



Scrutiny Office

Public Accounts Committee Fuel Farm

WEDNESDAY, 18th MAY 2016

Panel:

Deputy A.D. Lewis of St. Helier (Chairman)
Deputy S.M. Wickenden of St. Helier (Vice-Chairman)
Connétable C.H. Taylor of St. John
Mr. R.J. Parker

In attendance:

Comptroller and Auditor General
Deputy Comptroller and Auditor General
PAC Scrutiny Officer

Witnesses:

Group Chief Executive, Ports of Jersey
Director of Estates, Department of Infrastructure

[14:06]

Deputy A.D. Lewis of St. Helier (Chairman):

Right. Welcome. Thank you very much for coming to see us today to discuss what has become a topic of great interest to the public, hence the Public Accounts Committee taking some interest in it. I know, Doug, this is of great interest to you as well, having successfully created your own fuel farm at the airport recently, which we would like to know more about as well, and, Ray, thank you very much for coming to see us today on this matter because it obviously falls in your remit as Property Holdings. Just for the sake of the record, we will go around the table and introduce ourselves, and if we perhaps start with the Comptroller and Auditor General.

Deputy A.D. Lewis:

Great. Thanks very much for that. Well, today what we are going to try and do is get to the bottom of information about the issue with the fuel farm concerning the renewal of the lease, and the history behind that and how we have got to where we are today and perhaps where we are going to go in the future as well, and also dig in a little bit to find out if any opportunities were missed. It is a matter of public record that they were. Perhaps why that was the case may be for good reasons. We would like to discover more about that. We are also very interested to find out, Doug, what you have been doing at the airport, how that has worked for you and how Ports of Jersey fit into this in the past, during that period of renegotiation, and into the future. So that is basically what we are going to try and find out today. It is a relatively short, precise, concise review. We are not going beyond the fuel farm. We are not going to be asking lots of questions about port authority and Ports of Jersey generally. It is purely about the fuel farm and how it affects the running of your business and indeed how it maintains continued supply, safety and value for the public. Those are the 3 things that we know you are interested in and we certainly are as P.A.C. So I am just going to kick off by just asking a question about you guys so that we understand what your remit is. So perhaps you could outline your respective roles. Obviously Ray is Property Holdings Chief Officer and Doug is C.E.O. (Chief Executive Officer), Ports of Jersey. Perhaps we could start with you, Doug. Explain your role.

Group Chief Executive, Ports of Jersey:

So first of all the Ports of Jersey recently went through a transformation. As from 1st October last year, 2015, we became a limited company. So that was when the incorporation took hold. We now are a limited company that operates the airport, the harbours, the outlying harbours, the coastguard, the marinas, and other things along the way. We also have a role where we have been appointed as both the harbour authority and the airport authority as well. So we have got a bit of a regulatory ... an arm of government role that we fulfil on behalf of government as well. The Ports of Jersey now, since incorporation, we are looking at diversifying our revenue streams, growing our business. Our primary aim is to enhance Jersey for people that do business here, that live here and visit here. Part of that is being able to be financially self-sustainable in our reinvestment in the infrastructure to provide those services. Prior to incorporation, the financial outlook was pretty bleak. We were not bringing in enough money to be able to reinvest in our infrastructure. Now with the development of a commercial agenda, we are able to identify new revenue streams coming in that both protects our business from diversifying revenue but also creates the cash to be able to invest in the necessary infrastructure.

Deputy A.D. Lewis:

Sure, and supplying fuel is one of your areas that you now have some control of?

Group Chief Executive, Ports of Jersey:

Yes.

Deputy A.D. Lewis:

Yes. We will come on to a bit more detail about that later. Ray, perhaps you could explain to us your role.

Director of Estates, Department for Infrastructure:

Certainly. As the Director of Estates, I am the senior officer in the section of the now Department for Infrastructure that heads up property matters. We, as the body, are responsible for making recommendations to the Minister, property matters, and also undertaking the vast majority of property transactions for the States' operational property estate, not exclusively. There are some matters that are outside, and, for example, incorporated bodies such as the ports have their own independent property expertise. We, in making those recommendations, are very conscious of States Standing Orders, particularly Standing Order 168 which sets out some of the framework within which those recommendations are made and within which the Minister can make decisions on behalf of the States and the public under its delegating authority. Other matters are delegated down through the department. As a department, we have quite a wide remit, not only within transactional activity, for which this hearing is particularly concerned, but also in providing operational buildings through our architects, engineers, project managers. So we build into the public infrastructure and we also maintain and manage them and deal with the occupants of those buildings internally as well as externally with third parties. So it is quite a wide remit.

Deputy A.D. Lewis:

Yes. How do you achieve that in terms of ... how many staff do you have to achieve this?

Director of Estates, Department for Infrastructure:

There are approximately 50 staff. We have been provided with a split in the staff, but it is split into 3 main areas: the States activities, which deal with transactional leases, licences, et cetera, then maintenance facilities, management, which is the bulk of our spend, and then the design function, project management function, and then there is some support staff, finance, et cetera.

Deputy A.D. Lewis:

Okay. In terms of asset management, how many people were involved with that?

Director of Estates, Department for Infrastructure:

Asset management, there is a dedicated asset manager with the asset management activity sits around for various specific projects. So the asset management activity will sit in the Estates

section for delivery of some asset management projects and within the delegated project management things where we have sort of large-scale projects. So take the future hospital, if I may ... is an asset management project but is also deliverable in terms of capital.

Deputy A.D. Lewis:

Of course. Yes.

Director of Estates, Department for Infrastructure:

So it is not a simple, single, one-strand activity.

Deputy A.D. Lewis:

Okay. But how many senior staff do you have that look after these extremely valuable assets? I am not talking about maintenance here. I am talking about the asset itself. You are holding the biggest asset in the States. The Strategic Reserve is second but a long way below the value of your portfolio. So how many people are looking after the asset?

Director of Estates, Department for Infrastructure:

In terms of managing the current reputed use of the asset, that is an activity that takes place within a team environment. So we have a dedicated asset manager whose task is looking forward to asset usage and utilisation. He also undertakes and is responsible for undertaking the asset valuation side of it, but there is an approach across a team in the strategic management team and the organisation.

Deputy A.D. Lewis:

But there is one particular person that is involved with this, are you saying?

Director of Estates, Department for Infrastructure:

There is an asset manager.

Deputy A.D. Lewis:

So there is just one, then?

Director of Estates, Department for Infrastructure:

Yes, there is.

Deputy A.D. Lewis:

For this large portfolio, there is just one?

Director of Estates, Department for Infrastructure:

Yes, but it would be wrong to say that they had a singular role within asset management in the portfolio.

Deputy A.D. Lewis:

Okay.

Director of Estates, Department for Infrastructure:

They provide asset management activity, which is taken forward by the section ... the department as a whole.

Deputy A.D. Lewis:

Your own qualifications: are you a surveyor, an accountant, or ...

Director of Estates, Department for Infrastructure:

No, I am an accountant by qualification and I have a Master's degree in real estate.

Deputy A.D. Lewis:

Right. Okay. Thank you. We are going to have a quick look at the past and then we are going to go to the recent past, and then we are going to go to the present, so a reasonable order, I guess, to start. So, Constable Taylor, can you kick off with the first question about the past?

The Connétable of St. John:

Certainly. Recommendations were made for running and operating the fuel farm after the Buncefield explosion in 2005. We have a copy of the Atkins report of 2007, which relates to the fuel farm at La Collette and the gas storage in Gas Place.

[14:15]

Given that Jersey also suffered an explosion in 2012 at Gas Place, were opportunities missed for considering the running of the fuel farm operation?

Director of Estates, Department for Infrastructure:

I cannot answer that, I am afraid, in terms of my involvement within that process. The property function did not consider opportunities, but nor will we take the lead on those matters. It would be beyond our remit to do so.

The Connétable of St. John:

Who would take the lead on those matters?

Director of Estates, Department for Infrastructure:

If we look back, and apologies, Chairman, for hopping around your timeline ...

Deputy A.D. Lewis:

That is all right. Yes.

Director of Estates, Department for Infrastructure:

But if we look back, the previous, as was Industries Committee, had a significant involvement in the previous lease and those activities. There are multi-agency approaches. So the answer to your question is there are a number of people who need to be involved prior to the current lease. The 2006 lease was led by the Industries Committee in terms of activity. How far that industry committee activity now sits within the Economic Development Department and its subsequent department, I cannot comment on. I am sorry.

The Connétable of St. John:

Okay.

Deputy A.D. Lewis:

So 6 years later we had an explosion at the gas station.

Director of Estates, Department for Infrastructure:

Yes.

Deputy A.D. Lewis:

The Buncefield report came out, I think, in late 2013. There were a number of recommendations made at that point, one of which potentially was relocating the fuel farm. Would you not have got involved with that?

