



**TYNWALD COURT
OFFICIAL REPORT**

**RECORTYS OIKOIL
QUAIYL TINVAAL**

PROCEEDINGS

DAALTYN

(HANSARD)

**SELECT COMMITTEE OF TYNWALD ON
CROSSAG FARM**

**BING ER-LHEH TINVAAL MYCHIONE
BALLEY NY CROSSAG**

Douglas, Tuesday, 1st September 2009

Members Present:

Acting Chairman: Mr D A Callister, MLC
Mr G D Cregeen, MHK

Clerk:
Mrs M Lambden

Apologies:
Chairman: Mrs B J Cannell, MHK

Business transacted

	<i>Page</i>
Procedural	19
Evidence of Mrs F Kniveton, Senior Legal Officer, Civil Division, Attorney General's Chambers.....	19

Mr Senior was called at 2.53 p.m.

Evidence of Mr R Senior, former Director of Estates and Housing, Department of Local Government and the Environment.....	23
--	----

The Committee sat in private at 3.54 p.m.

Select Committee of Tynwald on Crossag Farm

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

[MR CALLISTER *in the Chair*]

Procedural

The Acting Chairman (Mr Callister): We welcome you to this meeting which is a sitting of the Select Committee of Tynwald on Crossag Farm to hear evidence in public session.

The Committee was established by Tynwald in July of last year to investigate the details of the contractual arrangement between J G Kelly Ltd and the Department of Local Government and the Environment and report thereon with recommendations.

If I can introduce to you my colleagues, Mr Graham Cregeen, MHK; Mrs Cannell would normally be chairing this meeting, Brenda Cannell. Unfortunately she is indisposed today. I am David Callister sitting in for her. The Clerk to the Committee is Mrs Marie Lambden, I think many will know Marie; and Clive Alford is in charge of the sound today and he of course represents the *Hansard*.

If you have mobile phones perhaps you would be good enough to switch them off, please. I have been asked to tell you about fire alarms. I do not know if we are having a fire alarm today –

The Clerk: No.

The Acting Chairman: If we are... Oh, we are not –

The Clerk: If we do, it is a real one.

The Acting Chairman: If we do, it is a real one. You have to follow the green signs and the rendezvous is outside St Andrew's House, that is opposite Legislative Buildings on Finch Road, if you do not know it.

EVIDENCE OF MRS F KNIVETON

The Acting Chairman: First of all on the public sitting, we have Mrs Felicity Kniveton who is Senior Legal Officer from the Civil Division of the Attorney General's Chambers. Thank you, Mrs Kniveton – I take it to be you – for joining us today. We have a draft statement that you had provided – at least I believe you have provided it, I have it on the good words of our Clerk that you have. It is not signed or dated –

Mrs Kniveton: No, it was to assist you really to try to summarise some of the points. I apologise if it was saying

'draft': I did it just before I went on leave and it had been in draft, but that is the final form.

The Acting Chairman: So, this is not a draft. If we could have a copy of this signed and dated, then we could include some of this information in our report if we need to do so.

Mrs Kniveton: Certainly.

The Acting Chairman: We did provide you with a number of questions for answer. No doubt some of those –

Mrs Kniveton: You did not.

The Clerk: We did not.

The Acting Chairman: You did not? Well, you are going to get some questions.

Mrs Kniveton: I had hoped you would have done actually because it might have assisted us all.

The Acting Chairman: Right, well, first of all, do you have any particular statement you want to make about this, a particular –

Mrs Kniveton: No, other than the statement I have made which was, as I say, to be of assistance really in trying to summarise some points.

The Acting Chairman: Okay, could I just ask you then about your position in the Attorney General's Chambers and how long you have been there?

Mrs Kniveton: I have been there for approximately 14 years in my position as Legal Officer (Civil).

The Acting Chairman: Right. In respect of agreements like this one, which the agreement we are talking about is the development of some land at Crossag Farm in which a number of companies were involved in an agreement with the Department of Local Government. Would you have had experience of drawing up this kind of agreement in the past?

Mrs Kniveton: Yes.

The Acting Chairman: So it is familiar territory for you?

Mrs Kniveton: Yes.

The Acting Chairman: Right, well the questions that I thought you had, but did not, we will start with those. What would you consider to be the reasons that the motion which was put to Tynwald in October 2006 that the Department of Local Government should enter into a land transaction on Crossag Farm with J G Kelly but did not include Jackson Homes (Southern) Ltd or Jackson Holdings Ltd. Tynwald as we know approved an agreement with J G Kelly, not the other named companies. Would there be a reason for that?

Mrs Kniveton: Yes, there was a very good reason. I think it was mentioned in regard to the minutes of the meeting we

Procedural

Select Committee of Tynwald on Crossag Farm – Evidence of Mrs F Kniveton

had with Mr Kerruish and Mr Jackson of Jackson Homes. J G Kelly, Jackson Homes (Southern) and Jackson Holdings Ltd are all the same group of companies, owned by the same Jackson family trust. J G Kelly is the building arm, it does not own property. It did not have any rights over the ransom strip or area X which is owned by the purchaser, Jackson Homes (Southern), so that had we contracted with J G Kelly Building, it was simply a building firm, it had no property assets, it had no rights over the land that was required to complete the development, so it would not have made legal sense.

I raised this with the Department and I asked them to get approval for it to be changed so that the transaction was with Jackson Homes (Southern) Ltd, being the property holding arm of the group of companies and what in fact we decided was the best route was to join all of the companies in to give maximum security. So you had Jackson Homes (Southern) Ltd as the property holding company with the rights over the ransom strip and area X which was crucial to the development, you had J G Kelly Ltd being the building arm which would own the infrastructure and any bank charge would be over that and you had Jackson Holdings Ltd which was the overall parent company. So it gave more security but also made legal sense because as I say, if it had just been with J G Kelly Ltd, they would have had no rights over the other areas of land which were required to complete the development.

The Acting Chairman: It is clear to see that, but nevertheless, in Tynwald in October 2006, they approved this contract would be with J G Kelly Ltd and no mention of these other companies –

Mrs Kniveton: I did in fact raise that with DoLGE and DoLGE were supposed to be going back to clarify that, what approvals they needed to clarify that at the meeting in – I think it was 2006 – the minutes of which you have.

The Acting Chairman: Did you follow up then as to how they clarified it and sorted that out?

Mrs Kniveton: I was told it was sorted out.

The Acting Chairman: By whom?

Mrs Kniveton: By – well it would have been Kevin Barber at the time, in DoLGE.

The Acting Chairman: The change was made – we can understand the reasons why the change was made – but it was made, you could almost say on the last minutes following the Tynwald decision to go ahead with the project.

Mrs Kniveton: On the last minute, as far as I was concerned –

The Acting Chairman: Well, I mean there was only a couple of months between the time at the dating of this agreement in December 2006 and the Tynwald sitting in October.

