



**TYNWALD COURT
OFFICIAL REPORT**

**RECORTYS OIKOIL
QUAIYL TINVAAL**

PROCEEDINGS

DAALTYN

(HANSARD)

**SELECT COMMITTEE ON THE AFFAIRS
OF BRADDAN PARISH COMMISSIONERS**

**BING ER-LHEH MYCHIONE
COOISHYN BARRANTEE SKEEREY BRADDAN**

Douglas, Friday, 11th April 2008

Members Present:

Chairman: The Speaker of the House of Keys (Hon. S C Rodan)
 Mr P Karran, MHK
 Mr A Downie, MLC

Clerk:
 Mr L Crellin

In attendance:
 Mr A Pass
 Mr M Cornwell-Kelly, Clerk of Tynwald

Business transacted

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<i>After a five-minute adjournment, Mr Lewin was called at 11.12 a.m.</i>	
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The Committee sat in private at 1.15 p.m.

Tynwald Select Committee on the Affairs of Braddan Parish Commissioners

*The Committee sat in public at 10.00 a.m.
in the Millennium Room,
Legislative Buildings, Douglas*

[MR SPEAKER *in the Chair*]

Procedural

The Chairman (The Speaker of the House of Keys, the Hon. S C Rodan): Good morning everyone and can I welcome everyone to this meeting, which is a sitting of the Select Committee of Tynwald on the Affairs of Braddan Parish Commissioners. We are taking evidence in public session this morning.

My colleagues on the Committee: Mr Downie MLC; Mr Karran MHK; Mr Cornwell-Kelly, Clerk of Tynwald and legal adviser to the Committee; Mr Tony Pass who is planning adviser to the Committee and our Clerk, Mr Crellin. Mrs Callister is the *Hansard* Editor recording today's proceedings, at which point I would ask everyone to kindly ensure that mobile phones are switched off to avoid any interference with the recording.

This Committee was established by Tynwald in January of last year and I want to take the opportunity to set out again for the public record the remit, which is:

'to investigate the involvement of the Clerk to Braddan Parish Commissioners, Mr C S Lewin and the Braddan Parish Commissioners, in the period from 1st August 1999 until 30th June 2006 concerning the draft Braddan Area Plan and to identify the extent to which their involvement caused or contributed to the Plan being terminated and, in conducting that investigation, to have particular regard to:

- (1) the circumstances regarding the sale of land owned by the Clerk and to make recommendations as to the advisability or suitability of the Clerk to have had a continued involvement in the Plan's process on behalf of the Commissioners;
- (2) the Clerk's and Commissioners' conduct and their response once it was brought to their attention of a potential conflict of interest or of inappropriate conduct by the Clerk during the Plan review process;
- (3) the content and preparation of the Commissioners' submissions to the Plan process and support or otherwise for land zoning, as proposed by various parties;
- (4) any deficiencies or relationships, which may have allowed the Commissioners or their Clerk to have had an improper or unfair influence on the failed Plan process; and
- (5) the process in which the Clerk and Commissioners contracted professional advice in respect of their submissions during the Plan review process.'

EVIDENCE OF MR H KENNAUGH

The Chairman: Our first witness this morning is Mr Henry Kennaugh.

Good morning, Mr Kennaugh. If I could remind you that you are still on Oath.

Mr Kennaugh, the Committee has asked you back, in line with your request and our agreement at the end of the public meeting when we met with you previously on 8th February and in line with your letter to us of 14th February, to ensure that you have sufficient time to present all your concerns to the Committee. We invite you to do so this morning.

I would point out we do have another witness at 11 o'clock and we would be grateful if you were able to conclude your presentation by that time. So, Mr Kennaugh, I invite you to continue with your address to the Committee.

Mr Kennaugh: I have two documents that I had copied, which I do not appear to have, which I will give you. They are two documents I refer to and they are the best practice standards of development.

The Chairman: And these have been copied to the Committee?

Mr Kennaugh: I have not copied them, I have brought them this morning, but I do not appear to have – I had them copied this morning, but I have not got them with me; so I will deliver them this afternoon for you. I will refer to them.

The Chairman: You will refer?.

Mr Kennaugh: Yes. And that is a copy of a letter for your record. Thank you.

I have summarised my evidence to try and fit in to the inquiry's timeframe and to save time I have made reference to documents. I am not intending to physically identify them to save time and I would like to, if possible, deliver my evidence and then answer any questions at the end.

I would like to respectfully comment, before I give my evidence, I have found it necessary to write to the President of Tynwald with reference to self-regulation due to its downsides: cover up is always more palatable than own up. Mr Rimington, the then Minister for DoLGE, did what most politicians would not do, he owned up. He owned up that his Department had produced a Plan that might possibly not have received Tynwald approval or stand legal challenge. I appreciate we are a small jurisdiction, but our size and the potential problems that result is not the justification for personal, or conflicts of, interest to prevail over fair and proper judgement. This inquiry must prove that Tynwald is competent to regulate its own internal affairs responsibly. That is just a respectful comment I would like to make. Thank you.

Land ownership, the sale of land and the unfair treatment of land allocations was why the draft Braddan Plan became unsafe and corrupted. Land ownership issues should not be confused with land monopoly ownership, which is a totally separate issue and is not relevant to this planning process in question.

I will firstly evidence the circumstances regarding the sale of land owned by the Clerk of Braddan Commissioners, Mr C S Lewin. An issue that is particularly relevant is the circumstances by which Mr Lewin's land, Area 14, was selected, promoted and supported for development from the outset. The Isle of Man's planning system is designed around procedures. The Department has a duty to operate

Procedural

these procedures in accordance with the 1999 Act.

I would briefly like to make reference to the planning system adopted by DoLGE. The 1999 Planning Act lays out the procedure to follow in instituting development plan orders. The Act imposes a duty on DoLGE to carry out certain functions to produce a plan. These functions have to be carried out in accordance with best practice standards. These are the standards which are relied on to produce a safe and robust plan. The latest best practice standards would be the base for the preparation of any development plan process. Planners would always be aware of the most up-to-date standards.

I will provide the inquiry with copies of two of the best practice documents most relevant to the preparation of development plans. They are 'Development Plans – A Good Practice Guide' and 'Planning Policy Statement 12, Local Development Frameworks'. Planning Policy Statement 12, chapter 1, sets out the framework for local development plans and states the following relevant principles to be applied:

'Local communities and all stakeholders will be involved from the outset and throughout the preparation of local plan documents. Soundness: local development documents must be soundly based in terms of their content and process by which they are produced. They must also be based upon a robust, credible evidence base. These standards of procedure ensure that land selection and land allocation goes through proper transparent processes, based on survey material; a credible evidence base and consultation with all the landowners before allocations of development land are selected. These procedures offer protection by way that all relative information is made available to residents, landowners and developers alike. The system is designed to be transparent and fair.'

I also refer you to the Department's own statement on the opening page of the October 1999 draft Issues and Options document and the May 2000 Issues and Options written statement. This document states:

'This document is fairly detailed in terms of the background to the area, supporting information and possible policies'.

It further states:

'The appearance and the content of the plan in parts will remain generally the same'

and further states, and underlined:

'it is also particularly important that landowners who own either land which is being considered for development or land which in their opinion should be considered for development make their views known during the course of the area plan's formulation'.

These statements also refer to the importance of land ownership and the depth of background information required in the plan process from an early stage.

What is evident is the fundamental important issue that landownership is considered from the outset and is part of the procedure of land selection. Evidence to the contrary given by Sarah Corlett and Ian McCauley, under Oath, to this inquiry, was misleading and unacceptable. Proper procedure in the Braddan Plan process was abandoned, which allowed the lucrative selection of land allocations for development to be improperly influenced and corrupted. Individual preference replaced fair and proper process.

The facts are demonstrably evident and obvious in the plan's formulation: there were no surveys commissioned of any kind; there was no credible evidence base collated;

there was a total lack of transparency; there was no planning framework and there was no appropriate declaration of interest registered; the process was improperly influenced by and relied on the Clerk, Mr Lewin, the Commissioners and the planning officer meeting in private; reliance on personal opinion of the planning officer, who lived in the area; private and confidential submissions from the Commissioners on Area 14; private and confidential submissions by Heritage Homes on Area 14; meetings were held in private houses to consult on the plan's content, attended by the planning officer, Sarah Corlett; the planning officer produced and circulated a questionnaire to all residents of Braddan, which was unprofessional and biased; the Department's own policy on land protection was ignored; the Issues and Options document produced in May 2000 was drafted in a way that it did not address all the issues and unfairly described the options; improper reliance on policies in the draft Strategic Plan, which had no planning status whatsoever at the time; the Director of Planning, Ian McCauley, failed to declare that the inspector, Mr Mossop, who presided over the Braddan Plan Inquiry was not independent at all, as he had recently been employed as a planning consultant to his Department, working on the Strategic Plan; the planning officer during the process introduced a change of land classification designated to particularly damage one developer's proposals; the Department ran the Strategic Plan parallel to the Braddan Plan with the same personnel and weakness of procedure and both plans became corrupted by the cross-referencing of policies and proposals, which then failed to be included in the adopted document or failed to be adopted at all.

Even by this Department's standards, the list of failings is impressive. The inquiry will have to consider, were these failings due to a catalogue of incompetence and a total failure of administration, or was the avoidance of proper procedure deliberate. This proper procedure would not support the allocations individuals preferred.

I will now refer you to a planning notice on Area 14. It is 97/0716, which is a refusal notice, and it is important to note the reasons for refusal.

'The roof must be covered in dark coloured sheeting, dark green or brown, and the walling of the stables must be stained or painted dark brown to minimise its impact within the landscape. Prior to the commencement of works on the site the existing access must be improved to the satisfaction of the Department of Transport and the Committee. Such improvement may not involve the felling of trees. Any trees or plants which within a period of five years from the completion of the development die or are removed or become seriously damaged or diseased must be replaced in the next planting season with others of a similar size and species.

Note, the applicant is encouraged to plant indigenous species of trees and to include dense hedging plants such as hawthorn and blackthorn. The building may only be used for equestrian-related purposes and, if erected, the site as defined may also be used for equestrian-related purposes also, as well as for agricultural purposes.'

This decision was made by the Director of Planning. The Planning Committee had deep concerns to the siting of one single storey building on this site. The application 97/166 was approved and I will recite the most relevant parts of the permission.

'The erection of a stables and hay store field 5818 Mount Rule identified as Area 14 on the plan.

Whilst there is no objection to the use of this field for equestrian purposes or to the principle of the erection of the stables therein, the siting of the stables as proposed would render the building visually intrusive as viewed from the B22. This refusal notice is without further

prejudice to an application for the proposed building that is visible from the main highway: the applicant should take care to avoid intrusion into the amenities of the adjacent properties.'

The refusal notice and the granting of permission were very much aimed at protecting the natural identity and surrounding area and residents and these conditions were imposed by the Director of Planning. It is important what else this permission confirms. The owner was Mr C S Lewin, the planning officer was Sarah Corlett, the permission was granted by Barry Vannan, using delegated powers. The permission was for four years, commencing at November 1997 and in October 1999 this land had a current restrictive planning permission. The issues relating to the selection and support for this area of land are disturbing and puts a question mark over the honesty of all the people involved.

The starting point for background information would be previous planning applications and land ownership. At this point in October 1999 Area 14 had a current planning approval in Mr Lewin's name, subject to planning conditions for the area's protection to preserve its rural identity. I have evidence in my submission that the only planning history of any area not recited in the Issues and Options of October 1999 and May 2000 was that of Mr Lewin's Area 14. The concealment of the planning history of Area 14 is a very serious issue and the motives are obvious. The then current planning permission would have identified Mr Lewin as the owner. The conditions of the permission imposed by Mr Vannan would have rendered Area 14 totally unsuitable for a proposal for a development of 20 houses, or in fact any residential development at all.

At this point, the inquiry should note that this is where the process first became corrupted. Sarah Corlett, the planning officer, in the knowledge of Area 14's previous planning history and then current planning approval in the name of C S Lewin, the then Clerk to the Commissioners, proposed it for residential development in the draft Braddan Plan and then continued to support it through that process, even after the June 2000 memo to Mr Vannan. The implications and the officer's assertions, excuses and accounts that surround this proposal are indeed very serious matters. The use of private and confidential submissions by their nature proves the motive was concealment. The assertions that Mr Vannan selected and supported Area 14 for the development of 20 houses is demonstrably untrue.

Miss Corlett selected Area 14 and drafted supporting text prior to October 1999, further expanded on the text in May 2000, all prior to her belated disclosure in July 2000. It is to be noted that her disclosure in 2000 was not a reflection of conscience or integrity; it was a panic because the content of submissions submitted concerning Mount Rule were exposing her situation. The interpretation asserted by Sarah Corlett that the memo to Barry Vannan identifying development areas and proposing text for Mount Rule constitutes his selection and support, it demonstrably does not. In fact, it proves the opposite.

I have a chronology of the true facts, which are well documented and evidenced. Sarah Corlett selected and proposed Area 14 prior to October 1999. Sarah Corlett provided the text describing Area 14 in October 1999. Sarah Corlett expanded on the text further in May 2000 Issues and Options. Sarah Corlett drafted the text for the 2001 draft plan and Sarah Corlett drafted the text for the 2003 modified document. Sarah Corlett replied to the Department's responses concerning Area 14 and Mount

Rule. Sarah Corlett gave evidence at the Public Inquiry for the whole plan, including Mount Rule.

So what did Mr Vannan do? Mr Vannan's involvement was to reply to a memo for the sake of public perception. Public perception is not the issue here. The issue is the assertions from this Department and its officers that Mr Vannan selected and supported Area 14 for the development of 20 houses in the Mount Rule area in the draft Braddan Plan process are false. Mr Vannan was inadvertently and belatedly slid the position of scapegoat. The minute he opened the file on Area 14, he would have recognised the planning approval he recommended and he would have had to walk away. It is not possible for the Director of Planning to disregard the Department's position then imposed by him.

There was no change of planning policies or circumstances that could have warranted Mr Vannan to lift the protection he had imposed on Area 14 to support the development of 20 houses. There is a dishonesty that slides around this Department that undermines the credibility of honest administration. Mr Lewin's land was not a suitable proposal for development; in fact, Mount Rule should have not been considered at all or exploited for the scale of development proposed by Sarah Corlett. The inclusion of Mount Rule was contrary to the Department's own policies.

Mount Rule is not classed as a settlement, so should not have been considered for expansion. Mount Rule is in an area of high landscape value and scenic significance, which carries the Department's policy of a presumption against development. Mount Rule was not in a sustainable area, as it had no facilities. Also, the current highways in Mount Rule were not suitable for expansion. There were drainage capacity problems, with no foreseeable solutions.

To promote planning in these circumstances Mr Lewin needed the assistance of a planning officer who would disregard all planning principles and Department policies for his gain. This support is evidenced in the October 1999 Issues and Options, the May 2000 Issues and Options, the April 2001 draft Plan, the February 2003 modified written statement and DoLGE's responses to submissions and objections to Mount Rule.

The planning inspector's dismissal of all development in Mount Rule, particularly Area 14, is a solid evidence this inquiry can rely on; that Area 14 should never have been selected for development. The inclusion and promotion of development on Area 14 was totally improper and far beyond any misjudgement. The inspector comments at page 66 and 67 of his report and at paragraphs 326, 331. He further comments at 456, 457 and 458. He states at 457, relating to Areas 13 and 14:

'The Department submitted a long statement in which they sought to justify their proposals for these two sites and asked that the designation should remain.'

The Inspector concludes at 458:

'I have already concluded elsewhere in this report that the residential designations for Area 13 and 14 be removed. I see nothing in this present submission by the Department, which would alter my view on this matter.'

The inspector's comments were curt, he was not impressed with Miss Corlett's long statement to justify development in Mount Rule and he saw nothing in their present submission to change his mind. I have to emphasise the inspector saw nothing, *not one issue* to support development on Area 14.

What motive blinded Miss Corlett to write pages of support, contradict evidence from the Department of Transport on traffic, ignore laid-down policy on landscape protection, ignore the spirit of the conditions of the current planning permission, to support Mr Lewin. Conflicts of interest, the cloak of secrecy, the disregard of proper procedure are all relative to Mr Lewin's motive; 3.9 acres of development land would be worth a value of £2 million. This inquiry does not have to prove a motive for Sarah Corlett's actions, only that she was involved.

