

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *for* HOME AFFAIRS

HOUSING (CONTROL OF OCCUPATION) (GUERNSEY) LAW, 1994
VARIATION TO THE HOUSING REGISTER

The States are asked to decide:-

Whether, after consideration of 'Housing (Control of Occupation) (Guernsey) Law, 1994, Variation to the Housing Register' dated 12 December 2016, they are of the opinion:-

2. To agree to permit the inscription in Part A of the Housing Register eight apartments, on the former Guernsey Brewery site, subject to a total of eight Part A dwellings located elsewhere in the Island first being deleted from Part A of the Housing Register at the request of the owner of each of those dwellings, and provided each of the eight dwellings is either unoccupied or occupied by an unrestricted qualified resident at the time of its deletion from the Housing Register;
3. To note that the inscription may be made either by the Committee *for* Home Affairs on application being made to it under section 52 of the Housing (Control of Occupation) (Guernsey) Law, 1994, or by the Committee *for the* Environment & Infrastructure on application being made to it under section 3 of the Open Market Housing Register (Guernsey) Law, 2016, depending on which Law is in force at the time the application is made;
4. To note that if the Housing (Control of Occupation) (Guernsey) Law, 1994, is in force at the relevant time, the Committee *for* Home Affairs may make the inscription only if so permitted by Ordinance of the States made under section 52(1) of that Law; and consequently
5. To direct the preparation of any necessary legislation.

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

COMMITTEE *for* HOME AFFAIRS

**HOUSING (CONTROL OF OCCUPATION) (GUERNSEY) LAW, 1994
VARIATION TO THE HOUSING REGISTER**

The Presiding Officer
States of Guernsey
Royal Court House
St. Peter Port

12 December 2016

Dear Sir

1. Executive Summary

- 1.1 The purpose of this Policy Letter is to seek approval for the inscription of eight dwellings being created on the site of the former Guernsey Brewery at Havelet, South Esplanade, St Peter Port, in Part A of the Housing Register (i.e. onto the 'Open Market').
- 1.2 Historically, such requests have been relatively straightforward, in that the States have been asked by the former Housing Department, on behalf of the Developer, to agree to the preparation of an Ordinance (under section 52 of the Housing (Control of Occupation) (Guernsey) Law, 1994) ("the 1994 Law") to amend the Housing Register to facilitate the inscriptions being requested.
- 1.3 However, the new Committee structure means that functions that previously fell under the mandate of the Housing Department have been divided between various Committees. In consequence, the Committee *for* Home Affairs has responsibility for the administration of the 1994 Law, but responsibility for matters relating to Housing Strategy rests with the Committee *for the* Environment & Infrastructure. Moreover, the Committee for Economic Development also has an interest in promoting the Open Market, via Locate Guernsey. The views of both of those Committees have been sought and are attached.
- 1.4 As this Policy Letter deals with a request first made to the Housing Department, it sets out the strategic housing arguments accepted by the Housing Department when it considered the request.

- 1.5 There is a further complexity: the construction phase in respect of this particular site is likely to be of approximately two years' duration; and the States have agreed that the Housing Control regime will be replaced by a Population Management regime; the regime change is due to take place within the construction timeframe.
- 1.6 For this reason, this Policy Letter seeks the States' agreement to inscribe these eight dwellings in Part A of the Housing Register regardless of whether, ultimately, that inscription takes place by way of an Ordinance in accordance with the provisions of section 52 of the 1994 Law, or takes place under the authority of the Committee *for the Environment and Infrastructure* in accordance with the provisions of section 3 of the Open Market Housing Register (Guernsey) Law, 2016.