Mrs Kniveton: Well, I was not instructed before the Tynwald sitting so when I was instructed that was the time that the decision was made and in fact the agreement was

with J G Kelly Ltd, it was simply with them and with other companies which gave more security.

The Acting Chairman: Companies within companies were giving guarantees within this group. Is that standard practice that one subsidiary of a head company can then give guarantees to other subsidiaries? Is that normal?

Mrs Kniveton: It can be, yes, depending on what function that company is making within the group. As I say, in this particular case, Jackson Homes (Southern) Ltd is the property holding wing of the group of companies, so that is why it made sense.

The Acting Chairman: You see, in the end, according to your statement, the purchaser was Jackson Homes (Southern), the buyer, as it were, was the Department of Local Government and yet Tynwald said, 'No, this is with J G Kelly'. Could that not have been seen by some people to be *ultra vires*?

Mrs Kniveton: Oh, it was with J G Kelly as well, J G Kelly were joined in as the building arm.

The Acting Chairman: So, did it not matter that these other two companies who would be involved in this and had the guarantees, that Tynwald did not know about this then?

Mrs Kniveton: I would not have said it did not matter, I would have said it was up to the Department to raise it as far as it thought it should do with Tynwald which is what I left them to do. That is not one of my functions. My function is to provide as much legal security as possible, which is what I did.

The Acting Chairman: Mr Cregeen.

Mr Cregeen: When did you first become involved in the contractual details?

Mrs Kniveton: It would have been about mid-2006. It was after the Tynwald motion, I cannot remember the exact date.

Mr Cregeen: The Tynwald motion was October 2006.

Mrs Kniveton: Yes, so it would have been around that time.

Mr Cregeen: So it would have been as soon as it went through Tynwald then the Department contacted you –

Mrs Kniveton: Yes, it would have been at that time.

Mr Cregeen: – so you had nothing to do with the motion that came to Tynwald in 2005?

Mrs Kniveton: No.

Mr Cregeen: Did you put it to DoLGE that it may have been better to have it with Jackson Holdings as the main parent company rather than have it linked through the subsidiaries?

Mrs Kniveton: I put it that the best contracting party

would be Jackson Homes (Southern) Ltd because they were the property holding arm and because that was the company that had the rights over the ransom strip and over the other area X that was needed for the development, they actually owned it.

Mr Cregeen: Were you aware of the indebtedness of Jackson Homes (Southern) Ltd on and all the loans, mortgages that they had on their properties already?

Mrs Kniveton: Yes, well on that particular area they would have had, I am sure, charges, yes.

Mr Cregeen: So there was already a first charge on the land that they already owned which was the ransom strip getting in –

Mrs Kniveton: Well, they did not own the ransom strip, it was a conditional contract.

Mr Cregeen: This is on the Douglas Road side.

Mrs Kniveton: Yes, the little strip that ran –

Mr Cregeen: No, no, the main –

Mrs Kniveton: Oh, the main strip, area X, yes.

Mr Cregeen: Area X, so you were aware of the mortgage that they had out on that and you still deemed that it was preferential to have Jackson Homes (Southern) Ltd even though they were in mortgage for that land as security?

Mrs Kniveton: Well yes, because that land was needed as part of the development and part of the access arrangement and they owned it, that was the link, not so much whether it was charged or not because obviously they would have the agreement of the bank to carry out the development, even though it was charged, it was the fact they owned it. There is no point having an agreement with a company where you need to use a piece of land when they do not own that piece of land.

The Acting Chairman: The second question we have down here relates to all of this. In fact, it is a lengthy question so I think I can summarise it to some extent in that the arrangement that had been made later with Jackson Homes (Southern) Ltd to be the purchaser was not known to Members of Tynwald. It was not your responsibility and you are not aware whether that responsibility for perhaps making Members aware of these changes, that that was done by the Department of Local Government at all and may not have happened?

Mrs Kniveton: It may not, I was told that they had pursued it and that they were comfortable to proceed.

The Acting Chairman: They were comfortable. And they did not come back for further assistance from you in what they had arranged?

Mrs Kniveton: No. I think Treasury was aware of that as well because they were kept up to date with everything, so had they had any concerns they should have raised them as well.

The Acting Chairman: Right. When did this contract... Do you know when this contract ceased to be active? That it in fact ...

Mrs Kniveton: The development agreement?

The Acting Chairman: Yes, this agreement in fact, yes.

Mrs Kniveton: DoLGE informed me recently they were writing to formally rescind it. The provisions of the agreement allow for rescission once the planning process has been exhausted, which is taking it through appeal and Petition of Doleance. Then either party can rescind the agreement and in effect it is frustrated in any event because it is in respect of that particular development. If there is no permission for it, it cannot go ahead.

The Acting Chairman: But there was no provision in the agreement for either side to rescind it, was there? There was nothing within the agreement?

Mrs Kniveton: 2.5 allows for the agreement to be rescinded once the planning process has been exhausted.

The Acting Chairman: But in your view then, it has not been rescinded by another party at this stage?

Mrs Kniveton: I was informed by the Chief Executive of DoLGE that they were sending a letter – it should have been about a fortnight ago – to all three companies, formally rescinding the agreement.

The Acting Chairman: Do we have that information? We will investigate that and make sure we get that correct then, thank you.

I think you have probably in the past suggested that the ‘know-your-customer’ rules, regulations, whatever you call them, are of little value in a case of this kind, that they are more related to banking matters than to contracts of this nature?

Mrs Kniveton: No, I would not have said that. What I meant was the Department should pursue the ‘know-your-customer’ provisions, the due diligence checks which are actually set out on the Government website and that is their responsibility and financial references should be pursued by the Department with the help of Treasury because they obviously have the experts to pursue those.

In this particular case they were well-known, Manx-based companies of good standing, but it would not negate from the fact that the due diligence checks should have been done and that is the responsibility of the Department. The Chambers view is, we highlight the fact that these checks should be done, but we leave it to the Department in conjunction with Treasury to carry them out because we do not have the expertise in respect of financial checks or the manpower to do so. We do company checks to make sure that the company is solvent and we check the officials and the registered office, but that is as far as it goes.

The Acting Chairman: Right. Mr Cregeen? No. Had consideration been given to the possibility that the developers might be able to secure a bank loan on the land

and no building be commenced with either – well for various reasons perhaps – but one such reason would be financial difficulties and so on. Have those kind of scenarios, do they come up for consideration in the Attorney General's Chambers or not?

Mrs Kniveton: We include provisions in development agreements to ensure that the development has to be commenced within a certain time, it has to be finished within a certain time, it is a contractual arrangement. If those provisions are not complied with by the developer then we can take action under contract and in this particular case the Department could take back some of the land under paragraph 12 of the schedule so there are provisions in there to make them carry out the development.