There are other disturbing issues I referred to concerning other areas of land and their unfair treatment. In considering these issues you need to bear in mind that Sarah Corlett is an experienced planning officer and Mr Lewin is experienced in planning and administration, so they would be fully aware of their actions and their intentions would be deliberate.

The Act does not provide for the Department to hinge itself to any other body or party to produce a development plan, but Mr Lewin and Miss Corlett became a formidable joint force, which resulted in the Plan becoming further corrupted and unfair. At times their actions became reckless. They became reckless because Baccarat's proposals to the Plan were credible, professionally presented and posed a continuing and growing threat to the preferred allocations of Mr Lewin and Sarah Corlett. I would firstly remind the inquiry of the letter of 3rd August 2001 from Sarah Corlett to Mr Lewin, evidenced by Mr Rimington. This letter is disturbingly self explanatory. It states:

'I have also tried to explain in a section on open space, how areas which are designated as open space and not within areas of high landscape value and scenic significance and not available for development and have tried to strengthen the presumption against development at Camlork...'

Here the planning officer and the clerk of a local authority are colluding to particularly damage a legitimate proposal by a private company to a Government planning order. Miss Corlett then went much further. She drafted a modification to the 1982 Order on land classification to serve their purpose and had it approved by the Department on 28th November 2001 as a proposal to the Plan. This proposal, like every other proposal in the Plan, was only a proposal, but Miss Corlett applied it improperly and out of context to damage Areas 1 to 4, as she had promised in her letter to Mr Lewin.

Miss Corlett's corrupt intentions are proven by her actions, but where was Mr Lewin, the recipient of the letter containing Miss Corlett's damaging promise? Why did Mr Lewin not advise the Commissioners of Miss Corlett's scheme to particularly damage Areas 1 to 4, a legitimate planning proposal? That is where Mr Lewin, the Clerk, failed the Commissioners and his position, and he incriminated himself.

I would now like to refer you to the officer's text, in her submission to the Department on 28th November 2001, to remove Area 3. This report to the Department encapsulates the lack of administration in this Department, that a report of such naive calibre, and without any justification, proposes £15 million worth of land. Where was the Director of Planning? Where was the Chief Executive? Its content is a shambles of misleading information and lies, and it finishes off with the reasoning Area 7 was allocated, and I quote:

'We have come up with an idea which allocates a little more land for housing development.'

I will give the inquiry a little idea; it is called corruption. Removing Area 3 – some six acres – and substituting it with Area 7 – some 30 acres – is not justifiable. This must go down as one of the most reckless decisions ever made by a planning officer anywhere.

I would like to take you through the statements of this report. It states:

'The Commissioners are aware of the petition against the development of any of the Camlork site.'

The officer is misleading the Department. The petition clearly states the whole of Camlork Farm, not Camlork site.

The officer further states:

'...441 signatures from the Strang area.'

The instigators of this petition clearly state 'residents from Union Mills and Strang'. The officer is again misleading the Department.

She further states:

'I visited the site several months ago. I noted that the site is uneven and possibly unstable in nature.'

Unsubstantiated rubbish!

'There would appear to be a watercourse running through it, a field drain, significant engineering operations to make more of the site developable.'

A massive exaggeration of fact.

'May be considered unviable.'

Not a planning issue, and no less viable than Area 14, but the true reason for removing Area 3 does lie in this Report, and I quote:

'...the concerns about opening the door to development which may lead to the development of this site as a whole.'

That is why Area 3 had to go. The inclusion of Area 3 was now proving a threat to other proposed allocations, particular Area 14, Mr Lewin's investment, sold to Dandara, and Areas 25, 26 and 23 in the control of Dandara.

The officer further states in a report to the Department to remove Area 3:

'The Commissioners suggested, and I would agree, we would be in a difficult position later if this is accepted for development.'

The serious issue here is 'we may be in a difficult position later'. If Miss Corlett's reference 'we' is the Department, why would the Department be in difficulty later if more of Baccarat's land was accepted for development? Does the Department run another, improper, agenda outside of the Act for land allocations? What possibly could be the Department's difficulty? Had improper assurances already been given to landowners that their land would be included for development? Dandara had great confidence in purchasing the remainder of Camlork Farm: £6.1 million for agricultural land. If the Department was not involved in such dealings, who was in difficulty?

I request this inquiry get a statement from the Minister,

confirming the Department's position on land allocations. Is there such an agenda that is not disclosed to the public? Does the Council of Ministers make recommendations to this Department?

The Draft Plan was published in April 2001. It was Baccarat's submission to this Draft that panicked Miss Corlett. By 28th September 2001, Miss Corlett had produced a paper to the Department to remove Area 3, as its inclusion threatened other development allocations in the area, which would have reduced the need for other sites to be developed.

If Mr Lewin would have had no personal interest in the outcome of the Plan's allocations, he, as the Clerk and advisor to the Commissioners, would have made them aware that what they were supporting was improper, with corrupt implications. Again, Mr Lewin failed his position, which required him to properly advise the Commissioners. The same failures apply to Area 7 being included for development part way through the process. It should also be noted that Dandara only purchased Area 7 part way through the process.

I will not recite all the unaccountable supporting reasons that Area 7 attracted from Miss Corlett, but I will make reference to those which are most obvious.

Area 3 – some six acres – was substituted for Area 7 – some 30 acres – without any justification that the Department had underestimated the amount of land it needed to propose in the Plan. The issue is Mr Lewin should have advised the Commissioners.

I refer now to the response to the Preservation of the Countryside, and it states... and this is the response from the Department:

'Whilst the Society objects to the inclusion of Area 7, the Department and the Commissioners feel very strongly that development of this land can bring considerable benefits to the existing settlement. The development can provide for road widening, additional car parking for the properties in Jubilee Terrace, additional play facilities, a primary school and additional landscaping, as well as reinforcing the identity of Strang as a settlement in its own right, and not simply a suburb of Union Mills.'

Miss Corlett's support for Area 7. The Department of Transport response by Miss Corlett:

'The Department notes the Department of Transport's concerns that, in not designating Areas 1, 2, 3 and 4, the opportunity for a relief road is lost. However, whilst this facility may be welcome in highway terms, it is not accepted by the Department, as the visual impact would be almost as great as that resulting from the development of this area, against which the Department is strongly opposed.'

The Department also expresses concern at what would be a significant increase in traffic between Jubilee and Coronation Terraces and Camlork Place, which offers only a narrow carriageway, which has parking on both sides, where children cross the road to and from the play area and the shop, and where they often play alongside the road within the roadway.'

These are conflicting accounts of near-identical situations, which borders on the ridiculous. These areas of land are on opposite sides of the Mount Rule Road. Their impact on the length of road in front of Coronation Terrace would be near identical. So again, where was Mr Lewin's advice to the Commissioners? Again, he failed them.

Area 7 is in an area of high landscape value and scenic significance. The Department's policy is clear, and I refer you to the February 2003 draft, page 113:

'The Department would recommend the provisions of the Isle of Man Planning Scheme (Development Plan) Order 1982 in terms of the areas of high landscape value and scenic significance with a presumption against development in areas not designated for development.'

The Department's policy is clear. The planning officer's disregard for the Department's policy was reckless, so why did Mr Lewin not bring this to the attention of the board of Commissioners? He again failed to advise them.

The inquiry is aware of the ridiculous statement by the officer referring to visual impact, that Area 7 was hidden behind existing properties – 30 acres of development on rising land, hidden behind Coronation Terrace – but this is the type of reckless statement the officer resorted to. Area 7 was being zoned, even if she had to lie about its features to make it acceptable. The Inquiry into the Strategic Plan took place in March 2005. By this time, Miss Corlett would have realised the Braddan Plan's days were numbered and the allocation she and Mr Lewin had protected was under threat.

I now refer to the land availability table presented to the Inquiry of the Strategic Plan as a table of land available for development.

I will first refer to the letter of explanation from Ian McCauley, the Director of Planning. This letter is dated 15th February 2005. This letter explains the criteria required for land to be included in the table:

'The areas of land that can be included in the table are areas which have been proposed in local plans and have been subject to a planning application. All other sites identified would have the numbers of houses available given as zero.'

All the sites in the Braddan Plan, therefore, could only be accounted as zero. Page 61 of the table:

'Area 23, the business park, Cooil Road, 69 houses; Areas 25 and 26, Drinkwater land, south of Cronkbourne, 400 houses; Area 7, North Strang, 100 houses.'

Five hundred and sixty nine houses included in the Island's Strategic Plan, without completing any process under the Act; this was some accomplishment.

I refer you to the last paragraph of Ian McCauley's letter, and I quote:

'If you have any queries in respect of these figures, please contact either Sarah Corlett...'

What a surprise! Who else would be this reckless?

So where was Mr Lewin's advice to the Commissioners? Can you imagine the response of any other local authority in the Isle of Man being made aware that 569 houses were included in their area by the Strategic Plan without going through any completed process? It would be expected that his advice would have been to challenge this improper housing allocation, but again he failed to do so. Mr Lewin, the then Clerk to the Commissioners, had failed continuously to properly advise the Commissioners of issues of a very serious nature concerning the unfair treatment of land in the Braddan Plan process.

Mr Lewin might maintain it was Miss Corlett alone who was helping Dandara secure zoning. The letter received by him on 3rd August 2001 from Miss Corlett implicates him, that he was involved in improper deeds in land allocations that corrupted the Plan. Also, he had a debt of gratitude to the planning officer for not disclosing the planning history,

or his ownership of Area 14, and the substantial help she gave in supporting its allocation.

What is difficult to keep in sight sometimes is the role this officer was entrusted with. It was a role that demanded trust, honesty, integrity and the ability to follow proper procedure. It was her role to produce a Plan that was robust and credible, that the Department could bring to Tynwald for approval.

This Plan represented £100 million of development land around Douglas, the hub of the Isle of Man's business centre. It should have been a showpiece of planning procedure to encourage external investment and to properly and fairly distribute development to the relevant areas, in an open, fair and transparent manner, to all involved.

I have some sympathy with some of the Commissioners, as they stood little chance of suspecting the manipulation of land allocations.

Mr Halsall did not even know that Area 7 was zoned high landscape value and scenic significance. He supported development on Areas 7 and 14, possibly because he had not been fully advised.

Mr Corkhill gave evidence of the importance of his planning advice to the Commissioners. He went on to describe in some detail the reasoning behind the removal of Area 3, based on mud coming over his shoes and Buster's tractor getting stuck when he farmed it, and I believe there were occasions when the Commissioners had to pay for this type of advice from Mr Corkhill. Then, considering Mr Lewin's dealings with Dandara, it would be questionable whether his advice to the Commissioners could any longer be considered independent, and Mr Corkhill's opinions seemed somewhat unreliable.

The Commissioners are guilty of not facing up to the facts, when they were brought to their attention, of Mr Lewin's land sale and its implications, but maybe their advice on this issue was also substandard.

I would like to briefly refer back to the Strategic Plan issue and the serious implications of the land availability study. I refer to part 2(4) of the 1999 Act, and in particular to this statement:

'The proposals in an area plan shall be in general conformity with the Strategic Plan.'

It could have been argued in the new Eastern Plan process, rightfully or wrongfully, that the inclusion of Areas 7, 23, 25 and 26 in the land availability table, which formed part of the Strategic Plan, had been adopted by the Department and ratified by Tynwald, so these allocations carried weight.

I have evidenced the correspondence to the Minister, John Shimmin, on this issue, and particularly his reply of 17th April 2007, in which he defended the improper inclusions of these land allocations. It is important this inquiry investigates this issue to ascertain who advised the Minister that these allocations were legal, or are they part of a Department agenda being applied outside the Act I referred to earlier?

I would like to address the inappropriate acceptance and use of private and confidential submissions. The Act does not anticipate confidentiality in a plan process. The Department has a duty under the Act to give a reasoned justification for its proposals. The duty is impeded if the evidence base is confidential.

I have evidenced Ian McCauley's response to these

issues, which are in three letters. The first is a letter of 1st July 2005, and it states:

'As I have explained before in writing, the Department's practice was that all comments on the Issues and Options report were treated as private and confidential.'

I have evidenced in my submission the flaw in Mr McCauley's assertions that the Department can rely on practices which are contrary to their duty under the Act. Because they had been relied on before does not make them legal.

His letter of 18th July 2003 states:

'Turning to your second point, what representations were made in respect of Area 14 at the Draft Plan stage...'

This is now not the Issues and Options, the Draft Plan stage:

'...I can advise that submissions were made by Braddan Commissioners and Heritage Homes. At that stage, the Department considered such submissions to be confidential between the party and the Department.'

Letter of 9th September 2003:

'Finally, on the point of providing a copy of the submissions you refer to, I can advise that the Department's practice has not been to supply copies of initial submissions on the Draft Plan, the Braddan Plan or any other area plan, on the basis that, at this stage, submissions are made on a confidential basis. The opportunity to scrutinise proposals is at the inquiry stage.'

So confidentiality went all the way to the Inquiry stage. These private and confidential submissions were not in front of the inspector, nor had they been put in the public domain. It should be noted, when replying to these letters, Mr McCauley was aware of the Clerk's involvement in Area 14.

I have also evidenced in my submission Ian McCauley's ridiculous assertions that once Sarah Corlett had selected Area 14, it became Departmental policy, so therefore no conflict of interest applied. This inquiry should question the misleading evidence given to this inquiry by Ian McCauley on this issue.

I have evidenced the change of format applied to the Braddan Plan Inquiry, disallowing necessary cross questioning of the Department. This inquiry should investigate why this format changed at a late date, as the pre-Inquiry meeting statement anticipated questioning.

I have evidenced the letters of assurance given by Mr McCauley and Mr Hamilton that Miss Corlett would not have any further involvement or dealings with the Braddan Plan area. Evidence proves the contrary; this inquiry should ascertain the truth.

The issue of the inspector of the Braddan Plan, Mr Mossop, not being independent, as would be expected, is an issue that is also relevant, and the inquiry should ascertain the circumstances of his appointment. The Minister, John Shimmin, in answer to a Question on this issue on 11th July 2007, relies on this inquiry to look into this issue. The inspector's appointment needs to be considered against Mr Corrin's *Pilling* judgment.

I have little more to say on this matter.

The Chairman: Thank you very much, Mr Kennaugh.

I will ask my colleagues if they have any questions. Mr Downie.

Mr Downie: Mr Kennaugh, the two documents referred to in the development of the planning standards and the other document, I think, based on the survey material, are they UK documents?

Mr Kennaugh: They are. They are the same ones that were used in the Strategic Plan, which the Department themselves are fully aware of. They are what they rely on.

Mr Downie: But they have never been formally approved by Tynwald.

Mr Kennaugh: No, they do not have to be, because we do not have a structure. We have a structure under the Act, but we do not have any of the relative documentation to go with that.

Mr Downie: So these are used as a guidance note, then, for the planners.

Mr Kennaugh: These are what the planners rely on as best practice. This is common throughout the whole British Isles. They usually follow... The Department of Environment is where they originate from. My apologies for forgetting them.

Mr Downie: It is all right, no problem.

The Chairman: Mr Downie.

Mr Downie: You said in your evidence that you felt that the proper procedure was abandoned, both by Mr McCauley and Sarah Corlett, and you stated that part of your concern was that there were no surveys commissioned of any kind. Do you not think that, when the evidence is given at the planning inquiry, it is up to the individual to make the case, and indeed you were given every opportunity at that public inquiry to make the case for your land being included in the Plan? Did you provide any surveys to say that the land was suitable for development?

Mr Kennaugh: We did, but that is not the point I am getting at. Under the Act, the Department has a duty to commission any survey that is relative to the area, and that is how they get their up-to-date evidence.

Mr Downie: But they would have to do that for the whole area, (**Mr Kennaugh:** Yes.) and it would take forever.

Mr Kennaugh: No, it would not. It is like the Strategic Plan. They did not do it in that, and had to go back. It is exactly the same principle. They have failed to do it over the last three or four plans, and it is a flaw in our system that needs to be rectified. I think the Department are rectifying it.

