the Economic Development Committee
Mrs A. Belhomme, Economic Development Department
Mr. D. Margason, Managing Director, Waterfront Enterprise Board
Mr. N. Sproston, Department of Property Services
Deputy L. Farnham, Chairman, Tourism Board
Mr. D. De Carteret, Director of Tourism and Marketing, Jersey Tourism

Full verbatim transcripts of the public hearings are available on the Scrutiny website at www.statesassembly.gov.je or through arrangement with the Scrutiny Office. Mr. Sproston, Department of Property Services also provided the Panel with a briefing note included at Appendix A.

This section outlines the key questions pursued by the Panel at the public hearings. The sections reflect the Panel's terms of reference. There follows the Panel's own comments on the evidence it heard from the witnesses.

4.1 TO CONSIDER WHETHER THE PROPOSED NEW LOCATION OF JERSEY TOURISM OFFICE IS IN THE BEST PUBLIC INTEREST.

4.1.1 Is the proposed new location a good site for the Tourism Office?

In summary, The Economic Development Committee considers that the new site will provide -

A prominent, accessible location linked to the new Transportation Centre.
An 'iconic' site, with valuable advertising potential for Jersey Tourism.
A modern building with more efficient use of office space.

Deputy Voisin submitted a 'footfall chart' (see Appendix B) which, he said, showed that the planned new offices would be in a better position than the current premises in terms of visitor flow into St. Helier from the Harbour and also from the west, once the

new Transportation Centre and other developments in the area were in place. He recognised,

however, that many visitors would continue to come along the Marina into Liberation Square. For this reason, he said, discussions were ongoing with WEB regarding a possible continued 'shop-front' presence for Tourism of some 800 feet, free of charge, in possibly a kiosk on the Weighbridge site or in the refurbished building currently housing the toilets.

The Managing Director, WEB, said that, whilst it was clearly important that the Visitor Centre should be easily accessible and well-signed, visitor footfall into the new Tourism Offices was not the primary issue in the relocation of the Tourism office. The principal strategic objectives were the removal of a prominent derelict site from St. Helier and the creation a vibrant experience for the visitor in the area. He suggested that visitors to the Island are chiefly influenced by the quality of the dining experience, the public open spaces, attractive squares, all of which would be enhanced by the scheme for the Island site.

The Director of Tourism and Marketing told the Panel that while Jersey Tourism was confident that the new location of the Visitor Centre was potentially advantageous in the long term, there were some concerns regarding the effect of continuing construction work in the Waterfront area in the medium term. Although the construction of the adjacent Transportation Centre would be completed before the relocation of the Tourism Offices into the new premises, building work would be ongoing in the surrounding areas for a time on other development work immediately close to the new site.

4.1.2 What are the views of the Tourism Board on the relocation of Visitor Services?

Deputy Farnham, Chairman of the Tourism Board said that the Board had consistently expressed reservations about the proposed relocation on the Island site and had pressed for the investigation of alternative options. It had been particularly concerned, in view of its responsibility for advising the Economic Development Committee in relation to the needs of the tourism industry, at the lack of consultation in the early stages of the decision-making process. By the time the matter was reported to the Board in March 2004 the proposal appeared to be an inevitability.

Comment

The Panel believes the views of the Tourism Board should have been sought at an early stage before the relocation decision had become settled. The Board could have fulfilled a timely scrutiny role in relation to relocation of the Visitor Centre before the decision was too far advanced to be changed. The Panel notes the reservations expressed about the impact of the ongoing building work on the effectiveness of the new site in the medium term.

4.1.3 What alternative sites were considered for relocating the Tourism Office?

The Corporate Resources Director, Economic Development, told the Panel that a number of options, including Broad Street Post Office, the Airport and Aviation Beauport had been investigated but had been discounted as unavailable, unsuitable or too expensive. She said that, while it would have been possible, in theory, to locate Visitor Services on a smaller site on the Island site and accommodate the administration offices on an alternative, less expensive location, it was highly unlikely that alternative offices could be found which would achieve a the level of subsidised rental with the protection of a capped rent increase for a nine year period offered in the deal with the developer. An alternative to the current proposed relocation would probably have resulted in a higher cost to the Department as well as the inconvenience of an organisation split into different sites.