The Acting Chairman: Was Government secure enough if, for instance, some of the buildings had been put in place, perhaps some sold, perhaps half way through the project there was a financial collapse. How secure was the Department and Government if that situation arose?

Mrs Kniveton: If the company had gone bust, you mean?

The Acting Chairman: Yes.

Mrs Kniveton: Well, then a receiver would have been appointed and there would have been provision put in place to try to complete the development presumably with a different building contractor.

The Acting Chairman: So you think then that they would by one means or another try to complete the contract?

Mrs Kniveton: Yes, and it would be, if there was a bank charge, then it would be in the bank's interests as well to have a receiver complete the development.

The Acting Chairman: Yes.

Mr Cregeen: Were you aware that part of the development was going to be cross-financed from selling off larger houses on what was Government land and once those houses were sold it was going to cross-finance the rest of the development?

Mrs Kniveton: Yes.

Mr Cregeen: One of the scenarios could be that if those houses had been built and sold on and then the company got into difficulties, how do you consider that it would be able to be cross-financed if there were no assets left?

Mrs Kniveton: Well there would have been assets left in that there would have been the rest of the land to develop, so that is an asset in itself and there would also have been the infrastructure that had already been put in for the existing houses. I think it would have been difficult to develop just one little section, maybe a whole phase, but not just a section of a phase. So you would have one section completed with the infrastructure which would have had financial input and then the Department or the receiver, whoever was appointed, could use that to develop the rest of the land. They would be able to develop.

There is always a risk that if a company goes bust and the receiver has to step in, that is where your financial checks come in but it is unlikely, I would have said.

Mr Cregeen: The point being, that the first section that I think was going to be developed was the four and five-bedroom houses for J G Kelly's for open market sale. If that was then sold and the company had got into difficulties and there were no assets, there would be no money that was going to build the first-time buyer and the local authority houses –

Mrs Kniveton: I do not think that could have happened –

Mr Cregeen: – and the other point is that because Jackson Homes (Southern) owned the access, if there was a difficulty with J G Kelly's, then what could happen is that they could separate and say 'Well, Jackson Homes owns this so you can't fix their assets to the liquidation of J G Kelly's'.

Mrs Kniveton: Well, they are still contractually bound. Jackson Homes (Southern) would still have been contractually bound to have gone ahead with the access, because they are bound under the development agreement separately to J G Kelly's, so that would not have been a problem.

With regard to actually completing the open-market houses, I think it would be highly unlikely that the company would have become insolvent if they had sold off the open-market houses because they would have the income from that anyway.

The other point being that I know there was a phasing plan but the planning conditions would have included a section 13 agreement – that would have been highly recommended – to make sure that they could not build just open-market houses, they had to do it in phases with the first-time buyers as well, but we never got to that stage, but certainly planning conditions would have been used, I am sure, to make sure that the development went ahead. As I say, it would not have made sense to sell a block of open-market houses and then the company go bust because they would have had all the income from the open-market houses.

The Acting Chairman: Jackson Homes (Southern) Ltd are essentially owned by the trustees of the Jackson Trust. We have not been able to conclusively discover where that trust is based, whether it is here in the Isle of Man or whether it is elsewhere. Do you have any firm information on that?

Mrs Kniveton: I do not have any further information than what is on the file already, but I believe that the Treasury should have the information on that and they should have looked into it and that certainly is the Treasury's remit, not mine.

The Acting Chairman: No. Any further...

Mr Cregeen: Just one. From the Treasury, from their notes, Treasury approval for the disposal of the land is required under Government Acts 1987 and from their notes:

'as there is no explicit Treasury approval for the disposal in this matter, the Assistant Financial Controller contacted the Attorney General's Chambers to ask for an opinion'.

Were you aware that Treasury had not given approval for the disposal –

Mrs Kniveton: I was told Treasury had and Treasury certainly knew or... You mean the disposal of the Department's land?

Mr Cregeen: Yes.

Mrs Kniveton: I was not aware they had not given formal approval, I was under the impression they had and certainly Treasury were very well aware of it, so I am surprised.

Mr Cregeen: Well, we have a paper that Mr Carl Hawker sent to the Treasury regarding this matter and they were unaware.

Mrs Kniveton: They were given the business plan, I am certainly aware they were given a business plan by DoLGE setting out exactly what was proposed, so to say they were not aware of it, I am very surprised.

The Acting Chairman: Mrs Lambden, any points?

The Clerk: I do not think so, thank you.

The Acting Chairman: No. Right I think that is all we have to ask. Is there anything else that you feel that you would like to say to the Committee at this stage?

Mrs Kniveton: Only that I have to say from the Department's point of view that I do feel that the officers acting for the Department worked extremely hard on this case and tried to get as good and secure a deal as possible and I think it would be rather harsh to criticise them in any way. I think that as far as I am aware, they acted very well and worked very hard on this matter.

As far as Treasury is concerned, I think they would have been well aware of what was going on and if they are now saying in hindsight that they were not, then I find that surprising.

Mr Cregeen: Just one final. Would you consider in the future that, when we were going back to the financial checks, before you continue to draw up any contracts, there should be a checklist to make sure that the Department has fulfilled all its agreements to carry out financial checks and 'know-your-customer'?

Mrs Kniveton: We do always ask that they do confirm – just by e-mail – but in fact we are at the moment putting together a form which we will have as a checklist because we have had this sort of problem with other Departments where we are told checks have been done and subsequently find that they are somewhat lacking, but as I say it is not part of our job and we could not take that on, so we can only ask the question.

I would certainly think that it would be a very good idea for Treasury to have maybe a risk assessor who passes large transactions and states that they are satisfied that there is enough security to be provided, I think that would be a very good idea.

The Acting Chairman: Well, thank you very much. We

are grateful for your statement, which could be very useful to us, thank you. If you would be good enough to let us have a dated and signed copy of that, it would be very helpful. Mrs Kniveton, thank you very much indeed.

Mr Senior was called at 2.53 p.m.

EVIDENCE OF MR R SENIOR

The Acting Chairman: Now, Mr Richard Senior, please.

Thank you for attending, Mr Senior. I gather you are the former Director of Estates and Housing in the Department of Local Government and the Environment –

Mr Senior: That is correct.

The Acting Chairman: – and you are now still with the Department in one way or another.

Mr Senior: I am just doing project work and I just get paid on an hourly basis.

The Acting Chairman: Were you with the Department throughout the whole process of the Crossag Farm negotiations and so on?

Mr Senior: In terms of the negotiations, not in terms of the original land purchase. When I started in the Department in 2001, the land had already been purchased.

The Acting Chairman: And when did you retire full time from...?

Mr Senior: In April 2008.

The Acting Chairman: Let me ask you first then what you would consider to be the reason the motion that went to Tynwald in October 2006, that there should be a development agreement between the Department of Local Government and J G Kelly, did not include Jackson Homes (Southern) and Jackson Holdings Ltd in that motion that went to Tynwald?