I think, when you see what is happening in the first information sent out for the Southern Plan, that they are starting on a better premise.

Mr Downie: Just finally then, I wonder if you could elaborate on your views of the decision taken, following the Inquiry, to hold your land in reserve.

Mr Kennaugh: I think what you have got to look into is if you look at what the inspector said in his Report, he found no reason why our land should not be developed at all, and that is contrary to the campaign by Sarah Corlett that our land was not suitable for development. The inspector agreed with the previous inspector, and the previous inspector, who had refused permission – refused it on prematurity – but he stated that if any more land was required in this area this land should be brought forward.

When the Department first looked at Braddan, it would have been the first piece of land that should have come to mind. It provided a bypass to the Hospital, to Strang Road. It provided the infrastructure of new drainage that the whole area needed.

If you look at what was put to the Department, the Issues and Options did not even put the bypass in as an issue, never alone treat it as an option. I think Mr Rimington went to a little more detail. I could explain it, but it would take me an hour to go through the Issues and Options for you, but Areas 1 to 4, the planning officer split them into two, so then she used each one with a different criteria, why it should not be developed, instead of looking at it as a whole and saying, ‘As an issue, do we need a new route to the Hospital, and is the Strang Road now too narrow for the traffic that is being used on it, and what is the option? Would the option be a bypass?’ None of this was... This is the flaw in our planning system: there is no framework.

Mr Downie: I am conscious of the time and my colleagues may have some other questions.

Mr Kennaugh: Sorry.

The Chairman: Mr Karran, any questions?

Mr Karran: The private and confidential submissions, have you managed to get a copy of that?

Mr Kennaugh: No.

Mr Karran: So you have no idea what is in them?

Mr Kennaugh: No idea.

Mr Karran: The question that you asked in July 2007, what was the Question about, if you would not mind? You said there was a question in your evidence of... did somebody ask the...?

Mr Kennaugh: That was somebody asked the Question, I think... Are you referring to what... There was a Question asked in Tynwald that was about Mr Mossop, and Mr Shimmin... It is in one of my appendices. The *Hansard* from Tynwald –

Mr Karran: So it is in July 2007 Tynwald.

Mr Kennaugh: His reply was that that would be investigated by this inquiry.

The Chairman: Can I ask you, Mr Kennaugh, do you agree that the purpose of a public inquiry is for the inspector to test the justification for particular areas of land being recommended to be zoned in a particular way?

Mr Kennaugh: Yes, but he tests them with what the Department brings forward. He does not test them as an open book. He does not look at every area, which I think would be the proper way to do it, and he does not decide which area he thinks should be developed.

The public inquiry is based on what the Department puts forward, and should that be recommended, and he did not do that in the Braddan Plan.

The Chairman: Would you agree that all parties, from whatever point of view, had the opportunity to make a case in respect of that particular proposed designation, and the inspector, and indeed has, overturned what the Department recommended.

Mr Kennaugh: It is, but there is a lot of weight put on what the Department would put forward. He would not want to start and redo the whole Plan. He is influenced by what is put in front of him, which is the Department's recommendations, and that is the flaw because the Department's recommendations were not based on proper procedure.

The Chairman: If a case is made strongly to the inspector that the Department had incorrectly made a proposal on material planning grounds, there would be the opportunity for the inspector to recommend –

Mr Kennaugh: That the land is suitable.

The Chairman: – or either zoned or de-zoned, whichever, yes.

Mr Kennaugh: As he did. He did recommend that our land, that there was no planning problems with it whatsoever. In fact, I think he went on to state that he saw no reason that our land should not have been developed and that was our argument to the Department. What with this campaign against it, when, if it would have been fairly treated the same as other areas of land, we would have got a different result.

The Chairman: So therefore, no matter how a particular recommendation is arrived at through the early stages of Issues and Options and consideration leading up to the draft written statement, there is the opportunity at the Inquiry for land to be redesignated, for a recommendation to be made?

Mr Kennaugh: Yes, but it is not an even opportunity because what the inspector looks at is what the Department has recommended, so he is not saying 'I have 10 pieces of land and I will zone five of them'. What he has is five of them already recommended, with a heavy emphasis from the Department that this is the five we want and that is... It is not a level playing field, the Public Inquiry, it comes weighted, weighted on the side of the Department and its recommendations.

The other problem that we had with the Inquiry was as far as... When we got to the stage of having the pre-Inquiry meeting which I think was about a month or so before the Inquiry it looked like being a normal Public Inquiry. When we got to the Inquiry, after I had informed the Director of Planning of our issues over Mr Lewin and Sarah Corlett, when we got to the Inquiry, the inspector said that there was to be no cross-examining of any of the Department, so we were not allowed to raise any of these issues in front of the inspector, which was totally wrong.

We were going to have to wait till it had been through

Tynwald and then that is, under the Act, that is the only time that we can make a legal challenge. Up until then we can only make representations.

Mr Downie: So who set that rule, then?

Mr Kennaugh: It is in the Act. The Act states that the only time to make a legal challenge is when it has been ratified by Tynwald and you get six weeks to make your legal challenge. So we would have had to wait for that six weeks to basically put the case I put to you today. It would have been in front of court. Mr Rimington withdrew it.

Mr Downie: There would be nothing to stop you appearing at the Bar of Tynwald while this issue was being debated and seeking leave of Tynwald to make a representation, as people have done before you.

Mr Kennaugh: But then you have to seek leave and might not get it.

The Chairman: Okay, thank you Mr Kennaugh. Mr Pass, any final questions?

Mr Pass: Yes Chairman.

Mr Kennaugh, you have used very emotive words. I have a note here that you said that Miss Corlett and Mr Lewin were a 'formidable joint force' and that there were 'private meetings at private houses' attended by the planning officer –

Mr Kennaugh: Yes, yes.

Mr Pass: I assume you mean Miss Corlett?

Mr Kennaugh: Yes.

Mr Pass: Could you enlighten us a little further.

Mr Kennaugh: Yes, there were two meetings. I think they were at Jack McKinney's house. They were with Braddan residents and Sarah Corlett attended them, which I find absolutely astonishing.

Mr Pass: You say that Mr Lewin had a debt of gratitude for not disclosing the ownership of Area 14 to Miss Corlett. Is it the responsibility of the planning officer to disclose the ownership of an area?

Mr Kennaugh: Absolutely. If she is putting a plan for the Minister to rely to bring it before Tynwald and suddenly finds that the Clerk to the Commissioners has had a vested interest in it and the officer knew and never informed the Department, I am sure that she must have a responsibility to the Department to say, 'I am working with somebody who is going to make £2 million out of my representations.'

Mr Pass: That would be as a public servant –

Mr Kennaugh: As a public servant, yes.

Mr Pass: Right, okay.

Mr Downie: But just to take that point: during the course of a local planned revision, an entrepreneur or a property developer like yourself, you could have options on hundreds

of acres of land. How would anybody in the planning office know who had options on what, because that is part of the problem that we have in the Isle of Man today?

Mr Kennaugh: I agree that that is part of the problem, but it is a totally different issue when it is the Clerk of the Commissioners advising the Commissioners how actually to support this land.

Mr Downie: Well you were in this room and you heard the same as we did that the issue about land ownership is not something that is taken into consideration by the planners.

Mr Kennaugh: Absolutely and I would like you to investigate it, because I cannot find it anywhere. It is the fundamental issue, the first thing you would look at is the current planning permission and then you would look at the land ownership.

There is no point in producing a plan and find out later that none of the landowners want their land included. There could be family trusts with family disputes. You could end up producing a plan in front of the inspector and somebody saying, 'I am very sorry, three quarters of that land cannot be on.' The best practice guide says from the very beginning landowners should be consulted.

The Chairman: Right, well thank you very much, Mr Kennaugh. Unfortunately our allotted time. We will consider your evidence very carefully and we will contact you, if we have specific questions from your evidence. Thank you very much.

I will take a five minute adjournment to give everyone the opportunity for a comfort break and then we will move on to the second part of our evidence, when I will call Mr Lewin. Thank you.

*After a five-minute adjournment,
Mr Lewin was called at 11.12 a.m.*

Administration of the Oath

The Chairman: Ladies and gentlemen, we resume our session this morning and I would, firstly, ask our Clerk to invite Mr Charles Lewin to take the Solemn Oath.

Mr Lewin: I swear by Almighty God that the evidence I shall give to the Committee at this and any further hearing shall be the truth, the whole truth and nothing but the truth.

EVIDENCE OF MR C S LEWIN

The Chairman: Thank you Mr Lewin. Could I ask you first, just for the record, to introduce yourself and your two colleagues please.

Mr Lewin: Yes, Mr Chairman, Members, Mr Clerks. I am Mr Charles Stanley Lewin, former Clerk to Braddan Commissioners. I have with me Mr Walter Wannenburg of Dougherty Quinn and Mr Stephen Sauvain QC.

The Chairman: Thank you.

I understand you wish your legal advisers to make a Statement on your behalf and so could I perhaps invite that to happen at this point, please.

Mr Sauvain: I have been asked to make this Statement on behalf of Mr Lewin in an attempt to clarify certain principles of law that have been raised at various stages at the sitting of this Select Committee in relation to the use of the word 'bias' in some of the allegations that have been made in respect of Mr Lewin.

On legal principles, the first point – although I am aware the Select Committee is familiar with it – is to draw attention to the statutory provisions that apply to the conduct of local government officers at the relevant time and to certain guidance which has been provided to local authority officers. The legal provisions were set out in the Local Government Act 1985 and have only recently been amended. The original provisions are explained in guidance that was issued to members and officers of local authorities as late as June 2002, entitled 'General information for Members and Officers of Local Authorities' produced by the Local Government Unit of the Department of Local Government and the Environment.

Local authority officers were required to declare a pecuniary interest in any contract which the local authority had entered into or proposed to enter into. The guidance issued by the Local Government Unit expressly states that the declaration of this pecuniary interest does not preclude an officer from dealing with the matter on behalf of the local authority and I quote:

'Officers. An officer of the local authority must also declare in writing to the authority any pecuniary interest in a contract which it has entered into or proposes to enter into but this does not preclude him from dealing with that matter on behalf of the authority.'

and that guidance, therefore, was being issued some six years after the *Pilling* judgment. Secondly, there has been much discussion over allegations of bias with reference to the decision of Deemster Corrin in *Pilling v the Department of Local Government and the Environment and Sinden*. It is my understanding that the common law principles relating to allegations of bias apply on the Isle of Man. The common law recognises three types of bias.

The first is where there is evidence that a decision taken was actually biased and this requires an investigation into the mind of the decision maker which generally the courts are reluctant to do and which does not arise in this case, so far as the former Clerk is concerned because he was not the decision maker in relation to the Braddan Plan.

The second is where bias is presumed because of a pecuniary or direct interest of the decision maker in the subject matter of the decision. Again this cannot apply here because the former Clerk was not the decision maker on the Plan.

The third is based on how the decision process may appear to those who observe it, described as 'apparent bias'. This could arise from the conduct of other persons which might be seen as having influenced the decision maker. So far as apparent bias is concerned, the test stated by Deemster Corrin in *Pilling* in 1996 was whether right-minded persons would think in the circumstances there was a real likelihood of bias on the part of the decision maker. So far as I am aware, Deemster Corrin was confirming that the same principles of

common law natural justice applied on this Island as apply under the jurisdiction of England and Wales. Within that jurisdiction, the House of Lords in the case of *R v Gough* in 1993 had expressed the test in the following way:

‘Having ascertained the relevant circumstances, the court should ask itself whether, having regard to those circumstances, there was a real danger of bias on the part of the relevant member of the tribunal in question, in the sense that he might unfairly regard or have unfairly regarded with favour or disfavour, the case of a party to the issue under consideration by him, though in a case concerned with bias on the part of a justices’ clerk, the court should go on to consider whether the clerk has been invited to give the justices advice and if so, whether it should infer that there was a real danger of the clerk’s bias having infected the views of the justices adversely to the applicant.’

And that was from the speech of Lord Gough of Chieveley with whom Lords Ackner, Mustill, Slynn and Woolf all agreed and the emphasis there I have given is my emphasis rather than their emphasis. Gough therefore emphasises that it is not just a matter of appearance, it is necessary that all the circumstances should be carefully examined and it is the effect on the decision maker that is of importance.

That test has been reformulated in the case of *Porter v Magill* in 2002 to be whether a fair-minded and informed observer, having considered the relevant circumstances, would consider that there is a real possibility that the decision maker was biased and that has also been cited by the Privy Council in a case called *Meerabux v Attorney General of Belize*, which is a decision of the Privy Council and I understand that it has also been applied in this Island in *Re Manx National Heritage*, a decision in 2006.

It is important to note, however, that the requirement that bias should be apparent to the fair minded and – well, it should be, I will read that again, if I may – it is important to note, however, the requirement that bias should be apparent to the fair-minded and informed observer. Lord Woolf in *Gough* had explained that it is because the court, in the majority of cases, does not inquire whether actual bias exists, that the maxim that ‘justice must not only be done, but seen to be done’ applies.

When considering whether there is a real danger of injustice, the court gives effect to the maxim, but does so by examining all the material available and giving its conclusion on that material. If the court, having done so, is satisfied there is no danger of the alleged bias having created injustice, then the application to quash the decision should be dismissed. In other words, the concept of apparent bias does not exist in a vacuum. The question is whether, viewed objectively, there is a real possibility that an alleged bias could have caused unfairness.

How might those principles apply to the decision to withdraw the Braddan Area Plan? The following submissions are drawn principally from material that has already been produced and published before this Committee. When announcing his decision to withdraw the Plan, in a Statement made to Tynwald on 20th June 2006, the former Minister made it clear that there were two issues which had caused him to take that decision. The first was the existing finding of a perception of bias raised by the findings of the McGreal Report and the second was his concern over the inconsistent treatment of certain areas of land and he is recorded as saying:

‘Whereas the integrity of the Plan can withstand the first complaint of perception of bias, there are other matters that I have alluded to which

to some extent have been identified by the independent inspector in his report.’

Those matters were:

‘There are concerns regarding the inconsistent treatment of certain areas within the Plan. These have placed a shadow over the integrity of the Plan and whether or not it is fit for the purpose and a true reflection of the suitability of the development of certain areas.’

This latter matter, therefore, must have been the critical factor that caused the withdrawal of the Plan, notwithstanding the fact that the Plan had been considered by an independent inspector who had concluded that if his recommendations were to be accepted,

‘the final Parish Plan will be a robust document and a satisfactory guide to the Department, landowners and developers, when considering proposals for development over the next 10 years.’

and I quote there from the inspector’s report at paragraph 603.

It is correct that the Minister referred to another complaint that was being investigated at that time but *Hansard* records that, in answer to a question on 16th October 2006, the Minister replied that, as a result of this investigation, the Department has been informed but – and I think it should say ‘that’ – ‘has been informed that no evidence was adduced to substantiate the complaint that had been made’. There is nothing in the reasons given to Tynwald, therefore, that suggests that the Minister was withdrawing the Plan specifically because of any perception of bias raised by the conduct of the Commissioners or their former Clerk, nor is there any indication that he was aware that, for any legal challenge to the Plan to succeed on the grounds of apparent bias, there would have to be shown objectively – i.e. to the fair-minded observer – to be a real possibility of bias in the decision maker, i.e. in himself and his Department.

I am aware that the former Minister has since given evidence to this Committee on 28th June 2007 that there was a double perception of bias which arose out of the former Clerk to the Braddan Commissioners’ sale of land to Heritage Homes and which was reinforced by other evidence that he believed he had discovered. However, I point out that when the decision was made and explained to Tynwald, these matters were not referred to.

Bearing in mind the facts that the Plan was withdrawn because of alleged inconsistency in the treatment of certain areas and that the terms of reference of this Committee are to identify the extent to which the involvement of the Commissioners and their former Clerk caused or contributed to the Plan being terminated, the Committee may wish to consider the extent to which it is possible, without re-running the Public Inquiry, to determine whether the decisions were, in fact, inconsistent. It is plain from the former Minister’s evidence to this Committee that he disagreed with a number of the planning judgements that had been made during the process of the preparation of the Plan. This, of course, he and his Department were entitled to do without going to the extreme of withdrawing the Plan. They are the same issues which it was also the role of the inspector to assess.

