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HANSARD

SELECT COMMITTEE OF TYNWALD
ON THE KIRK MICHAEL
LAND EXCHANGE AGREEMENT

BING VEAYN TINVAAL MYCHIONE
COARDAIL COONREY THALLOIN
SCOILL SKYLLEY MAAYL

Douglas, Thursday, 10th May 2012

**PP77/12
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Members Present:

Chairman: Hon. S C Rodan, SHK
Mrs B J Cannell, MHK
Mr J Turner, MLC

Clerk:

Mr R I S Phillips

Business Transacted

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The Committee sat in private at 4.15 p.m.

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Select Committee of Tynwald on the Kirk Michael Land Exchange Agreement

*The Committee sat in public at 2.30 p.m.
in the Legislative Council Chamber,
Legislative Buildings, Douglas*

[MR SPEAKER *in the Chair*]

Procedural

The Chairman (Hon. S C Rodan, SHK): Good afternoon everyone and welcome to this public meeting of the Select Committee on the Kirk Michael School Land Exchange Agreement. I am Steve Rodan, Chairman of the Committee, and the other members are Mrs Cannell, Mr Turner and our Clerk this afternoon is Mrs Lambden.

Could I ask everyone, please, to switch off mobile phones. Do not just put them on silent, actually switch them off, because they do interfere with recording equipment.

Also for the benefit of *Hansard* I would ask that we do not have two people speaking at once and I will make sure that does not happen.

This Committee was established by Tynwald in February 2012 with the following remit:

‘That Tynwald appoints a Committee of three Members with powers to take written and oral evidence, pursuant to sections 3 and 4 of the Tynwald Proceedings Act 1876 as amended, to investigate the Kirk Michael School Land Exchange Agreement between Heritage Homes, Pinecrest Investments Ltd and the Department of Education and Children; whether by January 2011 access to the land had been secured, as was stated at that time by the Hon. Member for Ayre; the manner in which the negotiations were conducted; and the value for money achieved; and to report with recommendations by May 2012.’

We issued a call for evidence in March and we are grateful to all members of the public who have responded. This is our first meeting in public, where we are taking oral evidence and we are grateful that we are to hear from two distinguished witnesses, Mr Alf Cannan MHK and Mr David Cannan, former Member of the House of Keys for Michael. You are most welcome gentlemen. Thank you for coming in this afternoon, and thank you Mr Cannan for your written evidence.

EVIDENCE OF MR D CANNAN AND MR A CANNAN, MHK

Q1. The Chairman: I thought in the first instance it would be very helpful to invite you, Mr Cannan senior, if you would like to address the Committee and make an opening statement to the Committee, following which we will put some questions.

Mr Cannan.

Mr D Cannan: Thank you very much, Mr Speaker, ladies and gentleman.

As you have said, I sent an e-mail to Mr King, preferring to give oral evidence rather than written evidence. Mr Speaker, may I hand you a copy of the *Hansard* between April 2006 and January 2011 with relevant portions of the questions and answers in the Keys on which I want to base my statement?

The Chairman: Yes, by all means.

Mr D Cannan: Mr Cannan junior has arranged for copies of that for the Committee and I believe it will be here in a minute or two. (**The Chairman:** Right.) In fact, I will start straight away.

The Chairman: Thank you very much.

Mr D Cannan: Mr Speaker, I am obviously confident the Committee appreciates the issue that

65 the land exchange is a very contentious issue in Kirk Michael. So if I may, sir, start at the beginning in the matter of provision of school expansion in Kirk Michael.

In December 1996, Dr Edgar Mann was appointed Minister for Education and he invited me to join the Department as a political Member. You recall, Mr Speaker, that you replaced Dr Mann as Minister in 1999.

70 During the period 1996 to 1999, plans were put in place, with Treasury approval, for the provision of a sports hall and two extra classrooms to meet any future increase in the school roll. The school roll at that time was 138 pupils, and this is important as I go along: the school roll was 138 pupils. The sports hall was essential; the two extra classrooms were for future expansion.

The official opening ceremony of the new sports hall, two extra classrooms and a school community room took place on Thursday, 24th January 2002.

75 Now fast forward to April 2006 and a Tynwald Question to Mr Anderson, the Minister for Education.

If I could pause for a moment, Mr Speaker, if I could have a copy of this because I have given my copy to Mr Speaker. And a copy to the media. Thanks.

80 In April 2006, and I quote Mr Anderson's reply, sir, which you should have, and he states that negotiations were in hand with Dandara for the creation of future development. And you might be interested to look at, in supplementaries, the questions asked by Mr Karran, the present Minister for Education. The public perception at that time, and indeed with my own, following this Question on 26th April 2006, that Mr Anderson's concern was somehow to provide facilities for the landowner to obtain residential development of this land by using the access of the existing school playing field. Mr Anderson stated, as you will read, that he was going to consult the MHK, but he did not. That was in April.

85 Then on 16th October a further Question to Mr Anderson, roughly the same; then there is a General Election. Mr Anderson is replaced by Mrs Craine as Minister for Education and here we move on.

90 The new Minister was asked a Question on 29th May in the House of Keys and the Minister, prior to that – and Mrs Craine, I give her all credit – had consulted me and she had agreed to hold a referendum and presentation in Michael School to determine the views of the village. A poll or referendum was conducted under the auspices of the residents of Kirk Michael, arranged and under the auspices – a secret ballot, a referendum, under the auspices of the Department of Education: 78% who voted, voted against the land exchange. Now, I cannot emphasise too strongly that the Minister, Mrs Craine, concluded in her reply to the House of Keys Question, and I quote from *Hansard*, as follows:

100 'At the present time I have decided to decline the proposal for the land exchange, because the potential disadvantages to Kirk Michael outweigh the possible benefits to the school.'

I would just like to repeat that, Mr Speaker, it is so important. Minister Craine:

105 'At the present time I have decided to decline the proposal for the land exchange, because the potential disadvantage to Kirk Michael outweighs the possible benefits to the school.'

And I take this opportunity to strongly commend Mrs Craine for putting the interests of the residents and community of Kirk Michael before the commercial interests of the landowner, developer and Heritage Homes. An emphatic statement in the House of Keys on 29th May.

110 The matter for the land exchange then was closed, while Mrs Craine was Minister for Education, all contention disappeared – peace.

115 Then in March 2010, there is a ministerial reshuffle and Minister Teare arrives at the Department of Education. Minister Teare starts negotiations with Heritage Homes, Dandara, for the land exchange, overturning the policy and decision of Minister, Mrs Craine, as I have just set out. Minister Teare arranged for a secret and confidential meeting on Wednesday, 24th November 2010 with Michael Commissioners under the chairman, Mr Hamer, to progress plans with Dandara for the land exchange.

Unfortunately for Minister Teare and Michael Commissioners, I became aware of the meeting before it was actually held but it was top secret and confidential, but I became aware of it.

120 Following the meeting with Michael Commissioners, I asked Mr Teare a Question for Oral Answer in Tynwald on 14th December 2010 to account for his meeting with Michael Commissioners and in his reply Minister Teare stated, and I quote from *Hansard*:

125 'However, the situation has now changed. The developer has access and, as a responsible Department, we are trying to ensure that there is the capacity to meet future needs in an environment which is safe and gives the best deal for

Michael's children and their families.'

This was in March 2010. No, sorry... Yes, 2010. No, I beg your pardon, 2011. Sorry, Mr... No, I have got slightly muddled.

130 This question, Mr Speaker, was the answer given in December 2010 to my Question in Tynwald that the situation had now changed: the developer has access.

Mr Speaker, so far I have outlined events from December 1996 to December 2010. In December 2006 Mr Anderson started... In April 2006, Mr Anderson starting dealing with Heritage Homes.

135 Mrs Craine was appointed Minister at the end of November 2006 after the General Election. As I have just said, she held a referendum, a secret ballot by the Department of Education, 70% against, and she let the matter rest.