Mr Senior: All the negotiations that I had held over three years... We have sent you a schedule of all the main actions, and this really was the second major go at trying to get the site developed, but all the letters we had had from J G Kelly were under the name of J G Kelly Ltd. It is always easy in hindsight to think maybe you should have asked more questions about did they actually own the land or was it another company, but it was when the first heads of agreement came through that it was clear that J G Kelly did not actually own the land.

The Acting Chairman: But as far as Tynwald was concerned, they thought, when they agreed to this, that the agreement was with J G Kelly and not with a whole group of companies. Were any Members of Tynwald then later informed of this change, because it happened within a couple of months after Tynwald's approval.

Mr Senior: Two development proposals went to Tynwald.

The very first one, which still included J G Kelly, I think just about every Tynwald Member attended that briefing session and asked questions.

The Acting Chairman: Was this the one that was approved in 2006?

Mr Senior: That is right.

The Acting Chairman: So you were at that presentation?

Mr Senior: Yes, and –

The Acting Chairman: And more or less most of the Members?

Mr Senior: – at that time I was under the impression that it was J G Kelly, but I have to say that that was not my main focus of attention. My main focus of attention was trying to get the financial and technical arrangements sorted out, because any agreement that we were going to have was subject to contract and subject to planning approval. If you look at the schedule of main actions, there is a vast amount of work gone into it. As I say, in hindsight, I would accept that maybe I should have asked more questions about real land ownership, but I just saw that coming later in the process.

The Acting Chairman: If you can remember anything of that presentation then, was a question asked about, or was any information provided to the Members that it was not J G Kelly that they would be signing up to?

Mr Senior: No. In both presentations... The first presentation, there was virtually a hundred-per-cent attendance by Tynwald Members and there were a lot of questions asked, but for the second presentation, which was to do with this final agreement, probably only about 15 Tynwald Members attended.

Mr Cregeen: In your briefing paper to Treasury of 9th August, you state in here:

'It is evident that J G Kelly now own the land that could provide the main access.'

Who gave you the information that J G Kelly now owned it?

Mr Senior: From two sources, really, because we had been trying to... In fact, there are more than two deals. There is a previous deal with Derek Ayres, a direct deal, and we had two agreements there, which he rescinded at the last moment. So we were aware that Derek Ayres, while he was in discussion with us, was also in discussion with developers and ultimately it was J G Kelly who came to us and said they had now bought some land and entered into an option agreement with him, and I certainly spoke to Mr Ayres' accountant, who said that was the case.

I think the other thing is that no developer is going to put so much time and effort into an agreement – and a vast amount of time and effort has gone into this – if they do not own the land or have the options to follow the agreement through. I do not know how much this has cost J G Kelly,

but an awful lot of money, to progress this development agreement, and it was all subject to contract and subject to planning permission in any case.

I think that is a point I would like to make: that this is a development agreement. It is not the final set of contracts. When you do the conveyances, then there would be all the checks through the Registry. So there is an issue about how many checks do you carry out on companies and the land while you are trying to negotiate the actual deal itself. Certainly the focus was on the deal. There has to be some trust in this.

Mr Cregeen: As we just heard earlier, the Attorney General's Chambers deemed that you had carried out all these checks to your satisfaction for when you –

Mr Senior: I was satisfied that J G Kelly companies owned the option and some of the land because they had actually been developing the land. It was there to be seen. But I actually did write to the Attorney General's in probably December 2006, I think it was, just asking them to have sight of the option agreement and the land transaction for the land on Douglas Road, which they did do. So they were checked. In fact, in my files I do have a copy of the Registry agreement of the sale of the land to J G Kelly.

Mr Cregeen: To J G Kelly or to Jackson Homes (Southern)?

Mr Senior: It is probably to Jackson Homes (Southern).

The Acting Chairman: The letter that you refer to, I do not think we have that, the letter you sent to the Attorney General's office. Would you be able to supply us with a copy of that in due course?

Mr Senior: Yes, I can. I know it was close to Christmas. That was another issue in that Derek Ayres had been very keen, when we were trying to enter into an agreement with him, to set deadlines for everything, so there was an issue here that the agreement with J G Kelly... What he actually wanted was the planning approval. If we were to get the planning approval for 31st March 2007, which was not feasible, but it was certainly feasible to submit the planning application before that date, and that is what we did, so we set 31st December as being the deadline for getting the planning application to our planning directorate. That is not the actual submission of the application but at least the process has started.

The Acting Chairman: So the subject of the letter to the Attorney General then would be... What was it you were asking for from the Attorney General's department?

Mr Senior: Just for them to have sight of the confirmation of the agreement. I am just putting my specs on. I have just started wearing specs and now I cannot read without them. Paul Kerruish from Gough and Co. wrote to Elizabeth Smith in the Attorney General's Chambers and copied her e-mail in to me:

'I can confirm that all considerations, save for the consideration of the ransom strip itself is being paid under the 27th May agreement with

Derek Ayres, although I do not have a document as such to evidence that but presumably you will accept my assurance that this is the case as my office handles the completion and payment of various stated payments.’

Somewhere in here... Yes, here we are. I have got a... From the Isle of Man Registry:

‘Jackson Homes (Southern) paid £1.8 million for the parcel of land on Douglas Road...’

which would have an element of ransom strip value in it as well.

The Acting Chairman: Nevertheless, going back to the question that Mr Cregeen put, the fact that... It was said that J G Kelly owned the access to the site at that time. That turned out not to be correct, didn’t it?

Mr Senior: That is absolutely true. I would not for a moment dispute that. All my negotiations were with J G Kelly. I had numerous reports to the Department and as you know, Tynwald briefing papers, but it is when I got the Heads of Terms that it became clear that it was Jackson Homes who actually owned the land.

I think there were two issues then: how important is that, and can you resolve it by a parent company guarantee? My view in this case was that by tying all the companies together and having Jackson Holdings being the guarantor on this, it was actually quite a strong agreement with very few risks in terms of the company.

The Acting Chairman: And the fact that Tynwald did not know that you would have felt was not important then, given that they approved this deal with Kelly’s?

Mr Senior: By binding the three parties together in one agreement... My view was that that tied J G Kelly Ltd in with the holding company and the owner of the land. They all became the same company in terms of the development agreement. In retrospect, yes we could have gone back to Tynwald. I think my view is it probably would not have made any difference. The development of this land, or trying to develop this land, had been going on for several years and there was certainly... The agreement that went to Tynwald got almost unanimous approval.

The Acting Chairman: Mr Cregeen.

Mr Cregeen: Whose decision was it not to take it back to Tynwald? Tynwald was told J G Kelly’s and once that error was made aware –

Mr Senior: It was my decision. I could turn round and say also it was the Chief Executive and the Minister signed off a document on 22nd December, but realistically I would accept responsibility for saying in, I think it was September or October, that the Heads of Terms had got a different company on them, then really was there a way of binding those companies together with a parent company guarantee.

