

STATES OF JERSEY



FUTURE HOSPITAL REPORT (S.R.2/2019): RESPONSE OF THE CHIEF MINISTER AND THE MINISTER FOR THE ENVIRONMENT

**Presented to the States on 15th April 2019
by the Chief Minister**

STATES GREFFE

FUTURE HOSPITAL REPORT (S.R.2/2019): RESPONSE OF THE
CHIEF MINISTER AND THE MINISTER FOR THE ENVIRONMENT

Ministerial Response to:	S.R.2/2019
Ministerial Response required by:	22nd March 2019
Review title:	Future Hospital Report
Scrutiny Panel:	Future Hospital Review Panel <i>(S.R.2/2019 was presented on their behalf by the Chairmen's Committee)</i>

INTRODUCTION

The Report of the Panel is welcomed, while retaining the view that its central findings were insufficiently substantiated, namely, that the delivery of the new Hospital could be delayed by 10 years, and that the governance arrangements surrounding the Policy Development Board were poor. As outlined previously, based on all the information received, a new Hospital, whether on the existing site or a new site, can still be completed in the late 2020s, and before 2030. At the same time, improvements in governance can be made, and the observations as to desirable improvements in the planning process are noted.

FINDINGS

	Findings	Comments
1	If the States decides to look for an alternative site for the future Hospital, the indicative timelines we have seen suggest that, it is likely that the new Hospital will be delayed for at least an additional two and a half years compared to the timetable for the current preferred site. In reality, the delay could be up to 10 years because Islanders will have to wait until the new Hospital opens rather than the phased approach envisioned in the current project. This would start to see services come online in 2022 as opposed to 2028. This delay is likely to be exacerbated by undertaking a new site selection process and then any required due diligence on a new preferred site. All these dates – including for the current preferred site – are now likely to be pushed back by at least 6 months as a result of the recent decision to refuse planning permission on the current preferred site.	<p>The most recent scheme which was refused planning permission, in January 2019, was scheduled to be completed by the end of 2027. However, following the most recent refusal of the application, the completion date for that scheme would have been later. With regard to the new project, the time and cost of site selection will depend on specifications, length of short-list, and depth of analysis.</p> <p>In saying this, the staging should also not be forgotten, in so far as the existing site was designed to deliver some operational areas before full completion.</p> <p>Nevertheless, based on all the information received, a new Hospital, whether on the existing site or a new site, can still be completed in the late 2020s, and before 2030.</p>

	Findings	Comments
2	<p>There are clear risks and benefits to both continuing with the preferred site and looking for an alternative site. The clinical risks, highlighted by the Managing Director of the Hospital, associated with keeping the current Hospital open for another 10 years are very serious. They include the ability to manage and prevent the spread of hospital-acquired infections. They should not be ignored or lightly discounted by States Members</p>	<p>The States have now debated and supported the proposition to rescind Gloucester Street as the preferred site. There are works that need undertaking on the Hospital, and which would have needed to be undertaken in any event, while accepting that the preferred scheme would have been delivered in stages. A prioritised, risk-based programme of works is being developed by the Health and Community Services estates team, and funding will be sourced as part of the 2020–2023 Government Plan.</p>
3	<p>It is highly likely that choosing to look for an alternative site will increase the cost of the future Hospital project. These costs would arise, for example, from writing off some of the previous costs associated with the current project, costs associated with finding a new site, inflation, and not realising the full benefits of maintenance and improvement works carried out on the existing site.</p>	<p>Care should be taken with drawing conclusions about the costs of the project, including spend to date. The new Council of Ministers has outlined its approach to this project, which includes a thorough examination of the best way to deliver the best Hospital for Jersey, and in advance, prior to finalising specification and location, it would be premature to draw conclusions.</p>
4	<p>The Chief Minister has indicated that he would speed up the site selection process should the States decided to look for an alternative site. He provided no evidence as to how he could achieve this. It is generally agreed that some of the contention around the current site has resulted from perceived failures in the previous site selection process. If the States decide to look for an alternative site, it is imperative that the new site selection process is, and is seen to be, evidence-based and complies with best practice procedures. The process of tending for a new site selection project needs to be sound and regulated properly.</p>	<p>The site selection process for the new site will be evidence-based, with much greater participation of States Members, staff, and the Public.</p> <p>As outlined above, the scheme which was recently refused planning permission was scheduled to be completed by the end of 2027, and following the refusal of the application, this end date would have been later. With regard to the new project, the time and cost of site selection will depend on specifications, length of shortlist, and depth of analysis. A detailed timetable will be developed, once the meetings with States Members are concluded, and as part of a wider and fuller examination as to how we can deliver a Hospital suited to our needs, in the right location.</p>
5	<p>The Comptroller and Auditor General (C&AG) has highlighted that political leadership is vital for major projects. Prior to the May 2018 General Election, the future hospital project was overseen by a Political Oversight Group. Following the election, these arrangements have not been put in place. In fact, political oversight has</p>	<p>One of the earliest actions of this new Government was to establish a Policy Development Board to examine the evidence surrounding the decision of the previous Assembly to approve the existing site. This shows the priority placed on this project. On completion of the work of the Policy Development Board in November 2018, the</p>

