



OFFICIAL REPORT

OF THE

STATES OF DELIBERATION

OF THE

ISLAND OF GUERNSEY

HANSARD

Royal Court House, Guernsey, Thursday, 8th June 2017

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Present:

Sir Richard J. Collas, Kt, Bailiff and Presiding Officer

Law Officers

R. M. Titterington, Q.C. (H.M. Comptroller)

People's Deputies

St Peter Port South

Deputies P. T. R. Ferbrache, J. Kuttelwascher, D. A. Tindall,
B. L. Brehaut, R. H. Tooley

St Peter Port North

Deputies, J. A. B. Gollop, C. N. K. Parkinson, M. K. Le Clerc,
M. P. Leadbeater, J. I. Mooney

St Sampson

Deputies L. S. Trott, P. R. Le Pelley, J. S. Merrett,
T. J. Stephens, C. P. Meerveld

The Vale

Deputies M. J. Fallaize, N. R. Inder, M. M. Lowe, L. B. Queripel,
J. C. S. F. Smithies, S. T. Hansmann Rouxel

The Castel

Deputies R. Graham L.V.O, M. B. E, C. J. Green, B. J. E. Paint,
M. H. Dorey, J. P. Le Tocq

The West

Deputies A. H. Brouard, A. C. Dudley-Owen, E. A. Yerby,
D. de G. De Lisle, S. L. Langlois

The South-East

Deputies H. J. R. Soulsby, H. L. de Sausmarez, P. J. Roffey,
R. G. Prow, V. S. Oliver

Representatives of the Island of Alderney

The Clerk to the States of Deliberation

J. Torode, Esq. (H.M. Greffier) (morning) ;
S. M. D. Ross, Esq. (H.M Senior Deputy Greffier) (afternoon)

Absent at the Evocation

Deputy L. C. Queripel (relevé à 9h 33); Deputy G. A. St Pier, Alderney Representatives L. E. Jean and
S. D. G. McKinley, O. B. E. (*absents de l'île*)

Business transacted

Evocation	817
Billet d'État XI	817
VII. Island Development Plan – Land for Light Industrial Use – Debate continued – Amended Propositions carried	817
VIII. Island Development Plan – Provision for a café at Stan Brouard Group's Landes du Marche site through the introduction of Certificates of Lawful Use – Debate commenced ...	852
<i>The Assembly adjourned at 12.35 p.m. and resumed its sitting at 2.30 p.m.</i>	<i>857</i>
VIII. The Island Development Plan – Provision for a café at Stan Brouard Group's Landes du Marche site through the introduction of Certificates of Lawful Use – Debate continued – Propositions carried	857
IX. Amendment to the Cutting of Hedges Ordinance, 1953 – Proposition carried	864
X. Amended Schedule for Future States' Business – Proposition carried	866
<i>The Assembly adjourned at 3.15 p.m.</i>	<i>867</i>

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States of Deliberation

The States met at 9.30 a.m.

[THE BAILIFF *in the Chair*]

PRAYERS

The Greffier

EVOCATION

Billet d'État XI

DEVELOPMENT & PLANNING AUTHORITY AND COMMITTEE FOR ENVIRONMENT & INFRASTRUCTURE

VII. Island Development Plan – Land for Light Industrial Use – Debate continued – Amended Propositions carried

The Greffier: Billet d'État XI, Article VII – the Island Development Plan – Land for Light Industrial Use. Continuation of the debates on the two amendments.

5 **The Bailiff:** Deputy Lester Queripel has arrived. Do you wish to be relevéd?

Deputy Lester Queripel: Sir, please.

10 **The Bailiff:** We continue with debate on the two amendments. Or not, as the case may be. *(Laughter)* Deputy Inder.

Deputy Inder: Thank you, good morning, sir.

Both of these amendments are sensible extensions to the Queripel/Fallaize amendments of October 2016 and, if you could bear with me, I would just like to read some of the excerpts from that debate.

15 Deputy Laurie Queripel, he said a similar thing today, but on October 16th, he wrote:

This is not only about trying to find somewhere else for the Fontaine tenants, it is about the States needing to recognise the strategic and economic importance of this sector and businesses that operate within and finding meaningful ways to work with them and support them.

Deputy Yerby:

Deputy Queripel, as an ambassador for small and local businesses, especially for light and heavy industry, this is a good Proposition, which I will fully support.

Deputy Parkinson accepted the challenges and he did say that they would come back, which they have done over the last couple of days and he said he would do his best to come up with some areas.

Deputy Dudley Owen:

We must start to show our support for these light industrial businesses in a practical and meaningful way.

Deputy Tindall, similarly to Deputy Mark Dorey, did sort of give fair warning, this was in the context of the Island Development Plan, that by the acceptance of the Island Development Plan under OC7, there were parts of that policy that would actually help the process, but I do not think we are quite there yet.

Deputy Fallaize said:

Please do not drive these businesses off this Island, which is under the control of the States in the meantime.

He went on to say:

I think the timeline is very much in the hands of the States' Trading Supervisory Board.

Deputy Lester Queripel:

Small businesses are absolutely essential to our economy and we need to support them as much as possible.

Further on and Deputy Ferbrache said – I do not want to take him completely out of context, but it was so long, I could only find about two or three relevant sentences! (*Laughter*)

So, let us not go away today having patted ourselves on the back, saying we have done something for this industry, which, I thoroughly agree with Deputy Laurie Queripel, we need to do.

Deputy Brehaut:

Now, despite that downbeat view, I still believe that this is something worth looking into, but I am more drawn to the arguments made by Deputy Dorey here this afternoon.'

I think he was referencing the OC7 coming into maturity.

And, finally, I believe it was Deputy Kuttelwascher:

So, I would urge Members to support this, purely because it is urgent and, secondly, because, if we can find a solution, if there is one thing I would like this Assembly to do, it is actually provide solutions.

It is also worth mentioning that the original amendment was voted through by a whopping 30 votes and seven people were not there and there were two *Contres*.

In the intervening months, there have been some positive developments, in terms of planning applications and release of land for storage and light industrial. But the IDP, being such a new document, I am not sure we are quite there yet. It needs some maturity and I would suggest we re-look at the temporary extension of the tenancy agreements at the Fontaine and, certainly, extending in to Belgrave, allowing, effectively, the IDP to mature.

A couple of points made from yesterday's debate. I concur with Deputy Roffey that, as a Government, we should not be seen to be preferencing a small group of businesses and we should also agree that the ratcheting up to a fair commercial rent would be desirable.

Deputy Parkinson gave warning to the States about what we can and cannot do, now that planning decisions have been delegated. As he said that, I watched Deputy Gollop, to his right, draw some breath at that point and it was more in an, 'Ah, he has made a good point.' Maybe Deputy Parkinson did make a good point, but it is also worth reminding Members that this is a place that we do democracy, apparently, a place where we debate, a place where we resolve, where we take instruction and we give instruction. If we are the Government, then we govern and messages can be sent to departments when they are strategically important.

In closing, sir, I am a huge fan of policy OC7 of the Island Development Plan. It was a wise decision by the officers at the Planning Department and it is a great piece of work within the Island Development document. Actually, their life would have been a heck of a lot easier if they had not included it, as we have seen from yesterday's paper and various other attempts of changing redundant glasshouses to light industrial.

I know it is true, because, from the work I conducted with neighbours at the Pulias Vinery, where there was a very bizarre attempt, if nothing else, not to put too fine a point on it, to move all of the Fontaine Vinery tenants down to one of the most unspoiled parts of the north-west coast. I hope we do not see that happening again. That was just beyond silly.

While I am on my feet, I would like to thank the planning officers for rejecting that and the Development & Planning Authority members for reaffirming that decision in the open planning meeting. Very sensible.

So I am asking Members to reaffirm their decision of October that, if not in the words of, certainly the sentiment of the debate, told the hard-working building industry that we are taking you seriously. Voting for the amendments would do just that.

Thank you, sir.

The Bailiff: Deputy Tindall.

Deputy Tindall: Thank you, sir.

I would just like to start where Deputy Inder left off, with one point. This is not a question of reaffirming the decision in December, this is a question of going further and my responsibility today as similar as it was in the IDP, is to set out the Development & Planning Authority's position and concerns and I will follow up with my own personal views.

Whilst the Development & Planning Authority has not had a chance to discuss the amendments at a committee meeting, I can confirm that the majority of the members of the Authority do not support either amendment.

Each Member has their own view and I would not presume to comment in that regard, but I will set out the position of the Authority itself on each amendment and then, as I say, add my own views.

Firstly, both amendments refer to the sites listed in Proposition 1 and, as has been confirmed by Deputy Brehaut and set out in the Policy Letter, there is already policy provision in place to consider these sites. So there would be no need to change planning or strategic land policy.

However, in amendment A, there is assumption that the need for a States-owned industrial site has been established and it does not specify a timeframe by which the action should be taken. Both of these issues in amendment A cause us concern.

The Authority relies on evidence to make its decisions and, at the moment, we have no robust evidence to confirm there is a need for a States-run site. If anything, there is evidence which shows that the Island is generally over-supplied in industrial storage space and that this surplus will increase over the next 10 years.

I refer back to the speech of the Authority's President yesterday, when he opened general debate, when he listed all of the current gateways for enabling land to be available for industrial uses for the Island Development Plan.

Deputy Inder quoted various different aspects of the IDP debate and indicated, in his view, that the IDP was not mature. I am sorry, the IDP is mature. It is flexible and open to improvement, but it has what it needs to do the job.

It is important to remember that there are four designated key industrial areas located in and around the main centres, together with an identified expansion area. These sites should be re-used and redeveloped.

I give way.

The Bailiff: Giving way to Deputy Inder.

Deputy Inder: Just a point of correction, Deputy Tindall.

105 I do not think I said it was not mature; what I was trying to say, and excuse me if it did not come across correctly, is that I was actually supportive of the IDP and I did not actually say it was a mature phase, but what I meant was that it needs to mature and the processes need to be understood.

110 Effectively, it needs to be marketed better and I am aware that, as Deputy Leadbeater has informed me, there are more applications coming through. So I am supportive of it. I did not say it was mature, or suggest it was immature. What I was saying was that it needs to have a greater length of time to mature.

Deputy Tindall: Thank you, sir.

I am grateful for that clarification.

115 I believe it is mature. I believe we have got the means by which we can deal with these things. It is important to remember, as I was saying, that there are four designated key industrial areas. These sites should be re-used and redeveloped, before consideration is given to develop other industrial sites.

120 There is also limited provision made for industrial development of local centres. In addition, the IDP introduces more scope to re-use brownfield land and redundant vinery sites for small scale industry and storage uses.

125 These include the Extension Vinery site, which has received planning permission recently, together with, as Deputy Inder just referred to, the planning applications for over seven acres of redundant glasshouse land. Redundant glasshouse land, I stress and further pre-applications to something concerning 12 other sites to date.

As my colleague Deputy Lester Queripel often points out, there are around 240 redundant glasshouse sites which can be used for small-scale industrial and storage use. Then, to top it off, there is the change-in-use classes in respect of small premises.

130 Whilst Deputy Laurie Queripel claims that the demand exceeds supply, with this litany of means of supply –

Deputy Laurie Queripel: Point of correction, sir.

135 I did not claim it, I was told by landlords of what you might class affordable premises, that they were getting more enquiries than they could accommodate. That is one of my evidence bases.

Deputy Tindall: I apologise if I implied that Deputy Laurie Queripel only relied on other people's evidence.

But it still appears to me the demand is for sites, not for States' sites, and these are on the same terms as that of Fontaine Vinery.

140 Deputy Laurie Queripel also said that these sites are dirty, dusty and noisy and not conducive to residential areas. Whilst I would not dream of pre-determining applications, I can comment on the Extension Vinery. Whilst the planning permission was granted, the conditions imposed included creation of a sound barrier, a visual screen around the site and restrictions on times of use. Clearly the amenity to neighbours was also considered.

145 Deputy Queripel went on to ask how many private sites are suitable and when would they be ready, indicating that he felt the States' sites would be ready more quickly.

150 As Deputy Parkinson pointed out, both amendments require the Authority to take whatever action is necessary. Such action would, necessarily, be within the Law, including the States requiring planning permission, which could potentially include similar conditions to that of other private sites. Will the States' sites, therefore, become available more quickly than those private sites already in the pipeline?

Also, I would like to refer to what was said by Deputy Smithies yesterday. I thought it was extremely helpful. The sites identified are for industrial use and not low-grade agricultural land.

Industrial land is in short supply, so using this limited supply for open compound use is ill-advised, unfortunately. Amendment A raises further issues, namely the lack of timeframe.

The Fontaine Vinery site currently has temporary planning consent that expires on 21st December 2017. The site is a housing allocation in the IDP and, therefore, forms part of the identified five-year supply required by the SLUP. The site would need to be the project of the development framework process, which has not commenced, and so the short-term continuation of the Fontaine for its present temporary use would definitely be unlikely to affect the delivery of housing on the site.

However, due to the unspecified nature of the timeframe in amendment A, if the ongoing use carries on preventing the site's development for housing – and let us remember this has been going on for a while already – there will be implications in respect of the delivery of the five-year housing supply. These implications are in relation to the effectiveness of the IDP, the general requirements of the SLUP and the general market housing policy, falling within the mandates of the Development & Planning Authority and the Committee for Environment & Infrastructure.

Due to the assumption, there is a need for such States' sites, and the lack of timeframe, I urge Members not to support amendment A.

Turning to amendment B, there is no assumption being made that the need for a States-owned industrial site has been established. Instead, it tells the Committee for Economic Development to report by the end of 2017 whether the States should facilitate the use of industry on the four sites listed in Proposition 1. Whilst Deputy Ferbrache has indicated his Committee would undertake such a task within the timeframe, he did also seem to indicate that he felt his officers had better things to do.

The problem is that the timeframe also calls for the continued use of Fontaine Vinery, as at present, until the end of June 2018, or six months after the Committee for Economic Development's policy letter is debated – and these are the words that concern us – 'whichever is the later'.