The Acting Chairman: Just let me pause there for a second because we are just having difficulty with our recording in that there have been some mobile phone intrusions. Do we have any phones switched on here at the moment?

Mr Senior: I am sorry, I...

The Acting Chairman: I am sorry, I did ask, when members first came in, but you were not here at that time, Mr Senior.

Mr Senior: I am very sorry about that.

The Acting Chairman: No, that is alright.

Mr Senior: I was walking across and I thought, ‘I must switch this off.’ You have probably saved me a lot of money there, in fact.

Mr Cregeen: It is surprising how if it is switched on to ‘meeting’ or ‘silent’ it still comes through.

Mr Senior: I am very sorry.

The Acting Chairman: Can we move on to the issue of ransom strips, then. Why didn’t the Department of Local Government proceed with the purchase of the ransom strip, because the cut-off date for that, as you say, was 31st December. Why didn’t the Department of Local Government proceed with that?

Mr Senior: We were not in a position to purchase the ransom strip. We were not being offered the ransom strip.

Mr Cregeen: I think the Chairman is talking about the option that was taken on the top side. In the initial purchase there was an option.

Mr Senior: Yes, I really can only repeat, I think, what has been put in the letter to you, that when the land was bought in... I think it was the 1999 land... there was a 40-foot strip across the Douglas Road which would never have been suitable for an access, and in the event Crossag Farm was registered anyway, so it would have been a useless piece of land. But saying that, the option to purchase... We thought we would still serve notice because the land was just a few thousand pounds and you might as well buy the land, but the notice was not served by registered letter. It was served by hand and it was deemed by the Attorney General’s that that was not suitable. It did not comply with the terms of the option.

The Acting Chairman: So you are saying really that ransom strip would not have been worth very much in any case.

Mr Senior: Certainly not for this development. It was before my time and I do not know who decided. If you wanted access to the land you needed a proper piece of land that you could get side splays on. Forty foot is actually quite narrow, and in the event it went through the middle of the farm anyway, which has now been retained.

The Acting Chairman: Where did the pressures come from to have it registered? Was that in your time as well?

Mr Senior: Certainly not from Estates and Housing, although we own the farm.

The Acting Chairman: Was that a problem within the Department?

Mr Senior: No, there were external people who believed the farm had architectural merits and historical merits and should be retained, so I think Minister Rodan at the time was asked then to consider the application. It was taken out of the Department and it was decided that it should be registered.

The Acting Chairman: Any more questions, Mr Cregeen?

Mr Cregeen: Not on that point.

The Acting Chairman: The next one we have is: how did you manage to resolve the issue of Tynwald consent having been given to the motion with reference to J G Kelly, rather than Jackson Homes? I think we have already asked this question, essentially. You were content then to go ahead, I think as you have said, with the development agreement as it had been changed virtually as far as those people, the named companies were involved. So I think we have covered that, probably.

Mr Senior: If I could just say, no development is without risk. Even if you own the land and go out with traditional procurement, if say a contractor defaults, mainly by going into liquidation or does not continue works, it is always difficulty anyway, so the more complicated the development is the greater the risk will be, but I did not feel that in this case who the parties were, as long as they were bound together, made any difference to the risk. If anything, it actually strengthened the agreement because it brought the holding company into the agreement.

Mr Cregeen: Who carried out the statutory checks on Jackson Homes (Southern) Ltd and its parent company?

Mr Senior: I wrote to Treasury and asked them to carry out a check, but it was really on their accounts of Jackson Holdings, I think. Clive McGreal wrote to me saying that their accounts and balance sheets were satisfactory for a company that size and for a company... I certainly could... I cannot quickly find it now. I can certainly get you a...

Mr Cregeen: One of the points that... We were told earlier that it was up to the Department to carry out. The Attorney General's Chambers would not normally carry out these and it would be up to the Department to carry out any know-your-customer checks.

Mr Senior: Certainly we... Yes, I have found it now. On 22nd December, Clive McGreal –

Mr Cregeen: Which year, 2006?

Mr Senior: Sorry, 2006:

'As discussed, the attached extract is representative of a sound balance sheet for a medium-size enterprise and it has been filed timeously within year end and provides a comfort factor for the agreement being entered into at Crossag Farm.'

Mr Cregeen: Which company is this on?

Mr Senior: This is Jackson Holdings Ltd, who were the –

Mr Cregeen: It was not carried out on Jackson Homes

(Southern) Ltd –

Mr Senior: No.

Mr Cregeen: – which is one of the companies that you were entering into an agreement with.

Mr Senior: Jackson Holdings are the guarantor of the whole development.

Mr Cregeen: But it was Jackson Homes (Southern) Ltd which had the purchase of the land, which had mortgaged the land, which you were entering into the agreement. I understand it may be the parent, but surely you should have carried out the checks on each of the companies on their balance sheets and the directors of that company as well, because that is the understanding that we were given, that it should have been carried out on each individual.

Mr Senior: It may be quite difficult for the Department to actually carry out checks because quite often it is a legal and a Treasury sort of...

Mr Cregeen: We are led to believe that it is actually up to the Department to carry out these checks.

Mr Senior: I think there is potential for passing things around from one Department to another, saying, 'Well, we've said these should be carried out,' but how do you carry them out? If you are looking at the Companies Register and somebody's balance sheet, it is very much a Treasury sort of function to do that. Certainly if, out of this Committee you feel these things should be done, I think it will be quite useful to pick the best Department to carry out these checks.

Mr Cregeen: Because we are getting this thing that everybody thought somebody else was going to do the checks on it.

Mr Senior: I am being very honest here about the process we went through and, as I say, in hindsight, I think it would have been easier to say, 'Well, hey, go back to Tynwald.' Personally, I still do not think it would have made any difference to the outcome of the development agreement, but certainly if more checks need to be carried out then I think it would be helpful certainly if Treasury could carry out those checks.

Mr Cregeen: Do you know where the Jackson Trust is based?

Mr Senior: No, I do not.

The Acting Chairman: The Department contracted with J G Kelly in the past to do other developments, didn't they?

Mr Senior: Yes.

The Acting Chairman: Baldrine and elsewhere?

Mr Senior: I was just going to say that a second ago. This is not the first successful agreement or development that we have had with J G Kelly.

The Acting Chairman: The question I was going to ask though... When you did these other contracts, did you still have this situation with Homes and Holdings and Kelly? Who were you negotiating with? Were you negotiating with a series of companies in those cases as well?

