

**STATES OF JERSEY**  
**Public Accounts Committee**  
**Public Hearing**

**MONDAY, 10th JANUARY 2011**

**Panel:**

Senator B.E. Shenton (Chairman)  
Connétable J.M. Refault of St. Peter (Vice-Chairman)  
Senator A. Breckon  
Mr. A. Fearn  
Mr. M. Magee  
Mr. K. Keen  
Mr. C. Swinson (Comptroller and Auditor General)

**Witnesses:**

Mr. P. Thorne (Director, Planning and Environment)  
Mr. A. Scate (Chief Officer, Planning and Environment)

**In Attendance:**

Mrs. M. Pardoe (Scrutiny Officer)

[12:49]

**Senator B.E. Shenton (Chairman):**

Okay, we will start a little bit early. What we will do if you could call out your name and title and we will work our way around the table so that we can introduce everyone for the purposes of the tape and for the audience, maybe starting with you, Peter.

**Director, Planning and Environment:**

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

**Chief Officer, Planning and Environment:**

Andy Scate, Chief Officer for Planning and Environment.

**Mr. M. Magee:**

Martin Magee, independent member, Public Accounts Committee.

**Senator A. Breckon:**

Senator Alan Breckon, member of the Public Accounts Committee.

**Connétable J.M. Refault of St. Peter:**

Constable John Refault, Vice-Chairman, Public Accounts Committee.

**Senator B.E. Shenton:**

Senator Ben Shenton, Chairman of the Public Accounts Committee.

**Mrs. M. Pardoe:**

Mel Pardoe, committee officer.

**Mr. A. Fearn:**

Alex Fearn, independent member, Public Accounts Committee.

**Mr. K. Keen:**

Kevin Keen, independent member.

**Mr. C. Swinson:**

Chris Swinson, Comptroller and Auditor General.

**Senator B.E. Shenton:**

A little bit of housekeeping. I just have to read out the following: “The proceedings of the panel are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels P.A.C. and P.P.C.) (Jersey) Regulations 2006 and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something they know to be untrue. This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action, although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering questions.” Now I understand why you, Andy, have brought Peter along because you had not been long in the role when Homebuy was implemented.

**Chief Officer, Planning and Environment:**

That is correct. I joined the States employment on 26<sup>th</sup> August 2008. So I was in post for the latter parts of the Homebuy process and clearly the Homebuy process started some time before that. So just for points of information and any clarity, I brought Peter along which I thought may help the panel today.

**Senator B.E. Shenton:**

So, obviously we do not mind which one of you answers the questions, so between yourselves the idea is who is best. Where did the impetus for Homebuy come from?

**Director, Planning and Environment:**

Well I will answer that. I think primarily from the Minister who clearly had advocated as part of his manifesto when he came into the States anyway. But we were looking to meet the States strategic objective of enabling home ownership, trying to assist those perhaps of lesser means to get into that market. To an extent as a department we supported the principle of doing that because it increased the number of products for people getting into the housing market.

**Senator B.E. Shenton:**

Do you think in hindsight it may have been better to bring the policy to the States for formal approval rather than implemented *ad hoc*?

**Director, Planning and Environment:**

Well I do not think it is fair to say that it was *ad hoc*. The way the scheme would work was in the proposition that was taken to the States in July 2008. The proposition was essentially a planning proposition to amend the Island Plan to enable Jersey Homebuy housing to be regarded as category (a) and thus applied to sites which had been designated in the 2002 Island Plan for category (a) development. To that extent, the proposition was quite simply to enable Jersey Homebuy to occur, but clearly as it was a new type of housing

product, it was incumbent on us, in association with the Housing Department who helped us frame the proposition, to explain how the scheme would work.

**Senator B.E. Shenton:**

Did you feel as a department then there was no need to formally bring it as a standard proposition to the State?

**Director, Planning and Environment:**

Well at the time I do not think we did, necessarily. The proposition was written around the properties being conveyed to not-for-profit bodies and I know that Mr. Swinson's report was concerned primarily with the involvement of the States in acting as a not-for-profit body there. But we did not necessarily assume that the Housing Department would be the people contracting with the developers to acquire the housing. There was quite a bit in the reports attached to the proposition describing how the scheme would operate, the percentage, how the housing Gateway would work with qualifying applicants and qualifying purchasers, so to that extent outlining the principles of the scheme to describe the fundamentals of the scheme, if you like, and how it would work in practice. The intention, at least the way we interpreted the comments about the supplementary planning guidance being produced, was that would come later after we had trialled the scheme on the first few sites. In the event only one site of the 3 came forward and that was La Providence at Bel Royal.

**Senator B.E. Shenton:**

Were you aware that the Solicitor General had recommended that the scheme be formally brought to the House with legislation?

**Director, Planning and Environment:**

I may well have been but I do not honestly recall it. I have not gone through all the paperwork from the time. We certainly engaged with the Solicitor General and indeed other officers at the Crown Officers' Department regarding this scheme.

**Senator B.E. Shenton:**

Why was there such a hurry to push this scheme through on a trial basis?

**Director, Planning and Environment:**

Well, it was a trial because we had never done it before, clearly. It is fair to say it was rushed. There were quite a lot of discussions which occurred with the Scrutiny sub-panel. That probably was the process, if you like, of working through how the scheme was going to work. Certainly the Scrutiny panel raised questions which we responded to. I do not think we were necessarily au fait with all the ways in which it would operate, what the full implications were, hence Scrutiny's involvement. But certainly the scheme had to be worked up and the proposition, as I said earlier, was effectively enabling Homebuy to be applied to the sites as they came forward.

**Senator B.E. Shenton:**

The whole legality of the scheme hinges around what can and cannot be done through a planning obligation agreement. Can you just set out the significance for the panel of what a planning obligation agreement is?

**Director, Planning and Environment:**

Well planning obligation agreements are bilateral contracts between the Minister and an applicant and they are registered in the Royal Courts and they have to be applied or held to the agreement. They deal really with matters that cannot adequately be addressed by planning conditions, that is, the conditions on the planning permission. Because they may deal with matters which are off-site, for example, like off-site infrastructure improvements where, certainly in the La Providence case, there were quite significant off-site infrastructure improvements which were dealt with primarily by money going to the Transport and Technical Services Department to effect the improvements. But you cannot make those on a planning condition because the conditions have to relate to the development as approved and relate to the site on which the development is taking place. We have used them most extensively, I suppose, for defining tenure on the sites that were zoned in the 2002 Island Plan, so there is a binding agreement between the developer and the Minister and subsequently the purchasers, or the successors, if you like, to the developer, so they have to observe the tenure requirements. The infrastructure improvements are significant and that probably is the other main area where we have done it. That can range from paying a few thousand pounds for a bus shelter to serve a scheme to major pumping stations as to a place in Bel Royal.

**Senator B.E. Shenton:**

When would they normally be agreed and signed then? At what stage?