Director of Estates, Department for Infrastructure:

Yes, but as part of a group. There is a La Collette Hazard Review Group and it is chaired by my Chief Officer - it has been chaired by others in the past - that would look at the whole issue of the hazard zone. Key among the players on that group are clearly the fire chief and his delegate, who would determine how the hazards can be managed in that area to ensure that the safety of the area and safety of the Island and the continuity of supply of those fuels is maintained. Relocating

the fuel farm may be an option in the future, but it is not an option that I see in consideration from a property perspective.

Deputy A.D. Lewis:

Okay. As an asset manager and heading up the people that manage assets, to unlock the La Collette site, it is a bit difficult to do it with the fuel farm where it is at the moment. Would you accept that?

Director of Estates, Department for Infrastructure:

The ...

Deputy A.D. Lewis:

To unlock the value of that site.

Director of Estates, Department for Infrastructure:

Yes. If I can paint you a picture perhaps, where the fuel farm sits is not the most helpful place.

Deputy A.D. Lewis:

No.

Director of Estates, Department for Infrastructure:

The Buncefield ... I am not the expert on this, and you will have the documents, as you say. The Buncefield incident made the hazard control zones more onerous and larger, such that the area around the fuel farm has limited opportunity for usage at the moment. It is heavily controlled in terms of how it can be used. It has not prevented usage. It is in a sterile area, and there are some activities that take place within that area and will continue to take place. The movement of the green waste facility there means that there is certain ability to use the site for activities that involve the public and involve those activities. However, if you were to ask me is the land more valuable if the fuel farm was not there or was located on the periphery, then the answer is yes, the hazard zone would be ... the impact would be limited ...

Deputy A.D. Lewis:

Okay. That is really what I was getting at.

Director of Estates, Department for Infrastructure:

So the future opportunity to move the zone would release an opportunity for more valuable activities, albeit that in terms of their delivery one would be constrained by some existing agreements for leases of other sites in that area.

Deputy A.D. Lewis:

Sure.

Director of Estates, Department for Infrastructure:

So it is tailored for the leasing.

Deputy A.D. Lewis:

So as part of your remit is future planning strategy, are you not future-planning a strategy for that site? The Chief Officer of Infrastructure, who I appreciate is here today, mentioned at a presentation fairly recently that if it was located closer to where the current tanker comes into the area, then it does sort of free up the site a little more. Is that something which you are aware of? I assume you are aware.

Director of Estates, Department for Infrastructure:

I am, absolutely. Yes, the ...

Deputy A.D. Lewis:

You were at the same presentation as me, but is that not key to unlocking that site and is that not of great interest to you as an asset manager, and should you not be using that as part of your future planning?

Director of Estates, Department for Infrastructure:

The answer to all of those things is yes. Yes, it is. We are part of the teams looking at this.

Deputy A.D. Lewis:

So you are looking at it?

Director of Estates, Department for Infrastructure:

Yes, we are, but as I say, as part of the team, we do not ...

Deputy A.D. Lewis:

Sorry. Earlier you said you were not ...

Director of Estates, Department for Infrastructure:

No, no. We do not look at it as an asset manager in a very narrow isolation. There are a lot of requirements to ensure that continuity takes place, that any relocation happens in an orderly fashion, and that issues, particularly in the order that the Chief Executive has spelt out quite clearly, that safety, continuity of supply and economic issues are in that order. So while the

economic benefits of relocation are evident and hopefully can be realised in the near future, they have to be dealt with in the context of those other requirements.

The Connétable of St. John:

Yes. Sort of following Buncefield and the Atkins report, were insurance companies at the time advising that there was a problem?

Director of Estates, Department for Infrastructure:

I am not aware.

The Connétable of St. John:

You are not aware.

Director of Estates, Department for Infrastructure:

No, I am not.

The Connétable of St. John:

Right.

Deputy A.D. Lewis:

Do you manage the insurance portfolio? The insurance for all of your buildings and assets, is that something that is managed by your department ...

Director of Estates, Department for Infrastructure:

No.

Deputy A.D. Lewis:

... or a specific department holds that asset ... you hold the asset; they manage it. So when it comes to insurances, whose obligation is it, the occupier, in this case E.D.D. (Economic Development Department), I presume, or is it Ports of Jersey? Who is the ...

Group Chief Executive, Ports of Jersey:

It is not Ports of Jersey.

Deputy A.D. Lewis:

Right. Who is the lease holder? It is Property Holdings, is it not?

Director of Estates, Department for Infrastructure:

Sorry. The lease holder for ...

Deputy A.D. Lewis:

So the land is owned ...

Director of Estates, Department for Infrastructure:

The land is owned by the public.

Deputy A.D. Lewis:

The public, but is that administered by Property Services?

Director of Estates, Department for Infrastructure:

Yes, on behalf of the public. Yes.

Deputy A.D. Lewis:

Yes. Okay. So as far as the insurance is concerned for all of your assets that you manage, whose responsibility is that? Is it the individual department occupiers, or is it your department?

Director of Estates, Department for Infrastructure:

No. The insurance for States property and assets is undertaken as a function of the Treasury.

Deputy A.D. Lewis:

Treasury. Fine. Okay. That is the question.

Mr. R.J. Parker:

Sorry. Can I ask, was the correspondence not in 2009 related to looking at a new site?

Director of Estates, Department for Infrastructure:

There may well have been. I have not got that with me so I cannot quote from it.

Mr. R.J. Parker:

Because I thought there was something ... an indication of 6 years or ... related to a programme of removing the fuel pump.

Director of Estates, Department for Infrastructure:

Again, I cannot ... I have not got the information with me so I cannot give you a response to that. Sorry.

Group Chief Executive, Ports of Jersey:

But what I can imagine ... if I can just say what I can imagine is because ... a whole lot of people look at things in different ways. So that may have been geared around the East of Albert Development Masterplan kind of stuff. One of the things that we are doing, as a newly incorporated entity as well, is we are doing a series of masterplanning exercises at the airport, also down in St. Helier harbour, and that is for harbour use kind of stuff. So we do not go beyond sort of making certain that the ships and the freight and the passengers and the cars can come in and out, but that may yield up some opportunities of moving things around a bit, and maybe unlock some values in other parts of the estate. So I think at times different people look at this within the restrictions that a Buncefield ... sort of concentric circles observers might put around it, but I have also found, with Atkins, who are very good, but also guys like that, is that, after an incident, heavy regulation comes in. Then, as people learn about how to manage within the different things and new technology comes, then the regulation changes a bit. So to say that to unlock value in the land around La Collette, it could also be that there is a change of regulations and new technology that allows land values on the periphery to rise as well.

Mr. R.J. Parker:

But how would you deal with a situation that, if it was to be moved within the Ports of Jersey sort of portfolio, and there was the increasing land value relating to where the existing fuel farm is, which does not come under your portfolio, how would you deal with that?

Group Chief Executive, Ports of Jersey:

I think it depends on what we are doing. So if it was Ports of Jersey and we say we are investing in a new fuel farm located somewhere on our estate, then we would expect to get a return on that investment just like any other business would want to get, but if a part of that return was a land swap or something, that may be something that we could do. There has been no discussion around doing any of that to date yet.

Deputy A.D. Lewis:

Okay. Because there was discussion in 2009 ... in fact I have got some emails between Paul Griffin ... was Paul Griffin in your department?

Director of Estates, Department for Infrastructure:

Yes. Interesting. Paul was a senior surveyor in Property Holdings and then seconded to the Ports and now Ports Property Manager. So there is a degree of continuity there.

Deputy A.D. Lewis:

Okay. Because there was talk then about a possible option to relocate, for probably some of the reasons that we are talking about now. Was that being discussed in your department at that point?

Director of Estates, Department for Infrastructure:

I am sure there were conversations, though I cannot recall 2009 but ... about 7 years ago, but there will have been discussions about relocating and, as part of the hazards review process, relocation and improvements in safety were discussed within that group and I am sure elsewhere, but no proposals to relocate have been brought forward. The other issue in terms of relocation is to relocate elsewhere on the La Collette site will have depended on the rate of fill of the site and the future use of the site. The rate of fill has slowed down significantly, to the extent there is a reuse of materials and ... you know, it is a success story, but it does not provide us with any land in that area, unfortunately, or fortunately, whichever way you look at it, to be able to plan the relocation with a timeline that is absolutely ...

Deputy A.D. Lewis:

Not with current in-fill rates; I appreciate that, but I understand from the Officer of Infrastructure that you could speed that up artificially, of course ...

Director of Estates, Department for Infrastructure:

You could ...

Deputy A.D. Lewis:

... if the Government chose to spend money in doing ... probably importing stuff to go in there. I guess the hole could be filled in more quickly, but there is some expense to that.

Director of Estates, Department for Infrastructure:

There will be. I mean, you can ... we are now an engineering matter so I need to tread carefully, but I am sure that the way the hole is filled could be targeted to ensuring that if the better location or a prime location for the fuel farm is identified, then it could be targeted to deal with that. I think, in engineering terms that is probably possible.

Deputy A.D. Lewis:

Okay. So part of your future planning, is that a discussion you are or you should be having with ...

Director of Estates, Department for Infrastructure:

It is a discussion we are having as part of Department for Infrastructure.