	Findings	Comments
	become more complex and confused as a result of the establishment of the Policy Development Board. It was a serious failure not to have established a Political Oversight Group for this major infrastructure project as soon as possible after the Council of Ministers was established after the election.	terms of reference for a political oversight group were developed, and the Group started meeting in shadow form in January 2019, pending the planning application decision and the results of the rescindment debate. Now the rescindment debate has been concluded, and we have concluded the initial work with States Members, it is reasonable to formally establish the Political Oversight Group. In saying this, political responsibility for the delivery of the new Hospital rests with the Minister for Infrastructure and, ultimately, the Council of Ministers, who have discussed the project with a view to delivering a new Hospital in the right location, as cost-effectively and as quickly as possible.
6	The case for establishing a Policy Development Board to look at the future Hospital project is sound in principle. The Chief Minister is correct in identifying that the location of the current site is contentious among some people. There are merits to relooking at how the States Assembly arrived at the decision to locate the Hospital on the current site.	Noted.
7	We are very concerned that a significant proportion of the membership of the Policy Development Board was biased, from the outset, against the current proposals to locate the future Hospital on the current site.	It is clear that some members of the Board have a clear, and sometimes strong, view on the appropriate location of the new Hospital, both for and against the proposed site. However, so do many, if not most, States Members. The first meeting of the Board asked for these matters to be disclosed and noted for the record, and minutes were published in the interests of transparency.
8	The original aim of Policy Development Boards was to support policy development. The Board looking at the Hospital choose to review the evidential basis of past decision-making. We believe that this backwards looking work is something that is better suited to Scrutiny. Having this work undertaken by Scrutiny would be less confusing for the public. This served to blur the lines between the Executive and Scrutiny. We are disappointed that the Chief Minister has not made more effort to address our concerns.	The Board was established to inform the Chief Minister and Council of Ministers on the Hospital project, including current attitudes of staff.

