



Future Hospital Review Panel

Future Hospital

Witness: The Minister for the Environment

Friday, 25th January 2019

Panel:

Deputy Kevin Pamplin of St. Saviour (Chairman)

Connétable John Le Maistre of Grouville

Witnesses:

Deputy John Young, Minister for the Environment

Andrew Scate, Group Director Regulation, Growth Housing Environment

Yannick Fillieul, Private Secretary, Ministerial Support Unit

[10:32]

Deputy K.G. Pamplin of St. Saviour (Chairman):

Good morning, everybody. I know you are all very rehearsed in the terms of engagement and the Scrutiny process. There is no need going over that but obviously the most important part is really thank you for doing it because, as we know, we are under very interesting situations here, in terms of the time towards Deputy Labey's debate coming up in a couple of weeks' time but also the appeal process, which you quite rightly remind us of that process. This is a private hearing and of course we will keep a manuscript because we are having to put our report in time for that Members' debate. We were always working to an unknown date ourselves. We wanted to prepare a report for when it was coming into the Assembly, whichever way, and obviously with the urgency of getting our brief it has obviously made us having to pull our stuff together in time for that, we feel it is the right thing to do. Obviously, this will be in private. It will be kept private and confidential until after that time period you talked about, we totally respect that and it will be just kept private. Then we will feel necessary whatever we need to include into the report on the day of the Assembly. I just wanted to stress that, unless you had anything else to mention on those points?

The Minister for the Environment:

No, I need to thank you for agreeing to this special arrangement. As an ex-Scrutiny chairman myself, I am very keen on as openness as possible. We do not have any choice but to recognise the legality. We are in a formal quasi-judicial decision process, the law prescribes that, it is entirely open for the Minister to appeal, notwithstanding the fact that we are in One Government. Therefore, they need time and so on. So we have ended up in this place. We will know by 11th February whether there will be an appeal or not. What I would ask is if an appeal does happen then I do not think the transcript should be published at that point because the appeal could then ... we will not know what the timescale is. Having said that, thank you again for doing it. I will do my best to help you today to deal with your questions.

The Connétable of Grouville:

Under the new structure, cannot the Minister be directed not to appeal?

The Minister for the Environment:

We are kind of in halfway house on our structure. We got a new executive structure in the States, with the new director generals, but the Ministers now still retain the legal powers and I do not think that could happen unless ... I suppose what could happen, and this is speculation, it would be for the Council of Ministers. But I think the probability is that the Minister for Infrastructure is able to make his own decision. Can I ask Andy to ...?

Group Director, Regulation:

Yes, we have not got to a situation where we have single legal entity yet for Jersey Ministers, so that is still being ... while the Assembly voted on that in principle back in January 2018 the P.1 debate, the regulations to bring that into effect have not yet come before the Assembly. Effectively, each Minister is still corporation sole. So I think the Minister is right. You still see independent decisions effectively being made by various Ministers. The Council of Ministers are not operating under collective responsibility. So I do not think there is anything formal that could be done that way.

The Connétable of Grouville:

It would look farcical for one Minister to be taking a Minister effectively to court. I

The Minister for the Environment:

The States know I was not party to the States decision to move towards One Government. I think the intention was to do exactly that, to create clarity of corporateness, which if you like the previous structure lacked. We are in a halfway house though, that is the problem, and so I suppose that does

emphasise why as newly-elected Minister for the Environment and the Minister for Infrastructure, being the applicant, at the same table as the Council of Ministers, I have personally had to withdraw from every single discussion that has taken place on the Council of Ministers regarding the hospital project. So that has been necessary to ensure that the planning application process was kept properly separated.

The Connétable of Grouville:

Prior to that we had collective responsibility so that the Minister could not take another Minister to court because the Council of Ministers have now made a decision that Deputy Russell Labey's proposition should be accepted. Before it would be the collective responsibility, another Minister would not be able to do anything against that.

The Minister for the Environment:

There was a code that the previous Council of Ministers had, which set down the rules about the way collective responsibility was exercised within the previous structure. I think that would be a story for another day all the details about that, which has now gone. As far as I know, I do not think the Council of Ministers has issued a replacement code of practice on it. I have not seen one.

Group Director, Regulation:

I do not think they have, no.

The Minister for the Environment:

It is out of date and it needs changing, probably because we are in transition. But of course I only learned about the Council of Minister's position on Deputy Labey's proposition on the media last night because I was not at the Council of Ministers' meeting on Wednesday and took no part in it.

The Connétable of Grouville:

It is a bit of a mess.

Deputy K.G. Pamplin:

It is curious because the media all today now picked up on the exclusive reporting of Channel TV last night saying "the Council of Ministers". Does that not put you in a quandary because you are on that Council of Ministers? It was not clear in their press release this morning that ...

The Minister for the Environment:

I had no hand in the press release. I was as surprised as other people to see it. I am not trying to justify that. We are in transition as a government and I think it is a matter of record that I do not feel comfortable where our executive structure ... there is a mismatch with our political ministerial

structure. That has to be sorted out. In the meantime, we are where we are and one has to try to fulfil the roles as best ... I ought to, for sake of completeness, mention that my Assistant Minister, Deputy Gregory Guida, does attend the Council of Ministers in my stead, when the hospital matter is being discussed. The reason why that has been done, and it has been advised that is acceptable, is that under the law, the law puts the responsibility for these decisions on only the Minister. There is no legal capacity to delegate it from Assistant Minister to cover it.

The Connétable of Grouville:

If the Council of Ministers take a vote on this, who gets a vote? Is it just Ministers or who else gets a ...?

The Minister for the Environment:

I do not know. I am going to ask Andy that because I was not there to see it.

Group Director, Regulation:

That is a very good question because we have had over the years a variety of Ministers and Assistant Ministers attending Council. If I am being honest, I have never seen a formal vote being taken at the Council of Ministers when I have been there. I think technically it should only be Ministers. It should be the Ministers of the Council who should ...

The Connétable of Grouville:

An Assistant Chief Minister, for example.

Group Director, Regulation:

I do not think so although there was some debate about this in the previous Government, it might have been the one before that, as to who is attending and who is not attending. This was raised by certain Ministers wondering who else is coming. Generally, they looked over the water towards U.K. (United Kingdom) Government Cabinet and Cabinet sometimes could have a variety of people attending it or not. I think the basic premise is it should be Ministers only but I am not sure if that is codified anywhere that I have ever seen.

The Connétable of Grouville:

You get the press release; the Council of Ministers have come out in favour of Deputy Labey's. How do we know whether that is unanimous, who voted which way, how it was split? It almost certainly would not have been unanimous because we know some of the Ministers are definitely in favour of carrying on and you just wonder how the ... if the no vote is taken, how they gauge what ...

Group Director, Regulation:

Certainly under the previous system, when we did have collective responsibility, there was provision under those rules as to if a Minister disagreed with the collective then there could be an opinion made and a Minister could opt out and say: "I want that recorded that I do not agree with the collective decision." As John has already said, I do not think we have that code of practice updated for the current system.

The Minister for the Environment:

I think this a probably a matter for you and me to follow up with the Chief Minister and the chief executive. All I can say, I have only been in the Council of Ministers since June and I do not think the way those meetings have gone there has been a system of formal votes. In other words, people express their views and a decision results. So your question, I think, is an important one and I was not present. But ultimately, of course, we have the minutes to look at. The minutes will be a matter of record. I am not entirely sure under the rules about access to the Council of Ministers minutes, whether Scrutiny Panels would have them. That would seem to be a way of resolving it.

Group Director, Regulation:

They are often Part A and Part B minutes. So it depends which side of the agenda that is on. I have certainly been at Council before where certain Ministers wanted minuted that their view was X or Y for the record, when they did not agree with the wider view in the room. So the minutes may show that as a result of yesterday's debate.

Deputy K.G. Pamplin:

I think it is also important because of your role and the fact you were not there but in public perception all they will see is Council of Ministers - you are a Minister -until that information gets out.

The Minister for the Environment:

I think the Council, ever since I was first elected, I have asked for my absence on the hospital matters to be recorded; my absence and non-participation in that matter. I have asked that to be recorded in the minutes. I have to say, with the volume of the minutes, I have not been able to check through but I have issued a standard instruction that that should be the case. I have not checked whether it has been done. But if it is not, I shall be disappointed and be complaining about it but I do accept your point. It is not satisfactory.

Deputy K.G. Pamplin:

Just very briefly, you mentioned that your Assistant Minister, Deputy Guida, takes your place. Was he there at the meeting yesterday?

The Minister for the Environment:

Yes, he was.

Deputy K.G. Pamplin:

So did he not inform you then of what the decisions were?

The Minister for the Environment:

He did not tell me as clear terms as that. We did have a discussion ... I have a regular ministerial meeting on every Thursday with the senior officers who advise me because obviously I do not have a department so we have a group of officers around the table according to the matters undergoing. Gregory did discuss that there was - I am trying to think of the words. Maybe I am going to turn to Yannick to remember exactly what ... you were there, Yannick, as to what he did say at yesterday's meeting.

Private Secretary:

My recollection is that he said they discussed it but there was not a clear outcome. He did not say there was a clear outcome. Likewise, I think we would need to see what the minutes captured.

The Connétable of Grouville:

You said there was not a clear outcome and yet we get a press release the following day that says ...

Private Secretary:

I am not sure there was a press release. I think some of us were all surprised.

Deputy K.G. Pamplin:

You are right. What happened was the Channel ITV reporter, Gary Burgess, broke on Twitter at about 5.00 p.m. that they had an exclusive that plans were being rolled out by the Assistant Chief Minister, who was the head of the Hospital Policy Board, Chris Taylor, and at 6.00 p.m. there was a report including Constable Taylor walking around Overdale, which had been obviously filmed earlier in the day.

[10:45]

Again, I think it is important that we do look at the minutes who was there because obviously, as Constable Taylor was head of the Hospital Policy Board, he is an Assistant Chief Minister so who was leading this meeting and how clear, what was everything said, because it was very clear from the Channel TV report that it was Constable Taylor leading the Overdale proposition. But was he there? Was he part of the decision making? Then today the rest of the media have released a

statement saying that the Council of Ministers have agreed to support Deputy Labey's proposition with an amendment that will come with it to do with the finances, I believe.

The Connétable of Grouville:

Where did that come from?

Deputy K.G. Pamplin:

That literally came out this morning.

The Connétable of Grouville:

But was it from the Council of Ministers?

Deputy K.G. Pamplin:

According to the press release I saw on Channel 103's website as I were walking in, it just said: "Council of Ministers agree to support Deputy." So that must, I would believe, have come from the ...

The Minister for the Environment:

I saw my email this morning, which I was surprised at, was that an exchange between Ministers, which I take no part in, about this and I just ignored them. The first I knew it was that when I looked at it at 7.00 a.m. this morning. I was surprised last night because I was not aware that a decision had been made in favour of Overdale.

Deputy K.G. Pamplin:

Given the rules of engagement we have agreed to today, because we understand the ramifications of the appeal process and what we are doing today, surely therefore do you agree that the Chief Minister or whoever should have contacted you to give you the heads up because of the ramifications, you are not there at every meeting to say: "We need to know we have come to a decision or there is the report going out tonight, which we may get"?

The Minister for the Environment:

I did get a copy of the draft press release. When I looked at it, I just noted it because it was not appropriate for me to intervene. I should say, because obviously I referred to our meeting yesterday, we did have a discussion about what happens next if Deputy Labey's proposition is approved. We did that in the context that I certainly felt, as Minister, that whatever happens, when that debate happens, Members will want to know what happens next. How can we avoid a long ... the consequences of that in terms of delay and so on? So we did have a discussion about that process and we discussed some potential options, which I have asked officers to look at. But obviously my

intention will be not to say anything publicly about that until the appeal period has lapsed. What I had in my mind is to, if there is no appeal, have that information, if we can, available for the States on the day of the debate. That is the best I can do, I think.