Whilst the continuation for current use of the Fontaine Vinery until the end of June 2018, as I said, would highly unlikely prejudice development, the timeframe could be pushed back and could cause issues.

So from the Authority's perspective, amendment B is the lesser of two evils; but, considering the point made by Deputy Smithies, I still think they are both of great concern. Whilst I totally accept the need to ensure light industry has suitable sites – in fact Deputy Inder referred to, Deputy Laurie Queripel as well, in the IDP debate, strategic and economic importance; finding meaningful ways of helping them, but what does 'meaningful' mean? I think it means different things to different people.

He quoted the IDP debate. He said that it should be marketed better. I feel very strongly that we have opportunities already out there, in place and being pursued.

I do not see the evidence of the need for States' sites, nor that we should research need, and I do not consider such a review as a good use of States' resources. I do not think we should restrict ourselves to States in how we maximise our assets, nor do I believe we should subsidise some light industrial businesses and not others.

As Deputy Roffey pointed out, amendment A refers to a 'reasonable return', not market rent. The amendment says that such land 'shall, as far as possible, replace the provision which has been made at Fontaine Vinery'. Does this mean the leases may include more favourable terms than that available in the market? Better than the terms that similar businesses, who are not at Fontaine Vinery and who, perhaps, are on the four-year waiting list?

In particular, I would not support these amendments as they would jeopardise the IDP's aim of re-using redundant greenhouse sites, something I thought both the proposer and seconder of amendment A were especially keen on.

Thank you, sir.

The Bailiff: Deputy Lowe.

Deputy Lowe: Thank you, sir.

Over the years, this has gone around in circles, really. There has definitely been a cry for light industrial sites, certainly in my time on the Environment Department, we actually went out and asked for the evidence, as has been explained just now by Deputy Tindall, and there was sort of a double counting as well, because it was not called Economic Development, but the predecessor of it had a list and, when you put the two together, actually there was not the huge amount, because of the double counting and it was the same people.

Now, many of those people that were actually looking for a site, had originally been on the Leale's Yard and, of course, some of those people were paying something ridiculous like £10 a month – it was really a non-existent rent – and they had operated as small Guernsey businesses and they can be commended for that. Of course, they had the eviction notice, so they found it very difficult to get into the commercial world, to start finding industrial sites, and so Fontaine Vinery was used for that purpose, as a short-term, until they could build up their business and get into the real world of commercial rents and find accommodation further down the line.

So where are we now? Well, that has been extended, obviously – Fontaine Vinery, over the years. We still find that probably most of those or many of those are still from the original ones who moved there. Is it right and proper that the States then release more land for light industry businesses when there is definitely existing land available?

Land is available for light industry at commercial rents and there is this myth, rightly or wrongly, that if we release some land for States, that it will be a lower commercial rent, because they would be looking after the light industry of the Freds in the sheds, who have been saying that they want the States to help them. The help is there, the land is available and, if we are doubling up by releasing other States' land, commercial businesses that have land available under the correct zoning are still going to be sitting there.

We have not got a lot of land in Guernsey, as we now know, so we will have all these areas and pockets around the Island that have the right use attributed to them, but they will not actually have the tenants on there.

I know I will support this Report. I will not support the amendments. I do support light industry, I do support Freds in the sheds, but I do encourage them to actually use some of those sites that are available.

The States themselves, and the States' Trading Board, we have a wonderful site which is not on this list, which I would have liked to have been, we have got the Guernsey Electricity site. It has knocked down those Vale houses, it is a massive, big site, it is sitting there empty. Guernsey Electricity have actually said they would be more than happy for light industry to be on there. A perfect neighbour, alongside generators and noise, and they would be happy to do that without detriment or use of their strategic plans for the future, because it could be a five- or a 10-year lease on that.

So, again, there is a possibility for that land to be used and to get rid of those awful houses in the meantime, which is a nonsense, them sitting there. I do not know where Mr Health and Safety is when you need him, but anyway, that is another matter.

I will be supporting the Report, but I will not be supporting the amendments, because I encourage the people in the industry to use the existing land that is available.

The Bailiff: Deputy Kuttelwascher.

Deputy Kuttelwascher: Sir, I will try and get this into a minute, again.

I must practise what I preach. Firstly, I do not see how anybody can say a plan like this is mature, when it has only been in effect for six months. **(Two Members: Hear, hear.)** That is one point, because once it is in effect, you then assess if there are any unforeseen outcomes.

Secondly, there is no indication of the urgency of the Fontaine Vinery tenants. They are on notice to leave and I know, on our Committee, we are of the view that they should not leave until they have got somewhere to go.

Two issues are continually being muddled and one is open storage versus light industry, which I think is unfortunate. Certainly, there is lots and lots of available space for light industry, usually covered, warehouse-type sites, which are not what is required.

Therefore, I am quite happy to support amendment A. I am not so keen on B, but then, since we are supposed to have £500,000 sloshing about, spare cash, I suppose we could spend some of that phantom money on this, could we not?

Thank you, sir.

The Bailiff: Deputy Merrett.

Deputy Merrett: Thank you, sir.

I am a little bit confused by what Deputy Lowe said, because she proposed using private land but States' electricity land is, in a way, public land. That is how I would see that. Yet, she is advocating using Guernsey Electricity land. So I am a bit confused there.

The amendments before us today are simple follow-ups to the amendments placed during the IDP debate. The amendment was overwhelmingly supported during the IDP debate. In very simple terms, it was to instruct Economic Development and STSB to identify public land that would be used for light industrial use.

It is arguable the original IDP amendments could have been more robust and practical, rather than just asking Committees to identify public land, maybe additionally it could have instructed the actual use of the aforesaid public land when it had been identified.

Now, we really are into a ridiculous round of more amendments, because public land has been identified, but we are now being told by DPA and E&I to note that public land has been identified. Note it. So STSB, and Economic Development, look for public land to note where it is. Note it, but do not use it. I find this simply ridiculous. Look, everyone, we have identified the public land. It is over there. Note it and look at it, but do not use it.

This is a prime example of a States trying to kick the can down the road, yet again. Identify it. Note it. Do not use it. Do not actually take any action. Look at it. Talk about it. Note it again.

I understand the utopia would be that all our industry would be on private land, not public land. I understand this; I agree with this. But is it realistic? If there are so many sites on private land available, especially after the withdrawal of LVCR, why is the Fontaine full? Why? Because the States have given these businesses a crutch. There is an expectation, a demand, that the States do something to help these businesses? Why? It is affordability over availability.

Deputy Lester Queripel has already given us some examples of the private rents demanded. We support many different sectors in our economy. Some, already, are very wealthy. Some, we are trying to nurture. Some, we are trying to grow.

We simply want construction, light industry, to simply survive. If public land is to be used, it should be at reasonable, market rates, I agree. As basic as supply and demand; very basic economics. What can, or will, someone pay?

So in the interim we are trying to convince landowners who have let their greenhouses become derelict, to apply for a change of use to light industry. Many residents living next door to derelict greenhouses are concerned and objecting to the change of land usage. Many are on one-way or narrow roads. Many are in densely populated areas. Some neighbours are horrified when they see the planning site notices go up. One, in Oatlands Lane, is on a one-way road, that was made one-way because it is on the main arterial route for one of our biggest schools.

I understand we want the owners of the greenhouses of derelict greenhouses to invest in their lands again. That is all well and good and highly commendable of the States to try to manipulate this, but it will take time.

So let us reflect us on time. How many years has it taken us to get this far? I believe it is about 10 years. Now, we want to dot all those 'i's and cross all those 't's. Ten years, and we still have not got the dots or crossed the 't's.

Fontaine was a temporary solution. Can we please, for the moment, just think about the impact this is having on the businesses at the Fontaine and other light industry businesses, which could benefit from affordable land?

We all know uncertainty is bad for business. Additionally, can we spend some time thinking about how the residents in the nearby vicinity of the Fontaine are putting up with this year after year?

This site was never meant to be for prolonged usage of light industry: extension after extension; uncertainty after uncertainty. Now that the States have finally identified potential public sites, let us identify them and let us note it.

Sites have been identified, so let us take that next big, brave step and actually use the land. Raise money from renting public land, sweating a few of our assets. Yes, there is private land available, but there is also public land available. Utopia is all private land. Let us aim for that, but let us be realistic.

Let us support light industry by using the land we have identified, and allow the businesses and incredibly patient neighbours and residents of the area to move on. Let us all simply move on. Let us support amendment A and let us take some action. Not just note it. Not identifying it. Let us actually use it.

Thank you.

The Bailiff: Deputy Gollop and then Deputy Stephens.

Deputy Gollop: First of all, I need to challenge Deputy Merrett in some respects.

She wants us to be more practical, but we do not do practical, because that is not part of the process that we operate. (*Laughter*) We have a *quasi*-judicial role that involves the interpretation of this plethora of plans that goes back to the Strategic Land Use Plan. I do recall saying, as did a few other Members in the last debate, that we do need to revise the Strategic Land Use Plan and have more corporate planning, but that seems to have fallen on deaf ears, at least at the moment.

Of course, we need more resources. But the line we have taken – and I think Deputy Parkinson, to a degree, echoed it – the reason why we came to the collective view, in conjunction with Environment & Infrastructure, with the wording, is as follows:

Additionally, changes have recently been made to planning regulation in Land Planning and Development Use Classes Ordinance 2017, which now makes it possible to move between industrial and storage use classes for small premises, up to 250 square metres, without the need for planning permission.

Deputy Tindall carefully went through the potential for these glasshouse sites. It is a win-win, because these eyesores, in a sense, have been under-utilised and under-used.

In terms of industrial land supply, the existing Island Development Plan policies that were unanimously supported are successfully realising the potential for more sites to come forward in the private sector, particularly those that can accommodate smaller businesses, like those at Fontaine Vinery.

Deputy Tindall made the point, which perhaps goes slightly beyond what we are talking about, that we do not necessarily want real prime industrial land to be used for storage of bits and pieces. Of course, that implies a more directed approach to land use but, nevertheless, it is a consideration because we have a limited strategic resource, but we do have the potential for sites like this to come on.

The problem is, of course, there are occasionally – probably more so than occasionally – neighbourhood and ecological objections to these sites. We then have a curious role of shaping the policy one day, or at the same meeting, almost, and then being a *quasi*-judicial body at an open planning context the next.

I suspect the States is on a journey to separating those functions because, politically, I think it is extremely difficult for us to decide on individual sites. But that is a decision for another day.

Bearing this in mind, I and we would respectfully suggest that the issue here is not one of land supply, but one of affordability. A point I will come back to later: the principle of whether the States wishes to own and control an industrial site or sites.

360 You will see that the recommendation put forward by the joint Committees is for the States to note the Propositions.

The Authority committee considered this to be an appropriate response to the Resolution, which was widely supported, because it addresses the matter of industrial land supply and the policy implications for each identified site. The principle of whether the States should own and/or operate its own industrial site, and the financial resource implications of doing so, as well as the potential impact of market intervention, goes well beyond the land use issue and beyond the mandates of the DPA and E&I and is a matter for the States as a whole to debate and decide. 'That said, the 11 identified sites have been carefully considered. We are pleased to report that analysis would allow for four of the sites.

Now, after the [inaudible] meeting, one or two members of the DPA did suggest that you could create market distortions if you start to support one type of business over another and that would, in time, lead to all kinds of inefficiencies and unfair outcomes. Deputy Roffey touched on that.

365 The difficulty we have with these amendments is that they encourage Members to effectively grant special pleading to some businesses over others.

It is useful, at this point, to give some background. We know the Fontaine Vinery was purchased by the States in 1985. It was designated, believe it or not, as a housing target area in the long-forgotten Urban Area Plan. Then, in 2005, there was a recommendation from the
370 planning inspector that the Fontaine Vinery site be used, in the short term – like Income Tax, the short term has already extended 12 years – strictly on a temporary basis to accommodate clean, low-key employment uses. Whether they are clean or not would probably be a subjective issue.

Since then, there have been a number of temporary planning permissions granted, which we know are due to expire in December 2017. But the Employment Land Study of 2014, a column exit
375 modelling forecast, an assessment of trends in planning consents, found that overall, as a result of the economic downturn and loss of LVCR – a point Deputy Smithies and Deputy Tindall have made – the Island is potentially now over-provided with a quantum of industrial and storage space.

Deputy Graham made the same point. Forecasts indicated a decline in the industrial sector and
380 the Island is likely to need around 2.26 hectares less land for these purposes before 2025.

In more detail, according to our figures – maybe our figures are wrong and need updating, but that would be a useful exercise, maybe, for Economic Development to work with – there were, when we compiled these figures: 16 industrial premises to let, over 4,000 square metres; an increase into the first half of 2016 of 3,574 square metres; 1.9% of the total stock of industrial
385 premises, which is an increase over 1.7%; 10 premises were to let at under 250 square metres; four premises had been on the market for more than 18 months – two in Garenne Park, two in the Pitronnerie and so on; and 30 storage premises to let – a decrease since the first half of 2016, and nine premises were on the market for more than 18 months, across the Island but particularly in St Peter Port, the warehouses and units near Landes du Marché, as well.

390 So there is an issue here. Now, many Members say that there is a lack of a match-up between the sites that are available and potentially available and what the small industries need. Well, that might be a land use issue and, as has already been said, we have changed the land use classes. But I suspect it is an affordability issue within the marketplace. Now, there are many other policies that we could adopt that would alter that. One is, Deputy Trott was proud to announce a couple
395 of days ago, the Innovations Fund, and I believe former Deputy Minister Mr Lainé supported it for cyber-tech businesses. We could have an Innovations Fund for these businesses, particularly start-ups, and they might be jointly supported with an industrial bank or angels, or whatever – I do not think that is on the cards – and then they would pay a market rent. Now, Deputy Merrett mentioned a reasonable market rent; somebody else said a reasonable rent – Deputy Laurie

400 Queripel. Not all market rents are reasonable. That appears to be the feedback coming back from people in the sector.