2. Background

- 2.1 Since the commencement of the Housing (Control of Occupation) (Guernsey) Law, 1982, the Housing Register has been closed for new inscriptions by the Housing Department¹. However, section 52 of the 1994 Law provides that the States may, by Ordinance, permit the Committee *for Home Affairs* to inscribe any dwelling in Part A (or Part B) of the Housing Register.
- 2.2 On 14 March 2001, the States approved proposals from the then Housing Authority for the inclusion of Open Market accommodation in prestigious or important developments².
- 2.3 The proposals were summarised in that States Report as follows:
1. The policy would not apply to small one-off sites or single dwellings.
 2. It can apply to sites:
 - which are part of a Mixed Use Redevelopment Area (MURA) and where the overall number of new dwellings in the MURA is likely to be in excess of 100; and/or
 - where there are other strategic issues.
 3. In return for each dwelling to be inscribed, one existing dwelling must be deleted from Part A of the Housing Register.
 4. Neither the dwelling to be deleted nor that to be inscribed will have to meet any specific size or rateable value criteria. It will simply be a numerical exchange, albeit that the Authority will have to approve the specific dwelling which is to be inscribed or deleted.

¹ Section 30 of the Housing (Control of Occupation) (Guernsey) Law, 1994 refers

² Billet d'Etat III 2001 page 188 refers.

5. The dwelling to be deleted must be unoccupied, or occupied by an unrestricted qualified resident, at the time of the application to delete the inscription. The fact that the dwelling is the subject of an application for the deletion of the inscription from the Housing Register under this policy would not be regarded as a reason which, of itself, would justify the grant of a housing licence to an occupier or former occupier.
6. The number of dwellings which can be inscribed on a one to one exchange basis will be limited to one third of the total number of dwellings in the development or a maximum of eight dwellings whichever is the lesser.

Note: for the purposes of the above policy statement the words 'site' in number 2 and 'development' in number 6, mean that an owner will only be eligible for one such concession in respect of parcels of adjacent land in his ownership in the MURA. The owner would not be able to increase the number of dwellings beyond the eight or one-third mentioned in number 6 by phasing the site development or by transferring land to an associate company.

- 2.4 The above policy (hereafter referred to as "the Policy") remains in place, and it is by reference to the 'strategic issues' associated with the redevelopment of this site, as envisaged in section 2 of the Policy, that the Developer's request has been made. Given this, the fact that the concept of Mixed Use Redevelopment Areas has been replaced by the concept of Regeneration Areas and Harbour Action Areas under the new Island Development Plan has no bearing on this matter.

3. The former Guernsey Brewery, Havelet, South Esplanade, St Peter Port

- 3.1 Comprop (C.I.) Limited ("the Developer") has been given planning permission³ to develop 34 residential units on the site of the former Guernsey Brewery at Havelet, South Esplanade, St Peter Port.
- 3.2 The Developer is seeking the 'transfer' of eight Open Market inscriptions in order that eight of the 34 new apartments on this site can be inscribed in Part A of the Housing Register under the terms of the Policy.
- 3.3 Although eight is the maximum number of inscriptions permitted under the Policy, this number amounts to less than one third of the overall number of dwellings being built on the site, and thus the Developer's request is squarely within the numerical parameters of the Policy insofar as the ratio of Local Market and Open Market dwellings is concerned.