Now we come to what I have just said, Mr Teare being appointed in March 2010. His meeting with the Commissioners in December 2010, in which he says, categorically, that Dandara have access, and I wish to comment on that statement by Mr Teare, which I have just quoted. Minister Teare stated the developer had access. The question: who informed Mr Teare that the developer had access? Secondly, was the Director of Education also informed? Did the Minister and Director of Education take the information at face value? Did not the Director of Education, as a senior civil servant, make suitable enquiries of the Planning Department to ensure the veracity of the statement that his Minister had made, that the developers Heritage Homes had access to the land? What role did the Director of Education take in formulating the Minister's reply? It is in the public that people are asking: what role did the Director of Education have in all this? We all know, from public statements, the role of the Minister: that as you, Mr Speaker, know, as a distinguished Minister and now Speaker, Ministers and indeed Speakers are advised by the civil servants, or in your case the Clerk of Tynwald.

140 Following the Question in Tynwald in December, I called a public meeting in Kirk Michael on Monday, 17th January 2011. The village hall was packed to capacity. People standing outside and Roger Watterson, representing Manx Radio was present.

145 I invited Mr McLoughlin of Heritage Homes to address the meeting and also Mr Hamer, the Chairman of Michael Commissioners. Mr McLoughlin refused to address the meeting, but stood outside the hall handing out, distributing to everybody who went in, Heritage Homes propaganda leaflets promoting the residential development – and assisting Mr McLoughlin, incidentally, was Mr Hamer, the Chairman of the Commissioners.

150 Mr Hamer reluctantly addressed the meeting, but he did not want to talk about the secret meeting that he had had the previous November with Heritage Homes and Mr Teare. Three times I went outside to invite Mr McLoughlin to tell the people what the proposals were and he refused to come in.

160 At the conclusion of the meeting a vote was taken, supervised by Mr Watterson and the result was a decisive rejection of the use of the school playing field for development. The following day, Tuesday, 18th January 2011 in Tynwald, I asked Mr Teare at Question Time whether the Department had completed negotiations for the transfer of ownership of the school playing field to Dandara. Mr Teare in his reply stated and I quote from *Hansard*:

165 'As Hon. Members may be aware, Dandara have access to the field already through other land purchases not connected with the school.'

170 So again, Mr Teare was saying, this time in January 2011 for the second time – he had said it first in December – that they had alternative access. My comments to this reply are the same comments I have just made in respect of Minister Teare's reply to the question on 14th December, namely, what role did the Director of Education have in advising the Minister of this reply that they had access and whether they had checked it out?

Following the Question in Tynwald, I moved a motion, the same January Tynwald, that Tynwald does not support the transfer of land. The motion was lost.

175 Mr Chairman, you will see in the *Hansard* of this short debate and in particular, the contribution of Minister Teare, in which he again states *inter alia*, 'The developer has acquired alternative access at considerable cost', and further on in his speech, 'They, the developer, have secured means of access.' My question is how did Minister Teare know the developer had acquired alternative access at considerable cost, if he had not been briefed by the developer? He seems to know an awful lot in his answers.

180 From what I have said, Mr Speaker, you will realise that four – yes, four – occasions, unequivocally, Minister Teare stated that Dandara had alternative access to the land: first, 14th

December 2010 in Tynwald; secondly, 18th January 2011, first the Question in Tynwald; and then twice – the third and fourth times – in the ensuing debate in that January Tynwald. So it is not a mistake, it is not a slip of the tongue in my opinion, Mr Speaker.

190 I like to think I am an experienced Member of Tynwald, having been there for 29 years and I have been a Minister and I have been Speaker and various things. We might make a mistake once, we might even make a mistake twice, but we do not continue with making the same mistake. He is categorical, and you have it in black and white, sir, that they had access to the land. Mr Teare also states – oh, no, sorry, I have jumped a page – that access to the land.

195 Now, can we move forward to Tuesday, 8th March 2011 in the House of Keys. My Question to Minister Teare, does he intend to continue negotiations with Dandara? And here is the whole bizarre response from the Department and the Minister to the whole issue. Minister Teare states he wants to use the assisting empty classrooms – remember two new classrooms were put in – the school roll has not increased. They were put in for extra development within the village during your period of office, sir, in 2000. The school roll then, at March 2011 was 135. Before the extension of the two extra classrooms the school roll was 138. So it was 138, a new sports hall and the school was amply provided with classrooms. A new sports hall was built and two classrooms for future residential expansion.

200 Between 2002 when the new building work was complete, the opening, and March 2011, there had been no expansion in the school numbers – in fact they had gone down by three; and two empty classrooms. So – and I will just add – today, 10th May 2012, the school roll is 128.

205 Minister Teare’s idea, which he said in this March reply, was to use the empty classrooms as a doctors’ surgery and yet here he was, in a relationship with Dandara to give over the land, because the classrooms would be needed for future school expansion and he had two empty classrooms and he now wanted to put a doctors’ surgery there, sir. The doctors’ surgery was approved, Mr Speaker, and which he cancelled immediately on taking office. The idea was put to a referendum by Michael Commissioners and rejected.

210 It should be noted that Mr Teare did not consult the doctors concerned, who informed the DHSS they did not favour moving to Michael Primary School, and indeed you have a copy of their letter, sir, attached with your papers. So here we have a situation where Minister, Mrs Craine, realised it was not in the interests of Kirk Michael to have the school playing field ploughed up for an extension of classrooms, when there were already two empty classrooms, which, on figures that I have been advised, could well... even if they build a hundred houses, there would still be surplus because there would not be 50 primary children. Statistics do not make out and if there were two classrooms of 25... if there were 50 children, they would not all be in primary school at the same time, because some would be at secondary school and some would be infants. I am told by an educationalist, who does not wish to be disclosed, but I have every confidence the figures are right; you build 100 houses and you do not all of a sudden have 50 children of primary school age. Secondly, since 2002 to 2012 the school roll has dropped by 10, in spite of development in the village, in spite of the continual house here, two houses there, continual growth.

215 So in summary, Mr Chairman, Minister Teare stated on four occasions in Tynwald that Dandara had alternative access. At the public planning inquiry on 19th December 2011, which I attended as an observer, the Dandara representative informed the UK planning inspector that Dandara did *not* have alternative access and a whole hall of 30 or 40, maybe 50 people in, were shattered.

220 Personally, I can say this, I have never queried Minister Teare’s assertions that they had access, because I believed that, as a responsible Minister of the Crown, he would have made enquiries – he would have enquired of the planning department. Any builder, any developer can come and say to a Minister, ‘I have got access to that field to build 100 houses’. I do not have, but I could have a field in the Currags and go round and say to you, ‘I have access to build 100 houses there, so you had better let me have the other land.’

225 I suggest, Hon. Mr Speaker, that you check it out. This is responsible Government. We are not talking about Mickey Mouse; we are talking about responsible Government. Somebody must have checked out any developer – and I am only repeating myself, but you have got the message – can come up and say, ‘Oh, Mr Cannan, I could build 100 houses there and we have got access’ and blah, blah, blah. You check it out and nothing has been done; and yet negotiations with Dandara, Mr Teare, went ahead, despite everything in... and I am sorry, I have not got the letter, because when I retired at the dissolution of Tynwald in August, that correspondence went in the shredder.

230 On one occasion, I wrote to the Director of Education about the matter and the reply I got was from Mr Teare saying, ‘I am *directly responsible*’. I believe that letter is available and that, Mr Speaker, I find appalling, as I have previously said in my statement. At the time I was Speaker, I took the advice – I did not take authoritarian action; I took it with the advice of the Clerk of

250 Tynwald – as Minister for the Treasury, I had the Chief Financial Officer as chairman of the
financial supervision. I had the Chief Executive to take advice. I could have made a mistake once,
but I would not go on repeating that they had access, when I was being constantly challenged and
so I believed the Minister – one has to believe Tynwald statements, House of Keys statements, one
has to believe the veracity of Ministers – and yet, suddenly Dandara’s own man stands up in a
public inquiry, and says, ‘We have no access.’

255 I rest my case, Mr Speaker.

Q2. The Chairman: Thank you very much, Mr Cannan.