Deputy A.D. Lewis:

Good.

Deputy S.M. Wickenden:

Was there always a goal that ... obviously you knew the fuel farm would be best situated in the area where the boats undock the fuel but it is an empty hole at the moment and you could not build a fuel farm. Were there always plans to think about moving out on to that part of the site, and was there a timescale that you thought it might be fitted in with?

Director of Estates, Department for Infrastructure:

I would not say there were always plans. There have been plans or there have been considerations as to relocating the fuel farm, and I am aware of discussions taking place, not necessarily discussions I have been part of - this is going back some time - that they have looked at options of fuel farm either on the La Collette site or even off on the spit, which was something that was, I recall, proposed some time ago. Those discussions will continue and clearly the location of the fuel farm and the gas terminal, because the gas terminal is also critical in terms of the volatility in the area, are things that present us with an opportunity going forward.

Group Chief Executive, Ports of Jersey:

It think it is also fair to say that ... one thing I have found in my time in Jersey is that many people have many ideas about many different bits of property and so there could ... there will be always conversations going on around things, but until it comes up with, you know, a tangible investible plan to move something forward, then it is just ideas on a wall.

Deputy A.D. Lewis:

Yes. So ...

Group Chief Executive, Ports of Jersey:

And we have a lot of them.

Deputy A.D. Lewis:

We do. Having a grand plan, sitting inside a department such as Infrastructure where Property Holdings now sits, of course, more comfortably perhaps than they did in Treasury, is that something which you are actively working on now? So there is a grand strategic plan for all of your property assets. I accept that the plan, like the Island Plan, will move and change, but is that something which you are working on currently?

Director of Estates, Department for Infrastructure:

The answer to that is yes and no. There is not a grand plan that has a list of every single property with every single future use of it because it is a false bridging exercise. We would never finish it. But in terms of looking at areas for critical activities, we undertook a significant review of primary and secondary school education as a block of activity, and some asset management activity within that led to the extension of a number of primary schools rather than development of new primary schools. So trying to plan the world is a task that will be beyond the deliverability, I think, of the department. So we tend to target things within a common environment. So we look at the education environment, Health Department, look at police as a separate activity, look at prison as an environment. So the asset management activities for those large sort of buildings and large of activities take place, and areas like La Collette, which is a mixed-use area, will have its own asset management plan, which we are currently work on with as part of the Department for Infrastructure future use strategy of that site.

Deputy A.D. Lewis:

But is it an opportunity to join it all together? You mentioned education for a moment there, and I will take you back a stage to around about 2009 when we were discussing the relocation of the police station.

[14:30]

We now have a vacant site coming up shortly, which is right next to a school. Is there conversation going on interdepartmental, in other words between Home Affairs, Education, Infrastructure, yourselves, proper, you know, corporate thinking about what you do with a site like that, or should it ...

Director of Estates, Department for Infrastructure:

Yes, absolutely.

Deputy A.D. Lewis:

Is that part of your grand plan, then?

Director of Estates, Department for Infrastructure:

Absolutely. We will be bringing forwards proposals for reuse of that site, and we do that in consultation with the relevant departments.

Deputy A.D. Lewis:

But why only now, though, when in 2009 you knew you were moving off the site?

Director of Estates, Department for Infrastructure:

In 2009 we ... on that particular site, we had proposals to relocate Fire and Ambulance Service on the site and free up what was the Summerland site over the road and the administration site subsequently. The co-location of Fire and Ambulance is now subject to further review by those services. So to understand, although we are the property arm, we are reliant on the service ... the requirements of the services and the services that operate from our buildings have changed needs. A further complication is that the funding for that project was put beyond the current medium-term financial plan. So while we will have vacated some of the fire station site when the police leave, the whole of that site still is not vacant. So we need further consideration as to how best it is achieved.

Deputy A.D. Lewis:

Okay. It does not sound like the departments are working as well together as they might because this is a matter of site asset, another big site at La Collette, so we are just perhaps exploring here a little bit as to how your department operates as asset managers. Perhaps you are not being assisted as much by central government as you could, and maybe that is about the source; I do not know.

Director of Estates, Department for Infrastructure:

I think it is. I think there is an issue of you cannot do everything all at the same time, which is a common government issue, but what we are trying not to do is just the urgent things. So we do not deal with the urgent. We do forward plan and we are talking to, for example, Highlands College, who is another ... we have a relatively new principal in Highlands College who has his own ideas as to how a state college would. So that is another key area that we would look at as to how we would take that forward in asset management terms, how that would interact with our office strategy and whether we can remove the office ... occupation of the Education Department over that site and if indeed that is a sensible thing to do or not. So the asset management activities that we are doing in blocks interconnect within plans. To try to create one unified grand plan is, in my view, something that is not achievable and we will end up being ... we will vacillate.

Deputy A.D. Lewis:

Well, we will come on to future planning now.

Deputy S.M. Wickenden:

I think we are moving to process reform now.

Deputy A.D. Lewis:

Yes, we are. Fortunately it seems to drive everything, but given that the previous lease ended on 31st January 2016 and there was an option then to purchase equipment but it had to be exercised some 18 months before, i.e. in 2014. So at that point, Scott ...

Deputy S.M. Wickenden:

Yes. I mean, what consideration was given to purchasing the equipment in terms of the lease and to making sure you do it on time?

Director of Estates, Department for Infrastructure:

The ...

Deputy A.D. Lewis:

So the break at 18 months before which we understand was a critical date.

Director of Estates, Department for Infrastructure:

Yes. If I can just ... you will have this in your papers, but for the record 31st July 2014 was the 18-month window by which, under the previous lease, the public would have had to notify the leaseholder of its intent to exercise an option to purchase, and then there is a process for agreeing a value on those assets and, with that agreement, there is an expert determination process and so it is laid out in the lease. Your question in relation to what consideration was given, the answer was that I am not aware of discussions that may or may not have taken place, but I received no instructions to exercise that option.

Deputy S.M. Wickenden:

Is it possible it was just missed?

Director of Estates, Department for Infrastructure:

I cannot comment.

Deputy S.M. Wickenden:

You cannot comment.

Director of Estates, Department for Infrastructure:

I simply cannot comment.

Deputy S.M. Wickenden:

Because you just were not informed then and it was not part of any discussion that you had within a group of people?

Director of Estates, Department for Infrastructure:

There was correspondence and there were discussions at political level, obviously discussions, I understand. I do not have the records of meetings, but I was given no instructions to

Deputy A.D. Lewis:

Were you approached by any other potential operators about the lease?

Director of Estates, Department for Infrastructure:

Not at that time, as I am aware.

Deputy A.D. Lewis:

Okay. Whose decision would it have been to put it out to tender, for example, at that point, if that was deemed appropriate?

Director of Estates, Department for Infrastructure:

I expect the decision would have been one because of its gravity ... if you go to tender the opportunity, the public would have required to own the assets. To own the assets, the public would have to buy the assets.

Deputy A.D. Lewis:

Yes.

Director of Estates, Department for Infrastructure:

So there would have to be a process some way down the line in terms of forward capital program planning to acquire the assets, notwithstanding that they may then have been potentially sold on, but we would have been over budget with buying assets. So the decision-making process started quite far back in terms of Corporate Management Board recommendations and the Council of Ministers, would be my position. I do not attend Corporate Management Board, so I cannot say to you with any categorical assurance what was discussed and what was not.

Deputy A.D. Lewis:

Okay. We have got some correspondence here that suggests that it was flagged up that the opportunity existed to consider not renewing the lease, but in order to make that viable and to maintain continuity of supply in particular ... forgetting safety for the moment here, but that comes

clear later on. The opportunity was there to acquire what I think has been described to us as the chemistry set. In other words, you do not own that; it sits on the land that you own, and that is essential to running the fuel farm. But the opportunity to purchase that, would that be a negotiation that would have occurred within your department, if that opportunity was there? Is that something which you presented to government, saying that if you want to consider this lease not being renewed because it was not broken ... it was coming to an expiry point ... was it up to your department to make a proposition, a proposal, a report, whatever you want to call it, to say that these are the costs and options that are available to us so the Government could make an informed decision based on the information that you, as the property asset manager, could provide?

Director of Estates, Department for Infrastructure:

We would have been involved in that decision-making process. We would not have made that decision. Certainly, we made a decision ...

Deputy A.D. Lewis:

Well, the Minister will have to make the decision.

Director of Estates, Department for Infrastructure:

Yes, we would not have ...

Deputy A.D. Lewis:

What information do they need to make that decision then?

Director of Estates, Department for Infrastructure:

The strategy going forwards with regards to ownership in the fuel farm would be a corporate decision so there would then be many agencies involved in that to provide advice corporately to the Corporate Management Board. In terms of the narrow decision, there would have needed to be a decision to issue a notice. The notice would have come from our department because we are the department that would communicate with our leaseholders under the terms of the lease. But that is very much the notification end of what would have been a corporate decision-making process to get us to that point. We would have been involved in that process. I have not seen any hard proposals, proposition in draft, or any other documentation that would support acquiring those assets.