Now, there are some industries in Guernsey, over the years, like the bus industry – if you can call it an industry – that the States have supported precisely because there might be a danger of us losing a viable Island-wide bus network, if we did not give it certain perks.

405 For years, the buses had no vehicle registration tax. For years, they have had free use of the bus station, which is a prime piece of real estate, and in many other ways.

We have not had a case as to whether that is needed for bin collectors, or scaffolders or building storage. We have not really heard that argument. Maybe there is a need, or maybe there is not. That is my problem with those things.

410 There is another policy we could adopt, of course, which would appeal to me, even if it is to the left of the Right Honourable Jeremy Corbyn, and that would be to create another, seventh, Principal Committee, which would be the Cadastre Rent Control Committee. I could be the first President of that. I would sit happily on the top deck, in the twelfth seat that we used to use, and I would be snooping around the Island all day, with an army of bureaucrats and officers, who would be identifying a States' rate for every conceivable piece of land in the Island, whether it be commercial, industrial, residential, and we would set it and we would tell the owners: 'I am sorry, you are going to be controlled.'

420 I suggested that to Deputy Stewart and Deputy McNulty Bauer and they did not like it. *(Laughter)* I cannot think that Deputy Ferbrache is any more keen on it and I know Deputy Oliver would not be, amongst many others. But, nevertheless, that is an alternative policy mechanism, which would resolve some of these questions, because then the Queripel brothers and others would see people's rent controlled. Whether those landlords would continue to vest in the Island is another matter.

425 We are limited in what we can do. I find myself in a difficult position, because I have had a certain sympathy for the tenants at the Fontaine and others. I also have a responsibility to the DPA. We are, on this issue, a slightly divided Committee, with at least three positions: the majority position that Deputy Tindall has expertly outlined, Deputy Lester Queripel's perspective and my view, which is somewhere in between.

430 I have listened carefully to what Deputy Parkinson, with his role, has said. I think the response to the STSB is that they are more open-minded than perhaps they could be. That is hopeful, that we can find a solution. Also, Deputy Ferbrache has shifted position to actively supporting a model somewhat similar to A. We are aware, on the DPA, both amendments are flawed in that they carry difficulties, for the reasons Deputy Tindall has outlined.

435 I think, bearing in mind I am on the DPA, and also that the point was made yesterday, I think by Deputy Parkinson, that we should not as members of the Planning Authority, give indefinite planning permission politically when it could come before us and also because of the situation, I am also a member of Employment & Social Security, which has a policy of providing social housing that I hope the States will support in the P&R Plan and, of course, the Fontaine currently is zoned for that, although I cannot, under any circumstances, support Amendment A and I will abstain from A.

440 On B, I will support B because at least it does not kick the can down the road completely. It potentially opens up a valid, evidence-based policy from Economic Development and others as to what the real needs are for these varied sources of industry and then whether we can accommodate that within existing policy of the Island Development Plan. But, nevertheless, the amendment does have some flaws within it.

445 So that is my position.

The Bailiff: Deputy Stephens.

450 **Deputy Stephens:** Thank you, sir.

There is one question that I think nobody has satisfactorily addressed – at least, to satisfy my interest. That is, if there are enough sites, why are the businesses asking for action? My understanding is that they are perfectly willing to pay fair rent. The quest for private sites on redundant greenhouse land has not been spectacularly successful, so far.

455 I attended the planning meetings to consider the application for the Priaulx Vinery and the Extension Vinery. One application rejected, one permitted. But the conditions outlined by Deputy Tindall, for Extension Vinery, whilst set, are not yet met, and currently, I would say, there is no reason to assume that that development will proceed or that it will proceed swiftly.

460 If we live and work in structures that are more substantial than tents – and probably living in tents would not be allowed by Planning Law anyway – we need these businesses to continue. It is clear that this Assembly has not delivered a solution and, to my mind, it should have done and now should do.

So I think it is absolutely the right time to take action. 'Note' is nowhere near firm enough, for me, and I am going to vote for the amendments in the hope that we actually move this thing on.

465 Thank you, sir.

The Bailiff: Deputy Fallaize.

Deputy Fallaize: Thank you, sir.

470 First of all, I think that the Development & Planning Authority and the Committee for Environment & Infrastructure have done exactly what they were asked to do. I did not envisage that they would do anything more than they have done when I seconded Deputy Queripel's amendment in October. They were asked to report to the States, setting out the sites over a certain area, which could be used for this purpose and they have set out those sites which could
475 be used without the need for planning inquiry and those sites which could be used if there was a planning inquiry.

So I do not criticise them for that, at all.

Deputy Merrett said the 'to note' Proposition was too weak and it is all taking too long. I will return to that in a moment. It has taken an awful lot longer than since October of last year.

480 I do not think, and I say this respectfully to the Development & Planning Authority, that their position is particularly material in this debate. I do not think the States should place too much weight on their advice; not because their advice is without value, but they are a planning authority. They are not here to advise the States on economic policy and they do not pretend to. Deputy Gollop explained that in his speech.

485 So I thank them for the work they have done on this. They have done what they were asked to do. I note their advice, but I am not going to place too much weight upon it. I am going to place more weight on the advice of the Committee for Economic Development, because that is the Committee which is responsible for advising the States and developing and implementing policies on the promotion and development of all sectors of business and that is more so the territory of
490 debate that we are in now, today, rather than anything which has to do with the Development & Planning Authority.

Deputy Tindall said there is no real evidence of need, that the allocation of additional land –

Deputy Tindall: Point of correction, sir.

495

The Bailiff: Deputy Tindall.

Deputy Tindall: To be pedantic, I did use the word 'robust' evidence.

500 **The Bailiff:** Deputy Fallaize.

Deputy Fallaize: Okay, well, I will settle for evidence which is not robust. If that does exist. If there is no robust evidence of need, then, I would say, well what about the existence of Fontaine Vinery?

505 What is Fontaine Vinery doing if it is not providing evidence of need? It has existed, I think Deputy Gollop just said, in its present form for 12 years and, throughout that time, certain Members of the States have said, 'Well, where is the evidence that there is any need for the States to make provision of land?' It is sort of happening right under their nose.

In any event, on this business of Fontaine Vinery, Deputy Tindall said she had a problem with the word 'later' as in whichever is the later in the new Proposition 4 in amendment 2. Well, you cannot seriously have the new Proposition 3 without the new Proposition 4. You cannot reach a position of saying, 'We think there may be a need for the States to establish a policy framework which could potentially provide States' land for this sector of industry,' and then say, 'Despite the fact that you have been leasing out States' premises for 12 years to this sector of industry, we are going to remove them from those premises before the relevant Committee has reported back on the policy framework. That would be completely illogical.

If we are going to direct the Committee for Economic Development in the way that the new Proposition 3 suggests an amendment to, we have to have the new Proposition 4, we have to allow these businesses, or do everything reasonably possible to allow them to remain at Fontaine Vinery while the Committee for Economic Development is carrying out that work.

Deputy Tindall also said we should not subsidise some businesses and not others. Now, I think this is core to this debate and I think it betrays ... either it is a misleading point or a misunderstanding, because first of all, there are many schemes of financial assistance which the States offer to all manner of businesses. We rearranged our entire tax system – as Deputy Parkinson will know only too well – effectively to try to offer tax privileges to a particular part of the economy, to retain their business. We invest in all sorts of Government schemes, which exist –

I will give way to Deputy Roffey. He was involved in that as well. (*Laughter*)

Deputy Roffey: Will Deputy Fallaize accept that, in all of those schemes, every business inside the same sector is treated equally, which is very different to offering discounted rents to people competing head-on who run exactly the same sort of business?

The Bailiff: Deputy Fallaize.

Deputy Fallaize: Well, it depends how you define sector. If you say that the finance industry is a sector, no, not every business in the finance industry is treated the same. Some have additional tax privileges, because they are paying tax at zero and some are paying tax at 10%. So, it does depend how narrowly you draw the sector.

The other thing is the States are investing in all sorts of States' schemes which have the effect of assisting various areas of industry – for example, the apprenticeship scheme. The apprenticeship scheme is States' investment, which does yield some benefit to the businesses which are involved in the apprenticeship scheme. Now, there are many areas of business for which we do not operate the apprenticeship scheme, but there are others for which we do, so that is a scheme of financial assistance.

Even the £12 grant to GPs is a scheme of financial assistance, which assists those businesses. In fact, the main purpose it serves is to allow them to jack up their charges by £12 more than they would be otherwise. That is a subsidy of several million quid a year into private businesses, in effect.

Now, that is the case for at least Proposition 3 in amendment 1. That, if the States are offering schemes and financial assistance in all sorts of other ways, why should they not to this area of industry?

At the very least, I do think there is a case for the relevant States' Committee working to establish whether there is a need for the States to offer a scheme of financial assistance in this

way and that is the thinking behind amendment 2. I am not terribly interested in providing
555 schemes of financial assistance in order that owners of businesses can continue to make profits.
That is not the issue. The issue is jobs. The issue is not profit, the issue is jobs, the issue is skills,
the issue is economic diversity.

If there is not adequate support provided to some sectors of industry then potentially some
businesses in that sector go to the wall and then you get the problem of de-skilling and the
560 economy becomes less diverse and you get loss of jobs.

I do not think that that is something that we should be prepared to consider. That is why I
support, at least, amendment 2. I must be honest, I am not yet sure how I will vote on amendment
1. I said to Deputy Laurie Queripel, when we were talking about it, I think amendment 1 may go
too far for the States, because really here are three stages. Deputy Gollop actually set out the
565 process quite correctly, but chose to express it in such a foolish way that everybody laughed;
when he said, 'We are not interested in the practicality of this, we are interested only in the
process.' That is not the right way of expressing it.

But the issue is that stage one was the identification of the sites, which was a job for the
Development & Planning Authority, largely; stage two is the policy issue of whether the States
570 should establish a policy framework to provide land for this sector of industry, now that is a job
for the Committee for Economic Development; and then stage three, if the answer to stage two is
'yes', is to prepare the sites and to lease the sites, which is a job for the States' Trading
Supervisory Board.

Now, the only issue, I think, before the States today, unless the States are going to do
575 something very unwise and reject both amendments, is do we want to miss out stage two? Do we
think there is sufficient evidence to move straight from stage one to stage three? If we do, then
amendment 1 does that. But, if we want to have a second stage, so that we consider whether
there should be a policy framework around the leasing of States' sites for this sector of industry,
then that is the case for amendment 2, because the Committee for Economic Development has a
580 mandate to do that.

Deputy Lowe spoke about the rate of return on States' land, which is a reasonable point, and
Deputy Roffey is happy to lease States' land, as long as a commercial return is achieved. But the
issue is not only about the affordability of land, as other Members have said. The issue also is
about the proximity of the neighbours and the access and it must be at least highly doubtful that
585 sufficient sites in private ownership are going to be found which are sufficiently large and are
sufficiently distant from neighbours who are likely to object significantly if they are not, to provide
enough land for this sector of industry.

Deputy Stephens said, rather charitably, the call for sites in the private sector had not been
spectacularly successful. Another way of saying it is that it was dismally unsuccessful. In fact, the
590 call for States' sites has not been spectacularly successful, because that is effectively what the
Development & Planning Authority has been doing. It has been trying to establish, out of all the
sites that are owned by the States, which ones could potentially be used.

The States are, by far, the largest landowner in the Island, bear that in mind, and yet only four
sites have been identified, which could be used without the need for a planning inquiry. So, if
595 Members believe that there are acres and acres of private sites out there just waiting to be
untapped, that are sufficiently away from neighbouring land, that have decent access, that are
suitable for industrial use, well, bear in mind that the States' call for sites, as the largest landowner,
has yielded only four sites.

I honestly believe, and I know some Members will not agree with this, that if both of these
600 amendments lose and then effectively there is no further action, those businesses which are using
Fontaine Vinery, at some point in the relatively near future will be kicked off and will be told
simply: revert to policy OC3 and OC7 in the Island Development Plan. I think, if that is the position
we reach, some businesses will go to the wall, some jobs will be lost. Now, that is a judgement.
Some Members will disagree with that, but I think there is sufficient evidence, built up over the
605 past 12 years, to suggest that that is the case.

Deputy Roffey's point about a commercial return: we are not getting a commercial return on States' land that is used for schools, or hospitals, or bus garages, or social housing. The issue is not one of principle here, the issue is not that all States' land needs to achieve a commercial return; the issue is one of judgement. Where do you want to draw the line? Which activities are you prepared to allow on States' sites, which do not necessarily provide a commercial return, and which are you prepared to allow on States' sites but require a commercial return?

Where exactly do you draw the line? I think there is enough evidence, at least to consider the possibility that it may be necessary in the wider interests of the economy, to allow States' land to be used, certainly not for peppercorn rent, but without necessarily providing what might be considered a commercial return in the private sector.

I do not want to prevent private landowners and private businesses from coming –
I will give way to Deputy Roffey.

Deputy Roffey: Thank you very much.

It is fascinating the idea that Deputy Fallaize puts forward about the need to rent out States' land to a particular type of industry at less than market rent, because that really means subsidy. Is the logic, therefore, that he would make enough land available for all firms operating in that sector, not just those from Fontaine Vinery, but those that are competing head-on with them in exactly the same way?

I understand the logic of that; I do not understand the logic of just doing it for some firms.

The Bailiff: Deputy Fallaize.

Deputy Fallaize: The answer to that is possibly, which is why I was inclined to support amendment 2, which requires the Committee for Economic Development to come back to the States and establish some kind of policy framework.

Now, it might be that there is a third way, that is topical on today of all days, between two extremes. The extreme that Deputy Roffey paints that all businesses in a particular sector may have to receive exactly the same support and the other extreme that no businesses in a particular sector receive support.

It might be that the Committee for Economic Development, when they report back, or if they are asked to report back with a policy framework, can set out criteria against which the States' land would be made available and it may be that some businesses in the sector would meet the criteria and other businesses in the same sector would not necessarily meet the criteria.

