



X
2011

BILLET D'ÉTAT

WEDNESDAY, 25th MAY, 2011

PUBLIC SERVICES DEPARTMENT –
GUERNSEY AIRPORT –
PAVEMENTS REHABILITATION
PROJECT

B I L L E T D ' É T A T

TO THE MEMBERS OF THE STATES OF THE ISLAND OF GUERNSEY

I have the honour to inform you that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE, on WEDNESDAY, the 25th May, 2011** at 9.30am, immediately after the meeting already convened for that day, to consider the items contained in this Billet d'État which have been submitted for debate.

G. R. ROWLAND
Bailiff and Presiding Officer

The Royal Court House
Guernsey
13 May 2011

PUBLIC SERVICES DEPARTMENT

GUERNSEY AIRPORT - PAVEMENTS REHABILITATION PROJECT

The Chief Minister
 Policy Council
 Sir Charles Frossard House
 La Charroterie
 St Peter Port

6 May 2011

Dear Sir

1. Executive Summary

- 1.1. This States Report seeks an essential decision on the compulsory acquisition of two small parcels of land, belonging to two landowners, to enable the planning application for the Airport Pavements Rehabilitation project to be submitted. This land is required for airport approach lights to be reconfigured to accommodate the move of the runway threshold to the west.
- 1.2. The Public Services Department considers that it is now urgent and expedient for the States to compulsorily acquire these parcels of land. It is expedient because without these acquisitions the improvements at Guernsey Airport are not able to proceed. It is urgent because delays to the project could potentially add significantly to the cost of these works.

2. Background

- 2.1. At its meeting in September 2009, the States of Deliberation considered a report from the Public Services Department entitled “Guernsey Airport – Pavements Rehabilitation” (Billet D’Etat XXIV, 2009).
- 2.2. As a result the States agreed to proceed with essential works at Guernsey Airport. This involves works to the runway, taxiways, apron (aircraft parking area), lighting, drainage and, importantly, extending the runway end safety areas (RESAs) at each end of the runway to comply with international aviation standards.
- 2.3. In reaching a decision the States was presented with a number of options. The decision was made to select Option C. This was broadly similar to a number of the other options but varied in respect of the RESAs.

- 2.4. At its meeting in February 2011, the States of Deliberation considered a further report from the Public Services Department and agreed to the permanent closure of La Mare Road and to the compulsory purchase of a field required to accommodate the new RESA at the western end.

3. Introduction

- 3.1. Under the planned maintenance and improvements, the current runway threshold will move approximately 120 metres to the west, therefore the approach lights at both the eastern and western end also need to move from their current positions, as they are positioned relative to the threshold position.
- 3.2. These approach lights provide an essential visual aid for pilots to locate and align with the runway when coming in to land, and are therefore vital to the airport's operation.
- 3.3. Accordingly, in July 2010 the Public Services Department contacted landowners to the east and west of the airport to advise them that lighting masts would need to be positioned or repositioned on their land.
- 3.4. Further communications have been sent since July 2010 and consultation has taken place with those landowners requesting meetings and clarifications. Subsequently, the landowners were asked to give their consent to a planning application being made by the Department which included lights on their land. Understandably a number wished to await the outcome of the debate earlier this year to confirm that the States was committed to continuing with Option C before giving their consent.
- 3.5. Had the States not agreed that course of action, the Department would also have been faced with returning to the States with an alternative design that could have meant different positioning of the runway approach lights, specifically if the position of the runway threshold had moved.
- 3.6. It would therefore have been premature for the Department to address the potential need for further compulsory purchase in its earlier report, before owners had received confirmation that the States remained committed to Option C and before the required positions of the approach lights could be confirmed.
- 3.7. Immediately after the States affirmed that Option C remained the optimum design, and agreed to the permanent closure of La Mare Road and the compulsory purchase of the field, the Department continued its dialogue with landowners both to the east and west of the airport to obtain their agreement to a planning application being submitted.
- 3.8. Thirteen landowners have already given their consent to the submission of this application, including all those to the east of the airfield. The remaining two, who currently both have wayleave agreements with the States for existing lights on their property, are at the western end.