**Director, Planning and Environment:**

Well ordinarily they would be agreed before the permission is issued. That is the standard way of doing it. But certainly on the La Providence site there was a fairly complicated agreement where phasing was significant and the various stages of development and the release of homes was geared to initially temporary arrangements for drainage and so on. So the planning obligation agreement had to deal with the phasing of the development. As I recall, the permit that was granted required an agreement to be made within a certain timescale.

[13:00]

**Senator B.E. Shenton:**

Do you know when the planning obligation agreement was signed?

**Director, Planning and Environment:**

Yes, on 22nd April 2008. The agreement of all the parties - and there were several parties to the agreement - would have been in the month or so before the agreement was signed.

**Senator A. Breckon:**

Does that include Jersey Homebuy in April 2008?

**Director, Planning and Environment:**

Sorry, I do not understand.

**Senator A. Breckon:**

Did that include Jersey Homebuy in that planning obligation in 2008?

**Director, Planning and Environment:**

If I recall it related to either Jersey Homebuy or social rented housing.

**Senator A. Breckon:**

Either/or or one or the other? Social rented?

**Director, Planning and Environment:**

Yes.

**Senator A. Breckon:**

Not Homebuy?

**Director, Planning and Environment:**

No, I think it included either/or. I was only asked to come to this at relatively short notice, so I have not been through all the papers and I know there are a lot of them. I do have the planning obligation agreement with me but the ... sorry, looking at the provision, it is for social rented tenants.

**Senator A. Breckon:**

In April 2008?

**Director, Planning and Environment:**

No, that was the actual permit.

**Senator B.E. Shenton:**

Mr. Aubert, earlier this morning, told us that the planning obligation agreement was not registered until 16th July 2009.

**Director, Planning and Environment:**

Well, the 22nd day of April it went before the Judicial Greffier. There was an amendment which is what Mr. Aubert might be referring to.

**Senator A. Breckon:**

Which is to enable Homebuy?

**Director, Planning and Environment:**

Probably, yes.

**Chief Officer, Planning and Environment:**

I might just say, there was a revised P.O.A. (Planning Obligation Agreement).

**Senator A. Breckon:**

Following this fact, could you give a view then of a retrospective obligation?  
How enforceable would it be if a developer had an expectation and then you putting something in which was not expected?

**Chief Officer, Planning and Environment:**

Well ultimately here a planning obligation agreement is a legal agreement between the planning authority and the applicant and the developer. So if the developer goes on to then sign a revised planning obligation agreement it is as enforceable and has the same legal weight as the previous one.

**Director, Planning and Environment:**

The planning permission itself was 8th May 2007. Of course, at that time Homebuy had not gone to the States.

**Senator B.E. Shenton:**

The S.G. (Solicitor General) recommended as well that no homes should be sold by the developer until that Homebuy agreement had been formally put in place and yet a number of houses were sold by the developer prior to that.  
Would you like to comment on that?

**Director, Planning and Environment:**

I do not think they were Homebuy houses. They were probably first-time buyer homes.

**Senator B.E. Shenton:**

No, the advice of the Solicitor General was that no homes on the site full stop should be sold.

**Director, Planning and Environment:**

I do not know.

**Senator B.E. Shenton:**

Perhaps I could ask just a general question. What have you learnt from this trial of Jersey Homebuy?

**Chief Officer, Planning and Environment:**

If I can start. I think what we have learnt overall that it is a useful housing product for the Island and for Islanders to have in order to enhance home ownership, certainly with housing values as they are. If the aspiration of home ownership is out of the reach of many, a form of shared equity, be it Homebuy, whatever the name, intermediate housing, I think it is a useful product because people can own a home at a lower value than they would have been able to previously to that product. So I think overall the one lesson is it is useful. I think what we have seen is it can be made to work and I think it does work in terms of we have had 46 families housed in this sort of product. So, I think it has been shown that it can work. Certainly, the biggest learning point from the pilot has been around, I think, clarity on its operation: who is involved, who has to sign off, what is involved, what is the role of the State and I think some clarity in terms of when is it the States, when is it another not-for-profit body, what the role the developer takes in this or

otherwise. So I think the guidance around Homebuy, there is certainly a learning point there in terms of making it a lot clearer to the parties involved, but also to parties who are looking at this, what the scheme is and how we go about getting it signed off and what the actual operation of it is. So I think that, certainly from our perspective, is probably the biggest learning point, I would say. But I think, coming back, the real positive, certainly from my perspective, this is something that is new - it is a new housing product - that has worked. We certainly have learnt some issues around process within the pilot. But I think in summary that is what I would say is the biggest learning point from our side of things.

**Senator B.E. Shenton:**

Because the Homebuy scheme has been put together *ad hoc* without new legislation as recommended by the Solicitor General. It is very much using ancient laws to achieve it.

**Chief Officer, Planning and Environment:**

Yes.

**Senator B.E. Shenton:**

Under these ancient laws, one way of achieving it is through the States of Jersey having a bond over the portion that the States owns. The downside of this seems to be that if house prices fall, the States are guaranteed to get the return on the bond and indeed the Minister for Housing reiterated that recently in a letter which he circulated. The banks will have a first charge on the

property, so they will get back their exposure, but the actual homebuyer/owner will suffer 100 per cent of any fallen value of the property. If house prices go up, they will get 65 per cent of the profit; if they go down they will get 100 per cent of the fall. Would you like to comment on this?

**Chief Officer, Planning and Environment:**

I think generally the first point you made around the legal framework, certainly the legal framework under which Homebuy is implemented does rely on some very old laws. I do not think I would dispute the fact, and I should not dispute the fact, that the Law Officers' Department would like to see the law updated to account for this new sort of ownership on Jersey. I cannot dispute that. I think that is something we need to look at moving forward. I think it works under the current laws. Thus there are certainly some elements of ... you have raised an element there which the planning system does not often get involved in, valuations and financial issues, in that sense. Clearly, if there is a potential issue there, that is something I think we need the legal framework to have a look at. I think it is very clear that it can be made to work under the existing legislation, albeit some of it is very old. Certainly, the view of the Law Officers' Department is this is a new form of ownership and I think it should be reflected in a new legislative base. I do not dispute that. It is a task in hand and I think it is probably a fairly big bit of task to get the work done, re-drafted, lodged and Privy Council agreement, et cetera. But I think if that is still the advice of the Law Officers' Department, I do not see any reason why it should not still be the advice. I think that is something we need to look at because, if anything, it brings the legislative framework up to date. I think laws should be

changed. If circumstances change they need to be modernised. If an old law still works, there is a question of how much does it need to be changed? But I think if the old law does relate and there are some instances where risks are created for individuals because of the way the old law is drafted, I think that is certainly something we should look at to improve it or modernise it.

**Director, Planning and Environment:**

If I may, I think one of the other advantages of a new law is it might enable different products to be made available as well. If I could put it in these terms generally, shared equity homes, which as I understand it are not legally possible under Jersey common law at the moment or statute law.

**Senator B.E. Shenton:**

Yes. Although this is termed as a shared equity scheme, it is not a shared equity scheme.