	Findings	Comments
9	We are troubled that there appear to be two competing accounts of how the Policy Development Board viewed its task.	The Minister for Health and Social Services issued a ‘minority report’, which is a matter of record. The Chairman of the Board does not agree with the findings of the minority report, including as to governance, while respecting the views of the Minister, and noting that learning exists and improvements can be made.
10	We have serious concerns about the quality and robustness of the Policy Development Board’s governance arrangements. We are not satisfied that the governance processes and procedures were good enough for a Government-led group of politicians.	The Hospital Board was the first Policy Development Board created – and in many ways, it applied a very high standard, notably in relation to transparency by publishing its minutes. As to any governance deficiencies, the Chairman of the Board does not accept the assertion, either that governance was weak, or that governance issues undermine the Board’s conclusions – overall, the Board maintained an open mind as to who could provide it with evidence, and wished to capture a wide range of options.
11	We note that the 22% response rate to the Policy Development Board’s staff survey was low. While 82% of respondents said that the Hospital should be built on an alternative site, there was no consensus on where it should go.	The Board’s report noted the findings of the staff survey. Although based on a low response rate, the Board concluded that the results were, nonetheless, very clear and sound.
12	While it is very important that clinicians’ views on the future Hospital are taken into account, we feel that their use by the Policy Development Board and others has been unhelpful and divisive to the overall debate around the future Hospital.	The Board stands by its decision to engage staff, whether consultants or other medical or non-medical staff.
13	In our view, the poor governance arrangements associated with the Policy Development Board serve to undermine the Board’s final report and significantly weakened its findings and recommendations.	As Chief Minister, I am content with the work undertaken by the Board.
14	The Policy Development Board was originally set up to review the evidential basis of past decision-making in relation to the future Hospital site. It has extended beyond its original terms of reference by exploring alternative site selection scenarios.	The work of the Board was consistent with its terms of reference, which included the extent to which evidence supported the conclusion that alternative sites were less suitable or deliverable, and opportunity for external parties to provide evidence.

	Findings	Comments
15	We note that despite support for rejecting the preferred site and finding an alternative site, the Policy Development Board has acknowledged that the current site could deliver an acute General Hospital facility as approved by the States.	Noted.
16	The group of individuals we met to discuss the future Hospital were credible, had strongly held concerns about the preferred site for the future Hospital and were seeking to find an alternative solution. However, the governance arrangements around their proposal for us to undertake a feasibility study of alternative hospital sites was totally unacceptable to a Scrutiny Panel.	Noted – this is a matter for the Panel concerning their work.
17	We are very surprised to see reports in the media of the Assistant Chief Minister supporting Overdale as a new preferred site for the future Hospital prior to a new site feasibility study being undertaken.	Connétable C.H. Taylor of St. John has his own personal views on the location of the Hospital site, which he has declared. This is understandable, given his extensive knowledge as a result of considerable work in this area, including as Chairman of the Policy Development Board – but these are not the confirmed policy of the Government.
18	We do not think that media reports which suggested that a future Hospital could be built in Jersey for between £90 million and £250 million are credible. Previous site option appraisals, carried out by specialist construction consultants in 2015, estimated capital costs of building a new Hospital at a range of sites in Jersey at over £400 million.	We do not think it appropriate to comment on the content or accuracy of any media reports as part of any response to a Scrutiny Report.
19	While the Planning Inspector recommended that the Minister for the Environment reject the planning application in planning terms, he invited the Minister to consider whether there was sufficient justification to accept the application in light of the benefits that would be provided by a new Hospital. The Minister decided that there was not sufficient justification.	In making his decision to refuse the second planning application at the Gloucester Street site (see: Public Inquiry Decision PP/2018/0507 – New General Hospital) the Minister for the Environment was clear that the Inspector had weighed up the negative and positive aspects of the proposal in coming to his recommendation, and the Inspector stated that to make a decision in the public interest, which is inconsistent with the Island Plan, would be a political one. The Minister considered that the serious impacts of the proposed development on the residential amenity of its neighbours, the

