



**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, Thursday, 20th March 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

Business transacted

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The Committee sat in private at 1.03 p.m.

Tynwald Select Committee on the Affairs of Braddan Parish Commissioners

*The Committee sat in public at 10.34 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 to you and can I welcome everyone to this meeting which is a further sitting in public of the Select Committee of Tynwald on the Affairs of Braddan Parish Commissioners taking evidence in public session.

The Committee was established by Tynwald in January last year and I just want to set out again, for the record, our remit, so that we can fully understand what it is we are investigating this morning. It 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 the Commissioners’ conduct and their response once it was brought to their attention of a potential conflict of interest or of an inappropriate conduct by the Clerk during the Plan review process;
- (3) the content and the 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.’

If I could introduce my colleagues on the Committee: Mr Downie, MLC, Mr Karran, MHK, and our Clerk, Mr Les Crellin. Mr Tony Pass is our specialist adviser in planning matters, attached to the Committee, and Mr Clive Alford is the *Hansard* Editor, recording today’s proceedings. If I could ask everyone to make sure mobile phones are switched off, please.

Administration of the Oath

The Chairman: In calling forward our witnesses today, Mr Alan Gawne and Mr Peter Halsall, I would ask at this point the Clerk to invite you to take the Solemn Oath.

Mr Halsall took the Bible in his right hand and repeated the Oath.

Mr Halsall: 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, so help me God.

The Clerk: Thank you.

Mr Gawne took the Bible in his right hand and repeated the Oath.

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

The Clerk: Thank you.

EVIDENCE OF MR A GAWNE AND MR P HALSALL

The Chairman: Thank you, gentlemen.

If I could begin by asking you to simply introduce yourselves individually and, in doing so, if you could indicate when you were first elected to Braddan Commissioners, the position that you held at any particular time for the duration you served.

So, Mr Halsall, would you like to begin?

Mr Halsall: Yes, I will begin. I was elected to Braddan Commissioners at a by-election in September 1997. I quickly became aware that I was not joining a gentlemen’s club, but that is another matter. I am still a member of Braddan Commissioners and have been ever since.

I was elected chair of Braddan Commissioners in May 1999, May 2003 and May 2004 and served the full year’s period each time.

The Chairman: Thank you very much. And you were, for a period, also vice-chairman?

Mr Halsall: Yes, in some instances I have been vice-chairman.

The Chairman: Could you indicate the period you were vice-chairman?

Mr Halsall: I am afraid I cannot. It was at different times because, apart from being elected at the Annual General Meeting, there were times when, with resignations and other matters, I was the vice-chair but I am afraid I do not have that information with me, sir.

The Chairman: Would you confirm that, during the periods when the late Mr David Mason was Chairman in 2001 and 2002, you were vice-chairman to him at that time.

Mr Halsall: Yes, I do believe I was.

The Chairman: Right, thank you very much. Mr Gawne.

Procedural

Administration of Oath

Mr Gawne: Yes Mr Chairman. I would just like to actually introduce myself and also make a few comments, if I could at this point.

The Chairman: Certainly.

Mr Gawne: My name is Alan John Gawne. I was elected as a Braddan Commissioner in September 1997. I was appointed Chairman of the Commissioners in May 2000 and remained in that post until October 2001, when I resigned from the board of Commissioners.

I would request this Committee to bear in mind that, during the period in question, the Braddan board of Commissioners had to deal with, in addition to the normal affairs of the parish, the relocation of the Island's hospital into Braddan, the rebuilding of Cronkbourne Village, the location of the all-Island incinerator into Braddan, the relocation of the Island's Prison into Braddan and the development of the proposed Braddan Plan.

In addition, the board had to contend with the pressure groups known as the Braddan Residents' Association and Bad Air, who both pungently opposed the development within the parish and, in particular, the major developments... as were some of the members of the board of Commissioners. I believe it is important for the Select Committee to have an understanding of the operation of the board of Commissioners when Peter Halsall and I were elected in 1997 and re-elected in 1998.

In 1997, Peter Halsall and I queried, argued and tested the decisions of the board, particularly their expenditure on consultants in relation to Cronkbourne Village, the hospital development and the incinerator. After re-election in 1998, it will be recalled that Peter Halsall and I were effectively removed from the activities of the board of Commissioners for nearly two months, as two of the remaining three Commissioners voted the two of us off the board by creating a committee structure so that they could concentrate on opposing the incinerator and other developments within the parish without the burden of our examination of the reasons, tactics or the associated expenditure. This stronghold was eventually broken with the support of many of the parishioners when the board was reinstated to 'normal democratic activities' in July 1998.

I mention these points to the Committee, who were all elected members at that time – the difficulties under which the board of Braddan Commissioners operated – to remind them that any elected body has to obtain a majority to take forward any decision it makes in relation to the likes of the incinerator or the Braddan Plan. Throughout this period the Chairman of the board of Braddan Commissioners had a difficult task securing a majority decision on many agenda items and also ensuring, most importantly, that when these decisions were publicised, that the whole board publicly supported the decision.

I will endeavour to answer your questions for the period 1st August 1999 to the end of October 2000, but I will be unable to answer any questions for the period thereafter, as since October 2001 I have had no involvement or interest in the development of the Braddan Plan or the activities or actions of the Braddan Parish board of Commissioners – I suppose I should just say, apart from paying increasing rate bills, but I will not get into that one.

As you are aware, I attended the last session of the

Committee on 14th March 2008. I have this week reviewed some of the evidence files held by your Committee and have also reviewed some of the minute books of Braddan Parish Commissioners for the period 1999 to 2001, but I would ask this Committee to bear in mind that we are about to discuss the happenings of almost nine years ago and whilst I will endeavour to answer all of your questions, I will have to rely on my memory to try and answer many of them.

Gentlemen, thank you for listening. I await your questions.

The Chairman: Thank you very much indeed and we will, of course, make allowance for the passage of time.

If I could just confirm then, Mr Gawne, you were elected in September 1997, you were re-elected in 1998 and in May 2000 you were elected as Chairman, you served for a year, and in May 2001 you were re-elected Chairman until you resigned in October of that year, October 2001.

Mr Gawne: That is correct, Mr Chairman.

The Chairman: Could I ask why you resigned in October 2001?

Mr Gawne: To carry out other interests: nothing to do with the activities of the board of Braddan Commissioners.

The Chairman: Thank you very much.

And Mr Halsall, just to clarify then, you were elected in September 1997 at a by-election, you were re-elected in 1998. In May 1999 you were Chairman and you served until May 2000.

Mr Halsall: Correct.

The Chairman: Following May 2000 you served variously as a member of the board and as a vice-chairman and in May 2003 you were elected Chairman again for a period and re-elected for a total of two years in May 2003.

Mr Halsall: That is correct, yes.

The Chairman: Can I ask you both: when you were elected, did you attend an induction course, do you recall, organised by DoLGE for newly-elected local authorities? Mr Halsall?

Mr Halsall: Yes. I did attend an induction course and I found it very helpful, because although, at the time I was elected, I was quite concerned about planning costs, I did not have a massive knowledge on planning, but part of the induction course did give us an introduction to planning, on what we could do and what we could not do. It was a very comprehensive course and I believe it lasted a day. It was a very comprehensive course and I thought it was great value to me.

The Chairman: Can you indicate what was your understanding of the statutory role of a Commissioner and the role of a Chairman of Commissioners and of the role of the Clerk to the Commissioners?

Mr Halsall: Yes, the role of a Commissioner is to provide

the best for the parishioners within limits; it is to provide the best for the parishioners. The parishioners must be the foremost in your thoughts, although there are constraints that we work under. That was, I believe, the role of the Commissioners.

The role of the Chairman can be difficult in some cases, particularly as Mr Gawne has alluded, that when the board are not in full agreement on certain points. The role of the Chairman is to control debate and make sure that the Commissioners come forward with the position that is the best in the interests of the parish.

The Chairman: And the role of the Clerk in all this?

Mr Halsall: The role of the Clerk was quite clear in Braddan. His job was considered by some to be an extremely well-paid job, but that pay came after a job evaluation that was given on his job description, as all job evaluations should be. His job description was quite comprehensive and, as an experienced Clerk, it was his job to advise the Commissioners and if he felt that we were doing something that was not correct or was not the right thing to do, it was his job to inform us.

The Chairman: Mr Karran.

Mr Karran: Can I just ask who actually made the evaluation, who picked the consultants to do it?

Mr Halsall: The evaluation was done with the help of a guy called Abrahams, who was a consultant. It was done with the aid of the Chair and I – when I was vice-chair and David Mason was Chair.

At that time, though, there were other evaluations of the job. The first stage was for the Commissioners to agree a job description, which was agreed, and it was quite a comprehensive job description. I am sure copies will be available of that to you.

The Chairman: Thank you. Mr Gawne.

Could I ask you the same questions, please, about your attendance at any DoLGE induction course and your understanding of the role of Commissioner, Chairman and the Clerk.

Mr Gawne: Yes, I did attend an induction course organised by DoLGE. It was a comprehensive course and an enjoyable day. The role of any Commissioner is to actually represent the electorate and to try and get a balance between what is achievable and what they require. The role of Chairman is to listen to the board of Commissioners and to try and get a decision out of them on each point of issue, if possible trying to avoid majority decisions. It is much better if the whole board vote in favour of the decisions that are discussed.

The role of the Clerk is very straightforward. The Clerk is employed by the Commissioners on behalf of the parish. He is a servant to the Commissioners and the Clerk should carry out any duties that the Commissioners request of him. He should also advise the Commissioners on all matters and ensure that the Commissioners are not without the law, but offer full advice on all matters.

The Chairman: Can I just take you back to your reference of that two-month period you referred to in 1998 where you said that Mr Halsall and yourself were effectively

frozen out of the Commissioners' deliberations by the other three members of the board at that time. Was Mr Lewin Clerk during that period?

Mr Gawne: Yes, Mr Lewin was Clerk.

I am at a slight disagreement with the statement Peter has made regarding the assessment of the Clerk's duties, which relates very much to that period in 1997-98. I cannot recall being involved in the board when a review of the Clerk's position was carried out, but it could well be that I have forgotten it. But having said that, one of the major points of issue for Peter and I during 1997-98, prior to being cut out of the board after that election, was the Clerk's contract of employment which gave him guaranteed employment for life and actually also gave him guaranteed increases of a level that were above inflation or the minimum of inflation.

Coming from a commercial background, that type of contract was totally unacceptable, but as I have said earlier, the board is of five people and one has to argue to get that point across and to try and get that changed. I seem to recall there was a lot of discussion about that contract, trying to actually change it. Whether there was a review of the tasks that he carried out at that time I cannot recall, but the contract was supposedly at the request of the Commissioners, and written by the Commissioners' lawyers, prior to when Peter and I joined the board.

The Chairman: The three members of the Commissioners at this period: could you inform us who they were, those individuals?

Mr Gawne: Well, the individuals... The Commissioners that actually gave Mr Lewin the contract of employment, which is not really the remit of this Committee I do not believe –

The Chairman: It is not.

Mr Gawne: – were different to what they were when we were in office.

The Commissioners that actually voted us out of office were Mr Mason, Mr Daugherty and Miss Druggan. They in effect created a set of committees which effectively eliminated us from the operation of the board.

The Chairman: And during that period, the Clerk, who has, of course, an administrative function, was he servicing you as members of the board with papers and minutes and agendas during this period?

Mr Gawne: My recollection was that he was... I think we could attend the public meeting once a month, but there was nothing on the agenda. I do not think we were being served with very many papers because the subcommittees' were private to that subcommittee. When we returned to office, all of those minutes and papers were actually obtained and read and some of the decisions debated.

The Chairman: Was the Clerk, would you say, deliberately not circulating papers to you that you were entitled to receive?

Mr Gawne: Well, can I go back to where we started, Mr Chairman, which is: what is the position of the Clerk?