**Director, Planning and Environment:**

It is not a shared equity scheme. No, I do not think there has been any pretence to that effect. It was always known it could not be a shared equity scheme in the Jersey context.

**Senator B.E. Shenton:**

The Housing Scrutiny sub-panel which works closely with the department in respect of this, they did produce some comments within their proposition saying that sufficient detail was not included on the scheme and asked for

clarification of a number of points. Could you comment on this because there was assurances given by the Minister that the scheme would not go ahead until these points had been clarified. Are you satisfied they were clarified?

**Chief Officer, Planning and Environment:**

I think many of the detailed points and the substantive issues that the sub-panel raised ... there was quite a flurry of meetings and correspondence exchanged, and material exchanged, following the States debate in July which subsequently had meetings being held and information being exchanged to overcome some of those detailed points. So our position is not dissimilar from the Comptroller and Auditor General's report in terms of where we had got to; what were some of the outstanding issues. I think most of the main issues of concern were certainly dealt with very early on following the States debate.

**Senator B.E. Shenton:**

Are you satisfied, for example, now that you fully understand all the Gateway criteria has been fully set out or is this another concern, the planning of what the Gateway criteria is?

**Chief Officer, Planning and Environment:**

I do not think Planning and Environment have a problem with the Gateway. With the learning point I earlier stated, I think it will be useful to have more clarity in terms of a document which is a supplementary planning guidance document or something possibly more accessible even than that which

explains what this is about: what is this product; what does it mean; who gets involved; how do you get it; who is eligible for this? I think greater information in one place around those issues would help, without doubt.

**Senator B.E. Shenton:**

The Scrutiny Panel did ask for a number of things to be clarified and we cannot see that they were clarified before the actual transactions took place. What was the view of the department on this with regard to ignoring the Scrutiny Panel?

**Director, Planning and Environment:**

Well the first of those was the temporary measures of flooding, whether they could be signed off. There was a letter sent by one of the officers of the department who was dealing with it to say that the temporary attenuation measures for surface water drainage were satisfactory. There was a question raised about the insurability of homes, perhaps on the basis that there was an assumption these homes would get flooded. Although, having said that, they were above the flood plain and the risk was low. There was no confirmation as such of that but the confirmation effectively came when the purchasers were able to obtain their insurance to complete the purchases.

**Senator A. Breckon:**

Just for the record, I should say that I was chairman of the main panel and a member of the sub-panel and it is right what you say. Questions were raised but I would say that they were not fully answered. For example, we have still

not seen the Gateway scheme. We do not know what it is ... The other thing in discussion, if I can just bring you to another point, is that in P.74 that went to the States, all the documentation said there are 2 issues: "The Minister for Planning and Environment will determine the division between social rented housing and Jersey Homebuy based on the assessment and needs at the time." Where is your evidence that says we do not need social renting? That is the first question. The second one is: "He will also give direction to the level of discount to be provided for the Jersey Homebuy housing. Initially, the discount is to be set at 35 per cent of the first homebuyer price." Why did that not apply? These are things of the Minister for Planning and Environment and not the Housing Minister.

**Chief Officer, Planning and Environment:**

Yes. Certainly, in terms of evidence, it is a normal process that we undertake now in terms of achieving affordable housing. The debate is then had in terms of what mix, what tenure does that affordable housing need to take? We take advice from the Housing Department and it is a very movable position. We have seen recently the demand for social rented properties escalate at a very high percentage. We have got a lot more people now asking for social rented because of the market conditions. Certainly, going back a couple of years, there was still a greater aspiration to buy. The need was demonstrated that people wanted to buy. The mortgage products were still available at that time. So to a certain extent the market conditions and availability of mortgage lending does so inform housing need and people's aspirations. So it would have been one of those decisions taken at the time in

terms of what do we think is the need that people are requiring. We have people waiting to buy this sort of product, so certainly there was a need for Homebuy purchasers. There is still a need for Homebuy purchasers. There are still people who are going through the Gateway who are able to buy via Homebuy. But at the moment that is being probably overshadowed by those who are wanting to have a social rented property. But it does change month to month, depending on what the market conditions are doing.

**Mr. K. Keen:**

Can you just remind us how many houses are on the site, how many are social rented, how many are Homebuy, just so we have a ...?

**Director, Planning and Environment:**

Yes, there are 46 Homebuy and there are 5 elderly persons' homes. The remainder are - you can do the maths - the first-time buyer homes.

**Mr. K. Keen:**

How many is that?

**Director, Planning and Environment:**

It would be 46, 5 ... 102.

[13:15]

**Mr. K. Keen:**

So it is a 100 altogether?

**Director, Planning and Environment:**

102.

**Mr. K. Keen:**

102. Right.

**Senator A. Breckon:**

In the same document, there was material produced in 2005 and it says the household income of applicants may be 75 per cent of those who are under £40,000. So when you are assessing the want to buy, unable to buy, where do you draw the line in planning terms if you are assessing housing need?

**Director, Planning and Environment:**

We were being told in 2007 ...

**Senator A. Breckon:**

Being told by whom?

**Director, Planning and Environment:**

By Housing ... that the successful provision of social-rented family homes ... and we are talking about a particular type of home here and not perhaps smaller homes for people who could qualify for Homebuy on lower income levels. But at that time we were talking about family homes. We had been

advised by Housing the sites that had been developed in the 2002 Island Plan had delivered 45 per cent of their total yield as social rented homes generally with different trusts. At that point in time there was low demand and it is on that basis it was decided by the Minister that all of the social rented ...

**Senator A. Breckon:**

Do you know what that evidence was based on? You say there was no demand but where did that come from?

**Director, Planning and Environment:**

Well it would have been based on the housing waiting lists held by the department and the trusts.

**Senator A. Breckon:**

The housing list, do you acknowledge, excludes people? Not everybody who is in housing need is on the housing waiting list.

**Director, Planning and Environment:**

No, I do understand that.

**Senator A. Breckon:**

You understand that. The other thing is why all the paperwork before the States, and all we have seen, suggests the discount will be 35 per cent and that did not happen. It clearly says here that it is from the Minister for Planning and Environment.

**Chief Officer, Planning and Environment:**

Yes. Why 35 per cent in the first place? The 35 per cent was taken as a figure at the time, market conditions at the time, of a suitable enough discount to enable people within that income bracket to have the mortgage product available to buy the remaining equity. So to buy 65 per cent the people within the £40,000 to £60,000 income bracket, the mortgage products available would have equated to that sort of a discount. Ultimately, I think, 42 per cent was required to enable those people to in effect get the discount enabled to get the mortgage product to buy the remaining equity.

**Senator A. Breckon:**

Conversely, did not the prices fall and should not the price have fallen rather than the discount increase? Whose decision was that?

**Chief Officer, Planning and Environment:**

I am not sure we have seen any firm evidence that first Homebuy values have fallen ...

**Senator A. Breckon:**

House prices fell around about 5 per cent.

**Chief Officer, Planning and Environment:**

We have certainly seen house prices in certain brackets have come down. House prices I think in other brackets have probably stayed fairly strong.

