

STATES OF JERSEY



PLÉMONT HOLIDAY VILLAGE: ACQUISITION BY THE PUBLIC (P.144/2009) – COMMENTS

**Presented to the States on 19th January 2010
by the Chief Minister**

STATES GREFFE

COMMENTS

The Connétable of St. Ouen proposes that the States –

- (a) Subject to the availability of the necessary funds voted by the Assembly, approve the acquisition by the Public of the Plémont Holiday Village site.
- (b) Agree for the Minister for Planning and Environment to be empowered to acquire the land and interest therein by Compulsory Purchase.
- (c) Authorise the Attorney General and the Greffier of the States (on behalf of the Public) to pass any contracts required for this acquisition.

Summary

The Chief Minister opposes this proposition on the basis that –

- This Proposition would place an unreasonable condition of uncertainty upon the property, as, if approved it would invoke the compulsory powers of the Minister for Planning and Environment.
- Acquisition of any property by compulsory purchase should be the procedure of last resort and only invoked if a negotiated settlement cannot be agreed. The States has yet to decide if it is prepared to acquire by negotiation and at what price.
- The process of Compulsory Purchase would commit the Public to acquiring the property at a price which would be determined by an independent Board of Arbitrators. In addition, the Public would be obliged to pay the fees of its professional advisors and could be liable for the fees of the vendor.
- The Public would not be able to withdraw from acquiring the property for any reason once the Compulsory Purchase process has been instigated.
- Whilst the Public considers the value of the land for its current use to be less than £3 million, the owners have a view that the value is £14.7 million.
- The costs of a disputed Arbitration, based on previous experience, could be in excess of £3 million.
- A realistic allocation to cover the likely acquisition costs must be voted by the States before Compulsory Purchase can proceed.
- The States would need to review its allocation of funds for current and future Capital projects in order to fund this proposal.

Procedure

If the States were to consider this proposition, the Attorney General would, if required, advise the States of the detailed procedures required to acquire land under the Compulsory Purchase of Land (Procedure) (Jersey) Law 1961 [[Revised Edition 18.135 \(01/01/2006\)](#)] during the debate.

However, in summary the Law requires that –

- The States must approve a plan of the land to be acquired¹. (It would prudent for the ownership of land shown on this plan to have been verified by the Law Officers and the extent of land to be to acquired restricted to that which is required for the Public interests and the extent of this land clearly shown on the plan.)
- The acquiring authority is defined as the Minister for Planning and Environment.
- The Minister for Treasury and Resources must bring a proposition to the States requesting that the States votes the necessary funds to meet the anticipated acquisition cost of the land and the fees required to progress the compulsory purchase¹.

Having instigated Compulsory Purchase proceedings, the Public would be committed to acquiring the land either at a price agreed with the current owner by negotiation or at a figure set by the Board of Arbitrators. This could be more or less than the estimated cost.

Value

Jersey Property Holdings has obtained independent valuations of the Plémont Holiday Village from a professional valuer, all of which, with the exception of the current use value, which is less than £3 million, are contingent upon obtaining planning consents for alternative uses. This information is clearly commercially sensitive but can be made available to States Members *in camera*.

However, agents acting for Plémont Estates Ltd. have indicated that they believe the value of the Plémont Holiday Village to be £14.7 million.

Plémont Estates Ltd. has derived this estimate from a pro-rata calculation of the sum paid for the Bal Tabarin site, which was acquired by the Public in 2001 for the purpose of restoring the land to nature. The Public does not accept that the acquisition of the Bal Tabarin site sets a valuation precedent.

However, Plémont Estates Ltd. is proposing to submit a planning application for 30 residential units.

¹ The Compulsory Purchase of Land (Procedure) (Jersey) Law 1961 – Revised Edition 18.135 as at 01/01/2006 – Article 3 – “Plan to be prepared and money voted”.

No land may be acquired by compulsory purchase on behalf of the public unless –

(a) A plan showing the land to be acquired has been approved by the States; and

(b) a credit of the monies necessary to meet the expenses to be incurred in the acquisition of the land has been voted by the States.

The view of the Planning and Environment Department is that there is some potential for development of the land, given that there are already buildings on the site. However, there has been no application submitted to date that has been granted permission.

A recent outline application (P/2009/0709), to redevelop the site of the existing buildings for self-catering tourism accommodation, was considered by the Planning Applications Panel to be an overdevelopment of the site.

In addition, a previous application (P/2006/1868) to develop 36 homes, mainly to the south of the existing buildings, and clear the site of the existing buildings to provide publicly accessible open space, was refused by the Minister for Planning and Environment on the basis that there would need to be a significant reduction in the number of homes constructed.

An application for 30 residential units (P/2009/2108) is currently being considered by the Planning and Environment Department.

The Connétable implies that the Public should acquire the Plémont Holiday Village site before a planning consent is granted on the basis that the site would be “far less valuable”. However, it is not a function of the Planning system to enable the Public to acquire property assets at a value which is lower than open market value by declining to grant a permit.

It is not clear how the Assembly, in making the decisions sought by the Connétable, will be alleviating the “pressure the Minister for Planning and Environment comes under”. Plémont Estates is perfectly entitled to submit as many applications to develop their land as they choose, and the Minister for Planning and Environment is required to consider each application on its merits alone without having pre-determined what his final decision might be. Far from alleviating pressure on the Minister for Planning and Environment, a positive vote on either parts (a) or (b) of the Proposition would be likely to increase any pressure on the Minister, as, to grant a planning permit, would have significant cost implications for the Public in terms of either the eventual sale price or an arbitration award.

In assessing the appropriate compensation to be paid in respect of a compulsory purchase, the Board of Arbitrators would take into account the increase in value of a property generated by a planning consent, even if that consent had not been granted but on the basis that such an application might be reasonably expected to succeed.

The Public does not accept the Bal Tabarin comparison, nor that the full hope value of a residential development should apply before that value has been crystallised by an appropriate Planning consent, and maintains that a considerably lower figure should be agreed. However, if the Public were to fail at Arbitration and the full hope value of the land were agreed by the Board of Arbitrators, a capital value of circa £8 million to £10 million plus costs (of both sides if the Board of Arbitrators so decides) must be considered a possibility.

The last large Compulsory Purchase Arbitration (Lesquende Limited) saw the Public expenses rise to in excess of £2 million (excluding to cost of Officers’ time), and at the time the Public was not required under the previous Law to pay the other side’s costs.

In addition, if the site were to be acquired by compulsory purchase and is required to be restored to nature, the Public would be obliged to meet the costs of demolishing the existing buildings. This could be significant depending on the level of contamination remaining on the site.

The Law requires that in accordance with “Article 11: Payment of compensation” the sum to be voted by the States shall be 75% of the amount of compensation offered under Article 4(3), this being the sum which the owner considers appropriate or if the Public believes this to be excessive, the amount which the acquiring authority considers appropriate.

Financial and manpower implications

The proposal identifies the need for the States to agree an allocation of funds in excess of £5 million for the acquisition of this property. However, a more realistic assessment indicates the need for funds in excess of £10 million. Whilst the source of these funds is not identified in the proposition, if approved, the States Net Capital Expenditure for 2010 would need to be increased by the required amount and would therefore result in a significant increase in the forecast deficit.

The Proposal does not identify equivalent savings, offsetting reductions in expenditure, or additional funding, and is incompatible with the key resource principles of the Strategic Plan approved by the States in June, and the strategic objective to “Ensure sustainable Public Finances” and maintain approved spending limits.

The scale of the projected deficits in future are such that it would be unwise to make that position worse in the short term by approving additional expenditure unless matched by savings or additional income.