260 Perhaps I could just start firstly by asking, in the timeline you describe the history of the school
and the various Ministers, you made reference to Minister Craine, stating in May 2007 that she
and the Department had decided to decline the proposal for land exchange. After that you went on
then to April 2010, to the appointment of Minister Teare and subsequent events.

265 Can I ask you, what is your belief and understanding of what happened or what the
Department’s position was between May 2007, when the then Minister had drawn a line under
land exchange of discussions, and April 2010, when Minister Teare had taken over as Minister?
Are you of the view that there was no contact or discussion between Heritage Homes and the
Department during that approximate three-year period?

270 **Mr D Cannan:** I am firmly of the opinion, though I can be wrong, but I am firmly of the
opinion that once Mrs Craine had stated in May 2007 in the House of Keys – and I believe the
veracity of her statement – that now, as you have just said, the matter was closed. I believe it
remained closed until Minister Teare arrived in March 2010, when there was the reshuffle of
Ministers. (**The Chairman:** Yes.) And in fact, sir, if you look closely at the replies in your copies
of *Hansard*, you will see that Minister Teare states, ‘Negotiations were reopened.’

275 **Q3. The Chairman:** Do you believe that Minister Teare was responsible for reopening
negotiations afresh?

280 **Mr D Cannan:** You are asking me for an opinion. I have no knowledge of what actually took
place. Whether Mr Teare asked or whether Dandara saw a friendly face in Mr Teare and
approached Mr Teare, I obviously cannot comment.

Q4. The Chairman: Thank you, Mr Cannan.

285 Can I ask you also, we have evidence that in January 2008, Michael Commissioners were
seeking reassurance from the Department that they would take appropriate steps to secure land to
sustain the future of the school: were you aware of that or do you have any comment on why it
might be that the local authority had some concerns that there was not sufficient protection of the
school from surrounding development?

290 **Mr D Cannan:** All I can say is it was evident in the 2010 November secret meeting and the
January secret meeting with Michael Commissioners, Mr Teare and Heritage Homes and the
January public meeting when the Chairman was very reluctant and the Commissioners were
reluctant. They had had a secret meeting in November – no transparency, no public
acknowledgment. It is only by good fortune that I happened to know what was going on and,
indeed, the Chairman’s wife was actively supporting Dandara, but that was against the wishes of
the community. It had been consistent throughout.

300 **Q5. The Chairman:** The land in question that was the subject, ultimately, of the agreement,
which was signed in August 2012, the land in – (**Mr D Cannan:** 2011.) in August 2011. The land
in question was negotiated, was a piece of land to the side of the school, a substantial piece of
land, to protect the school and to allow for the expansion of the school. Given you have informed
us of the classroom extensions which had taken place some years earlier, do you believe that the
Department was entirely wrong to have sought to protect the school or to allow for future
expansion of the school, against a possible backdrop of surrounding residential development?

305 **Mr D Cannan:** Mr Speaker, sir, if I may say so, I recall you being Chairman of the Planning
Committee in your many previous roles and a development of this size is required to provide land
under present legislation, sir, provide land, fund public spaces and therefore, there was no need for
that. For the Minister to say in one of these *Hansards* that the houses could be built right up
against the school wall... No, in my opinion over many years, sir – many, many years, and I have

310 been also on the Planning Committee in 1983-84 – that would not be allowed and certainly not
now. Consideration is in the legislation and will be taken in, but when you build 100 houses, you
have got to make provision for public spaces and the facilities for public land. So there are
rumours in the wind, which I would not wish to comment here, sir.

315 **Q6. The Chairman:** So the land swap was entirely unnecessary from the point of view of
protecting the school, in your view?

Mr D Cannan: In my view, the school has not been protected because the existing school
playing field, which is ample and in a beautiful setting, is going to be handed over to developers
for commercial interest for some less appropriate land at the rear of the pub, and no account is
320 taken under the Cambridge-Stokes formula, even if it was allowed to go ahead on the value of the
transfer. It is just, in my public opinion, a cosy transfer: ‘Oh well, boys. I will let you have the
playing field. Just give us a couple of acres at the back.’

325 There is a *procedure*. There is by statute the Cambridge-Stokes formula and the value of the
land – and it is not just me, sir, you will see that Mr Karran, the present Minister of Education, in
these supplementaries to my questions challenged the Minister time and again on the value of the
proposed land exchange.

330 **Q7. The Chairman:** If this land swap was not essential then, what do you believe was
motivating the Department to bring about such a deal with the developer?

Mr D Cannan: With respect, sir, I would ask that that is your job, sir, to find out. You have
heard my evidence. There is no requirement; empty classrooms; and then we had the bizarre
incident of the Minister then wanting to have the Kirk Michael surgery in the school to justify, in
335 my opinion, the need for expansion of the school because he wants to say, ‘Well, look, the two
classrooms are a medical centre,’ and the doctors have very firmly said no, and you have written
evidence, sir.

Q8. The Chairman: It seems very odd that the Department would seek to advance a land
exchange of this sort, when it was unnecessary in terms of protection of the school. I repeat the
340 question, do you have a view as to what might have motivated the Department?

Mr D Cannan: I am trying to choose my words carefully, if you will give me a few seconds,
sir.

345 On the one hand, there are the interests of the developer to get access to his land. The
developer had the support of Mr Anderson, as Minister. Mrs Craine showed complete integrity, by
saying that it was not in the interests of Kirk Michael and that was the end of the matter. She knew
the history of it all, sir, just as I have explained. You were Education Minister, the classrooms
were there for the expansion in the village and they are still empty and indeed the school roll has
350 dropped 10.

The Chairman: Thank you very much. Can I ask my colleagues: Mrs Cannell, if you have any
questions for Mr Cannan?

355 **Q9. Mrs Cannell:** Thank you, Mr Cannan, because you have given us quite a bit to think
about. One of the things that I had not appreciated was the fact that the school was of sufficient
size to not only accommodate the present size of the village, but also future expansion in your
opinion, with two empty classrooms and a sports hall.

360 I am still struggling with what Mr Speaker has been trying to ascertain from you, is that, why
then, if that was the case and recognised by Minister Craine as the case, would a new Minister
want to continue to be agreeable to negotiations with the landowner and also a developer? Do you
think, perhaps the Education Minister at the time was looking to make some kind of profit on the
land swap, in terms of allowing access?

365 The land was valued – the land was valued by the Government Valuer – and of course, at that
time, prior to the refusal of planning consent, the value of it was quite high, whilst the developer
did not have at his disposal an alternative access. Do you think perhaps the Department of
Education was looking to make some money out of the transaction?

Mr D Cannan: I found it difficult to get into the mind of the Department of Education in the
whole of this matter, but what is fact, not supposition: during Mr Speaker’s term as Minister for

370 Education, two extra classrooms were built that were not required, but were authorised by his predecessor for future expansion while they were building a school hall. So while they had the contract for the school hall, it was agreed that future expansion in the village and ‘we will expand two classrooms and a school community room’. The roll of the school then was 138 pupils.

375 Then, fast forward, we now have a school roll of 128, two empty classrooms, and this is confirmed, because Minister Teare wanted to use them then to put a medical centre. So then he could say, ‘Ah, look, the school is full, we have got a medical centre and no extra classrooms, we need this land.’ It was just something to justify the nonsense that has been going on since he took over, because Minister Craine, with absolute integrity, saw what it was and saw that it was just for... the thing there was for a commercial interest, as you can see by her reply in the House of
380 Keys on 29th May. She saw that the whole of this nonsense was in the vested interest, or commercial interest of the developer, the landowner and Heritage Homes.

Then, to answer your question, we move fast forward to the present, or almost the present. Heritage Homes come to the Department, a new Minister, and there must have been some sort of positive relationship: ‘Ah, we have an alternative access,’ which is never checked out – *never*
385 *checked out*. A Minister of the Crown: if he could not do it and hadn’t the wit to do it, then surely the highly paid, £100,000-a-year Director of Education would have known how to conduct affairs – we are not a Mickey Mouse organisation, the Manx Government – but that was not done.