Again, it was a consideration at the time whereby I think the 42 per cent was the discount to enable these people to get the mortgages to buy the remaining equity.

**Senator B.E. Shenton:**

The States of Jersey Statistics Unit has produced figures that house prices did fall over that period. Who undertook negotiations with the developer on the price for the houses?

**Chief Officer, Planning and Environment:**

That negotiation would have taken place between the not-for-profit body, in this case the Housing Department, and the developer.

**Senator B.E. Shenton:**

Was Planning involved at all?

**Chief Officer, Planning and Environment:**

Not in that negotiation, no.

**Senator B.E. Shenton:**

The Minister for Planning and Environment was not involved either?

**Chief Officer, Planning and Environment:**

No.

**Senator B.E. Shenton:**

You are certain?

**Chief Officer, Planning and Environment:**

As far as I am aware, that is correct. Yes.

**Mr. K. Keen:**

Can I ask, who pays this discount? Who paid for this discount? If there is a shortage of first-time buyer houses, which I guess there might be, is there a possibility that the buyers of the other houses have paid the £8.5 million?

**Chief Officer, Planning and Environment:**

Well, ultimately, the discount comes from the developer because in effect he is selling the properties at a discounted rate.

**Mr. K. Keen:**

How could you be certain of that then?

**Director, Planning and Environment:**

Well because that is what happened. We cannot be certain that the developer did not offset some of the discount against what he was asking for the first-time buyer houses but people pay what people pay for the houses. As Andy Scate just said, we do not know because we were not involved in the discussion. My understanding is that they transacted with the Housing

Department at a discount, or a deferred payment, of 42 per cent, as it turned out, so they took the hit.

**Senator B.E. Shenton:**

Can you define “intermediate housing”? Because it is technically, according to the valuations, different from first-time buyer housing so could you define it and why it is different, and substantially different, in terms of cost?

**Chief Officer, Planning and Environment:**

I do not have a formal definition before me but intermediate in the sense that it is not fully owned by the States, it is not fully owned by the owner/occupier/the purchaser so therefore it is intermediate. It is in the middle somewhere. It is a different form of housing. That would be a definition.

**Director, Planning and Environment:**

Another one would be that it defines that group of people who are unable to get into the normal market and the whole idea is that this is an opportunity to reduce houses that are lesser priced to enable those people to get in.

**Senator B.E. Shenton:**

The developer would originally have been working on the basis of building first-time buyer houses. What is the difference in quality of build of a first-time buyer house and intermediate house?

**Director, Planning and Environment:**

Well we have not defined a standard from a Planning point of view. As far as I am aware the houses at the one site that is being developed are fairly comparable.

**Senator B.E. Shenton:**

Yes. Our understanding is that some of the houses were completed before the developer would have even known that they would be going to Homebuy.

**Chief Officer, Planning and Environment:**

I know the site; I have walked around the site, the houses. They look comparable so you would expect the contractor and developer of that site to be delivering fairly consistent houses.

**Senator B.E. Shenton:**

In the proposition brought by the Minister for Planning and Environment to the States, which I have not read for a while, I seem to remember that he said the intermediate housing was of a higher standard.

**Chief Officer, Planning and Environment:**

Than ...?

**Senator B.E. Shenton:**

Than a first-time buyer house. We can find no evidence of this.

**Director, Planning and Environment:**

I think he may have said that the overall development was of a higher standard than some of the developments that had taken place on the zoned site.

**Senator B.E. Shenton:**

No, that is not what he said. He said the intermediate and Homebuy houses would be of ... and therefore they would require a higher price to be paid.

**Director, Planning and Environment:**

I cannot vouch for that. I do not know.

**Senator B.E. Shenton:**

So basically what we will find is the first-time buyer and intermediate house on La Providence are of the same standard?

**Chief Officer, Planning and Environment:**

I would agree with that by, again, just walking the sites and looking at the houses on site. It is a higher-quality development than those that we have seen in other places. Design standards are good, layout is good, landscaping is good but you cannot really discernibly see too much of a difference between the sorts of housing on site because they have been using the same design standard, certainly externally. I have not been inside any of the properties personally but certainly from walking the site they do look very comparable.

**Senator B.E. Shenton:**

Yes, I did take a drive down there and I think the whole point of the scheme was to put them within the housing so you could not see which one was shared equity and which one was not. The revised planning obligation agreement that we touched upon earlier, what were the key conditions of the revised agreement?

**Chief Officer, Planning and Environment:**

I do not have the revision before me.

**Director, Planning and Environment:**

I do not have it either.

**Chief Officer, Planning and Environment:**

By the earlier discussion, I would have taken the assumption that the revision was down to the Homebuy element then being updated from the previous planning agreement but unfortunately I would need the 2 before me to give a more definitive answer.

**Director, Planning and Environment:**

There have been other minor revisions as well which relate to sites coming forward to be sold as I alluded to earlier and also in relation to the construction of a community facility which is not yet completed on the site. The entry is on the left as you go into the site. But I think there have been a couple of minor revisions subsequent to the Homebuy one as well.

**Senator B.E. Shenton:**

Okay. Do you have any current developments earmarked for Jersey Homebuy imminently coming up?

**Director, Planning and Environment:**

Well the proposition identified those which it would apply to which were the undeveloped sites of the 2002 Island Plan sites. In reality the remaining sites were, apart from La Providence, there was a site at La Moye behind Syvret's Garage. There is the site at Rue de Haut in St. Lawrence which we do not think will come forward. There is the final, the knockings if you like, of the Clos Vaze development at Queens Road, St. Helier where there are 2 relatively small sites being developed in behind the Uplands Hotel, the first phase of which has Homebuy as an ... it is an either/or again in the planning obligation agreement. The intention is that the remaining site, the first one is 14 I think, the second one is 10 homes, will be similarly either/or social rented or Jersey Homebuy.

**Senator B.E. Shenton:**

Will these have the commitment as recommended by the S.G. that no properties are sold until the Homebuy homes have passed on to it? So the developer does not cherry-pick on the site.

**Director, Planning and Environment:**

The latter one is likely to. The existing phase, I think that has now been completed or is nearly completed. The planning obligation agreement was signed some time ago but I think it was after the permit.

**Senator B.E. Shenton:**

Things seem to be pointing towards the need for legislation to formalise Homebuy and make it watertight. Would it be Housing or Planning's job to bring the legislation forward?

**Chief Officer, Planning and Environment:**

Probably a bit of both, if I am being honest. I think that we should work with Housing to understand what the planning system is trying to deliver. The planning system ultimately is trying to deliver housing to meet population needs and other demographic changes, for instance, the new Island Plan, 4,000 homes over the next decade, 1,000 of which we are looking for affordable homes. Clearly, what the market is doing at the time would dictate what sort of affordable homes they will be. So I think the instigation has got to come from Planning in that sense to say that this is what we are trying to achieve. We certainly need to work with Housing in terms of some of the more detailed operational sides of ownership, et cetera, because clearly the planning authority does not get involved in some of that. We need to work with Property Holdings as well if we involve the States at all. So I think it is probably a bit of both, if I am being honest, and work with the Law Officers to make sure it is constructed in such a way that it does capture some of the issues that potentially could arise.