Deputy S.M. Wickenden:

Yes, you would expect the Corporate Management Board to have discussed it and then handed down instruction to you to do the work that was required so a decision could be made. Is that really the way you would expect it to go?

Director of Estates, Department for Infrastructure:

I would expect there to be a decision at corporate level which would have been a Corporate Management Board decision, and I would expect the Council of Ministers' view would have been sought on that proposal.

Mr. R.J. Parker:

Can I ask, you have a record, I take it, of all the leases for the public of Jersey?

Director of Estates, Department for Infrastructure:

Indeed.

Mr. R.J. Parker:

You will have any break points for anything like this that is relevant to those leases?

Director of Estates, Department for Infrastructure:

Indeed.

Mr. R.J. Parker:

You have all of that information?

Director of Estates, Department for Infrastructure:

Indeed, and subject to, so the confirmation we can provide.

Mr. R.J. Parker:

Yes, but therefore it would be down to your department to notify the relevant people of anything that is coming up to which they have to make a decision.

Director of Estates, Department for Infrastructure:

Yes, we can undertake that activity. I think this was quite a well-known matter. But if there was any doubt, we would certainly provide the information or we can alert people to a situation.

Mr. R.J. Parker:

So is there a proper process or a formal process of alerting the various Ministers and people that are associated with making a particular decision?

Director of Estates, Department for Infrastructure:

Yes. The answer is yes, there is. There is a degree. Clearly, there is a degree to materiality and there are thresholds within our scheme of delegation but, yes, a significant opportunity to break a lease, renew a lease, take on an option, et cetera, will be informed to the Minister within discussion and then through whatever process and go beyond that. It will vary depending, process by process, who the occupying department are, for example. If we lease in a property for Social Security regarding this, that lease may have an option to renew. We would discuss with the Social Security Department as the occupier so, in that sense, we are acting in some ways as their agent but also as the intelligent client to provide them with advice and recommendations. Then if that progressed forwards to be renewed, it would be a decision for the Social Security Department and the Department for Infrastructure and discussion with colleagues and Treasury and whatever the other relevant departments are before moving that forwards.

Mr. R.J. Parker:

So in this case was there a formal notification and, if so, to whom and when?

Director of Estates, Department for Infrastructure:

Prior to 31st July 2014?

Mr. R.J. Parker:

Yes.

Director of Estates, Department for Infrastructure:

No, because there was correspondence in emails that you will have sight of with regards to those

Deputy A.D. Lewis:

Well, I have some evidence here that might enlighten you a little bit, and I mentioned it before from Paul Griffin, copied into your predecessor David Flowers, and it is talking here about ... this is saying that: "I note there remains approximately 6 and half years on the existing lease and essentially the costs of complying with the operator licence are estimated at circa £2.5 million with a 3-year implementation period leaving only 3 years after completion of the works. At this stage, J.P.H. (Jersey Property Holdings), in other words your department, would be in a position to offer a new lease to your client but, as discussed, it would need to be a redevelopment relocation option clause put into the lease." So at that point, it looks like you were talking about the possibility of

relocation and options that existed some 6 years previously, which made absolute sense when you have got a spreadsheet, you have got something that tells you these things are coming up. So 6 years earlier, you advise Government that there was an issue here that needed to be looked at. Did you not then consider doing the same thing, or did you, 3 years after that, which is still 18 months before the sort of Armageddon date whereby you cannot do anything?

Director of Estates, Department for Infrastructure:

Did we formally a notice to Government? The answer is no, we did not formally issue a notice to Government. Were Government aware of the option to purchase? I am sure they were.

Deputy A.D. Lewis:

Okay, but when you made them aware later on - so this is 6 years before - are you saying that 3 years later, you did something so we have not got a paper trail of that and would you expect to?

Director of Estates, Department for Infrastructure:

No, I am not saying that there was a formal notification of a pending option to purchase provided to any specific body.

Deputy A.D. Lewis:

It looks to me as if your client was doing its job 6 years previously saying: "Look, guys, there is an issue here. We need to be on alert."

Director of Estates, Department for Infrastructure:

Indeed.

Deputy A.D. Lewis:

But then somehow later on, it kind of got forgotten about so the opportunity seems to have been missed 3 years after that. At that point, would you expect the department to say: "Well, okay, there is an opportunity. We have still got 3 years to go. These are the options. This is what it would cost" and there was mention of cost here to acquire the kit on the site so that the Ministers, who ultimately make the decision - as you said earlier it would not be you, it would be the Ministers - how can they make a decision if they have not got any information about what it would cost to do something different with that site at that point? Because we cannot find any paper trail of valuations or potential costs getting incurred should the States decide that taking over operation of that site is something that is worth considering. You cannot make a decision without that information.

Director of Estates, Department for Infrastructure:

No.

Deputy A.D. Lewis:

The department was not asked to do any kind of valuation?

Director of Estates, Department for Infrastructure:

No. We were not asked to do any valuation so, no.

Deputy A.D. Lewis:

Okay. Do you think you should have done as a matter of course as part of the routine of being the asset manager?

Director of Estates, Department for Infrastructure:

If there was a proposal put forwards, we would have undertaken a valuation. We were not asked to undertake a valuation.

Deputy A.D. Lewis:

Okay, so you, as asset manager, did not really feel it was your role. You were waiting to be instructed to do that?

Director of Estates, Department for Infrastructure:

The knowledge of the option to purchase had been discussed and set forward so it was in the corporate arena.

Deputy A.D. Lewis:

Okay. We are struggling a bit to find some of the information that we require to sort of fill the gaps in the audit trail. What we are quite interested in - and finally really, perhaps you can come back to us on this - is what, if any, minutes of any meetings or notes or documents that clearly document the decision-making process at this critical point of ... you mention 18 months. But of course if you were going to exercise an option 18 months before, you would probably have to start that process at least 18 months before that.

Director of Estates, Department for Infrastructure:

Absolutely.

Deputy A.D. Lewis:

Would you accept that?

Director of Estates, Department for Infrastructure:

Yes, I would.

Deputy A.D. Lewis:

So that being the case, can you provide us with any minutes of any meetings or any advice you gave to Government about this issue because we are missing the 3 years out of the 6-year warning of ...

Director of Estates, Department for Infrastructure:

So 3 years prior to ...

Deputy A.D. Lewis:

Three years prior to the ...

Director of Estates, Department for Infrastructure:

... 31st July.

Deputy A.D. Lewis:

Yes.

Director of Estates, Department for Infrastructure:

Certainly we can do ... I have said in my correspondence to you that I was aware of an information-gathering exercise. I have not seen the outcome of that.

Deputy A.D. Lewis:

Because this is of such strategic importance - I am sure Doug will appreciate we are go into strategic asset - that it should be flagged up to central government for a decision to be made but it cannot be flagged up to them without all the information and options and costings and everything else.

[14:45]

If they can make an informed decision and that is what we are missing. Where was that information? If it was not, then they would not have made an informed decision but it looks to us they did not make a decision at all at that point other than: "Let it run and then we will then renew the lease." In this case, a new lease in its entirety was produced, as you know. It was quite different to the old one.

Deputy S.M. Wickenden:

We are waiting for some more documents to be released at the moment.

Director of Estates, Department for Infrastructure:

I need to liaise with the Chief Minister's Department who were collating documents for your consideration.

Deputy A.D. Lewis:

Because key to this is what we are trying to ...

Director of Estates, Department for Infrastructure:

I also want to make sure that there is nothing missing from that.

Deputy A.D. Lewis:

What we are trying to work out really is what range of options were presented to Ministers because this is not your decision. This is Ministers to make the decision but they need the information. One could argue they should have asked you for it but one could also argue, as asset manager, it should have been provided routinely so that when you flag up a break opportunity or an end of lease, that they can then make an informed decision as to what to do next. Because they are the guys that do the administrative decisions, they are the ones that sign the leases and not necessarily yourselves and maybe you have some deleted powers on certain things.

Director of Estates, Department for Infrastructure:

No, I will identify what minutes we have to answer your questions and provide you with the information.

Deputy A.D. Lewis:

Okay, Robert, do you want to have a look at question 8 there?

Mr. R.J. Parker:

What other options for fuel farm operation were considered before the new lease was entered into?

Director of Estates, Department for Infrastructure:

Again, I cannot comment on that in detail because I was not involved in considering options for the fuel farm operation.

Deputy A.D. Lewis:

Whose responsibility would you consider that to be?

Director of Estates, Department for Infrastructure:

I can only reiterate that this was an industry's committee activity under the prior committee system.

Deputy A.D. Lewis:

Yes, but that was 2006. We are now talking about 2013 when the break opportunity occurred, yes, or 2014.

Deputy S.M. Wickenden:

So this is the new lease that we have now entered into?

Director of Estates, Department for Infrastructure:

Yes, so you are talking about a lease which is a ground lease?

Deputy A.D. Lewis:

Yes.

Director of Estates, Department for Infrastructure:

Yes, we are talking the operation of the fuel farm.

Deputy A.D. Lewis:

Well, we are talking about both. The operation of the fuel farm cannot exist without an agreed lease so there was a lease.

