

**APPENDIX 8**  
**MATTERS ARISING FROM THE PLANNING INQUIRY HEARINGS INTO THE DRAFT**  
**ISLAND DEVELOPMENT PLAN – 6<sup>th</sup> OCTOBER 2015 TO 23<sup>rd</sup> OCTOBER 2015 –**  
**SUMMARY REPORT - MARCH 2016**



## **Matters arising from the Planning Inquiry Hearings into the Draft Island Development Plan – 6<sup>th</sup> October 2015 to 23<sup>rd</sup> October 2015**

### **Summary Report, March 2016**

#### **Background**

1. During the first session of the Public Inquiry Hearings into the Draft Island Development Plan, from 6<sup>th</sup> October 2015, various issues were raised by the Planning Inspectors and representors present, across a range of topics, to which the Planning Inspectors asked the Environment Department to provide clarification and, in some cases, a formal response.
2. The Environment Department prepared a report to address the identified issues and to set out the Environment Department response in each case and submitted this to the Planning Inquiry for the Inspectors' consideration on 29<sup>th</sup> October 2015. The submission was published on the Inquiry website and circulated to all those on the mailing list and added to the published Inquiry document Library.
3. Some of the information provided in the Environment Departments' report was to specifically provide updated information to inform the Inquiry Hearing at that time and may not now be accurate. A significant part of the report, contained in an appendix, related to identification of minor and insignificant text changes in the draft Island Development Plan in response to the Inspector's request for the Department to reconsider the value of the use of a particular phrase in the draft Plan. A further matter related to the proposed designation of a particular site which is now more extensively addressed in the Inspectors' report and the Environment Departments response.
4. In view of the above, and in the interests of clarity and relevance, this report has been produced, as a summary of the Environment Departments' report of October 2015. It omits issues intended to update the Inquiry which may now not be accurate, the specific details of each occurrence of text to be deleted from the draft Plan which was included in the appendix and the discussion about a specific site which is now more extensively considered in the Inspectors' report and the Environment Departments' response. All other matters are included. The Environment Departments' full report 'Matters arising from the Planning Inquiry Hearings into the Draft Island Development Plan – 6<sup>th</sup> October 2015 to 23<sup>rd</sup> October 2015' can be found on the States' website at [www.gov.gg/planningpolicy](http://www.gov.gg/planningpolicy).

### **Use of the Phrase 'to the satisfaction of the Environment Department'**

5. At the Planning Inquiry Hearings the Planning Inspector noted that the phrase 'to the satisfaction of the Environment Department' was used at numerous points in the draft Island Development Plan. He asked the Environment Department to consider what is intended by this phrase, what the value of it is and how it contributes to the draft Plan and interpretation of the policies.
6. The Environment Department has revisited the wording of the draft Plan where the phrase 'to the satisfaction of the Environment Department' appears. On further consideration the Environment Department does not consider that the phrase is required to add value or contribute to the interpretation of the Plan policies and now considers the above phrase should be deleted from the Plan and the text amended.
7. The Environment Department would like to draw to the Planning Inspectors attention that, in a very few instances in making the above change, it considers that the words 'adequately demonstrated' will be an appropriate addition where particular information required to be submitted will need to meet a standard to accord with the Plan intentions. Overall the proposed changes in deleting the phrase 'to the satisfaction of the Environment Department' are considered to be insignificant amendments. The Environment Department requests the Planning Inspectors to formally consider these proposed amendments.