**Senator B.E. Shenton:**

If someone purchases a house under Homebuy and then for one reason or another has to sell the house and they are disadvantaged by the restriction of it being to go to another first-time buyer, is it the Minister for Housing who has the power to remove that restriction or the Minister for Planning and Environment?

**Director, Planning and Environment:**

The first-time buyer restriction is a planning condition and is part of the planning obligation agreement as well.

**Senator B.E. Shenton:**

That can be removed by the Minister?

**Director, Planning and Environment:**

The Planning and Environment Minister.

**Senator B.E. Shenton:**

What procedures do you have within Planning to prevent cronyism or favouritism when it comes to something like this where there are significant finances involved for an individual?

**Director, Planning and Environment:**

I do not think they are really dealt with on a one-off basis. The condition is there and the intention in zoning the sites in the first place by the States is that they should always remain available for the first-home buyer market.

**Senator B.E. Shenton:**

What I am thinking of is if property prices fell and because the States has their bond which guarantees them a return and the bank has their charge over the property which guarantees them a return, the owner of the property could lose a significant amount of its equity if forced to sell to another first-home buyer. Now one way to get round this would be to remove the first-time buyer restriction. But you are telling me that is at the whim of an individual?

**Chief Officer, Planning and Environment:**

I think in terms of owning any property, the individual always puts themselves at risk for their equity to grow and reduce at the same time. So whether it be a percentage of the equity they own or 100 per cent of the equity they own, when a person buys a property they always put themselves at risk for that equity to reduce as much as increase, so that would be the starting point. But certainly if individuals do find themselves in a form of negative equity, I would have thought that if they are in a Homebuy house, a first-time buyer house or a privately-owned house, you would expect to see those trends across all housing fronts. So I think we would certainly be very clear about resisting individual cases because the planning system is there to deliver units and to remain in perpetuity, in effect, that those units have to be affordable. That is what the planning system is trying to achieve. So if we are then getting

situations where we are reducing restrictions on properties, we may end up with a case 5, 10 years down the line of making the housing situation even worse because we will have removed affordable homes from the supply chain which we were able to achieve in the previous decade.

[13:30]

So I do not think we should be making those decisions based on individual circumstances. Individual circumstances do occur in the housing market. They very often do not occur. I have not seen those trends in Jersey, with the house prices and the trends in house prices, but of course anyone buying any form of product, whether it be any form of asset, does run the risk of having that asset reduced in value. So I guess the same would be said about a share portfolio or a housing product or whatever it may be.

**Senator B.E. Shenton:**

Well I am in the investment industry but I think if I launched a product where you got 65 per cent of the upside and 100 per cent of the downside, I am not sure whether too many would take this forward.

**Chief Officer, Planning and Environment:**

Yes, I guess the underlying principle of law is buyer beware. That does run through this housing product, as any other housing product. The advice that we would give, certainly from a planning perspective, or just as civil servants,

whatever perspective, is that people need to have their eyes open when they enter the housing market.

**Senator B.E. Shenton:**

But I think the reason that we have this unusual circumstance where the owner of the property has 100 per cent of the risk on the downside is because we do not have proper legislation in place. Whereas if we had proper legislation in place, this would not be the case. Whereas we are working off an 1880 law which has been bandaged over.

**Chief Officer, Planning and Environment:**

Yes, and in answering that I think if that situation is deemed to be a big enough risk, then clearly that is one of the key drivers that would need to be encapsulated in moving the legal framework forward. It would depend I think in terms of the likelihood of that situation occurring and the number of times that would occur. If it was going to occur a handful of times, it does not probably warrant a law change. But if it is likely to occur a number of times and updating the law is never a bad thing in any case.

**Mr. C. Swinson:**

Chairman, to assist could I just ask for another point of detail? If I have understood Mr. Scate correctly, when you were asking him about the removal of restrictions on sale to first-time buyer, you said this would be a matter for the Minister for Planning and Environment. Now the purchasers of Jersey Homebuy properties have all bought under contracts where it is a term of the

contract that the property may not be sold other than to a first-time buyer. In other words, that provision of the contract is not subject to decisions by a Minister for Planning and Environment or anybody else. It is a provision of the contract. I just want to bring that to Mr. Scate's attention because it seemed to be a slightly different circumstance to the one he was considering when he answered.

**Chief Officer, Planning and Environment:**

Yes. Thank you for the clarification because what that does demonstrate is the planning system and our involvement in this only goes so far. So clearly if there are other agreements required as per a contract, notwithstanding that, then there would still be a need to get the Minister for Planning and Environment's agreement to change the housing mix on a site because the planning system achieved that mix in the first place.

**Senator A. Breckon:**

Can I come back to valuation just for a minute? It says in some of the documents that we have had: "There shall be taken into account all factors that influence the calculation of a price." Now in your opinion there have been valuations by somebody, we do not know how much Planning's involvement has been in this, but bearing in mind that it was the Minister for Planning and Environment who was saying there would be a 35 per cent discount and it turned out there has not. Can you tell us what your involvement was on that price and on that discount?

**Director, Planning and Environment:**

As far as the Planning Department was concerned there was none whatsoever. The discount had been put into the proposition on the basis that 35 per cent was believed to be an affordable target, if you like, for the purchasers. But we had no involvement of the department.

**Senator A. Breckon:**

So any discussions, negotiations, valuations were nowhere near Planning although the States were led to believe that it would be the Minister for Planning and Environment that would accept the 35 per cent discount. So you are saying he did not?

**Director, Planning and Environment:**

No, I am saying he did say 35. I honestly do not know whether he was involved in any discussions with Housing at the time to agree that it could move out to 42 per cent to enable the properties to be affordable to the qualifying purchasers.

**Senator A. Breckon:**

It is probably not a Planning issue, but how generally would that valuation apply? You are saying it is down to Housing, is it?

**Director, Planning and Environment:**

Well because they acted as the not-for-profit body, so it was up to them to negotiate a price with the developer. But in terms of valuation generally, and I

am not a valuer but I have had experience of working with compulsory purchase and that sort of thing, the value of property is what a willing purchaser is prepared to pay for it with all its liabilities and all its potentialities. If these properties were available for the Jersey Homebuy at a price based on the ability of those people to pay, I would say that is the appropriate value for their purchase.

**Senator A. Breckon:**

Okay, you have made a point there. Is there a conflict then, because the purchaser is the States and not the eventual buyer? Because the States are going in there to buy from a developer to enable the sale, so is there a conflict there between the discount, the valuation and what happened?

**Director, Planning and Environment:**

Well I cannot see that there is a conflict. The Housing Department acted as the not-for-profit body. They bought and immediately transacted the properties to the qualifying purchasers as dual transactions in the Royal Court. I cannot see where there would be a conflict.

**Senator A. Breckon:**

But there could be in the valuation.