If I can just add there, as I understand the proceedings under the 1999 Act, the Department and the Minister may modify the Plan after the Public Inquiry so long as they go through a procedure of allowing further representations to be made.

So far as I am aware, all those wishing to promote or oppose land use allocations in the Plan were able to object and subsequently to raise these matters at the Public Inquiry. I have already referred to the inspector's conclusions on the robustness of the Plan that he was recommending to the Minister. It was that version of the Plan, as modified after taking into account the inspector's recommendations, that the Minister would otherwise have taken to Tynwald, but in fact chose to withdraw.

So far as the Commissioners and their former Clerk were concerned, firstly they were not the decision makers in relation to the Plan. The position of the Commissioners is that they were simply a consultee, albeit an important and active consultee, but not the decision maker. The decisions were taken by the Minister and his Department on the advice of the officers of the Department of Local Government and the Environment.

Secondly, the position of the former Clerk is that he was one step further removed from the decision-making process. He was the officer of and adviser to the consultee. At the time that the first Plan document was produced which I have taken here to be the production of the first draft of the Issues and Options paper to the Commissioners in September 1999, the land then owned by the former Clerk had already been identified as a site to be considered as an option for residential zoning and so far as I am aware, no evidence has been produced to this Committee that the Clerk or the Commissioners had had any involvement in the creation of that first document.

On examination – and I invite the Committee to carry out that examination – on examination of the changes in wording between this first version of the Issues and Options paper that was sent out to public consultation – sorry I will read that again – On examination of the changes in wording between this first version of the Issues and Options paper and that which was sent out to public consultation in May 2000 – that was the second Issues and Options paper – the only changes that relate to Area 14 would appear to be unfavourable to its future development, in that they draw attention to potential access difficulties.

At the time that the land was actually proposed for zoning as residential land by the Department in the draft Plan of April 2001, the Clerk no longer had any interest in Area 14, having sold it in December 1999 and indeed that sale took place before the issue of the second Issues and Options paper.

At the time that the Plan was withdrawn by the Minister, the land formerly owned by the Clerk was no longer proposed to be zoned for residential development in the Plan, in accordance with the inspector's recommendations, and this clearly, members of the Committee, is a submission I make. It is difficult to see how Mr Lewin's previous ownership of land, sold more than six years earlier and which was no longer being proposed for residential development, could reasonably be supposed to have had any material effect on the impartiality of the Plan that was withdrawn by the Minister in 2006, i.e. after that land had been taken out of the zoning.

In relation to other matters raised by the former Minister which he believed to lead to inconsistent or uneven decision making or in his evidence to the perception of bias, I would respectfully suggest that the Committee may wish to consider the following questions.

Firstly, is there in fact any evidence that the Plan was

inconsistent or uneven, bearing in mind that it had been through examination by an inspector at a Public Inquiry. Secondly, could those inconsistencies have been addressed without withdrawing the Plan and thirdly, is there, in fact, any evidence of action or conduct by the Braddan Commissioners, or their former Clerk, which could have created to a fair-minded and informed observer the perception that there was a real possibility that the decisions taken by the Minister and his Department in formulating the Plan and modifying it in accordance with the recommendations of the independent inspector, had been biased, in the way that competing land use claims had been addressed.

That is all I wish to say to the Committee and I thank you for allowing me to make the Statement on behalf of Mr Lewin.

The Chairman: Thank you very much indeed.

I understand, Mr Lewin, you also would like to take this opportunity to make a Statement to the Committee.

Mr Lewin: Yes, Mr Chairman. In relation to the land sale, in the mid-1990s I decided to sell what was then Ballamillaghyn Farm which included the land which formed part of the original Mount Rule Farm. I retained one field, this being now what is referred to as Area 14. In my opinion, and that of developers who had expressed an interest to purchase this field, there was a possibility that Area 14 could be zoned when the Plan was reviewed. This was because Mount Rule, Ballamillaghyn was an area specifically identified in the Braddan Plan 1991 for studies which would be carried out as to the suitability of the land being developed or not, as the case may be.

As the studies had not been carried out, it was obvious to me that the fields within the hamlet would be included as areas that should be considered as part of a review of the next development plan. Developers from as far back as 1988 had approached me to ascertain if I would grant them an option for the field. I had decided that as the Braddan Plan was to be reviewed that I would proceed to sell the field prior to the review of the Plan commencing. Mr Tynan was one of the developers who had been trying to obtain an option. I advised him that I would be prepared to sell the field at 50 per cent of the current market value of the land zoned for residential development.

After extensive negotiations, the deal was agreed in principle in July 1999. The sale was completed on 21st December 1999. By selling the field I then had certainty as it relates to the value of land and I no longer carried the risk of land not being zoned and by having sold the land, then this would not cause any conflict as it related to my employment with Braddan Parish Commissioners.

At a Commissioners meeting in July 1999, after I had agreed the sale, I did advise the Commissioners that I had sold the land. In accordance with the Commissioners' policy, when a member or officer made what we referred to as a voluntary disclosure, this being a disclosure not required by the provisions of the Local Government Act 1985, then such disclosure would not normally be minuted.

Where a disclosure was required by the Act, then an officer is required to write to the Authority, setting out what the pecuniary interest is. I recall also disclosing the plant hire business at the same meeting. I advised the then chairman, Mr Gawne, in 2000 that I was selling my interest in the company that was carrying out works for Isle of Man Business Parks

and it was agreed that I would include this matter on the next agenda. I recall Mr Mason asking if I had any objection if he prepared a paper on the land sale disclosure. I advised Mr Mason that I had no objection. I believe Mr Mason prepared and circularised his paper at a meeting held on 24th.

Mr Jessopp states in his evidence, the written evidence and also orally, that the voluntary disclosure of the land sale is also recorded in the Commissioners' minutes of a meeting held on 12th June 2000. However, it would appear that these minutes have not been disclosed to this Committee and we were refused access to them last week by Braddan Commissioners.

Mr Corkhill, in his evidence, also confirms that he was aware that I had sold the land and that when Area 14 was being discussed by the Commissioners, I was not involved in those discussions, even though those discussions were some seven months and later after I had actually sold the field.

I would like to move on now, Mr Chairman, to the facts and the meeting with Mr David Cooper. Mr John Hoggett was a barrister that specialises in planning matters and had been retained by Braddan Commissioners in relation to various high-profile planning matters, including the new Hospital, Energy from Waste Plant and the proposed prison. Mr Hoggett has advised me on a private and confidential basis of a medical problem that he was suffering from. I recall this being in early 2000. Mr Hoggett advised that if his medical condition deteriorated, then he may not be able to accept instructions and in particular, travel to the Island. He did advise he would keep me informed.

I recall subsequently bumping into Dan Tynan at Ronaldsway Airport. His company also retained Mr Hoggett to advise on planning matters and he mentioned that he was aware of Mr Hoggett's medical problem and that his company had retained a barrister from London. He could not recall his name but he would ask his secretary to contact me on my return. Mr Hoggett subsequently advised that his medical problem was deteriorating and that he would hold conferences in London. I recall discussing with Mr Hoggett his availability to accept new instructions and I recall it was agreed that we would discuss this after our next meeting, which was to be on 11th May 2000.

In the intervening period, I decided that as the Commissioners had three major planning issues arising that I would ask Mr Tynan's secretary to set up a meeting with Mr Cooper for 12th May. I wanted to establish his expertise, familiarity with the Isle of Man, and his availability. I wanted to be able to inform the Commissioners of alternative counsel, should Mr Hoggett not be available at short notice. Mr Hoggett advised, on 11th May after our meeting, that he would be able to continue to accept instructions. Therefore I cancelled the meeting with Mr Cooper.

Thank you, Mr Chairman.

The Chairman: Thank you, Mr Lewin.

We turn now to some areas of questioning. I am conscious that you may consider you have already answered some of these questions in respect of a statement, but can I begin, as an introduction, by asking you to outline the history of your involvement with Braddan Commissioners, in whatever capacity.

Mr Lewin: This is going back to, I would think, sir... If you would just bear with me, because obviously we are going back a long way here, over 20 years. I think it was 1986 that

I was first elected to the Commissioners, and I served then through until 1991, when I was appointed as Clerk to the Commissioners, through until 27th March last year, when I was unfairly dismissed.

The Chairman: Thank you.

What, in your opinion, is the role of the clerk and chief executive of a local authority?

Mr Lewin: I think there is a difference between those two words, sir, between the clerk and the chief executive. The clerk really is there to provide a service to the Commissioners, obviously dealing with administration, correspondence, and actually assisting the Commissioners in the day-to-day operation of the business, implementing policy, and in particular implementing the decisions made by the commissioners.

As to the role of... and I have noticed the words 'key adviser'. Obviously, the clerk cannot be a key adviser in every field, from legal, accountancy, town and country planning etc, so therefore, if, in the event that the Commissioners were requiring specific advice – and as you can see from all the minutes, the likes of the Energy from Waste Plant – then I would recommend to the Commissioners that they should retain an external consultant for that specific advice.

The Chairman: How does the role of the clerk differ then from that of a member of the board?

Mr Lewin: There is a significant difference, sir. The clerk and his team really are there to serve the board. The clerk would not be involved in any decision-making. He may advise the Commissioners on policy, but as Mr Gawne has clearly said in his evidence, the decisions are taken by the board, and then the clerk and the staff are responsible for implementing those decisions.

The Chairman: Thank you.

Could you indicate any other appointments that you may have held coincidentally while you were Clerk to the Commissioners, public appointments?

Mr Lewin: A member of the Board of Education.

The Chairman: And when did you become a member? Would it be after the –

Mr Lewin: 2001, was it?

The Chairman: After the November 2001 General Election (**Mr Lewin:** Yes.) for the Keys. So it would be 2002.

Mr Lewin: 2002, yes, sir.

The Chairman: As a member of the Board of Education, were you a governor of Braddan School?

Mr Lewin: Yes.

The Chairman: And what was your role, as governor?

Mr Lewin: Basically, the role there is to support the school and monitor the performance of the school and standards and...

The Chairman: And were you Chairman of the Governors?

Mr Lewin: Yes.

The Chairman: So you were Chairman of the Governors at Braddan School.

In the evidence of Mr Gawne, a Commissioner, he advised us that for a two-month period after the re-election of himself and Mr Halsall to the board in May 1998, he was effectively excluded, with Mr Halsall, from the work of the board of Commissioners. Do you recall that taking place, and what was your advice to the Commissioners at that period?

Mr Lewin: I recall it well, Mr Chairman. Basically, if I can just give you the outline, because the picture needs to be complete.

There was an election in the March of that year, where Mr David Mason, who had resigned some months earlier, as a matter of – my understanding was – protest that the board were not opposing the incinerator... Following that election, there was Mr Mason, Mr Daugherty, Miss Druggan, Mr Halsall and Mr Gawne elected.

Normally, the annual general meeting of the authority would be on the first Tuesday of the month in May, and for some reason, within a very short period of time I received a motion from Mr Mason, which was setting out that, basically, he was proposing that the Commissioners would oppose the incinerator. This was actually, unusually, signed by two other members, Mr Daugherty and Miss Druggan. It was therefore clear that, if those three members were going to honour their commitment to the motion at the meeting, then the Commissioners, the majority, would carry the day and we would change overnight, from supporting the incinerator with conditions, to opposing it.

The other issue was that... and, from memory, the Inquiry was starting virtually within a couple of days after the AGM. In accordance with the policy, this notice was forwarded on to the then Chairman, Mr Gawne, who came in. We discussed it, and I remember him saying, 'Well, the answer is we have to move the date of the annual general meeting.' My view was that we should not do that, because that is set down in standing orders, and basically we should continue as we were. Mr Gawne wanted us to take legal advice. We consulted with Mr Peter Clucas at Cains, and yes, the AGM could be moved, and at the last meeting of the outgoing authority, that resolution was passed, which moved the AGM further into May, which put it beyond the date of the Public Inquiry for the incinerator.

From that, my understanding is that Mr Mason was very annoyed, and my understanding is that he was taking advice from... He did indicate Mr Karran a couple of times, and came back with a very detailed, structured committee system. The issue of the committee system had been raised over the previous years as to whether it was one that would be suitable, or whether it would work in Braddan. My view was that it would never be suitable and it would never work, because, basically, you have got five Commissioners – what is the point of having a committee system?

It became obvious very quickly to me that this committee system was being set up, and it is in accordance with the Act, that would actually result in, basically, all the work going

through these committees, and Mr Gawne and Mr Halsall, I think, were excluded off all those committees. So it was almost tit for tat.

The Chairman: Were Mr Gawne and Mr Halsall denied documents and minutes of meetings for a particular period following their election?

Mr Lewin: There was an instruction from one of the committees, basically saying that the minutes had to come back to the next committee meeting. I had serious concerns about these because, as far as I was concerned – and I still am concerned – my view is that any member is entitled to any correspondence document that is within the Commissioners' office. Equally, I could not go against the committee decision.

The Chairman: And what would have been your advice to the committee?

Mr Lewin: My advice to the committee was very clear: that once the minutes had been approved by the committee then they should be available to any of the other members. My view is still that, and that is one of the issues that came up with Mr Jessopp.

The Chairman: Are you saying you did not issue minutes or documents to these two members because you were under instruction from that committee?

Mr Lewin: I was under very clear instruction, and also from one of their legal advisers who served the committee, yes, sir. So I was being very, very careful.

The Chairman: Thank you.
Mr Downie.

Mr Downie: Could I ask you then, you said that you were under instructions from one of their legal advisers. Are you aware that any of these individuals were in receipt of lawyers' letters regarding this issue?

Mr Lewin: From memory, there was an issue between Mr Mason and Mr Gawne. I know Mr Mason, and I think it might have been at one of the committee meetings where he was going to speak to the Commissioners' advocates. From memory, I am not sure whether the committee actually resolved to send the letter, but my understanding is a letter was sent, yes.

Mr Downie: So did you feel that, at any stage, Mr Mason was using his position within the Commissioners to use the legal services available to him to have a go at another Commissioner?

Mr Lewin: I think basically, Mr Chairman, it was a horrendous period, because here we had a board totally divided. We had Mr Mason, who is a very strong character, Mr Gawne, who is a very strong character, and the officers were caught in the midst.

All we could do was advise, but if the committee instructed their advocates to send a letter, there was nothing I could do. I was advising both parties, really, that this could

not continue, and try and get round a table and sort out the differences.

The Chairman: Thank you.
Mr Karran, have you any points on this?

Mr Karran: Yes. I do not recall ever Mr Mason coming for advice, as far as the internal goings, as the MHK for the area, but I do remember Mr Mason coming to see me, or ringing me up late one night, in a terrible state, as far as some lawyers' letters from the Clerk. Is that not the case?

Mr Lewin: No, Mr Chairman. There were certainly never any lawyers' letters sent from the Clerk to Mr Mason.

Mr Karran: No, the lawyers' letters would not be sent, but on behalf of yourself.

Mr Lewin: Sorry, could you just be clear there?

Mr Karran: Obviously, lawyers' letters would not come from yourself; they would come, as the party, from legal advice from other parties on behalf of yourself.

Mr Lewin: I am still not clear there, Mr Chairman. I certainly, for the record, never sent any legal letters to Mr Mason. My understanding is the committee may have instructed their advocate to send a letter to Mr Mason, because he did contact me when he had received that.

Mr Karran: So lawyers' letters did come quite often to members of the board of Commissioners.

Mr Lewin: No, Mr Chairman, I just said once; I never said quite often.

Mr Karran: And have other Commissioners been given lawyers' letters?

Mr Lewin: From?

Mr Karran: In your period as Clerk of the Commissioners.

Mr Lewin: I would be –

Mr Karran: To be fair to you, I understand it is over a 20-year period –

Mr Lewin: Yes, it is a long period.

Mr Karran: – but I think maybe that would be something that would be interesting, if you could maybe come back at a later time and –

Mr Lewin: I think the problem is, Mr Chairman, I do not have access to the Commissioners' records. Obviously, that would be something that the Commissioners have files there, and they would be able to check it from the minutes.