4. Wayleaves

- 4.1. Landowners were first contacted by letter in July 2010 about the requirement to site approach lighting masts on their land and the need to agree a wayleave for this purpose.
- 4.2. Due to the constraints of the timeframe associated with the planning application for the project, in February 2011 the Department wrote to those landowners who had not already granted a wayleave to request their consent to the formal planning application being submitted. It was stressed in this correspondence that consenting to the planning application would not commit them to granting a wayleave, or agreeing any particular amount by way of wayleave or compensation payment, but would allow the due process of the planning requirements to continue while negotiations with them were finalised.
- 4.3. Wayleave arrangements are not governed by any specific legislation. However in this case negotiations with landowners have been based on a combination of the annual wayleave payments together with an offer of compensation governed by the principles set out in the Compulsory Acquisition of Land (Guernsey) Law 1949. This is because it was considered that if agreement could not be reached with a landowner, the only basis for proceeding and establishing a fair value would be compulsory acquisition and compensation would be payable on the provisions of that Law.
- 4.4. Since the Department wishes to reach a negotiated agreement, it has improved the amounts of annual wayleave payments which, when compared to existing arrangements, will result in increased payments to landowners. On the matter of compensation, the Department has proposed to landowners options in respect of the mechanisms that could be adopted, in each case using an independent surveyor to ascertain the sums involved, thus hoping to avoid any need for compulsory acquisition. Any compensation would take account of loss of use of the land, the depreciation in value of the retained land affected by lights, any disturbance associated with the location of lights, and any loss of earnings and goodwill.
- 4.5. If a wayleave is granted, the States would only need to rent the area required for the light columns and obtain right-of-way access to reach and maintain the lights, but under compulsory purchase would need to acquire both the lighting positions and any related land required for access path and cable ducts. The Department would propose to acquire the minimum area of land possible to site the approach lights and to obtain independent access.
- 4.6. Although the Department is seeking to compulsorily acquire the minimum areas of land, it recognises that this could leave the landowners with some odd shaped plots. If an owner finds this situation unsatisfactory, the Department would be prepared to buy the surrounding land, i.e. the remainder of the field. Alternatively, if landowners wish to retain the surrounding land, the Department will negotiate the grant of fair and reasonable access.

- 4.7. The required parcels of land are not part of the airport's restricted zone so can still be used for agriculture, animal grazing, etc. The only fencing to be installed would be around the lights themselves, if necessary, and the great majority of the areas would still be available for agricultural or other use. The Department has undertaken to ensure that any cables will be buried deep enough to allow the continued use of the land above. If the current owners wish to use any land compulsorily purchased, the Department would be very open to discussing this possibility with them.

5. Timescales

- 5.1. In the interests of the wellbeing of the Island the Airport Rehabilitation Project must proceed. The essential remedial works involved in this project are well overdue in a number of areas, from the condition of the runway surface to the existing airfield ground lighting. Further delays in starting on site will heighten the risk of a failure in the infrastructure which would seriously and adversely impact airport operations. The project cannot however proceed until two things occur. Namely, the States make a decision to award the contract and planning approval is granted.
- 5.2. It is expected that the States will be asked in July 2011 to award the contract, subject to planning consent being granted. The problem now facing the Public Services Department and the States is that under the planning rules the necessary application for the Environment Department to consider cannot be submitted without the consent of all the relevant landowners.
- 5.3. In the absence of such consents there can be no progress made with the project unless the States acquires whatever parcels of land are required to install and maintain the lights or the landowners concerned change their minds.
- 5.4. The Department seeks States approval for these compulsory acquisitions, as all efforts to negotiate with these landowners have proven unsuccessful and the Department is therefore left with no other option. The progress of this project is such that this issue has to be resolved as a matter of urgency, allowing the formal planning application to be submitted as soon as possible.

6. Planning Application - Timeframe

- 6.1. Under States rules, the contract for the works cannot be signed until planning approval is received. The Environment Department has previously indicated that it will require up to seventeen weeks to consider the application, which means that even if it were submitted now, the earliest a decision could be expected would be the end of September 2011.

- 6.2. The current fixed price from the Department's preferred contractor, Lagan Construction, expires on 31st October 2011. After that date, the Public Services Department will have to renegotiate the tender sum to reflect construction price inflation. Furthermore, depending on the delay and the extent to which there may be any price change a retendering process might be required leading to further delay to these urgent and essential works and increased costs in abortive patching and repairing of the existing surfaces.
- 6.3. Due to the tight timeframe, the Department recommends that the planning application should be submitted for consideration by the end of May 2011, to increase the likelihood of obtaining planning approval while the tender is still valid, and therefore reduce the risk of additional costs being incurred should the tender need to be renegotiated.
- 6.4. Early discussions in relation to the possibility of tender renegotiation have already taken place with the preferred contractor and have indicated that an extension to the tender validity period of 3 months would cost an additional £2.1m in terms of market increases in bitumen, fuel, cement, and more general building inflation.