The Clerk was in position as a servant to the board and if he was instructed by the board to carry out an action, that is what he did. There were occasions, from my recollection or my recollection in the past, where I think the board of Commissioners were, maybe, not giving him very clear instruction, so he had to make his own decisions, but from 1997 onwards, I believe we made it very clear that the Clerk carried out the direction of the board.

The Chairman: Would it be fair to say, then, that up to that period of you both joining, you were in a... You joined a situation where the Clerk had very much led the Commissioners from the front, instead of the other way round?

Mr Gawne: Well, I think I will let Peter comment on that, but I think what changed almost immediately was that, instead of the Clerk making public announcements about the activities of Braddan Commissioners, we argued that the elected members should be the people who are publicly talking about the activities of the Commissioners. That straightaway moved the Clerk into the position of servant to the Commissioners.

The Chairman: Thank you, that is very helpful. Mr Halsall?

Mr Halsall: I would comment, sir that, prior to us being elected, we could not comment too much on what happened then. We were told many things by many people, but we were not quite sure what happened, but, quite clearly, the Clerk was making many statements on behalf of the Commissioners and, after our election, things changed. I think that is fair to say.

The Chairman: Mr Downie.

Mr Downie: This business about not having full participation of the Commissioners' meetings and so on, after you had been elected: did either of you write or make any submission to the Department of Local Government and the Environment, who are responsible for local authorities?

Mr Gawne: Do you want to comment, Peter, or –

Mr Halsall: Yes, I believe we spoke to them. We were quite concerned about this, as were –

Mr Downie: Who did you speak to?

Mr Halsall: Well, we were quite concerned about this because, at the time, we had a massive public support, we had just been through two elections and we made enquiries. I am not quite sure who to and we were told that it was quite legal for them to do that and it was supported by lengthy legal advice read out by the Commissioners' lawyer, Mr Clucas, I believe, at a meeting.

They did sit in private and I would add to that – I am sorry to digress slightly – but I would add to that, that when they had their private meetings, in committees, the Clerk attended all the meetings and I do not recall him declaring an interest at any of those times.

Mr Downie: But you were not permitted to attend those meetings?

Mr Halsall: No, we were not permitted to attend the meetings and we were not given minutes until after we had resolved the situation, whereby I believe public support helped us to get back onto the full board and then we insisted on and were given minutes of those meetings.

Mr Downie: But the question I put to you was –

Mr Halsall: I am sorry.

Mr Downie: – did you make that position clearly known to the Department of Local Government and the Environment and, if you did, what was their reaction to that?

Mr Halsall: I cannot recall exactly in which way it was done but it was a massive thing, of massive public interest. The press were there, the radio was there indeed, at a meeting, but I cannot say –

Mr Downie: But what I am trying to glean from you: the Department of Local Government and the Environment has a statutory responsibility for the wellbeing of local authorities –

Mr Halsall: They do.

Mr Downie: – it is part of their role and it would concern me greatly if elected members were being marginalised by a local authority. It is important to find out whether you made a specific complaint and Mr Gawne made a specific complaint to the Department of Local Government and the Environment and it would be part of our role to find out what they actually did about that.

Mr Halsall: Well, what I would say about that is that the Department of Local Government are limited as to the way they can interfere in the affairs of a democratically-elected board – we have been told that many times – but I do not recall or have any correspondence of that. They were well aware of the situation and I believe they had done nothing illegal: they had done something that offended the vast majority, I believe, of the electorate.

Mr Downie: Have you anything to add to that Mr Gawne?

Mr Gawne: Yes, I can recall that the matter was debated on the floor of Tynwald by, I would imagine, all of the people that are on this Committee. There were questions asked by – who I cannot remember – but there were questions asked and it was discussed. The reason I can remember that, I can remember sitting listening to the debate.

As regards to the Department, the Department was fully aware of the position. I recall having conversations with the Chief Executive at the time. The support coming out of Government generally, it did little to actually assist our position. As for names of who was involved in that, that is 10 years ago. All of my files were destroyed a couple of years ago. I have no record.

I can actually add a bit of colour to the situation, though, and say that at one stage the Clerk issued instructions to the Commissioners' advocates and I received a letter threatening to sue me for comments that I was making in the press about the activities of Braddan Commissioners and the fact that we

were not on the elected board. I had to spend personal money arguing back, legally, against the board of Commissioners to actually quash that suing action they were proposing. That shows how unpleasant it was, but the Clerk was instructed by the board to appoint an advocate to actually send those letters.

I recall Mr Karran coming out and discussing those letters with me but the detail of that conversation I cannot remember. I cannot recall speaking to you gentlemen, but it might come back to me.

The Chairman: Thank you. Mr Karran.

Mr Karran: You are not telling me that the likes of Mr Daugherty, Mr Mason and Miss Druggan actually came up with the proposal to bring in these new procedures in order to keep you out? Who instigated those procedures?

Mr Gawne: Mr Mason, Mr Daugherty and Miss Druggan.

Mr Karran: They instigated this?

Mr Gawne: That trio.

Mr Karran: I mean, obviously somebody must have put the thought into their minds. There is no way that those three Commissioners, as an ex-MHK for the area, did that?

Mr Gawne: Well, I cannot say because I was not at the meetings.

Mr Halsall: We were not at the meetings, so we have no way of knowing but we believe there was a meeting of the three Commissioners, apart from ourselves, after the election and the main issue was that one of those was strongly opposed to the incinerator being sited in Braddan and he somehow gained the support of the others, with whose help or not I do not know, and one of those elected Commissioners that has been mentioned, canvassed for that election. He said he would not be opposing the incinerator being sited in Braddan providing that the conditions were correct and that Commissioner changed his mind. Who encouraged him to change his mind, I have no way of knowing, but he changed his mind shortly after the election and they formed committees which we were not a party of. But I was not present at those meetings so I cannot say any more than that. I have strong reason to believe that it was done by one of the Commissioners: with whose help, I do not know.

Mr Karran: So, you are telling us that those three Commissioners would be that well up on the procedures of local government to actually think of doing this? Can you also tell me... Have you ever had any lawyers' letters, as far as from Mr Lewin?

Mr Halsall: From the advocates of the Commissioners?

Mr Karran: On behalf of the Commissioners?

Mr Halsall: Not personally, no.

Mr Karran: Do you know of any other members of the

Commissioners who have had them?

Mr Halsall: Mr Gawne.

Mr Karran: Apart from Mr Gawne.

Mr Halsall: I am not aware of any.

Mr Karran: Why was the situation, as far as Mr Mason is concerned, in such a terrible state... at one meeting and then, all of a sudden, completely capitulated at the next meeting over the situation? Can you give me any information about that?

Mr Halsall: I can give you what is my belief, sir. My belief is that public opinion swayed two of the Commissioners who were against us and when they withdrew their support for Mr Mason, things changed rather quickly.

Mr Karran: No, I am not talking about that period. I am talking about the time when Mr Mason – as an ex-MHK, most people come to me as the unofficial ombudsman of the Isle of Man – the situation is that he came to me and he was in an awful state, as far as getting lawyers' letters, I believe. This elderly Commissioner was in an awful state and I just wonder do you have any knowledge of that?

Mr Halsall: I was not aware of that, no. I was not aware that he had any lawyers' letters from the Commissioners.

Mr Karran: I do not know where... I know that he was very concerned about being sued because he talked to me. I just wondered. So you have never received any lawyers' letters?

Mr Halsall: No, and I was not aware of Mr Mason receiving any. He never made it known to me.

Mr Karran: Right.

The Chairman: So, just to summarise, then. In this period 1997-98, that two-month period, you were in receipt of letters, Mr Gawne, from advocates on behalf of the Commissioners, instigated by the other three board members, to the best of your belief, who instructed the Clerk, Mr Lewin, to have legal letters sent to you?

Mr Gawne: That is correct and the reason for that was that I was querying the ability of those Commissioners to actually control the expenses of the parish and the borrowing of the parish, which at that time was excessive.

The Chairman: Thank you. Just moving on then, because I am conscious we are dealing with events that are before the period which is our remit, but nonetheless it is important, I think, to get the backdrop to certain things.

The submission that we had last year, the written submission from Braddan Commissioners: Mr Halsall, referred to Mr Lewin as a 'key adviser'. In your experience, as a Commissioner of over 10 years now, how would you describe Mr Lewin as a Clerk? In what terms would you describe him?

Mr Halsall: I would describe him as extremely

experienced. He took a full interest in everything in the parish and he attended just about all the meetings of the Commissioners and very few declarations of interest were made and –

The Chairman: Would you describe him as a persuasive, forceful character?

Mr Halsall: I would describe him as a forceful character. I would say that he was quite a forceful character.

I have to say he did a lot of good for Braddan regarding collection of rents and things like that. He did run an efficient office and I was aware that he had business interests, but I am not sure what they were.

The Chairman: Thank you. Mr Karran.

Mr Karran: Of course he ran a very efficient office because the administration costs were so disproportionately high, as I say. Have you got any idea, proportionately to other local authorities, the administration costs of the office, to other parishes?

Mr Halsall: No. It has been pointed out to us that they were high and we are addressing that problem now. I would say that they were higher than most authorities, but Braddan... I think the background is that Braddan has now become, in terms of its rateable value, the fourth largest local authority in the Island. It has been the subject of massive expansion over the years and the efficiency was needed in the office to collect the amount of rates they have done. The amount of rates and rent that Braddan collect is the envy of others. There is no massive debt to Braddan Commissioners and it is important to state that.

Mr Karran: Do you actually... So Braddan Commissioners claim their rates. Why should the likes of that put it up so disproportionately, allowing for the fact that you have been very fortunate that you have not had all the industrial sites taken into Douglas –

Mr Halsall: That is correct.

Mr Karran: – and that is the real reason.

Mr Halsall: There is a massive commercial rate.

Mr Karran: Can I just ask, on the costs. Were the legal costs disproportionate, as far as Braddan Commissioners were concerned?

Mr Halsall: In my view they were, but they were the result of... The legal advice taken was at the request of the board. How they arrived at that position I could not comment.

The Chairman: I think we will go on to other matters and also to you Mr Gawne: how would you describe Mr Lewin in his role as we have been told as a ‘key adviser’ to the Commissioners?

Mr Gawne: Mr Lewin actually presented agendas to the Commissioners and he offered advice when requested to do so by the Commissioners. His local knowledge was

extensive and his advice was extensive but, at the end of the day, the Commissioners were to hear that advice and then make the decision.

The Chairman: And, of course, you were Chairman for just over two years. Was your experience that he accepted direction from the board? You say he produced the agendas: was he setting the agenda of the board of Braddan Parish Commissioners in that wide sense? In advising the board, was he delivering advice in a way which, in your opinion, was intended to lead the board in a certain direction or towards making a particular decision?

Mr Gawne: I believe he provided advice on the issues that he was requested to do. I do not think he particularly led the board. The board made their own decision.

The Chairman: Would there be any sense in which you would say he manipulated the board, in your experience?

Mr Gawne: I would not use the word ‘manipulation’, no. What I would say was that you had a board of Commissioners, five elected members with very different views – the likes of incineration and David Mason has been mentioned. David Mason had very strong views. I would not say Tommy Daugherty and Voirrey Druggan did, but he carried those two members along whenever he needed a vote.

The Chairman: Okay, thank you.

Turning now to the events from 1st August 1999 onwards. This was, of course, the period when the Issues and Options document was developing and discussions were taking place by the Planning Officer with the board. Can you tell us, from your recollection – I will put this question to both of you and it is up to yourselves who perhaps answers, if you are of the same view, but if you are not of the same view, then obviously we would like to hear from you both – were the recommendations in the Issues and Options document at that time initiated by the board or were they the result, would you say, of the Clerk’s recommendations to the board?