So, I do not think that the choice here is between two extremes, but I do accept there is a real risk, if amendment 1 is successful and amendment 2 is unsuccessful, that we could end up in a position where, without having established a policy framework, without having set out the kind of criteria which I am referring to of some States' land being used to support some businesses in a particular sector and not other businesses and it may be that that land is leased out in a way that is not terribly evidence-based and there may not be any kind of policy framework around it and I entirely accept that risk, which is why I spoke to Deputy Queripel about amendment 2 and have ended up seconding amendment 2.

I really do not think there is any great principle here. It is an issue of judgement. I believe, as I have said, that there is a case, at least for further consideration, about States' schemes of assistance for these businesses. It is not only about cost. It is perfectly possible that we could end up in a position where States' land is made available at commercial rates, but if the issue is one of proximity to neighbours and access to the land, then it may be that the States' sites are the only reasonable sites.

Amendment 2 does, at least, allow all of those issues to be explored. So, if the States cannot support amendment 1, please do support –

I will give way to Deputy Oliver.

Deputy Oliver: Sir, Deputy Queripel, in regard to Matt Fallaize's thing, has already pointed out there is a number of commercial lands available, but just not at the rents that have been suggested they would like. I do not know how big they want, but one thing that Deputy Queripel did not do is he did not say what size the property is, because most properties go on size, so it is rent per square foot or per square metre. There is land available in that sector.

Deputy Fallaize: I accept that is Deputy Oliver's view and it is not an unreasonable view, but I just disagree with it.

There is a division in the States between those Members who think there is enough land in the private sector at reasonable rent, of a reasonable size, with reasonable access, which is not too close to neighbours to provide for these businesses. There are some Members who think that.

There are some Members who, like me, disagree and think that there may be some land, but it is unlikely that there is sufficient land available at reasonable rates, of a sufficient size, with reasonable access, which is not too close to neighbours, to support this area of industry,

It is simply a judgement call. That is the point I am making. There is no great issue of principle here, about whether the States should provide schemes of assistance, because we do in all sorts of areas of industry. It is a matter of judgement. I think 12 years' existence at Fontaine Vinery, by itself, is probably enough evidence to suggest that there may be a need for long-term States' intervention in this area of industry.

Members who do not agree with that will vote against both amendments and we will see. I am not prepared to take the risk in respect of this particular sector of industry and, therefore, I will at least vote for amendment 2.

The Bailiff: Deputy Dorey.

Deputy Dorey: Thank you, Mr Bailiff.

I thank Deputy Fallaize for his comments about the fact that the Authority and the Committee for Environment & Infrastructure have fulfilled the Resolution of the States on the Island Development Plan. I do not think that we could have gone on any further within our mandate in relation to what we are proposing. I think the criticism from Deputy Merrett was totally wrong. We have fulfilled exactly what we were asked to do within our mandate.

I give –

Deputy Merrett: I was actually stressing, before I dared to even think, I did not criticise it, but I was saying that the original amendment back in IDP could have been more robust, to not only identify land but also to use the lands. That, in fact, was what, if anything, I was criticising.

Deputy Dorey: The amendment said what it did. If Deputy Merrett wanted a different amendment when we debated the Island Development Plan, she should have proposed an amendment. We fulfilled the amendment.

Deputy Fallaize talks about history and the crucial thing that has happened, and I do not disagree there was a need for the Fontaine Vinery site and, historically, obviously there was a need. What has changed is the new Island Development Plan and policy OC7. There has been criticism about the effect it has on neighbours. I will just read out two of the conditions in OC7 that a site would have to fulfil if it is to be accepted:

Providing that, in all cases, there will be no unacceptable adverse effect on the living conditions of neighbouring occupiers, including by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust, or great or significant visual intrusion and that the proposals would not jeopardise highway safety and the free flow of traffic on the adjoining highway.

So, for a site to get approval under OC7, it has to fulfil those. I think that also takes on Deputy Inder's comments about these sites.

705 What has happened is that one site, which is 2.4 acres, has been approved under OC7 of the new Island Development Plan and there are seven acres of sites which are being considered by the Development & Planning Authority and there are a further 12 sites, I do not know what area they are, which are at pre-application stage.

710 What Members need to realise is that there has been a sea-change in the situation since the Island Development Plan. Obviously, that is developing. We have only had it for a short period of time.

There are three situations that we could do; outcomes. One, the States could provide land at below market rates and, when we do that, it is because we want to subsidise those businesses and there is perhaps an absence of private land.

715 One of the other options is the States provides land at market rates, there is no need to subsidise businesses, but there is an absence of private land.

Or the States provide land to certain business, based on a policy.

To me, I think the situation has changed, that there is now some land which is provided by the private sector and there is every indication that there will be more than the area of land at Fontaine Vinery provided by the private sector.

720 So the need for States' involvement, I do not believe is there any more. I completely agree with the points Deputy Roffey made. If we are going to provide land at below-market rates, there needs to be a proper policy which those businesses will pass through and we can then have a proper system for subsidising those businesses by providing land at below-market rates.

725 What the situation is now is, when we are finding land, at certain businesses, just because they asked for it at the right time and there are other businesses which are directly competing with them which are having to pay higher rates, I think it is totally unacceptable and not fair in society.

730 What is interesting for me, because of my position on Environment & Infrastructure, and I thank Deputy Queripel for asking the President, who also asked me, for comments on his amendment, and I asked him to put in 'at commercial rates' and what the big indication is that he did not do that. He put some words in that are not so strong as that, 'at modest rates'.

I cannot support the first amendment. I think it is wrong. It is very poor policy to continue, when there is every indication there will be private land, to provide that at below-market rates.

735 I do not disagree that, if there is a proper policy that we need to provide that land at below market rate then, yes, we should do that, and we need that policy. I am going to support the second amendment, as I think that is the right way forward. We can keep Fontaine going because, obviously, the situation is changing for the supply of private land, but I believe the situation will have changed within, hopefully, a reasonably short period of time, that there will be adequate private land but then, if we are going to provide subsidised land, we need to do it based on policy.

740 That is the right way forward. I urge Members, reject amendment A and support amendment B.

Thank you.

745 **The Bailiff:** Deputy Brehaut.

Deputy Brehaut: Thank you, sir.

750 There have been a number of references. Deputy Dorey made a reference to land availability. Deputy Fallaize also said that people were not exactly falling over. Happy birthday to Deputy Fallaize on today, the day of this obvious Labour landslide in the UK! (*Laughter*)

755 Just to be absolutely specific, on the notes that we got from our colleagues at the DPA, planning permission was given for the redevelopment of 2.4 acres of Extension Vinery, the site near the Fontaine, in March this year, to provide a site to relocate the businesses at Fontaine, using policy OC7. Also, since the adoption of the IDP, there are live planning applications for over seven acres of redundant glasshouse land to be re-used for small-scale industry and storage usage. There have also been pre-application discussions concerning a further 12 sites to date.

On top of that, there are around 240 redundant glasshouse sites, to which policy OC7 would apply and that is important, bearing in mind Deputy Fallaize's observations regarding noisy neighbours, for example, which allows for change to low-key industrial storage, 150 of which are not within an agricultural priority area and these sites total about 175 acres.

So that has to inform any debate we are going to have. If that information was in front of us when we debated the IDP, that perhaps would have shaped or formed or removed the potential, arguably, for some of the amendments.

It is usual during a Guernsey general election that housing looms large in the frame. But actually, over recent years it has not, for various different reasons. Because people have believed that the GHA are building enough, have built enough, and we will be having the KPMG report on exactly what volume of housing we should build.

But if people go back not so long ago there was a call on Guernsey for self-build. There was this clamour for allowing people to self-build. Give them the land, at a subsidised rate, use some of these old greenhouse sites and give these Guernsey people the opportunity to build a house for their life enjoyment. Why shouldn't we help our young people? The obvious question then follows: how do you define a first-time buyer? What is the criteria for these first-time buyers? Who do you give the benefit of subsidised land? Who do you give the advantage to?

I think those same rules apply in this case, commercially. We use the term blandly, 'light industrial'. I would like to see a tighter definition of that. We all seem to think it means small builders, scaffolders. I notice there was a reference to trades before. Are we going to make provision for plumbers, electricians, gas-fitters and associated trades to have a subsidised rent? Are we really going into the business of the States becoming landlords and having to deal with all the infrastructure, the hardstanding, the armoured cabling, chasing up rents, setting rents? Is that something that we really want to embark on?

So, interestingly, the key worker housing group sat some years ago. We do not hear much about key worker housing but, again, that was a theme and the top of a lot of manifestos and political agendas. Defining key worker housing and somebody who could qualify for key worker housing seemed quite simple. Everyone said, 'Of course, it is a police officer, isn't it? It is a nurse.' But, then departments are saying, 'Hold on a minute, we cannot get planning officers, we consider our planning officers to be key workers.' Health & Social Care – HSSD then – was saying social workers need key housing. It is a bit *Charlie and the Chocolate Factory* and the Golden Ticket. Who gets it? You can end up being too prescriptive or far too general and end up being a little bit counter-productive.

I have said this before. It sounds insignificant, but it is important. The expression 'Fred in the shed' sounds so completely harmless that you almost want to go out and buy one. If there was a Fred in the shed on Amazon, I would Google it and probably want to own one by the end of the day. But what if you end up with 'Gert in a yurt', who is noisy and who is a pest, who works a 12 or 14-hour day? Fortunately, we have policy OC7, Deputy Fallaize is looking at me. But you can have some very disruptive neighbours and there have been. Fred in the shed is probably a friendly description for something that actually has proven to be quite unsociable.

I thank Deputy Fallaize for pointing out that we did what we were told to do, which was to go away and identify sites and we have done that. This argument, I think Deputy Merrett – I usually expect her to be a proponent of the free market – now she wants state intervention into a market. For what? To give some businesses a competitive advantage of long-established businesses.

That can play out in a very different way. Somebody who actually would have gone self-employed, who is currently employed and is thinking of going self-employed, but perhaps cannot afford the rents, ends up with a rent less than commercial then goes into opposition with their former employer and then how does that play out in employment terms? Does it mean that a long-established company is then put at a disadvantage by a company that is at an obvious advantage to them?

I have to say to Deputy Laurie Queripel, I applaud him – that sounds terribly patronising, it is not meant to – for the work he has put in, the hours he has put in, the tenacity and the passion.

810 But all those things together do not actually make evidence. It does not give you the empirical case. It does not give you everything you need to justify the release of States' land in that way. We know that a lot of this is anecdotal. We know it is certainly supported in some press cuttings. But the case has not actually been made, the evidence base, to give such a valuable commodity, not give away, but to reduce the value of such a valuable commodity.

815 So the issues for us are this is more than just land, it is land usage. We are aiming towards an Island infrastructure plan. Where does this sit in an Island infrastructure plan? Again, I make the point, do we want to become landlord? What will be the unforeseen consequences of the States intervening in the market and jobs in relation to long-established employers? Not to get too picky about it, but there will be other considerations, which are: do we vet anyone that becomes a tenant? I am assuming we do.

820 I will sit down and give way to Deputy –

Deputy Tindall: Thank you, sir.

The Bailiff: Deputy Tindall.

825 **Deputy Tindall:** I just wish to add that all of these factors are very highly relevant and this is part of our concern about the timeframe, with all the Committee for Economic Development to come back within the timeframe identified in amendment B.

830 **Deputy Brehaut:** Thank you, Deputy Tindall.

So do we do the nitty-gritty, do we do due diligence of credit checks? Do we end up with, through unforeseen consequences, having tenants that we pursue through debts? We will need, obviously, the staff within States' Property Services to follow all this up and we know we are hardly morbidly obese with staff, are we?

835 I believe that Environment & Infrastructure, along with DPA, have delivered exactly what the States asked us to deliver. The amendment has been placed, once again, almost not acknowledging the total volume of land out there that is available.

In Deputy Queripel's opening speech, he spoke about it was unaffordable, commercial rates that are simply unaffordable for tradesmen who want to go into commerce. So if they cannot afford to do it and you have to put some stimulus, economic enabler, which is to devalue the actual price of land to encourage business, then you do get into this awful muddle of exactly who do you want to help? It could become the size of a cow before you know where you are.

Thank you, sir.

845 **The Bailiff:** Deputy de Sausmarez.

Deputy de Sausmarez: Thank you, sir.

I agree with just about everything Deputy Brehaut has just said, although I am not sure I quite agree with his conclusion. I was not sure what his final conclusion was! But I certainly endorse everything that Deputy Dorey said and agree with much of what Deputy Fallaize said. Notwithstanding the fact that it is his birthday, I will disagree with him on one point, which is the idea on the evidence of need, in terms of Fontaine Vinery is evidence of need in its own right.

855 There is something called supply-led demand, which undermines that principle. I find it easiest to explain in terms of transport, as I would. But it is most obvious to explain, if you create a bunch of incredibly easily accessible and free parking, you actually cause journeys to go and park in it. So supply-led demand, there could well be a need, but I do not think the Fontaine Vinery, in its own right, is sufficient and robust evidence of that need, because we are probably distorting the market.

860 I found this quite a frustrating debate actually, because we have had so many different opinions and so many different valid views. Is it availability or affordability that is the problem?

How much are we distorting the market? How much should we be distorting the market? Is this an industry in need of support and state intervention? Is it possible to do this in an even-handed and fair way?

865 All these things are incredibly valid. Will private land change use in a sufficient quantity and in a realistic timeframe? These are all incredibly valid questions and I think what this debate has shown is that we do not have the answers – yet.

870 That is why I, personally, am keen to find out. I would like to support amendment 2, or amendment B, and I would also like to remind my colleagues that, in supporting amendment B, or amendment 2, whichever it is called, it is not a green light. We are simply asking the Committee for Economic Development to give us its opinion on whether the States should facilitate the use for industrial purposes of any of the areas of land listed.

I think that is reasonable. This debate has been going on for so long. We do not have the right kind of evidence. We know about the total amount of land, we do not know whether it is the right type of land, the right size of land. All of these things. They are all valid questions.