### **Agriculture Priority Area**

8. Policies OC7, OC8 (B), OC9, GP15 and IP1, in the draft Island Development Plan include a test that the site is not within (or in the case of OC7 and IP1 within or adjacent to) an Agriculture Priority Area (APA) unless it is demonstrated that the site cannot positively contribute to the commercial agricultural use of an identified APA or cannot practically be used for commercial agricultural use without adverse environmental impacts.
9. During discussion about APA's in the Planning Inquiry Hearings, some representors present, whilst acknowledging that the policies placed the burden on applicants to demonstrate the contribution land could make to commercial agriculture, raised concerns about how the Environment Department would assess submissions to ensure consistency. A concern was also raised that the wording of the policies would leave open the possibility of the Environment Department determining that any land within an APA could potentially be capable of being used for agriculture thereby setting the test too high, making it impractical to achieve. This is certainly not the Environment Departments' intention and it undertook to re-examine the wording of the policies with this

in mind and to clarify the process whereby the contribution of land to commercial agriculture in the APA will be assessed.

10. As highlighted at the hearing the Strategic Land Use Plan (SLUP) requires the protection of the most important, large areas of contiguous agricultural land and other areas well related to established agricultural operations but also requires a balance to be made between the protection of land for agriculture with ensuring land is available to meet other legitimate development requirements. In order to respond to this requirement the APA, whilst not intended to safeguard land for agriculture and thereby giving some flexibility to consider the requirements of other uses, does give, through various Plan policies, a priority to agricultural use within the identified APA where it contributes positively to commercial agriculture in these areas. The policy phrasing requires land to make a positive contribution to commercial agricultural use in the APA.
11. The APA has been identified to encompass the most important, large areas of contiguous agricultural land on the Island and other areas well related to established agricultural holdings in accordance with the SLUP requirements and the Environment Department continues to consider that it is therefore appropriate, in these identified areas, to apply a high test of the contribution land could make to commercial agriculture before considering alternative uses. However, although the test is high it is achievable. The Environment Department therefore considers that the wording of the policies continues to be relevant and appropriate.
12. However, the Department does recognise that the process for assessing the relative contribution land in the APA can make to commercial agriculture needs to be clear and robust to ensure transparency and consistency of approach, both in its consultations with other relevant States Departments but also so that land owners and prospective applicants are aware of the criteria against which an assessment will be made. The Environment Department will, therefore, produce guidance, which it will publish, which will set out what matters will be taken into account when assessing if the land or site can make a positive contribution to the commercial agricultural use of an identified APA.
13. Such matters may include, for example:
  - What the requirements of the agricultural industry are at the time
  - The condition of the land (is it able to be used for agriculture or if not what may be required to make it available for cultivation or grazing)
  - The size of the site/piece of land
  - How the site relates to existing agricultural holdings
  - Access
  - Topography

- Drainage
  - The nature of the proposed use (will the proposed use allow the long-term use of the land for agriculture to remain).
14. The above list is for illustrative purposes and is not intended to be exhaustive.
15. The APA has been broadly drawn and includes areas of land and sites which are not currently used for agriculture and could not be expected to contribute positively to commercial agriculture in the future, including buildings and their curtilages. In recognising the broad-brush approach taken in identifying the APA, the Environment Department would expect to apply a more straightforward assessment of contribution to commercial agriculture where a site or land is not currently used for agriculture and could not reasonably be expected to contribute positively to it, for example, existing dwellings or commercial businesses and their curtilages.

### **Areas of Biodiversity Importance**

#### **The Foreshore (Intertidal area) around Guernsey**

16. The evidence report 'Appraisal of Sites of Special Significance' Gilmour and Hooper, Environment Guernsey, recommended that the intertidal areas around Guernsey (excluding the commercial harbours at St Peter Port, St Sampson and Beaucette Marina and the land reclamation site at Longue Hougue) be designated as a Site of Special Significance in the Island Development Plan. The Environment Department did not bring forward this recommendation for the reasons set out in its written responses to the Initial and Further representations.
17. At the Planning Inquiry Hearings it was requested that the Environment Department consider an alternative designation of Area of Biodiversity Importance for these areas. The Land Planning and Development (Guernsey) Law, 2005 identifies that the planning Law applies to the island of Guernsey, including the foreshore and any land reclaimed from the sea, and all islands, islets and rocks lying adjacent to the island whether or not they are connected at any state of tide to it.
18. The Environment Department would not raise any objection to the designation of Area of Biodiversity Importance being applied to the foreshore and those islands, islets and rocks lying adjacent to the island that fall within the extent of the Planning Law as set out above and which are not already proposed as Sites of Special Significance within the draft Plan, if the Planning Inspectors consider this to be appropriate. However it is considered that the commercial harbours

(St Peter Port, St Sampson and Beaucette Marina) and the land reclamation site at Longue Hougue should be excluded from the designation.