Mr Senior: To be honest, I do not know. One of the architects who works for me dealt with the Attorney General's and Treasury, so we would do a report to the Department, very similar to this report, saying that... Have we perhaps been out to tender... J G Kelly provided the best deal but sometimes it has been Heritage Homes and that we will transfer land to them under the development agreement and they will pay us for the land before... sometimes at the end of the development, and the actual agreement I have actually left with the architect and the Attorney General's to sort out.

The Acting Chairman: But generally speaking you would have been dealing with the builder, being known to you as J G Kelly?

Mr Senior: Yes. The difference with the other agreements is that they did not own any land. It was the Department's land that they were buying.

The Acting Chairman: So this was a very complex area, wasn't it, you were working at Crossag?

Mr Senior: I am a quantity surveyor, a chartered surveyor by profession. It is the most complicated deal I have ever been involved in.

The Acting Chairman: At one of the Treasury meetings did they raise a query on the quality of the workmanship that was carried out by J G Kelly?

Mr Senior: I cannot remember. They may well have, yes.

The Acting Chairman: You have no particular recollection of that?

Mr Senior: It strikes a chord, but I have no particular recollection of that. As was said, J G Kelly had done several developments for us and it is unusual to have any development without some defects in and the majority of defects J G Kelly have always put right under the contract.

The Acting Chairman: Ransom strips then... This land was bought before you joined the Department, I think you told us.

Mr Senior: That is right, yes.

The Acting Chairman: What is your view on Government buying land which requires payment for ransom strips? Is that normal? If some land comes along that looks good for development, is it sensible to purchase that land when it has no access?

Mr Senior: I do not think so, no, unless you buy it cheaply. It is a balancing act, really. If land is available and it is cheap but it has not got access, then you may feel it was cheap enough to put in the land bank and 20, 30, 40...

A lot of development you are looking very long term, but this land was bought for a purpose, for development in the not-too-distant future. Saying that, it is like buying land without planning permission. Johnny Watterson's Lane is now full of first-time-buyer houses and it was bought without planning permission, but it has got planning permission now. Depending where you stand on this, it is either a good thing or a bad thing, but yes, generally speaking you would try and buy land with suitable access.

The Acting Chairman: I know you are not full time in the Department now, but when Mrs Kniveton gave her evidence to us earlier, she said that she understood a letter was being sent from the Department to rescind the agreement on this, which apparently had not been done up to now. Have you any information on that?

Mr Senior: No. My involvement in this, since I retired, has really just centred around this Select Committee. I have given information to the Chief Executive. The Chief Executive mainly has been dealing with things since I retired.

The Acting Chairman: So with all these arrangements that were made and the subsequent change from J G Kelly to a group of companies, do you think that this was as secure as it could have been for the Department as an arrangement?

Mr Senior: I think there is a possibility that we might have asked for a parent company guarantee in any case. Even if the land had been owned by J G Kelly one of the things, as part of the Heads of Terms, was saying, 'Can we have a parent company guarantee?' which is not unusual. There is quite a long process to all this. You do not just sit down and finish up with a legal agreement within a week. The first thing you do is start talking numbers and specifications and that leads on to costs, and the focus really is, 'Is it a good deal for Government?' If you can get that agreed, you then go on to the heads of agreement and then that finishes up in the development agreement.

The Acting Chairman: Was this a good deal, financially?

Mr Senior: I think it was a brilliant financial...

The Acting Chairman: A brilliant deal, financially?

Mr Senior: It was a very good deal. I think developing the land now will cost a lot more money.

The Acting Chairman: The Department encountered opposition from the Commissioners, from a vocal group that lives in the area, the residents' association.

Mr Senior: I think if you –

The Acting Chairman: Nevertheless, you still went ahead despite all of that.

Mr Senior: At the public meeting that we had – a two-day public meeting which was attended by about 550 people, and we put questionnaires out – there was hardly any opposition to the development. BADRA – Ballasalla

and District Residents' Association – yes, they have been against the agreement, but not all the commissioners were against the agreement. It was actually quite late in the day that the Commissioners actually formally objected to the development. We had always been led to believe – I had been to several Commissioners' meetings – that they would support it, and yet...

Mr Cregeen: In your report to Treasury of August, you were talking about the school site and the consultation with the local people – Clagh Vane, Ballasalla generally. Was that what you considered your consultation, that public meeting, that you had already put the school on the Clagh Vane site, or had the Commissioners and the residents told you beforehand, before you drew up the plans with the school on the Clagh Vane site, that that is the place they wanted it?

Mr Senior: Richard Collister, from the Department of Education, and I went to meet the school governors and went through the proposals. It is the Department of Education who thought putting the school on the Clagh Vane estate was a good move, and I certainly support it. I think it is a good place for the school. It would also make the housing easier in that you could build the houses, move people straight out, demolish and build a school. It made the whole process quite smooth. But the school governors supported the school going on Clagh Vane. From a housing management point of view, I think possibly there are some benefits for the tenants on Clagh Vane just moving once into new houses. Certainly I spoke to tenants on the first day of the two-day consultation and they seemed quite excited about that. Most of the houses were going to be three and four bedrooms, semi detached, drives, and they were moving out of cold, old houses. There were financial benefits for doing that as well, which were all in the Treasury report.

Mr Cregeen: But surely part of this was that you could have built the local authority houses up in Crossag first and then decanted and done whatever you wanted to the Clagh Vane houses – either demolition, refurbishment or replacement – but the way the development was going ahead was they were cross financing from selling on the four and five-bedroom houses for open market first to cross finance the local authority houses, wasn't it?

Mr Senior: There is a programme of work that is part of the development agreement, and I think phase 3, if they got planning permission, would have been completed in October 2010.

Mr Cregeen: But phase 1 was the open market for J G Kelly's houses.

Mr Senior: I think that is a simplification. Phase 1 and phase 1A you have to do first, or at least you have to put all the roads and sewers in, because that is the access to the land. If you see it from the developer's point of view, they cannot lay out millions and millions of pounds without beginning to get some return on that. So this proposal, I thought, struck a good balance. It did not leave the public sector houses until the end – in fact, almost this time next year they would have been built – and also you got first-time-buyer houses right at the beginning of the process. In fact, the first-time-buyer houses would have been the first ones to be built.

Mr Cregeen: But wasn't some of that commitment of £3 million payment from the Department for these houses?

Mr Senior: Well, we were going to –

Mr Cregeen: So they would have been able to mortgage the land to finance some of the work and there was going to be a payment of £3 million to them as well.

Mr Senior: They could mortgage some of the land, but not all of the land.

Mr Cregeen: It was the majority of the land though.

Mr Senior: No, it is not the majority.

Mr Cregeen: I think it is one section, is it? I think there was only section 1, was it, that was going to be kept clear of a mortgage?

The Acting Chairman: There was an area, but I cannot tell which section it is.

Mr Senior: Do you want me to show you a drawing?

Mr Senior takes the map to the Acting Chairman.

