

2016.02.23

### **3.14 Deputy J.A. Martin of the Attorney General regarding the process for the compulsory purchase of People's Park:**

I hope I do better with the Attorney General on hypothetical questions. I do apologise, it has been around the Ministers and it has ended up in the Attorney General's box. So the question is, can Her Majesty's Attorney General explain the process for the compulsory purchase of People's Park and advise whether planning permission would need to be obtained in the first instance and, if this was the case, whether this would make the land more valuable and, if so, by how much? Thank you.

#### **Mr. R.J. MacRae, Q.C., H.M. Attorney General:**

The process for acquiring land by compulsory purchase is provided for in the Compulsory Purchase of Land (Procedure) (Jersey) Law 1961 which also sets out the provisions for the determination of compensation to be paid to the owner of the land is acquired in that way. The provisions of that law apply only where another law, called a special law, has conferred power on the States to acquire land by compulsory purchase.

[11:15]

An example of a special law is the Planning Law 2002, whereby the States may acquire land by compulsory purchase if the States is satisfied that the land should be acquired for a purpose under the Planning Law. Under the Planning Law, the power to acquire land includes a power to extinguish or modify any interest in the land, including a servitude or covenant in or over the land. The Minister for the Environment is the acquiring authority for the purpose of a compulsory purchase under the Planning Law. No land may be acquired by compulsory purchase on behalf of the public unless, firstly, a plan showing the land to be acquired has been approved by the States and, secondly, a credit of the monies needed to meet expenses to be incurred in buying the land has been voted by the States. It is not a requirement under the law that planning permission is in place prior to the States approving the use of compulsory purchase and, on the last 2 or 3 occasions when that power has been exercised, planning permission has not been in place at the time. The 1961 law has detailed rules for assessment of compensation for the compulsory purchase of land. If agreement cannot be reached, there are arrangements for a board of arbitrators, consisting of a chairman and 2 other persons appointed by the Royal Court, to determine the matter, following an application by the Greffier of the States to refer questions to them. Proceedings before the Board of Arbitrators are heard in public and expert evidence can be heard by the board. The decision of the board is final, the decision is registered in the Royal Court and that registration has the effect of vesting the land in the public. As to the value, the law provides that no allowance or deduction is made on account of the fact that the acquisition is compulsory and the value of the land is to be taken as the amount which the land might have been expected to realise if sold on the open market by a willing seller. The law further provides that the special suitability of the land for any purpose shall not be taken into account by the valuers if that purpose is a purpose, *inter alia*, for which there is no market but for the requirement of the public. So plans to use the site for a hospital would not increase the amount of compensation payable.

#### **3.14.1 Deputy J.A. Martin:**

I am sorry, this is going to be a political question to Her Majesty's Attorney General, because I did put this question to the Minister for Planning, who batted it to Infrastructure who then found it is a legal point. My question is, under the law, I have got the Compulsory Purchase 1961 Law,

Article 3(a) and (b), which the Attorney General has already mentioned: “A plan showing the land to be acquired has been approved by the States, and a credit of monies necessary to meet the expense to be incurred in the acquisition of the land has been voted for by the States.” Would the Attorney General not agree that, to get monies for this piece of land, it would have to come back to the States for the only purpose of building a hospital? Planning have said to me that they would view that this green space would need planning permission to get this part of the Compulsory Purchase Law through, because nobody would vote for the monies or the purpose unless they knew why they were voting; a piece of land that was, again, hypothetically not being wanted to be given away by the Parish of St. Helier. So I am sorry that it is a point that I am labouring on Article 3(a) and (b) of the law, but I do put that to the Attorney: how would you get this through the States, a large sum of monies for a piece of land, if you do not know what you want it for?

**The Attorney General:**

Well, to the extent that I can answer the question, I am sure the States would want to know what the land was required for but, as I have said, planning permission is not a requirement to trigger the power of the States under the law; it would be up to the Minister proposing, the Minister for Environment, whether or not he thought it was appropriate to apply or not apply permission to the land before bringing the proposition to the States. In the past there have been instances where the law has been invoked and propositions passed by the States in the absence of planning permission being obtained but, of course, it could be obtained, as the Deputy suggests.

**3.14.2 Deputy G.P. Southern:**

The Attorney General referred to recent compulsory purchase cases; could he give the States an indication of how long those compulsory purchase cases took?

**The Attorney General:**

I do not have first-hand knowledge of those applications but I do not think the process would be a long one and would take months, I would imagine, no more than that, not years. I remind you that there is no appeal from the decision of the Board of Arbitrators.

**3.14.3 Deputy J.A. Martin:**

Can the Attorney General advise that there is no appeal but it goes to a board vote and each board member gets a separate vote and, if they are not in agreement, the compulsory purchase falls at that point?

**The Attorney General:**

The board consists of 3 members and that is by a majority.