All that was agreed was, ‘Get hold of the playing field. We have got access to build the houses and we will give them a couple of acres’, but they would have had to have given a couple of acres,
390 or an acre-and-a-half of public space because under the planning, as I have already said, Mr Speaker – and as you, as the former Chairman of the Planning Committee, will know – developers have to provide public land.

395 **The Chairman:** Can I just, before I thank you –

Q10. Mrs Cannell: I just have one more question at this point. Sorry. Thank you, Mr Speaker.

Mr Cannan, turning now to the inquiry into the planning development which was subsequently refused, the expert for Heritage Homes, when asked the question about access, said that they did not have an alternative access; but it would be true to say, would it not, that the planning
400 application that was subject to the hearing only contained the first access which they were desiring? It did not contain the alternative access which we later learned of, did it?

Mr D Cannan: No. The alternative access which Mr Teare was promoting never appeared in a planning application.
405

Mrs Cannell: No. Thank you.

Q11. The Chairman: Mr Cannan, do you wish to add to that point?

410 **Mr A Cannan:** Could I add a point onto that, Mr Speaker?

The Speaker: By all means, yes.

Mr A Cannan: I refer Mrs Cannell to the inspector’s Report from Mr Alan Langton, in
415 paragraph 114 of that Report, which states that:

420 ‘The present proposals explored such an access at Cass a Lergy, where Heritage Homes Ltd purchased Douglas Road properties backing onto the southern end of the site. The company was, however, unable to obtain control of sufficient frontage to satisfy the Highway Authority’s visibility requirements.’

So, this was part of the overall debate at the inquiry that the inspector held and indeed he does actually mention this at paragraph 114 in his Report.

425 **Q12. Mrs Cannell:** Okay, thank you, Mr Speaker. If I could just follow on from that, what date is that Report?

Mr A Cannan: Sorry, this was the one that was submitted, I think, I do not have the actual – I think it was 3rd February. It was the one that was submitted to the Council of Ministers, following the inquiry. I think it came in 3rd February, I think it was dated, but I will check on that.
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Q13. Mrs Cannell: What year?

Mr A Cannan: This year. This was the planning inspector's Report following the inquiry in December last year into the planning application.

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Mrs Cannell: Okay, thank you.

Q14. The Chairman: Is it your view then that claims of a valid alternative access, are false claims?

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Mr A Cannan: It would appear, Mr Speaker, that I have a lot of evidence to suggest that that was never actually verified and that there is a lot of disparity in the remarks made over the course of time, much of which has already been presented to you, but I have other remarks, which suggest – and evidence to suggest – that actually it was never verified whether there was or was not any alternative access.

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Q15. The Chairman: Can I just, before I ask Mr Turner, come back, Mr Cannan, to what you said. You said quite definitively that Minister Teare had not checked the alternative access. That is correct?

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Mr D Cannan: If he had done, he would have produced evidence from the Department of Planning. I believe – and I am told by planning consultants – that before you put a planning application in, you submit your drawings – and the drawings are verified by Mr Cannan 'Junior', if I may use that word – and you get the engineer's certificate on the plans that an alternative entrance, this entrance, is approved. **(The Chairman:** So if –)

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You can get a certificate. Now had the Minister or the Director of Education, in my view, gone about their business properly, they would have gone to the Planning Department and the Highways Department and asked for a copy of the certificate to say that they had an alternative entrance.

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Q16. The Chairman: So your evidence, then, for saying that this was not checked was the absence of the production of such a certificate?

Mr D Cannan: I have never to this day seen a production of such...

465

The Chairman: Yes, Mr Cannan.

Mr A Cannan: Can I add, Mr Speaker, to that?

I would refer the inquiry to my submission to you, my letter, in which I pointed out there was a letter actually sent to Minister Teare by Dr and Mrs Naylor of Kirk Michael, in which they wrote to Mr Teare on 9th May 2011, the content of which states:

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'We understand that there is a proposal to exchange land at the school in Kirk Michael to enable Heritage Homes access to land zoned for building. The details of this proposal seem to be based upon the belief that Heritage Homes, in the absence of access through the school, would have access from the Douglas Road through the entrance to High Tilt. This is uncertain since we own the farm buildings and some of the land of Lhergy Vreck Farm and our deeds give us right over the access road to High Tilt'

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– which is the access road that you will be aware of, I hope.

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'Heritage Homes have not had the common courtesy to show us the proposal and discuss with us whether this would infringe our rights. We simply do not know whether our rights would or would not prevent Heritage Homes access to the zoned land. If Heritage Homes do not have access through High Tilt entrance, it alters the logic and certainly the price for access through the school. Such access would obviously be worth hundreds of thousands of pounds, not the £9,000 worth of land at present proposed. We would not be willing to have our rights infringed.'

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Now that letter was on 9th May.

Then Minister Teare replies on 11th May:

'Dear Mrs Naylor,

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'I write in response to your letter dated 9th May. I am unable to comment as to how the potential land swap at Kirk Michael School would affect your own position. My understanding is that access to the site has already been obtained by the developer through the Lhergy Vreck Road, as they have acquired the property on the north-west side of the road junction. Perhaps I could suggest that you discuss the matter with your legal adviser or preferably Heritage Homes direct, as I am sure they will be able to give you more details, as you are an interested party.'

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Basically, an interpretation, or my interpretation of that is Minister Teare is simply dismissing this claim, has not actually written to the landowner to say, 'According to our checks or searches at the Land Registry, Heritage Homes will have a proper entitled claim over that land'; he has simply dismissed it and referred the landowner to Heritage Homes or their lawyer. Yet this letter would seem to be at the very heart of the issue of a complete, almost, disregard for any other claims and a complete acceptance of the Heritage Homes position. It would indicate that, actually, no checks had really been done.

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Q17. The Chairman: So the Naylor's letter and their assertion of rights over the access, in your view, is a critical point, as to whether access was obtained or not obtained, and the Department ought to have checked out that point?

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Mr A Cannan: Whether the Naylor's do or do not have rights over there, based on that it seems to be a right of way, is debatable, but nevertheless, one would have thought that this being such a major... The whole crux of the deal was that they had alternative access. If there is evidence from a landowner to suggest that, actually, the rights of Heritage Homes to build an access road through that point is in doubt, one would assume that it would be taken very seriously, because otherwise you are just suggesting that the Department of Education – or the Minister – is simply taking the word of a developer, without actually checking through the crux of the issue.

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Q18. The Chairman: Before I bring Mr Turner in, just to be absolutely clear then, it was Minister Teare's answer to that point, with reference to his understanding that the developer had access, it was that statement that indicates to you that the Department had not checked it out?

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Mr A Cannan: Yes, sir. I will just read that to you again:

'My understanding is that access to the site has already been obtained by the developer through the Lhergy Vreck Road, as they have acquired the property on the north-west side of the road junction.'

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Q19. The Chairman: If the Department *had* checked it out, are you saying that that reply would have been somewhat different, it would have been more unequivocal?

Mr A Cannan: Yes sir. I am suggesting that any sensible reply, had it been thoroughly investigated, would have gone on to state that, 'We have looked thoroughly at this matter and believe that, on the balance – even on the balance of probability – having looked at it thoroughly, Heritage Homes would have had access through there and therefore on that basis we are proceeding'; but there is absolutely no indication in here, whatsoever, that any proper check has been undertaken as to the validity of such a claim and therefore you have to go on to question what sort of value was actually being received from the land swap deal and, of course, we have not seen this deal, so we actually do not know – or the terms of the deal.

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The Chairman: Mr Turner.

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Mr Turner: Yes, thank you, Mr Chairman.

Mr D Cannan: If I could just interrupt. I was party to that correspondence because it happened during my tenure of office –

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The Chairman: Yes, thank you.

Mr D Cannan: – and it reinforces what I have just said, Mr Speaker, that if Dandara had an alternative entrance, I am confident they would have been so confident in themselves that they would have produced the engineer's certificate from the Highways Department to say you have... as I have just explained earlier, that developers, when they do it, have to, before they put a planning application in, get a certificate to say that the entrance is okay.

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The Chairman: Thank you.