The Panel noted among the files of papers provided an e-mail exchange in December 2004 between the Tourism Department and the Department of Property Services which indicated that, in fact, the search for alternative office accommodation in 2004 had been largely a pointless exercise. It was stated

'To be honest we did not put much effort into looking for other locations because from a fairly early stage it was obvious that this was a done deal and that the time to change things had long gone.'

Comment

The choice of the new site at the western corner of the Island site appears to have been taken without serious consideration of alternative solutions. No evidence has been presented to the Panel to show that any consideration was given from the outset to the possibility of splitting the Visitors Centre and the administration offices. The appeal of an iconic site, at neutral cost to Jersey Tourism, meant that there was little incentive for the Economic Development Committee to investigate different options. By the time other options were investigated in 2004 the time for change had really passed.

4.1.4 Why were the current Tourism premises recently refurbished if Jersey Tourism was to be relocated?

The Corporate Resources Director, Economic Development, told the Panel that remedial work on the premises had been pressing on grounds of health and safety and equity of access. In addition, the building had not been redecorated for several years and it was considered essential to upgrade the image of Jersey Tourism. Work was undertaken between the end of 2001 and March 2002, prior to any discussions on the potential relocation. The new brand image created at that time would be retained in the relocation.

4.1.5 Why has a fifth floor been added to the design of the new offices?

The Director of Tourism and Marketing explained that Jersey Tourism had requested the addition of a fifth floor in the design of the building, not for administration purposes but to provide essential space for the Visitor Centre which could not be accommodated simply on the ground floor. A new mezzanine floor had been added to the Visitor Centre. The rest of the building comprised two floors for administration and one floor for meeting rooms.

Mr. Sproston, Department of Property Services explained that, given the constraints of the restricted site area the only option was to add an additional storey, as opposed to extending the building across the site.

Comment

The Panel believes that addition of an additional floor may have possibly undesirable consequences for future development in the area as other applicants may also seek to follow this precedent for five floors.

4.1.6 Given the recent reduction in staffing, and the future review of the Tourism Department will the new offices be too large for the Department's requirements?

The Director of Tourism and Marketing explained that the building had been designed to accommodate the current administration of the Department^[1]. This had already been reduced by approximately 25% through outsourcing of some marketing functions, reduction in the Visitor Services Centre and the consumer team and the loss of the post of chief Executive. Should further reductions take place, it will be possible, under the terms of the lease, for other States functions to take over the vacated office space in the building.

Mr. Sproston, Department of Property Services, in his briefing note, clarified the comparison in floor space between the existing Tourism building and the new offices. The total floor space in the existing building comprises 7,477 square feet with usable storage and dispatch of 2,314 square feet; with the new office accommodation providing 6,742 square feet together with a storage and dispatch facility in St John of 2,289 square feet. It was suggested that although slightly smaller in floor space, the new premises would offer improved flexibility and efficiency in use, with better overall use of the floor area occupied.

Deputy Voisin also explained that a review would shortly be undertaken of the Tourism Department which could lead to radical changes. It was possible for example that Visitor Services might be outsourced and the administration section integrated into the Economic Development Department. In addition, the Policy and Resources Committee was preparing a review of all States property which could lead to a rationalisation of office usage by the states. The Committee also had to bear in mind the outcome of a review of the rent on market values after nine years, which might lead to a significant rise in costs^[2].

Comment

Evidence given to the Panel suggests that by the time the iconic building is ready for occupation by the Tourism Department in two years time, the configuration of the Department will already be very different and the building may be too big.

This raises further questions about the decision to relocate the Visitor Centre to that site particularly when there are ongoing discussions about retaining a significant 'shop-front' presence on Liberation Square.

4.2. TO REVIEW THE TERMS OF THE PROPOSED LEASE OF NEW OFFICE ACCOMMODATION FOR JERSEY TOURISM.

4.2.1 Do the terms of the lease represent the best possible deal for the public?

The Panel was told that the Economic Development Committee considered the lease to be very favourable for a number of reasons -

The agreed rent for the new office accommodation is pegged to the current rent paid by Jersey Tourism for its premises on Liberation Square, that is, £109,300 per annum.

Annual rent increases are limited to a maximum of 2.5% per annum for nine years, following which there will be a market rent review

The lease agreement includes free rental of storage space at St. John's for a period of nine years, (at an estimated rental value of approximately £16,000 per annum) in recognition of the fact that the dispatch and storage area has to be relocated to make way for the Transportation Centre.