Mr Karran: So you are aware that there are other Commissioners who had lawyers' letters in the past, whilst you were Clerk?

Mr Lewin: I never said that, Mr Chairman.

The Chairman: The question is, are you aware of Commissioners having received lawyers' letters?

Mr Lewin: Mr Mason certainly did, and I understand Mr Gawne did. There is nothing that is jumping out that is saying the Commissioners or the committee wrote to any other Commissioner. Obviously, the Commissioners issued lawyers' letters to other people.

Mr Karran: The disproportionate amount of legal advice by Braddan Commissioners was not primarily on that issue. Obviously, it was on the other issues.

Mr Lewin: Sorry?

Mr Karran: The disproportionate amount of legal costs that my former constituents had in that area, as far as legal costs, was to do with mainly fighting Government at the time.

Mr Lewin: What level of cost are you talking about? Are you talking about –

Mr Karran: You would be aware, whilst you were Clerk, there were significant amounts of costs borne by the ratepayers, as far as legal advice is concerned. I am just asking you that I take it that most of those legal costs were involved with the fact of fighting different planning issues, as far as Government was concerned, and not on concerns as far as the internal politics of Commissioners' costs.

Mr Lewin: Yes, Mr Chairman.

Certainly, the likes of the Energy from Waste Plant, where we were involved with Mr Downie... The Commissioners were not fighting the incinerator. What they were doing was actually assessing the application, and arrived at a position where they could agree conditions. So I would not take that word out of... You are taking that word 'fighting' out of context.

The Chairman: I am going to bring us now to other matters. We may pursue this line of inquiry at a future date.

Turning to the Issues and Options draft document... I appreciate it was a number of years ago, but this was issued 1st October 1999, the draft Issues and Options. Did you have any meetings prior to that with Sarah Corlett to discuss what would go into that document?

Mr Lewin: No, sir. That document came – I think it was by way of covering letter – on something like 27th September, and it enclosed what was a first rough draft.

The Chairman: A first rough draft. Subsequent to the issue of that, can you tell us how many meetings were held between Sarah Corlett and yourself to discuss the issues that would be included in the Issues and Options document proper, the one that was issued on 1st May of the following year?

Mr Lewin: Mr Chairman, I could not be specific on that. I can give you an overview, if that would be of assistance.

The Chairman: That would be helpful.

Mr Lewin: I think if we looked at the Issues and Options, the October one that came out, that was basically a very first draft produced by Sarah, really to give to the Commissioners to say this is the type of document that will be produced as the Issues and Options document.

Basically, what the Commissioners did at that point was look at the document, and actually they made a very conscious decision, right from that early date, that they would not, as part of the Issues and Options document, go out there and promote or support any land.

What they were very concerned about was to make sure that any possible land that people may come up with two years down the line was actually contained within the Issues and Options document. That was the whole gist of the process going through the Issues and Options document. For example, it was not there to support any piece of land. The Commissioners specifically refrained from doing that, but what they did do was look at other areas that they thought should be included as an option and should be considered.

The Chairman: I am just interested in the meetings that took place between Sarah Corlett and yourself.

Mr Lewin: If I can come to them, sir, basically all – or virtually – the main meetings were held between the Commissioners and Sarah, and there would be open and free debate, positive, constructive remarks. There were a couple of times where there would be a difference of opinion between Mr Gawne and Miss Corlett. To me, that was healthy discussion; it was healthy debate.

Where I became involved in the whole process was that, for example, one of the concerns was how many houses would actually be provided for in the Plan, and this was a strong view that the Commissioners had, that they wanted to say, ‘Well, how many houses do we need?’

The Chairman: We will come on, if we may, to the issue of housing numbers and densities, but you accept that you held meetings between yourself, the Clerk, and Sarah Corlett, the planning officer. There were other meetings, of course, Sarah Corlett attended with the full board.

Those meetings between yourself and the planning officer, was the outcome of those discussions always referred to the board, and were those particular meetings minuted or recorded in any way?

Mr Lewin: Yes, Mr Chairman.

If we could take, for an example, and I come back to the housing numbers, the Commissioners would meet with Miss Corlett. If Miss Corlett did not have the information, it was agreed that then Miss Corlett would go away, and basically I would liaise with Miss Corlett to see could we get to a position that the information that I knew the Commissioners wanted, when she met with them the next time, she would have that information. So it was basically just on planning policy issues and progressing things that I would meet with Miss Corlett.

The Chairman: And whatever was discussed would be referred to the forthcoming Commissioners’ board meeting?

Mr Lewin: They would always be reported to the next meeting, and also, when the Commissioners next met with

Miss Corlett I would do a short review of what had happened from the last meeting to this meeting.

Mr Pass: And that was minuted?

Mr Lewin: That was minuted in the usual formal minutes of the Authority.

Mr Downie: Can I ask you then, Mr Lewin, who was the author of that document?

Mr Lewin: Miss Corlett.

Mr Downie: Entirely Miss Corlett?

Mr Lewin: If you look at the minutes that are available to you, sir, you will see in there that the Commissioners met with Miss Corlett, and then virtually by close of business that night she had forwarded on a first draft of that questionnaire.

Mr Downie: And that went out. Did you distribute this in the Commissioners?

Mr Lewin: There was a meeting between the Commissioners and Miss Corlett, and I believe it had been agreed with the Director of Planning that the Commissioners were very adamant that they wanted this whole process to be totally open, transparent, and involve everybody in the parish.

Initially, the Department were going to provide the copy of the document. They then thought that was a bit excessive, but the Commissioners resolved that they would continue on and provide their own copy, and then the questionnaire was sent out with it, and with the responses to go back to Miss Corlett, sir.

The Chairman: Was the questionnaire the initiative of the Commissioners or the planning officer?

Mr Lewin: I think it was the Commissioners. What they were looking to do was to encourage people to have feedback from that document, and what they were trying to do... and it was in a meeting where they said, ‘Well, maybe if we issue a questionnaire it helps people focus on the key issues.’

The Chairman: So the planning officer was invited to compile the questionnaire –

Mr Lewin: Yes, sir.

The Chairman: – on behalf of the Commissioners, and the Commissioners approved the questionnaire ultimately?

Mr Lewin: Approved it? I suppose technically they did, sir, because they issued it, yes. My understanding is that the questions in that Issues and Options document were actually taken out of the Issues and Options document itself.

The Chairman: Thank you.

As far as consultants, you refer to the fact that, in your role as Clerk, in tendering advice, you were not obviously able to give advice across all areas of expertise and the consultants were employed as and when. Which consultants

were engaged to provide technical advice during the preparation of the Braddan Local Plan?

Mr Lewin: My understanding was Robert Turley Associates. The reason for that was that, initially, the Commissioners had an agreement with Miss Corlett that they would not retain external consultants; they would try and work the Plan through by the use of Miss Corlett's expertise in planning.

However, the issue of Camlork was a big issue, and Robert Turleys had been appointed back in 1990, when they did the previous Plan. It was agreed, even though the Commissioners were using the Derek Lovejoy Partnership, because we were aware that they had made submissions on behalf of parties to the Braddan Plan... The decision was made to retain Robert Turleys to give them advice on Camlork.

The Chairman: We will come back a bit later to the question of consultants and particular times and so on.

Turning to Areas 1, 2, 3 and 4, the Camlork land, why were these areas included in the Issues and Options document and the modified written statement?

Mr Lewin: Why were they included? From memory, I am pretty sure they were included in the first draft, sir.

Again, it was obvious that Areas 1, 2 3 and 4... They were a major issue back in the 1990s, where it was proposed that the land was zoned.

Mr Karran moved a motion against Camlork and got it sent back, and we went back to public inquiry, so it was obvious to me that those areas within the villages and hamlets were going to be included.

The Chairman: So was their inclusion the result of any discussion with the board, or was the inclusion at the instigation of the planning officer?

Mr Lewin: From memory, I am quite sure it was included in the first draft.

What I do remember... There was a discussion about actually showing Camlork as in a continual string – 1, 2, 3, 4 – and there was a view taken by the Commissioners and, I think, Miss Corlett, that, by doing that, that may encourage people to be opposed to it, so it was agreed to separate the two areas so people could say... For example, if you look at Area 3, in planning terms it would be very difficult to put a case against Area 3 being developed, so it was split to allow people to have a more honest and open opinion.

The Chairman: Looking at Area 3 then, why was Area 3 considered suitable, and then removed?

Mr Lewin: I think, basically, Mr Chairman, this board were coming from a view – and you can see it in the documents – that they were refusing to submit their views until they had the result of the questionnaires in, and this was a material issue, that the Commissioners were actually basing their view on the people, because their view was, 'We're elected by the people; if the people speak, then we will make representations on their behalf.'

Area 3 was basically an area that the Commissioners felt, if that was permitted to be allowed to be in, that would start to open the floodgates.

The Chairman: But the removal of Area 3, was it as a result of a recommendation to the board?

Mr Lewin: No. I never recommended that at all, sir. In fact, all the way through the process I never recommended the suitability or unsuitability of any land.

We had been on a site visit to Baldwin and were coming back, and we viewed Area 3, and I still have a concern – and that was why I sent the May 2000 Report to them with the previous inspector's Report, because I had a concern that Area 3 – when you look at it from the Lhergy Cripperty, was very insignificant in the landscape, and if you actually looked at it compared to Ballanawin it would be very difficult to put a case against Area 3.

The Chairman: So were the reasons for its exclusion... If it was not topography, were they technical reasons to do with drainage?

Mr Lewin: I think it was basically the Commissioners were just opposed to Areas 1, 2, 3 and 4, sir.

I am aware that reference has been made to drainage. I was at that meeting. The field does slope down. There were discussions, because you could see the rushes etc growing in it. I was asked... Yes, it is wet, but you need to remember, in the previous proposal put forward by the developer, that that area was always going to be a buffer zone for landscaping between the housing.

There was the technical reason, sir. The Commissioners made a decision that they did not want Area 3 in.

Mr Downie: But, given this piece of land is highly contentious – it has been the subject of petitions of dolence in the past, it has an unbelievable planning history – was all that considered by the Commissioners before making that decision, knowing full well that it would lead to issues being raised further on down the line, perhaps the Inquiry?

Mr Lewin: Yes, Mr Chairman. That is why I did take the unusual position of actually issuing that May 2000 memorandum, which people have tried to read as both ways. All I was doing was giving the Commissioners the previous inspector's Report and saying, 'With respect, Commissioners, this land has been considered by previous inspectors in the past and was always deemed to be suitable. Beware, triple beware: you could be really getting into a major problem area here.'

Mr Downie: Finally, in the questionnaire, I understand nearly 400 people expressed their concern about development.

Mr Lewin: Yes.

The Chairman: Mr Pass, on Area 3.

Mr Pass: Yes, you say 'triple beware' on Area 3 – obviously a very, very sensitive site – and there are two reasons, to our knowledge, that it appears to have been finally dropped. One was the topography, and the other was the drainage. Given that, would it not have been appropriate for some technical appraisal to be given, rather than a general view that 'it's a bit squishy'?

Mr Lewin: My view was that the Commissioners had

made a decision that they did not want Areas 1, 2, 3 and 4 in, not based on any technical advice, but they did have the advice of Robert Turley Associates, and the site visit was really just looking at what they could see. There was no technical reason; it was the Commissioners making a political decision that ‘We don’t want Area 3 in.’

Mr Pass: It was a political decision?

Mr Lewin: It was a political decision, sir, yes.

Mr Pass: And you say they had the access to Turleys, but Turleys did not give any input in that, to your recollection?

Mr Lewin: I think they submitted a previous report. What was of serious concern to the Commissioners was, ‘If we open the gate into this field, then it will go down through into the other fields.’

The Chairman: If it was a political decision, the subsequent documents presented as a technical decision... There were technical grounds for excluding.

Mr Lewin: To me, those reasons were always weak. If you go and stand on the Lhergy Cripperty and look across, Area 3 dips down, and you have got the backdrop of development, 1-8 Jubilee Terrace. It was a political decision.

The Chairman: And therefore was the supporting planning criteria... Would you say that they were contrived to fit the political decision?

Mr Lewin: No, I would not say they were contrived, Mr Chairman. I think it is basically, as with any document... and you are evolving through a process. People express a view and opinion. The Commissioners were expressing their views to Miss Corlett. Miss Corlett would take the views back and have them considered by the Department.

The Chairman: Thank you.

If we just move on, in the period between October 1999 and May 2000, obviously there were several meetings of the Parish Commissioners to discuss the issues. At any time, was the ownership of Areas 1, 2, 3 and 4 discussed?

Mr Lewin: No, sir, but it was well known.

The Chairman: It was well known, but it was not referred to?

Mr Lewin: From memory, all the way through the Plan process, ownership was not an issue.

Basically, what the Issues and Options document is doing is inviting people to come forward with land, to know if they are willing sellers, or not. The only time that land ownership, from memory, did become an issue, was when they were looking at land to the south of the Cooil Road, but all the way through, sir, there was no... I can never recall, in any meeting, anybody referring to land owned by so-and-so, or whatever.

The Chairman: Thank you.

Just turning to some of the other areas at this stage, Area 7, can you tell us how, to your knowledge, that area was first identified?

Mr Lewin: I think again, if we come back to the planning position, if you take the villages and hamlets – and the Strang was identified as one of those villages and hamlets – then obviously any land around those villages and hamlets would be considered as part of the review of the Plan. It was in the Issues and Options document and it came back.

When you actually look at Area 7, and I have read Mr Karran’s comment that it is higher, but when you actually look at Area 7 from the Lhergy Cripperty again, when you actually look into Areas 1, 2, 3 and 4, they are actually coming into your face, virtually, at a 45-degree angle, whereas Area 7 is dropping away.

One of the main issues there was that the Commissioners had purchased, with the DHSS, the land up there, the football club was going to be built up there, and they saw it as a natural extension of the village.

The Chairman: Who first suggested that the area could accommodate a school?

Mr Lewin: I think that came from the Commissioners – from Mr Mason, I think, or Mr Corkhill – because what they were connecting it to was, if the Government – I think the Government spent £¾ million in constructing the football fields there – if you put a school alongside it, then you could have daytime use on the football pitches and club use the rest of the time.

The Chairman: And similarly, housing; it was suggested to be suitable for housing.

Mr Lewin: Yes.

The Chairman: Did that suggestion come from yourself, or the board?

Mr Lewin: Can I make it clear, Mr Chairman, I never made any recommendations, or suggested any areas for development. Area 7 was certainly an area identified by the Commissioners as being very suitable.

The Chairman: Were you aware of its land use designation under the 1982 Order?

Mr Lewin: Yes, and again, to cover that point, when you come to review a plan, you review the whole of the plan. You do not start saying, ‘We’ll exclude that because of that.’ As long as that information is made available and it goes through to the inspector at the Public Inquiry –

The Chairman: Unlike other areas that the Commissioners had taken a view on, this one was considered as an area of high landscape value and scenic significance. Was that point taken on board?

Mr Lewin: Yes. I think the problem... and you will see in many of the planning documents, that those designations go way back into the 1980s, and really were probably not fair and accurate. They were more blanket zonings across the Island, because if you actually look at the 1982 Development

Plan, where you have Areas 1, 2, 3, and 4, that is just shown as white land, and then all of a sudden a hedge appears and we go to a different type of zoning.

The Chairman: The Commissioners started proceedings to purchase, or they considered purchasing, Area 7? Is that correct?

Mr Lewin: No, the whole of Camlork Farm, sir.

The Chairman: The whole of Camlork Farm. Who instigated that process?

Mr Lewin: It was basically an issue that had been ongoing for a long time. At one point, Mrs Paton, who was the owner, had indicated her intention to sell. It went back to the 1990 Plan. She had indicated that she would never enter into an option again, and she contacted us through Martin Moore, who was the agent on the Island, and discussions took place between ourselves and the Department and Mr and Mrs Paton.

The Chairman: Were you aware the Department was also interested in purchasing that land for housing?

Mr Lewin: Yes, Mr Chairman. That was the first point, really, to go to the Department, and in fact I think it was Kevin Barber. I said, 'Well, look, there's no point in both of us bidding on this; it's public money,' and he said at the moment they were progressing it. Then he came back and said, 'Well, no, you guys see where you can progress with it.'