### **Definition of Redundant Glasshouse Sites Outside of the Centres**

19. Paragraph 17.5.3 of the draft Plan provides a definition of a redundant glasshouse site. This is:

*“a glasshouse or glasshouses together with ancillary structures and land where the horticultural operation has ceased and the glass and ancillary structures have fallen out of authorised use. Often the condition of such structures will deteriorate over time through lack of use and management to leave only partial remnants of structures”.*

20. The Environment Department recognises the trend away from commercial horticulture and that this is a declining industry. It also recognises that, in order to address the legacy of redundant glasshouses the Island Development Plan needs to provide a mechanism to allow a managed exit from the industry and it does this through Policy OC7. In reconsidering the wording of the above definition, and the initial representations at the Planning Inquiry, including IR1279, by Mr Plumley, the Department considered that the requirement for glasshouses and ancillary structures to fall out of their authorised use before Policy OC7 is applied could contribute to dereliction and would not be conducive to a managed exit from the commercial horticultural industry. Therefore, through its report ‘Proposed Amendments to the Draft Island Development Plan’ September 2015 the Environment Department has asked the Planning Inspectors to consider a revised definition of a redundant glasshouse site as set out below:

*“a glasshouse or glasshouses together with ancillary structures and land where the horticultural operation has ceased and the glass and ancillary structures are no longer required or capable of being used for their authorised purpose. Often the condition of such structures will deteriorate over time through lack of use and management to leave only partial remnants of structures”.*

21. This makes the wording consistent with that used in Policy GP16(A) Conversion of Redundant Buildings and will allow Policy OC7 to be applied where a glasshouse and ancillary structures are no longer required. However, the Department has noticed that the amended definition still contains the words ‘where the horticultural operation has ceased’ which still runs contrary to the intention of the policy. The Environment Department would therefore formally request that the Planning Inspectors further consider the revised wording for paragraph 17.5.3 of the draft Plan as set out below which will not require horticulture to cease before policy OC7 can be applied providing that the

structures are no longer required or capable of being used for their authorised purpose:

“Redundant Glasshouse Site” means:

*“a glasshouse or glasshouses together with ancillary structures and land where the glass and ancillary structures are no longer required or capable of being used for their authorised purpose. Often the condition of such structures will deteriorate over time through lack of use and management to leave only partial remnants of structures”.*

22. In representation IR1279 and at the Public Inquiry Hearing, Mr Plumley set out that he is concerned that growers still seeking a living from glasshouses would be excluded from seeking development under Policy OC7 and suggests adding to the definition of a redundant glasshouse site ‘and those sites remaining in commercial use’. The purpose of Policy OC7 is to allow those sites where the glass and ancillary structures are no longer required or capable of being used for their authorised purpose to be considered for alternative uses in accordance with the Plan policies to facilitate a managed exit from commercial horticulture. Where there are existing commercial horticultural operations but the glass and/or ancillary structures are no longer required for that commercial operation they can be considered redundant under the revised definition proposed. If however the glass and/or ancillary structures are still required for an existing commercial horticultural operation they cannot be considered redundant and to allow their use for other purposes under Policy OC7 could result in proposals for additional development Outside of the Centres to support the commercial horticultural operation under Policy OC6. For the reasons set out above the Environment Department does not agree that the words ‘and those sites remaining in commercial use’ should be added to the definition as suggested by Mr Plumley.