	Findings	Comments
		<p>general townscape, and on heritage assets were unacceptable, particularly as the Inspector indicated that alternative sites were available. For this application, the Minister was unable to conclude that there existed an overriding public interest benefit which provides sufficient justification for making a decision which is inconsistent with the Island Plan. Additionally, the Minister considered that there was no reliable evidence of the length of delay involved, were the States of Jersey to consider alternative options.</p> <p>The Minister also accepted the Inspector's conclusion that the Gloucester Street site remains a sustainable location for a new Hospital in broad spatial terms.</p>
20	<p>The Planning Law requires that the Minister for the Environment should make the final decision on a planning application. The Minister is able to receive advice from Officials – who in this instance recommended that the Minister accept the application – but not to consult with other ministerial colleagues. We believe that this situation is unacceptable in this context. The decision to reject the planning application for the future hospital was ultimately a political decision. In light of this, the ultimate decision should rest with the States Assembly.</p>	<p>Proposals of the scale and nature of the Future Hospital not only raise planning issues, but also those of a wider political and community interest. In determining planning applications for such proposals it is, therefore, difficult to disentangle pure 'planning' matters from these wider issues of 'public interest'.</p> <p>The Planning Law enables a decision-maker to weigh the adverse planning implications of a particular development proposal, which might challenge the provisions of the Island Plan, against its 'public interest', and to approve it where there is considered to be 'sufficient justification to do so. What constitutes a sufficient justification for overriding the Plan's provisions is not, however, currently defined.</p> <p>In order to address these challenges, the Minister for the Environment proposes to –</p> <ul style="list-style-type: none"> • develop and adopt supplementary planning guidance which will set out a clear framework of 'planning' and 'non-planning' principles against which any prospective Future Hospital proposal should be developed and tested. This will include a requirement to demonstrate, amongst other things, extensive community involvement, and will provide greater assurance that any such proposal has been robustly and rigorously developed, and that matters of wider public interest have been taken

	Findings	Comments
		<p>into account and considered by the Public before a planning application is made;</p> <ul style="list-style-type: none"> • explore how legislation might be amended so that the States Assembly could be asked to consider the public interest of a specific scheme, where it challenges Island Plan policies, before any planning application determination is made; and • explore how legislation might be amended so that the Minister could determine any such application together with the Assistant Minister for the Environment and the Chairman of the Planning Committee. <p>It is considered that, together, these changes would ensure that the development of any future proposal is more open, transparent and participative, having regard to all issues that are of concern to the community, and would provide decision-makers with an ability to test whether a proposal is in the public interest, where it challenges adopted Island Plan polices.</p>
21	<p>We note the Planning Inspector’s comments that in planning terms, there is not one ‘stand out’ alternative site option that would be clearly superior. While there are a number of realistic alternative site options that could physically accommodate the new Hospital, each of the alternatives would come with its own set of significant adverse environmental effects and consequent tensions with the Island Plan. We believe that a mechanism will need to be found to get the future Hospital past the Island Plan. This will need to be done carefully as it could have serious negative implications for other areas of planning.</p>	<p>The purpose of the Island Plan is to provide a planning policy framework against which development proposals can be tested in the ‘best interests of the community’. The Plan is adopted by the Assembly, and there is a legal requirement to have regard to its content in the determination of planning applications.</p> <p>It is, however, acknowledged that any proposal for a new Hospital of the scale required is unlikely to ‘fit’ neatly with the Island Plan’s policy content, i.e. some tension with the Plan and some adverse environmental effects are inevitable.</p> <p>In such circumstances, there is considered to be a need to ensure that –</p> <ul style="list-style-type: none"> • the adverse effects of any subsequent proposal are mitigated or avoided through a rigorous process of development and assessment; or • where they remain, there is a robust mechanism against which they can be weighed relative to the ‘public interest’

	Findings	Comments
		of approving an application. It is believed that the proposals set out at the response to Finding 20 (above), would address this issue.
22	<p>We believe that States Members are presented with two options in relation to proposition P.5/2019, “Future Hospital: rescindment of Gloucester Street as preferred site”:</p> <p>Option 1: If you think that the process leading to the existing site being selected as the preferred site was flawed, and you think that this justifies reopening the question of site selection, you should vote for the proposition. However, you will be voting to delay the future Hospital by at least 10 years as a result.</p> <p>Option 2: Alternatively, if you think that the risks of delaying the future Hospital are too great, then you should vote against the proposition.</p>	<p>Noted.</p> <p>The States have now debated the proposition to rescind Gloucester Street as preferred site, and it was supported by a strong majority, including members of the Panel.</p>