Mr Halsall: I think it is fair to point out that the Plan was in the ownership of the Department of Local Government and the Commissioners did make that point strongly to the Association of Braddan Residents. Sarah Corlett was given control of the Plan, she was to draw up the Plan and she approached the Commissioners. It was, in my view, a refreshing new look at things because she approached the Commissioners to take on board our views or, not our views but what we thought the options were. Then the idea was to put the options to the electorate and see what their views were.

There were extensive discussions on the options and we were lobbied quite often by the Association of Braddan Residents, who I believe, wanted an input into the actual options themselves, which would have been wrong, because they were not elected to the board of Braddan Commissioners.

At that stage our stance was that we were not having a direct input into the Plan. The Issues and Options could be put to the electorate and then summarised and that then became the Commissioners’ stance and submission.

The Chairman: Before the Issues and Options were

finalised, though, those issues and the options... there were various options set out for each issue which the Planning Officer agreed with the board. Was that the result of discussion between the Planning Officer and the Clerk, as key adviser, to set out a document that was then brought to the board, or was it a document that came in ready-made form from the Planning Officer and brought before the board?

Mr Halsall: No, my recollection is that Sarah Corlett gave us the options and the areas and the board then considered it and discussed with her as to the best way to present them to the people.

The Chairman: So the recommendations ultimately in the Issues and Options, the end result was the result of a period of consultation with the public. Would this be through the questionnaire that was drawn up?

Mr Halsall: Yes, the questionnaire was drawn up on the areas of the parish and the actual Plan itself, the Issues and Options that were concerned in the Plan and they were to reply to that. Those replies were sent to the Department of Local Government and we received every reply – although they were considered to be confidential because they were made on what was considered to be a confidential basis. Every reply was circulated to us with a summary drawn up by Miss Corlett and that then formed the Commissioners' policy. There were one or two surprising things we found out from that summary but that was where the Commissioners formed their policy.

The Chairman: Who drew up the questions in the questionnaire? It was the Commissioners' questionnaire –

Mr Halsall: No, no it was the Department of Local Government's questionnaire, although the Commissioners had an input into the way to present it and we had many meetings with Sarah Corlett and things like that.

The Chairman: We have got a copy of the questionnaire and it says 'Braddan Parish Plan Questionnaire.' Certainly it had to be sent to Miss Corlett by 14th July 2000. Are you saying this was not the Commissioners' questionnaire?

Mr Downie: Did you not prepare a questionnaire and submit it to every household in the parish of Braddan?

Mr Halsall: No, that was drawn up in conjunction with the Department of Local Government: it was drawn up... That, in my view, and my belief was that it was the Department's Plan and those questionnaires were circulated on behalf of the Department, who... they were then submitted to the Department and the Department then copied them to us and summarised them.

The Chairman: But the idea for a questionnaire was the Commissioners'?

Mr Halsall: Oh, yes, the Commissioners were going to form their policy on the results of the questionnaire and –

The Chairman: So, my question was who drew up the questions –

Mr Downie: On behalf of the Commissioners.

The Chairman: – that went into the questionnaire. Was it the Commissioners or did the Commissioners say, 'We want a questionnaire to consult the public we represent. We would be grateful to the Planning Officer if she would draw up the questions.' Was that what happened?

Mr Halsall: No not quite. The Plan was presented to us as to where the Issues and Options and where the places were likely to be built and then extensive discussions took place between the Commissioners – they were private discussions – and Miss Corlett and then they were formed into Issues and Options and then circulated to the public.

The Chairman: Those private discussions, they were between the board, with the Clerk in attendance and the Planning Officer?

Mr Halsall: The Clerk was in attendance at all meetings and I do not ever recall him declaring an interest.

The Chairman: We will come onto that issue. Were there meetings between the Clerk and the Planning Officer at that time, do you recall, for the purpose of devising questions to go into the questionnaire, or for any other purpose?

Mr Halsall: I am not aware of any meetings between the Clerk on his own and the Planning Officer. He may have been in touch with her to clarify points but I am not aware of any meetings in any form.

The Chairman: And if there had been any, you would have expected them to be fully reported on to the board subsequently?

Mr Halsall: Absolutely, yes.

The Chairman: Mr Gawne, was that your similar understanding.

Mr Gawne: Well, I am afraid as I get older I have problems with my memory, really. I recall the Issues and Options document being actually developed as a debating document to go out to the public, with the view that the issues would be raised and the options would be there for the parishioners of the parish to agree. So there was input from the Commissioners to the Planning Officer, who created a first draft document and delivered that to the Commissioners. I think your file note said that was in September 1999, was it? The Commissioners then debated that with her and tried to actually extend the document to actually make it more of a discussion document and eventually the Issues and Options document was circulated to every household in the parish.

I seem to recall that there was an agreement with the Planning Officer that the planning department would fund the cost of the circulation of that document to every household, but then they backed off that and we had to fund that cost ourselves at Braddan. I also seem to think the questionnaire was driven by Braddan and I think the Braddan Commissioners... and I think was posted with the Issues and Options document by Braddan Commissioners to each household to try and generate interest in what people wanted for their parish.

But I think the important point in that, Mr Chairman, is that the Issues and Options document draft was discussed,

was extended and I know, for example, the issue of population, the housing requirement, was definitely extended quite considerably in that document: so that anyone that was commenting on it did not have to guess those figures, they were actually in the document. It was issues like that that were actually discussed in detail with the Planning Officer. I must admit that the Planning Officer at times found this discussion a bit irritating but it was there to actually extend the document for public consultation.

The Chairman: Thank you.

Moving on to the content of the Issues and Options document, a bit of detail then, if we look at Areas 1, 2, 3 and 4, Camlork: can you tell us why were these areas included in the Issues and Options under modified written statement?

Mr Halsall.

Mr Halsall: Well, I believe that those issues which were known as Camlork, Areas 1, 2, 3 and 4, there was a massive opposition in the parish to those, which was well known to us. It was important that they had all the options and could look at all the sites that were likely to be built on. That was part of it.

The Chairman: Was their inclusion the result of discussion between the board or by the Planning Officer?

Mr Halsall: I cannot recall that but, even now, I would think that not to include those areas in Issues and Options would be wrong. I have an idea what the result would be when people saw them but it would be wrong not to include them because it is a major part of land in the parish that had been the subject of a planning application before.

The Chairman: So it was a decision of the board at that time that they should be included within the Issues and Options?

Mr Gawne: If I could correct that, Mr Chairman, it was a decision of the – sorry –

The Chairman: Mr Gawne.

Mr Gawne: It was not the decision... You were stating that it was the decision of the board of Commissioners that the Areas 1, 2, 3 and 4 were included in the Issues and Options document. I was saying that the Planning Officer had included those in the Issues and Options document. That is a different position. They were there.

My recollection... I collected this from Braddan Commissioners: it is an Issues and Options document, it is dated October 1999 which is about the time of the release. It is a very rough draft document with quite a lot of errors contained in it that we were looking for. There are plans in that which show all the areas that were under consideration.

I also collected from Braddan Commissioners a May 2000 document which does show considerable differences, all of which were put into the document by the Planning Officer after debate with the board of Commissioners and obviously with meetings with their Clerk. But the board of Commissioners were aware of what was going in there. The board of Commissioners did not, maybe, agree with everything that was in there, but they had actually gone

through the process of discussing it.

The Chairman: Yes, if we look at Area 3 in particular. What were the reasons for the inclusion and then the exclusion of Area 3 and do you recall, Mr Halsall, who made the recommendation to remove Area 3?

Mr Halsall: My recollection may not be the best but, for clarification, Area 3 is the area of Camlork Farm that is up close behind Jubilee Terrace. There is a field up there, not a large field. One of the things we looked at... we had spent a lot of time looking round the parish at the impact of housing in various areas and it was generally felt by the Commissioners that Camlork Farm would be high visibility and it would be joining two settlements together. We took the view that there was likely to be building in the parish of Braddan and we should look at all the options of what and where they might be.

We did look at that top field and then we did have another tour of that parish, along with the Clerk – I cannot recall if Miss Corlett was there at the time: I believe she was, but I cannot recall – and we had another look at that and I do recall the Clerk saying that he had farmed the land and there would be problems building there because of the nature of the ground. How much weight Sarah Corlett put on her deliberations on that I am not at all sure.

The Chairman: So at this point did the Commissioners have any professional or technical consultancy in the preparation of the Plan? Were you being advised at that point?

Mr Halsall: I do not believe we were, no. We were going on experience and maps of the parish –

The Chairman: What evidence was there to support Sarah Corlett's view that the topography of the land in Area 3 was uneven and drainage would be problematic?

Mr Halsall: I believe... I would really say you would have to ask Sarah Corlett that, but she was there. I believe she had seen the site. She was a very active Planning Officer. She actually toured around the parish and got as many views as she could but I cannot say what was in her mind at the time.

The Chairman: So was the removal of Area 3 ultimately the recommendation of the board, having had that site visit and the site inspection?

Mr Downie: And the benefit of the return on the questionnaire, of course?

Mr Halsall: Yes, I believe it was. The board had then become in favour of removal of Area 3.

Mr Gawne: Could I interrupt for one second. Could you clarify when that area was removed, Mr Chairman.

Mr Halsall: It is very difficult for us to remember the times and dates, I am afraid. I remember principles and what went on.

The Chairman: Let us just get the time line here.

Mr Gawne: I believe it was in the May 2000 Issues and Options document, was it not, by the Department?

The Chairman: It was in the Issues and Options... It was removed from the written Statement, I understand.

Mr Gawne: Well, can I say then, Mr Chairman, just to actually close that question down, that I have no recollection of Area 3 being removed from the document and the documents I have in my possession here show it included. That was up to May 2000.

The Chairman: Okay, and there was no professional adviser at that time giving advice to the board on the outcome of the options that had been identified, was there? I think you said there was no –

Mr Halsall: I do not believe there was. My memory is not the best but I do not believe that there was.

It was the intention of the Commissioners to work hard on the Plan with Sarah Corlett and come towards the best Issues and Options. But we have to be mindful of the costs because the parish had suffered massive planning expenses over the few years before that.

The Chairman: In the period between October 1999 and May 2000, which was the Issues and Options period, there were several Braddan Parish Commissioners meetings where the issues were discussed. At any time was the ownership of Areas 1, 2, 3 and 4 discussed?

Mr Gawne: Can I answer that question, Mr Chairman?

I was new to the development of the Braddan Plan and initial discussions with the Planning Officer which took place in October 1999 and with the Clerk always put forward the point that the ownership of land for a development plan was not an issue for the Commissioners to consider. It was the location of the land, rather than the ownership.

I mean, obviously, some Commissioners would be aware of who owned land from the fact that they live on the Isle of Man but it was not an issue for discussion within the board.

The Chairman: So it was not discussed. Was it raised, just factually?

Mr Gawne: Who owns 1, 2, 3 and 4?

The Chairman: Who owns 1, 2 –

Mr Gawne: I have no recollection of that being raised.

The Chairman: Mr Pass.

Mr Pass: Could I just ask Mr Halsall: can he recall land ownership being an issue for discussion of the Issues and Options document?

Mr Halsall: No, land ownership was never an issue but we were aware that there had been – well, I was certainly aware – that there had been planning applications made on behalf of people for that –

Mr Downie: Just to take that a stage further, were you

aware that the Clerk owned any land in the parish and were you aware that the Clerk had made any previous declaration he owned land in the parish?

Mr Halsall: I would say I was never aware until it was made known to me by Mr Kennaugh. I was never aware that the Clerk owned land in the parish.

We had made declarations in response to Questions in the Keys from Mr Karran that we did not own land in the parish, apart from Alan and I, who owned the land our houses were on, but what I did not know at that time was that those declarations were at the time the question was asked, and that land had been sold in... the final sale went through in December 1999, of what was called Area 14.

The Chairman: Yes, we will come on to Area 14 specifically. I do not want to jump ahead. Mr Pass.