A nine-year break clause gives the Committee the flexibility to relocate to an alternative site in the future if they so chose.

The ability to sub-let two floors of the new office also gives the Committee further flexibility to sub-let to a third party if considered appropriate should any further reduction in the Tourism department staffing occur following the planned review.

All relocation costs incurred by Jersey Tourism will be met by the developer.

Refurbishment to walk-in condition of office space in Albert House will also be paid by the developer and the costs of upgrading the storage area in St. John.

Relief from the service charge for the island site.

Deputy Voisin told the Panel that, taking into account the storage square footage at St John's, the rent for the new office accommodation equates to approximately £12 per square foot which is well below current market values. Average rents in general in St. Helier were given as between £20 - £22 per square foot per annum. Newly-built office accommodation in prime locations such as the Esplanade might attract a rent in the order of £25 per square foot per annum.

The Panel recognises a figure on a like for like basis of £16.2 per square foot as the cost of the office space in the new building.

The Managing Director, WEB, explained that the developer had agreed to the specific concessions requested by the Economic Development Committee largely because of the critical position of the current offices in the overall scheme for the Island Site. The tourism relocation is a net cost to the developer which it is prepared to bear in order to facilitate the wider development. The planned new office accommodation, although of a generic nature such that it could be occupied by alternative clients should it not be required by Jersey Tourism in the future, has been designed and included specifically to facilitate the tourism relocation and would not have formed part of plans for the development of the Island Site unless it had been required for the immediate needs of Jersey Tourism.

Deputy L. Farnham said that, in view of the importance of the site in relation to the scheme for the Island Site and the fact that the States would be a 'blue chip' tenant, he believed that a much harder bargain with the developer might have been driven on the part of the public.

Comment

The Panel finds that Deputy Farnham's comment carries some weight given the number of concessions granted by the developer to obtain early release of the current Tourism building.

Mr. Margason, Managing Director, WEB, explained that he was confident that transaction represented good value to the public. He said that the arrangements regarding the relocation and lease of the Tourism office accommodation had to be understood as part of the wider Joint Venture agreement with the developer regarding the entire Island site. This agreement, which had been structured on the basis of the States decision in 2002 to charge WEB with rejuvenating the site and developing a Transportation Centre at no cost to the States, allowed for cash value from the development to be released for ongoing waterfront development activities including environmental investment in areas such as the Weighbridge. Alternative terms for the office accommodation which had been suggested, for example returning the site to

the public ownership at the end of a 21 year lease or extending the period of rent subsidy, would make the arrangement less profitable to the developer and would, in turn, be likely to lead to reduced financial returns to WEB for the planned re-investment in environment improvement.

Mr. Margason supplied the Panel with a flow chart (See Appendix C) to illustrate how this

agreement worked.

It should be noted that the Panel was unable to consider the financial details of the deal between WEB and the developer, even in confidence, as this was considered to be commercially sensitive information. This information is known to the Finance and Economics Committee as part of its audit and approval process.

4.2.2 Would better value be gained with capital funded States-owned building?

The Panel noted that the rental for the new office accommodation would cost the States over £1 million for a period of nine years or over £2.5 million over the full 21 years of the lease. It questioned whether capital funding, as in the case of Jubilee Wharf for the Housing Department, or a lease, lease back arrangement, as in the case of Maritime House, had been considered.

Mr. Sproston, the Department of Property Services, told the Panel that there was no budgetary provision for this purpose, nor any identified alternative land. If the States had wanted to take back a piece of land from the Island site for such a purpose, a sum of money would have had to be paid over to the developer or would have been reflected in a reduced financial return to WEB.

Comment: Value for money

The Panel was unable to fully evaluate whether the proposed lease provides good value to the States as it was not granted access to the financial details of the scheme. The key to assessing best value depends on knowing the balance between the benefit for WEB and thereby the public and the profits to be gained by the developer with a 150 year lease on this land. Unless such details are known the Scrutiny process can never evaluate best value.

Comment: Accountability:

The Panel recommends that the Finance and Economics Committee inform external agencies with whom the States do business that Scrutiny may have access to financial

information held by the Finance and Economics Committee.

The Panel is aware of a conflict between commercial confidentiality and public accountability revealed in this investigation. It recommends that the Finance and Economics Committee review the terms on which information can be shared with Scrutiny without the need for confidentiality before the introduction of the full Scrutiny function.