Director of Estates, Department for Infrastructure:

Yes.

Deputy A.D. Lewis:

It was expiring, it expired in January. There was an opportunity to step in and make a different decision and look at different options 18 months previously, which appears to have been missed and we are trying to nail down as to why the opportunity was missed. So in other words, was there any consideration by your department as to what should happen at the point of expiry of the lease?

Director of Estates, Department for Infrastructure:

Other than renewal of the lease?

Deputy A.D. Lewis:

That was the only option. I think that is really what you were going for, is it not?

Director of Estates, Department for Infrastructure:

There was only one fuel farm.

Deputy A.D. Lewis:

Yes.

Director of Estates, Department for Infrastructure:

It is self-evident and apologies for ...

Deputy A.D. Lewis:

So for continuity of supply purposes there was never any ...

Director of Estates, Department for Infrastructure:

Yes, there was only one fuel farm. There was only one option to renew the lease having not exercised any other option that was available by the public.

Mr. R.J. Parker:

Sorry, just one thing. I take it you are aware of the Oxera report about the options for the provision, regulation and security of supply.

Director of Estates, Department for Infrastructure:

I am aware of it, yes.

Mr. R.J. Parker:

Okay, what is interesting on that was the set of questions. One could commission that when, particularly since it came out in December 2014, which was after the option date to purchase the equipment. One would have assumed or it would have been, shall we say, more sensible for that report to have been done in good time prior to that option and, secondly, having been given that report, did that have any impact in relation to the renewal of the lease?

Director of Estates, Department for Infrastructure:

Firstly, the report was not commissioned by my department so ...

Deputy A.D. Lewis:

I expect it was commissioned by the Treasury, would it be?

Director of Estates, Department for Infrastructure:

I think it was commissioned by the Economic Development Department.

Deputy A.D. Lewis:

Okay.

Director of Estates, Department for Infrastructure:

It was not but you are absolutely right in terms of having that report available prior to 31st July 2014 may have given the Government other considerations. The second point was did it trigger any change in tactical direction? I think the answer to that was yes. The renewal of the lease as a straightforward ground lease was challenged. That challenge produced a lease that was drafted alongside an operating agreement. That operating agreement had a number of safeguards in it. The operating agreement was led by Economic Development who had experience of developing operating agreements so the lease was only amended insofar as to ensure that the operating agreement sat within references and sat within the lease and were properly cross-referenced. The operating agreement then had some appendices within in it in terms of forms and agreement for throughput.

Deputy A.D. Lewis:

The operating agreement certainly is a very good addendum to the lease. We have seen that and it makes absolute sense and it does reflect a lot of what was said in Oxera's report. But one of the things that Oxera does say - and this is why we are confused as to why this report was not commissioned much earlier at around about the time it was flagged up in 2009 that these things needed to be discussed - it recommended that it allowed for the States to purchase the asset at fair value in the event that the fuel consortium is unable to deliver against these objectives that are in the public interest. The objective of course is safety, continuity and a fair value and one could argue that a number of those things were being compromised at this point. So I guess what we wanted to know is why was not an Oxera style report, whether Oxera did it not, not commissioned around about the same time that you were flagging up the issue to the Treasury about the expiry of the lease in 2009 and, in fact, this was not commissioned until 2014? It just seems a bit strange that such a good report that then drove the operating agreement was not done before the opportunity occurred to effectively break the lease.

Director of Estates, Department for Infrastructure:

Again, without trying to be difficult, it is not something that I was involved in procuring.

Deputy A.D. Lewis:

Do you think you should have been involved because it does sail over it? La Collette fuel farm terminal Oxera report - an asset that you managed - do you not think you should have been involved with that?

Director of Estates, Department for Infrastructure:

With hindsight, it may have been beneficial to have a number of relevant parts of government involved in the procurement and commission of the report and that may have helped if, as Mr. Parker suggested, it was done in a more timely manner, it might have provided us with other options. I cannot speculate beyond that.

Deputy A.D. Lewis:

So does think indicate a bit of lack of joined up thinking among departments?

Director of Estates, Department for Infrastructure:

Again, I cannot really speculate.

Deputy A.D. Lewis:

Or working in silos.

Director of Estates, Department for Infrastructure:

I think that is probably a question best addressed to the Chief Executive.

Deputy A.D. Lewis:

We will be. Thank you. Okay.

Mr. R.J. Parker:

Just one thing. You said there was an operating agreement. Did this provide for any caveats which implicated or impacted on the lease?

Director of Estates, Department for Infrastructure:

Yes, it does. The operating agreement will have had a ... I assume but not from me, you will have had a copy of the operating agreement. If you have not, I can certainly provide one.

Group Chief Executive, Ports of Jersey:

I think it is online.

Director of Estates, Department for Infrastructure:

It is probably online but we can provide you with one if that is for ease of reference. It is a complex document. I am not the author of it so while I understand it, I do not understand it to a degree that I could explain it to you today and it is probably not a straightforward document to become involved in but it is perhaps a matter that, having considered its terms, we can raise questions.

Mr. R.J. Parker:

Does it protect them?

Director of Estates, Department for Infrastructure:

It does.

Mr. R.J. Parker:

It protects them against another operator coming into the Island and importing?

Director of Estates, Department for Infrastructure:

No, it does not. There is no exclusivity.

Deputy A.D. Lewis:

No, there is not. I have seen the operating agreement and it does reflect a lot of what is in that Oxera report so I think we have done a very good job too late, in my view, but that is the sequence of events. The Oxera report should have come first at least 2 years previously and then consideration for operation agreements and new leases should have then been considered and whether that was a lease to yourselves, to government, rather than to internal operators, was one of the things that could have been considered. Which brings us on to a question I think you were going to ask, Chris, about the decision-making process about tenders and leases.

The Connétable of St. John:

Yes. The fuel farm was not put out to tender so can you describe the decision-making process that resulted in it not being put out to tender?

Deputy A.D. Lewis:

So you probably ...

The Connétable of St. John:

So, yes ...

Deputy A.D. Lewis:

Yes, you have already explained where you at almost kind of back against the wall really.

Director of Estates, Department for Infrastructure:

Yes.

Deputy A.D. Lewis:

Because a lot of questions have been asked by the public and others hence the question today: "Why was it not put out to tender?" Now we kind of get that with both the presentation that John Rogers and his team gave us a month or so ago but could you explain how did you get to that point whereby the tender process that may have happened did not?

Director of Estates, Department for Infrastructure:

Right, I think it is possibly easier to answer that question by looking at: "What could you have done in terms of tendering an asset for which you did not have control?" This is the issue. So having passed 31st July 2014 with no decision to acquire the asset, the public has a ground lease of a site for a fuel farm. The fuel farm is owned by a third party and within the lease there are 2 opportunities at that point. Either the lease expires and the requirements of the lease for the tenant to clear the site and remove the chemistry set, as you have described it, and make the site good is one option. The other option is renewal and continuity of the lease with no alternative arrangement. Without a ...

Deputy A.D. Lewis:

Sorry, is there not a third option in negotiating with the operator to buy the chemistry set?

Director of Estates, Department for Infrastructure:

Yes, you could acquire by negotiation.

Deputy A.D. Lewis:

Was that not considered?

Director of Estates, Department for Infrastructure:

It was not considered. I am sure there were discussions as to whether that was appropriate but, again, there is no budget for one to acquire.

Deputy A.D. Lewis:

Did you even know how much it would cost? Was there a discussion about costs?

Director of Estates, Department for Infrastructure:

There was not. There was no formal valuation undertaken.

Deputy S.M. Wickenden:

So you did not have the budget but we do have a capital programme and at the end of 2014, we had £97.267 million under spend. We also topped it up with £77.341 million in 2015 during the M.T.F.P. (Medium Term Financial Plan). So there was a whole load of capital spend that was not being spent on other projects that we were not able to deliver on as yet or had not got to that point. Would there not have been an option there to be able to say: "Okay, we will just put this capital programme back a little bit so we can buy the fuel farm and then we will put it into the next Medium Term Financial Plan"? Because we had over £100 million sitting around for other capital programmes that had not been completed in the last 3 to 4 years.

Deputy A.D. Lewis:

It is perhaps more of a question for the Minister for Treasury and Resources but you kind of get where we are coming from.

Director of Estates, Department for Infrastructure:

It is, yes. Okay, with the risk of treading into former accountant territory, the £97 million would have been allocated and would have been voted by the States for a specific project, so there is a complication in terms of how you would decide whether funding would be used for another purpose. I am not going to explore the financial statistics.

Deputy A.D. Lewis:

I guess they could not decide that even if you had not done the valuation on what it would cost to make this intervention should they have chosen to do it.

Director of Estates, Department for Infrastructure:

I fully accept your point - you have made it 3 times now - about the need for ...

Deputy A.D. Lewis:

I do not know how they can make an informed decision about it ...

Director of Estates, Department for Infrastructure:

... informed decisions with ...

Deputy A.D. Lewis:

So maybe they did not make a decision. They just kind of let it go and let it lapse. Is that fair to say?