In fact, myself and Mr Corkhill had meetings with Mr and Mrs Paton.

The Chairman: How would the Commissioners have funded that purchase?

Mr Lewin: It was basically discussed in principle that obviously a land purchase could be on the rates or, equally, if there was a housing provision, then it could be funded from the housing maintenance.

The Chairman: Did the Commissioners eventually pull out of those negotiations?

Mr Lewin: It was not a question of pulling out. I think, basically, they had come over for a two-week-period and other developers were then contacting them. This was after the Issues and Options document had been issued. I know Mr Campbell had been in contact with them and various other developers, and we just got left behind in the escalating race.

The Chairman: As far as the possibility of a school in that area, you say that suggestion came from Commissioners. What was your involvement, as far as being Chairman of the Board of Governors of Braddan School? What sort of discussions did you have regarding progressing that?

Mr Lewin: That was prior to – if we are going back to 2001, Mr Chairman – when I was elected. These discussions as to where the new school was going were pre that point. Obviously, once they became elected, Mr Gawne was also

a member of the Board of Governors and the issue did come up.

In fact, it was in my manifesto, because the Department were intending to spend a considerable sum of money refurbishing what was an old school. The school is part and directly adjacent to the outer link. It has got car-parking problems, it has got air-pollution problems, it is next door to Manx Telecom's satellite station, and the provision within the school is not very good, sir.

The Chairman: I want to move on, if colleagues are happy, to Area 16.

Miss Corlett, as we have heard, lives in this area. Why do you suppose she introduced Area 16 into the initial Issues and Options document?

Mr Lewin: Was it in the actual October 1999 document, sir?

The Chairman: I am asking was it included in the October 1999 and the May 2000 documents, to your knowledge?

Mr Lewin: My understanding of where Area 16 came was that there was a submission made by Lovejoys, which was made on behalf of Mrs Watkinson and Mr Turner. I think Area 16 had always been looked at but was already designated as low density and parkland, and I think what caused Miss Corlett the problem was once this formal submission came in, because that is when she immediately declared an interest in the area.

The Chairman: Yes, we have a note that, on 12th July 2000, Lovejoy made a submission on behalf of Watkinson.

Mr Lewin: I think Turner as well, sir.

The Chairman: From Mr Turner, yes, that is right.

Mr Downie: So were the Commissioners informed by the Department that Miss Corlett had an interest in this area? What was the procedure there, then?

Mr Lewin: I think as soon as Miss Corlett had received that submission, I remember a telephone call saying, 'Look, I've got a submission in on where I live now. I'm going to refer this to Mr Vannan, and I need a meeting with the Commissioners to explain it.' There was nothing untoward whatsoever in that, sir.

Mr Downie: So did you receive any correspondence then from the Department confirming that?

Mr Lewin: Not from anybody higher than Miss Corlett, but she was totally open about it, sir.

Mr Downie: Right.

The Chairman: Area 23, if you recall that, did the Commissioners support the idea for housing there, and can I ask why, if it already supported the need for industrial land?

Mr Lewin: This is the business park, sir?

The Chairman: The business park, yes.

Mr Lewin: If you go right back to the original zoning of the business park, you will see that the master plan included for residential development, which was part of what is now the Clybane area, which is residential.

The Commissioners... Again I would be careful if you are actually saying 'support' – it depends at what point in time you are talking about – but my understanding was that, even under their existing planning approval, they could actually put in an application for residential on that site.

It was strengthened more by Clybane being established and the residents having houses alongside the hedgerow, looking out over the views to Richmond Hill, that the residents themselves there became concerned that they did not really want large industrial units in front of them.

The Chairman: Thank you.

Area 25, similarly, do you know who first suggested that that area should be considered?

Mr Lewin: This was Area 25, and if we go back to that point, we are still dealing with housing need at the same time, because the Commissioners – in particular, Mr Gawne – were very clear that they wanted to know how many houses Braddan would have to accommodate. Once they knew that information, they could then say, 'Right, based on our criteria, these are the sites that we would support to accept that need.'

It was basically on the tour of the Parish, when they were looking at Areas 1, 2, 3 and 4, Area 27, Area 25, that the Commissioners' view was that it should be put in, just to be considered as an option.

The Chairman: Thank you.

On the life of the Plan, the suggestion was made that it should be limited to five years, instead of 10. Could you tell us who made that suggestion, and why?

Mr Lewin: I think, basically, that came from the historic position that the plans always used to have a five-year lifespan, but in reality the Department... it took them probably another five years to complete the review.

The issue there, that came between the Commissioners and Miss Corlett, was that if they had agreed on 400 houses for five years, then if they doubled that for 10 years, that would be 800 houses. The concern that I recall Mr Mason and Mr Halsall having was that, once you released this land – say, once the Plan was approved – how you would then control the release of that land throughout the 10-year period.

We had gone through a recession in the 1980s, and it was a particular concern to Mr Halsall that estates were left undeveloped. So it was that balancing mechanism of saying, 'Well, if we go to 10 years, then we're doubling the land; how can we actually control how that land is then released over the 10-year plan?'

The Chairman: Yes, and of course that is connected with issue of population and housing need. Can you recall who first raised that particular issue for population and housing growth within the Parish?

Mr Lewin: That was stimulated by the first draft document, because obviously the question came as to how

many houses do we actually need to provide. Obviously, you then start looking back to the census data and say, 'Well, over the last 10 years, that has been the growth.' So that was part of the germination out of the draft Issues and Options document.

The Chairman: And how did the Commissioners further their consideration of those issues, fairly technical?

Mr Lewin: It would appear technical when you look at it in the Plan. I think it was quite straightforward to the Commissioners, and again it was a political view that, if we go with five years, then we have 400 houses, and if we go with 10 years, we have 800 houses.

It was an issue of disagreement between Miss Corlett and the Commissioners, but again it was another one of those issues that the Commissioners then said, 'Well, are we going to stand and fight over this?' and their view was that they were persuaded by the evidence that they would accept a 10-year Plan.

The Chairman: Was there any technical advice taken at that stage on this issue?

Mr Lewin: On housing need?

The Chairman: On housing need.

Mr Lewin: Yes, sir. It is in the statements in front of you from Robert Turley Associates.

The Chairman: Did the Commissioners consult Lovejoy at this point – in particular Ian Reid, who had been involved in the Onchan Plan – on the question of households?

Mr Lewin: Yes. There were teams of consultants running parallel here. On the Prison, we had Lovejoys, and also on the incinerator, but obviously Lovejoy could not do the Braddan Plan, because he had been retained by Heritage Homes and other parties.

Obviously, once this came out, one of the issues was to try and find some further information to provide to the Commissioners, and I was aware that, as part of the Onchan Plan, this had been an issue, so I asked for a copy of that and that was provided to the Commissioners.

The Chairman: So was it your initiative to approach Mr Reid of Lovejoys, from your own knowledge?

Mr Lewin: Yes, we have a working relationship, and the most important thing was trying to get reasonable information in front of the Commissioners to see how they could actually deal with it. That was a public document, anyway.

The Chairman: Thank you.
Anything else at this stage?

Mr Pass: Just a little bit of clarification, Chairman, on this question of the life of the Plan and the numbers.

You are very much into the realm of quite sophisticated structure planning here, and what I hear you say is that there was a disagreement – difference of view – between Miss Corlett and the Commissioners. What I am hearing now is that you also referred the matter to Turleys for technical advice.

Mr Lewin: No. If we go back to the start of the Draft Plan coming out, and the Issues and Options document, there were two or three main issues, and one was the lifespan of the Plan. Obviously, that was relative to housing need. Miss Corlett made a case that, basically, it should be a 10-year Plan so everybody can provide infrastructure etc, and the Commissioners accepted that argument, that, based on the need to plan infrastructure, then that was acceptable to go forward.

The housing need was... Yes, there were three or four scenarios, and I think, if you see from the Robert Turley Report on the Strategic Plan, the issue came down to, first of all, would Braddan just accept growth for its own local needs, which produced a very low number? Second, would it allow for growth for just a smaller part of the eastern area, or would it provide land for the whole of the eastern area? It obviously has to drive the Plan as to how much land you need, depending on the level of need.

Mr Pass: But this is obviously a fundamental. It drives the selection of sites, ultimately, (**Mr Lewin:** Yes.) and the intensity of use which, of course, we will come to. What I am saying is it demands quite a high level of planning input to get that sort of answer.

Mr Lewin: I think the decision whether it was five or 10 years was not that technical. Miss Corlett put the case that the DoT and other parties needed infrastructure. Once the Commissioners accepted that 10-year principle, then housing need became the next issue.

Mr Pass: And you feel that the decision was taken by the Commissioners, and not strongly guided by yourself or by consultants?

Mr Lewin: To accept the 10-year Plan?

Mr Pass: And the numbers.

Mr Lewin: Oh, definitely, yes, sir, without a shadow of a doubt. The discussions and meetings they had with Miss Corlett, yes, without any shadow.

The Chairman: Mr Karran.

Mr Karran: I just find it interesting that Mr Lewin feels that he had such a humbling position as far as the Commissioners were concerned. As a former MHK for the area, I would have come to him before I would have come to the Commissioners at the time, as far as any issue.

To find out now that highly-technical issues about long-term strategic planning, as far as the amounts are concerned, is being purely led by the elected representatives, and not by the advice from yourself or Miss Corlett, is very interesting.

Mr Lewin: There are two or three points you make there, first of all, Mr Karran.

If you came along, you would come to the Clerk. If you had an issue and we discussed it, and if we could resolve it at that level, fine. If you sent in a letter, that would go on an agenda and go to a meeting.

If we are talking about technical issues on planning, as I have just explained, there were meetings between Miss Corlett and the Commissioners – Mr Gawne, Mr Halsall,

Mr Mason. None of those people are foolish, Mr Karran, and there were some robust meetings, I can assure you, but it was their decision at the end of the day.

Mr Karran: But it was not just them in the period we are talking about at the time. As far as membership, you had Mr Daugherty, you had –

Mr Lewin: Mr Daugherty and Miss Druggan.

Mr Karran: And others over the preceding period of time as well, as far as counting Mr Cannell, and many other people as well.

Mr Lewin: I do not think that is within the period that we are looking at.

The Chairman: Can we just step back a moment. In relation to Areas 1, 2, 3 and 4, you indicated that the Commissioners were aware of the land ownership, but it was not a matter for discussion.

Mr Lewin: I think they were aware that Mrs Paton was selling it. They were aware that Baccarat owned... because we had actually gone along to a presentation by Baccarat during the planning process, and they were obviously aware of the extent of the Baccarat ownership.

What they were not aware of was that... I was in hospital when the Public Inquiry was held, but I received a telephone call that apparently Heritage Homes had obtained an option on the whole of the Camlork Farm, excluding part of Areas 1, 2, 3 and 4, on the morning of the Inquiry.

The Chairman: Were the Commissioners aware, would you say, of which organisations or individuals owned land within the parish?

Mr Lewin: It would vary. You have somebody like Mr Corkhill, who has been around the planning world for a long time, and Mr Halsall – yes, I would think they would have a pretty good understanding – to somebody like Mrs Hodge, who has only been here a couple of years, and really does not know anywhere in the parish. So yes, there is a differential between those two.

The Chairman: So was the balance of land ownership a concern to the Commissioners at any time in this period we are talking about, in formulating land use?

Mr Lewin: Not in relation to housing at all, sir, no.

There was a concern up at the business park and the south of the Cooil Road. There was an application made by Mr Adrian Kermode for Corkills, and in that application he had made significant issues of the cost of locating onto the business park. So that was an issue that the Commissioners, in that one instance, did take into consideration, that if it was all in one ownership, then it seemed to be that –

The Chairman: Would that concern have been, then, what triggered a paper, or a letter, to the Department to cause the Department to report, in a paper dated 24th January 2003, and I just quote from the Department's paper:

'The Commissioners are keen to ensure that, not only is there sufficient land allocated for this purpose...'

– that is industrial land –

‘...but also, wherever possible, that the land which is allocated is owned by a variety of individuals and organisations, to avoid the monopoly situation which appears to be prevalent at the moment.’

That quote is in the context of industrial land at the business park.

Mr Lewin: Just in that context only, sir.

The Chairman: So, just to be absolutely clear, the land ownership concern you referred to was in a specific instance: industrial land, industrial park.

Mr Lewin: It was more... I do not want to use a UK word, but employment land.

At the time, we had various meetings with the DTI, because obviously there was a concern to try and find out how much employment, or service land, they required for the next 10 years. I was liaising with Mr Wilson there, and in fact I had a meeting with Mr Downie to try and find out how much information, or how much land was actually needed.

The Chairman: Thank you.

We may come back to industrial land, but if I could turn now to Area 14, and notwithstanding your statement, where you have referred to it, could you confirm how long you have owned Area 14 and, just for the record again, give us the planning history of Area 14?

Mr Lewin: I purchased Mount Rule... I think it would be round about the mid 1980s, sir, off Richard Formby, and basically, it was the part of Mount Rule Farm – that is east of the Mount Rule to Baldwin road.

I was then approached by Mr Chris Simpson, who was the then owner of Mill Baldwin. We had met, and he was looking at Area 14 – and this was back in 1988 – because he was of the opinion that it would be a suitable site for first-time buyers. It was based on that, that I then put in an application for the first-time buyers’.

Then it came through in the Braddan Plan as an area that would be considered, subject to a study, for residential development, and that is where, if you actually look in the Braddan Local Plan, it says ‘Mount Rule/Ballamillaghyn’.

So from that point it was always going to be an area that would be considered as part of the review of any plan.

The Chairman: So an application for first-time buyers’ was made. When would that have been made?

Mr Lewin: I think that was 1988, sir. Could we check that and come back?

The Chairman: 1988.

Mr Lewin: I have seen it in evidence as well, sir.

The Chairman: Were there subsequent planning applications, since 1988, in respect of Area 14?

Mr Lewin: Yes, sir, there were.

Mr Corkhill approached me and, basically, asked could he act as an agent to put a planning application in on part of the field for two houses, because he believed there was a good

chance of actually getting a planning approval. We came to a deal – I will mention that, because it is important – that, basically, he would take it through the planning process. If he got planning permission, he would get 10 per cent of the sale value of the plots.

Part way through that process, obviously times were hard and Mr Corkhill came in and asked if he could get paid on the hour for work done. I said, ‘Well, we are either on 10 per cent of the two plots, or on the invoice.’ He decided to go for the invoice because it had been refused at review, but it was approved at appeal, and Mr Corkhill believed that he was then entitled to the 10 per cent commission. That is where the dispute came out.

Mr Wannenburg was acting for me. The night before, we had offered virtually 90 per cent of the dispute to try and make the matter go away, but basically Mr Corkhill did not want to settle, and we went to court and, unfortunately, Mr Corkhill lost.

The Chairman: When was that? When was the successful –

Mr Lewin: 1993-ish, 1994.

The Chairman: 1993, and subsequent to that, were there any planning applications?

Mr Lewin: For the horse, the stable block.

The Chairman: The stable block, what year was that?

Mr Lewin: 1997, 1998, somewhere.

Mr Pass: 1997.

Mr Lewin: Yes, 1997.

The Chairman: And what was the fate of that application?

Mr Lewin: Basically, my partner had purchased a horse, and the intention was to build a stable there, but then she found stabling closer by, so instead of having to travel that far at half past six in the morning, she used alternative stabling.

The Chairman: So, was it successful? Did it go through first time?

Mr Lewin: It did, yes.

The Chairman: And, of course, the ownership of Area 14 at that time, by virtue of that application at least, would be known to the Planning Office?

Mr Lewin: I would say, Mr Chairman, that the whole area was... The family had owned Ballamillaghyn going way back. In fact, I would be amazed if somebody did not know who owned it.

The Chairman: So you would expect the planning officers to be fully aware of the ownership?

Mr Lewin: Yes.

The Chairman: Not that it was a planning issue, but they would be aware.

Mr Lewin: Nothing was ever hidden; it was my name on the planning application form.

The Chairman: In the period between October 1999 and May 2000, there were several Commissioners' meetings where issues relating to Area 14 were discussed. At any time, was the ownership of Area 14 raised at these meetings?