Deputy K.G. Pamplin:

Just before we go, just for clarity, we have to say in the statement released today by the Chief Minister he said: "Ministers have not yet agreed on an alternative site for the new hospital. As has already been publicly identified, there will be a formal due diligence process which will be limited to a small number of sites." As much as last night's Channel TV piece gave the impression through Constable Taylor that this was the site and they were promoting that in the eyes of that report, he did interview Deputy Lewis last night and stated where we are and what needs to happen next, which probably has prompted the Chief Minister to release his press release, just being more clear. Because it is like, if I can use this expression, as Deputy Labey did last week, cat is out of the bag. When you do something like this, in fairness, you cannot put that cat back in the bag. You are dictating, in the eyes of the public, I think we would all agree, who are very frustrated by the whole process, and now, much like we had to deal with this French company who appeared in all the media, it is very hard to put these cats back in the bag. Would you not agree that have we had a fair process when something like that, from an Assistant Chief Minister, has played out publicly?

The Minister for the Environment:

I am not going to personalise who is responsible for it, but that is not a good process. I think if one is referring ... obviously my role now, having made a decision, is to answer questions and obviously once the appeal period has lapsed then the door is closed on that if there is no appeal and we can move on and deal with what we do now. I have lots of ideas and thoughts because I have to say I find it very frustrating because I have been required by law and process to maintain strict separation. Whereas in reality, like all political members, we all have ideas and contributions to make to help us get the hospital that we desperately need; there is no question about that. So I have that frustration as a Member but I have to stick to the rules, albeit the rules are imperfect. So one does one's best.

The Connétable of Grouville:

We do not usually get these press releases before they are given out, certainly as they are given out, I have not seen it if it was done this morning. Did the Chief Minister comment on whether or not the Council of Ministers had agreed to support Deputy Labey's proposition?

Deputy K.G. Pamplin:

The statement from Cathy came in at 7.07 a.m. this morning. I must just say also for clarity, is following your response to us about this meeting, which we agreed to, we thought it might be worth engaging with Deputy Lewis, who had cc'd me in some exchange, and I very clearly said: "Will there

be an appeal process and a scrutiny process? We are working to a very tight deadline and we want to make sure that we are doing the right thing as well.” I gave him 48 hours to respond. There was not any. So I put an oral question in the States Assembly next Tuesday, which I will be standing up and asking the Minister for Infrastructure if there will be an appeal process. He may choose to decline to answer but I feel it would be in the best interest for all of us to have some indication because if he does stand up and says as far as he is aware, I know that will not be definitive but it will give us some indication because ...

The Minister for the Environment:

It would help.

Group Director, Regulation:

Certainly from a regulatory perspective, I have taken the news in the last 24 hours as indication that there will not be an appeal. But we have not had that formally back to the Planning team. My understanding of the Council of Ministers’ amendment to the Deputy Labey proposition was to ensure there was still money in approved funds to progress hospital work effectively. But my understanding was it was down to look at 4 sites. One of them being the current site still but comparing it in detail more to the other sites. From my perspective, we have had the debate going on for the last few years as to what is the best site. I do not think we have really put that one to bed. That is what has really dogged the current planning application and the one before that, there has always been other ideas out there as to it could be better somewhere else. I think the attempt is from my ... looking on, I guess the attempt is to try and put that one to bed once and for all to say these are the technical assessments on all of these sites, that we are comparing like with like and we can move forward from that point. But there still needs to be funds agreed to do that work because it is not a cheap piece of work.

The Minister for the Environment:

There are process points as well that I think would need to be addressed because obviously we do not often have planning inquiries in Jersey; very few. Obviously, it does look to me like when we have them, we learn. Therefore I certainly am ... there are process issues about what is done if Deputy Labey’s proposition is approved, which I am asking my officers to see if they come up with solutions.

Deputy K.G. Pamplin:

It is curious that if you go back and look at the C. and A.G.’s (Comptroller and Audit General) report into the political process it is not good and therefore if we are going to learn, as you just said, we need to do the processes right.

The Minister for the Environment:

My processes, sorry, I should have made clear, I would be referring to are those under the Planning Law because everything that is done ends up with the Planning Law. The Planning Law where the person, the Member who holds the office that I am currently holding, has the responsibility for that law. I think that is the example of what I refer to as the problem with a mismatch between the One Government structure that we are moving to and individual Ministers around the table holding individual statutory responsibilities, which ultimately, if you like, define us. Therefore I think we do need to ... it just emphasises that point I spoke earlier, I think. But nonetheless, we are wise to that and I certainly, as Minister, will not sit back and allow an unsatisfactory position to continue without doing my best to improve it so that we can get that hospital we desperately need.

Deputy K.G. Pamplin:

That has always been our position. I have always been quick to tell anybody who has come to the public and private meetings, for me as a new States Member, but I absolutely believe 100 per cent in impartiality scrutinisation because that is how you get best government, is the time and place to point out the good and the bad. But in looking back over the last 6 years, there have been plenty of reports, plenty of frustrations, that if we are going to move forward, we have to completely and honestly remain impartial to the structure and process because if you go back on all the processes and why we are at this stage, it is because those things were not in place that we are still sat here today.

The Minister for the Environment:

Absolutely. The inspector makes a number of comments that are useful in the report. He describes the process that has gone on as a muddle, and I think that kind of understates it. He also says that if, when the current Island Plan had been drawn up, there had been provision made and forethought for policies which enabled the project to go forward I think that would have certainly made life easier. Of course now we are into the new Island Plan process and I do not want to go into the various options that I am asking the officers to look at, is there a way how we can tackle it. Again if Deputy Labey's proposition goes ahead, the options for the legal structures to try and expedite things because nobody wants to see protracted planning delays, which are avoidable. We want to try and avoid them as far as possible.

The Connétable of Grouville:

The new Island Plan comes out in 2021 so that is already 2 years lost.

The Minister for the Environment:

Yes, and that is why I am asking the officers to find what can be done in the interim. I would like to park that today, but having said that I am committed to seeing what we can do there so that the

States have got something constructive, I do not want to go beyond that at the moment, if you would not mind. Could we do that on a later occasion?

Deputy K.G. Pamplin:

Of course.

The Connétable of Grouville:

What you are saying is if in the last Island Plan they just said: "We need a hospital site. We are going to make allowances wherever it goes" that would have helped the Minister for Planning.

The Minister for the Environment:

In experience elsewhere, in other jurisdictions, they do have provisions for major projects within their planning policies and laws. For my kind of lay interpretation, the hospital project for us is rather like the U.K.'s H.S. (High Speed) 2 or Heathrow Airport extension. That is the significance of it. So therefore it is really quite common for planning frameworks, whether they be law or policy, to have in place special arrangements to enable major projects to happen in a way that has got adequate safeguards but, nonetheless, reflect the case that there are critical things for communities to have. Therefore you need to give special consideration to those.

Group Director, Regulation:

In other places, the States is saying: "This is where something will go" does happen more often. We have really struggled here to work out what our critical infrastructure is and what needs to be in the Island Plan. So whenever the Island Plan has been done, and I have been party to some of that previously, the Government, the States of Jersey, whatever guise we are talking about, is never ready to say: "We need a new school." The secondary school at Les Quennevais is a very good example of that. We knew we needed a school but we were never quite ready to say ... all the work had been done really to say: "That is where we need it, therefore can we put it in the Island Plan please?" Then you do not have all these in principle debates about: "I think my site is better than yours." That is where we are now with the hospital. I think all I would say in terms of whatever process we have, there still needs to be done quite a lot of research prior to that to inform, even if it is an Island Plan debate, so we are going to build a critical infrastructure in. The sort of process we now get into in planning is entirely different probably from where we were 15, 20 years ago, in the sense that there is a lot more transparency, there is a lot more public involvement, there is a lot more expectation for communities to get involved. The Island Plans of yesteryear, we sort of wrote them, we maybe consulted on them, but sometimes did not consult very widely and it went straight into the States Assembly and there was not a huge amount of public engagement. Yes, other places do do critical infrastructure ways of working. That is often based on quite a lot of research that gets that point as well.

[11:00]

I think that is probably right, if a Government is saying: “We are going to do this” it has to be based on some evidence and some transparency with the community as to: “How did you get to that answer.” Whatever we do, I think certainly the Minister is right in terms of ... our provisions at the moment do not necessarily call out national infrastructure at all. We just assume planning applications come in and there are various provisions for those. That would help. It certainly would help for us to be thinking now, not about this project because this is now with us, but what about the next ones? What are the other things that we need to make sure are in the Island Plan next time? That would help all of us in the future.

The Minister for the Environment:

In terms of the hospital, just one thing, I have no idea how the spend is being dealt with but I would hope that within that body of work that has been done there is some work that would need some of Mr Scate’s requirements in that respect.

Deputy K.G. Pamplin:

I think going back, to wrap this all up, with the statement from the Council of Ministers or the Chief Minister today that there are no sites being ... what you have just described is to happen within a very short tight window here on this project. In the public opinion, which is a bit flawed in this, we have to ensure that. So given that, that People’s Park was very noted in the C. and A.G.’s report about the political site selection process, how can you whittle it down to 4 if your Assistant Chief Minister has gone on television and said: “Overdale is the site. Here is where it is going to go.” How do we get a fair process to ensure that all the sites that seemingly were discussed at high level do come back on the table because they do go through a proper process that everybody feels reassured that the process has been sound and not removed for various different reasons, which you cannot really account for?

Group Director, Regulation:

I can comment from a planning technical basis as to how would we apply various sieves to get down to sort of a shortlist of things. Effectively, you do start with the Island as a whole. You think: “Okay, we have 45 square miles of land asset.” Some of that is really special so the country parks, if you are applying those policies you think we would not be putting it in the most threatened landscape or the most visually beautiful bits of the Island, that sort of thing. You also have to look at where services are and you also have to look at the travel impacts of any proposal and the spatial policies which would ... basically anything that creates a lot of traffic either in or out. You really want near to the major road network, that gives you another sieve to apply to various site selection. You then

work out who it is serving and really should be nearer to the customers. Some of that process went forward with the previous hospital process in terms of there was a very long list but it sort of gets whittled down to a number, which generally are in greater St. Helier, which is probably not a surprise because that is where most of the built-up area is. It is where most of the services are. It is where most of the people are. Then you overlay other things. We would want this new process to look at these 4 sites to be taking into account such things as ecology, landscape impact, visual impact, local as well as more strategic landscape impact. Those sorts of practical things that we would expect to be in an environmental impact assessment effectively. Because that is the sort of information any planning process, whether it be a national infrastructure one or a domestic planning application, would need to demonstrate that these issues have been dealt with. So to do a lot of that work in detail does take some time. Just for ecology surveys, for instance, they can take 6 months; can take more than that depending what you are surveying. I hope we will get an input into that effectively as to what sort of information we would expect to be in this site assessment so that the Assembly has all of the relevant information before it when it makes those calls. I fully understand it is a public political process that we have to go through but we would want to put those technical bits in to say: "Before you jump there or there please be aware either these are the benefits or these are the disbenefits of these sites." The one thing I can say, all of the sites mentioned have a range of benefits and a range of disbenefits. Some have a lot more disbenefits than others and I would want States Members to be fully aware of that before we finally jump in and say: "Right, that is it."

The Connétable of Grouville:

Also the term "greater St. Helier", does that include Warwick Farm and Overdale?