875 I, for one, would like to know and that is why I would like to support amendment B. I am very, very wary, because of all those same questions about amendment 1, amendment A, I think it is far too much of a gamble. To me, we do not know the answers that that is assuming. We do not know whether all those assumptions are correct or even any of the assumptions are correct. For me, amendment 1 is out of the question. Amendment 2, I would be very happy to support, 880 because I do want to finally get to the bottom of this and find some answers.

Thank you.

The Bailiff: Deputy Meerveld.

885 **Deputy Meerveld:** Sir, I would like to call for a guillotine motion, under Rule 26.1.

The Bailiff: Right. As we saw yesterday, the first requirement is for those who still wish to speak and have not yet spoken to stand in their places.

We have one, two, three, four, five, six people standing.

890 Do you still wish to press the guillotine motion, Deputy Meerveld?

Deputy Meerveld: No, sir, I will withdraw it.

The Bailiff: You will withdraw it? Thank you.

895 **The Bailiff:** In that case, Deputy Mooney was standing earlier and I will call Deputy Mooney.

Deputy Mooney: Yes.

Many fine arguments in the Assembly yesterday and today as to how to kick the can down the road. One of the arguments suggested that we employ a consultant, it goes to Economic Development for a year. We waste time and money on it and Economic Development would like 900 to save that money for our inter-island ark next year to come forward. *(Laughter)*

I will be supporting both the amendments. I am very much in favour that we get them.

Thank you very much.

905 **The Bailiff:** Deputy Le Pelley.

Deputy Le Pelley: Thank you, sir.

I will be very brief. I cannot support amendment A, for the arguments already made about unfair subsidies, and I find it very difficult to support amendment B, either. The reason for that is the vagueness of the actual statement there.

910 If I can point out to you that this Fontaine Vinery is in its third three-year temporary extension and, with each of those three applications, the Constables and Douzaine of St Sampson's have objected and have had that objection just wiped away. To actually have the policy letter saying 'by the end of June 2018', I could live with that possibly, 'or six months after the States have debated the policy letter' referred to, which could go on and on and on and be deferred yet again and yet again and yet again, that could be too open-ended for me.

915 So I am afraid I will be opposing that one as well.

The Bailiff: Deputy Lester Queripel.

920 **Deputy Lester Queripel:** Thank you, sir.

As we all know, the two Propositions in the policy letter ask us to note the various sites dotted around the Island, belonging to the States, have been identified as potential sites that could be used for industrial purposes.

925 The Queripel and Queripel amendment before us seeks to take that process of identification to the next stage, by calling for action to be taken to facilitate the use of one or more areas of that land.

930 So, sir, the Queripel and Queripel amendment is, in a very real sense, a proactive amendment, made with the intention of providing support and stability for businesses, such as those currently in place at the Fontaine Vinery, who need storage compounds to enable them to continue to trade. There are other businesses, of course, in addition to those businesses, that occupy the Fontaine who are desperate for those types of storage facilities.

Sir, as a Member of the previous Assembly, I was asked to help such a business who spent two years trying to find an area to store all of their equipment. Sadly, they eventually went out of business, because they could not find suitable premises.

935 As a result of that, four employees, as well as the employer, lost their jobs. The employer and two of his former employees managed to find alternative employment. The other two reluctantly signed on as unemployed. One of those two eventually became extremely depressed and demoralised, due to the fact that she had lost the job she loved doing. That is how much the firm closing down and everyone losing their jobs affected her.

940 I ask my colleagues to please bear that in mind, sir, because every time a business goes out of business, there is a cost to the community and there is a cost to the individual. The cost to the individual is that they lose a job they love doing or a job they need in order to keep up with the cost of living in Guernsey. Of course, there is always then the risk of them becoming depressed and totally demoralised.

945 The cost to the community comes about because, not only does the system lose out on the tax-take and Social Security contributions of the employer, and the employee, but it is the community who pay out in unemployment benefit. Of course, the community also lose out on the overall spend here in the Island, because people in work generally have more money to spend than someone who receives unemployment benefit, which is currently £151.62 a week.

950 We also have to bear in mind that not every unemployed person receives the full rate, because that unemployment benefit can be reduced to £83.37 a week, depending on the circumstances of the individual.

Surely, sir, the message comes through loud and clear? We need to provide as much support as we can to local businesses to enable them to stay in business.

955 The construction industry gets very little support from Government at the moment and is considered to be the lower priority industry by the States. I am a Member of the States and I certainly do not consider the construction industry to be the lower priority industry. I think we could do more to support the industry and I only hope the majority of my colleagues feel the same way and support one of the amendments, at least, which, in themselves, to use political speak, especially the Queripel/Queripel amendment, is surely an economic enabler of sorts?

960

A couple more points. One is that we are often told that the States needs to maximise its assets to ensure financial return. Well, here is an opportunity for us to go down the path towards that goal and utilise States-owned land that is lying dormant and not generating any income whatsoever. In fact, the longer it remains dormant, the more it costs the community in rates and maintenance etc.

Just to be clear, sir, as has been mentioned by many speakers, we are talking about the tenants paying rent for the spaces. We are not talking about taxpayers' money being used to subsidise the tenants.

Moving onto the issue of whether or not we need to use more States' land for industrial purposes, there does seem to be a need for it and I say that not only from my experience of having run my own business in the industry for almost 30 years, but by talking to tradespeople and business owners and having them tell me: yes, there is a need. I was talking to one such business owner on Tuesday, on the telephone, who told me he knows of several firms who are in need of storage compounds and currently struggle to survive, due to having to keep different pieces of equipment in several places all over the Island. What they really need is one space, big enough for them to store all of that equipment.

I did pass his contact details onto my colleagues, sir. I hope some of them managed to find time to contact the gentleman in question, although, I fully appreciate, sir, it was short notice. I understand if they have not been able to find the time.

I want to spend a moment or two separating these two amendments, because, as we all know, they do differ.

I apologise in advance to my colleagues, sir, for stating the obvious, but I do feel the need to emphasise that the Queripel and Queripel amendment will certainly accelerate proceedings, if it succeeds, because it calls for action. Whereas, with the greatest respect, the Queripel/Fallaize amendment calls for investigations and research to be undertaken at the Committee for Economic Development to establish whether or not, in their opinion, the States should facilitate the use, for industrial purposes, of any of the areas of land listed in Proposition 1. Then the Committee would need to submit a policy letter for debate by the States in six months' time. Who knows how long that debate would take? None of us does. So the States would have to debate it, come to their own conclusions and vote on it.

If the Queripel/Fallaize amendment succeeds, we will find ourselves committed to a lengthy process, which would take a lot longer to conclude, six months longer, in fact, than if we vote for action to take place immediately, by voting in favour of the Queripel/Queripel amendment in this Chamber today.

Of course, the longer we take, the more risk of other business or businesses going out of business and the more cost there is to the community in rates and maintenance of dormant States' land, etc.

With that in mind, I guess the question my colleagues need to ask themselves is why would we not support the Queripel/Queripel amendment, which seeks to accelerate proceedings? Because, as well as accelerating proceedings, it will send out a clear message to the construction industry that, even though the industry is apparently considered to be a lower priority industry by the States, they most certainly have not been forgotten, because we, the States, realise there are things we can do to assist the industry, although we, in turn, ask the industry to realise that we are limited in the amount of support and assistance we can realistically provide.

I think it is important for me to emphasise, at this point, that I am in no way, shape or form, trying to discredit or belittle the Queripel/Fallaize amendment. I sincerely hope I am not coming over as trying to do that, because the Queripel/Fallaize amendment is a worthy amendment. Although my plea to colleagues, on behalf of businesses who are in desperate need of storage space is please, please, please support the Queripel/Queripel amendment, if colleagues cannot bring themselves to do that, then I urge them to vote for the Queripel/Fallaize amendment, because then the procedure will finally be in place, albeit a somewhat lengthy procedure, to progress this whole issue.

On the issue of us spending – I am not giving way to Deputy Parkinson With the utmost respect, I just want to get on with this speech. (**A Member:** Hear, hear.) I am often criticised, sir, for my speeches being too long, but it does not help when I get interrupted and get asked to give way.

On the issue of extending the tenancies at Fontaine and possibly delaying the construction of housing on the site – Deputy Tindall alluded to this – must they go in the ground to start building the day after the tenants have been evicted? Of course, it will not. That will not happen for a year, or even two years after the tenants have been evicted. So we do not really need to concern ourselves with delay because plans can still be drawn up and submitted and also be decided upon, whether the site is being used or not.

On the issue of the States being landlords, as was highlighted by Deputy Brehaut, I might be wrong, but are we not already landlords: approximately 2,000 social housing premises, landlords of our schools, a hospital, a prison and many other buildings? I think Members were being misled there. Surely – I might be wrong, I might be missing a fundamental point – the States are already landlords?

In summary, sir, some of my colleagues will be asking themselves why should we support businesses who are desperate to find storage contacts? Well, again, I might be missing the fundamental point, but we support other industries, such as the finance industry, the fishing industry, digital technology, tourism, our bus service, there are more to add to that list, and we spend millions of pounds on those. I understand, perfectly, why we do that. We are not talking about spending money here, anyway, because the tenants will be paying rent and, to emphasise, they will be paying rent for States' land that is currently laying dormant and not generating a single penny in income for the States.

To focus, for a moment, on the tenants, currently operating from the Fontaine; if they cannot find another premises before they are evicted, then there is a very real possibility they will go out of business and there will be a real cost once again to the community, as well as a cost to the individual. Is that the kind of result we want?

Surely, we should be doing our utmost to ensure the wellbeing of our fellow Islanders and do what we can to improve their quality of life?

If we are not going to help our fellow Islanders in their time of need, then what are we actually here for?

In closing, sir, as we all know, 30 Members of this Assembly voted in favour of the Queripel/Fallaize amendment that called for sites to be identified. So, surely, they will vote in favour of at least one of these amendments before us today? If they do not vote in favour of either of them then, surely, the question needs to be asked why did they commit civil servants' valuable time and taxpayers' money to the process of identifying sites in the first place? It would not make sense to have done that and then to vote against either amendment.

Surely, we should now capitalise on all the work that has been done, all the resources that have been used and all the taxpayers' money that has been spent and take the next step and vote in favour of at least one of these amendments, especially the Queripel/Queripel amendment, which will accelerate proceedings considerably.

Thank you, sir.

The Bailiff: Deputy Graham.

Deputy Graham: Thank you, Mr Bailiff.

I suspect I am not the only Deputy here who, during the course of this debate, has veered this way and that on the merits of either or both of these amendments.

I am glad that Deputy Fallaize made the very clear and obvious point that, in a way, the Authority on the one hand and the Committee, on the other hand, had done precisely what the October Resolution required of them. I am then left to think that, perhaps, if certain Members had wanted that Resolution to go further at the time they might, indeed, have done so at the time and

1065 it is a pity that the Resolution, having been fully met, is now having to be subject to amendments. I do not criticise the amendments in any way, but it seems to me a statement of fact that perhaps the original Resolution should have required more than has been accomplished.

That said, the reason I have stood up is really to ask two questions and I will just give a bit of preamble to those questions.

1070 So far, we have heard an awful lot about affordability. The relative affordability in the private sector and in the public sector and, conflated with that, has been the notion of the subsidy from the States of various sectors, and so on. I think we have probably heard enough about that particular aspect.

One aspect that I have not heard addressed in the debate so far - and, if somebody did and I missed it, I apologise - is that of security of tenure. I do not know to what extent small businesses out there feel that they would be more secure should they have a lease under States' arrangements, than if they had them under private arrangements and, I suppose, my second question is, if they do have that confidence, is it a confidence that is misplaced or sound?

Now, I am usually very reluctant to rely on anecdotal evidence, but you cannot dismiss it. I happen to know at first hand in the Castel parish of a case where a one-man business, in recent months, after working on the site for 40-odd years, suddenly had one month's notice to quit and close down. This came about five or six years earlier than he had intended to retire. He had two options, really: one was to retire earlier and cease to be productive earlier than he wished, and I am sure earlier than the Island's economy would have wished; or he somehow got to blister on to an ongoing business and become, in effect, a second or third partner. That, to me, illustrated, the perils perhaps inherent in the private market, *vis-à-vis* security of tenure.

Having made that point, I would be quite grateful if the movers of these amendments, in fact Deputy Laurie Queripel, in summing up could address this issue of security of tenure and my two questions, really, are these: small businesses out there, do they feel that they would be more secure with a lease arrangement with the States; and, if so, is their confidence in that misplaced?

The Bailiff: Deputy Oliver has not spoken, so Deputy Oliver may speak.

Deputy Oliver: It was just a point of clarification. In Guernsey, we have no security of tenure. There is no landlord and tenant Act. So, when a landlord wants to get a tenant off the site, when his lease comes to an end, he is perfectly in his right to do so. We do not have a landlord and tenant Act over here.

The Bailiff: I know you said that is a point of clarification. Deputy Graham had sat down, so if you want to speak again, I would be treating that as your speech.

That is fine.

Deputy Tooley.

Deputy Tooley: Thank you.

1105 I believe, if I was hearing right, that Deputy Merrett talked of a utopia where all industry would be based on private land. I am not sure why that is the utopia.

Surely, if we own suitable land - and I stress *suitable* land - in suitable locations, which could be returning a revenue and this is the best revenue it can return, then we should be fighting to get and keep the business. Our States requires revenue.

1110 But when we meddle with market forces, we do run the risk of being involved in driving those market forces. If there is no States' support, then does the inability of any to pay the going rate drive a change which brings down pricing? Does assisting a few make it harder for the many?

Does permitting these self-created developments to continue in this way lead to an issue where those who have put in or are considering putting in planning applications consider withdrawing or delaying those planning applications because there is continued uncertainty within the market created by our decision-making today?

Housing is too expensive for many but we, as a States, cannot house everyone. So, with States' housing, we provide for those who need a cheaper and secure home. We cannot do it for everyone, so we decide the most deserving on the basis of need. It is not clear that we apply such criteria in regard to businesses which we support on States' land.