The Connétable of St. John:

Perhaps I could come in here, sorry. Who was making the decision as to whether to purchase or pursue an alternative? Would it be the Minister or would it ...

Director of Estates, Department for Infrastructure:

Well, ultimately, the decision is a decision for the Minister. The Minister will make decisions on recommendations of officers. The officers concerned, because it was an activity that affected many departments, were brought together as a group chaired by the Chief Executive so ...

The Connétable of St. John:

When was that group brought together, sorry? I am trying to find it but no luck.

Director of Estates, Department for Infrastructure:

I will need to give you a date for the first week and I would not want to guess but it was over a year before the renewal of the lease.

The Connétable of St. John:

So this group was brought together over a year before the expiration of the lease to examine the opportunities?

Director of Estates, Department for Infrastructure:

Yes.

The Connétable of St. John:

At no time did they ask you for a valuation?

Director of Estates, Department for Infrastructure:

No.

The Connétable of St. John:

So they were making decisions without what would reasonably be the information they require.

Director of Estates, Department for Infrastructure:

Not in a formal sense. There was no formal valuation requests, no.

The Connétable of St. John:

No, right.

Deputy A.D. Lewis:

Were you surprised by that?

Director of Estates, Department for Infrastructure:

I think that the decision-making process was a very dynamic process that moved alongside the creation of the operating agreement, the proposals and other matters that were happening at the time so it is difficult to isolate one strand of decision making from the direction of travel that that group moved within.

Deputy A.D. Lewis:

Okay. During this process, there was seemingly some kind of change with the provision of aviation fuel so what consideration was given to the provision, storing and supply of aviation fuel from that fuel farm at that point or had you already gone down the route of creating your own facility at the airport, because we are talking here 2013 now?

[15:00]

Group Chief Executive, Ports of Jersey:

Shall I describe the process that we went through?

Deputy A.D. Lewis:

That was my next question, so if you would.

Group Chief Executive, Ports of Jersey:

A previous operator had taken over 2 leases that had existed for the fuel farm at the airport from 2 previous operators. They were not co-terminus. There was about 6 months in-between them. From memory, I think it was about August 2014 to October 2014 or something like that. So those leases were coming through in 2014. Back half of 2013, we started negotiations with the incumbent operator. Our strategic aims for the aviation fuel supply were security of supply was number one, number 2 was value for the customer, and number 3 was value for the airport. You may say: "Well, what about the safety?" For us, safety is hygiene. We do not open the airport unless we are safe kind of thing.

Deputy A.D. Lewis:

Yes.

Group Chief Executive, Ports of Jersey:

So no matter what we would do, it would always be in that environment. We had been making some good progress. The challenge that we had is that the previous operator was insisting on long-term exclusivity and we did not feel that that was the right option for the airport and for the Island. We tried various scenarios around splitting the site and doing different things. We did not want the previous operator ... we did not want them out. We just wanted to make certain that we had the opportunity, if something happened, to bring somebody else in. Given that negotiations had stalled and this long-term exclusivity was being insisted, as any good business person would do, we developed a contingency plan. Our contingency plan was wide reaching. We brought in expertise from London City Airport who had been through a similar process, we brought in expertise from A.S.I.G. (Aircraft Service International Group) who is the world's largest independent aviation fuel supplier, and we developed a contingency plan. At a particular point in the spring of 2014, this may have been around March or so, we made a decision together with the previous operator to extend the leases to buy some more time on negotiating to see if we could reach a reasonable conclusion, and that bought us time up until 30th June in which to have made a decision. During that period, we also put forward an option for us to acquire the assets. We put a few options forward during that period of time but during that period of time we put forward an option to acquire the assets. There is a feature in Jersey property law that I am sure everyone is aware of and that is if you own the land, you own everything above it and below it.

Deputy A.D. Lewis:

This is the question that has been raised about the fuel farm by Deputy Renouf, which I do not think has been fully answered yet.

Group Chief Executive, Ports of Jersey:

Yes. The challenge that we had when we looked at it because, in some ways, our negotiating position was: "It is ours at the end of the lease, see you later." The challenge comes of whether it is a movable or an immovable asset and the degree to which it is movable or immovable ...

Deputy A.D. Lewis:

So they could clear it and take it away?

Group Chief Executive, Ports of Jersey:

Indeed. Our contingency operation, by the way, was we set up a separate fuel farm, an independent fuel farm, from the main one up at the airport over in another location on the airfield - a temporary one - and so that meant that we had some security of supply in the back if we needed to call upon it. So we negotiated hard, as you would expect. At the end of the day, what we wanted to achieve was quite a seamless transition. We did not really want to get into a problem of

not being able to service an airline that requires fuel. We developed an interim fuel operator's agreement that was based on really good documentation that we purchased off London City Airport that had all the liabilities; the contracts, the leases and all that sort of stuff. It is a robust suite of documents. Then it was before the end of June, it was before the deadline, the previous operator announced that they were withdrawing from the market, which kind of took us by surprise, so a unilateral decision based with then security of supply issues. That day we signed a contingency interim fuel operator's agreement. I guess the timeline had been operational before the end of the lease at the end of the service from the previous operator.

Deputy A.D. Lewis:

That was Rubis, yes? Rubis just decided one day they did not want to do it.

Group Chief Executive, Ports of Jersey:

We learned about it from having an email forwarded from one of our airlines saying: "Do you know about this?" That is when we learned about it.

Deputy A.D. Lewis:

So what is your opinion of Rubis as an operator?

Group Chief Executive, Ports of Jersey:

If you have the opportunity to read an annual report from Rubis they published, it is illuminating. I think that they are a good fuel operator. They are a professional company in that respect. They do have a long run strategy of securing dominant positions in marketplaces. That is their business purpose.

Deputy A.D. Lewis:

But did you feel that was reasonable governance to just say: "Bye" without any notice or any formal correspondence?

Group Chief Executive, Ports of Jersey:

These types of things, breaking through a monopoly, is really complicated. It has got high emotions so it is going to be a negotiation that is heavily charged and of course this was a heavily charged negotiation. If I was in their shoes, I might put a gun to the head saying: "Look, I am pulling out unless I get my lease." I might have done that.

Deputy A.D. Lewis:

Yes.

Group Chief Executive, Ports of Jersey:

That is not really my style so maybe I would not have done that but I can see that that would be a negotiating position. I would also imagine that they were quite surprised when we said bye-bye because we ...

Deputy A.D. Lewis:

They realised you had a contingency plan.

Group Chief Executive, Ports of Jersey:

Yes, within a day or 2 after they sent the notice around.

Deputy A.D. Lewis:

So if you are operating another fuel farm down the road adjacent to your ports and the same situation occurred, would you have had the same sort of contingency plan, do you think?

Group Chief Executive, Ports of Jersey:

I mean that is a little bit of speculation. I can say what ...

Deputy A.D. Lewis:

Good business planning would suggest that you might.

Group Chief Executive, Ports of Jersey:

We did it at the airport.

Deputy A.D. Lewis:

Yes, it is good business planning.

Group Chief Executive, Ports of Jersey:

We did it at the airport.

Deputy A.D. Lewis:

Your ...

Group Chief Executive, Ports of Jersey:

What I would say is that this was ... when we went out to look at acquiring the assets we went out ... so we could have played really hardball and just said: "Either take your kit because we do not need it; it is rubbish anyway. We want to plant corn there so make sure you do the environmental clean-up as well." But we felt because there was some value in those assets and we went out and

had the ... and the previous operator was co-operative in this degree. We went out and we had an independent valuation done on the assets. They came up with a price that they would like for it. It was right mid-point of the valuation we felt: "Okay, that is fine, that is fair.". We reached agreement on the sale purchase of the assets and it was ... so the actual transition from one operator to another operator was quite amicable.

Deputy A.D. Lewis:

So you were able to make a completely informed decision based on valuations, pre-planning, contingency planning; all of that was done?

Group Chief Executive, Ports of Jersey:

Yes.

Deputy A.D. Lewis:

Normal business practice, which does not seem to have been the case with the other fuel farm. Is it because it is just far more complex?

Group Chief Executive, Ports of Jersey:

I think it is fair to say too that the issue of making certain that we had aviation fuel in the Island; that is an airport problem. The customer base for all airport people to land was all airport people. The relationship with the previous operator was all via the airport. In that respect it did not have this whole range of different stakeholders from a public perspective that may have been involved in this. It was 2 fuel types but really it was all aviation fuel. So in that respect it was a lot clearer that if it went wrong it was us and if it went right it was us, but we had to do something.

Deputy A.D. Lewis:

Yes. Dealing with Rubis at the time sounds like it was challenging; what advice would you have given the States of Jersey in dealing with Rubis elsewhere with your experience that you had had with them, if asked?

Group Chief Executive, Ports of Jersey:

Yes.

Deputy A.D. Lewis:

Would you have wanted them as a supplier?

Group Chief Executive, Ports of Jersey:

As I said, we were not looking to exit Rubis from the operation at the airport. Because the customers like them; they did a pretty good job as far as the airport was concerned and they were filling a necessary service for us.