Q20. Mr Turner: Can I just pick up on the access issue with the Naylor's. Would you not agree, though, that their access would be potentially enhanced by this development using the lane

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and, far from it impeded... and that it is quite common for different landowners to own pieces of land, lanes, etc where, providing the access to the other party is not impeded, then they can improve those accesses at will?

560 **Mr A Cannan:** I would suggest that is purely a decision for Dr and Mrs Naylor and that the indications are in their letter of 9th May 2011 that they would not be willing to have their rights infringed, i.e. they were not willing to have their rights over that –

565 **Q21. Mr Turner:** As they still have access, their rights are not being infringed.

Mr A Cannan: I would suggest that is for a planning inquiry or a court of law to decide, but I could not comment on that.

570 **Q22. Mr Turner:** The other issue I would just like to explore, too, and that is coming back to the issue about whether the Department had checked out. Heritage Homes issued a press release which stated that:

575 ‘Prior to entering into the agreement with the Department of Education, we were required by Minister Teare to provide irrefutable proof that we [Heritage Homes] could access the land to the rear of the school (albeit for a maximum of 100 houses) via an ALTERNATIVE access.’

Are you aware of that press release that was sent out?

580 **Mr A Cannan:** Yes, I am.

Q23. Mr Turner: The developer is stating that they had to provide that proof to Minister Teare.

585 **Mr A Cannan:** Which is fine. Again this is a developer’s assertion, but nobody has ever produced any clear evidence of that, in either statements that they have provided to myself or my father during his tenure, that actually, irrefutable proof has been provided by the developer and not only that, that is developers’ proof that has got to be certified and backed up by planning – at least, planning approval in principle – and also by Department of Infrastructure, as this is a road access point.

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Mr D Cannan: If I could just say, the road access point, you do not wait for approval in principle, It is the engineer’s certificate of access, approval of access and at no time could I get any approval of access from the Department.

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Q24. Mr Turner: But the plans on the table were for a higher number, whereby what they are saying is that, if they were to use the alternative access, they would have to redraw the plans for a small number of units. Is that your understanding of what the developer was saying, in that they had not drawn the plans for 100 units, that was an option if they had to go for the alternative access through the Lhergy Vreck track? Is that your understanding?

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Mr A Cannan: They would have had to build less? (**Mr Turner:** Yes.)

I believe I have read that somewhere, but I cannot recall where I have seen it. I am not quite sure what... Anyway, that is just –

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Mr D Cannan: Mr Chairman, what relevance does that question have? Is that the number of houses they could build on – and the commercial interests of the people –

The Chairman: I think we will field the questions, Mr Cannan.

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Q25. Mr Turner: If I may, I refer to the *Hansard* of House of Keys, Tuesday, 29th May 2007 and this is the Statement by Minister Craine, who says that she has taken a personal interest in the community’s view.

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‘At the present time I have decided to decline the proposal for the land exchange, because the potential disadvantages to Kirk Michael outweigh the possible benefits to the school.’

What were the potential disadvantages to Kirk Michael that Minister Craine was suggesting

there would be?

620 **Mr D Cannan:** The disadvantages to the people of Kirk Michael, which Mrs Craine – and I commend her for this – actually listened to the people of Kirk Michael, because she attended the public consultation and spoke to them and they told her, what the disadvantages outweigh and she was well aware, as I have already explained, that the school had two extra classrooms and no children – I mean, no children to fill them.

625 **Q26. Mr Turner:** Was it that the residents did not like the development, or what were the disadvantages to the village?

630 **Mr D Cannan:** They did not wish the school playing field to be destroyed for commercial purposes – as simple as that. Heritage Homes want to build houses there, well, find another entrance. (**Mr Turner:** But –)

635 Secondly, the school playing field is in a conservation area and if conservation areas have to have any relevance, then they are to be protected. Tynwald approved and Minister Teare approved the conservation area. I am not sure whether you were in Tynwald at the time, Mr Turner, but the school playing field was in the village conservation area.

640 **Q27. Mr Turner:** In terms of disadvantages, the offer on the table was that they would have increased land with a fully constructed playing field, fully drained, so, what I would like to establish is, what the potential disadvantages to Kirk Michael were, because on the face of it, the offer for the school, taking everything else aside, the school appeared to be getting quite a favourable deal out of it?

645 **Mr D Cannan:** No, sir. The school were not getting a favourable deal. The school would get a deal, irrespective, if they got planning permission, because they would... as I have already said, in a planning permission and development of that size, they are required to provide land and public spaces, so they would have had extra land and retained the issue of the existing school playing field.

650 **Q28. Mrs Cannell:** Mr Speaker, could I follow on from that? What you are suggesting is, in planning law, that the Planning Committee would in fact demand that there was a sort of green buffer area between the wall of the school and any kind of new development.

655 I am just trying to think whether that has applied elsewhere, where Heritage Homes have developed. They did quite an extensive development in Peel and were very keen to build right up to the boundaries of existing properties. I do recall at the time that there was some resistance to that, but that is your understanding, is it not?

Mr D Cannan: That is my understanding, but the difference between Peel is that they are ordinary houses. This is a public, school building.

660 **Q29. Mrs Cannell:** Okay. Can I explore what the disadvantages are, because, when answering Mr Turner you suggested that the main disadvantage was the loss of the school playing field, the fact that it is designated as a conservation area, but there are more concerns, are there not, within the village about a development of such size?

665 **Mr D Cannan:** Absolutely. Traffic, etc, and that is why the planning inspector turned it down. A full two-day hearing of a UK planning inspector and he turned it down, but it was at this very planning inquiry that the Heritage Homes man stood up and said, ‘We do not have an alternative entrance.’

670 **Mrs Cannell:** Am I correct –

675 **Mr D Cannan:** It was Heritage Homes saying, and yet all along we had, ‘Heritage Homes have an alternative entrance’, and in front of the UK inspector at a public inquiry, he stands up and said, ‘We never had any.’

The Chairman: If I could ask Mr Turner just on... I believe you want to follow up that particular point.

680 **Q30. Mr Turner:** Yes. I think, Mr Cannan, you are referring to the transport planning
consultant, Mr Bryan Hall. Is that correct? Where Heritage homes are stating, he was replying
specifically to a question posed and that was whether access to the site via Westlands or Cronk...
Knock-y-Tholt, I think it is, could provide viable access in their own right, Heritage Homes are
685 saying that he answered that question specifically, but did not explain that, when they were taken
in with the additional land that is already under Heritage Homes control, then an alternative access
can be formed. What they are stating was he was answering the specific question to the planning
inquiry.

Mr A Cannan: Can I just come in here? As one of people who actually asked Mr Hall that
690 question, albeit the following morning and in a private setting, although there were witnesses
around, he repeated that assertion, although it was repeated publicly on the first afternoon.

But again, this is just what Heritage Homes are asserting. There is actually no clear evidence.
All you are reading is a press release from Heritage Homes there, and again, I would refer you to
the inspector's Report, 114:

695 'The present proposals explored such an access at Cass a Lergy where Heritage Homes Ltd purchased Douglas Road
properties backing onto the southern end of the site. The company was, however, unable to obtain control of sufficient
frontage to satisfy the Highway Authority's visibility requirement.'

700 So the inspector himself has made a judgment on that, I would suggest, on that assertion,
which is purely an assertion by Heritage Homes and not clearly evidenced.

Q31. Mr Turner: This is why I am asking you. This is what they are saying. Are you
challenging their statement?

705 **Mr A Cannan:** The inspector has clearly stated in his report that they did not have the
visibility frontage to satisfy the Highway Authority's requirements. So yes, we were challenging
their assertion. This was effectively their claim to access. (**Mr Turner:** Right.) But, as the
independent inspector will verify, he did not believe they had the visibility requirements to
710 actually build a road access at that point.

Q32. Mr Turner: But was that not on the number of units, whereas it would be sufficient for a
reduced number of properties?