Group Director, Regulation:

I would say it includes Overdale but I think Warwick Farm it would not be in because effectively Warwick Farm is in the middle of the countryside. While it is on the main road it is somewhat outside of town.

The Connétable of Grouville:

But Overdale you would include?

Group Director, Regulation:

Yes, I think the 4 sites effectively which the Council of Ministers have referred to would be the ones in ... I think it is Overdale, People's Park, waterfront and the current site.

The Connétable of Grouville:

But Deputy Labey's proposal is going to rule out the current site, is it not?

The Minister for the Environment:

Yes, my understanding of where we are at is that decision will come first. I think while I have views on the sites of what we do, I have maintained my own counsel about them since I was elected, and I will continue to do so until we know whether or not there is an appeal on this current site. Obviously, the situation there is clear. That if Deputy Labey's proposition is carried then we will need processes to go through to ensure we can arrive at a firm decision on the hospital site as soon as possible, avoiding undue delay. If it is the other way and Deputy Labey's proposition is lost, then I think the current status of the Gloucester Street site remains, that it is the preferred site and decisions will be required by the hospital development team as how they then respond to the decision that they had on that site.

Deputy K.G. Pamplin:

You are going to have to appraise all the other sites, so that work has been done but it has not been done in detail.

The Minister for the Environment:

That was one of the issues that I certainly had to ... when one reads the inspector's report, if you remember that the terms of reference for the inspector were very specific. They were set by my predecessor, Deputy Luce, who was very clear, review an application on the preferred site that the States had decided upon, and give me a recommendation whether or not it should be approved. That was as clear cut as that. We then had the elections and then Deputy Russell Labey brought a proposition to say that the terms of reference should be varied as the inspector would be requiring to consider if he thought appropriate - and that was an important phrase - alternative sites. The inspector explained in his preamble that there were issues that made the alternative sites a material consideration. That arose if there were significant planning harm caused by the scheme. That issue would arise. So he sets out a key question for the inquiry, are there alternative sites available and that would avoid entirely any of the negatives. We will deal with that in a minute, what he found. So therefore the inspector then included a part of this inquiry looking at the alternative sites. So he considered the submissions, which are all listed in the ... I am sure you have had a chance to look at the back-up documents, a list of inquiry documents list, they are available on the website and you can read them. He then considered the evidence and he set out the set conclusions on each site. I think from my point of view, the decision to change the terms of reference was made late in the day. The terms of reference were set by the previous Minister, the date of the hearing was arranged. It was too late effectively to change it. I think in hindsight one could have structured the inquiry a bit differently because I subsequently learned under the law, is that one could appoint different assistant inspectors. One could appoint advisers to help the inspector to follow up points that he was not able to within the scope of his inquiry. But nonetheless, that was too late to change the goalposts, if you like. The inquiry went ahead and what the inspector said is that he is unable to compare the effects

on those ... he finds in his conclusions that there are, what he describes, as realistic alternative sites. That is importantly. But he does then say there is no one standout alternative site but he says each of the sites have their own potential planning challenges but he then concludes that he is unable to make a comparison between what potentially those impacts might be compared with the impacts that he investigated in much greater detail in all the evidence on the inquiry. That is, I think for me, a very important point because it suggests that the information was not comprehensive enough for that, if you like, test between this site and the potential alternatives to be done.

The Connétable of Grouville:

What I am trying to get at is: if the States rule out the existing site, we then investigate the other 4 sites, we might find that the original site was the best one.

The Minister for the Environment:

I understand what you are saying.

The Connétable of Grouville:

But we will have ruled it out.

The Minister for the Environment:

I personally would want to reserve my position on whether we investigate 4 sites. As I said, I prefer not to have that discussion now. I would like to just reserve my position on that because I do see your point that if we have very protracted processes, with a lot of complications, I am concerned that this could lead to delay. But I want to have the discussion with the officers. I want to take potentially legal advice on these issues and so I need time to do that.

The Connétable of Grouville:

Let us assume that Constable Taylor has his way and Overdale becomes the preferred site. If we rule out the existing site and then we do all the work on Overdale because that is now the preferred site, not by you but by Constable Taylor, and we find the existing site is a better one, we will not be able to go back there.

The Minister for the Environment:

I think there is clearly ...

The Connétable of Grouville:

We are ruling out something for no reason really.

The Minister for the Environment:

You are quite right, there is a risk but it is equally true if one reads the inspector's report, he said there are very significant risks for the applicant on the current site, particularly on the approach taken on the outline planning application and so on. He says that. There is always that very significant risk. I think it is an open secret that I certainly ... I do not think I have ever - having been involved with planning processes for a good number of years - remembered a commercial developer would enter into such risk of investing very large sums of money with a very significant planning risk. But that is what we did. So I want to find a process that minimises risks, create better certainty and reduces delay. I cannot say what that is. I cannot say whether it can be found or not. But I will try and do so.

Deputy K.G. Pamplin:

I think picking up on that point, what is also fair to blame, we were fresh off an election and it was fair to say, from somebody who went door-knocking and spoke to many people, to get elected that this was a huge issue and public apathy was pretty heavy in terms of how long the process, where is the hospital, how much money has been spent. If I was going to - not that I want to speak to the people's actions - but I can sense, given 6 months into the election, that people wanted to see something done, which may be the driving optimism for how quickly Deputy Labey moved with this proposition, that there is a sense we want to be seen to be getting things done, which I understand to a point. But I think looking at it, we are all aligning ourselves very clearly, there is a process to go through. The other point I would make is when we talk about these things publicly and you see things and you have chats whenever the subject comes up, people talk about the sites, waterfront and Overdale. But so much has changed since that original site selection process. The waterfront area again has changed and is developing and changing. It is the same at Warwick Farm. A new company have taken a lease. So things have changed. Even People's Park, we have got those new flats at the quarry, so we cannot just go straight back to what was done a few years ago because it has fallen away, so we are going to have to redo. They may not be the preferred sites. Another somewhere might have presented itself if we do not do the process.

The Minister for the Environment:

You have summed up the challenge. What I am quietly doing in the background, with the officers, is how we can have a process that minimises those risks and gets the certainty people want to achieve.

[11:15]

What has happened, the whole history of this project, when one reads all the documents, we should not have got in this mess. But nonetheless, the decision I had to make was us having got in this situation does one override all the planning negatives and go ahead and approve the scheme,

almost like saying: "Look, we have no choice now"? I came to the view after very, very careful consideration that it was not the right thing to do. There was not a sufficient case to override the significant planning harm, which the inspector says would happen in the event of the application going ahead.

Deputy K.G. Pamplin:

You are taking us into where we ...

The Connétable of Grouville:

We have some structured questions.

The Minister for the Environment:

I am not trying to put it off. But in the end, I am trying to explain that having done that because absolutely ... my duty has been to deal with that absolutely scrupulously, objectively and make that decision, and it has been hanging over me since I got elected. Something I knew was coming and it is an onerous responsibility. I have done my best to discharge it properly. If there is no appeal then we move on and we will then find a way, as far as I am concerned, while I am the Minister for the Environment, that we will not repeat such a process again.

Group Director, Regulation:

The only statement I was going to make, based on the Connétable's point, what I can advise is whoever is making that, presumably it will be the Minister, the panel, the States Assembly, there is no pain-free site for this scale of development in the Island. Each site we are talking about has significant issues. Whatever decision is made on the final chosen site there will undoubtedly be a need to make a decision on benefit versus planning harm. Each of these sites has a range of planning harm. Some are more significant than others on some sites. So I think it is a bit early to choose a site, and I am heartened by the media release that was clarified this morning that there is a process still by looking at sites. Overdale is not a pain-free site from a planning perspective. I will need to say that formally. It is not a pain free site from a community perspective I do not think. There are some issues there on that site. However, there are issues on every site.

The Connétable of Grouville:

Could you tell us what the Overdale one ... bearing in mind that appears to be a favoured site by some. I think I probably know what they are but could you enlighten us?

Group Director, Regulation:

Yes, very quickly and headline. I think for me obviously transport and highways access. So highways; firstly physical access. It is at the top of the hill so the roads to that area are not principal

roads, so physical highways access and a capacity of the highways network would be one with a size of hospital we are talking about does generate ... there is a lot of people work in it from day one when the lights go on but also a lot of people come and go throughout the day. So there is a lot of transport impact. Clearly ecology impact. There is a lot of tree and landscape and wildlife habitat up there and also I think we are talking visual impact. Clearly it is on top of a hill and it will be seen. You do not need to be an urban designer to work out the fact that that is likely to be an issue so there will need to be a very careful architectural solution up there to overcome that very issue. Certainly for me it is ecology, transport, highways and visual.

The Connétable of Grouville:

Transport will include parking presumably.

Group Director, Regulation:

It will. So that is going to have to be assessed. What I can say for any application, whether it be a new office block or a new hospital or whatever, we need to understand how it is going to physically work. Is it going to cause a problem on a highway network? Can it be handled on the highway network? So the transport assessment for that site will have to be done and it will have to demonstrate that the location can handle the amount of vehicles we are talking about. It is not the most accessible in public transport terms so invariably I think it will end up with more people travelling by car to the site and that will have an impact, so that will need to be modelled as to where the pinch-points are going to be and there will be a lot, I think. There will need to be improvements made potentially. What I would want any decision-making process to have, whatever decision body we choose that may be, is to have the full information before them when they make that decision. I think as officers that is our job, just to make sure the evidence is there so that everyone knows the consequences of the decisions that will be made.

The Connétable of Grouville:

It will also need to be a completely different type of hospital because on the existing site you have been going up because you are short of space. There you will not be able to go up because of the visual impact so it will be a different hospital.

Group Director, Regulation:

Yes, the proposal we are talking about is about 60,000 square metres of proposal, 600,000 square feet of that order depending on the scale of parking required, but that is a significant amount of floor space. There will be a debate, no doubt, from the clinical side as to what needs to be close together and how long people can walk between areas. If you spread a hospital out too far you lose some of those efficiencies. If it is closer together clearly you do not have to travel so far between your X-ray and your treatment or whatever it may be but ...

The Connétable of Grouville:

But that work in detail will not have been done yet.

Group Director, Regulation:

There was a lot of work done on that for the current site and the current hospital but not for these other sites, and I think that is where it will be interesting what the terms of references for this site assessment will be because I think we have got to be clear that we are comparing like-with-like information. It is relatively simple to put some massing together to say what would a building of 600,000 square feet look like if you put it here, here, here and we have a 3D digital model that could help with that. What is not so clear is when designing the mass and the building envelope you really need to know what you are putting inside of it to get the envelope so that is where ... there was a lot more detail done on the current site for that purpose. So they are just some of the impacts. All of the other sites have their own impacts or they are proposed for other things. All I would say, whether it be the Minister making the decision or a States Assembly process or whatever, wherever we go it is not going to be pain free unfortunately. It will need to be a national interest decision overcoming harm.

Deputy K.G. Pamplin:

Also the cost, because everything you have just described, and locking in all my experience, to do all the feasibility work and the ecological study and all this impact to absolutely change the landscape in such a degree by putting in, as Constable Taylor was trying to describe it last night: "Oh, we will get rid of George V homes, we will put a multi-storey carpark here into the valley, we will lower the ground to put the hospital in and change the road system." So I am not an expert but it is going to be close to about the cost of money that was attached to the current site and we were talking £466 million. Again, any direction on how much cost we are talking here?