Deputy A.D. Lewis:

Negotiating with them was tough?

Group Chief Executive, Ports of Jersey:

Of course it was, yes. It absolutely was. But you would expect it to be as well. I mean they are a really, really big company.

Deputy A.D. Lewis:

You were going through incorporation at the time, so a big project for you. Very successful and I am delighted that it is going the right way at the moment. But during this process, the discussions were occurring down at the fuel farm adjacent to one of your ports. Did you at any time give any consideration to the business opportunity that clearly existed with the other fuel farm for the ports of Jersey?

Group Chief Executive, Ports of Jersey:

Consideration, yes. But I mean beyond ... we could do something about it; we have got ... you know prior to incorporation we had a lot of ideas. We had lots of business development potential but we had little ability to deliver on those. Now post incorporation, we have got the capability to do that. I am building the capability in my organisation. We are out competing for business right now around a range of activities that we are doing. We are growing some business in sectors that we could not have really done before such as marine services engineering and that sort of stuff. So we are highly active now.

Deputy A.D. Lewis:

So before incorporation, you were part of E.D.D.? E.D.D. were very much involved with the fuel farm and particularly continuity of supply is important to the economy of Jersey. So a lot of the correspondence we have got here all relates to E.D.D. officers. You were part of that management team?

Group Chief Executive, Ports of Jersey:

No.

Deputy A.D. Lewis:

You were not ... E.D.D. you were part of the department?

Group Chief Executive, Ports of Jersey:

I was within the department. I was not a part of the management.

Deputy A.D. Lewis:

What I mean is you were part at E.D.D. So was there discussion at that time that you were aware of concerning the business opportunities that might exist at the fuel farm?

Group Chief Executive, Ports of Jersey:

There was probably conversation around it but honestly, I do not ... if we were ... at different points in time so I will give you another example. We had an operator of a container shipping line prior to Channel Island Line; we as ports became aware of financial difficulties. We came up with a contingency solution, which would have seen the ports/public at that time acquire the shipping line and keep the service running. We saw that as a business opportunity. We moved on it. We developed plans for it. We made ... we had due diligence done. We did all the necessary normal work that you would do. At the end of the day there was not a decision to move forward with it. Similarly, if we felt the same way about the La Collette fuel farm, we would have done the same work, proceeded in the same way and if there was a decision to do something, fine, we would have gone for it.

Deputy A.D. Lewis:

Were you unaware of the business opportunities that existed there because there are millions of pounds to be made out of the throughput charge in that fuel farm, which are currently made by the operator?

Group Chief Executive, Ports of Jersey:

Yes.

Deputy A.D. Lewis:

Which could have been made for Ports of Jersey. Is that not something that you would have got quite excited about?

Group Chief Executive, Ports of Jersey:

Yes, and I am excited about it.

Deputy A.D. Lewis:

So the opportunity to get involved with that in 2014, did that not form part of your potential business plan? Because I know you were looking for revenue streams and income. You spoke about it when you first came in. This seems like such an opportunity for Ports of Jersey but it seems to have been missed as an opportunity.

Group Chief Executive, Ports of Jersey:

Listen, we have got ... but if it was the only one we would have put energy into it. It is not the only one.

Deputy A.D. Lewis:

Sure.

Group Chief Executive, Ports of Jersey:

We have got a lot of other ones and, to be honest with you, if we have got more lucrative opportunities and/or ones that are easier to deliver, then we will go do that.

Deputy A.D. Lewis:

Clearly your focus is ports and airports but does it not seem strange to you that Economic Development, Treasury and so on, knowing that incorporation was going to occur, knowing how entrepreneurial your team is, did not approach you about: "Hey guys, you are not interested in running another fuel farm?" Does that surprise you?

Group Chief Executive, Ports of Jersey:

No. I mean there is ... but I think it is important to understand too that ... I mean we look at business, right, and we think business and we look for developmental opportunities. That is what the port does.

Deputy A.D. Lewis:

Yes.

Group Chief Executive, Ports of Jersey:

Within other areas of government there is a huge tremendous pull on peoples' time, energy, professionalism, that sort of thing. So if at the same period of time we were talking about a new education system or a new political system or a new opportunity for Fort Regent, or whatever, it is going to take people's time away from doing that so it may not have surfaced in their minds as the critical opportunity compared to the other priorities that they had on their agenda. For us it looked ... it is a good opportunity; running a fuel farm is. I mean we proved that we can do it. Our

operating model has yielded a drop even faster than the market price for aviation fuel has dropped.

[15:15]

So we have been able to lower our prices to our customers and that is good; they like that. In our operating model where we have secured the asset and therefore we can tender out the operation of the asset and we are concluding the first tender imminently. We can tender that service out on a more frequent basis so rather than tendering out an operation of a facility where the new operator would have to acquire and have a long run of repaying the capital investment, because we own it, we can tender the service out and so we can market test every 3 years, every 5 years to make certain that we are still getting the value ... where the market is getting the value out of the service that we are providing.

Deputy A.D. Lewis:

Sounds like the perfect business model.

Group Chief Executive, Ports of Jersey:

It is a great business model.

Deputy A.D. Lewis:

We had a perfect opportunity to do exactly the same thing with a much bigger market, which is the entire fuel supply for Jersey. So if you were given the opportunity to provide that same service of the La Collette fuel farm would you be investigating it now? Would you look at it? Would you feel that you are capable of doing that with what you now know about fuel farms?

Group Chief Executive, Ports of Jersey:

Yes, we could do it.

Deputy A.D. Lewis:

You could?

Group Chief Executive, Ports of Jersey:

Yes.

Deputy A.D. Lewis:

We are coming back now to where we were before, Ray, and thanks for your input so far. I want to talk a little bit about the lease. We have got copies of the lease both before and afterwards and

it has been described as a renewal, and there is some debate as whether it is renewal or a new lease. I was wondering if you could tell us a bit more about that and tell us whether you feel it was a renewal or is it a completely new lease? Or was it driven by the operating agreement rather than the lease like I say anyway?

Director of Estates, Department for Infrastructure:

Right, the new lease - you have a marked up copy, which the law officers have helpfully annotated - is a lease of the same area of land, albeit that the actual area was redefined by digit ...

Deputy A.D. Lewis:

Digitally.

Director of Estates, Department for Infrastructure:

But it is less than 3 per cent difference so it is substantively the same area so it is identified as the same parcel of land. The lease is in a different form clearly. There are some changes. Some of those changes are about modernising the way the lease is structured and some of those changes are driven obviously by the inclusion of reference to operating agreements. So there is a very different look and feel to the lease. However, it is a ground lease of the same area. The legal advice that we received - I cannot share with you publicly the legal advice - but the legal advice that we received is that it is a renewal of lease and the Minister was recommended to sign his Ministerial Decision referencing Standing Order 168(95) as a lease renewal. So I cannot say much beyond that other than I do recognise that it is a matter for debate because it is a very different document.

Deputy A.D. Lewis:

It has been debated verbatim as you know.

Director of Estates, Department for Infrastructure:

It has indeed and it was ... it would not have surprised me if the view was different but it is advice that we operated on.

Deputy A.D. Lewis:

Okay. So are you satisfied then that the new lease offers best value for money?

Director of Estates, Department for Infrastructure:

I think it provides value for money for the public in terms of the value that has been obtained for the ground lease area.

Deputy A.D. Lewis:

Okay. The review date I think is 1st February 2021.

Director of Estates, Department for Infrastructure:

Yes.

Deputy A.D. Lewis:

What can be reviewed at that point?

Director of Estates, Department for Infrastructure:

It is a market review so the market ... we will undertake a market review in a format that will consider what that land would be worth compared with other comparables. We will use an independent valuer to provide us with that information and it will be benchmarked against what the comparables are for that area at that time. Now, it will be quite an interesting review because we may ... the world will have moved on and, as Doug has referred to, legislation may change, technology may change, other aspects may change.

Deputy A.D. Lewis:

They are probably hoping the fuel price has gone up an awful lot as well.

Director of Estates, Department for Infrastructure:

Yes, indeed.

Deputy A.D. Lewis:

On the basis of review, okay you look at market values as you would with any lease ...

Deputy S.M. Wickenden:

The land value. It is just the land value we deal with. The L.O.A. (Lease Option Agreement) will be dealt with by somebody else, will it not, because the operational agreement is really what you are all going to be looking at. That is a separate bit.

Deputy A.D. Lewis:

Yes. Okay. So is there an opportunity because I could not quite get it from the lease? Is there an opportunity at that point to break the lease should you feel fit other ... it is only an opportunity if they fail to meet their obligations. They are not going to ...

Director of Estates, Department for Infrastructure:

There is no opportunity to break unless there is a breach of the lease as set out within the lease and the operating agreement.

Deputy A.D. Lewis:

Until when is this; 10 years?

Director of Estates, Department for Infrastructure:

It is a 10-year lease.