715 **Mr A Cannan:** I cannot comment on that, because I was only dealing... I could not possibly
jump to a conclusion on behalf of –

Q33. Mr Turner: The crux of the issue is that the application was for over a hundred
properties, was it not? I have not got the exact number, and they had alternative access, but my
720 understanding would be that, if they were then refused and had to use that alternative access, they
would have to redo the plans for a maximum of 100 houses, therefore the access via the alternative
route would be permitted?

725 **Mr A Cannan:** Again, that would depend on whether they actually had access at all, so this is
all conjecture and I cannot really start answering questions as to what may or may not happen,
whether there was a reduced number –

The Speaker: Yes, we will put that to one side.

730 **Q34. Mrs Cannell:** Mr Speaker, can I just follow on from that? Turning to the inspector's
terminology in his Report, he talks about 'not having sufficient visibility frontage'. So what we are
talking about is the splays that one can expect either side of the road when coming off another
road to enter, there has to be sufficient frontage to provide visibility splays. That is what comes
under visibility frontage.

735 At the time, the Highways Authority were not satisfied that there were sufficient visibility
splays, would you say in terms of the alternative access, which they have now acquired, they have
acquired further properties to enable an alternative access, do you think, being a representative of
Kirk Michael, in your view, that that would now give them the visibility?

Mr A Cannan: Again, it is very difficult for me to give any comment on that. There are very

740 technical measurements associated with that. As I understand it, based on what the inspector's conclusions were – and bear in mind I am not trying to fob off the question, but they are very technical issues associated with it. There was no visibility requirement and that applied to the properties.

745 **Q35. Mrs Cannell:** Mr Speaker, if I can just clarify one position bringing up to present day. As I understand it, there is now a fresh planning application being submitted. Is that correct?

Mr A Cannan: That is correct.

750 **Q36. Mrs Cannell:** Have you had an opportunity to look at that yet?

Mr A Cannan: That is correct. Indeed, I held a public meeting last night in St Michael's Hall in Kirk Michael, which was attended by over 90 residents.

755 **Q37. Mrs Cannell:** And is the proposal to provide the access through the alternative access?

Mr A Cannan: No, it is as is. It is a very similar application. There is hardly any difference. They have reduced the number of dwellings to 95 dwellings and they have shortened the road width to comply or to try and comply with what appears were the inspector's assertions regarding a by-pass, but in my opinion, in essence the current submission is almost exactly the same as the previous one.

760 **Q38. Mrs Cannell:** Does that not surprise you then, given that the first refusal came using that particular access? Does it not surprise you that they put together another proposal using more or less the same access?

Mr A Cannan: I am very surprised that there was the allowance in the land swap deal to be able to come back a second time and I will be even more surprised if there is not some allowance in there where the value of the land is increased by the sheer fact that they have to reapply. I find it very surprising, because under the Town and Country Planning Act also, this type of development or for any ordinary person who had a development rejected would have to wait five years or substantially alter their proposals. It would appear in this case that the proposals have not been substantially altered and it would appear, as it stands at the moment, that this five-year rule is magically disappearing, but I appreciate that might be outside the bounds of this.

775 **Q39. Mrs Cannell:** Well, again, under planning law, one can resubmit an application, provided it is materially different from the first.

Mr A Cannan: That is correct and therefore that judgment has to be made.

780 **Q40. Mrs Cannell:** Yes. Can I ask you though, are you surprised that it does not include the alternative access?

Mr A Cannan: Well, there wasn't... Sorry, I am not quite sure –

785 **Mrs Cannell:** Alternative access (*Mr A Cannan:* Yes.) which was alleged to have been obtained when the first application was running was not part of that particular planning proposal and yet there were claims that it was there. Are you surprised that that now is not being used as an alternative access?

790 *Mr A Cannan:* Given the conclusions that were reached, I am not surprised that it is not appearing.

795 **Q41. Mrs Cannell:** Why are you not surprised?

Mr A Cannan: I would have thought that there is so much doubt about whether there was actually alternative access and we would appear to have an inspector who has clearly stated that there was, in his opinion, 'unable to control sufficient frontage' so that is why I am... and given the fact that the agreement itself would appear to have allowed them to come back for a second bite at the cherry, unopposed, I am not surprised they have just carried on submitting, almost what

I regard as an identical application.

Q42. The Chairman: Or could it not be that – thank you, Mrs Cannell – the Douglas Road access always was the preferred access?

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Mr D Cannan: Oh yes.

Mr A Cannan: Absolutely, sir. I would agree with that. I would agree with that.

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Q43. The Chairman: So it was no surprise that they are pursuing the preferred access, as opposed to the other access, which you maintain is not valid at all, but it may be, we are conjecturing, more expensive to develop and therefore the preferred access –

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Mr A Cannan: Absolutely, sir, developers are not stupid people, they would be going for the best option they possibly could!

The Chairman: I do want to move on, but, Mr Turner, did you want to wrap up this particular point?

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Q44. Mr Turner: It was just to add that the transport consultant, whom I earlier referred to, stated that they did have confirmation from the Department of the Highways Division that the alternative access was acceptable to the Department, but on a reduction to 100 maximum of dwellings.

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Mr D Cannan: This is application 400.

Mr Turner: I am referring not to the current application; I am referring to the access at Lhergy Vreck.

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Mr A Cannan: I would suggest there is a significant conflict between what the Department is claiming and what the independent inspector – and very competent independent inspector – has concluded in his Report.

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Q45. The Chairman: I do, of course, want to emphasise that we are not here to give opinion on the merits of any current planning applications; our inquiry is entirely retrospective in nature.

We move on now – thank you Mr Cannan senior, for your statement and we have dealt with a number of questions that flowed from that. Thank you Mr Cannan junior, if I may refer to you, for clarifying a number of issues.

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As I have asked your father, I would like to give you the opportunity to make a statement. We have, obviously, had your written evidence and it has been referred to already, but I do want to give you the opportunity to amplify on your written evidence and likewise, we may have some particular questions.

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Mr A Cannan: Thank you, Mr Speaker.

Just to give a bit of background, I have followed this matter from a distance for a number of years, but obviously very keenly and closely since I decided to stand for election, which was at the beginning of 2011. In fact, it was August, as we know, August last year, literally hours, I would suggest, before the end of the parliamentary session that this deal was announced and perhaps as a farewell present, one might suggest, to the retiring MHK.

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I would like to cover some of the ground. I appreciate, I do not want to keep the inquiry longer than is necessary, just to cover some of the questions I did cover in my written submission, for the public record.

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It was clearly stated by the former Minister for Education, Mr Teare, that the Department of Education entered the land swap deal to protect Kirk Michael School, in order to allow for future expansion. That was clearly stated by Mr Teare.

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Since I have become MHK, I have been unable to verify a number of key questions: who initiated the deal and when; what evidence did the Department have that Heritage Homes had access to the zoned land – I know we have covered that issue; what plans or drawings were ever submitted by Heritage Homes in the early stages to the Department to authenticate such claims of alternative access and how they might be proposed; what discussions took place with the planning department to actually evaluate such drawings or plans; what confirmation was provided by the

865 planning department to the Department of Education in respect of this matter; and I appreciate we have just discussed this at length – what discussions took place with the Department of Infrastructure, in respect of the road access or the alternative road access to the zoned land; and more importantly, when did those discussions actually take place?

870 So I have already covered the issue of the letter from Dr Naylor – well, Dr and Mrs Naylor – but as I said, I do think this is a very key letter, which the response, particularly from the Minister, I would suggest, indicates a lack of proper detailed consideration of a fairly substantial deal that would have and will, if it goes through, result in a developer profiting by many, many millions of pounds. I have estimated £5 million to £6 million in my discussions with other developers, who given me a rough estimate of the profitability of that site to the developer, should matters progress. So there are a number of other questions arising as to the timings and management of the deal.

875 In January 2011, in Tynwald, Minister Teare outlined the deal, but he went on to say access to the land had been secured – this is a done deal and subject to the planning process development will occur. As I said before, the Department has to react to protect its interests and to adapt and to adjust to the changed circumstances and situation.

880 But I would point out to the inquiry, sir, and to your good selves, that in an e-mail to a constituent 10 days before that sitting and before that statement, the Department of Education wrote to this constituent:

‘Thank you for your e-mail. Minister Teare has asked me to advise you that he has agreed in principle, and we are now finalising the details.’