While I would absolutely agree that there is a need for us to provide land for businesses that we need on the Island, particularly where those businesses are supporting local families and employees and so on, I would like to see criteria which gives that land, those potentially protected rent rates, at whatever rate we decide they should be, to businesses which are supporting the local community, which are providing for a need, rather than businesses which are operating purely and solely to line the pockets of some megalomaniac at the top of a company.

I am not entirely sure how we do that, but I would like to see that done, if we are to continue States' support for these industries.

I cannot support the first amendment, but I will support the second. I will because we have created a situation where we have businesses which are operating, which are providing incomes for families and which are employing others who are then able to provide incomes for their families on land that we have allowed them to use.

It is inconceivable that we simply pull the rug out from under those people, without warning and without the opportunity to plan for their futures.

To me, an amendment which gives those businesses a guarantee of 12 months, plus the certainty that they will be given six months' time to plan for any change that we insist they make, is a good one. So, I will be supporting amendment 2.

Thank you.

The Bailiff: Deputy Leadbeater.

Deputy Leadbeater: Thank you, sir.

Firstly, I would like to thank the proposer and seconders of these amendments for their efforts in trying to help the construction industry, but, certainly, amendment 1 does the complete opposite for me. I have worked in the industry all my life and I am fully aware of the cost of renting commercial premises in the private sector. That, unfortunately, is what everybody in the industry has to put up with. It is as simple as that.

But I do not agree that we should be subsidising only a few businesses, by finding them States-owned sites and providing only them with realistic, affordable, rental costs.

Deputy Lester Queripel mentioned that we need to support our construction industry. Yes, we do, but not only 11 of them – not only 11 of the businesses within it. These businesses that we have been asked to support over their competitors are big hitters in the industry, not small firms establishing themselves in the market.

The industry will be up in arms if we are seen to pick and choose who we support and who we do not. We have no business in meddling in the commercial rental side of the industry, unless we have solid evidence that we should and I do not see that.

I have no problem in extending permission at Fontaine for a period, to allow sites such as Extension and the others going through planning process to establish. I have got no issue with that whatsoever. So, I am kind of unsure about amendment B, amendment 2 or whatever it is going to be called. Amendment 1: definitely, from somebody who has worked in the construction industry all their lives, please do not vote for amendment 1.

The Bailiff: Deputy Yerby.

Deputy Yerby: Sir, like Deputy Graham, I have been swayed in the course of this debate and the speeches by Deputy Leadbeater and Deputy Tooley just now probably swayed me closer to my original position again.

But, briefly and bluntly, the Committee for Economic Development, in the course of this debate, have been saying just do it and, yet, for a matter that is so squarely within their mandate it appears to have taken all the pushing by Deputy Laurie Queripel and a couple of others to get there over the course of this and previous debates.

That is disappointing. So I will be supporting amendment 2 because, I think, regardless of whether or not we support we amendment 1, regardless of whether or not we get on with it, we do need to see Economic Development set out its ideas for the support of light industry.

So I think it is really important that the work is done on amendment 2 and we get that report back.

The reason why I have been swayed in the course of this debate is precisely because they have been saying just do it and because I am now asking myself if the work amendment 2 will be any more advanced than the current level of support for amendment 1.

In that respect, I have been minded to consider supporting amendment 1, so that a foregone conclusion can be acted on swiftly because, on that matter, I am broadly of a mind with Deputy Fallaize, but I would just like to emphasise the importance of delivering that work under amendment 2.

The Bailiff: Deputy Le Pelley, you have already spoken.

Deputy Le Pelley: Sir, yes, I have.

Could I ask a question of the Comptroller, just for an understanding of what we are being asked to do when we say, or any other time, under amendment B, it says, 'or within six months after a policy letter' has been done. Could that actually extend for more than three years, because at the present time, we are having temporary extensions of three years at a time and would we actually be, possibly, enabling something to actually go on for a longer period than a three-year temporary extension?

In which case, we could be bypassing various Rules of the States.

The Bailiff: Comptroller.

The Comptroller: Yes, thank you for that question.

'To the end of June 2018' – fairly clear; 'six months after the States have debated the policy letter referred to in Proposition 3'. Well, I suppose if the debate was deferred, if it sursised it possibly could be. But, I think it is relatively clear that, once that debate is finished, then the time period of six months would start to run.

I think it is purely a question of how long the debate –

The Bailiff: Proposition 3 does contain the date of December 2017 as being the date by which the Committee has to report.

The Comptroller: Indeed. That is the report. It is a question when the debate concludes, I suppose.

The Bailiff: That is then within the hands of the States.

The Comptroller: Indeed. If that helps at all?

The Bailiff: Deputy Fallaize?

Deputy Fallaize: Sir, on that point, can I just ask H.M. Comptroller to confirm that what would be required for the clock to start ticking, as it were, is only for the States to debate the policy

1220 letter? The conclusions the States reaches are irrelevant? As soon as the policy letter is debated, the six months would start?

1225 **The Comptroller:** It seems to be that is a reasonable way and a proper way to interpret it. It is what it says, 'six months after the States have debated the policy letter referred to in Proposition 2.'

Deputy Le Pelley: Thank you, sir.

I just want to make sure that we all understood that that is exactly what we are talking about.

1230 **The Bailiff:** Deputy Langlois.

Deputy Langlois: Thank you, sir.

1235 All those who recall my 2004 manifesto (*Laughter*) – I still have copies of it at home! – will know I have a great deal of interest in the internal economy, the goods and services we produce and consume ourselves. I think that has atrophied and not enough account is taken of that. Mainly because our external economy, our exports and finance industry has been so successful over the years, very little interest has been shown in our internal economy. Also, in the modern world, the lines between the two tend to get blurred, so it becomes a difficult thing to look into.

1240 Obviously, the building industry is a fairly fundamental part of that internal economy. What I am hoping, rather optimistically, for – I will not be supporting amendment A for a lot of the reasons fellow members of Environment & Infrastructure have explained and, as Deputy Fallaize said, you could see this in three stages and amendment A attempts to skip stage two, which is actually developing a policy, which is really what we should be all about – perhaps, is that sending Economic Development away to look at the situation of people who require open storage yards might trigger a greater interest in the internal economy of the Island. It would be difficult, I think, for them to consider that in isolation of other industries within the Island.

1245 So, I am hoping that, after all these years, we do finally start looking at the Island's internal economy. At first, I was not going to support amendment B, but I will be because I think there is merit, even though members of Economic Development who have stood so far seem to be a tad reluctant to support amendment B and have been in favour of going straight into the call for action amendment, amendment A, which I think would be a huge, huge mistake.

1250 I do not think the States should be intervening in the market without a great deal of thought. So I do encourage everybody to support the second amendment, amendment B, because I think it could lead to greater things.

Thank you.

1255 **The Bailiff:** I see no one else rising.

Sorry, Deputy Le Clerc.

Deputy Le Clerc: Sorry, sir, I just wanted to clarify.

1260 I am just thinking, with my responsibilities for Employment & Social Security, and with my social housing hat on, that any delay with the Fontaine Vinery still being given over to light industrial, that may potentially have effect on our potential social housing programme building, because that property, in my understanding, was earmarked for social housing.

1265 I am not sure of the implications of that, but I am more minded to go with amendment 2, because actually at least there is a time element on that. Whereas, if it was just open and we delayed it forever and ever, we will have a delay on our social housing programme.

Thank you.

1270 **The Bailiff:** Deputy de Lisle.

Deputy de Lisle: Thank you, sir.

I just, very briefly, want to state that open storage yards and land for the same has been a long-standing issue, since I have been in the States.

1275 Really, it has been a problem because, I think, of the fact that continually we have seen, actually, industrial land being changed over for other uses. But, also, I think there has been a squeeze, if you like, in terms of small industry that traditionally harboured itself within properties, within greenhouses and yards and so on and so forth on those properties and, through time, there has been a tendency by the States to restrict that ability to store on private land outside of designated areas.

1280 So that has been part of the planning process, really, that has squeezed permissions to continue on vinery sites and outside land.

Attempts have been made, both to designate land in a rural area and, also, a site like Fontaine Vinery, on a temporary scale, to defray this particular problem and, of course, with the Co-op development in St Sampson's, there has also been a drive to look for temporary facilities for some of the industry that has been moved from that particular area.

1285 But, when we look at the Fontaine Vinery site and expansion there over the years, we have found difficulty, actually, in expanding the land for open storage on that site, because of the residential properties in close proximity. Today, I think, when you look at it, we have got a bit of a jungle outside the Douzaine room, which a lot of people are also objecting to. There has been a promise, of course, that it is only something on a temporary basis but, as has been pointed out during the debate, that temporary business has gone on for a number of years.

1290 There was a need. Temporary facility was given at Fontaine Vinery and we know, when we looked in Commerce & Employment just recently, that there is further demand; there are people waiting, actually, to locate on that particular site. So there is some urgency in expanding that particular area.

1295 I think we have to look at this, then, by applying common sense, applying logic, right to this particular issue. If these people are going to be asked to leave that particular site well then we will have to find somewhere else for them to locate. Therefore, I think the amendments are very sensible. I will be supporting the second one, the B amendment, and I believe that we cannot just leave those industries to falter. We have to be responsible as a Government and we have to either provide new temporary facilities on Longue Hougue, or wherever, and not let those industries falter because of the proper land facilities for storage yards, after we, as a Government, have restricted the ability on other sites.

1300 Thank you, sir.

1305

The Bailiff: I see no one else rising. Deputy Laurie Queripel may reply to debate on both amendments.

Deputy Laurie Queripel: Thank you, sir.

1310 I thank all Members who have contributed to the debate, whether they support the amendments or do not, or support one and not the other. A very useful debate; some very interesting points came out. As Deputy Graham said, I am sure Members were, because of the ebb and flow of debate, were going backwards and forwards between which one to support or to support neither of them.

1315 I am not going to reply to all the points and the speeches, because there were so many. I have got pages and pages of notes. I am just going to try and pick out the most pertinent points. Particularly, perhaps, some of the most substantial questions that were asked of me.

1320 I just wanted to say I hope Deputy Ferbrache has not changed his mind. I hope he is still going to support amendment 1 or A. I think he made some – and I think this is a key word actually – very pragmatic, some very good and some very practical points, as one would expect. He believes that sufficient evidence exists to support A and so do I, sir.

Deputy Roffey, sir, he made a number of points and I feel I have to address those, to some extent. I think he made a very fair or valid point, actually, when he spoke about commercial rate. Actually, I was very tempted, because I had this conversation with Deputy Brehaut and Deputy Dorey, about including commercial rate in the amendment. I was wary of doing so, because I have not been in this Assembly for that long, but I have been here for a term and a bit and, already, I am wary of the way that things are interpreted; the way that words in amendments and in Propositions are interpreted.

I am not going to expand on this too much, but I know within certain quarters of the States, across the States' organisation, there is a real resistance, or reluctance, to pursue this issue, to carry out these actions being called for. As I say, I will not make any stronger points than that. I did not want to provide the opportunity to trip up this process, for any wording to be exploited or distorted.

If you are going to talk about a commercial rate for these types of premises, which is basic open land, compounds etc, you have to compare like for like. I was a bit concerned that there would be an attempt to say 'the commercial rate is ...' and the reference would be towards some of the premises I spoke about when I referred to the list of premises that I have seen that are available, or were available, for rent.

That was my concern. You have to compare like for like. If you just say 'commercial' and without qualifying it, I think that opens up a whole area of interpretation and distortion. So I was concerned about that. That is why I resisted the temptation to do that, because an open compound is not a teched-up and well-facilitated warehouse. They are entirely different animals.

So I was tempted to put that, but I did not for that reason. But, to answer Deputy Roffey, yes, I have no problem at all, if we are comparing like for like – I am not going to use the cliché apples and pears, I think I might use apples and bananas, because it is a banana skin that you can slip up on, apparently, if one is in place. I was worried that a banana skin being put in place of those words being distorted or misinterpreted – but, if we are saying open compounds, open storage, I actually agree, a commercial rate in that context would not be a problem.

Actually, I did have a note, from one of the tenants at the Fontaine, sir, who has actually said they have always been prepared to pay a commercial rate for those types of facilities and they would be, perhaps, willing to pay slightly above the market rate, because those types of facilities – and this goes against so many people that have said there is an excess of premises, there is an over-supply – because they know that those types of premises, to suit their businesses, are in very short supply. They know that.

They are willing to pay a commercial rate and, I think, apparently, they have made actually already to States' authorities and they have said that they would be willing to pay a bit more than the commercial rate for that type of premises, because those types of premises are so hard to find.

So, yes, I will go on record. I am happy to be recorded on *Hansard*, a commercial rate in the context of the types of premises we are talking about, is fine by me and by the tenants of the Fontaine and, I am sure, any other tenants that would need that kind of land provision.

Deputy Roffey, sir, made another point. I know it has been addressed by Deputy Fallaize and a few others, but I think I need to address it a bit further. It is a strong one, superficially, until you explore it.

He was talking about the States treating some people, or businesses, different to others. I agree with him: in the ideal world – we have heard the expression 'utopia' – that would not be the case, everybody would be treated equally across the board, regardless.

But the States – as Deputy Fallaize pointed out; I think I can give a few more examples – they do this all the time. They will do it in the future and that can be justified to some extent.

Let us think about the future for a minute. Have a look at the document that I am sure you have all read, the 350-odd pages, the Policy & Resource Plan. That is all about prioritisation. It is about high priorities, lower priorities and low priority. Inevitably, that mix, in regard to some

people and businesses, shows that some people, some businesses, will be treated differently to others. That cannot be avoided.

1375 If you have a priority, listing some things at the top and something else at the bottom, that will impact upon our community, impact upon people and it will impact upon businesses. A good example of that is the Innovation Fund; somebody mentioned that. If that Innovation Fund is approved – I am not saying it should not be – there may end up being 50 applications to access that fund.

1380 Not everybody is going to access it. It might end up that 10 businesses, or 10 ideas, pass through the criteria process and they access funds. Another 40, by definition, will not access. So, they are being treated differently. I appreciate there will be a criterion in place, but they are being treated differently.