Group Director, Regulation:

Certainly. Again, I am not a cost surveyor but certainly I think we would all have an opinion on how much a road would cost ... to put up an escarpment into the site if it is coming up that way for instance. I do not know the exact topography. There are bits of it around the back which are a slightly lower gradient than others but it is a significant cost, of course, if we are going to be putting in a new piece of principal road effectively from the bottom of the hill to the top of the hill, whichever way we do that, there will be costs associated with that. I think those sorts of things will be new costs to the proposal. Whether it can be built in a certain way or quicker to avoid those costs I think even that alone needs a lot of work doing to it, just to get quantity surveyors to look at that.

The Connétable of Grouville:

If we rule out the existing site, and Overdale is our preferred site, so effectively ruling out the others, we will just have to do it. We will just have to spend the money. We do not know what it is.

The Minister for the Environment:

Could I reserve my position on this because I think these are valid questions? I think the one thing I would say is we need a process which allows those questions to be answered in the most efficient way possible, without spending over the top or excessive sums of money in as fast as possible time as possible.

The Connétable of Grouville:

If we have ruled out the existing site we will have no option but to find another one.

The Minister for the Environment:

I think my current view is that I am not going to take a view on the Russell Labey proposition. I will abstain. That is, I think, my current thinking and unless things change ... because I think that is a decision for the Assembly as to whether the door is closed on the existing site or whether the alternatives are investigated in more detail. From my point of view, I think the whole point of the planning inquiry was to look at alternative sites and I think the inspector has said that realistic alternatives are available. I think then if there is planning harm done on the current site it is a valid requirement to make sure that there is no alternative but to accept that planning harm and I do not think we have come to that point. The process that we have come so far, although it has been convoluted, has not given us that clarity. From my point of view, because it is a political judgment that I have made ... obviously the inspector gives us 2 things in his decision. He gives us his planning balance, he weighs up all the planning, and he gives us a recommendation to refuse but he invites the Minister then to override that in the public interest, which I considered because I certainly recognise there is a very significant public interest in having a hospital. There is absolutely no doubt about that whatsoever. But I think if one then looks at the other elements of that public interest judgment, about significant planning harm on what is a very densely packed area of town, very narrow streets, a lot of residents there, before doing that I want to feel confident that the case has been robustly made; that there is no alternative. I do not believe the planning inspector's report gave us that but it is open for further work to be done on that site. If the States so decide that is the position; I have taken one of neutrality. In giving my decision, I did not say that this closes the door on the existing site. What the inspector has said, he considers that the scheme is too big for the site and that there are going to be difficulties there in producing a design, we can spend a lot of time on that, but he gives us all that detail in his report as to those very significant problems. One aspect that did come into my mind, or more into my mind, is obviously if Government ... we are facing a very significant housing crisis. We are going to have to do a lot of development in town. We have already got issues about overdevelopment potentially. Overcrowding creating difficult conditions in

town. The Island Plan policies are there to try and ameliorate that pressure to make sure that we create good urban communities if Government itself overrides policies I think it is important that we are very confident that there is no alternative, and I did not feel that point had been reached.

The Connétable of Grouville:

The planning inspector did say that, having assessed the other sites in not as much detail, but at some point a Minister for Planning, if we want a hospital, will have to override the Island Plan.

The Minister for the Environment:

I said that in principle although ... yes. As I said, the current policies do not help us deal with a major project such as this one which is why I said earlier that I think ... and the inspector himself says: "If the Island Plan had been differently drafted it would make life clearer." What I am searching for is a process now where if the Russell Labey - it is an if - if the proposition is passed and the States are satisfied that they should close the door on the Gloucester Street site then we need a process, and I shall be pushing for it, to make sure that how we handle those issues are handled in a much better way and without excessive time delay, cost and so on and confusion because we have all ... as the inspector calls "a muddle". He says it has become an absolutely confused situation as a result of what has happened.

Group Director, Regulation:

Yes. I think every site that has been spoken about technically will get reasons for refusal from a planning inspector because I think we do not have this sort of thing in the Island Plan therefore every site has impacts. My advice to anyone who is making the decision would be with ... effectively, is the chief planning officer, that we do not rule out options at this stage until we are very clear the relative impacts that Members are being asked to balance off against each other and that will be that we do not progress work on the current site but let us not throw it away quite yet because we know we need to do some other work on impacts on these other sites and Members effectively will be asked to weigh the relative impacts against each other. Are we willing to put up with more impacts on site X for the public benefit or are we willing to put up with impacts on a site weighed for the public benefit? I think what we will get is a list of impacts across the sites and some Members will think some of those impacts are not worth having and therefore the current site might be preferred or some of the other sites Members may well wish to not worry about landscape impact and things like that.

[11:30]

I think all I would advise is that whatever process we go through we need to make sure we have got the right evidence before us, that is comparable evidence, so that Members are very aware that of

the 4 sites this is where they would rank in planning harm, this is where they would rank in transport harm, this is where they would rank in public perception or public acceptance, and it is that sort of balance that needs to be struck but each one will have a range of issues and they will be all contrary to the Island Plan. That is the only guarantee I think I can give and therefore it is that: “Okay, what impacts are we willing to bear for the aim to get a new hospital?”

The Connétable of Grouville:

It has become, as the planning inspector said: “A political decision not really a planning one” because ...

Group Director, Regulation:

Yes, because of that very reason.

The Connétable of Grouville:

So at the end of the day there will be a political decision as to whether we have an ecological impact at Warwick Farm or do something else. So it is a political decision as opposed to a planning decision because at the end of the day any site chosen will have to have an override of the Island Plan which is allowed within it in the public interest.

Group Director, Regulation:

That is right, yes. We were asked this, the officer team, going into the inquiry really to put our planning view on the other sites mentioned, so that is in the evidence in terms of where we think the planning ... every single site has red boxes on it in terms of red being: “Well, you could probably get a reason for refusal.” The current site has a red box on it in terms of: “This issue would potentially lead to a reason for refusal”, which ultimately it has, which was neighbourhood impact. Some of the other sites, all I would say is they have more red boxes on them but that may be an impact that the Assembly is willing to bear to get a new hospital in a different area.

The Minister for the Environment:

But there are also at the moment ... if one looks at the evidence base what we have got is extensive evidence in the inspector’s report on the preferred site of Gloucester Street. What is not known ... the evidence is relatively, I do not think, adequate. I do not think it has reached the point where the inspector felt he could categorically reach conclusions on it, he said so, on those other sites. I think your point, Constable, is right that there will need to be a political decision. At the moment, under the procedures we have got, that rests with an individual person, the Member, who holds the position of the Minister for the Environment. I think I have said, as an open secret, many times that I do not think that is the best arrangement, particularly when it comes to major infrastructure projects and which is why I have asked for ... I have already said, I think, on the record that I am certainly looking

to review that part of the law. That is before we got where we were because this is not the first time we have ended up ... although not in terms of major public infrastructure, in less significant applications, but I think I have asked the officers to look at ways in which we can have a robust process that does not suffer from the downsides of the current one so that we can avoid this situation or at least not avoid it entirely but resolve matters as quickly and expediently... I am not talking about overriding information requirements but I am saying allowing a political judgment to be made in as reasonable a timescale as possible. That is where I want to get to. States Members are, under the Russell Labey proposition, are going to have to make a view on whether or not the door is closed on the Gloucester Street site. The inspector, I think myself, has given us a really helpful report because it is well written, it is very clear. He sets out the areas that are planning harm, which are in my mind very significant.

The Connétable of Grouville:

Could you highlight those for us, what you really think?

The Minister for the Environment:

Yes. Those 3 areas of planning harm. He highlights first of all ... it will be 3 areas in a nutshell. The impact on heritage and that means heritage assets, heritage buildings in that area and I will go into detail in a minute. I will stick to the big picture. He highlights the impact on dwellings in the area, adverse impact on them, and he highlights what he calls the damage to the townscape, the urban fabric, as a result of implanting a very substantial and out-of-scale ... set a building into an area, which is very different in its character and so on. He puts very strong emphasis on the heritage aspect. He weighs up the fact that there are some benefits in there but he concludes overall on the heritage assets on both the effect on the grade 1 listed building of the old hospital and also Kensington Street and Edward Place where you have got very small-scale vernacular buildings which will be effectively facing, directly across a street of 9 metres wide, very substantial structures. He puts that as very damaging and he is quite strong in that. He then goes into the impacts on residential dwellings in particular and the environment that people enjoy both of daylight and sunlight and so on, and he spent a lot of time and detail in the report and the conclusions are that there is a roundabout, I think, listed in the paperwork, about 85 dwellings would suffer significant reduction in those amenities that they enjoy and a good number of them very much more severe, very dramatic, severe reductions. Those would not normally be allowed. He also then talked about the effect on the way in which the townscape, the urban fabric of St. Helier, would be transformed by this structure and he was particularly critical about the effect of views and aspects from approaches from the north-west and the west whereby what we have got is really very characterful settings of Pierson Road, and so on, where you would see absolutely dominant structures which he says ... having listened to arguments from the planning team that the planning view was that these were not ... I do not want to paraphrase but the planning view from the officers was that the impact on residential

dwelling was not as significant as what the inspector found, and it is all in the evidence there. He did not accept that. He said that the evidence was very strong. There was a discussion about whether there was kind of a theoretical comparison of what people might be entitled to enjoy in terms of residential amenity and the inspector said: "No, that was not the test. The test is what they have got now compared to what would they have in the future." On heritage he was very clear on that. He weighed that there are positives on the heritage but he concluded there was harm. There were some factors which were neutral but there were a number ... so he weighed all those up in terms of his planning but he said that on planning balances ... he recommends against, but there is public interest on things which are, if you like, not part of the planning assessment, which are about the desperate need for a new hospital. That was one thing. He also said in thinking we ... the issues also that come up are the issues about suitable alternatives, avoiding that harm, and the issue of a potential timescale, which I looked for, as to what evidence there was. I could not find sufficient evidence, any evidence, if the decision went against what would be the effect. There was no clarity and the inspector says that. Also issues about that if alternatives were available then the very significant impact of construction impact that he says is not a planning factor but he says must be considered by the States because this is very significant, the protracted impact of construction, and also the views of the clinicians who had expressed concern over the impact of dust and fungi and things released during building operations; all that kind of thing. He said: "It was not germane to the planning decision nonetheless it should be considered", which I interpreted as being part of the public interest considerations. So there were issues which I did not think were ... that allow us to reach the point where there was no alternative but to go ahead with this site. My views expressed before my election is that if I felt that was the point, I would always be very supportive. If we come to the position that this is the only place and there are no alternatives then it has to be. In which case I would be personally arguing for mitigation of the impact on surrounding properties but ... so the judgment had to be made on the application what is. This was an application that was put in before my time as election. The previous rejection was December. In the period up to the election this application was put together as an outline application without a detailed design just on the basis of a site plan and parameters and some principles. That was put together. I think it was put in in April. That kind of stopped the clock on the development. So the question I ask is, could more time have been spent working out those issues but ...

The Connétable of Grouville:

The heritage one cannot really be sorted because that old-fashioned block, which is the main thing that the new hospital will detract from, will not be moved so that cannot be mitigated really. That is accepted.

The Minister for the Environment:

I think that is a discussion you really should have with the project team. In your shoes I would be doing that. I would be saying: "Right, project team, how can these issues be mitigated on the ..."

The Connétable of Grouville:

Well, I think the planning inspector said it could not be because if the building is there it is bound to detract from it. The residential side you could mitigate because you could ... well, there are other flats in that area and Patriotic Street - I know somebody who lived in there - they hardly got any sunlight anyway. It was nothing to do with the hospital.

The Minister for the Environment:

Which one is that, sorry?

The Connétable of Grouville:

In Patriotic Street.