885 He has already said and suggested that the deal was basically done long before the matter really was properly discussed by Tynwald.

On 29th March, Minister Teare says, and I think this has already been covered:

890 ‘You may not be aware but I have assumed responsibility for negotiations with the developer of the land adjoining Michael School. At present negotiations are still continuing and there is no sign of agreement between the Department and Dandara Holdings Limited, or indeed any entity in the respect of a land exchange. I did receive some time ago a discussion paper from the developer, but it did not deal with the issues I wished to address.’

895 So in March 2011, Minister Teare is talking about a discussion paper. Yet, on 6th January, two months before, he is telling a constituent he has agreed in principle. I do not understand how that can possibly be right.

There were also a lot of questions. I have not seen the deal; neither has anybody in public seen the deal between the Department of Education and Heritage Homes, but it is very questionable whether any value has been obtained from this deal or any value will be obtained from this deal.

900 In January 2011, Minister Teare stated to Tynwald:

905 ‘Mr President, we are all experts in hindsight, but if the original transaction had gone ahead, then considerable benefit could have accrued to the Government under the principle of the Cambridge case in the UK, which gives the party that owns access to a landlocked site a share in the development value. Recognising that the site would be difficult to develop without access through the school grounds, the developer made an attractive offer, which is no longer available to the Government.’

To which I presume he was referring to 2007 and the option is available to the then Minister.

910 But this raises a lot of questions. What was the value of the original transaction referred to in that statement? Why was the golden opportunity lost under Kirk Michael Strategic Plan, which I would ask to refer you to and does actually offer some protection for the school? Indeed, in that Plan, it protects the school by requiring any development of the area to allow for future expansion of the school and the possibility of a by-pass road. So there is a clear requirement that some consideration is given to protecting the school and any planning development certainly based on that Strategic Plan.

915 We never knew the terms of the deal and we did not really understand why it had to remain so secret and it is very clear whether the taxpayer was going to receive any value for money, and indeed is, given the fact that we are now actually at a stage where we are going back to a second application.

920 So all in all, there were a huge number of questions around this deal which really did not add up from assertions as to how it was actually managed, the ignoring of a very key letter from a landowner, who clearly had involvement in this matter, and then questions that I had, as to whether actually the taxpayer was getting the proper value for this land, particularly as outlined under the Cambridge Stokes principle; but as we have not seen the deal then nobody at the moment is really that clear on that matter.

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Q46. The Chairman: Thank you very much, Mr Cannan.

Can I just refer you to, I think it was the eighth question that you posed in your written evidence and which you covered just now, is it right therefore to properly suggest that a public debate, letters, Tynwald motions etc, were in fact irrelevant. You refer to the e-mail written on 6th January, when Minister Teare states that he has agreed in principle and then you refer to the March letter to the constituent about negotiations still continuing.

Can I ask, is it possible that Minister Teare did not know that this matter was to be debated in January Tynwald? He has said, quite unequivocally, on 6th January, 10 days before the sitting, he has agreed in principle. If he had known it was to be debated in Tynwald, he might well have qualified that, that Tynwald might have reached a different conclusion to the one it did, when the deal would no longer be on the table.

Mr Cannan.

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Mr D Cannan: It occurred during the period when I was MHK.

Q47. The Chairman: I was going to ask you, in fact, did you notify Mr Teare in advance that the matter was to be debated?

Mr D Cannan: By 6th January, we would have known because we all have the Tynwald Agenda 14 days before, sir, the Tynwald Order Paper. **(The Speaker:** Yes.) The Tynwald Order Paper comes out 14 days before the sitting, sir.

Q48. The Chairman: Yes, so the Order Paper would have been finalised on Wednesday, 5th January and sent to Members of Tynwald that evening and it would have been available to the press and the public on the 6th.

Mr D Cannan: And I think, actually, I sent, as a matter of courtesy – I cannot be sure of this, but I would normally send to any Minister, so that he did not receive Questions cold on the Question Paper, or motions cold on the Order Paper – I sent him a copy of the motion that one signed and submitted to the Clerk. But I cannot be certain, but I normally do that, whatever Minister I have asked Questions of, so that he has a fair and appreciative time before the Question Paper comes out.

The Chairman: And –

Mr A Cannan: Sorry, Mr Speaker, can I just clarify a further point there? In that e-mail of 6th January, the contents of that e-mail, ‘Minister Teare has asked me to advise you that he has agreed in principle and we are now finalising the detail’, and yet he tells Tynwald, ‘Whilst the negotiations have started, they have not been completed yet. There is a lot of work to be done and it may be that the discussions may come to nothing’. Yet he has already told a constituent that it has been agreed in principle on 6th January, so how can he possibly then tell Tynwald on 18th January there is a – sorry, just to repeat – ‘a lot of work to be done and it may be that discussions will come to nothing’?

Q49. The Chairman: The e-mail of 6th January, however, did include an important caveat, did it not, when it said the deal could still fall through? Could that not be taken as evidence that he was not in a position to be unequivocal, because there was a Tynwald debate and Mr Cannan has said, in all likelihood, he notified Mr Teare of that forthcoming debate.

Mr D Cannan: The Department – it just went to the Department, rather than Mr Teare.

Q50. The Chairman: Fair enough. And saying the deal could still fall through acknowledged that Tynwald was yet to debate Mr Cannan’s motion.

Mr A Cannan: There is that possibility, but it would appear to me, strange that we had been told that it had been agreed in principle and yet Tynwald is told there is a lot of work to be done and implies that negotiations have merely reached a starting point and have not progressed to... When you are saying you have agreed in principle, you have, basically, got some small detail, I would suggest, in my business experience, to add some, perhaps, meat to the bones and it is unlikely, that once you have reached an agreement in principle that a deal is likely to fail on some

technical point.

Q51. The Chairman: What was said in January and March are contradictory; in other words, they do not –

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Mr A Cannan: I would suggest what was said on 6th January in an e-mail directly contradicts what was then later told to Tynwald.

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Mr D Cannan: Just to back that up, because this was in my time, I refer to the secret meeting, I think it was 14th November 2010, prior to this, in which Mr Teare went to the Commissioners to discuss the plans and his proposals and the following week Mr McLoughlin and Dandara had a meeting with the Commissioners, in which they went into complete detail of that, so it reinforces in my view, the e-mail that Mr Teare sent. He is already deeply involved. He has this secret meeting, then Dandara come with the plans after Mr Teare has seen the Commissioners and then, if I can move forward to the March Questions in which Mr Teare says, the Department of Education missed a golden opportunity for compensation: they had never missed a golden opportunity. They are saying that, ‘because we have got alternative access’: they never had alternative access. It is all part of this supposition – I am trying to be polite – but they are telling everybody, ‘We have got alternative access.’

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Mr A Cannan: Sorry, Mr Speaker, just to pick up on your point. (**The Chairman:** Yes.) I tried to correct you by saying and implying the 6th and 18th January and indeed, you were correct. It also completely goes against what was said in that letter in March when Minister Teare asserts that he has merely had a discussion paper. So from 6th January when he has agreed in principle, we get to March and we have simply got a discussion paper. I do not understand how that one thing has been told to a constituent on 6th January, clearly in an e-mail, an agreement in principle. Then to Tynwald that negotiations have started but there is a long way to go. Then by March, we are back to a discussion paper. So perhaps the deal actually started off by being done and we were just working backwards in this particular case, but it is –

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Q52. The Chairman: So the golden opportunity that was referred to, of course, was on the basis of a deal which, had it been struck, would have been on the basis of the playing field having the status of a ransom strip to unlock access to allow development to take place. If, indeed, it was a ransom strip, the lesser deal and the loss of that golden opportunity and Minister Craine rolled out any further development or exploiting that golden opportunity, any later deal would have been equally a golden opportunity, if the status of ransom strip was still in place.

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Are you saying, Mr Cannan, that in reality it was still in place –

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Mr D Cannan: It could have been.