Mr Senior: The land that is coloured in blue and green is the land that the Department keep a charge on. In fact, the land coloured green we would continue to own because they would remain as public sector houses. But the blue land, the reason it is transferred to J G Kelly is that, when they sell to a first-time-buyer, they are the developer and they are selling a house to a developer on their land, but we have the first charge on the land and in the agreement we can take the land back at value of any work that has been carried out. The other land that is being transferred was transferred because of the ransom strips.

Mr Cregeen: So it is area 1 and A?

Mr Senior: Not all of it. Half of area 1 is owned by J G Kelly companies, and the blue-roofed house, and that is how you can get access into the site.

Mr Cregeen: But area A was going to be transferred totally?

Mr Senior: Yes, and that was a mixture of first-time-buyer and open-market properties. What you are trying to do is strike a balance where a developer can put investment into the site, which is several million pounds before you even begin to get any houses built, but begin to get some return as the development progresses. It certainly delivers lots of affordable housing being built right from the beginning.

The other part of the agreement was that we would not release the land for first-time buyers on area 4 and areas 3 and 2 until they had completed one first-time-buyer release, the land release, for one public sector house. So there was always a pressure on the builder to get the infrastructure in and do public sector houses as well as first-time-buyer houses. The first-time-buyer houses were also being sold at a lot less than open-market value and the £3 million for the public sector houses works out at £46,000 per house, and

these days they are costing £110,000, £120,000, £130,000 to build. I went through all this in –

Mr Cregeen: So that would cross finance, because it made the profit from their selling to an open market?

Mr Senior: Absolutely. That is what developers have to do. They have to make a profit; otherwise, they will not exist. What we have to do is say, 'Can you work with the developer and is it a good deal for Government?' In this case, the Department thought it was a good deal for Government, Treasury did, and Tynwald Members did. Certainly at the first briefing session I think there were quite a lot of Members against the development, but when they actually heard the terms of it, they all voted for it. That is nothing to do with the planning issues; that is to do with the development equation.

The Acting Chairman: So, having got over all these hurdles, it goes to a planning inspector. You are smiling. One of the reasons was that he felt it was premature, to the extent that there was no southern plan at this stage, and there were various other reasons. Did you have any input, or did the planning section have any input into the Council of Ministers' decision to accept the planning inspector's recommendations?

Mr Senior: No, I do not think they did, actually. I think they might have taken advice, because obviously Tynwald had voted for this development to proceed subject to planning and then it had not got planning, which does seem slightly perverse, but obviously that decision was made by one planning inspector for the UK. From my point of view you cannot have it on both ways. That is the system and he made his decision, which personally I think was a poor decision, but obviously the people who object to the scheme do not think it is a poor decision.

The Acting Chairman: Had any consideration been given... While you were considering Crossag Farm, had there been any thought about, 'Well, maybe we might be premature here. Perhaps we should have some of these other things in place' – a bypass road, for instance – 'before we go ahead with this'? We are talking about a very large number of houses additional in the area.

Mr Senior: I suppose the issue is about area plans. I certainly understand why people feel there should be an area plan or a sector district plan now, ideally, and some of them are very old, but from my point of view... I am not speaking for the Department now, but certainly for Estates and Housing I have been responsible for providing affordable housing and for, not to forget, upgrading or redeveloping some very old and run-down properties. You can only work within the system that you have got and I think the inspector was wrong in saying this was premature in terms of the plan, but certainly there is a view put forward by the objectors that a development of 257 houses... Maybe that is not right, it should be phased over a much longer period, but certainly financially it was better to get on with the development and get it all done. My view now is that it will cost a lot more money to develop this site, but it will be done over a much longer period.

Mr Cregeen: Were you aware of the 2005 debate on Crossag Farm where the now Chief Minister considered that

this should have been a phased development, even in 2005, that it should not be a –

Mr Senior: This is Tynwald?

Mr Cregeen: The Tynwald debate in 2005 for the initial proposals with J G Kelly and Heritage Homes.

Mr Senior: No, I did not listen to the debates. I read some of the debates in *Hansard*. The thing is with that it was almost within – I cannot remember now – two or three weeks the decision was made by the Department of Transport that the ring road round there was not really the right way to proceed, so that particular scheme was scrapped and we moved on to this new scheme.

Mr Cregeen: Whose decision was it, with consultation with J G Kelly, that this quantity of housing should go in there? I think under the 1982 Order it was zoned for about 160, was it? If you had gone down the line of the school at the top, you would have fallen within that Order because you would have had fewer houses. Was it the profit that was to be made in putting the 257 houses that was making this the runner rather than falling within the planning guidelines?

Mr Senior: I am not sure 'profit' is the right word. Nobody is going to be a developer unless they make a profit, but what you do have to do is make a development stack up in terms of costs and selling prices. There are other issues for developers as well. You need land to develop: you are not a developer if you have not got any land. You need some turnover. So it is not just about profit; it is about all sorts of things, really. I think the Island has got a bit of a problem in that on one hand it needs to provide houses and facilities for its population, and yet on the other hand it wants to have low-density housing, and yet on the other hand it does not want to develop land. They do not fit. The equation does not work. What you have got to make is decent use of the land that you have got. This only works out at less than 10 to the acre, which is pretty low density.

Mr Cregeen: But I think, if you go back to this, if you take out the four and five-bedroom houses that were going out to private sale, and then look at the area for the local authority housing and first-time buyer, your density is not as you are saying. If you looked at that as two separate developments, it would not fall within the density that you are saying. If you took the two and three –

Mr Senior: You are absolutely right. The cheaper housing is at a higher density than the £400,000 houses, but I think that is acceptable. Overall it is low density, and the vast number of the public sector houses, for instance, are semi-detached houses and decent-sized plots. There are only 12 flats on the whole development.

The Acting Chairman: After the inspector reported, and presumably then the Council of Ministers supported that, it must have come as a shock, to your section of the Department anyway, that all that work had been put in for nothing. Do you think any lessons have been learned by the Department, or by anybody, as a result of this particular scheme?

Mr Senior: I am not sure I should speak on behalf of the Department.

The Acting Chairman: Not at all, no.

Mr Senior: From a personal point of view, I think it would certainly be good to get all the area and sector plans brought forward and progressed because that obviously is a big issue round the Island, and then it makes development much easier to do within a current framework, where –

The Acting Chairman: It slows up the process, doesn't it?

Mr Senior: Well, planning slows up the process, but obviously if you can get these area plans into place, then it makes the planning submissions easier, I think. In terms of this development, I think I would go through more or less the same process. I do not think 250 houses on that site is high density; I think it is low density. I think financially it was a really good deal. I accept the concentration on trying to get the deal done and everything. Perhaps this would be quite easy just to have a checklist of things to do. It is just the know-your-customer and the people you are dealing with, and that could have been clearer, but I do not think it has actually made any difference in terms of risk or the development agreement. J G Kelly are just now tied in, or would have been tied in, with their parent company, so I do not think you could have got a much stronger development agreement than that.