The Minister for the Environment:

Well, that was the kind of debate the inspector had, who has what sunlight. They did have the detailed assessment of all of those and obviously the evidence is all there and they did spend a lot of time on it. What I have relied on is what the inspector's conclusions are.

The Connétable of Grouville:

I am not disagreeing with the inspector but to mitigate it you could purchase the flats and I am sure you would find people that are in them ... it might be a slightly lower rent but there is such a shortage of housing that you are doing somebody out of the value of their property because you are lowering the value of it, but if you were to buy the properties at market value you would not lose very much because I cannot see people not living in them.

The Minister for the Environment:

Well, that is an interesting thought. No. Well, I can understand what you are saying.

The Connétable of Grouville:

So you would mitigate the residential side of things.

The Minister for the Environment:

What you are saying makes sense but I think those are questions for the project team. Again, it comes back ... we are in a situation, it seems, that a decision as to where ... it will be made, as to whether or not the current site is discontinued as it were or maybe, I do not know, discontinued, suspended or what. I do not know what the project says.

Deputy K.G. Pamplin:

On the heritage thing, the Opera House as well, the impact of the theatre because, having many times performed on stage, the problem we have always had is parking as well. People rely on Patriotic Street Car Park to come to the theatre but also there are the other events where we close the Abbey off, the air display and the Battle of Flowers, the amount of traffic and parking that is required and that was ... I was just curious where that was fitting into everything because if you add a busy Opera House theatre with 500 people wanting to park and see the show around the same time it is Liberation Week, so we are shutting off roads but the hospital is going to remain there, and the car park ...

The Minister for the Environment:

Well, this did surprise me. The inspector found that he was satisfied with the access arrangements although he did comment that there was a loss of car parking spaces. He commented on that, and I thought personally that was more significant than he gave it weight for because like all of us we have all struggled to find car parking spaces for the hospital. It is an issue, but anyway. Also I did notice the inspector had said that blue light vehicles will of course be going through residential streets at all hours so there will be an impact and a diminution of the environment there. But access and transport was the one thing that was fixed in the application. The scale and massing was not fixed. It was an outline application that did not meet the minimum standard set by planning guidelines. It was a decision taken to put in an outline application which fell below that. The inspector concludes that. He was asked to judge whether that was legal. He said it was legal but it did not make it right.

The Connétable of Grouville:

The detail of the parking was one thing ... I do not think it went down to the detail of disabled parking because the provision at the moment is limited, to be fair.

The Minister for the Environment:

I think the inspector underplayed that issue myself but I have not brought that into the decision because he concludes it is satisfactory.

[11:45]

Group Director, Regulation:

On the transport these are biggest roads in the Island so therefore there are not any roads in the Island which are any bigger or have any bigger capacity than the roads in that vicinity so ...

The Connétable of Grouville:

No, but the parking side of it is slightly different because the parking ... it is a job to park now. There is only the bottom floor and I have been there when it is full. The disabled; I have been there with ... there are only about 6 places, I think. They can be full and with an ageing population there are more and more people who are not mobile who need to get quite close to the hospital.

Group Director, Regulation:

Certainly the anticipation of the current scheme was that most of the multi-storey car park became available for hospital use. Public car parking effectively would need to go elsewhere, whether that be in the future Esplanade Quarter development with S.o.J.D.C. (States of Jersey Development Company) - there are certainly clearly parking plans there - or in line with sustainable travel people are getting more on the bus or cycling. Pier Road also, as a car park, has surplus space every day, generally about 200 spaces surplus. So some of that is around making sure people park in different places as well I think.

Deputy K.G. Pamplin:

The other point here is the planning application, and again I am going to put the eyes of the public on this, because after the fallout that the final decision ended up being the same place where the current hospital is, then the team had to come up with something to not only fit all the requirements, as we are discussing so many, but in the eyes of the public who vote us to on their behalf, were frustrated with that decision but then when the plan was then rejected it exasperated people's mindset. We experienced that during the election. So does this current process that we are now coming into where another process has been put in place. I remember going to the Radisson Hotel in April, like you described, and then another ... and then it gets rejected again. That the people's faith in the process is at its lowest ebb. You could feel sorry for the Future Hospital team that has one arm behind their back. They have to come up with the best scheme possible given these decision-makings and they clearly did not twice in a row. So as a Minister who has got to make that decision that must be really frustrating.

The Minister for the Environment:

Well, it certainly is not an easy decision ... I found this really difficult and hard. The only question I have got for the Future Hospital team is where the £38 million went. I have that as a political Member because obviously they were clearly put in a position ... the States have made that decision. They got the first refusal. I have tried to look back to see if I could find any clues about that. Obviously, what I did not do was ask the ... we did not ask the inspector to go back over past grounds. He says in there that he thinks that the first refusal was a useful kind of reference point that he talks about but of course it remains a fact that the application ended back with the same areas of problems as the first. Of course the other interesting thing I noted, and I flagged this up having looked through

the papers, is that obviously there was advice given by the planning officers in between the 2 applications, between the refusal and the second one, which did flag up these issues as well. It made it quite plain when you read that and the evidence of people like the Architectural Commission ... those issues were always there. I think these are questions for the ... if people want to go back and go over old ground, they are questions for the project team. I think from my point of view what I have had to do is shut my mind to that, deal with what is, the inspector's report. I feel for the project team. They have produced what he recalls a quieter scheme so it is not as severe as the first but clearly it is not at the point where it can cross the line. Whether or not a third application would cross the line I do not know.

Deputy K.G. Pamplin:

Well, that would be rare, would it not? Given my limited experience that third attempt ...

The Minister for the Environment:

I have been working with planners for many years. I have done lots of other things. There is always a case when you get ... I have observed, planners have to make difficult, it is a tough task. They have to make difficult judgments on planning applications all the time knowing that they are going to upset at least probably half the people. They have to make those subjective judgments and often applications come in which are out-and-out clear no-nos. Others are just clear approvals. But the ones in the middle are the ones that they ... I am sure they go through their minds: "How much effort is it worth trying to make this work?" I mean I could have asked the planning inspector to reopen the inquiry and relook at some of those unanswered questions about the other sites, about the delays, the times, the impact of that and so on, but I felt that this process had been going on for so long, it was so protracted, it was better not to increase the uncertainty, give a decision and then the project team can decide what it wants to do. It has got the clarity and States Members can then decide where we are. So I think that was in my mind. I needed to bring it to an end.

The Connétable of Grouville:

Sure. You said that the decision ultimately fell on one Minister but of course you have advisers. We understand your advisers were advising you that the public benefit of the existing site ... over road, the downsides that were necessary on the site.

The Minister for the Environment:

That is true. The planning officers ...

The Connétable of Grouville:

So why did you not accept their advice?

The Minister for the Environment:

Right, because I think the inspector made it quite plain that the judgment was a political one and planning officers are bound to have a different perspective than those ... I have been this way many times before. Politicians are accountable to the electorate through the States Assembly and the public and they stand or fall on that. Whereas planning officers are full-time executives who work their lifetime and they work closely with developers and applications and I think in reality different planning officers have different ways of working with architects and others. Some get closer and work much more closely with architects if you like. Some do not. Therefore, I think you are bound to get differences with planning officers. I think there is a difference between a planning officer giving advice to a Minister who says: "Minister, you are not allowed to do this" - that is one thing - and a planning officer saying: "I would not do that. I would do something different."

The Connétable of Grouville:

But you said that it was a political decision as opposed to a ...

The Minister for the Environment:

Yes, it was. The inspector ...

The Connétable of Grouville:

It was not a planning decision; it was a political decision.

The Minister for the Environment:

It was a political decision because the way the inspector structures his decision he deals with the planning and the planning decision is reject and that is what I have accepted. I have accepted that as correct. I could have rejected that but then he invites me explicitly, he could have just said that. He could have just said "rejected" but he did not. It was not expected. It was not within his terms of reference to say that. He said ...

The Connétable of Grouville:

Well, I think the Planning Law allows that to happen; for the public good to override so he was right to point that out, surely.

The Minister for the Environment:

Yes, but to say it was a political decision when he had been asked to produce a recommendation - I am not being critical - but it was a bit of a surprise. "Here we are, Minister, you can decide what you like. You, as Minister, are the only one who can do this." So he was clear that it was a political decision and he explains ... part of that is that he feels the whole situation has become such a muddle and confusion. He talks about the issues being so inextricably entwined that it is a political

decision and therefore I think it inevitable; I had to judge that. I have listened to advice. I complied with the ministerial code and recorded that advice in the Ministerial Decision and obviously the planning officers, of course, had expressed that view all along in the evidence they gave and there is the proof of evidence. That view was clearly expressed in the planning officer's submissions to the inquiry. So it is not as if their position has changed but of course in the end the inspector then says: "Well, reject it."

The Connétable of Grouville:

If it was a political decision then how did your political persuasion, your own personal political persuasion, affect the decision?

The Minister for the Environment:

Well, I had to leave out ... when I say "personal political persuasion", I have had some experience of dealing with this in ... I think it is an open secret. Well, it is not open secret, it is a matter of public record ... with the first matter I had to deal with, which was Tamba Park, where there, similarly, the previous Minister had called an inquiry and I had to deal with the inspector's report. In that case there was a judgment that had been made. Obviously, the inspector in that case recommended that it be approved and I made a political decision against it. That brought me into challenges and I had to take a lot of advice and what I learnt from that is that when planning laws give responsibility for decisions to elected politicians it is expected that elected Members will have, if you like, values and predispositions on things. It is accepted in law. There is a lot of this case law on the subject. That is different from a political decision maker having a closed mind when determining an application. I had learnt the process involved, I think, is no longer current; an appeal having been made on challenging those grounds and then dropped. I learnt sufficient from that to know where the line was and so I scrupulously all along ... to make sure I did not allow any suggestion of predetermination of the hospital application, but I think it is clear, and I have to accept this, that I personally ... is very firm that we, in developing our future town, we really do have to try and do our best. That we manage our population growth and development without destroying it and therefore doing damage. So, therefore the importance ... my priority in my head in terms of planning damage ... I have a high threshold on the impact of planning damage. I do. I accept that.

The Connétable of Grouville:

Tamba Park was totally different. We do not need another national park. We are not going to fall to bits if we do not have a leisure park.

The Minister for the Environment:

No, but I know ... no, I know but what I mean was ...

The Connétable of Grouville:

If we have not got a hospital, we have got real problems.

The Minister for the Environment:

No, but on Tamba Park I faced the challenge on that subject about bringing into decisions my pre-election predispositions, which was your question. I learnt from that that the law is quite clear that predispositions are acceptable in law but not predetermination.

Deputy K.G. Pamplin:

And more relevant - sorry to interrupt - with the original planning inspector's inquiry you put forward a public submission, which is on public record, but you also spoke in great length for about 25 minutes in that public inquiry.

The Minister for the Environment:

I did.

Deputy K.G. Pamplin:

You put all your experience, professionally, political, on the table why that original application should be rejected.

The Minister for the Environment:

The first one.

Deputy K.G. Pamplin:

Yes, the first one. Having gone back and read all that and seen ... I mean you get very passionate about the whole thing and the things you have just touched upon, the journey to town and stuff, so obviously a lot of what you were saying was more referenced to the original plan, which the inspector again did conclude was too high and too incompatible, but if you go into it a bit there are similarities in this planning process, while very different plans, that one could argue outside that: "Well, hang on a second, has he carried through?" So what you have just explained, using the Tampa Park area, is what you now know that you can stand by the fact that: "Yes, and the original open ... I did say all those things but my predetermination on it ..."