**Director, Planning and Environment:**

Well, the Housing Department will have reached a value with the developer. From their point of view it would be based on the ability of the people coming

through the Gateway, if you like, to pay a certain price based on the availability of borrowing to them.

**Senator A. Breckon:**

Are you aware that what you just said conflicts with what the States were told in that the Minister for Housing could get a number of valuations and in the end he could say what the price was? Are you aware of that?

**Director, Planning and Environment:**

I am aware because they were written into the original proposition how valuations can be calculated. Indeed, they were discussed with the Scrutiny and with the working group that was set up.

**Senator A. Breckon:**

What was the contribution of the working group?

**Director, Planning and Environment:**

The working group was something that the Minister invited those who were interested. I do not have minutes so I cannot remember exactly who was involved but they are a matter of record and we can supply them.

**Senator A. Breckon:**

Yes, we have them. You were both at the second meeting on 6th September.

**Director, Planning and Environment:**

That is right.

**Senator A. Breckon:**

Neither of you were at the first meeting on 15th August and the Minister for Planning and Environment was not able to attend either. It was a mix of officers but when we come to another place there are some challenges in what was said in those minutes and what has happened. So that is why I asked what the merit was of that working group. Any comment?

**Director, Planning and Environment:**

Well they made recommendations which were taken on board by the Minister. Certainly coming out of the second meeting which Andrew and I attended, there were a list of grievances, if you like, or recommendations that the working group made.

**Senator B.E. Shenton:**

Well why was the working group disbanded when the original intention was to keep it going to monitor the scheme all the way through?

**Chief Officer, Planning and Environment:**

I am not sure we have ever formally said we disbanded it but it certainly has not met since. In answering Senator Breckon's question, I hope the working group added some value to the process. Certainly there were some queries following the States debate. The sub-panel had some queries, so I am hoping that the purpose of that group was to add some value to get some greater

clarity. A lot of it I think was around the clarification required as to what this was all about. I think that has been a very big learning point from this pilot. I would have hoped that that working group did achieve that. I certainly think there is probably a case for re-holding a working group or a sub-panel. We are working to produce a supplementary planning guidance. It is in draft form. I think we are waiting for certain formal procedures such as these to go through so that we can do one bit of work that can encapsulate any recommendations that are coming out of this process. But I think there is a scope to possibly re-form that group or a variation of that group, or certainly go through the Scrutiny process again prior to our formalising that guidance.

**Senator B.E. Shenton:**

Are you comfortable in yourselves if some more homes went through the Homebuy scheme tomorrow you would be quite happy that it would be run in the proper way: proper evaluations; the homebuyers under the ...

**Chief Officer, Planning and Environment:**

From a Planning perspective, I think Homebuy is delivering what the intention of this sort of ownership is there to deliver.

**Mr. M. Magee:**

Could I ask a follow on from that, because basically that was my question. Do you think the current scheme as is is fit for purpose to be rolled out? To give you context, it was a comment made by Mr. Aubert earlier on when he basically said the Homebuy scheme that we have seen is really quite a

bespoke one for La Providence so you could have called it Homebuy La Providence scheme. Because if you go to the next one it is going to again be bespoke and the discount for the shared equity will be dependent on what somebody can negotiate with the developer. So therefore it might not be a 35 per cent discount. It might be 10, it might be 20, it might be 50, so how do you do a framework for that? Is everyone not got to be approved individually as a scheme? Because there is not really a set model here in our opinion and Mr. Aubert's opinion.

**Chief Officer, Planning and Environment:**

I think if a Homebuy product was delivered in future on another site, would we be confident and happy about that? I think we would. Certainly I think it has delivered something valuable to the housing market. Certainly any scheme going forward is going to be dependent on that negotiation between the not-for-profit body and developer. Certainly for them to qualify under the policy of Homebuy, we would expect those negotiations to be held within the framework of that policy. So if the policy is setting a discount in the order of 35 per cent, that is the sort of level of qualification we would expect. We certainly would not expect a Homebuy product to be delivered at a 10 per cent discount. From a planning position we would argue that is not the Homebuy product that meets the guidance. So, I think part of this pilot is certainly to make sure that guidance makes it very clear what the expectation of the developer is and so this product could be labelled Homebuy or not. Because if it is only a 5 or 10 per cent discount, then clearly I think it would not meet what our definition of Homebuy would be and, in effect, it is just a sub-market

housing value. So I think the supplementary planning guidance, as I said, the learning point from this is clarity, making it very clear to the developer what they can expect. A developer needs that clarity upfront when they are working out how they go about developing a scheme. Can they afford the scheme? Can they afford the infrastructure requirements and other planning gain that potentially will be required? Ultimately all of this has to be put in the mix upfront so they know what values they would want to be asking as a result of all the planning requirements and the design requirements, et cetera. The values are worked out on the basis of, if you like, a residual and value calculation, and this would have to be factored into that. So, again, whether it is bespoke, whether it is market conditions would also clearly direct that. I think the other issue we have on Homebuy is what sort of housing product in terms of housing type we are now looking at and whether it is appropriate to extend it to 2-bedroom units, 3-bedroom units. It could take different forms. So I think those are some of the issues that have come out of this pilot.

**Senator B.E. Shenton:**

So at your next development when you go up to the developer and look to value the intermediate housing, how will you value the intermediate housing? Bearing in mind that there has been criticism in the report saying that it should be the same as the States will pay for social rented.

**Chief Officer, Planning and Environment:**

If I put a developer hat on - I am not a developer so this is a theoretical answer - in valuing a site and knowing what properties are valued at the end

of it, you need to understand what a market is going to pay for those housing products when completed. You take that sales value and then you discount all of your costs which ultimately leaves you with a land value. Part of the costs within that will be the costs of constructing. The cost of any discount would have to be factored into those calculations so that developers know what they can charge and ultimately that charge may come out at a different rate what the market will bear. If that is the case, it may make the development unviable. So that is basically the development equation which most developers go through to understand what they can afford to invest.

[13:45]

What they can afford to invest in either construction costs, off-site improvements or quality of the product they have.

**Senator B.E. Shenton:**

But on La Providence I think the developer originally thought he was building some social rented units and would have done his costings on that basis. So, why not use that as the valuation for the intermediate housing?

**Chief Officer, Planning and Environment:**

I think ultimately the valuation was that it was based on advice obtained at the time that the housing had to be valued for what it was. It was not social rented housing, therefore, it should not be valued at social rented housing. I do not think there was any further explanation more than that. I think the

principle of valuation has to be you need to value a product for what it is. As I say, I do not think legally we would have been entitled to value housing to get a product that is valued as a social rented unit when it clearly is not a social rented unit.

**Mr. M. Magee:**

Just as a follow on, to me I am not sure how the thing has been valued because you are very much majoring on how you would value a property.

**Chief Officer, Planning and Environment:**

Yes.

**Mr. M. Magee:**

But it seems to me as if the whole thing is valued on how much people could afford to pay, who are getting paid between £40,000 and £60,000 a year. So it is a different matrix in there. It would seem to be what drove the final valuation because that was affordable.