Mr Pass: I just wanted clarification about Area 3 again. The two alleged objections to developing Area 3 was its steepness and its inability to be drained adequately. I understood you to say a few minutes ago and we did not pick that up, that the comment came from the Clerk originally.

Mr Halsall: I do recall the comment being made by the Clerk. There were many other comments. We travelled up there – the Clerk, the Commissioners and, I believe, Miss Corlett was there, as well – and looked at the land from the back of there, I do remember that comment being made by the Clerk. It would be a comment along with many others.

Mr Pass: Yes, that was my second question, whether, in fact, the Planning Officer was there.

Mr Halsall: I cannot say with 100 per cent certainty but I believe she was.

Mr Pass: Therefore, I wonder... There is no other technical advice that you received with regard to that, that you were aware of?

Mr Halsall: No, there was not but, as Mr Gawne has pointed out, it was in the 2000 Issues and Options. It was still in there at that time.

The Chairman: Okay. Turning to Area 7. Can you tell us how was this area first identified, Mr Halsall?

Mr Halsall: Well, in general, we looked at the parish and we looked at things, high visibility and expansion of settlements without joining them and that was, obviously – well, obvious to me and others – an area that needed consideration.

The Chairman: Was it designated as an area of high landscape value and scenic significance?

Mr Halsall: I do not believe so. I may be wrong but I do not believe so. The more scenic significance was the green fields of 1, 2, 3 and 4, in my opinion, but that could not be overlooked from surrounding areas. There was a settlement there already and it just meant expanding it.

The Chairman: In the 1982 Isle of Man Planning Order,

evidently, it was designated as an area of high landscape value. Can you recall who suggested that this area could accommodate a school?

Mr Halsall: Regarding the schools, we were disappointed that there was not a submission from the Department of Education and when we had asked the Department of Education, they said to us: 'Where you build a school is going to depend on where the population is going to be. We could not pre-empt where houses are going to be built.' They gave us suggestions of where four or five schools could be built in Braddan, depending on where the population was going to go in Braddan, if and when it was developed.

The Chairman: So the suggestion was one that emanated, amongst others, from the Department of Education as to what would be suitable areas?

Mr Halsall: No, they were not too concerned about where the population went, they were concerned about where they would need to build a school when the population appeared there.

The Chairman: Can you recall who suggested the area would be suitable for housing?

Mr Halsall: No, I cannot recall but I am quite sure that it was considered by Miss Corlett because, in my view, it was an obvious area for development, but I mean that was... I am not a planner.

The Chairman: We are aware the Commissioners started proceedings to consider the purchase of Area 7. What was the reason for that, then?

Mr Halsall: The Commissioners were looking at the Braddan Plan and realised that we did not own very much land there and it would be important for us to have a land bank so we could... If the population of Braddan was going to increase, we might need more public authority housing and then would have been an appropriate time to look towards obtaining land. I believe approaches were made to the Department of Local Government, who was not against it, but did not come up with anything. In the fullness of time, an option was taken on the land by a major development company in the Isle of Man.

The Chairman: How would the Commissioners have funded this purchase, then?

Mr Halsall: By a borrowing –

The Chairman: By a borrowing.

Mr Halsall: – by borrowing, as Commissioners do for long-term projects.

The Chairman: And were you aware that the Department was also interested in purchasing the land at that time?

Mr Halsall: No, I was not aware of that.

The Chairman: So why did the Commissioners pull out of negotiations?

Mr Halsall: I am not sure if they pulled out. I merely think that other people became part of the negotiations and probably more than one building firm became part of the negotiations. I believe the owner of the land was not living on the Island and it was either purchased... I believe it was purchased, but I am not 100 per cent sure if an option was taken out by a major building firm.

The Chairman: Okay. If we turn, Mr Pass –

Mr Pass: Just on this question of the school, were you aware of the Clerk's position on the governors?

Mr Halsall: I do not believe he was governor at that time. I am not sure, but I do not believe he was governor at that time. He was elected to the Board of Education after that, I believe.

I would not say it was a matter for the governors of the school: it was more a matter for the Education that, perhaps, you could expand on it better, Mr Rodan, having been the Chairman of the Board of Education. It was a matter for the Board of Education and a major financial thing about where they put the schools and I do not think it would be a matter for the board of governors for Braddan.

The Chairman: Okay.

Mr Gawne: If I could just make comment, Mr Rodan. I do seem to recall – and Peter hopefully will fill in gaps – that with the development of the hospital, the Union Mills Football Club were being evicted from the land that they used in the hospital. At some stage during that eviction procedure we tried – the Commissioners tried – to secure an alternative site for the Union Mills Football Club, which was an area of land above Area 7. We actually secured that land and the funding to develop that area. I am very hazy on this, but the funding to develop that area, I believe, came from the DHSS, so that they could actually use the land for Union Mills Football Club.

At the same time I do recall there being a co-operation within Government, a wonderful thing, a co-operation within Government to actually consider using the playing fields of Union Mills Football Club as part of a school facility, should it be built in that area. I cannot remember any more about that but I do remember there was quite a lot of discussions about that and we did actually secure the Union Mills Football Club site.

Mr Halsall: When you say that we 'secured' it, the approach came from the DHSS, who found out that Union Mills Football Club had a lease on an option to renew that lease, that would have secured that for a long time for them. During the plans for the hospital there was no intention to use that football ground. It was considered in some cases for parking but when they found out the Football Club had a long lease, it was never pursued and then, in the fullness of time, the doctors who did not want to be at the hospital insisted that they should have accommodation there, so the DHSS found it necessary to move the Football Club. So an agreement was made between the Commissioners and the Football Club and the DHSS to relocate them.

Alan is quite right when he says it was a consideration that if they had playing fields up there, it could help the provision of a school if the population moved up there.

The Chairman: Okay. Thank you.

Mr Gawne: But I would also say that it was a very difficult position for the Planning Officer to try and establish from the Department of Education where they would like to put a school, because the initial view was that the Department would have four or five areas of land set aside for possible school development which would have been very, very difficult land use and would have created quite an issue.

The Chairman: Okay, thank you.

I want to turn now to Area 14 and ask why did the Commissioners support this area for housing?

Mr Downie: The area at the Strang crossroads, is it?

Mr Halsall: Area 14 is Mount Rule.

Mr Gawne: Can I actually run through Area 14 because it seems, from looking at the evidence, that has been put forward right the way through: it seems to be a major issue, just giving background to the position.

Back in July 1999 the board of Commissioners were actually given a paper by the then Clerk to the Commissioners, stating that he was a director and major shareholder of a company that serviced the Isle of Man Parks business site which was owned by Heritage Homes/Dandara. The Clerk issued this memo to the Commissioners, stating that there was not a conflict of interest, but he felt that he should actually mention to the board that he was involved in that site. What came out of that was that eventually the Clerk divested himself of the company that was doing that work for Dandara.

The reason I mention that is purely to say that the issue of conflict of interest was discussed as a board in July 1999. Tynwald actually, in its Question Time, raised an issue of land owned by the Commissioners, or the Clerk to the Commissioners, or the staff of the Commissioners, or members of the Department of Transport could be involved in the development of the Braddan Plan. That Question took its course through Tynwald on, I believe, 20th June and, immediately after that Question, at the next meeting of the board of Commissioners, on 26th June 2000, I raised the issue of land ownership within the parish and the board and the Clerk and the Deputy Clerk agreed at that time to sign a declaration form, indicating whether they owned land in the parish. That was on 26th June 2000. That document – I have it in my possession here – clearly states that there was no land owned, apart from household land, by the board of Commissioners or their staff and that was signed by the Clerk, the Deputy Clerk and all the Commissioners.

Again in July 2000 the issue of conflict of interests, this time of our professionals, was an issue for the board to consider. I recall at the end of July 2000 actually raising that issue, particularly in relation to John Hoggett QC and to the Lovejoy Partnership. At that time various consultants had been employed for the incinerator, the hospital, the prison, Cronkbourne Village redevelopment, recreational facilities for Union Mills Football Club and probably other schemes, but at that time Lovejoy, ERM and Hoggett were actually making submissions.

We had issued the... or the Department had issued the Issues and Options document to the public and the submissions were coming back to the Department and

being copied to us and it became apparent that the Lovejoy Partnership, in particular, were actually advising people on planning matters in addition to advising, on an *ad hoc* basis, Braddan Commissioners.

We actually debated this matter for quite a while and eventually this resulted in the Lovejoy Partnership being terminated or dismissed and Turley Associates being appointed. Again the conflict of interest issue was discussed by the board and the Clerk and the staff.

Finally, we come to Area 14 and one of the things that I found very disappointing in reviewing the evidence that has been presented to the Committee is that there is a deed of sale within that evidence for land now known as Area 14, which you are referring to, detailing conveyance from Charles Stanley Lewin, the then Clerk, to Heritage Homes and that was in December 1999. I was not aware of the sale of this land until I reviewed the evidence that has been presented to this Committee. I do not believe any of the Commissioners in office in 1999 were aware of the Clerk's ownership of this land and its sale to Heritage Homes.

It is a fact that the Clerk in 1999 raised the issue of conflict of interest with the Isle of Man Business Parks, Dandara/Heritage Homes and that I also raised the issue of land ownership with the Commissioners and the Clerk on two formal occasions on 26th June and 7th December and I also raised the issue of conflict of interest of our professionals in July 2000.

I feel very, very disappointed that the Clerk did not use one of those meetings, where we raised conflict of interest, to actually disclose the fact that he had sold that land. It is for the Committee to establish why the Clerk chose not to advise the board of Braddan Commissioners of this sale and to establish his reasons for withholding the information.

The Chairman: Just to be clear, then, in the 1999 period the ownership of land of Area 14, was that not in the knowledge of the Commissioners that Mr Lewin owned land in Area 14?

Mr Gawne: It was certainly not in my knowledge and was never raised as a land ownership issue throughout my discussions in the board of Braddan Parish Commissioners and I do not believe any of the other Commissioners raised that issue, either.

The Chairman: The Commissioners – other than yourselves, who had been on for longer – would have been there at a time when planning applications were made in respect of Area 14, when land ownership would certainly have been known to the then board. Would you find that surprising, then, that the board collectively was not aware of who owned Area 14 at that time?

Mr Gawne: I do not know if there were Commissioners in office in 1999 that dealt with the planning applications for that land previously. I do not know the dates of those previous planning applications, but what I can say is that I have no knowledge of land ownership being discussed in that area. I cannot recall that.

The Chairman: Would you accept, certainly, Mr Mason, who was first elected in 1989, and Mr Daugherty in 1985, would have been on the board at the time of those applications, which were in the early to mid 1990s?

Mr Halsall: I would say that is a matter for Mr Mason and Mr Daugherty, but I certainly was not aware of the ownership of that land until the registry of the sale was produced to me and I was extremely disappointed when I received it. But I could not comment on other Commissioners and what they knew.

Mr Karran: Could I just ask how secure are the minutes, as far as your board are concerned? Are they generally fairly... They have to be agreed at the next meeting by the board Members, I take it?

Mr Halsall: Yes, of course.

Mr Gawne: The minutes were taken by the Clerk or the Deputy Clerk, they would be typed up, they would be presented to the next meeting and frequently they would be amended prior to being approved by the board at the next meeting. So they are a reasonable record.

The Chairman: Okay, just to come on to the question of Area 14 and the proposed density: in a letter of September 2001 the Commissioners suggested amendments to the draft Plan which 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, as such, the site is considered suitable to accommodate up to 20 dwellings.' Can you recall who made those submissions and did the Commissioners approve this proposed increase in the number of dwellings?

Mr Halsall: I cannot recall but it may have been part of the Issues and Options document when the views were taken then and summarised and given to us.

The Chairman: Can you recall if there were any areas other than Area 14 which received support from the Commissioners in terms of specific numbers of dwellings for that site?

Mr Halsall: I cannot, no, but what I would emphasise is that the Commissioners' submission to the Braddan Plan, and support or lack of support, was dependent upon the replies to the Issues and Options that we had.