4.3 TO ENSURE THAT THE COMMERCIAL ARRANGEMENTS REGARDING THE PROPOSED LEASE ARE APPROPRIATE.

4.3.1 What is the nature of relationship between the States and the developer/landlord?

Mr. Margason explained that the lease for the new Tourism Offices would be directly between the developer/landlord, Islands Development Limited, and the public. Islands Development Limited is the name of a Special Purpose Vehicle formed to deliver the development of the Island Site. This company is fundamentally the same group as initiated discussions with WEB in 2002/03, though there have been material change in the shareholders since then.

4.3.2 What is the relationship between WEB and the developer?

Mr. Margason told the Panel that WEB and Islands Development Limited had formulated a Joint Venture Development agreement through which the development of the site would deliver certain things, such as the Transportation Centre, and produce funding for reinvestment in the public realm, for example the landscaping of Weighbridge. The financial return to the public via WEB had a minimum level, but no maximum - it would rise as returns to the developer rose. These specific details of the financial arrangements were known to Finance and Economics Committee.

4.3.3 Who are Obelisk Secretaries?

Mr. Margason said that Obelisk Secretaries are a local company providing directors' services to the investors in the project. They do not benefit from the project other than by receiving their directors administration fees.

4.3.4 Who are the shareholders of Islands Development Limited?

The Panel was informed that the Directors of the Islands Development Limited are Mr. Patrick Doherty, the beneficial owner of Harcourt Developments, and Mr. Peter Crean, an employee of Harcourt and representative of their development in Jersey.

4.3.5 What due diligence procedures have been followed?

Mr. Margason said that due diligence investigations into Harcourt Developments and Directors have been carried out by specialist advisers 12 months ago. The results were satisfactory. In addition, a major accounting firm undertook further due diligence in December 2004. WEB is satisfied that Harcourt Developments is *bona fide* developer managing property throughout the world. The results of these investigations are known to the Finance and Economics Committee and the Department of Property Services.

4.3.6 What is the position of Mr. Flynn?

The Panel asked Mr Margason to explain the position within the development company of Mr. Flynn who had been mentioned in an article, dated 24.03.05, in the Jersey Evening Post in connection with a money laundering investigation in Northern Ireland.

Mr. Margason informed the Panel that Mr. Flynn was a Non-Executive Board Director of Harcourt Developments, which had provided equity funding for Islands Development Limited. He was a highly regarded advisor to government and a former Chairman of Bank of Scotland in Ireland. The police investigation in question was actually about the alleged activities of a certain Mr. Cunningham and another company, unrelated to Harcourt Developments. Mr. Flynn happened to find himself associated with Mr. Cunningham as a member of the Board of that company.

Mr. Flynn's known membership of legal political party is not a concern and does not appear to have been so in the past for the Bank of Scotland.

Comment

The Panel is satisfied with the assurance that the requirements of due diligence have been fulfilled.

5. CONCLUSION

The Panel accepts that the decision to relocate the Tourism Office from its current premises on Liberation Square is reasonable in the light of the strategic position of the building as the gateway to the new Transportation Centre.

The Panel is concerned, however, that a broad strategic decision by the States on the development of the Island Site through public/private partnership in 2002 was taken in the absence of any detailed consideration of how this would impact on the Tourism Office.

This concern does not lead the Panel to opposing the Proposition to be put to the States in P.22/2005. However, it serves to highlight the importance of ensuring that decisions of this nature are open to scrutiny at an early stage.

This review has only been able to examine the end result of the decision-making process relating to the relocation and lease of the Tourism Offices. This serves to highlight the need for early involvement of Scrutiny in the decision-making process at a stage when it is still possible for members to make a real difference or add value.

To enable Scrutiny to function proactively, it will be important that the Executive produces an early and comprehensive Business Plan of key decisions.

7. APPENDICES

- A. Scrutiny Briefing Paper, Department of Property Services**

- B. Footfall Chart: pedestrian links to town and waterfront**

- C. Operations Model, Waterfront Enterprise Board**

[1] The Panel was provided with details, in the papers submitted, of the accommodation analysis undertaken by the Tourism Department in May 2004.

[2] The Department of Property Services has calculated that a realistic market rental for the offices, the warehouse at St. John and the car parking would amount to between £160,000 and £170,000 per annum compared to the subsidised rent of £109,300.