We have done this in the past and we will do it in the future, treating people slightly differently, or businesses slightly differently, depending on the circumstances.

1385 How do we do it now? I think somebody mentioned social housing. I know there are plans afoot to try and address this shortage of social housing, so that we can try and accommodate all the people that need it, but the fact of the matter is, at the moment, we do not. There are people that do not live in social housing that would easily qualify for it, but there is simply not enough social housing to meet demand.

1390 Now, as I say, that situation may be addressed in the future, but that is the situation at the moment. So we have some people actually who should be in social housing, who are living in the private sector and they are suffering hardship because of that. So that is another example.

Also, of course, the issue of income top-ups in regard to people who have low salaries. In a way, in an indirect way, that is a subsidy for the businesses that employ those people. Other businesses might look at that and, I know we have not ever really arrived at what would be a living wage in Guernsey, but there are some businesses that probably pay something close to a living wage or a living wage in the Guernsey context. Their employees do not need to apply for a top-up, but employees of other businesses, who pay low wages, they need to apply for a top-up and their businesses are being subsidised because of that.

1400 Yet, we accept that, because we are thinking about the bigger picture. We are thinking about jobs, we are thinking about skills, we are thinking about economic diversity, we are thinking about all these things.

1405 So I have got more here, but it is not a rare thing, the States do it all the time. They treat people and businesses differently for a number of reasons.

There is another one I will mention, actually. When Guernsey Water employ off-Island traders to come over and carry out certain tasks or works on their behalf, they allow those businesses to park their vehicles and plant for free on so-called Guernsey Water land. It is public land, really; so-called Guernsey Water land. Local traders and local businesses are not allowed to do that. They are not allowed to access States' land or land that is belonging to commercialised States –

1410 I give way to Deputy Roffey, sir.

Deputy Roffey: I am just interested, does Deputy Queripel think that situation is right, or wrong?

1415 **Deputy Laurie Queripel:** That is debatable (*Laughter*) and that is why we are here. That is debatable. I say to Deputy Roffey, that is debatable, but I am providing an example of where there would be a perceived unfairness or a way that people are treated differently.

1420 Also, there is another example, down at the harbour on the northside. Some of the private, local companies are allowed to keep their vehicles and their containers for freight purposes. I do not know if they charge for that, but they are allowed to keep them there. There is an area set aside for that kind of thing. It would be very easy, I think, for another local business, to say: 'If they can do it, why can't I?'

I think there are lots and lots of examples of how we treat people and businesses differently. Perhaps for very good reasons. Perhaps it is neither right nor wrong, but we do it anyway. That is a reality and we are going to do it in the future.

I hope I have dealt with Deputy Roffey's queries and points sufficiently there.

Deputy Smithies, he rolled out some very interesting and telling figures and stats. I think he said – I might have this wrong – that this type of land provision for these types of businesses is in short supply. I think that is what he said when he read from his facts and figures.

Deputy Smithies: No, exactly the opposite! (*Laughter*)

Deputy Laurie Queripel: Right, what you said.

Actually, you have said that, because it is! (*Laughter*) You should have said that, so it is, because I do not know where the evidence is actually. As Deputy Fallaize says, the Fontaine has existed for, what, 10 years now, 13 years? There is a waiting list there. There is no evidence of anywhere else, those types of businesses though can go. I am going to come to that in a minute, actually.

Yes, I give way to Deputy Smithies.

Deputy Smithies: Just on a point of correction.

Yes, what I said was, that there is plenty of land, but the rental you get for it is a lot less if it is low-grade agricultural land, whereas the sites identified are actually light industrial land, which would command a much higher rent.

Deputy Laurie Queripel: So we are talking about affordability, etc.

Of course, the STSB is interested in getting a return on the property and land assets. That is a very reasonable and valid objective.

Moving on to Deputy Parkinson, sir. He said some interesting things. He might support B, I do not know if he will or not, the second amendment, because he feels that the idea of putting together a policy framework is a worthwhile idea. At the same time, he was keen to see the logjam removed in regard to the situation at the Fontaine, so perhaps he should support amendment A, if that is the case. Anyway, I would welcome the support of either amendment, if he feels moved to do so.

He said in his speech that he was sympathetic overall, so he clearly has some understanding of this issue.

There was a very important point made, I thought, when he was speaking about the States interfering in a statutory process. In other words, putting a direction in place that has an impact upon a statutory process and that actually is a fair point.

Bearing in mind the next report we are going to debate, about the Brouard premises at Landes du Marche, did we not kind of do that last time when we had the IDP debate and we directed that that should be looked at in some way and some sort of mechanism should be put in place to allow what was being asked for to be established or permitted at the Brouard premises?

I think we have kind of –

I give way to Deputy Parkinson, sir.

Deputy Parkinson: Sir, I think my point is that the States is effectively being asked to pre-judge a planning application that will go to the Development & Planning Authority and to direct the Authority to approve it.

I do not think the Brouard situation is on all fours with that and I do wonder, actually, whether it would satisfy the proposers of these amendments if I simply gave a commitment to the Assembly now, that the STSB will put the application in, which is all we can do, because then, at least, we will take the process as far as we can take and the Assembly would not then be effectively directing the Development & Planning Authority to approve it.

Deputy Laurie Queripel: I think I will push on with the two amendments, if I may.

I know the point that Deputy Parkinson was making but, surely, there is a time and place for Government to be pragmatic, to identify perhaps unorthodox solutions and direct a course of action? Because there is clearly a problem.

1480 I think, actually, temporary deviation from a policy or Law, is perfectly justified if a problem has been identified clearly and a solution can be reached.

I thank those Members who spoke in support – Deputy Inder and a number of other Members. Deputy Graham asked a couple of questions. He was not sure which way to go. He felt he was veering this way and that way, because of the ebb and flow of debate. He speaks about security of
1485 tenure and, as we say, there is, in regard to legislation, no security of tenure, but I do think that, having spoken to the businesses that occupy the Fontaine and other businesses that are looking for premises, I get the feeling from them that they feel more secure when the States is their landlord. I think that can be borne out by the fact that they have not been abandoned. Permission has been extended several times in order to allow them to carry on using the Fontaine and I am
1490 not quite sure if private landlords or private owners of land would make that effort or would act as honourably as that to try to sort those things out to allow them to carry on operating on their land.

Of course, private landlords, you cannot blame them, private landowners; if they see an opportunity to get a better return on their land than they are getting at the moment, they will
1495 clearly push towards that. Most people would, anyway.

I think, from that point of view, people feel, tenants of the States and perhaps other people who are not tenants but who would like to be, probably, the States is a better landlord in a sense of security and playing fair with them. I think that is the best answer I can give on that one.

I just wanted to jump, sir – because I could address so many things – to the speeches made by
1500 the members of the Development & Planning Authority: Deputy Tindall, Deputy Leadbeater and Deputy Gollop, of course, the President. Deputy Lester Queripel has spoken, but he is in support of this.

I think I heard right yesterday when Deputy Gollop said during the debate in regard to the Douzaine representatives, that he did not care about the Law, he did not care about the policy, he
1505 did not care about the Rules, he just wanted to do what was right. I think he said those. I think he is being a bit extreme by saying he does not care, but he said that. His inference was, if there is a problem we should try and find a way around it and perhaps put aside, even temporarily, the policy or the rules or the Law, because, by doing that, we might be able to achieve a better outcome and that is exactly what I am saying when I am speaking to and supporting and
1510 proposing amendment A.

I am a little bit disappointed by the approach taken by Deputy Leadbeater and Deputy Tindall that we must stick to the Law and the Rules at all costs. It reminds me a little bit of that programme on Radio 4, *Just a Minute* – plenty of repetition, but no deviation.

1515 **Deputy Tindall:** Point of correction, sir.

The Bailiff: Deputy Tindall.

Deputy Tindall: I did not say that.
1520

Deputy Leadbeater: Point of correction.
I never said that, either.

Deputy Laurie Queripel: Since you are going to neither vote for amendment A or B, by the
1525 sound of it, that is the inference as far as I am concerned. You clearly do not see any merit in this argument at all. They clearly do not see any merit in this argument at all, sir, Deputy Leadbeater and Deputy Tindall. Or else, they would at least consider voting for B.

I did not hear that from Deputy Tindall. All I heard from Deputy Leadbeater was we must not interfere with the market, etc. and yet, as described and I vouch from Deputy Roffey, we interfere with the market all the time. We have got lots of evidence here. We interfere with the market all the time.

I am presuming, when people say we should not interfere with the market, then we should not help to create more affordable housing and other things like that.

It does concern me, sir, and I think that is a weakness in the argument. If you go back to the last election and you looked at people's manifestos, I do not think they would have said, 'Well the system is the system, there is nothing we can do about it. If there is a problem, if policies and Law do not allow, we will not try and get around them, we will try to find some sort of solution.'

I think people in our community are quite dismayed and disappointed about some of the things that they hear coming from the States and they see coming from the States, because it seems to me, in many cases, we are just sticking with the Law and the system as it is and we are not trying to find ways around it to solve problems, even temporary powers to do that. So, that does disappoint me.

I just wanted to go to Deputy Brehaut's comments, sir, if I may. Deputy Leadbeater just mentioned about where is the evidence. When we intervene, there is evidence to intervene and we should not intervene where there is no evidence.

I do not know if Members were listening when I opened up on this amendment, but I think I have given four reasons why we should go ahead. I am speaking for A now, but of course I want Members to support B if they do not feel they can support A.

Four reasons why we should go ahead.

Number one: the existence of the Fontaine. I know some Members have tried to discredit that, but the existence of the Fontaine, the length of time it has existed for and the waiting list, which as far as I know, has never decreased. That is the first thing, that is the evidence before our eyes.

Number two: sir, I said when I opened up that I had spoken to the few landlords of what I would consider to be affordable and basic premises. They have all said that demand exceeds supply. They all have waiting lists. That is the second very important piece of evidence.

Number three: I went through the list, and I can give it to Members if they want it, of premises that are available. They are mostly warehouses, highly facilitated warehouses that were used for LVCR. None of them are below £10,000 per annum on this list. So that is the third bit of evidence.

I think the fourth bit of evidence is – and this has been alluded to – up until this time the lack of success for the call for sites. A lack of success of the policy that is put in place to try, understandably and laudably, to facilitate the use of private sites. As I said yesterday, with the first batch of sites, there were 11 expressions of interest. Two sort of got the nod, but only one was given permission. Even then, there are issues with that site that have to be mitigated and even those mitigation measures might not be good enough to satisfy the tenants who live in that area.

As for these new applications, I wonder if anybody can confirm to me from the DPA if the Rue du Douit Vinery is part of that new application for sites for use for industrial. Can anybody confirm that to me?

The Bailiff: It is slightly unusual to allow another speech at this stage.

Deputy Tindall: If I may ...

The Bailiff: Deputy Tindall.

Deputy Tindall: We would not know, because the officers deal with the applications and we would only come if it was going to open planning.

Deputy Laurie Queripel: I think there is one thing we can all agree on. There is one thing this call for sites and the sites that have been put forward have in common. That the issues are always the same.

Rue du Douit is a classic example. The access is not good: it is in a tiny lane. It is very close to residential properties.

Guernsey is such a tiny place, I do not think you are ever going to get a massive piece of waste land where you can site an industrial area and there are no residential units in the vicinity, but I think the more you can remove industrial sites, particularly of this nature, from residential units, the better.

It seems to me that the common theme in regard to the sites that have been put forward and, probably, in regard to the ones that are being considered now, they all come with the same issues.

So I think that is the fourth piece of evidence. The lack of success up until now from the call for the sites, the type of sites and the fact that the issues just do not seem to go away.

There are a lot more points that I have got written down here. I do not think I have to answer too many questions, unless Members feel I have not answered a question.

I do thank Members for the debate. I do thank Members who are going to support either A or B for indicating that. I would ask of Members who have indicated they are not going to support either amendment, if they would consider at least supporting B. I think there is enough evidence – I think there is plenty of evidence, I think I have just listed it – to say that we should go ahead with A.

But I do ask Members, if you do not feel you can support A then, please, if a policy letter and a policy position can be established via the approval of B and, if Members feel that is going to help them in regard to their understanding of this issue, if they do not understand it already, if they have not got all the information already, then I would ask them to support amendment B.

I just wanted to actually mention the speech made by Deputy Langlois. I thought he made a really good point about the internal economy. I think, actually, because we have this massive finance industry and the associated businesses and industries, we seem to forget about the internal economy and all the really important services and skills and jobs that they provide and I think we have not done enough to recognise that and we have not done enough to try and find a way to facilitate it, support it, and help to grow it.

As far as I am concerned, supporting amendment A would actually help us in that direction. Help us to grow the potential of the internal economy, so I do ask Members to support amendment A. I think there is strong evidence to do so, but if not, at least support amendment B, so this issue can stay on the table and it can stay on the radar.

Thank you, sir.

A recorded vote, sir, for both, please.

The Bailiff: Members, there will be a recorded vote, first of all on amendment A, the amendment proposed by Deputy Laurie Queripel and seconded by Deputy Lester Queripel.

There was a recorded vote.

Not carried – Pour 12, Contre 23, Ne vote pas 1, Absent 4

POUR

Deputy Lester Queripel
Deputy Mooney
Deputy Merrett
Deputy Stephens
Deputy Inder
Deputy Laurie Queripel
Deputy Green
Deputy Paint

CONTRE

Deputy Parkinson
Deputy Le Clerc
Deputy Leadbeater
Deputy Trott
Deputy Le Pelley
Deputy Meerveld
Deputy Fallaize
Deputy Lowe

NE VOTE PAS

Deputy Gollop

ABSENT

Deputy St Pier
Deputy Le Tocq
Alderney Rep. Jean
Alderney Rep. McKinley

Deputy Dudley Owen	Deputy Smithies
Deputy Prow	Deputy Hansmann
Deputy Ferbrache	Rouxel
Deputy Kuttelwascher	Deputy Graham
	Deputy Dorey
	Deputy Brouard
	Deputy Yerby
	Deputy De Lisle
	Deputy Langlois
	Deputy Soulsby
	Deputy de Sausmarez
	Deputy Roffey
	Deputy Oliver
	Deputy Tindall
	Deputy Brehaut
	Deputy Tooley

The Bailiff: Hon. Members, the voting on amendment A was 12 in favour, with 23 against and 1 abstention. I declare it lost.