³ Planning Application reference Number: Full/2014/2261

- 3.4 The Developer already holds six inscriptions, previously assigned to dwellings that have now been deleted from Part A of the Housing Register, and has confirmed that it intends to request the deletion of the inscriptions relating to two further dwellings in exchange for the eight new inscriptions on this site.
- 3.5 The Policy places no requirement on a developer in respect of the type/size/location of the Open Market dwellings to be deleted so as to free-up inscriptions for any new site, it merely seeks a one-for-one exchange, and the Developer has confirmed that this requirement will be met.
- 3.6 As a result of the above, and in compliance with the Policy, overall, there will no numerical loss to the Island's Local Market housing stock as a result of this request. Moreover, given the compensatory deletions referred to above, neither will there be an overall increase in the number of dwellings inscribed in Part A of the Open Market Housing Register. Thus the request fully accords with compensatory deletions aspect of the Policy.
- 3.7 As the site in question is not situated within a MURA development, the Developer has been required to set out, in accordance with the Policy, the 'strategic issues' associated with the development of this site.
- 3.8 In this regard, the Developer has confirmed that, of the 34 dwellings to be created on the site, nine will have one bedroom; 24 will have two bedrooms; and one will have three bedrooms. As such, the Developer asserted - and the former Housing Department agreed - that the units being created on this site are, in the main, the type of dwellings identified by the most recent States of Guernsey Housing Needs Survey as being most in demand; that is to say, dwellings most suited for occupation by single people or couples without dependants.
- 3.9 Furthermore, the Developer has tasked the architect with ensuring that the majority of the dwellings created on this site will incorporate the relevant design criteria of the Lifetime Homes Standards⁴ such that they can be readily adapted, if necessary, to meet the changing needs of those occupying them.
- 3.10 The Housing Department was satisfied, based on the information provided to it by the Developer, that the majority of the new dwellings will comply with the relevant Lifetime Homes Standards design criteria, and it accepted that, in view of the topography of the area and other site restrictions, 100% compliance with the Lifetime Homes Standards design criteria is not achievable on this occasion.

⁴ The concept of Lifetime Homes, championed by the Joseph Rowntree Foundation, is to apply design criteria to ensure that new builds incorporate features that will enable dwellings to be flexible and adaptable to meet the needs of residents at different stages of their lives (see www.lifetimehomes.org.uk). The former Housing Department was a firm supporter of the application of these standards to all new build housing projects in the Island.

- 3.11 In considering this matter, the Housing Department, had been mindful of the Island's changing demographics, and the desire to ensure that islanders can, insofar as is possible, have their changing healthcare needs met whilst still residing in their own home. The Department was of the view that housing developments that provide for - and/or can be readily adapted to cater for – life-long independent living should be encouraged and supported.
- 3.12 With the above in mind, it is possible that the new dwellings on this site, both Open and Local Market, will be attractive to retirees looking to downsize, thus freeing up under-occupied family homes elsewhere in the Island, and the Housing Department considered this to be a key strategic issue identified in the Corporate Housing Programme to cope with the Island's ageing population⁵.
- 3.13 In addition to the above long-term benefits, in the short-term, the site is likely to require a significant number of employees to be engaged over the life-span of the building project, thus providing welcome employment opportunities within the Island's construction industry. This, combined with supply of construction and fit-out materials, which the Developer has confirmed will for the most part be sourced locally, will bring benefits to the local economy.
- 3.14 The Committee for Home Affairs is also mindful that supporting the Developer's proposal helps to reaffirm government's continued support for the Open Market, and shows confidence in this important sector of the Island's housing market.
- 3.15 Given these 'strategic issues', it was the opinion of the Housing Department as recently as April 2016, that the proposed development of the former Guernsey Brewery site meets the criteria of point two of the Policy such that, provided the Developer arranges the prior deletion of a total of eight dwellings from Part A of the Housing Register at the request of the owners, eight of the 34 new dwellings being constructed within this development should be made eligible for inscription in Part A of the Housing Register.
- 3.16 Insofar as it is relevant to its mandate as the temporary custodian of the Open Market Housing Register, the Committee *for* Home Affairs endorses the former Housing Department's comments.

4. Proposals

- 4.1 Accordingly, the Committee *for* Home Affairs asks the States to agree that, so long as application is made by the owners in the appropriate manner, eight of the 34 dwellings that are being developed on the site of the former Guernsey Brewery can be inscribed in Part A of the Housing Register, regardless of whether those

⁵ Billet d'Etat XI 2010 page 686 refers.

inscriptions take place under relevant provisions of The Housing (Control of Occupation) (Guernsey) Law, 1994 or The Open Market Housing Register (Guernsey) Law, 2016.