The Chairman: – because the –

Mr D Cannan: They had no alternative access.

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The Chairman: – alternative access was a fiction?

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Mr D Cannan: Yes, that is what we have had all afternoon. Nobody has ever proved to me anyway, and I cannot speak for your Committee, sir, that they had alternative access. Nobody has ever proved they had a document to say they had alternative access.

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Q53. The Chairman: And if that alternative access could be proved then the Department would be correct, Minister Teare would be correct in having described it as a golden opportunity in 2007 that was lost?

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Mr D Cannan: But he was promoting that they had an alternative access, and I would suggest that with this row going on, somebody, somewhere would have produced documentary evidence to say there was an official thing. We have had the planning inspector’s inquiry and we have had the comments of the Dandara consultant – you know, the man acting for Dandara and everything else – and it is beyond my comprehension that if there was an agreed alternative access, it would not have been produced.

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The Chairman: Okay. Thank you.
Mrs Cannell.

1050 **Q54. Mrs Cannell:** Yes, thank you, Mr Speaker.

Just following on from that, are you aware that the Government Valuer's opinion was sought on the valuation of the transaction back in 2007; and subsequently, post 2007, gave in the first instance a greater value based on the *Stoke v. Cambridge* principle, and then later gave a lesser value?

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Mr D Cannan: Yes, I can only assume that he, too, without checking the facts, because if he had checked the facts I am sure there would be in the public domain that there was an alternative access.

1060 **Q55. Mrs Cannell:** Do you think perhaps the Minister was relying perhaps a little bit too heavily on the Government valuations opinion?

Mr D Cannan: No, I thought his answers have been on the... that he has been informed by Dandara they have alternative access. *Hansard:* all his replies there, he has been informed by Dandara, they have alternative access.

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Q56. Mrs Cannell: May I just go back to August 2011 where the agreement was signed by Minister Teare, to your knowledge do you know what date it was that Heritage Homes submitted the planning application?

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Mr D Cannan: It was signed the day before Tynwald was dissolved, as a farewell Harvey Smith to myself, by Minister Teare – that is what I think anyway – and shortly afterwards in September offered – my son will say – but I think it went in September, because I recall in October, it must have been, because we had public meetings. I have never attended... To make this quite clear, Mr Chairman, once I retired from Tynwald on 18th August, I completely distanced myself from all political activity – apart from campaigning during the Election, obviously, for my son – from all political activities, so Alfred will know that I do recall he had a public meeting – I obviously was not there, any more than I was at last night's public meeting – and handled the matter because he was under pressure, as I had been from the constituents.

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Q57. Mrs Cannell: Mr Cannan, I am just trying to explore why – a reasonable explanation as to why Minister Teare chose to sign the agreement in August 2011, when Tynwald was in recess and whether it was as a consequence of the submission of the planning application being submitted before the new parliament took up in September or October time.

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Mr A Cannan: I cannot remember the exact date and I was just checking my folder and I am struggling to find that, but I think that if we – I can confirm that to you, Mrs Cannell, straight after this – but from my recollection it was barely 24 to 48 hours before the final end date and I think it was an August date. I am sure it was around 28th or 29th August, which was the official –

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The Chairman: The House was dissolved –

Mr A Cannan: The House was dissolved within about –

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The Chairman: The agreement was entered into on the 16th.

Mr A Cannan: Yes, that is correct.

Q58. The Chairman: In our evidence, Treasury approval was given on 10th August, as it happens, would it not have been... It is pretty straightforward is it not, once Treasury approval was given, the Department would wish to proceed with the agreement and sign it? It was not deliberately rushing through before the House dissolved, surely?

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Mr A Cannan: I will have to leave that to your astute judgement, sir, but there was certainly a lot of concern in Kirk Michael. I was campaigning at the time very heavily, there was a lot of campaign and worry that this matter had actually been signed at that precise moment in time, effectively, it would seem, given the political recriminations from that significant period of time to

1110 potentially die down and for the process to get underway without any real ability to challenge that, in either the House of Keys or Tynwald. So the timing was – it may have been coincidence, it certainly did not help reaction in the village and certainly, there was an air of suspicion, as to why that particular document had been signed at that particular time.

The Chairman: Thank you.
1115 Can I give Mr Turner a further opportunity.

Q59. Mr Turner: Just with regard, you were questioning the evidence of the alternative access. Did you or anybody consider doing a search at the Land Registry as to who owned the property Westlands, which is on the bottom end of the Lhergy Vreck track?

1120 **Mr A Cannan:** Did I –

Mr Turner: In terms of there were some questions raised by some of the objectors as to whether Dandara or the associated companies have indeed any interests in that track. Were any searches done to your knowledge of that?
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Mr A Cannan: I received a reply from the Department of Education some weeks ago – I cannot remember the exact date now – in which they actually enclosed copies of those documents showing clearly that the purchase had taken place.

1130 **Q60. Mr Turner:** And did those documents show when the purchase had taken place?

Mr A Cannan: I cannot recall what the date was off the top of my head, but I think the point is that I do not think anybody disputed the fact that Heritage Homes had purchased the relevant properties. The issue was that in doing so, did that automatically give them the right to build a road, an access road on a lane running alongside it, or even to demolish those properties and build a roadway through it? We have never really had any clarification, except again I would refer to the Report, paragraph 114.
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The Chairman: Thank you.
1140 Anything further? Any further questions?

Mrs Cannell: I do not, Mr Speaker. No. Thank you.

Q61. The Chairman: Can I, in closing, pose a question to each of you to help this Committee and ask you two questions each. What is the most important question you would like us to put to Mr Teare; and secondly, what is the most important question you would like us to put to the Department of Education and Children, whose Chief Executive will be giving evidence shortly?
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Mr D Cannan: Can I just look to my notes? I did mention it in my presentation, sir, the questions.
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Mr A Cannan: I am happy to jump in whilst... (**The Chairman:** Yes.)
1155 Sir, I think I would obviously refer you to my submission letter, but I would also refer to my letter of 30th January in which I wrote to all Tynwald Members, just informing them out of courtesy that I was bringing a motion forward for a select committee. I did ask at that time for an investigation into three core matters: whether Tynwald was in fact given the correct information with regard to the status of the deal in January 2011 – and we have clarified some of the evidence to suggest it may not have been; whether the matter or the manner in which the negotiations were conducted was right and proper and that the full due diligence had been undertaken, as one would expect from the Department of Education; and whether proper value for money was achieved from the land swap deal and indeed whether the motivation for undertaking this land swap deal was right and proper.
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The Chairman: Thank you very much. Thank you.
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Q62. Mrs Cannell: Mr Speaker, can I just clarify the first question that Mr Cannan Junior has put. Basically then, what you are asking us to consider, the first point you made is, in fact, was Tynwald misled? Am I correct?

1170 **Mr A Cannan:** I think I am asking you to ascertain whether the correct information was supplied at that time; and yes, if I am being honest, whether actually Tynwald, in not being supplied with the true facts at that time, was in fact misled when that motion debate was taking place.

1175 **Mrs Cannell:** Thank you.

The Chairman: Thank you.
Mr Cannan.

1180 **Mr D Cannan:** Mine are on a similar vein, but the questions I would like to you ask the Minister and the Director of Education: did they take the information provided to them by Dandara that they had access, as stated by the Minister – in *Hansard*, as stated by the Minister; and if they did not take it at face value, what suitable enquiries were made of Government Departments,
1185 including the General Registry, to *verify* the statements that Dandara had given them throughout this matter; and finally, what role did the Director of Education take in formulating the Tynwald replies of Mr Teare?

The Chairman: Thank you very much.

1190 **Mr D Cannan:** What role did the Director of Education take in formulating the replies?

The Chairman: Thank you both. You have been most helpful and made a very interesting and informative presentation and thank you for the manner in which you have answered our questions and assisted this Committee.

1195 Thank you very much for coming, and can I thank members of the public and the press also for their attendance.

This public hearing is now closed. Thank you.

1200 **Mr D Cannan:** Thank you, Mr Speaker.

The Committee adjourned at 4.15 p.m.