RECOMMENDATIONS

	Recommendations	To	Accept/Reject	Comments	Target date of action/ completion
1	The Council of Ministers should establish a Political Oversight Group for the future Hospital project immediately and publish its membership, terms of reference and reporting lines. The Policy Development Board looking at the Hospital site cannot be considered an oversight group in light of its terms of reference.	CM	Accept	The Oversight Group has met in shadow form, and now the debate on P.5/2019 has concluded, the formal terms of reference establishing the Group are being finalised, learning from the work undertaken with States Members, and the recommendations of the Comptroller and Auditor General.	May 2019
2	The Chief Minister and the President of the Chairmen’s Committee should come to an agreed understanding about the relationship between Policy Development Boards and Scrutiny. The understanding should ensure that Policy	MFE	Accept	One of my policies in seeking office as Chief Minister was to develop and deliver Policy Development Boards so that Government policy-making included more States Members, and lay members at an earlier stage. This is to assist and advise	2019

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
	Development Boards do not compromise the work of Scrutiny.			Ministers in the development of policy. Provided conflicts of interest are properly managed, each Scrutiny Panel should then be well-placed to scrutinise the policy developed and finalised by the Board.	
3	The Planning Law should be reviewed with a view to changing who has the ultimate responsibility for approving or rejecting a major infrastructure project so that it lies with the States Assembly rather than with the Minister for the Environment.	MfE	Partially accept	<p>As outlined above in response to Finding 20:</p> <p>Proposals of the scale and nature of the Future Hospital not only raise planning issues, but also those of a wider political and community interest. In determining planning applications for such proposals it is, therefore, difficult to disentangle pure ‘planning’ matters from these wider issues of ‘public interest’.</p> <p>The Planning Law enables a decision-maker to weigh the adverse planning implications of a particular development proposal which might challenge the provisions of the Island Plan, against its ‘public interest’, and to approve it where there is considered to be ‘sufficient justification to do so. What constitutes a sufficient justification for overriding the Plan’s provisions is not, however, currently defined.</p> <p>In order to address these challenges, the Minister for the Environment proposes to –</p> <ul style="list-style-type: none"> develop and adopt supplementary planning guidance which will set out a clear framework of ‘planning’ and ‘non-planning’ principles against which any future Hospital proposal should be developed and tested. 	June 2019

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
				<p>This will include a requirement to demonstrate, amongst other things, extensive community involvement, and will provide greater assurance that any such proposal has been robustly and rigorously developed, and that matters of wider public interest, have been taken into account and considered by the public before a planning application is made.</p> <ul style="list-style-type: none"> • explore how secondary legislation might be amended so that the States Assembly could be asked to consider the public interest of a specific scheme, where it challenges Island Plan policies, before any planning application determination is made; and • explore how primary legislation might be amended so that the Minister could determine any such application together with the Assistant Minister for the Environment and the Chairman of the Planning Committee. <p>It is considered that, together, these changes would ensure that the development of any future proposal is more open, transparent and participative, having regard to all issues that are of concern to the community, and would provide decision-makers with an ability to test whether a proposal is in the public interest, where it challenges adopted Island Plan policies.</p>	<p>June 2019</p> <p>Q4 2019 Q1 2020</p>

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
4	This report has highlighted how poor, or a lack of, political leadership and political decision-making has led to poor outcomes in relation to the future Hospital. On this basis, the States should not rule out the existing site as a potential site for the future Hospital. If the States decides to reopen the question of site selection, the existing site must be included in the new site selection process.	CM	Noted	The current Council of Ministers did not bring the last planning application, nor did they interfere with it. The governance and delivery of the project needs to significantly improve, including staff, public and political engagement, including around any new site selection process.	N/A

CONCLUSION

The report is a welcome contribution to the overall Hospital debate.

However, the decision of the Assembly to rescind the Gloucester Street site was very clear, and we now need to move forward in a collaborative, constructive and transparent manner, building political consensus so we can deliver a new Hospital for Islanders.