Mr Lewin: Can I say the area of the ownership had already been disclosed, but even in Mr Corkhill's evidence, sir –

The Chairman: Just to clarify that, you say 'disclosed'. Would that have been per your earlier statement in July 1999 at a Commissioners' meeting, after you had agreed to the sale?

Mr Lewin: Yes.

The Chairman: So, in July 1999, you are saying the Commissioners were disclosed, by yourself, the sale – by implication, the ownership –

Mr Lewin: Yes, the principle.

The Chairman: – and the sale. But I think you said that that was not... It was a verbal disclosure, and it was not minuted.

Mr Lewin: Yes.

The Chairman: Would it surprise you then if Commissioners subsequent to that, and for a long period, were of the view that they did not know about the ownership and the sale of that land?

Mr Lewin: I would put it to you, sir, that it would be virtually impossible. If you look at the evidence that Mr Corkhill has given to you, on line 530, he said:

'It is recorded in the minutes that he did not take part in the discussion on that land. He did withdraw himself from active discussion with the board on that land.'

On line 540, Mr Corkhill states:

'Yes, but I am aware that he did not actively take part in the discussion on that specific piece of land. We did pull on his local knowledge for other areas in Mount Rule which were outside his control.'

So not only my evidence; the evidence of Mr Corkhill.

Mr Downie: Would you not think, with hindsight, though, there should have been some sort of an aide mémoire kept by the Commissioners, because Mr Halsall, in his evidence, says he was absolutely amazed to find out, in I think it was 2002, that the land was yours?

Mr Lewin: It is always –

Mr Downie: Even to cover yourself.

Mr Lewin: My view has always been to play it by the

book; the law is the law. In relation to Mr Halsall, and I accept what he said, but if you read through the minutes, my disclosure of 1999 to the plant-hire business, it is disclosed all the way through, and yet Mr Halsall's evidence was that when people asked him about the company, he said, 'I don't know, if you bring some evidence to me.' So I just wonder how you actually do that. All I can do is remind them on a regular basis, and the way the law was – which I disagreed with it – was that, as an officer, you just write to the Authority. You do not even have to record it in the minutes. If you look at the Act, there is no legal requirement to have it recorded in the minutes.

The Chairman: Would you have said there was a moral requirement?

Mr Lewin: Once I have declared it, sir... My understanding is if I declared it in 1999, I then, every time it comes up for being considered at the meeting, as Mr Corkhill's evidence states, say, 'Excuse me, I'm not involved in this.' I do not know how much more you can actually do.

Mr Karran: But you have given the impression that you did remind them. When did you remind them, if that was the case?

Mr Lewin: As Mr Corkhill said, if they were discussing the Plan on a Tuesday night and they were discussing Area 14, when they got round to Area 14, I would take a comfort break. Doesn't that... I would say, 'Well, if we are discussing Area 14, I will just go and have a cigarette.' How much more of a reminder do I need to give them than that?

Mr Karran: Of course, normally, this would be minuted, because you are doing the minutes, but if you had got the Secretary...

Mr Lewin: Sorry, I did not catch that, Mr Karran.

Mr Karran: Who would be doing the minutes? The Secretary or yourself would be doing the minutes, so none of this would be in the minutes anyway.

Mr Lewin: What?

Mr Karran: The fact that you took comfort breaks, or you said... or anything like that.

Mr Lewin: The law does not require it to be recorded in the minutes, and if we can... It is a serious point, because where would you stop, if you had to declare everything?

It is like your comments in Tynwald against me. Where do you stop declaring everything? The minutes would be full of voluntary declarations. The likes of Ray Corkhill: how many people does he meet in a week who come in the public house? You have to follow the guidance that is offered, and when it was being considered – not my evidence, Mr Karran, Mr Corkhill's evidence – I declared it, and left the meeting. I do not really know –

Mr Karran: But then, of course, the difference was that other Commissioners did not seem to think that they remember that. To be fair, it is a long time ago, to be fair to you.

Mr Lewin: But if they were present at the meeting and I was present at the meeting, and they came to discuss Area 14 and I left the meeting, what...

Mr Karran: You could leave the meeting for anything, to be fair, sir.

The Chairman: When did you first consider selling the land? You made reference to approaches and options to purchase in the past.

Mr Lewin: Virtually before, when I was purchasing Mount Rule originally, my view that that corner field was always an area that would be possibly suitable at some future date for development. So virtually... I think it was Keith Kerruish who was acting on behalf of Richard Formby and Martin Moore, and he was talking the price up on hold value on that corner field, and I was talking the price down at that time.

The Chairman: Did you put your land on the open market?

Mr Lewin: The farm went on the open market, sir, yes. The corner field, basically no, because people like Bill Campbell had approached me over the years – Chris Simpson – to try and buy it. They were all looking for options. I just wanted, basically, to sell it, get certainty and move on.

The Chairman: So, Heritage Homes: when did the discussions with them first take place?

Mr Lewin: Probably going back four or five years beforehand. It would go six months, eight months and, 'Are you interested in an option?' 'No.'

The Chairman: You sold it at less than development value, 50 per cent, you said. What was the reason for that?

Mr Lewin: I sold it basically at 50 per cent of residential land. Obviously, it was not zoned, Mr Chairman, so Mr Tynan was not going to agree to pay a full market value for land that was not zoned. To me, it was a 50-50 chance. Did he want to buy it? Did he want to take the chance? It was a 50-50 win. He could win, or I could win, but my view was that two-hundred-and-whatever-it-is was better in the bank than not.

The Chairman: The area was supported for housing. On what grounds did the Commissioners support the area for housing development?

Mr Lewin: As he says, Mr Corkhill, I was never actually involved in the meetings when they were actually supporting or discussing it, but basically what the Commissioners did, was take the draft document that Miss Corlett had. I have seen the word 'support' being used, but if you actually look, it has got 'BPC comment', so it was not the Commissioners actually supporting, it was a comment that the Commissioners made.

They went through each paragraph of that document. The Deputy Clerk would sit there and type up the BPC comment. She would then read it back, and then we would go on to the next paragraph. You can see in the minutes, there is one

meeting that went from one o'clock to six o'clock, so it was constantly 'BPC comment'.

The Chairman: The Commissioners, you are saying, as far as you were concerned, were aware of the ownership and your interest in that land and the sale of the land.

Mr Lewin: Yes.

The Chairman: So through that period you were working on the basis that the Commissioners were aware of that land sale?

Mr Lewin: Yes. If you look at the minutes, as Mr Jessopp says, that are recorded there, Mr Corkhill comes in. He knows I owned it. He has got planning permission on. We then go to the declaration in June 2000, where it was declared later in 2000 that it was sold. There was never no secret that I did not own the land.

Mr Downie: Could I ask you, then, with hindsight, would you agree if there was an annual return of declarations of interest of all the members of the Commissioners, the clerks and all those employed, so that all these issues could be laid open quite clearly for everybody to see, we would not be in the position that we are in now?

Mr Lewin: I fully agree with you, sir. I think it should be like Tynwald Members, that people should have to go along and fill a declaration and it is their responsibility.

The Chairman: Can I just refer you to a letter of September 2001, in which the Braddan Parish Commissioners suggested amendments to the Draft Plan, to the Department, and it stated:

'Once landscaped, the site was considered suitable in the first draft for around 10 new dwellings. However, submissions to the draft suggested that better use could be made of this site and it is accepted...'

Then it goes on to say:

'As such, the site is considered to accommodate up to 20 dwellings.'

So Area 14 had been recommended to increase the density to 20 dwellings. Who made those submissions?

Mr Lewin: This started off from the issue of good utilisation of land, and I think it became quite quickly apparent to the Commissioners that when we were talking of land required to provide so many houses, if they were going to go at a low density, then they were going to take up twice the amount of the area. So they took advice and guidance on it, and, basically, the advice was that where you have high-density residential, then that should be up to eight, 10, 12 to the acre.

So what they were saying was really, identified sites, maximum utilisation of those sites. I think it is important to put on the record, Mr Chairman, that the Commissioners were the first body to actually push through this requirement for affordable housing to be provided on the sites, and that certainly was not popular. From that, the Government policy now is that 25 per cent has to be provided for affordable housing.

The Chairman: So it was the view of the Commissioners

to increase density on greenfield sites, and you say guidance or advice was followed. What was that guidance?

Mr Lewin: It was one of the PPGs from the UK, sir.

Mr Downie: PPG3?

Mr Lewin: Yes.

The Chairman: Issued in March 2000 originally.

What other areas, other than Area 14, did the Commissioners support which identified particular numbers of dwellings?

Mr Lewin: I think it was across all the large, all the main sites, sir. Yes, as far as I was aware, it was across all the large sites, unless there was a specific... There was a site at the end of the downs, on the Lhergy Cripperty, which was low density, but...

The Chairman: So a view to maximise density of sites, you are telling us, was applied across the board to other sites, not just Area 14?

Mr Lewin: That is right.

The Chairman: Thank you.

Mr Lewin: It is a generally held, well-based planning ground to maximise greenfield sites.

Mr Pass: Is there evidence that there was a general upgrade, or a general review which would have increased the density to a level which you think would be appropriate across the site? The view that we seem to have is that Area 14 got special treatment.

Mr Lewin: No, it was across all the sites. If you actually look at the submissions, you will see that comment repeating itself time and time again. The Commissioners' submission referenced maximised utilisation of the sites.

Mr Pass: And the maximum utilisation stemmed from a planning document which relates to England?

Mr Lewin: Yes, sir.

Mr Pass: Possibly not even to Wales now.

Mr Lewin: It is an interesting point, and if you actually look in the Strategic Plan, there has recently been approved... I think it is paragraph 1.6 where it says where there is no Manx guidance or Manx policies or circulars, then it is relevant to look not only to the UK, but the European Union, and here there was a vacuum on advice in the Isle of Man planning policy, so even in the Government's own strategic policy now, they actually acknowledge and virtually recommend that you should go to the UK and EU for advice.

The Chairman: So the maximisation of density in sites was quite a novel concept, and it was one being advocated by the Commissioners, which PPG3 can support by letter from yourself to the planning officer.

Mr Lewin: It was a novel concept for the Island, but

I think also, in association with that, came PPG16 and maximising for affordable housing and social housing, and that was one point that the Commissioners continued to disagree with all the way through to the Public Inquiry with Miss Corlett. But certainly the use of UK circulars is acknowledged in the Strategic Plan.

The Chairman: Can I just ask you about the *Pilling* judgment in 1996? Were you aware of the *Pilling* judgment, first of all, and did you consider it part of your duty to advise the board of the implications of the *Pilling* judgment?

Mr Lewin: I think the first time, from memory, I can recall the *Pilling* judgment was around the time that Tynwald was setting up the Select Committee. I heard it on the radio that this *Pilling* judgment, there was going to be a Select Committee set up. From that point, which was 2000-odd, so that was applying *after* I have already sold the land.

I did ask for a copy of Deemster Corrin's judgment from the Department, and they did not have one, and it turned out that apparently it was not freely available to the public – the Law Society had one – and from that point... and even as recently as 2005 I was asking the Department to provide us with advice, guidance on how this was to be applied. There is extensive e-mail correspondence with Mr Hamilton and Mrs Mellor, and virtually, at the end of the day, they just said, 'Well, tough, you're a body corporate, go and deal with it.'

The Chairman: So the *Pilling* judgment of 1996, which was instigated by a planning issue, very controversial –

Mr Downie: The Department's own officer.

The Chairman: – against the Department's own officer, concerning perception of bias, you were not aware of this in the run-up to and during the consideration of the Braddan Plan. Are you saying that?

Mr Lewin: Yes. I think it came out. Certainly when it was 2000 I recall the reference to the Tynwald Select Committee. It did not certainly jump out before that. Obviously, when you look back, everybody has only really started referring to *Pilling* in the last couple of years.

The Chairman: So did you tell the present Chairman of the Commissioners, when you were there, that the *Pilling* judgment was not of relevance to the Isle of Man?

Mr Lewin: No. That is a note I have, Mr Chairman, where the present Chairman said that the Clerk had poured scorn on the judgment itself, saying it was not relevant to officers in the Isle of Man, and Mr Jessopp for raising with the board. Once I became aware of it, it certainly was relevant. I think that comment relates to Mr Corkhill, not myself. To me, it is a very important judgment, but even then, it still took some time, and it was only recently that I found that... had acted as the Acting Deemster when that *Pilling* judgment was taken to appeal.

Mr Downie: And, more important, it relates to people in public office –

Mr Lewin: It does, yes.

Mr Downie: – and servants of people in public office.

Mr Lewin: Yes, and I think this is still where the Department, who were required to train everybody and get everybody up to speed, when you look back through the local authority induction courses, there was no reference to *Pilling* in there. If you look at the handbook that the Department issued in 2002, there is no reference to *Pilling* in there.

Mr Downie: When did you first become aware of Miss Corlett's issue and her being accused under part of the *Pilling* judgment and the complaint being made? Just give us some background information to that.

Mr Lewin: Again, I was not at the Public Inquiry; I was in hospital. I think it was Mr Corkhill rang me and advised me that Mr McKinney... There had been a bust-up at the Inquiry. Mr McKinney had come in on the last day, alleging this perception of bias, and he had given to the Chairman of the Inquiry the deeds to a property. The whole thing sounded slightly bizarre, because, again, I would have thought everybody would have known where Miss Corlett lived. Miss Corlett had been out to Mr McKinney's house, as part of the Association of Braddan Residents, and it was really from... That was the first point that this whole issue of *Pilling*, and this perception of bias commenced.

The Chairman: So, had you been aware of *Pilling* at the time, do you think that it would have applied to you in respect of the sale of your land?

Mr Lewin: I think... I mean you have heard legal opinion on that today and it is a question of... This is why I was saying to the Department, 'Come and give us some advice and guidance on this., because people were... Mr Halsall believed it only applied to political members. My view was it applied to officers as well.

Mr Downie: Correct.

Mr Lewin: But how do you actually deal with that perception of bias, because if I am sitting looking at you, Mr Chairman, I would not think that you have a perception of bias against me. Mr Karran smiles, but I know he is trying to put a knife in my back, but how do I know? Basically, I was saying to DoLGE, 'Come and give us some advice, give us guidance.'

The Chairman: But nonetheless, you dealt with the issue. You must have been aware of the perception of bias, because you said that you excused yourself whenever discussion of Area 14 came up.

Mr Lewin: I think it comes down to common sense, Mr Chairman. If you have an interest in it, you declare it. That is the easy way: just declare it, and move on.

The Chairman: So, just to be absolutely clear, you declared it to the Commissioners on 19th July 1999.

Mr Lewin: Yes.

The Chairman: I just want to take us forward. So you had not delayed your declaration of interest until after the sale of Area 14 land? You declared it, I think, May 2000, did you say?

Mr Lewin: I declared that I had sold it, sir, yes.

The Chairman: Yes, you declared you had sold it, but your declaration of your agreement to the sale, you disclosed to the Commissioners in July 1999.

Mr Lewin: Yes. Obviously, once you have sold it, you have sold it. This is the interesting point. How do you still have an interest in something that you have sold?

Mr Downie: Yes, but the more cynical can say you could have sold it with a further option if it had been granted permission for 20-odd houses –

Mr Karran: To get more money.

Mr Downie: – then you would have got more money back.

Mr Lewin: Exactly, but I would have to come forward and say to you, 'Where is the option agreement?' There is no option agreement.

Mr Downie: There could have been a perception of an option agreement, and this is what we have to protect against.

Mr Lewin: Yes, I think you are absolutely right, but when you see that the deed which transfers the legal ownership is recorded in the Registry in February, two months after, there is no indication of anybody trying to cover anything up here. We are just trying to be open and honest and...

The Chairman: And, of course, the Commissioners were, during this period, advocating increasing the density of that land. Are you saying –

Mr Lewin: That was general, across –

The Chairman: – that was a general application of their policy?

Mr Lewin: Yes. If you go to the Commissioners' submission, you will see that, and it is a consistent phrase used throughout.

The Chairman: One of the things to look at is the content and preparation of the Commissioners' submissions and support or otherwise for land zoning, as proposed by various parties. The changes that were made to the initial Issues and Options and the published one in May 2000, were those changes instigated, would you say, by the Commissioners or by yourself, as Clerk, or by the Department?