The Chairman: The Commissioners had a view, did they not, that there should be increased density on greenfield sites that were being proposed for residential? Would that be correct?

Mr Halsall: I honestly do not know. I cannot remember, sir.

The Chairman: The issue of maximisation of the sites that were already identified for development. This was an active policy, was it not? And certainly, in a letter from the Clerk to Miss Corlett reference was made to this and the Commissioners' view that there should be maximum density to increase the... there should be a policy of increasing the density on greenfield sites designated for development.

Mr Halsall: I am not aware of that but what I would say about the Plan is that they were not cosy chats with Miss

Corlett, they were strong and often forceful discussions sometimes. The Commissioners had a belief that there should be a national plan before local plans and we then became part of a plan that had identified a need for quite a large number of houses in the area next to Douglas. It was my personal view that those houses should be built away from Douglas to build up the likes of Castletown, Peel and Ramsey and that is becoming a fact now, if you look at Peel and places like that.

So we were constrained as to the number of houses that the Department were proposing and, indeed, the length of the Plan which I remember there were long arguments about both those things but I am not aware of a definite Commissioners' policy. I may be wrong, it is just that I do not recall it. I am not aware of a direct move from the Commissioners to vastly increase the density of houses in the parish.

The Chairman: Okay. In terms of the overall numbers of houses proposed in the parish, was it the policy of the Commissioners to support an overall reduction in the maximum, to have a target figure?

Mr Halsall: Not really. The idea of the Plan was that it was a long-term thing for the future development of the parish. If you had said that there could be up to, say, 800 houses there, that means there was land suitable for that. It did not mean they had to be built on.

There obviously had to be some development in Braddan, which, as Mr Karran has pointed out, is mainly commercial in recent times, but the Department came from a view that Braddan had to be examined with a view to housing people for Douglas, whether we liked it or not. That was not an unreasonable thing to look at because that is the idea of a plan and, no, I am not aware of any firm policies of the Commissioners to control the number of houses but the Plan was, of course, Sarah Corlett's.

Mr Gawne: I think it is fair to say, Mr Chairman, that if we go back to the development of the draft Issues and Options document, it did actually then try to quantify the housing requirement for the parish. It did talk about the population expansion that was expected and it did try to quantify what housing and what area of land was required, as an issue and an option for discussion – so the people of the parish were aware of what could happen.

Peter has mentioned 800: there was conversation, if it was a five-year Plan, it could be 400, but the will of the board at one particular time was to go for a five-year plan to try and limit the amount of land available for development. Then, eventually, it moved on to the 10-year plan.

The Chairman: Yes, and the densities that were identified by the Commissioners for particular plots of land: was that all intended to accommodate this maximum figure in a way that did not require other areas being designated?

Mr Gawne: Yes, I seem to recall a calculation being that the areas of land being listed and rough estimates of what could be achieved on those houses at certain densities. As I say, it is a recollection, I cannot actually remember the details.

The Chairman: But clearly the greater the density in such areas, the less would be the pressure or the requirement

to bring in fresh land –

Mr Gawne: That is right.

The Chairman: – for development. Was that what the Commissioners had in mind as an intention? Was that the objective?

Mr Gawne: I believe it was the objective to get that out as an issue, yes.

The Chairman: Mr Pass.

Mr Pass: Just to reinforce this, we have a letter here from the Clerk, on behalf of the Commissioners, to respond to Miss Corlett, responding to the amended, revised draft of the Braddan Plan and there is a statement here making the best use of land, maximum utilisation: ‘The Commissioners strongly believe in the principle of the maximum utilisation of land released for development, in particular as this relates to greenfield sites.’

Mr Halsall: What date is that?

Mr Pass: That is dated 23rd February 2001. The Commissioners’ principle is supported by, in particular, planning policy guidance (PPG) note 3, housing, a copy of which is attached hereto. Can you recall being familiar with that?

Mr Gawne: I can recall being familiar with it, but I cannot recall its familiarity now, no.

We did discuss planning guidance notes. I think that could have been an issue that was brought forward by, I do not know who, I cannot remember. I can remember talking about planning guidance notes.

Mr Pass: The Clerk says: ‘...a copy of which is attached hereto.’ Where would that note have come from?

Mr Gawne: I can... The Clerk... we paid a fee to various internet bodies where we could download information on different things.

Mr Pass: Would it not relate to the UK?

Mr Halsall: It would probably have come from the Clerk somewhere.

Mr Gawne: It would have come from the UK in some fashion, yes.

Mr Pass: So how would that relate to the Isle of Man and Braddan?

Mr Halsall: It would be given to the Planning Officer when she was considering the Braddan Plan.

Mr Pass: That would be material evidence, either for yourselves as Commissioners, or for the Planning Officer, or in an Inquiry.

Mr Halsall: It could be another part of the jigsaw, to actually have more knowledge to try and assist in the

decision that was looking to be made. Do you not feel that is reasonable?

Mr Pass: Pardon?

Mr Halsall: Do you not feel that is reasonable to have more knowledge?

Mr Pass: I am not offering any opinion at this point.

Mr Halsall: Well, I think you are actually insinuating that it is unreasonable to have that knowledge.

Mr Pass: No, I am asking where it comes from and how that relates to the Isle of Man and I think we have had the answer.

Mr Halsall: But would you agree then we should have knowledge about issues not just within the confines of the Isle of Man?

Mr Pass: I think where it comes... We are a separate jurisdiction –

Mr Halsall: We are.

Mr Pass: – and I cannot really see a direct relevance. It may be of incidental interest, but that is my opinion.

Mr Halsall: What I was trying to establish is, were you just totally inward-looking in the Isle of Man? It is very bad for the Island if you are. I hope the Members are not inward-looking.

The Chairman: What you are saying is it is perfectly in order for planning guidance notes from the UK to be utilised by planning authorities in your context in developing a local plan?

Mr Halsall: For that information to be available to that local authority and to the Planning Officer can do no harm.

The Chairman: Okay, that is fine. Can I move to Area 16. If Miss Corlett lived in this area, why do you suppose she introduced Area 16 into the Issues and Options document?

Mr Gawne: Excuse me, I am not quite sure –

The Chairman: This was Area 16 –

Mr Halsall: Adjacent to 14.

The Chairman: – Mount Rule, where she, in fact, resided. It was introduced into the Issues and Options document; one might have thought that it would not be in her own direct interest, would it, to have housing – ?

Mr Gawne: I seem to recall conversations about the development of Mount Rule House but I do not know.

The Chairman: So Area 16 was included in the October 1999 Issues and Options draft and the May 2000 document.

Mr Gawne: Was it in the document?

The Chairman: Yes.

Mr Gawne: I do not think it was in there, was it?

The Chairman: It was in both.

Mr Gawne: Was it? Area... It is not marked on my plan here, Chairman.

Mr Halsall: It is not marked on the plan that is there for us.

The Chairman: Are you looking at the right page? There are two different versions of the same plan, depending on –

Mr Gawne: That is Quine's Hill. It is a different number from 16.

The Chairman: – certain presumptions as to whether settlement should be joined.

Mr Gawne: Could you ask your planning consultant just to point out that area to me, please, in this plan because I do not think it is there, unless I have been given the wrong document at Braddan Commissioners. There is an Area 16 there, but it is talking about Quine's Hill.

Mr Halsall: Yes, Area 16 appears as Quine's Hill.

Mr Pass: Which document is this? Would that be October 1999, which is not the subsequent one to... ?

Mr Gawne: It was in May 2000, so it is altering that statement.

Mr Pass: It has been introduced after this.

Mr Halsall: There are – if you look through that document and you look through the documents in May 2000 – quite a lot of alterations –

The Chairman: There are indeed, yes.

Mr Halsall: – which was the purpose of the debate.

The Chairman: Do you know who initiated its inclusion in the May 2000 document?

Mr Halsall: I do not.

The Chairman: No, okay.

Now Area 23, did the Commissioners support this area for housing and the question is, why did it do that if it already supported the need for industrial land?

Mr Gawne and Mr Halsall conferred

Mr Gawne: Could I actually just comment on that initially, Mr Chairman? I am sure Mr Halsall has much more information than I have. Area 23: first of all, was it in the October 1999 one?

Mr Halsall: No, it was not.

Mr Gawne: When we actually did the site visit around, I think there was mention of that area, that it could actually be used for residential rather than industrial. The unqualified decision on that, or thinking on that, that seems to come back to mind was that that area visually would be more attractive with housing than it would be with very substantial commercial structures and I seem to recall that going in there.

To me, as a layman, to extend Clybane down into that area seemed to be a logical use of land.

Mr Halsall: That, indeed, sums up my memory. It would be adding housing to existing housing, rather than putting it in an isolated pocket but I am not a planning expert, by any means.

The Chairman: Was, at any time, the ownership of Area 23 raised, to your knowledge?

Mr Halsall: No, I believe it was well known whose ownership it was in: it was part of a park that was owned by a major building company.

The Chairman: In a paper to the Department of January 2003 the Director of Planning stated, with reference to provision of industrial land:

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

Did the Commissioners, then, have concerns about the ownership of industrial land in the parish?

Mr Gawne: We did not touch too much on actual ownership in general discussions, but we were aware that a major building company had options on land not just in the parish of Braddan but in other areas. The area we are discussing now was not solely for industrial use, it was more of a business park situation and it is taking a long time to fill up that business park, I would suggest.

The Chairman: What I am driving at really is, you said earlier in evidence... Mr Gawne said that land ownership was not an issue when looking at planning designations, but clearly, in terms of this industrial land, it was an issue. You were seeking to avoid a monopoly situation.

Mr Halsall: I was aware of that, but I accept the letter that you just received.

The Chairman: You stand by your stance that the Commissioners did not consider ownership of land as a major or a material consideration?

Mr Halsall: Yes, I do, really. It is correct. We were told by many people that ownership was not a material consideration. All we were aware of was that a major company –

The Chairman: But you were aware of which organisations or individuals owned particular land?

Mr Halsall: Some areas, yes.

The Chairman: Some areas.

Mr Halsall: Some areas, particularly this area, yes. It was common knowledge.

The Chairman: Turning, then, to the issue of population – I think we did touch on this – who first raised the issue of housing and population growth within the parish?

Mr Gawne: The Parish Commissioners.

The Chairman: The Commissioners.

Mr Halsall: I am unsure if it was Miss Corlett or the Commissioners, but it was considered.

Mr Gawne: The actual document on population and household size was initiated in the Issues and Options document in 1999 but it was substantially expanded in the Issues and Options document of May 2000 and that was driven by trying to make sure the parishioners had some information on which to back up the 800 houses.

The Chairman: And the basis, then, for calculating housing needs within the parish, that was a matter for the Commissioners, was it?

Mr Gawne: It was a matter for the Planning Officer to make sure the information was within the document, which she eventually did, but I can recall a lot of debate about that issue, because at that particular time there was a very strong view within the board that the Plan should be for a five-year period and not for a ten-year period. So, the population issue was very relevant in that sense, as well.

The Chairman: Who suggested that the life of the plans should be limited to five years, rather than ten?

Mr Gawne: That was view from the Commissioners. Are you looking for an individual?

The Chairman: It was the Commissioners, if it was the board's decision – or was it?

Mr Gawne: Well, it was the board's decision, very strongly driven by Mr Mason.

Mr Halsall: Very, very strongly driven. The view was that a five-year plan would release – could release – certain land for housing, but a ten-year plan... it was unknown what was going to happen after five years! I believe the view of the Department was that they did not have the resources to do a five-year plan. It was going to be a ten-year plan, anyway.

Mr Downie: Most are ten year plans.

Mr Halsall: Most of them are ten years plans, but we looked at Braddan and Braddan is looked at entirely individually to other areas. We were concerned that it did not become sucked into a general ten-year plan or whatever. I would say we certainly did want the strategic plan first and did not get it.