The Acting Chairman: You referred earlier to J G Kelly having incurred considerable expense – or the companies, whichever they are – with legal costs and so on through all of this. What will it have cost the Isle of Man Government during this time? Is there any estimate? There were about six or seven reports on this site before anything happened, weren't there?

Mr Senior: I cannot tell you the costs, but they would be substantial and they have been paid over a number of years, so the actual impact... I think quite a lot of it has been paid out of revenue budgets and some of it has been paid out of the housing reserve fund, but yes, they are substantial. If this site is developed, then some of those costs will be clawed back. Certainly, the site surveys, the engineering costs, even some of the architectural work might be. The traffic studies, those sorts of things, you will reuse.

The Acting Chairman: Are there any indications that you are aware of in the Department that this site is in their sights, as it were, for further development at this stage, or are they thinking perhaps in terms of getting a southern plan in place first?

Mr Senior: To a large degree, because I still work for the Department and there is a new director, I try to keep out of a lot of these things now, which I think is better. I am very happy to come today and tell you my experiences with this, but in terms of the –

The Acting Chairman: You have not been asked to go back and look at this again, then?

Mr Senior: I would refuse, I think. No. It was an enjoyable project. The outcome is disappointing, but I think the sooner some houses are built on there to help with the

Clagh Vane redevelopment, the better.

The Acting Chairman: Mrs Lambden, anything?

The Clerk: I have just a few small points, if you would not mind, please. You have obviously been advised by Treasury about Jackson Holdings Ltd, about their financial status in relation to their size. You have asked that question and you had the answer. Your expertise is as a chartered surveyor. Who would you expect to provide advice for such a project to go forward on the companies? Has anybody advised anybody who was projecting the whole agreement, Jackson Homes (Southern) Ltd, exactly what their relationship was and their connection to the other companies?

Mr Senior: I should say that the three companies that are in here... There is a letter or an e-mail from the Attorney General saying their company is registered on the Isle of Man. They have got an Isle of Man company registration number. I should have said that at the beginning, really. So from my point of view it was not as if we were dealing with two companies that were not registered on the Isle of Man. I would expect Treasury to carry out financial checks, look at balance sheets. You are absolutely right, that is not my expertise at all.

The Clerk: Who would you expect to advise you? Who do you think, looking into the future – some Department, some person – should have responsibility?

Mr Senior: My view, quite clearly, is that it should be Treasury. It is the accountants there who should... I do not mean the people on the build, the Capital Projects. It is actually accountancy people who should do that.

The Clerk: And you would expect to get that advice from them, and also the changing profile of the companies as it goes along.

Mr Senior: I did get that advice.

The Clerk: Would you also expect that from Treasury, the changing profile of the companies and their interconnectivities?

Mr Senior: Yes.

The Clerk: Would you expect that from Treasury, possibly?

Mr Senior: There is a wider issue here. It is not just about this agreement. There is a select list of contractors. My view has always been, and certainly when I have worked for other companies the financial checks have been carried out by the accountants. So you get the building people saying whether they are suitable companies and the accountants say whether they are financially sound or not.

The Acting Chairman: So J G Kelly would be on the select list?

Mr Senior: J G Kelly are a registered builder. J G Kelly is slightly unusual in that we never asked them to tender for Government work because they are a developer. Someone

like Dandara does both. You can be dealing with them as a developer and a builder.

The Acting Chairman: What I am trying to get at is Jackson Holdings, Jackson (Southern), would not be on a select list in any shape or form. Sorry, Marie.

The Clerk: Yes, that is it. Thank you.

Mr Cregeen: Were you aware that you have got Jackson Holdings, which is an Isle of Man registered company, but the beneficial owner is a trust company?

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

Mr Cregeen: The other thing is that when we go back to the Treasury, are you aware that Treasury approval was sought on the land that was not going to be charged? The uncharged land which you were going to transfer over to J G Kelly, had that got Treasury approval?

Mr Senior: The whole financial arrangements are quite clear in the reports, the value of ransom strips and everything else, but what Treasury is interested in is that we then have a legal agreement that is suitable for this development, which I believe we do have, but no, Treasury were not involved in drawing up the development agreement.

Mr Cregeen: You have to seek Treasury approval for disposal of land under the Government Departments Act 1987.

Mr Senior: My view is that we have. We are disposing of this land and Treasury are quite clear that we are disposing of land. They have got all the information that you have got. The only thing they had not got was the development agreement, because at that stage we had not got a development agreement. What you have got is a Heads of Terms.

Mr Cregeen: We have it here – Treasury approval for the aspect of the development, and the agreement was never sought.

Mr Senior: One of things you have to do, for instance, when you are disposing of land, is write to all of the Departments to ask whether they have got any interest in the land. We did that – that is part of that process – but we did not specifically ask for approval to dispose of this land, because they had already approved the report and the Tynwald motion. There are several stages in this. There may be an argument for saying perhaps Treasury should see the final development agreement if something like this happens again.

Mr Cregeen: So it would not have gone back to Treasury before it would have been signed?

Mr Senior: No, it was subject to having a development agreement that the Department and the Attorney General was happy with.

Mr Cregeen: Is this because you are not actually handing over any cash, it is just a swap of assets, and that is where the loophole may be with Treasury, because there is no cash transaction?

Mr Senior: It is not straightforward, this. The report to Treasury was quite a long report. Yes, it is less clear than if you are just selling a piece of land to the highest bidder. That is fairly straightforward; this is not straightforward.

The Clerk: Do you think anybody was aware, when this was being set up, that Jackson Holdings Ltd have a direct relationship with Jackson Family Trust? There does not appear to be any direct relationship between Jackson Holdings Ltd and Jackson Homes (Southern) Ltd, other than that they are both controlled by a private family trust, and nobody seems to know where the private family trust is.

Mr Senior: I do not know. You asked about the financial strength of the companies, which I think is a Treasury job. I think the legal standing of the companies is a job for the Attorney General, really.

Mr Cregeen: You see, they only became aware of this once it had Tynwald approval, so there is that link missed again, between the Department and the legal side, before you start entering into these agreements, on your checks.

Mr Senior: I suppose you have to decide whether there is a risk in that, or not.

The Acting Chairman: Any more? No. Thank you.

Mr Senior, thank you very much indeed. Is there anything else you would like to add now that we have come pretty well to a conclusion?

Mr Senior: No.

The Acting Chairman: We may or may not need to ask you to come back for further questioning, but that will have to remain to be seen. I presume you would be available, if necessary.

Mr Senior: Yes, I would willingly come along.

The Acting Chairman: Thank you very much indeed. That concludes our public sitting of the Committee for today. Thank you very much, ladies and gentlemen.

The Committee sat in private at 3.54 p.m.