**Chief Officer, Planning and Environment:**

The comment on valuation was really around how the policy was constructed in terms of the expected discount of 35 per cent. The detailed valuation and the details of that valuation the department was not involved with. So I am commenting more in the round as to how developers go about valuing their schemes and what the policy was expecting in terms of value. Certainly the discount was directly related to the market conditions at the time and what we

thought people in that income bracket could afford to borrow and that was based on the current mortgage products. If we were to do it today we would probably take a different view but mortgage products have changed and no one could have predicted that.

**Senator B.E. Shenton:**

So you are saying that circumstances dictated that a developer should get an extra £2 million and the Homebuy owner should own less of their houses?

**Chief Officer, Planning and Environment:**

I am not sure if there is any evidence the developer got any more than they would, but that is not an issue, frankly, that we get involved in with Planning, so I cannot comment whether the developer ultimately ended up with more money here or not. Ultimately that would be down to the developer and their purchasers.

**Director, Planning and Environment:**

It seems to me if the developer were negotiating, say, with the Housing Department and Housing would say: "Well, look, we are only going to pay social rented value for these properties" we will probably go to one of the other not-for-profit organisations who may be prepared to pay more. It seems to me the value of the property should be its value as a Jersey Homebuy home and therefore the ability of the people to pay will determine what the value of it is.

**Mr. M. Magee:**

But was original planning consent not given at social rented?

**Director, Planning and Environment:**

It was but ...

**Mr. M. Magee:**

Because that is what they built the sums on initially, was it not?

**Director, Planning and Environment:**

But it subsequently changed. That was to the benefit of the applicant, certainly, as granting planning permission is to the benefit of an applicant. It is not unreasonable they would benefit from any uplift in value for a different property that went on to a site.

**Senator B.E. Shenton:**

How is a socially rented valuation calculated then?

**Director, Planning and Environment:**

On the basis of a model which basically is based on rental values.

**Senator B.E. Shenton:**

Which is based on the rental return?

**Director, Planning and Environment:**

It is the capitalisation of rental values.

**Senator B.E. Shenton:**

But there is no actual formula ... you see that is quite straightforward.

**Director, Planning and Environment:**

Well I think there is a formula.

**Senator B.E. Shenton:**

But there is no formula for intermediate housing, that is what I am saying.

**Director, Planning and Environment:**

No.

**Senator B.E. Shenton:**

So that is very much an arbitrary figure?

**Director, Planning and Environment:**

Well, first-time buyer homes are a market-based thing. Arguably, the Homebuy homes are a market-based thing because the market they are restricted to is only capable of paying a certain amount of money.

**Senator B.E. Shenton:**

Yes, but the States are not involved in purchasing first-time buyer homes and moving them on, are they?

**Director, Planning and Environment:**

Well the States are not involved at all. They only became involved here because this was probably the first scheme that got off the ground and the Scrutiny have suggested and the working group suggested that Housing ought to be the not-for-profit body on this first scheme.

**Senator B.E. Shenton:**

I seem to remember that the working party were concerned at the lack of independent valuations that were being undertaken.

**Director, Planning and Environment:**

My recollection is they preferred one of the 2 methods that were described in the report I think Housing had done for the working group. I cannot remember which one it was but ... At the meeting that we had there were 2 options for valuing and they preferred one over the other.

**Chief Officer, Planning and Environment:**

I think the issue of valuation is an interesting one. This is clearly a new product for the Island. Valuing a new product is quite difficult so I think certainly that is one of the lessons that will, from a valuation side, be learnt in terms of this scheme. Valuers out there looking at new Homebuy houses will have this as a measure to use and as any scheme matures, the valuation of those properties will mature with it. So some of the issues of valuation, I am not surprised there are issues of valuation, because frankly that is, to a certain

extent, probably the first time some of the people involved had seen this sort of housing.

**Senator B.E. Shenton:**

Yes. The Jersey Homebuy Working Group on 15th August says: "The group were unanimous that the Minister for Housing should obtain independent valuations in all cases and maintain transparency of the process." We cannot find any records anywhere of how the prices were agreed with the developer. Now, is that a transparent process?

**Director, Planning and Environment:**

On the face of it, no. But we would not be aware of that anyway. We cannot answer that question because we simply were not involved in that process.

**Senator B.E. Shenton:**

So this lack of transparency, we saw by accountability there is a complete failing here of a transparent process with regard to the valuation of those homes. Is everyone just going to say: "It was not me"?

**Chief Officer, Planning and Environment:**

Clearly the Planning Department was not involved in the negotiations to purchase and the negotiations with the developer, so at that stage I unfortunately cannot answer anything relating to the transparency or otherwise of those negotiations. There may very well have been transparency or otherwise. I just cannot comment. Frankly, I just do not know.

**Senator B.E. Shenton:**

But you said 5 or 10 minutes ago that you were happy with the way the Homebuy scheme is operating and you would be happy to see further Homebuy schemes go ahead and yet there was no transparency of process with the developer.

**Chief Officer, Planning and Environment:**

Certainly from a Planning perspective, yes. From this department's perspective in terms of what the planning policy is seeking to achieve, again, going back to what our policy is in terms of delivering additional affordable housing on the Island, this is clearly a product that the Island needs in terms of increasing home ownership and I think that aspiration is still there. I think that is right because a certain level of home ownership into these sort of properties will free up housing products further down the chain into different sorts of properties. So those who are in the rental sector who are potentially able to buy shared-equity property, it will free up spaces within that rental sector. So I think shared equity, if we use that phrase, is a useful product to help some turning in that element of the housing market. From a planning perspective, I think it has achieved what it was meant to achieve. I think we have set out to introduce a scheme on site to house families and to get it through the planning system, through planning obligations, I think has been shown to work. We certainly have learnt some lessons from it. But, again, from our perspective would we be happy to see that happen again? I think certainly we would. I think it is a very useful product. It is certainly a very

useful product for developers to have when we are asking our percentage of affordable housing that we are now requiring from developers. The Island Plan, if we get that through and approved, the inquiry has recommended a new policy of a percentage of affordable housing on all private sites of a certain size. That is putting far more onus on to the development industry now. So having another form of affordable housing which the developers can use to meet another form of demand I think is very useful. It helps viability of schemes. It also helps different products that are available. Not everyone wants a social rented unit. Some people do want to buy. So I think from our perspective, absolutely. I think it is a good product and we would certainly need to get our supplementary planning guidance published; we need to get greater clarity in the process. Again, the roles: what is this all about; who is involved; when are they involved? If it is the State acting, when is the State involved, when is Property Holdings involved or Housing involved, or Planning? I think we need a lot of greater clarity on that but the fundamental principle about what is Homebuy I think is very useful. In other jurisdictions you have seen shared equity develop as a very useful way to get people off either a private rented sector or a social rented sector.

**Senator B.E. Shenton:**

You keep using the term “shared equity”. Now surely what you are saying to us is that Jersey does need a shared equity scheme set up with proper legislation.

**Chief Officer, Planning and Environment:**

Yes.