Mr Gawne: It is minuted that the Planning Officer agreed that a five-year plan would be appropriate, albeit when it went back to the Department, it was changed to a ten-year plan and the Planning Officer then actually followed the direction of the Department, which is quite correct.

The Chairman: Thank you.

Can we move on to, back again – I know we have touched upon it – the issue of Area 14, because part of our remit is to investigate the circumstances regarding the sale of land owned by the Clerk and the Clerk's continued involvement in the Plan's process on behalf of the Commissioners. I think you have answered that you were not aware who owned Area 14 at the time of the initial Plan discussions. You can confirm that: you were not aware?

Mr Halsall: I can confirm that. My first awareness of that was when I was presented with the sale and the registry. I was presented with that, probably, late 2005.

The Chairman: Late 2005. That was the first time you were aware of the Clerk's ownership?

Mr Halsall: I was extremely disappointed to hear that, but I did follow it up after that.

The Chairman: Clearly, the answer to the question, did the Clerk declare his ownership of that land at the time, was no?

Mr Halsall: Not at any time was I aware that he owned that land.

The Chairman: And nor did he advise the Commissioners of the sale of the land and to whom?

Mr Halsall: No.

Mr Downie: Can I ask you there: are you aware that the Clerk was legally bound to notify you or not?

Mr Halsall: That is not quite clear, I would suggest. It is not quite clear if he had to declare that interest or not.

Mr Downie: I think the terminology is, 'if he had a contract with another party,' he was required to notify you.

Mr Halsall: If what you are saying is correct, I am very surprised then that there has been no prosecution under the Local Government Act.

The Chairman: I think the situation is that the new Local Government (Amendment) Act made it a requirement to make such declarations but, at the time, there was no legal requirement. Nonetheless, would you have said there was a moral obligation?

Mr Halsall: Absolutely, yes. I would say there was a moral obligation for him to inform the Commissioners on exactly anything like that to his knowledge.

Mr Gawne: And I totally agree.

The Chairman: Yes. The Clerk's and the Commissioners'

conduct and their response – once it was brought to their attention – of a potential conflict of interest or inappropriate conduct by the Clerk during the planning review process... Of course, you have just informed us that it was not brought to your attention, this particular conflict of interest, until 2005.

Can I ask you, Mr Halsall, what action did the Commissioners take when you first became aware of the sale?

Mr Halsall: We were made aware of the sale by Mr Kennaugh, who came to an open meeting of the Commissioners. At that time, the Clerk was just about to go on holiday and he actually had to leave to catch a plane, so we were left, then, with a document that told us that the land had been sold by the Clerk.

I do recall we asked Mr Kennaugh to put his concerns in writing to the board, where they would be considered. On the Clerk's return from holiday, I asked him directly, if he owned that land, why he did not declare it. He said there was no... it was not necessary to declare it and it was not illegal. It might have been better, but it was not illegal. Since then, I believe it was a major part in the withdrawal of the Braddan Plan, but it is very difficult, as a Commissioner, to decide to spend public money chasing perceptions and things that there was no proof of.

The Chairman: Did you refer this new information to the Department of Local Government?

Mr Halsall: I believe they were made aware of it at the same time. They were made aware of the sale at the same time. Although, let me say that many people have said to me, many times: 'Are you sure the Clerk does not own land in Braddan?' I said, well I have no proof of that. Then they would say things like: 'Are you sure he has not got an interest in a company?' I said, 'I am not sure. Please, if there is any evidence, bring it to us and it will be looked at.'

The only evidence that came, which came rather late in the day, from Mr Kennaugh, that there was a sale... and the deed for that sale was produced.

The Chairman: When you were given this information, did you think back and reflect upon the processes by which the land in question had its density increased? Clearly, it might be more valuable if –

Mr Halsall: I certainly did, but at that time the Plan was in the ownership of the Department. Braddan Commissioners were a contributor to the Issues and Options. It was in the ownership of the Department at that time. So, it then became difficult for us to – well, for me personally – recommend doing anything about it.

The Chairman: When you considered the process, the way you had approached the local plan and with this quite revealing new information that the Clerk ought to, at least morally, have declared his interest in land ownership and had not, did you think back and wonder to yourself whether the Clerk, not having declared that, had perhaps led the Commissioners to reach outcomes that might have been in his interest, rather than the wider public interest?

Mr Halsall: It is extremely difficult to say whether

the Clerk led the Commissioners, but I was extremely disappointed to find out that he had an ownership in that land. I do not believe... I personally did not look upon it as a matter to be pursued because there is no proof of any illegality in what he did, unfortunately.

The Chairman: If the land had gone ahead with a designation and a zoning for residential development, it would have been very much in the Clerk's interest.

Mr Halsall: I am not at all sure because, again, it would need a more thorough investigation because the Clerk claimed that he sold the land at less than the building value for that land – as he put it, 'to secure closure on it.'

Mr Pass: Can you explain that? Does that make sense to either you gentlemen?

To sell it at less... it was not for the building, it was at less than market value, in order to achieve 'security and closure', I think were the words, something like that.

Mr Halsall: Those were the words of the Clerk, not mine.

Mr Gawne: Can I just ask where those words came from?

Mr Halsall: They came from the Clerk himself.

Mr Downie: So, what is to stop me selling you land tomorrow and us having an agreement that, if you obtain planning permission for that land, you will pay me so much a plot. I understand that is common practice in land sales, where you can have an option.

Mr Halsall: It means nothing to me. I have never owned land and have no intentions of owning land, but I take the point that you made. I accept that it may need further investigation, but I did not have the resources to do that and I did not believe Braddan Commissioners should do that investigation at a large cost to the ratepayers.

Mr Downie: Just to clarify this, then, you are content that there was no coercion from the Clerk to promote this land, to increase its density. The decision that went into the Plan was entirely one that the Commissioners made themselves and you were not led or coerced.

Mr Halsall: I am not saying that I am content with the situation there. I am saying that, as a Commissioner, I had to look at the best way forward for the ratepayers and the people of the parish.

Mr Downie: It was your decision to include it, though: the density? Not pushed by the Clerk; your decision? You made your own mind up, in other words? You were content with the decision that this should go through?

Mr Halsall: We were part of Issues and Options to a Plan that belonged to the Department of Local Government and the people of the parish then decided. Okay, they may have been led, or that sort of thing, but at the time that Plan was drawn up, I had no knowledge of his ownership of that land.

The Chairman: Once that declaration was made, why did the board not immediately, in 2005, remove the Clerk from further involvement?

Mr Halsall: That is really a matter for the board. My stance on that was that there was no proof of illegality. To remove someone for no proof of illegality and the perception that he might have been biased and things like that was not the correct thing to do for the benefit of the ratepayers. You had to take into account the cost, as well.

The Chairman: Okay. Moving on to content and the preparation of the Commissioners' submissions to the Plan process and support or otherwise for land zoning, as proposed by various parties: I appreciate we have covered a lot of this ground, but the changes that were made to the October 1999 Issues and Options and the document published in May 2000, would you agree that those changes were all instigated by the Braddan Parish Commissioners; or were they the result of the views of the Commissioners having been informed by public consultation; or how did those changes come about?

Mr Halsall: My recollection is the Issues and Options were prepared by Miss Corlett and they were tested and discussed amongst the Commissioners, who then went back to Miss Corlett and tried to get her to change her mind in some instances. In most instances they agreed, but there were some areas of contention and full discussion took place and the documents produced.

The Chairman: And you were satisfied that the changes between the two documents were changes that had been approved by the Commissioners?

Mr Halsall: We had extensive... many, many meetings amongst the Commissioners; reams and reams of paper which we all read and then discussed. So, yes, the Commissioners' views that were put to Miss Corlett were the views of the Commissioners. As Mr Gawne has said, they might not have been unanimous views, in many cases, but they were supported by the Commissioners.

Mr Downie: But there must have been, at some stage, when you had decided that the Commissioners were now content for the Plan to go forward... You know, you have arrived at a decision when you thought that the Commissioners could get behind this draft, as it were, and move forward and, of course, we heard from Mr Corkhill last week, who was one of your Commissioners, that he represented the Commissioners at the Inquiry. By and large, that final version that was produced, the Commissioners supported that?

Mr Halsall: That was the original intention of Miss Corlett; was that she could come to a stage where the Commissioners would broadly support the Issues and Options and then it would move on from there, with the views taken into account of all the people of the parish. That is what happened.

Mr Gawne: Can I just come in here again? Mr Pass has actually made reference to various letters that have been sent by the Clerk to the Planning Officer: there are letters coming backwards and forwards. Just to explain the administration of

the Commissioners at that time, 1999-2001, there were files which every letter that was sent out from the Commissioners' office was available for inspection by any Commissioner. So that was one avenue that... any letter that was sent by the Clerk – and the Clerk sent all the letters, well, the Deputy Clerk occasionally – were available for open inspection.

At each meeting that the Commissioners attended, any important letters were actually included in the file that accompanied that meeting, so the Commissioners could read the letter, probably, that Mr Pass has referred to that was sent to Miss Corlett, and that letter, if there was anything that the Commissioners, as individuals, disagreed with, they had the opportunity to raise it. That was within a week of the letter going out. The Clerk was there to serve the Commissioners and to actually write the letters that they requested and to give them the information of how he had written those letters and the replies he received. That is how the Plan developed.

The Chairman: Yes, and you are satisfied, as Chairman at that time, that that process was taking place in the manner you suggest it was: the Clerk acting on the direction of the board in all its communications with the Planning Officer?

Mr Halsall: Yes, I am.

I have to admit that I was frustrated at times by a lack of interest of certain board members who would not read some of the papers that were circulated and I could then, possibly, actually reflect back and wonder what happened in, say, the mid 1990s when nobody read any papers, but during the period that we were involved, the papers were there for inspection. They were there to be read prior to the meeting; they were sent out to each individual person and they were referenced in the meeting: 'Do you want to bring anything up in these letters?' So the Clerk was not acting – as far as I was aware, in writing – independently, he was acting on behalf of the Commissioners.

The Chairman: Okay. Thank you.

Was the board approached by, or did it have any discussions with, other parties during this Issues and Options period, with a view to their seeking the Commissioners' support for zoning?

Mr Gawne: Could I answer up to 2001?

Mr Halsall: Yes, if you like.

Mr Gawne: Again, the actual issue of land ownership was not an issue for the Commissioners. I was aware that there were certain presentations made to the Planning Officer by people who owned land, of what they could do with that land. But I know, in the period that I was involved with the Commissioners, we had no meetings with any landowners to actually discuss the use of land within the parish.

The Chairman: Did landowners seek meetings with the Commissioners?

Mr Gawne: In flicking through the minutes within this last week, I have seen a reference to an architect trying to get a meeting with the Commissioners and the Commissioners refusing. I am actually trying to remember the date of that. I suspect it was... Well, I was looking only looking at the

period 1999-2001, so it was within that period. But the Commissioners refused that.

The Chairman: Right, so the fact there were no meetings was not necessarily because nobody sought meetings, but because of the policy of the Commissioners that they would not sit down with other parties to discuss.

Mr Gawne: It was the development of the Plan, initially, to make an Issues and Options document presentable to the parish and then it was to get the parishioners feeding back. Meetings with developers would be –

The Chairman: Was there no feeling that, in order to have well-informed consultation with the public and to ensure that all the options were on the table, that there might have been merit in having meetings with any parties that requested, who had specific proposals?

Mr Gawne: Not in my opinion because we were talking globally about the Braddan Plan. There was no need to get down, at that stage, to finer detail. I am not saying that, later down the road, that that detail might have been required. At our initial stage, there was no need for it.

The Chairman: At the time Messrs. Lovejoy had been appointed as consultant, were the Commissioners aware that Lovejoy was acting for other interested parties, as well as the Commissioners?