Deputy A.D. Lewis:

Okay. So as far as Mr. Bannister wanted to get his hands on it that is probably an absolute null opportunity now, should you wish to do so?

Director of Estates, Department for Infrastructure:

Only by negotiation. We can negotiate with the tenant at any time of course.

Deputy A.D. Lewis:

Yes. Is that something that we should be considering or looking at?

Director of Estates, Department for Infrastructure:

I think we should be forward planning for the period up to the renewal of this lease or otherwise. The lease contains a similar clause in 18 months from the end. It gives the public the opportunity to buy the equipment. The lease also provides for its operation during that period. In terms of decision-making processes, I think now is a good time to look 10 years ahead.

Deputy S.M. Wickenden:

Does that mean we would keep an updated valuation of the items on there that are owned by the incumbent so we can keep an updated valuation of it and keep an eye on it going forward?

Group Chief Executive, Ports of Jersey:

What I would say with that is the equipment changes so you either maintain it, add value or replace or whatever. Getting a valuation done on fuel farm assets; that is not a big deal. I mean these are well-known things so getting a guy to wander around it with a clipboard and a tape measure is pretty easy.

Deputy A.D. Lewis:

So you could put a business plan in your head now that could consider making a bid for this fuel farm with 5 years left to run on the lease at some point. Is that something you would consider in your own business planning?

Group Chief Executive, Ports of Jersey:

Or alternatives; we would.

Deputy A.D. Lewis:

You would?

Director of Estates, Department for Infrastructure:

The La Collette site will be a different place in 10 years as well so in terms of planning we look to plan the whole of the area as we discussed previously and not simply a replacement fuel farm or a fuel farm on the existing site.

Mr. R.J. Parker:

I mean when it says that the lease is being revalued, market value related just to land, I take it that takes into account the use for which that land can be used and certain aspects regarding the profitability associated with the operating agreement?

Director of Estates, Department for Infrastructure:

That would be a matter for the market review at the time.

Mr. R.J. Parker:

But that would be taken into account in that market review?

Director of Estates, Department for Infrastructure:

It will be. How the review is taken account is set out in the lease, so yes.

The Connétable of St. John:

In the supply agreement, service level agreement or whatever it is, is there an obligation to supply fuel for the Island's needs throughout the 10-year period?

Director of Estates, Department for Infrastructure:

Without going into the detail there is a requirement to provide fuel. Yes the fuel, I believe ... the document sets out the nature, a minimum stock holding and how the fuel is held in accordance

with not only the fire service and other requirements, but in accordance with minimal stock holdings.

Group Chief Executive, Ports of Jersey:

And industry best practice.

The Connétable of St. John:

What my concern was, and the point I am raising is, if you are looking to move to a different site somewhere the current incumbent might say: "Well it is not worth reinvesting to the safety standards required. I have only got 2 years left on the lease, I will walk away." But he cannot; he has to supply ...

Director of Estates, Department for Infrastructure:

He does.

The Connétable of St. John:

They do have to supply?

Director of Estates, Department for Infrastructure:

Yes.

Deputy A.D. Lewis:

Do you think it could be in the public interest for the States to consider breaking the lease and taking over running the farm itself?

Director of Estates, Department for Infrastructure:

That is a very wide-ranging question.

Deputy A.D. Lewis:

It is a bit of a political question as well but ...

Director of Estates, Department for Infrastructure:

It is.

Deputy A.D. Lewis:

But as an asset manager and as an operator of another fuel farm, do you think it is something which should be considered and potentially planned for?

Director of Estates, Department for Infrastructure:

I would think that the public needs to plan in terms of its future needs with contingency planning as well as options. Is it an option that we could exercise? It may ... it is not an option within the lease but it is an arrangement that one may consider. Businesses talk to businesses, Government talk to businesses all the time and circumstances change. So there may be a circumstance in which that negotiation would prove fruitful for both sides. So I think we would not ever ... you would never close the door on the possibility.

Deputy A.D. Lewis:

So this time we would be a bit more alive to the opportunity rather than it kind of creep up on us, as it did on this occasion?

Deputy S.M. Wickenden:

That is a very fair statement. We need to be ready, looking forward and ready to catch the opportunities but I think we are where we are today because people feel that we have not done that in the past. It is almost like a: "Whoops, we missed that but let us make sure we do not do it again."

Group Chief Executive, Ports of Jersey:

Yes, if you asked me the question on breaking the lease or not, I would not break the lease. I would not consciously do that.

Deputy A.D. Lewis:

Is that because we are dealing with fuel companies?

Group Chief Executive, Ports of Jersey:

No, it is just more ... I mean if I enter into a contract with somebody I might renegotiate, I might look at improving it, I might do other things, but if I enter into a contract then I think that breaking it is not the right thing to do.

Director of Estates, Department for Infrastructure:

I do not think we were talking about doing anything outside the contract other than by ...

Deputy A.D. Lewis:

By negotiation. So if it was in the public interest and if it was in the interest of the owners or shareholders of the operator, and they ended up walking away with a substantial payment, if it was still in our interest to do that, because the recovery of that expense over a period of years was in the public interest, then that is the sort of conversation that Treasury particularly should be having.

Group Chief Executive, Ports of Jersey:

The operating model for the airport is a good model.

Deputy A.D. Lewis:

Yes. Just a great shame that they did not consider that when you were incorporating in the first place because it was around about the same time that this option came up. Which is why we are surprised that it was not considered by E.D.D. and then taken up the line to yourselves at the airport. It is a bit of a surprise to us. Do any of you know anything about Project Linden Have you ever heard that term used?

Director of Estates, Department for Infrastructure:

I do not know it in detail. I have heard the term used but I could not describe it.

Deputy A.D. Lewis:

What does it refer to?

Director of Estates, Department for Infrastructure:

My understanding is it relates to a contingency ... sort of contingency but I could not explain in detail.

Deputy A.D. Lewis:

Okay. So do we take from that that had negotiations gone terribly wrong and Rubis had walked away it's under contingency?

Director of Estates, Department for Infrastructure:

Do you want to ...

Group Chief Executive, Ports of Jersey:

Project Linden was a contingency plan in the event that negotiations broke down.

Deputy A.D. Lewis:

Right.

Group Chief Executive, Ports of Jersey:

It was a contingency plan that was developed off the back of the experience that we had up at the airport. We had a really short timeframe that we could have activated it. It would not have covered 100 per cent of the daily needs of the Island for all fuel types. It was 100 per cent for most fuel types and then one fuel type it was about 92 per cent. But it was a contingency, which

meant that we had a contingency plan at the airport and the only time where I was fully confident that the contingency plan would work is when we refuelled the B.A. (British Airways) flight in the morning. Because you could imagine, somebody says: "Oh, I have got the wrong nozzle", right. I mean silly things can happen. I mean you do all your planning and all that sort of stuff. It is not sort of see where we are, so it being a contingency it was meant to be a fall-back scenario. In the event something happened we as an Island ... security of supply is really important clearly and so we as an Island could not be without fuel so we needed to make certain that there was a contingency.

Deputy A.D. Lewis:

So that is what Linden was about?

Group Chief Executive, Ports of Jersey:

Yes.

Deputy A.D. Lewis:

Okay.

Group Chief Executive, Ports of Jersey:

Just to be clear, that was something that the port was asked to develop based upon our experience, which we did do.

Deputy A.D. Lewis:

And your experience so far of running your own fuel farm is good?

Group Chief Executive, Ports of Jersey:

Yes, it is good.

Deputy A.D. Lewis:

Yes.

Group Chief Executive, Ports of Jersey:

We have made some new investments into ... we have upgraded the security systems. We have made some pretty major improvements into it and it is working well.

Deputy A.D. Lewis:

Good. Okay. We are sort of seeking some more information from the centre - not so much from yourselves - because I think you have supplied most of what we had asked for, so thank you for

that. But we published our terms of reference on this 4 weeks ago and only today ... about 3 weeks ago we went and met with the Treasury and the Chief Executive, went through what we wanted to achieve from today's hearing and what information we needed. Today I have received an email suggesting that they have not had time to supply it all to us. So I am sorry if we have not been able to sort of ask you the questions that we wanted to with the information at hand. So sorry if you felt we put you on a spot on occasions because there is some information that I know you do not have that we should have got from the centre but with ... literally this morning, we got: "Well I am in a Council of Ministers meeting all day today so I cannot spend the time to gather this information", which for the record is not really acceptable. Not blaming you for this but if you wondered why we are lacking a little bit of information here; with 3 weeks warning, the day before information we did not get. So I just wanted to put that on the record. But I do not think we have any other questions. Anybody have anything? That has been extremely useful. Is there anything else you would like to add?

Group Chief Executive, Ports of Jersey:

If you want to ask us back ...

Deputy A.D. Lewis:

I think we will probably be talking to the Chief Executive and the Treasurer on a couple of items but that has been extremely useful and thank you very much for taking the time to come and see us today.

[15:30]

If we have any other further queries, and if you do not mind if we contact you, we would like to do that.

Group Chief Executive, Ports of Jersey:

All right, good.

Deputy A.D. Lewis:

Thank you very much.