The Minister for the Environment:

Yes, because I cannot ... they are on the record and I have been open about that because obviously I have had to take advice. What I have done is that I have tried as best I can to close my mind and so it was really hard; take no part in Council of Ministers' discussions. I did not go into the new application. I did not make any submissions. I went nowhere near the planning inquiry. I kept

absolutely out of it. I avoided any political discussions with people to the point of being rude. When I made my decision I went out the Island for 4 or 5 days, took the papers away from me, and I put myself into purdah to shut my mind to look at the issues. Because what I had to do was I had to read through all this. I had to bring myself up to speed. I need to correct one thing. We got the planning inspector's report on 11th December, I have been told. The statement I made was on 14th December. I am sorry about that. There is a slight inaccuracy.

Deputy K.G. Pamplin:

Does that include, in cutting yourself off, the very visible continuation group of Islanders who were very adamant about the actual site being the preferred choice, who we have spoken to as well, who, in your public submission to the original application, your name appears alongside?

[12:00]

The Minister for the Environment:

Yes, it did. I signed the letters. I was part of the group that was led by the late Sir Nigel Broomfield.

Deputy K.G. Pamplin:

Which has continued on.

The Minister for the Environment:

I was part of that group and I withdrew from that group when I got elected. I have to say I had no way thought in a million years I would end up being elected as the Minister for the Environment. My view at that time is that I had got elected as a States Member unopposed unexpectedly. I did not expect that. I had to wait months and months until we took up the office. I thought that either Deputy Luce would be elected, because it was a surprise that the Chief Minister's election went as it did. I thought Deputy Luce would go back in, and there were other candidates who stood for election who I said I would propose as the Minister for the Environment and they did not get elected. So I found myself in a situation where I felt I had no choice to stand because those people made me promise. They said: "John, if we do not get in will you do it?"

Deputy K.G. Pamplin:

Because that is the problem I guess when you look, because we were close to the election as well, it came up everywhere, you talked about it, and we have spoken to these individual groups. So just for the point of clarity did you have to turn around to Bruce Willing, who has sort of taken this on, and say: "Look, that means you guys too I am afraid"?

The Minister for the Environment:

I said: "Out of it." I withdrew. I took no part. I mean I read on the social network, but I withdrew from posting on social network. I mean in a small Island like this you cannot shut your eyes to what people are doing but I absolutely take no part and of course sadly we lost Sir Nigel. Because my contact was really ... why I got into that group was Sir Nigel, who I knew very well, because Sir Nigel was a champion for the environment and he led. He was chairman of the energy body and so on. He had an outstanding intellect and so he asked me to meet him, which I did, and there we are but I drew the line.

The Connétable of Grouville:

I am not criticising your impartiality anyway but I will tell you I think we have established that it is a political decision as to whether that site could have been passed or not. Did you discuss it with the Council of Ministers whether you should pass it?

The Minister for the Environment:

No.

The Connétable of Grouville:

The course of action was available to you.

The Minister for the Environment:

I thought about it, I thought I could have in fact ...

The Connétable of Grouville:

Or the States, as a whole, for that matter.

The Minister for the Environment:

It was suggested to me: "Why do you not publish the planning inspector's report and put it to the States and let the States make a decision?" I was advised under the law that I cannot do that. The law is quite specific that you have to make a decision before the planning inspector's report is published, so that door was closed to me. Effectively, I think that shut the door to me doing the Council of Ministers either. Also, on the other hand I think, look, I did not seek this power. I voted against the amendments to the 2014 Planning Law when I was previously a States Member but it is my duty, it is a duty that I have to fulfil.

The Connétable of Grouville:

You had to make the determination before you discussed it with anybody.

The Minister for the Environment:

Pardon?

The Connétable of Grouville:

Did you have to make that determination before you discussed it with ...

The Minister for the Environment:

The first discussion, the sequence was that I had to go away and imbue myself in all of the paperwork, as I have explained. It took me probably about 4 weeks. I had the flu over Christmas, I had a bit of flu but I managed to keep going, then I went away. Then I wrote up my thoughts and then I then came back and had a meeting with Mr. Scate and then we had a series of other meetings with the senior planning officers, which was Peter Le Gresley and John Nicholson and we had that. Then the decision, I made the decision. I came back, if you like, minded to, wrote that out and wrote that down and then had the meetings with the officers and then as a result of which I made the decision, having received advice from the officers. I did not have political discussions. I found that very frustrating ...

The Connétable of Grouville:

Because you were not allowed to.

The Minister for the Environment:

No, I was not allowed to, no. My civil service experience is when we had committees, and I have always felt committees, when you have more than one political member, are much better vehicles to make decisions with. But, unfortunately, the ministerial system does not, I do not believe, allow us ... and I have never been a great enthusiast for the way our ministerial system has been set up. I think it does put a lot of pressure on individual Members, very high levels of responsibility. I find it frustrating that the system does not allow more open dialogue with other Members. This meeting here illustrates it beautifully; we are having a very productive discussion... we are having a very good dialogue and those sorts of things, I think, makes for good government.

The Connétable of Grouville:

Could you reverse your decision to refuse an application?

The Minister for the Environment:

No. The advice on Tamba Park is the decision, once made, is the decision. There is no reversing it; that is the advice.

The Connétable of Grouville:

It cannot be where it is then if ...

The Minister for the Environment:

Pardon?

The Connétable of Grouville:

We cannot have the hospital on the existing site.

The Minister for the Environment:

No, my decision is not ... perhaps I should have made this clear, my apologies, the decision is in respect of outline planning application PP/2018/0507.

The Connétable of Grouville:

There would have to a change to that application before you could ...

The Minister for the Environment:

Yes, you are absolutely right. But let us be clear, the decision is in respect of a particular application only; it does not, absolutely not, rule out that site.

Deputy K.G. Pamplin:

I am conscious of time here and we really appreciate your honesty all through this and talk about the political side of things. It was interesting in the planning inspector's report in terms of the Policy Development Board the Chief Minister set up really quickly with Constable Taylor leading, and you have mentioned this a couple of times but I just want to flesh it out a bit more: "It is also the case with the rebuttals to the States site selection process has now been openly questioned by a review body set up by the States itself; it is quite an extraordinary muddle." But before that he talked about the complications that have arisen by this Hospital Policy Board, the fact that they did their determination report after he was almost at the advanced stage of writing his report, he says. Given what you have just said about things, what extent, if any ... did you take any account of the Policy Development Board's report when coming to a decision? How did that process work? Did you engage with them at all or you just had to ignore all the very public but also the process going on?

The Minister for the Environment:

Firstly, what I went on is the appendix 1 to the inspector's report, the inquiry document list. I made sure that what I looked at ... the 2 things, first of all, the application details because not all the application details were ... I had to go to the States website for that but, secondly, the list of things that the inspector was taking into account. It includes a section that is called documents received after the inquiry and he lists down INQ29 report of the Hospital Development Board and also INQ30 response of the Minister for Health and Social Services. I made no input to the Hospital

Development Board. I never met them, I never had any discussions, I avoided all contact with them. I have no idea when they would have published their report and I got it when everybody else did, when it was published. I was aware, because I had been told, that the inspector had asked for it. The inspector had requested sight of the Hospital Development Board report.

The Connétable of Grouville:

Were you surprised at them asking for it?

The Minister for the Environment:

I did wonder.

The Connétable of Grouville:

That would not have helped.

The Minister for the Environment:

No, I mean I will say I was surprised, I had a question; this was after the inquiry and was it a material planning consideration? I wondered but, nonetheless, the inspector decided it was and asked for the report. He then read it. I read it for the first time at that time and I have to say my reading through it I was looking for evidence. I found very little evidence in it that was relevant to ... that helped the decision, frankly. I would say I gave it little if any weight at all.

The Connétable of Grouville:

One element.

The Minister for the Environment:

It was all about process. It seemed to me that it was about going over old ground and what had happened in all these feasibility studies and why this and that, and so like it had all been ... it was all very convoluted stuff, to be honest; that was my impression. I searched for facts but I also read, because I thought that was important, the response to the Minister for Health and Social Services. The particular points that I looked at strongly there was about where he talked about the effects of carrying on with the existing hospital and the effects of that. I think there was previous evidence from the hospital team that the hospital could carry on but it was the effect of delay. I looked for hard evidence about that delay in that response and I could not find it; it was just opinion. Of course, in my view I also take the view that the process that if another site is chosen ... sorry, if the decision goes against this site what I now know is that it will be for the Minister, I think, to influence process. I do not think anybody could prejudge what the delay would be. For me, I looked at that to see if I could find evidence, I could not. Yes, I considered them. Did I rely on them? Not to any great extent.

The Connétable of Grouville:

One of the points that Constable Taylor made in his report was that you could build a hospital alongside another one. They went to see a couple of hospitals, they went to see one in Bristol ...

The Minister for the Environment:

Yes, I do beg your pardon, I did read that and I looked at it. Yes, there was Bristol Southmead and Bristol Royal Infirmary.

The Connétable of Grouville:

I cannot remember the other one but there was a second one.

The Minister for the Environment:

Bristol Royal Infirmary. But, of course, the inspector had said that the issue of construction impact was not a material ...

The Connétable of Grouville:

No, you did mention that earlier but ...

The Minister for the Environment:

I was interested in that; no, I did not rely on that. Again, it was not in enough detail there. It was pretty interesting and, of course, the frustration for me is I had not ... obviously I had heard about the site visit second-hand after the event but if I had been there ... I mean lots of questions I would have asked but I was not there, so I have had to go with what is written up in the report. It really did not give me enough clarity.

The Connétable of Grouville:

What we have been told by others, by the planning team really, is that the existing hospital is built on all the time, it is falling to bits, so there is work going on it all of the time and that will continue until a new hospital is built.

The Minister for the Environment:

I certainly assumed that there is absolutely a need to maintain our existing hospital whatever happens.

The Connétable of Grouville:

It is not just maintaining it because it is falling to bits, it is more than that. There are 2 carbuncles on the side, which are new operating theatres, which have been built over the last 5 years probably and that process will continue until we have a new hospital.

The Minister for the Environment:

I absolutely share ... there is no question, I have never heard anybody argue against the imperative for a new hospital in cases ...

The Connétable of Grouville:

No, the timescale is more what I am interested in.

The Minister for the Environment:

Yes, and that is what I have said earlier on, if the proposition of Deputy Labey is adopted, why I feel the pressure on me, as Minister, to come up with a planning process that will allow us to make the decision ... by saying "us" I mean the States to make the decision efficiently without undue cost and no more delay than needs to be, accepting Mr. Scate's point that it needs to be adequately informed but, nonetheless, that is a ...

Deputy K.G. Pamplin:

Just a final point on the Policy Development Board, was your decision making, which I think I totally understood, also the fact that this Policy Development Board was perceived as biased? Because Constable Taylor has been very vocal in the past and in the previous Assembly about his thoughts about the site selection. It was clear from other panel members they shared the same view and other panel members came on, including the Minister for Health and Social Services, who very obviously shared a very different view, that this was a very unbiased Hospital Policy Board to put a position in place, that it had to be ruled out in perceiving of how fair is this report, given what we have just seen in the 24 hours where all of a sudden there is Constable Taylor leading a very public report last night over the hospital site. Can this Hospital Board report be considered in any way because in your opinion, from what you have seen of it, it is fair?

The Minister for the Environment:

As I said, I gave little, if any, weight to Constable Taylor's report. I had certainly heard the view and looked at its membership and probably thought what people thought about the likely policy focus of that group. I had no hand in setting out or setting its terms of reference, never went anywhere near its meetings.