Mr Gawne: Could I just clarify: the appointment of Lovejoy's, I believe, was on an *ad hoc* basis, but Lovejoy's appointment, I think, initially, went back into the mid 1990s when the incinerator debate started and Lovejoy's were suggested by the QC, John Hoggett, who was also employed at that time in the mid 1990s. That was when they were first used by the Commissioners, rather than appointed.

The Chairman: Okay. Can you just tell us a bit about the process for engagement of professional advice at that time?

Mr Gawne: Well, the professional advice that we went into initially as – correct me again, Peter, if I am wrong – in 1997, we entered a scenario where ERM, John Hoggett, Lovejoy Partnership, probably other people that I cannot remember, had already been appointed and were giving advice to the Commissioners. The likes of the planning scheme orders for the incinerator had been created; various things were in motion.

The only consultant I can remember us actually being involved with appointing was when we terminated the agreement with Lovejoy and replaced them with Turley. At that particular time, we looked at the various options; the consultants that were available; their background; we heard about the support they had and we decided on Turley.

Mr Halsall: Often those consultants are appointed by recommendation of our legal advisers.

Mr Pass: Was Rob Turley recommended in that way, to your recollection?

Mr Halsall: I cannot recall.

Mr Downie: Can you recall one consultant you wished to employ. You applied to the Department of Local Government and the Environment for permission to spend £175,000 on a consultant and that was, in fact, turned down, refused. Do you remember what that was about?

Mr Halsall: I do not recall that at all. Could you enlighten me and tell me what it was in connection with? Was it in connection with the Braddan Plan, the incinerator or the hospital?

Mr Downie: Well, I am not sure which one it was, but there is documented evidence to show that actually took place.

Mr Halsall: Well, I would like to see that and know the date of it, sir.

Mr Downie: We will provide that.

Mr Halsall: Thank you.

Mr Gawne: I think you have got to recall the number of schemes that were actually being dumped in Braddan. I think, possibly, the prison was one that we might have been involved in. I cannot recall which consultants were there for that.

Mr Downie: This was a Petition by Braddan Parish Commissioners for approval for borrowing powers, the defrayment of the Town and Country Planning consultant's costs, together with legal counsel fees relating to the Council of Ministers' decision to progress with the Ballamona/Ballaletcher site as their preferred option for a new prison.

Mr Halsall: Do you have a date for that?

Mr Downie: 19th January 2001. 'Your Petitioners have agreed... 'you wish to borrow £175,000 to deal with that planning issue and that was actually turned down by DoLGE, that request. So, the question is now, then, where did the money come from?

Mr Halsall: Okay. One of the reasons I wanted to be elected to Braddan Commissioners and people had encouraged me to stand was the high cost of things like that. Those were not incurred when I was a Commissioner. Those were incurred before and then, if there was a need to have a borrowing for the money, what I was particularly concerned about was – and you may call this electioneering, if you like – that I had worked out the amount of money the hospital had spent on planning matters for the new hospital, when they did not object to a hospital being on that site because it was actually an existing use for Ballamona Hospital. They did not object to it and by dividing the number of adult parishioners into the total cost, it came to almost £130 per head and I could not live with that. But, we were then left with the problem of finding money to pay for what had already been spent by previous boards.

Mr Downie: So, you can see from our point of view, when you see the figures that are being quoted here, the money spent on planning consultants –

Mr Gawne: Is there an analysis of where that £175,000 would be spent?

Mr Downie: No. This is in the Petition.

Mr Gawne: This is only the initial document.

Mr Downie: The question really is, did the work take place? Then, the next obvious question is, where did the money come from?

Mr Gawne: Well, the obvious question is: did the prison get located in Ballafletcher?

Mr Downie: The answer is no.

Mr Gawne: And did Braddan spend the money? The answer to both is no. So, was that Petition worthwhile, Mr Downie?

Mr Halsall: No, that Petition was reference the hospital fees.

Mr Gawne: No, that was reference the prison.

Mr Downie: That was the prison.

Mr Halsall: Oh, the prison.

Mr Gawne: So, it never got there.

Mr Halsall: That would never be spent on the prison. That was never spent on the prison.

Mr Karran: Can I ask, there is a lot of reliance, as far as the legal advisers to appoint the consultants. Who appoints the legal advisers? Was that something the Commissioners did on a regular basis or was it something that you inherited?

Mr Halsall: In some ways it was inherited for certain schemes, but the Commissioners did decide on who their legal adviser was going to be. We had been criticised, at times, for taking advice from off Island, but I think that was justified when you look at the fees of a QC who specialises in planning, and you look at the charges for local people. It was probably the better thing to do, although I could not agree with the total amount being spent on legal and planning advice.

The Chairman: Okay. Can you tell when ERM and Mr Hoggett QC were appointed and for what purpose? What was the process for their appointment?

Mr Gawne: They were appointed in the mid 1990s; initially to develop the Braddan Planning Scheme Order, which laid out the conditions for the forthcoming incinerator. So that was mid 1990s. I do not know the date. It was certainly before our time.

Mr Halsall: Before we were there, Mr Hoggett was appointed.

Mr Gawne: And that document: the Planning Scheme

Order was presented to Tynwald and was actually signed by Tynwald in 1996.

The Chairman: Can I turn to events in 2000, Mr Gawne, and ask you: was a meeting arranged by Dandara Ltd for you to meet a Mr David Cooper of Gouldens in London on Friday 12th May 2000?

Mr Gawne: The answer to that question is no, but I would like to just actually express... make some comments on that. This particular issue was brought to my attention, probably, several months ago, when I received a knock on my front door from Mr Jessopp, who had found a fax and called round to actually discuss this issue with me. It was a very brief conversation.

Just to actually go through the details now of the visit to London: I attended a board meeting on 2nd May 2000 and was elected Chairman. The following day, 3rd May, I left the Island and flew to London and joined a cruise ship to do a Mediterranean cruise for a week. I returned to London on 11th May for sightseeing and to give my wife additional treats: take her to the theatre, so that was on Thursday, 11th May. I then travelled to Gerrard's Cross on Friday, 12th May for the weekend with my brother and his wife and I then returned to the Island on 14th May to attend a Braddan board meeting on 15th May.

The reason I mention Mr Jessopp was, I was aware this question may well arise and I was aware that the fax that was sent to Buster Lewin, as it was addressed, was an issue for discussion by this Committee. I would like to say that I actually interrupted the holiday I had and agreed to meet the Clerk in London and attended a meeting with John Hoggett QC during late afternoon of 11th May to discuss the legality and validity of DoLGE's proposed changes to the Incinerator Planning Scheme Order, which was agreed, as written in stone, and approved by Tynwald on 11th July 1996, albeit DoLGE were now reneging on the agreement.

It was very important that I heard the arguments that were for and against allowing DoLGE to change the agreement because I have mentioned earlier the very vocal Braddan Residents Association, the very vocal Bad Air, who were very keen that the Commissioners actually oppose these issues, even though our position was very cleanly stated. So, I attended that meeting with a view to returning to the Island on Monday 15th to actually talk to the board about it and also do a presentation to a public meeting later that week or the following week.

I think it is also important that – I have lost track here – I actually state that the cost of my journey to and around London was fully sub-funded by me and I interrupted the time I had in London on holiday to actually attend this meeting. So, I did attend a meeting on Thursday, 11th May between 4 p.m. and probably, 6 p.m. or 7 p.m. I know it was 7 p.m. because I missed the first half of the show I had booked Joyce into, which resulted in considerable problems for me!

The Chairman: And that meeting, just to clarify, was with whom?

Mr Gawne: That meeting was with John Hoggett QC and with ERM and also at the meeting was Peter Clucas of Cains and the Clerk. I left the meeting, I believe, somewhere around about 6.37 p.m. after it had been concluded.

The Chairman: Are you aware that the Clerk had another meeting in London with another law firm to discuss replacement for Mr Hoggett?

Mr Gawne: I am aware because I have seen the fax that was included in the evidence presented to me – well, not presented, mentioned by Mr Jessopp. I was not aware of the Clerk having any meeting. The board, I do not believe, were aware of the Clerk having any additional meeting. I do not know if the Clerk had a meeting. I have seen 12th May mentioned in a fax.

The Chairman: And that 12th May meeting was not reported on by the Clerk subsequently to the board?

Mr Gawne: No.

Mr Downie: So, could that have been a private meeting, then, that the Clerk had? He was obviously in London on this other business with Mr Hoggett.

Mr Gawne: He was in London on the other business. I cannot recall the reason we ended up being in London but I think it was the only way we could get ERM and Hoggett and Clucas together to actually agree the way forward, to go back to DoLGE about the changing of the Planning Order.

If the Clerk had additional meetings, in his own time, I have no knowledge of them and I do not believe the board had any knowledge of them.

The Chairman: The meeting with ERM and Mr Hoggett that you attended, was this set up, prearranged by the board at an earlier meeting?

Mr Gawne: It was at the meeting of 2nd May – which was Tuesday 2nd May – the meeting was referenced; a timetable was discussed about trying to get the documents that Mr Hoggett had considered back in 1995 or 1994, when the Planning Scheme Order was drafted; getting those documents together; sending them to Peter Clucas and Peter Clucas getting them to Hoggett, so that Hoggett could actually review them and come back with the reasons for making the decisions originally: the Planning Scheme Order.

The Chairman: Yes.

Mr Gawne: So it was discussed in detail by the board, yes.

The Chairman: It was at that point that you made arrangements to interrupt your holiday for that to happen?

Mr Gawne: I had tried to actually review the minutes and find that out. I have not been able to establish that. Within the evidence bundle that you hold, there is a fax from the Clerk to me saying that we would meet at 3 p.m. or 4 p.m. on the afternoon of 11th May. I was on a cruise boat, enjoying life. I am not sure how good e-mail communication was at that time.

The Chairman: Yes. So, was the intention of the board that the Clerk would go to London to progress this?

Mr Gawne: Yes. I would suggest that, maybe in the past the Clerk might have had these meetings without having an elected Commissioner present. The new board believed that, whenever possible, if it was a matter of importance, that the Chairman or the Vice-Chairman or somebody should actually be present to hear the opinions that were being given, so that we were not getting second and third-hand opinions. But the Clerk was instructed to send the documents, go to London and meet John Hoggett QC.

The Chairman: Okay. Thank you.

Mr Gawne: And I was to meet the Clerk prior to the beginning of that meeting, so I would be briefed on the activities of the board in the days that I was off Island.

The Chairman: Okay. Thank you very much. Any other questions on that one?

Mr Downie: No.

The Chairman: Can I ask – just looking at the clock – as far as the *Pilling* judgment in respect of potential conflicts of interest is concerned, can I ask you, Mr Halsall, what was your knowledge, if any, of the *Pilling* judgment? Let us say it was issued in 1996, I believe, thereafter, around the time when you came into the Commissioners?

Mr Halsall: I may be wrong, but my view of the *Pilling* judgment was it was a judgment by a court in the Isle of Man that suggested that if anyone gave a perception of bias, then that process could be flawed.

The Chairman: When you say anyone?

Mr Halsall: Any person or individual.

Mr Downie: In public office.

Mr Halsall: In public office. It could be in public office, yes.

The Chairman: So, what is your understanding? It did not just refer to officers or officials of central government?

Mr Halsall: I am sorry. I have nothing further to add. What I have told you is just my view of what it is and my knowledge of what the *Pilling* judgment was.

The Chairman: So it applied to elected representatives?

Mr Halsall: It was more to elected representatives. They should be seen to be transparent as far as possible, but what I would say is I do not think the *Pilling* judgment itself has ever been challenged. I am not sure.

The Chairman: When you joined the board – the same question to Mr Gawne – was the *Pilling* judgment raised with yourselves as new members of the Commissioners, as part of your briefing or induction, or anything like that?

Mr Halsall: No. I would not say so. My first recollection of being aware of the *Pilling* judgment was probably in the

mid 1990s even. I am not aware of that.