Mr Lewin: Any changes that were made to the document, in my opinion – and I can see from the evidence – were approved by the Department. The Commissioners are rightfully there, under the 1934 Act, which this started under, as a statutory consultee, and I would like to make this clear, Mr Chairman, because lots of people have said, 'But we were treated differently to the Commissioners.' When this review commenced, it was under the 1934 Act and that specifically defines that a local authority is a consultee. It does not define anybody else as a consultee, so it does give –

Mr Downie: There is a special right.

Mr Lewin: There is a special relationship there, sir. So basically, as these meetings were going on, it was actually the Commissioners putting forward to Sarah – or Miss Corlett – seeking advice from Miss Corlett on what does this mean, the Issues and Options. For example, she attended a meeting up at Mount Murray with the Chief Executive of the Department, proposed what was going on, to try and improve public awareness, and then the Commissioners would make their views known to Miss Corlett and it would be up to Miss Corlett to decide with the Department whether they would be included.

The Chairman: So the changes that were intended to be made, they were the subject, in the first instance, of discussion between yourself and Miss Corlett in advance of a Commissioners' meeting.

Mr Lewin: No, no, no, Mr Chairman. If we start off with the first meeting, which is where the Commissioners had the first draft of October, the Commissioners would go through it with Miss Corlett. If there were issues they had agreed on, then fine. If there was, for example, additional land that they believed should go in, they did not send me off to have a look at it; they went round and inspected themselves – Mr Gawne and Mr Halsall – and then they came back to a meeting with Miss Corlett, and said, for example, 'We want to include Area 25, because we think it is an option that should be considered.'

The Chairman: So are you saying there were no meetings solely between yourself and Miss Corlett during this October-through-to-May period, albeit meetings that would then be followed up by meetings of the board to endorse proposals?

Mr Lewin: Yes. Basically how the process was working was the Commissioners would meet, then if there were some technical issues or, for example the densities or whatever, the Commissioners would say, 'Well, see, can you resolve that with Sarah or Miss Corlett and bring it back to the next meeting. So I was really taking on what their decisions were and trying to progress them with Miss Corlett until the next meeting. It was a feathering-out exercise.

The Chairman: Did discussions take place with any other party during this period, any other interested parties outside the Department – potential developers, for example?

Mr Downie: Or people like Mr McKinney, for instance, representing the Braddan Residents' Association?

Mr Lewin: Not during this period. I cannot remember if the Commissioners met during this period, but certainly round June there were numerous meetings with the Association of Braddan Residents.

The Chairman: After the questionnaire?

Mr Lewin: Yes.

The Chairman: But in the run-up to the questionnaire and in formulating the Issues and Options document,

it would be the public cast document, there were no meetings with any other developers or private parties by the Commissioners –

Mr Lewin: No.

The Chairman: – or yourself?

Mr Lewin: No. The only meeting that we had with a developer was with Mr Kennaugh and Baccarat, but that was after the Issues and Options document had been issued.

The Chairman: And meetings at Mr McKinney's house with yourself and the planning officer that we heard about –

Mr Lewin: No, I never attended a meeting at Mr McKinney's house.

The Chairman: Did any meetings take place at Mr McKinney's house?

Mr Lewin: Miss Corlett attended a meeting of the Association of Braddan Residents, but I...

The Chairman: You were not there.

Mr Lewin: I was not there, and I thought it was a rather difficult position she was putting herself in.

The Chairman: Were the Commissioners approached by other parties with a view to seeking Commissioners' support for zoning? You mentioned Mr Kennaugh. Were there any others?

Mr Lewin: Mr Kennaugh. There was a gentleman out in Baldwin who was looking for support for his one plot. There was a couple of residents out at Port Soderick, but none of the other major developers, no.

The Chairman: You told us that Lovejoy gave some input. Were you aware, or the Commissioners aware, that Lovejoy was acting for other interested parties, as well as the Commissioners?

Mr Lewin: The only involvement that I remember Lovejoy giving us was the Onchan information. The rest of it, he was working on the incinerator and the prison.

The Chairman: I just need to move on swiftly at this point. Do you know Miss Corlett personally?

Mr Lewin: I know Miss Corlett personally through work and also the fact that her partner was... I grew up with her partner.

The Chairman: I am looking now at particular relationships that we are obliged to look at. You told us about the meeting arranged by Dandara for you to meet Mr Cooper of Gouldens in May 2000. I think you told us the purpose of that meeting. The purpose of the trip, just to clarify... to London, was exactly to do what? The Chairman broke off his holiday to come and join you for your meetings. What was that about?

Mr Lewin: Yes, Mr Chairman. It was agreed, first of all, Mr Hoggett could only do the conferences in London because that was where he was getting treated, so we met in London. The first part of it was to do with the incinerator – or Energy from Waste Plant conditions – where the Department had... Through Mr Downie we had agreed the conditions. They then wanted to change the plume condition.

So that first meeting was with Mr G Eduljee of ERM and Mr Hoggett. I think that was the Wednesday or the Thursday night, the 11th. Then, as you can see from the memorandum, Mr Reed was to make a submission to Mr Hoggett in relation to the prison. If Mr Hoggett was happy with that submission, then we would not need to meet on the Friday.

The Chairman: Did you inform your Chairman or the board that you had another meeting with Gouldens?

Mr Lewin: No, because basically Mr Hoggett was obviously... It was personal data and sensitive information. My concern was basically just to find out if there were any barristers out there had worked in the Isle of Man who were used to the uniqueness of the Isle of Man system. It was personal that Mr Hoggett had this medical problem.

The Chairman: Yes, but the fact that a replacement for Mr Hoggett was why you were going to see Gouldens, did it not occur to you to mention it to the Chairman?

Mr Lewin: I was asked by Mr Hoggett to keep it private and confidential because he did not want his personal welfare disclosed.

The Chairman: I see, but presumably, had that been a successful outcome – your meeting with Gouldens – you would have disclosed to the Chairman?

Mr Lewin: The important point is that Mr Hoggett would have said on 11th May, 'I'm sorry, I cannot accept further instruction.' Mr Gawne was still with us. Then we would have probably had a meeting with Mr Hoggett and Mr Gawne to say, this is the position we are in, and I have got a meeting when I am down here, arrange to go and see Mr Cooper.

The Chairman: But in speaking to your Chairman the previous day, you felt it inappropriate to mention to him that you had this appointment?

Mr Lewin: I do not think it was a question of inappropriate. I do not think Mr Gawne was with us the next day. I think he was going off to his brother-in-law's or whatever, but if somebody has got a private medical problem and they tell you in confidence, then if it is not an issue... If Mr Hoggett would have said on 11th May, 'I'm sorry, I cannot take any further instruction,' then I would have said to Alan, can we have a chat, and he could have spoken directly to Mr Hoggett.

Mr Downie: But the allegation is – and it has been time after time – that there was some collusion there with another developer, and that was the purpose of the meeting.

Mr Lewin: Absolutely not. Mr Chairman, the likes of Mr Hoggett... We first used Mr Hoggett on, I believe, the

incinerator, and there is this issue of people coming from across who do not understand our systems. They are slightly different. Then Mr Hoggett was used, I believe, by the Department and Dandara. The independence of the Bar is paramount. We are talking about Queen's Counsel people here; we are not talking of people in Athol Street.

The Chairman: Mr Karran, I want to move on, just to conclude about the meeting in London and then we can move on.

Can I ask you, Mr Lewin, just to tell us a bit more about a petition to borrow that was made in 2001 for £175,000. This was for consultants. What was the object of that borrowing?

Mr Lewin: To spend a lot of money, I would say, Mr Chairman. That was basically in relation to the prison. Basically, the board had decided that they were going to oppose the prison going at Ballafletcher, and I advised them that if that was the intention, that is the kind of money they would be looking at to put a full team together.

You will notice from the minutes disclosed to you, that there is a lengthy meeting with Mike Fayle of KPMG. My concern there was I had advised the Commissioners that the impact of this is going to be significant, and this is where I would then take the normal process and go to the Chairman and say, I really think you do need further professional advice on this, and a senior partner of KPMG comes along and talks it through with the Commissioners.

If they then want to proceed with the petition, I have done all I can and, if that was their decision, then I implement the decision.

The Chairman: So your advice was not to?

Mr Lewin: It is not for me to advise the Commissioners not to do something, sir. If the Commissioners, after taking into consideration professional advice, are minded to oppose the prison going at Ballafletcher, it would depend on what that professional advice would say. I would say to them, 'Don't just wake up one morning and decide you are going to do it. If that is your political view at this point, then let's obtain some professional opinion.'

The Chairman: In the event, the petition was not approved by Government, so how did the Commissioners in fact fund this issue?

Mr Lewin: Fortunately, Mr Chairman, the political Member responsible decided to move it to Jurby, so we did not need to spend the money.

The Chairman: So there was no necessity to spend that money.

Mr Lewin: There was part of it spent, sir, obviously, but nothing... maybe £10,000 or £15,000.

The Chairman: Robert Turley Associates were appointed as advisers in December 2000. How long did that contract last?

Mr Lewin: It was not a contract as such, Mr Chairman. The Commissioners first used Robert Turley's back in the

1980s and they are one of the most eminent town and country planning consultants in the UK. In relation to that, that was only a specific appointment.

The Chairman: So were Robert Turley and Lovejoy both advising the Commissioners at the same time?

Mr Lewin: Lovejoy was on the prison and the incinerator; Turleys were on the Plan and the Strategic Plan. Whether there could be overlapping? Possible. You are talking of two of the most eminent town and country planning consultants in the UK there, Mr Chairman.

The Chairman: Mr Downie.

Mr Downie: I have got a couple. I just want to move on a little bit further. Obviously, you knew there was a complaint made against Miss Corlett by Mr McKinney. There was an internal investigation took place within Government, and in fact your Commissioners were given a copy of a thing called the McGreal Report.

We have heard from Mr Halsall, when he gave his evidence, that based on the information from the McGreal Report, and also based on a copy of the information that Mr Kennaugh gave him about your ownership of the land, he was one of the people instrumental in the Commissioners in writing to the Department of Local Government and the Environment, asking them to withdraw the Plan. Can I have your comments on that, please?

Mr Lewin: Yes, Mr Chairman. The McGreal Report came to me. I was obviously involved, because I was interviewed as part of that process, so I was obviously aware of what was going on at that point in time. When the McGreal Report was brought in, I had a concern as to whether it was a public document. I was assured it was a public document, so it was put on the agenda.

I recommended to the Commissioners that, first of all, we should take advice as to whatever their recommendation was going to be and the legal advice came through and basically was saying, 'Well, if it is perception, then you have to go and look to the next stage of actual bias.'

That was the first Commissioners' decision, where they supported withdrawing the Plan. Mr Corkhill was not at that meeting, and this is the part where I get confused, because I hear Mrs Hodge and Mr Halsall saying, 'Well, yes, with the benefit of hindsight, because of the Clerk's sale of the land, yes, we would definitely withdraw the Plan,' but if we go to the Commissioners' meeting on 22nd August 2006, and this was after they had had all the information – they had Mr Kennaugh along etc – the resolution says:

'...would be setting out their serious concerns that the Minister had decided to stop the Plan process without any justifiable reason, and that Tynwald should have been given the opportunity to receive and consider the Plan, especially as so much time and costs had been incurred by the Government in bringing this Plan through the process.'

So here we are in 2005, the McGreal Report, oh, yes, withdraw the Plan. We have Mr Kennaugh in with the deed and his performance and the conspiracy theories at the open day in October 2005. We then have the *Hansard* debate, where the Minister moves to withdraw the Plan, and yet here we have the unanimous decision of the Commissioners in August 2006, their resolution, without any justifiable

reason. I have read the evidence and I am baffled. Some of the evidence, in my opinion, has to be misleading if you look at that one point, sir.

Mr Karran: Can I ask...?

The Chairman: Yes, I will give you a final opportunity. I think we are going to have to resume our discussion on another occasion, but Mr Karran, I do not want to deny you this opportunity, if you have a final question.

Mr Karran: Does not Mr Lewin think that that just highlights the fact that, really, your role, as far as being a very secondary role, is really not consistent to what was reality, as far as the situation is concerned, as far as Braddan Commissioners are concerned?

Mr Lewin: Mr Karran –

Mr Karran: May I also say that I have tried to make sure that I am as independent... and I did actually try to get off this Committee on the basis that I was the ex MHK for the area, and the fact that one helped a number of you over the years, as far as being an MHK is concerned.

Mr Lewin: But, Mr Karran, if I read those comments that you have made in Tynwald against me over the last five or six years, if you do not see that yourself as perception of bias, then I tell you what, there is no hope for the rest of us. It is obviously for you to sit there, but if you do not see those comments as perception of bias, well...

What I am getting to, the serious point is the decision. The Commissioners, with my role in 2005, resolved to withdraw, or recommend that they withdraw the Plan. You had very strong Commissioners in 2006, having the Minister's *Hansard* debate, having the benefit of all this advice, made that resolution. Mr Jessopp was there; he was unanimous.

Mr Karran: The point is effectively the likes of certain Commissioners were singled out, so that they were there, but they were not there in reality, as far as the day-to-day running going on. Is it not also the point that you are telling me, as an ex MHK for the area, without –

Mr Lewin: No, not yet.

Mr Karran: Well, I am now, because I used to be the Member –

Mr Lewin: Sorry, I thought you were talking about me, Mr Karran.

Mr Karran: – for Braddan. You are telling me that the Commissioners steered the disproportionate wage increase that they gave you, and things like that? These sort of issues –

Mr Lewin: The wage increase, Mr Karran –

The Chairman: I am going to stop –

Mr Lewin: Can I answer that?

The Chairman: I have to stop this discussion, I am

very sorry. We have strayed. I have got one final question, Mr Lewin.

Mr Lewin: Yes, sir.

The Chairman: When did you apply for your present job with Dandara, and can I ask was the post advertised?

Mr Lewin: I was subject to unfair dismissal, Mr Chairman. I went to a meeting the night before, and I came into work the next morning... Never a written warning, never a verbal warning against me, and was told by the Chairman that I was sacked with immediate effect. If that does not come to you as a shock after 17 years, and not to be told any reasons either. Even after the 14-day period, still not told the reasons.

I am a busy, active person. I just could not sit around and do nothing. There were jobs advertised. Heritage Homes are always applying, so I rang up and I did not... I wanted to actually make sure that I mitigated this claim against the Commissioners, because it is going to be a massive claim when it hits, so it is more important to get out there and do some work.

The Chairman: So you approached Dandara.

Mr Lewin: I approached Dandara and they had an offer.

The Chairman: What was your previous involvement with Dandara?

Mr Lewin: None.

The Chairman: None?

Mr Lewin: None.

The Chairman: What about companies that you may have owned in the past? Did they do work for Dandara?

Mr Lewin: Basically, the plant hire company, sir. If you look through the evidence, it was disclosed. I wrote in to the Department, the Chief Executive told him.

The Chairman: This was Lewin Plant Hire.

Mr Lewin: Which was part of Lewin Farms, sir, yes.

The Chairman: Has Lewin Plant Hire now been dissolved?

Mr Lewin: The shares... Lewin Plant Hire was part of Lewin Farms Ltd, and Lewin Farms Ltd was purchased.

The Chairman: Can you confirm there is a new company, Alliance Haulage and Groundworks Ltd?

Mr Lewin: Yes.

The Chairman: Directors, Mark Ellison and Angela East.

Mr Lewin: Yes. I have no involvement with the company at all, sir.

The Chairman: And she was your secretary.

Mr Lewin: Yes, but the connection there was that Mr Ellison was a friend, and then, after, Mr Ellison started going out with Mrs East.

The Chairman: I see.

As I say, I am afraid the clock has beaten us on this occasion. I would like to thank you very much for giving your evidence. I have no doubt that, having considered it, we will have further questions, either in writing or, of course, we may require you to come again and give evidence again in public, depending on our assessment of what we have heard this morning.

So I would like to thank you and your advisers for your attendance. I would like to thank the press and the members of the public for their attendance, and I now declare the public session closed, and we will now meet in closed session.

Thank you very much.

The Committee sat in private at 1.15 p.m.