[12:15]

The first I saw of what it produced and I have to say I was disappointed because I was looking for facts and evidence. What it was was a kind of retrospective review over the processes, the ins and outs of meetings and minutes and things like that, of meetings way before I was a States Member. Was that what I was looking for? No, not really.

The Connétable of Grouville:

Just to go back, you said you are hoping that if we reject the existing site you would hope to streamline the existing processes. But there were some processes which just have to happen. An ecology survey, if it is going to Overdale, which will take 6 months, depending on what it says, the mitigation against can take up to a year because you cannot disturb trees in the nesting period. The process is inevitably long. You can make your decision very quickly once you get to that point; if you get a third-party appeal that will take time. It is unlikely that whichever side is chosen that a planning inspector will not be involved; that will take time. It may well be that the first plans put in for Overdale are not acceptable, so like this one. The planning process, there is no guarantee it is going to be any quicker than the last one.

The Minister for the Environment:

You describe the current processes in law very well. The challenge is to look to see how we can make sure that we arrive at the decision on the principle, I think. There is always going to have to be work on detail but, look, I am going too far here, I am going into what is in my head because I only knew about Deputy Russell Labey's proposition being supported yesterday. Was it yesterday or what? Up until that point I had no idea whether it stood a chance of success or not. Obviously, what I have tried now to realise is that I think the States are going to want to be informed about what the processes are and what the delay, potentially, is. I think you are absolutely spot on to raise that. I cannot sit here today and say anymore, I suppose, that, look, what you have summed up, I think, is a correct understanding of the situation in the current law and I think Mr. Scate agrees with that.

Group Director, Regulation:

I do, yes, I can sort of comment on some of the stuff, the timescales you need to probably go through just to get the information with which to make a decision. I think we have got a situation whereby if the current project team are not there, we probably will need to write briefs for the work that needs to be done. There is some practical stuff about what will ... I am assuming we will probably ask consultants from off-Island or somewhere to do some work for us to assess the sites; that would be my assumption. That would need to be written as a brief as to what we are asking whoever we are asking to do, whether it be an on-Island company, an off-Island company. We need to go through a process of writing the briefs, so that probably takes a month to get it written and agreed, that sort of thing. We would need to go through a procurement process to make sure who is bidding for this work and what their prices are, so it is probably 2 or 3 months, I would have thought; let us call it 3

months. It is probably not an unrealistic timescale. They then do the work itself, so what are we asking them to do? If it is around transport, ecology, sort of some architectural impacts, that sort of stuff, I would guess that is probably 6 to 9 months piece of work; it might be more, depending on how much detail we want them to go into, in terms of how the building has to work to deliver the architecture, then they will do their work and give it back to us. We would no doubt have to, I think, go through some form of public process and then political process to say, what do the public think of this and what do the States Assembly think of that? That is as long as a piece of string sort of thing but it could well be 3 to 6 months in its own right, that process. I think before we get to the planning side of the business it could be 18 months before we have a site chosen.

The Connétable of Grouville:

Chosen a site, okay.

Group Director, Regulation:

At that point I would assume that we would still have a law that requires a planning application to be submitted or of some kind or something submitted to the Government to say: "This is what we want to do here, please." The current process means that probably takes about 3 to 6 months to produce a planning application and then we receive it and then if we go through a public inquiry process that is probably a further 9 months, possibly a year. The last one was a year but let us say 9 months, we could probably do it in that. The current way of doing things, it is probably 3 years to get to another decision on a new site and that would be just my very quick, unencumbered professional view of what we think needs to happen to inform a planning application decision.

Deputy K.G. Pamplin:

The only way to change that would be if the law changes therefore.

Group Director, Regulation:

Yes, the law around planning changes and you say for certain projects you can make a speedier decision. I would still probably argue that you still need to do an awful lot of work to inform that decision. You still need a lot of technical information before you to say: "Right, we are going for site number 2 here, not site number 3."

The Connétable of Grouville:

Changing the law like that is not simple because I look back ... none of us will probably be that keen, we will give carte blanche to anybody who is building a hospital, which is, effectively, what you are doing. Carte blanche is probably a bit too far to go but if you start saying: "We will make new sections because we need a hospital" then you begin to worry people upstairs because you are getting into very dangerous area.

The Minister for the Environment:

Right. But I go back, this is a major piece of public sector infrastructure. I accept that Mr. Scate is absolutely right in saying what he has explained to you under the current law. I have asked but the challenge is how we can reduce that to one year. How can we reduce this so that this year we can make a decision? I have asked for the law to be looked at to see how we can do it. The question I ask is this: would we have dealt with Queen's Valley under the current law, your neck of the woods? Would that ...

The Connétable of Grouville:

I was far too young to remember that ...

The Minister for the Environment:

Seriously, would we have a Queen's Valley and would we have been able to have that? It is that sort of equivalence of a major piece of public infrastructure because when we had Queen's Valley we had a different law. We had the Island Planning Law 1964 or something. The Planning and Building Law came in in 2006, I seem to remember, it passed in the States in 2002 and in 2006 it was enacted.

The Connétable of Grouville:

Times have changed a lot, I think we would struggle to build Queen's Valley today because of the damage to the ecology.

The Minister for the Environment:

But, nonetheless, I think other societies have recognised that there are major infrastructure requirements which are so significant that they do need special processes. There are very few things that fall within the category of major public infrastructure. All I am saying, there is a challenge there between what Mr. Scate describes as the current situation and the risks that you have set out and the scenarios you have said and between trying to find ... by the way, I want to find a way through this because I know Members will want it. I cannot sit here and promise I will deliver it but I will work to see if I can. I will not have anything to say publicly until after 11th February because there may well be we do an appeal here and we may spend 6 months, I do not know, whatever the time it would take to run that appeal through, I do not know.

Deputy K.G. Pamplin:

But is not the pressure now because of the way this is playing out again where Constable Taylor is on Channel Television and all the public can talk about today is: "He has just said on television we can get going this year", that the public are not getting this information; that puts us all in a quandary.

The Minister for the Environment:

I was a bit astonished and I was watching the channel last night and I watched the terrible news about the aircraft in Alderney and all that and then all of a sudden up popped this item, I was absolutely, I think, surprised ...

Group Director, Regulation:

Yes.

The Minister for the Environment:

I really was taken aback at that.

Group Director, Regulation:

All I would say to the panel and to the Minister is to work back from a spade in the ground, so a spade in the ground in terms of actual works this year. What would need to happen to get all of that in line? I honestly do not think it is at all practical that we would end up by the end of this year starting to build in Overdale just because of the things that we have to do as a government to procure design, all of that. Even the procurement process for a major construction process and the design of that probably takes a year to get your ...

The Connétable of Grouville:

Before a spade goes in the ground, we are talking 2022, 2023.

Group Director, Regulation:

Under the current way of doing things, I think, from where we are now, if we do not hit the current site I think we are in 2022 for a new decision ready to go on another site; that would be my quick professional judgment on the work that has to be done to inform that decision. Unless, of course, the Assembly chooses not to have certain information to make that decision but I think with the public gaze that is now on major projects, I think there is an enormous amount of pressure facing the planning process to cover all aspects. We have got a far more litigious society as well in terms of third parties and property rights and so that is something new that we now have as well. But just the sheer information that we would need in terms of transport highways, architectural design and layout, how a building would work, how it would not work; there is an awful lot of technical stuff that just we would, as officers, say you really should have this before making a decision. Then, thereafter, once the decision has been made there is procurement and contracts and who are you getting to build it and all of the practical side of the construction project has to happen as well; that takes some time as well? For something this scale it is invariably a long process. Mention has been made of big infrastructure projects in the U.K., the one that I recall is Crossrail, which is now being

built. When I was a trainee temp and my first ever job as a trainee temp and I had the Crossrail document; we were one of the consultees where I was working and that was in 1990. It has taken until 2019 or 2018, 2017 for that to start being built. Major infrastructure does take a long time; I am not advocating that timescale by any means but ...

The Connétable of Grouville:

Overdale is the preferred site, presumably it has all got to be cleared and everything, when would you think the hospital will be finished?

Group Director, Regulation:

If you build on a cleared site, I think the team were saying that the construction period is a lot less. I think the current construction period was 6 or 7 years for the current site, so clearly that could be shaved up but I think it was still 4 years, I believe.

The Connétable of Grouville:

Overdale is not a cleared site, is it?

Group Director, Regulation:

It is not currently a cleared site, no. There are some buildings up there that we still have uses in, William Knott Centre being one, obviously there is the hospital ...

The Connétable of Grouville:

But there are other buildings which you have probably ...

Group Director, Regulation:

There are, there are some other uses up there at the moment in the health estate.

The Connétable of Grouville:

But you could not demolish those buildings until you have got permission to build there, could you?

Group Director, Regulation:

I would not advocate that that would happen, no. I would advocate obviously we would have to find a home for those other uses as well to be decanted out somewhere.

The Connétable of Grouville:

Which you do in the meantime presumably.

Group Director, Regulation:

Yes.

The Connétable of Grouville:

But even then they have still got to be cleared.

The Minister for the Environment:

Can I say, I think a lot of this is speculative? I personally would want to beat that 3 years. I could not accept that politically. I accept that that is the current situation, I am determined to improve on it and ...

The Connétable of Grouville:

You want to change the law.

The Minister for the Environment:

I have asked for the law changes, the law to be looked at, I have. But that idea has recently arisen and I want to check it out because I accept what Mr. Scate says but we have got differences between the Jersey law and mainland, we have third-party appeals; that is a very significant element.

The Connétable of Grouville:

You would do away with that philosophy.

The Minister for the Environment:

There may be ... look, you are drawing me too much.

The Connétable of Grouville:

I am sorry.

The Minister for the Environment:

In the end a law has to get through the States.

The Connétable of Grouville:

Absolutely.

The Minister for the Environment:

My role would be if one did come forward would be, it is like the midwife, to give the States the tools or the proposals in which you consider as to whether it wishes to make the choices and give itself the powers to do so and things, knowing that, potentially, there will be those that would not agree

them. That is the sort of political choice that I think any decent government should be able to take. What you need is work done if stuff comes through to give you those choices.

The Connétable of Grouville:

Specifically for the hospital or for anything.

The Minister for the Environment:

It might well be either.

The Connétable of Grouville:

But that in itself, to pass a law like that is going to take a year.

The Minister for the Environment:

From what I hear this morning, what I understood this morning and from what I heard and this is all very loose, very preliminary, that Queen's Valley was done on a piece of special legislation.

The Connétable of Grouville:

I do not remember.

The Minister for the Environment:

No, I did not know, that is what I have been told.

The Connétable of Grouville:

I was not too young but I was not involved in politics.

The Minister for the Environment:

No. I am not trying to take you off the piste but I think you are right in your analysis of the issue that the States face on 12th February.

[12:30]

My personal view, it would be better if we knew the answers to the issues we have discussed here today or have a clearer view of it before that decision is made on that day because I think that it is quite a significant decision.

Deputy K.G. Pamplin:

I think the best thing ...

The Minister for the Environment:

At the moment you have got a preferred site and I said the planning decision does not rule out that site. There is the options and I think ... I am expecting you will go and talk to the future projects team about what the options are, what they can do, how they can get round it, talk to the planning officers, see how these things can be dealt with. On the other hand, there is the Russell Labey approach and then I think there does need to be this clarity about what the process is to arrive at clarity. To say that I would not be happy with the 3-years' timescale to make a decision is understating it; I think it would be awful. I want to get this decision made in 12 months.

The Connétable of Grouville:

The decision which has been put forward, the favourite other site is Overdale. Why are we looking at this waterfront at the same time to see which is better?

The Minister for the Environment:

I would like to have that discussion. Once I am free and I know where we are going on this individual decision, then I feel, as Minister, I will be able to contribute to that but at the moment I cannot; you must see that.