The Chairman: In the DoLGE induction courses, was any reference made to it at that time, do you recall?

Mr Halsall: I do not recall it, no. It was a good course and of immense value to me, but I do not recall the *Pilling* judgment being mentioned at it.

The Chairman: Mr Gawne, the *Pilling* judgment?

Mr Gawne: I have heard you reference the judgment. I have no knowledge of what it is about.

I have no recollection of it being raised by the Clerk, by the board of Commissioners, at the course that was arranged by DoLGE. I have no knowledge of that at all.

The Chairman: Okay. Thank you.

Mr Downie: I have a couple of questions for you.

You are aware that a complaint was made against the Planning Officer, Miss Corlett, by Mr McKinney, either on behalf of himself or on behalf of the Braddan Residents Association. Before going into that complaint, could you just give us an indication of your relationship with Mr McKinney and the Braddan Residents Association?

Mr Halsall: They were actually called the Association of Braddan Residents, to correct you on a minor point. They did not want their initials to be confused with something entirely different.

The Braddan Residents were a body of people, very concerned about matters in the parish and quite forceful in some of their views. I myself took upon the view that the Braddan Residents were there to complement the Commissioners but they could not be part of the Commissioners' discussions, because that would be enlarging the board. I did not join the Association of Braddan Residents, but, since I believed in most of their ideals, I gave them an equivalent donation, but I did not join them. I liked to remain completely independent.

I do believe that Sarah Corlett met the Association of Braddan Residents at Mr McKinney's house to discuss the Plan, but I have no reason to believe that Mr McKinney's intentions all along were nothing but honourable and in the interests of the parish. He was a businessman and he was a major part of the Braddan Residents, but he was not the Chair. The Chair was Graham Crowe.

Mr Downie: So, at what time, then, were the Commissioners advised that a complaint had been made about Miss Corlett which really was based on this *Pilling* recommendation?

Mr Halsall: It was after the Plan had more or less been drawn up. I, personally, was surprised that it came at such a late date after we had spent so much time doing it, but I looked at it and realised it did have some merit. There could be a problem with Miss Corlett being involved.

Mr Downie: Perception of bias.

Mr Halsall: Well, you could say perception of bias, but being Manx people, we are all biased to some extent because

one of the reasons we go into politics is for the love of our Island and what we want to do for it. Miss Corlett was one of those people and it was very, very difficult to do anything.

Mr Downie: Just to move on, then, you were provided with a copy of a thing called the McGreal Report, because it was a senior officer in Government asked to investigate the allegations. What were your views on that? Do you think, having received those views, that soured or slanted the progress of the Plan?

Mr Halsall: It certainly altered the whole progress of the Plan. I believe the Commissioners read the McGreal Report and then suggested to the Department of Local Government that the Plan should be withdrawn. It was their Plan; it was their decision.

Mr Downie: But the initial response from the Department of Local Government and the Environment was to do what?

Mr Halsall: Was not to abort the Plan at that stage.

Mr Downie: Did you have any meetings with the Department to discuss that and what were the outcome of those meetings?

Mr Halsall: I do not recall any meetings but I have seen letters. My memory is not the best, but I have read up quite considerably on this subject over the last few weeks, as you can imagine, and I have seen a letter from the Department of Local Government saying that they did not intend to withdraw the Plan at that stage.

Mr Downie: Right. Thank you.

The Chairman: The Commissioners ultimately recommended to the Department that the Plan be withdrawn as being unsafe. That was the majority view of the Commissioners, is that right?

Mr Halsall: That was the view of the Commissioners. By letter in January, whatever.

The Chairman: 2005.

Mr Halsall: 2005, yes. At quite a late stage.

The Chairman: How would you summarise, from your own point of view, why that was done? Why did the Commissioners reach the conclusion that the Plan was unsafe?

Mr Halsall: I was disappointed that it was found out a late stage that the Plan was unsafe, because I remember the many hours and much time and effort we had put into the Plan from the Commissioners: then for it to be aborted at a late stage. If that would have happened at an earlier stage, I would have felt more comfortable with it.

The Chairman: But why did you consider it unsafe to carry on through to Tynwald?

Mr Halsall: We had read the McGreal Report and felt

that it could be subject to a further challenge that would have annulled the Plan, anyway, or would have caused its withdrawal. But I would have to say it was the Department's decision to withdraw the Plan and it was for them to consider it.

The Chairman: So, it was on the grounds of possible legal challenge; that there was a lack of safety in proceeding that way?

Mr Halsall: That was what I personally felt. I cannot speak for the other Commissioners. I personally felt that at that time.

The Chairman: Mr Corkhill, you see, last week was quite firm in the view he disagreed. He felt the decisions that the Commissioners had made in support of the Plan, in the final form it took, was a safe process, but you disagree with that, then?

Mr Halsall: Yes, I believe I disagreed. It obviously then was not a unanimous decision of the board, but as Mr Gawne has said earlier, it is for the board of Commissioners to support the board's policies, in my view. Although we are individuals, we can make our own point to support the board's policies. The majority of the board decided that the Plan... it would be unsafe to go ahead with the Plan because we could be subject to legal challenge, but it was not for us to withdraw it. It was obviously for the Department to withdraw it.

The Chairman: The case that has been made, that the reason the Plan was unsafe other than for legal challenge reasons, politically, was that it represented a process which, when looked at with the benefit of hindsight and looking at the broader picture, the way the Plan was arrived at represented a pattern of conscious decision within the Commissioners in favour of one particular developer as against another developer. This was the end result of the Commissioners' considerations. What would you say to that?

Mr Halsall: It is extremely difficult not to have a major developer who has options on all land in the Isle of Man not to be involved in some way with the Plan. We are a small Island and they have chosen to take out options on land all over the place and, obviously, in strategic positions.

I feel the decision in my mind at that time was that it could be subject to legal challenge and, whether I agreed with that or not, we have, as a board, to make a representation to the Department of Local Government and say that they should consider withdrawing the Plan and they did not.

The Chairman: If I could put the same point in a slightly different way to Mr Gawne. The suggestion that is being made is that various areas that were included or excluded from the Plan, having passed through the Issues and Options and the written statement and the Inquiry and so on, the way those areas ended up in the Plan that went to the Inquiry, before it was all tested by the Inspector, represented a pattern of inconsistency by the Commissioners in the way they addressed the material planning considerations and the merits of various areas of land, as to whether they should be zoned for development or withdrawn from zoning for residential or included or whatever. There was an inconsistency in the way

the planning criteria were applied by the Commissioners, working closely through the Clerk and through the Planning Officer. What would you say to that?

Mr Gawne: I would be appalled.

The Chairman: Okay.

Mr Gawne: I stated originally, I have had no interest in the Braddan Plan since I left the Commissioners in 2001.

The Braddan Plan was actually put to the Commissioners as an Issues and Options document in 1999. The Department put that Plan to the Commissioners and the Commissioners actually tried to improve the content of that Plan. Certainly that was the effort that was going into it up until October 2001, when I departed, and I am sure that was the effort thereafter.

I hear you saying, 'the Commissioners this; the Commissioners that:' should it not be 'the Department of Local Government this and the Department of Local Government that'? Because you are trying to put the aim on a local board of Commissioners, rather than the body that issued the Plan and is responsible for it: the Department of Local Government.

The Chairman: Well, we are looking at the reasons why the Plan was withdrawn and the relationships and the various factors, one of which was the way the board of Commissioners applied their input through the Issues and Options and up to Inquiry. Clearly, it is the Department's Plan, but you see the proposition that is being put is that the active collusion of the Planning Officer with the Clerk to the Commissioners was an instrumental factor in the form that the Plan ultimately took, that went to Inquiry.

Mr Gawne: Collusion? Collusion, Mr Rodan? Have we talked about collusion of the Planning Officer and the Clerk in this meeting?

The Chairman: I am just repeating evidence that has been given.

Mr Gawne: And that is the word they used: collusion, is it?

The Chairman: That is a word that has been used.

Mr Downie: Alluded to, yes.

The Chairman: It certainly has. I mean, if one wanted to use a milder word, one could, no doubt, find an alternative word, but one of the issues we are investigating is the relationship between the Clerk, Planning Officer and other parties that led to the ultimate withdrawal of the Plan as being unsafe.

Mr Halsall has given us his reasoning why he has considered the Plan ultimately unsafe. Others have offered political views as to why it was unsafe, in terms of process and consistency by the board in the way they approached the planning merits of particular parcels of land for inclusion or exclusion from the Plan. Anyhow, I understand. I hear your reply to that point.

Mr Downie: Could I just ask Mr Halsall a further point.

When the Commissioners decided to ask the Department to withdraw the Plan, was it on the basis of the Clerk's involvement with Area 14? Was it just that or were you happy with the rest of the work that had been done over this?

Mr Halsall: I think you will find, from the dates, that I was not aware of his involvement with Area 14 at that time and neither do I believe the board –

Mr Downie: I accept that, but when this was brought to your attention, was that the main reason for you to contact the Department of Local Government and the Environment to ask them to withdraw the progress of the Plan, or were you content with all the rest of it? All the others areas, nowhere else in contention?

Mr Halsall: Based on the McGreal Report, as it says in the letter, that because we had read the McGreal Report, as Commissioners we decided that we would recommend to the Department of Local Government that the Plan should be withdrawn. I think you will find, from the date of the letter, that we were not aware. I certainly was not aware the Clerk owned land in Braddan.

Mr Downie: I accept that, but the McGreal Report deals with the close proximity of the Planning Officer to some of the areas in the Plan, which is Area 14. We have received evidence – and I think you were here the day the evidence was given – that a senior Planning Officer accepted responsibility for that area and Miss Corlett was told that she had not to be involved in the land around Area 14.

Mr Halsall: I believe that. I was not here on the day in question, but I do recall a change of Planning Officer for that area to continue the Plan.

Mr Downie: But what I am trying to tease out of you, Mr Halsall, is it just Area 14 that the Commissioners were unhappy with or were you unhappy about other parts of the Plan as well and, if you were, let us know.

Mr Halsall: From memory, it was only the McGreal Report and that is substantiated in a letter to the Department of Local Government, suggesting the Plan should be... that the Commissioners had read that, in view of the McGreal Report, the Commissioners were recommending withdrawal of the Plan. It was under that Report that our decision was based on. I believe it was made clear in that letter.

The Chairman: So, just to follow up. It was not that very late revelation about the sale of the land in Area 14 or

it having been under the ownership of the Clerk? That was not the trigger for the concern of the Commissioners, it was the McGreal Report?

Mr Halsall: No, it could not be, because of the dates. We were not made aware; I certainly was not made aware of the ownership of that land until after the letter. I will check that fact now, but...

The Chairman: Had you known at the time about the Clerk's ownership and disposal of the land, would that have reinforced your sense that the Plan was unsafe to proceed with?

Mr Halsall: Yes, it would, because it would have done. If we were concerned about the challenge to the Plan because Sarah Corlett had been involved, we would certainly be concerned about the Plan because of ownership at a particular time of the Clerk to the Commissioners.

The Chairman: Thank you very much. Can I ask colleagues, any final questions? Mr Karran?

Mr Karran: No.

The Chairman: Mr Downie?

Mr Downie: No.

The Chairman: No. Gentlemen, thank you very much indeed. We appreciate your time this morning. It has been extremely helpful to the Committee. I would like to thank you very much for your attendance.

Mr Halsall: Could I say, in conclusion, that anything I have said today is based upon what I believe to be true and correct. I am a full-time electrician and part-time politician. I apologise for any errors if there are any.

The Chairman: We will make due allowance, I can assure you. Thank you, Mr Halsall. Thank you for the way you have answered the questions and yourself, Mr Gawne. Thank you.

That brings our session in public to a close. The Committee will now sit in private. I would like to thank the members of the public – there are no press with us this morning, evidently – I thank the members of the public for their attendance. Thank you.

The Committee sat in private at 1.03 p.m.