7. Land Parcels Required by Compulsory Purchase

- 7.1. The Civil Aviation Authority (CAA) publication CAP168 outlines the standards against which aerodromes are audited and licensed, including the positioning of airfield approach lights.
- 7.2. In considering the potential requirement for compulsory acquisition, the Project Board investigated the possibility of having fewer lights. The Department has sought an exemption from the CAA regarding three lights at the westernmost end of the lighting array. These would be required to achieve a fully compliant lighting configuration, but involve an additional two landowners who do not currently have lights installed on their properties and who had also indicated that they were not in favour of giving the consents required. On further assessment the lights at this outermost point would be useful to aviators but are not considered to be essential. The Director of Civil Aviation and the CAA have indicated that an exemption to exclude these outer three lights will be permitted. However the remainder (i.e. including the two land parcels which are the subject of this report) are essential, otherwise the airport would face operating restrictions, when compared to the existing arrangement of airfield lighting.
- 7.3. Plans are attached at Appendix A showing the locations of the approach lights on the two parcels of land required (land parcels A and B). Appendix B gives details of land parcels A and B which the Department requires to make the planning application.

- 7.4. If the land parcels detailed in Appendix B are not acquired, the airport will face operating restrictions once the reconfigured runway layout becomes operational. In order to implement Option C as approved by the Resolution of the States on 2nd October 2009 and endorsed by the States on 23rd February 2011, it is therefore expedient for the States to compulsorily acquire these land parcels.
- 7.5. This report therefore asks the States to effect the compulsory purchase of the land parcels as marked on the plan in Appendix A and described in Appendix B.

8. Compulsory Acquisition Legislation

- 8.1. The legislation which currently applies to this proposal is the 1949 Law as amended in 1955. Further to the States Resolution in 2009 (Billet d'État XVI, June 2009), amendments to this law were recently approved by the States in April of last year (The Compulsory Acquisition of Land (Guernsey) (Amendment) Law, 2010, Billet d'État IX, April 2010) but the amended law is awaiting approval of the Privy Council and is therefore not yet in force.
- 8.2. It is anticipated that the revised legislation will not be registered and come into effect until summer 2011 at the earliest. The approach adopted by the Department to the proposed acquisition of Land Parcels A and B has been to comply (and will be to continue to comply) with the provisions of the 1949 Law but also to, where possible, follow the 2010 Amendments, so as to incorporate additional safeguards provided by the Amendments.
- 8.3. For land to be acquired compulsorily by the States, Section 1 of the 1949 Law states that it "must be satisfied that it is expedient for the carrying out of any public purpose", in this case the safe operation of the airport.
- 8.4. The Department considers that it is expedient that Land Parcels A and B be vested in the States for the carrying out of a public purpose, namely to enable the provision of the required approach light masts for Guernsey Airport.
- 8.5. As previously discussed, these land parcels are required to site approach lights which provide an essential visual aid for pilots to locate and align with the runway when on final approach, and are therefore vital to the airport's operation. The acquisition of the land parcels will also allow the approach lighting to be accessed for essential maintenance.
- 8.6. Although the 1949 Law only requires that the test for acquisition of the land is one of 'expediency', in this case the Department also considers that it is 'essential' to the carrying out of the works and to comply as far as possible with the CAA requirements as well as enabling the airport to maintain its current operational status.
- 8.7. Representatives of St James' Chambers have been consulted in the drafting of this report.

9. Future Need for Further Compulsory Purchase

- 9.1. Although consent to the submission of a planning application has been received from thirteen landowners for approach lights to be sited on their land, there is a possibility that, at a later stage in the project, any one of these landowners who has not already signed a wayleave agreement could refuse to permit the States a wayleave over their land. Should this be the case, a further application to the States for compulsory purchase for either one or several land parcels might be required. It is clearly hoped that this will not be the case.

10. Budget

- 10.1. The costs of the compulsory purchases of Land Parcels A and B will be charged to the Airport Pavements Project capital vote.