**Senator B.E. Shenton:**

This is not a shared equity scheme, as you know. Is the message from the Planning Department that Jersey would benefit from a shared equity scheme?

**Chief Officer, Planning and Environment:**

I think it would, yes.

**Senator A. Breckon:**

Just another question. As I said earlier, I did have some involvement with Scrutiny and this is in reference to a letter that was sent by the then chairman of the sub-panel who happens now to be the Minister for Housing. The reason I say this, is there was some comfort given in things that were said at the time and fortunately for us, some of it has been written down. It says this in a letter to the Minister for Planning and Environment: "However, members were re-assured to hear that discretion may be applied by the Minister for Planning and Environment in individual cases in respect of the ability for heirs to occupy inherited family homes where first-time buyer restrictions might otherwise preclude this." Now these things, and other things that were said, were giving assurance to the working group, to Scrutiny, that they have turned out (as Mr. Swinson has pointed out before) that is not enforceable. Now that was said at the time, would you like to comment?

**Chief Officer, Planning and Environment:**

I think I have already commented in terms of individual circumstances. My advice would be that we secure planning benefits on sites based on longer-term planning policy, the need to achieve a certain level of affordable housing. If sites are delivering those percentages of affordable homes, I think it is right that those sites stay in affordability, or a class of affordable homes, for the entire length of their life. That is what the policy is designed to do. Clearly there will always be calls for individual cases to be made but I think I would go back to advice by saying in my view I think we need to keep these homes as affordable homes.

**Senator A. Breckon:**

But then if assurances were given to members of a working group, or members of Scrutiny that these things were or were not going to happen, then there has been an element of deception to get this whole thing through and we cannot have a pilot scheme ...

**Director, Planning and Environment:**

I would imagine the Minister at the time who made those comments was not aware of the way the bonds worked.

**Senator A. Breckon:**

Okay. If the devil was in the detail, if the detail was not known, then the comments should not have been made. Promises should not have been made. There are vast amounts of money involved here and people are living

in homes where there is some uncertainty about what they can and cannot do and the financial implications.

**Director, Planning and Environment:**

I would have thought it was fairly clear what they can and cannot do because it is enshrined in the contract they have.

**Senator A. Breckon:**

But the contract overrides the assurances that were given to people who were looking at it to be the critical friend, be that the working group or however assurances were given, in written form in some instances. There are other things there from the Housing Department that says the same thing. Now this is, I would say, a tactic to get this through at whatever cost.

**Chief Officer, Planning and Environment:**

Going back to a previous comment I made, I think that we have got draft guidance ready to now start a process of formalisation following this. I certainly think it is right that there is some further scrutiny of that, whether it be Scrutiny, another working group or whatever it may be, based on what we have seen on this site, what the contracts had to be, what the legal framework had to be in order to get these products through at the Royal Court. At the time of the working group, none of these had transacted so to a certain extent discussions were taking place theoretically, so this is what we expect to happen. I think we have now seen actual contracts in place; we know what the terms of those contracts are. I think we know the terms of what the

discount had to be under those circumstances. I think it is right that that is re-looked at by a group before we move forward formally with the planning guide. So I think we have to offer some supplementary planning guidance now based on this. I think we will await further recommendations but I think it is right that it goes through another political loop before we publish that.

**Senator A. Breckon:**

I do not want to dwell on this. There are just 2 things from the final Scrutiny comments. Paragraph 15 was: "The Ministers for Planning and Environment and Housing offered an unconditional undertaking to the sub-panel that if the principle of Jersey Homebuy was accepted by the States they would commit to submitting the detailed plans for Scrutiny approval before taking any further action." In your opinion was that done, bearing in mind what I have just said?

**Chief Officer, Planning and Environment:**

Sorry, Senator, can you just read out the context of the statement?

**Senator A. Breckon:**

"The Ministers for Planning and Environment and Housing offered an unconditional undertaking to the sub-panel that if the principle of Jersey Homebuy was accepted by the States they would commit to submitting the detailed plans for Scrutiny approval before taking any further action." Did that happen, in your opinion?

**Chief Officer, Planning and Environment:**

I think that is the process we saw following the States debate in July with the working group and the sub-panel forming and meeting.

[14:00]

**Senator A. Breckon:**

Can you provide any evidence of anybody signing-off the detail?

**Chief Officer, Planning and Environment:**

I think where we have got to on that in the sense that ultimately this department has taken the view that we felt the joint press release issued in September was confirmation that both Ministers and the chairman of the sub-panel were content. I am aware of other opinions. We could have squared the circle far more readily by having that in written form in terms of a letter or a ministerial decision but I think we have certainly taken the view ...

**Senator A. Breckon:**

Can you provide any evidence of the signing-off of the detail? That was the question. Can you provide any evidence of the signing ...?

**Chief Officer, Planning and Environment:**

Well we had a joint press release issued which in effect launched Homebuy so the position that we have taken, and I have taken, is that on that basis we have accepted, I have accepted, that both Ministers and sub-panel were content.

**Senator B.E. Shenton:**

Did you approve the press release?

**Chief Officer, Planning and Environment:**

Did I approve the press release?

**Senator B.E. Shenton:**

Yes.

**Chief Officer, Planning and Environment:**

Ultimately, yes, and the 2 Ministers and the chairman of the sub-panel approved the press release.

**Senator A. Breckon:**

The other one, paragraph 16 said: "Scrutiny could best reserve sign-off on the proposal until it was satisfied that all the details that remained to be developed to include the Gateway mechanism, legal arrangements, allocation procedures, et cetera." Again, in your opinion, was that done?

**Chief Officer, Planning and Environment:**

I am not aware of any outstanding issues on any of those titles.

**Senator A. Breckon:**

Was documentation, for example on the Gateway system, was there anything you know that was signed off by the working group or by Scrutiny?

**Chief Officer, Planning and Environment:**

I do not have anything in front of me. I know you are meeting Housing officers tomorrow, so I think it is probably a question certainly of them. But I am not aware of any issues relating to those headings outstanding.

**Senator A. Breckon:**

Any issues or any detail? I am asking were the details signed off; not the issues.

**Chief Officer, Planning and Environment:**

I would have assumed, yes, they have been.

**Senator A. Breckon:**

You can provide evidence, can you?

**Chief Officer, Planning and Environment:**

In talking to colleagues in other departments I would look to see where the details of those were shared.

**Senator A. Breckon:**

The details were signed off by somebody: either Scrutiny or the working group?

**Chief Officer, Planning and Environment:**

I would have expected so, yes.

**Senator A. Breckon:**

Not “would have expected so”, were they signed off?

**Director, Planning and Environment:**

Scrutiny did sign off.

**Chief Officer, Planning and Environment:**

Ultimately, the only issues that I am aware that we had were relating to the insurability, the drainage issues and the third issue which was the compliance with legislation for not-for-profit body status. They were the only 3 issues that I was aware that were remaining.

**Senator A. Breckon:**

Okay.

**Senator B.E. Shenton:**

Does anyone else have anything? Martin? No? Thank you for your time.

Thank you very much for coming in.

[14:03]