5. Consultation

- 5.1 For the reasons outlined above, the Committee *for the* Environment & Infrastructure and Committee *for* Economic Development have been consulted, and self-explanatory letters of comment from both committees are attached as Appendix 1.
- 5.2 The contents of this report have been discussed with the Law Officers of the Crown.

6. Financial and Resource Management

- 6.1 There are no financial or resource implications for the States of Guernsey arising from the recommendations set out below.

7. Recommendations

- 7.1 The Committee *for* Home Affairs recommends the States:-
 - 1. To agree to permit the inscription in Part A of the Housing Register eight apartments, on the former Guernsey Brewery site, subject to a total of eight Part A dwellings located elsewhere in the Island first being deleted from Part A of the Housing Register at the request of the owner of each of those dwellings, and provided each of the eight dwellings is either unoccupied or occupied by an unrestricted qualified resident at the time of its deletion from the Housing Register;
 - 2. To note that the inscription may be made either by the Committee *for* Home Affairs on application being made to it under section 52 of the Housing (Control of Occupation) (Guernsey) Law, 1994, or by the Committee *for the* Environment & Infrastructure on application being made to it under section 3 of the Open Market Housing Register (Guernsey) Law, 2016, depending on which Law is in force at the time the application is made;
 - 3. To note that if the Housing (Control of Occupation) (Guernsey) Law, 1994, is in force at the relevant time, the Committee *for* Home Affairs may make the inscription only if so permitted by Ordinance of the States made under section 52(1) of that Law; and consequently
 - 4. To direct the preparation of any necessary legislation.

8. Committee Support for the Propositions

- 8.1 In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the propositions above have the unanimous support of the Committee.

Yours faithfully

Deputy M M Lowe
President

R H Graham
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M P Leadbeater
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21 October 2016

Dear Deputy Lowe

Variation to the Housing Register – Guernsey Brewery site

Thank you for your letter of 11 August 2016 and the accompanying draft Policy Letter, both of which were discussed by the Committee for the Environment and Infrastructure on 6 October 2016.

The Committee appreciates being consulted on this matter given that, as you say, it will in due course become responsible for the operation of the Housing Register, however it did not consider it to be in possession of sufficient information to form a firm view on the merits or otherwise of the Open Market Register changes in respect of this specific development.

It nonetheless acknowledges the existence of the current policy with which the current application appears to accord.

Looking forward, the Committee intends to review the policy; such a review would include careful assessment of the mechanism for effecting changes and deletions to the open market register.

Yours sincerely

Deputy Barry Brehaut
President
Committee *for the* Environment & Infrastructure



Committee *for* Economic Development

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13th September 2016

Dear Deputy Lowe

Variation to the Housing Register – Guernsey Brewery site

Thank you for your letter of 11 August 2016, on the above subject, in which you seek the views of the Committee *for* Economic Development on your Committee's proposal to transfer to the development at the former Guernsey Brewery site at Havelet, South Esplanade, St Peter Port, eight Open Market inscriptions from elsewhere on the Island.

The Committee, at its meeting today, considered your correspondence and the accompanying draft Policy Letter. The Committee is responsible for the promotion and development of all sectors of business, including the construction sector; and for inward investment at the corporate and individual level. Members present by a majority (Deputies Ferbrache and Merrett not present as conflicted) supported the proposal, recognising both the short-term benefits of the proposal to the Island's construction sector and the longer-term benefits of improving the quality of Guernsey's Open Market offering, which has the potential to make the Island more attractive to High Net Worth Individuals considering relocating to Guernsey.

The Committee also has mandated responsibility for the promotion and development of the tourism sector. In this instance, the Committee has no comment, from the perspective of the visitor economy, on the proposal insofar as it relates to the former Guernsey Brewery site; however, should any further applications be made for the transfer of Open Market Part A registrations under the "strategic issues" route in circumstances that impact directly on visitor accommodation or more widely on the visitor economy, the Committee would welcome the opportunity to comment formally in each case.

Yours sincerely

Jan Kuttelwascher

Vice President
Committee *for* Economic Development