11. Summary

- 11.1. In order to progress this essential project the Department needs the States to decide whether it is prepared to compulsorily acquire Land Parcels A and B to the west of the airfield.
- 11.2. The necessary planning application for the entire project needs to be submitted to the Environment Department at the earliest possible opportunity. It is important that works start on site as soon as practicable to ensure the condition of the Airport infrastructure does not deteriorate further. The hope is that planning permission might be secured by the end of October as this is the target date by which works should start and is also when the current tender prices (submitted by Contractors in October 2010) expire. The expiry of the tender would most likely mean that the States will have to negotiate a revised price with tenderers to reflect any increase in construction inflation.
- 11.3. The Department is therefore asking the States to proceed with the compulsory acquisition of Land Parcels A and B.

12. Recommendations

The States are therefore asked to resolve:

1. (1) That it is expedient for the carrying out of a public purpose, namely the provision for Guernsey Airport of airfield approach lighting, as described in the report dated 6th May, 2011, that there should be owned by the States:
 - (a) an area of land, "Parcel A", measuring approximately 1.21 verges at Les Rondiaux with Cadastre Reference F012190000, belonging to Mr M R Pinder and shown edged in red on a map dated May 2011 signed by the Deputy Bailiff and deposited at the Greffe and a copy of which has been exhibited in the vestibule of the Royal Court; and

(b) an area of land, "Parcel B", measuring approximately 0.30 plus 0.10 verges at Route de Plaisance with Cadastre Reference F000210000, belonging to Mrs M E Le Noury and shown edged in red on a map dated May 2011 signed by the Deputy Bailiff and deposited at the Greffe and a copy of which has been exhibited in the vestibule of the Royal Court; and

1. (2) In pursuance of the provisions of section 1 of the Compulsory Acquisition of Land (Guernsey) Law, 1949, as amended, to declare that land to be vested in the States by virtue of and in accordance with the provisions of that Law.

APPENDIX B – DETAILS OF LAND PARCELS

Land Parcel A	
Cadastre Number	F012190000
Address	Les Rondiaux
Location	Part of a field, west of airfield
Size	Approximately 1.21 vergées
Ownership	Mr M R Pinder
Relevant Section of Law	Section 1 of the 1949 Law

Land Parcel B	
Cadastre Number	F000210000
Address	Kingsley, Route de Plaisance
Location	Two areas of land forming part of a field, west of the airfield
Size	Approximately 0.30 plus 0.10 vergées
Ownership	Mrs M E Le Noury
Relevant Section of Law	Section 1 of the 1949 Law

(NB The Policy Council supports this Report, in order to ensure that the project proceeds without further significant cost to the States.)

(NB The Treasury and Resources Department, by a majority, support the Report.)

The States are asked to decide:-

.- Whether, after consideration of the Report dated 6 May, 2011, of the Public Services Department, they are of the opinion:-

1. That it is expedient for the carrying out of a public purpose, namely the provision for Guernsey Airport of airfield approach lighting, as described in the report dated 6th May, 2011, that there should be owned by the States:
 - (a) an area of land, "Parcel A", measuring approximately 1.21 vergées at Les Rondiaux with Cadastre Reference F012190000, belonging to Mr M R Pinder and shown edged in red on a map dated May 2011 signed by the Deputy Bailiff and deposited at the Greffe and a copy of which has been exhibited in the vestibule of the Royal Court; and
 - (b) an area of land, "Parcel B", measuring approximately 0.30 plus 0.10 vergées at Route de Plaisance with Cadastre Reference F000210000, belonging to Mrs M E Le Noury and shown edged in red on a map dated May 2011 signed by the Deputy Bailiff and deposited at the Greffe and a copy of which has been exhibited in the vestibule of the Royal Court; and
2. In pursuance of the provisions of section 1 of the Compulsory Acquisition of Land (Guernsey) Law, 1949, as amended, to declare that land to be vested in the States by virtue of and in accordance with the provisions of that Law.
3. To direct the preparation of such legislation necessary to give effect to their above decision.

**IN THE STATES OF THE ISLAND OF GUERNSEY
ON THE 25TH DAY OF MAY, 2011**

**The States resolved as follows concerning Billet d'État No X
dated 13 May 2011**

PUBLIC SERVICES DEPARTMENT

GUERNSEY AIRPORT – PAVEMENTS REHABILITATION PROJECT

At the instance of the Minister of Public Services, TO GRANT LEAVE TO WITHDRAW
this Article.

S M D ROSS
HER MAJESTY'S DEPUTY GREFFIER