The Connétable of Grouville:

Yes. But we seem to be going down a road that in a fortnight we will rule out the existing site, Overdale is the favourite one, let us go there but it may not be the best site, it may not be the second-best site, it might be the third-best site.

The Minister for the Environment:

I think you are going to have to talk to Constable Taylor and the Chief Minister about the Overdale thing ...

Deputy K.G. Pamplin:

Just to draw this to a conclusion, what was really fundamentally clear from the C. and A.G.'s report, and also the whole point of this, is it is a hospital, so the driver has got to be health. Is it not curious that the Minister for Health and Social Services has been coming out basically saying exactly what you have just told us about the potential timeline, that is if this law you are talking about or a special law does not come in place; that is the reality? There is going to be a delay, regardless. That is interesting because the Minister for Health and Social Services was so publicly sort of ... public opinion, how dare you come out and say things? I think we are agreed the process of governance and process of site selection has got to be driven by the project need, which is health, which obviously touches all aspects of Islanders' life. But the Minister for Health and Social Services was

quite right, that if this falls away and if these laws do not come in place, there is going to be a significant delay to a spade in the ground ...

The Minister for the Environment:

As the law stands now.

Deputy K.G. Pamplin:

As the law stands.

The Minister for the Environment:

Correct.

Deputy K.G. Pamplin:

That has to be made more clear because we are drawing on false hope and frustrating the public, which causes problems coming forward. At the end of the day we are all in agreement, health is ...

The Minister for the Environment:

There are a lot of assumptions in there. The Council of Ministers is able to take its own decisions in that and I cannot remember, was it the Council of Ministers who brought the previous proposition for this current site? If it was, then it is open to them to come in with another one. The Council of Ministers must be master of their destiny in there, must they not, I would have thought?

Deputy K.G. Pamplin:

Yes, you would think. Again, it is difficult, is it not, because it has played out so publicly over the last few years that at the end of the day we have got to answer to the public, who are frustrated and want a hospital delivered because we know that the complexity of the healthcare system at the moment is also struggling at resource ... I sit on a Health Scrutiny Panel and quite happy to sit here and say that but we need to get these things right because with an elderly population ...

The Minister for the Environment:

I think getting it right is important and we have had 2 schemes which are plainly not right.

Deputy K.G. Pamplin:

We have to be honest with the public, do we not, to say we have to get this right? To get that right, unless the law changes and we can convince people that is right because the consequences for the future hospital and, as the Constable has reminded us, is going to be a significant cost to the general hospital over the next few years to keep it going; it is fundamentally clear.

The Minister for the Environment:

I think that is inevitable and we should do, we should maintain the existing hospital. I think we have got to get this right but it does not mean perfect, it means get it right at the beginning and I think what we have not been able to do is to do that. Of course, the other point, I think I will flag up in the inspector's report before we close, is that people did in their representations raise the issue of future expansibility. He says he accepts the project team's advice that there is in-built expansibility but he notes, as a matter of record, that he considers there is no flexibility in the scheme that we have dealt with there to do that and there is a risk of having to respond to change, population needs and all sorts of things. Again, that is an extra element and in terms of getting it right that I think it should be included in Members' thinking. He puts that as of note in his report.

Deputy K.G. Pamplin:

I am glad you raised that because for me, as a particular personal ambition, mental health is a passion of mine and in our Health and Social Services Scrutiny Panel we have just done a very intensive mental health review based on the mental health strategy, which, unfortunately, we wanted to get in place before we had to deal with the hospital because there are some implications in place. But one of the very obvious situations is the provision for mental health, that all of a sudden in March, before the elections, the previous Minister for Health and Social Services appeared at Overdale suddenly to say that the mental health complex is here. It is very obvious but I think in the terms of expansion that is where the issue is coming from, have the mental health facility as close to the General Hospital but separate enough because they need to be separate. But then there is a third place for people because they are in transition getting back into everyday life.

The Minister for the Environment:

I think the other thing to bear in mind is I remember looking back in the evidence there, the early site assessment work appears to be done around, if I am right, 2013, something like that. We are already, what, 5 or 6 years old? I think you made that point, did you not, Chairman, a minute ago?

Deputy K.G. Pamplin:

Yes. Okay, unless you have got anything else to add from anything else.

The Minister for the Environment:

No, but I want just to be clear, I am not happy to just accept the fact that there is a 3-year delay. I accept the fact that that is a consequence as a result of current systems. I want to find a way through that and I believe other States Members will too.

The Connétable of Grouville:

Will it not take you a year to do that? There is some major law change to the planning law.

The Minister for the Environment:

I think you are prejudging. At the moment it would certainly take ... put it this way, I have seen how in the Brexit period we have been able to get laws and start litigation together within months, a huge swathe of it.

The Connétable of Grouville:

We do not even know what that law is going to look like yet.

The Minister for the Environment:

Yes, but then that is the work I want done.

The Connétable of Grouville:

But serious, that work, it is quite complicated. For example, if you had changed the law and the existing site had been chosen and you had a law that gave you sort of supremacy over the Island Plan because you are putting in a hospital, you could knock the old building down because that would be allowed. Because you would say: "We need that space", it would make the site plenty big enough.

The Minister for the Environment:

I accept what you are saying, you are drawing a fairly valid issue but ...

The Connétable of Grouville:

You can see where I am coming from.

The Minister for the Environment:

The work needs to be done. Of course, I do, yes, it needs to be ...

The Connétable of Grouville:

Yes, so if we change the law it is not going to be done by August.

The Minister for the Environment:

One of the things that made me think, Guernsey needed to get through a decision on a runway extension, which the island considered necessary; that was a major project for Guernsey and it was very controversial, that is an example.

Deputy K.G. Pamplin:

Just to be clear, so when the date falls away after where an appeal could happen on your decision, would you then be then finally able to advise the Chief Minister and the Council of Ministers all of what you are telling us?

The Minister for the Environment:

I believe so, unless the officers told me that I am stymied again with any rules. Once the decision is made ...

Group Director, Regulation:

You will not have a live planning application before you say you can talk about policy and talk about the planning policy and laws and things like that, yes.

Deputy K.G. Pamplin:

You cannot do it now, even though it is getting very public again before any decision ...

The Minister for the Environment:

I know, it is immensely frustrating. You can imagine how I feel about that and of course I am facing questions on Tuesday.

Deputy K.G. Pamplin:

Does parliamentary privilege come into play here on Tuesday? It could come out in the Assembly that ...

The Minister for the Environment:

My advice at this meeting is that we are already under privilege here.

Deputy K.G. Pamplin:

Of course, yes.

The Minister for the Environment:

If it comes out in the Assembly it comes out. I think that is a matter of political judgment, Chairman, is it not?

Deputy K.G. Pamplin:

Yes, of course.

The Minister for the Environment:

What I get asked.

The Connétable of Grouville:

You can refuse a question if it is on ...

The Minister for the Environment:

No, I am not going to do that; that is not my personal approach.

The Connétable of Grouville:

No, you try to answer questions but sometimes you cannot.

The Minister for the Environment:

I do.

Deputy K.G. Pamplin:

You have got questions without notice on Tuesday, have you not?

The Minister for the Environment:

I have.

The Connétable of Grouville:

Better start writing them down.

The Minister for the Environment:

You have got to bear in mind that my answers are limited to 90 seconds, unlike some Members ...

The Connétable of Grouville:

That will be a first.

The Minister for the Environment:

... who like to expand at length. If you are asking me, say, what is the solution to the hospital and I have got 90 seconds?

Deputy K.G. Pamplin:

But you could perceivably now, because of last night's Channel Television very public airing, it could be any number of Members who have got an understanding of law and planning and process. Anybody could stand up and say: "Minister for the Environment, could you advise Constable Taylor, who went on national television, to say this?" Then you could be in that place ...

The Minister for the Environment:

You might ask him yourself, Chairman.

Deputy K.G. Pamplin:

I might, I have got a whole load of other questions to get through. No, anyway I think we will draw it there. But, again, just to really ...

The Minister for the Environment:

I presume you could put an urgent question, not prompting you.

Deputy K.G. Pamplin:

Yes, could do.

The Minister for the Environment:

Could you not?

Deputy K.G. Pamplin:

Yes. I did for the Chief Minister in fact when I asked him about what he feels should happen, then he stood up and based it on the decision coming back to the Assembly, based on what the former Chief Minister said in the hustings in St. Lawrence, so anything is possible, as I am learning every day.

The Minister for the Environment:

An interesting session on Tuesday.

Deputy K.G. Pamplin:

It could well be.

The Minister for the Environment:

Anyway, thank you for your time.

Deputy K.G. Pamplin:

No, thank you. Just to reiterate, I think finally, that this will remain confidential, bearing the process, until after the date.

The Minister for the Environment:

Okay, thank you for that, thank you for that.

Deputy K.G. Pamplin:

Which we will discuss again and we will see if the Minister for Infrastructure stands on his feet in response to my question, to categorically rule out an appeal process, could be fun.

The Minister for the Environment:

Yes, that will enable me to function properly, will it not?

Group Director, Regulation:

Yes, and your job is then done, you have no ...

The Minister for the Environment:

Of course, even more, my job on a decision is done already, is it not? It is just that if it goes in appeal because it cannot be reopened, that is the advice I have had.

Group Director, Regulation:

The likelihood is that I would doubt there will be appeal with all those statements that have now been made over the last 2 days and I think the likelihood of the Minister for Infrastructure appealing is very low.

Deputy K.G. Pamplin:

As you pointed out, we want to finally, before we reveal this Scrutiny report, touch base with the Future Hospital team because I think that is a matter of courtesy, if they are still all in place and that is what we also need to discover.

The Minister for the Environment:

If they are what, sorry?

Deputy K.G. Pamplin:

If they are still in place because political whispering is, and now everything gets played out in the media. There was talk yesterday on the media about certain members of that project disappearing. We have to be really careful and really responsible for people's livelihoods today. It is a small Island and we have to do the right thing by everybody, regardless of what is going on and ...

Group Director, Regulation:

It will be a dynamic no doubt that the project team will say in terms of whatever we do, wherever that is, we will still need to procure advice and have the team bolstered and there will be a process to then try and attract new experts to come and deliver things for us; that certainly is a live issue. I

cannot see how successful that will be or otherwise but we will need to go through that process again.

The Minister for the Environment:

One bit of philosophy, if I might just extemporise a bit, in my experience with major projects, and I have had some in running them, is that money spent in planning, pre-planning before you start doing work on site, is always cost-advantageous because making changes en route on the project is dreadful. At the moment it seems a painful process to have to invest upfront on projects and having done the planning application where it cost me, I think, £10,000 for building fees and what have you and stuff for a tiddly little extension ...

The Connétable of Grouville:

That sort of goes against your fast-tracking idea.

The Minister for the Environment:

Yes, but I am talking about this is John Young who is a private individual but looking after my personal interests.

The Connétable of Grouville:

No, but you are saying: "Let us change the law to fast-track something." But the planning process is really important and does take time and that is the ...

The Minister for the Environment:

The judgment has to be made, as well as to whether that operates at a high level or a low level. I think the question is that you will always need detailed planning applications to look at the detail to make sure that the designs and all that; that is as sound as it could be. But I think I am talking principles and big picture stuff here; that is the challenge that is in my mind that I want to explore and that, I think, is the issue that is before us on this project.

Deputy K.G. Pamplin:

Indeed, good stuff. All right, we will call it there.

The Minister for the Environment:

Okay.

Deputy K.G. Pamplin:

Thank you, everybody.

[12:44]