1620 We vote now on amendment B, proposed by Deputy Laurie Queripel, seconded by Deputy Fallaize.

There was a recorded vote.

Carried – Pour 31, Contre 5, Ne vote pas 0, Absent 4

POUR

Deputy Gollop
Deputy Parkinson
Deputy Lester Queripel
Deputy Le Clerc
Deputy Leadbeater
Deputy Mooney
Deputy Trott
Deputy Merrett
Deputy Stephens
Deputy Fallaize
Deputy Inder
Deputy Laurie Queripel
Deputy Smithies
Deputy Hansmann
Rouxel
Deputy Graham
Deputy Green
Deputy Paint
Deputy Dorey
Deputy Brouard
Deputy Dudley Owen
Deputy Yerby
Deputy De Lisle
Deputy Langlois
Deputy Soulsby
Deputy de Sausmarez
Deputy Roffey
Deputy Prow
Deputy Ferbrache
Deputy Kuttelwascher
Deputy Brehaut
Deputy Tooley

CONTRE

Deputy Le Pelley
Deputy Meerveld
Deputy Lowe
Deputy Oliver
Deputy Tindall

NE VOTE PAS

None

ABSENT

Deputy St Pier
Deputy Le Tocq
Alderney Rep. Jean
Alderney Rep. McKinley

The Bailiff: The result of the voting on amendment B was 31 in favour, with 5 against. I declare it carried.

Is there any request for any general debate, for anyone who has not already spoken generally?
1625 No? Which of the two Presidents is going to sum up, I cannot recall, is it Deputy Brehaut or Deputy Gollop? Deputy Gollop, is it you who is going to sum up?

Deputy Gollop will reply.

Deputy Gollop: Yes, thanking you.

1630 I do not think there is that much to reply on in the general debate because there were general points made within the context of the amendments. We clearly had a clear result, which the DPA by majority supported, in the fact-finding amendment and the temporary continuation of the use of the Fontaine and we await with interest dialogue with Economic Development and the results of that work stream.

1635 We have already referred to a number of the points. I think Deputy Roffey, particularly, but also Deputy Dorey and Deputy Brehaut made the point clearly that it is difficult to have a principle of supporting some entrepreneurs or businesses and not others. I think we are still a little bit at sea on the definition of reasonable rent or market rents or rents that need subsidy. But, as Deputy Fallaize pointed out, that is not really our job at the Development & Planning Authority, to assess
1640 market conditions or industrial desires to expand businesses. That very much comes within Economic Development.

Indeed, the point was made by Deputy Lester Queripel that, had A won, it would have led to immediate action, which is something he called for at the elections, with a few other Deputies. I am not so sure about that, because, apart from the issue of the planning application that would
1645 have been made and, indeed, could be made under B, each planning application, although we have general use classes, there might be a specific industrial or commercial use required, also the nature of any structures, building control, environmental health, traffic advice. Indeed, that presupposes the STSB would come to an agreement on people for tenure.

So I do not think that you could get instant results, just because we vote for a broad approach
1650 to something.

I have to say Deputy Ferbrache and his Committee were very much united in calling for more action, more activity, more need for this. But, as I think it was Deputy Laurie Queripel who pointed out, in a way it is good, because they piggy backed onto the work the Queripel brothers have been doing and I think Deputy Laurie and Deputy Lester Queripel have been very sincere in very
1655 much working with a lot of people out there in the light industrial and trade sector.

Deputy Lester Queripel's moving story about a business that perhaps went under, and the persons were subject to great strain because of a shortage of available sites, of course, could apply to anyone. What we do not know is what the market can contain and whether the employees who are made redundant by such a bad eventuality find places elsewhere.

1660 Maybe, occasionally, the market is over-saturated with businesses in a field, or maybe the Island is losing out because of a lack of people who can viably trade in the sector. Those are the kind of questions that the amended Propositions, by the Fallaize/Laurie Queripel amendment will hopefully look into.

The one final thanks I have, apart from the staff and the team at the DPA and all the work that
1665 they have done, would be for some of the Members here, like Deputy Presidents, Deputy Lowe and Deputy Le Pelley, who seemed very comfortable with the whole policy letter, felt that it did what it should and did not see any need to put any more work into it.

So I urge everybody to support the amended DPA report.

1670 **The Bailiff:** Members, we vote, then, on the amended Propositions. As you know, there are now four Propositions; Propositions 3 and 4 having been added as a result of the successful amendment from Deputies Laurie Queripel and Fallaize.

Unless anybody requests otherwise, I put all four Propositions to you together. Those in favour; those against.

Members voted Pour.

1675 **The Bailiff:** I declare them carried.

DEVELOPMENT & PLANNING AUTHORITY

VIII. Island Development Plan – Provision for a café at Stan Brouard Group's Landes du Marche site through the introduction of Certificates of Lawful Use – Debate commenced

The States are asked to decide:

Whether after consideration of the report of The Development & Planning Authority attached to the Policy Letter entitled 'The Island Development Plan – Provision for a café at Stan Brouard Group's Landes du Marche site through the introduction of Certificates of Lawful Use' they are of the opinion:

1. To approve the proposals to make provision for certificates of lawful use under the Land Planning and Development (Guernsey) Law, 2005, so as to allow applications to be made to regularise unlawful changes of use, where –

(a) a compliance notice cannot be issued in respect of that unlawful change of use under that Law, and

(b) the use does not amount to a contravention of a compliance notice in force at the time of the application,

including provision for a right of appeal against the refusal of a certificate and other procedural provisions including the making of applications and revocations and provision for fees.

2. To direct the preparation of such legislation as may be necessary to give effect to the above decision.

The Greffier: Article VIII, Development & Planning Authority and the Committee for the Environment & Infrastructure – the Island Development Plan – provision for a café at Stan Brouard Group's Landes du Marche site through the introduction of Certificates of Lawful Use.

1680 **The Bailiff:** Which of the two Presidents wishes to speak first on this?

Deputy Tindall: Sir, if I may point out, it is not a joint Report.

1685 **The Bailiff:** Actually, it is only the Development & Planning Authority. That is right. It is just the Development & Planning Authority.

Deputy Ferbrache: Before Deputy Gollop speaks, can I just clearly declare a conflict. I have acted in relationship to this particular site and this particular family on all planning matters for over 20 years, so therefore I will not be speaking and I will not be voting.

1690 **The Bailiff:** Thank you. Deputy Gollop will open.

Deputy Gollop: We do have at the DPA nuances of difference of view on this, but I think we are united in the broad approach.

1695 Perhaps, Deputy Fallaize was right in saying that I come to the right conclusions but say foolish things on the way and I would say, in a moment of irony, we do not do practical solutions. Well,

actually we do, because this is a wonderful example of a practical solution, I would say, to a problem. It is a proactive way around what would be a very expensive and tortuous process.

1700 I think it answers most people's concerns, although there are some philosophical issues that will be considered too.

As a brief summary, because Deputy Tindall and other Members will go into more depth on this, the States has resolved Resolution 6 from the IDP Development & Planning Authority Billet last year to determine which changes would need to be made to legislation or policy in order to establish a gateway for the development of a cafe on the current site in the Stan Brouard Group garden, leisure and furniture store.

1705 It has to be said, the existing retail use of the site is unauthorised under Planning Law but enforcement action cannot be taken and there is no means of regularising the existing unauthorised use.

The situation has been criticised as unsatisfactory by independent planning inspectors, as I will go into in a minute.

1710 Planning policy within the IDP is, of course, based on States' strategic policy, which precludes granting a retrospective planning permission; therefore an application for a cafe would be objected to. As we know, the retail strategy, which we believe Economic Development supports, although they may change it over time, it goes back perhaps to the last Committee, is very much focussed on the two main centres of the Bridge and the Town.

1715 If we had a planning inquiry to review whether that was still relevant, by definition the outcome of such a process cannot be predicted with any certainty. There could be numerous representations made for many good commercial and environmental reasons and it could cost £100,000 or more.

1720 However, the Land Planning and Development (Guernsey) Law 2005, does contain a power for the States to provide by ordinance a means by which the use of a site could be declared lawful, which could be the issuance of Certificates of Lawful Use.

The authorities concluded, collectively, that the introduction of such a system of certificates would be likely to deliver the outcome sought by the States' Resolution without the very significant immediate and medium-term resource implications. It also potentially resolved an existing, unsatisfactory situation.

1725 It is important to bear in mind, though, although we know perhaps only one or two other sites in a not dissimilar scenario, Resolution 6, wrongly, really, directed the Authority to look solely at a gateway in relation to the development of a cafe at a well-known, specific site on the Vale/St Sampson's/Castel border and du Marche. But the States is asked to note that, if the Propositions are approved and the legislation passed, the ability of the DPA to issue certificates will apply, of course, to any scenario, in a state of fairness – I can only be unfair so far; but, again, that is a debate for another day – both current and those which may arise in the future, whereby an unlawful use can be declared lawful.

1735 Therefore, without fear or favour, this principle would go far beyond the issues that we have been considering.

We know, on the credit side, that particular business has been a strong commercial player in Guernsey and has achieved a lot in horticulture and other fields.

1740 I want us to read, in a little bit of detail, what is on page four of the Report, under 2.4 in which the issue of a cafe for the Stan Brouard Group was the subject of specific representations to the planning inquiry for the IDP. The inspectors commented in the report:

The unfortunate existing situation pertaining at this site brings no credit to the business, which made the change of use without the necessary planning permission and has not subsequently applied for retrospective planning permission; to the former Island Development Committee which failed or was unable to take enforcement action at the appropriate time; nor to the Island planning system, which does not provide the Environment Department with a route to regularise the situation other than through an application (by the developer) for retrospective planning permission. 'The situation at this site is most unusual, effectively a legacy of the legal framework prior to enactment of the current Planning Law and so unlikely to reoccur. 'It seems to us that it would be very much in the public interest ...

I thank Deputy Trott and others who brought this matter to us.

... for it and any similar cases to be remedied, so that the development can be brought under proper planning control. However, as we understand it the potential remedies lie outside the ambit of the IDP and hence we cannot make any recommendation to that end.

As you can see, we have thought creatively outside the box, listening to what the States said last year.

1745 My final observation at this stage would be, in the interest of research, I actually paid a visit to the well-known store, but they were closed. I got there too late in the afternoon. Not to the café: I looked around and saw that it is described now as a garden, furniture and leisure store. Very much in your face as a significant player on the Island and I was intrigued to see what was for sale outside on the premises, next to a storage facility. Everything from a kind of jacuzzi bath to
1750 beautiful flowers, to statues, to mermaids, to even garden gnomes in earthen form, and Greek urns – I thought, how much does a Greek urn?

It has clearly gone well beyond what it might have done and it is a facility that is there. Clearly, things evolved and we have to find a pragmatic way forward on this so I can commend the Policy Letter.

1755 What I will also add, though, is one or two Members will perhaps argue that we should not make special exceptions. The thing is, it is as it is and, as I hope I have pointed out, the process in the future will apply to all businesses that find themselves in this situation and also, although under the formula we have adopted, a café would be acceptable, if a business such as that were granted a Certificate of Lawful Use for the bargain of £200, some might say, I think the café would
1760 be seen as ancillary to the business, whereas, let us say, a restaurant or night bar would not be.

So it will have to be considered carefully, as any application would, in the context of what it offers.

The Bailiff: Deputy Trott.

1765

Deputy Trott: Thank you, sir.

Deputy Gollop used some interesting language, a few moments ago. He says that the DPA have thought creatively outside the box and they found a pragmatic way forward. I am not sure that is true.

1770 If one looks at page three of the Report and, in particular, paragraph 2.2, we are reminded that 'due to the time elapsed it is no longer possible to take enforcement action against this unauthorised use'.

So, in other words, it was not considered to be in the public interest to take any action. It was not considered significant enough and Deputy Gollop referred to previous incarnations of the planning authority, whether that be the IDC or the Environment Department, who successively did not consider this matter to justify a legal action.
1775

As we move on, across the page to four, we see in the comments made by the planning inspectors, 'it seems to us that it would be very much in the public interest for it' – the unlawful activity at Stan Brouard – 'and any similar cases to be remedied so that the development can be brought under proper planning control'.
1780

Of course, thinking outside of the box, sir, as Deputy Gollop encouraged me to do so, there are a number of ways that can be achieved. One of them is that the slate can be wiped clean; then an amnesty, if you like, can be issued.

1785 If one does not approach that as an option, one runs the risk of appearing like there is an element of vindictiveness here. There is an element of a need to have our pound of flesh and that is made even more evident, as you go on, to see that, even if this was remedied to the extent that there was –

I beg your pardon, I had not seen you. I give way.

1790 **The Bailiff:** Deputy Oliver.

Deputy Oliver: Sir, this is what this policy is actually doing. It is effectively wiping the slate clean, by authorising a certificate.

1795 **Deputy Trott:** No, it is not. If only it was that simple.

A certificate will only be issued, once all of the unlawful planning matters have been addressed. Now, that will instigate enormous –

Deputy Tindall: Point of correction, sir.

1800

The Bailiff: Deputy Tindall.

Deputy Tindall: That is not the advice we have been given, privately.

1805 **Deputy Trott:** I need to ask, through you, sir, H.M. Comptroller, because this point is clearly as relevant as it can be.

Is it simply a case that, if we pass this States' Report, that the proprietor of this business can go along to the DPA and write out his cheque for £200-plus, which I think Deputy Gollop referred to as being good value, and then he can make an application for a cafe because I understood that, even after that event, a planning inquiry, costing potentially a six-figure sum, would also be responsible?

1810

Deputy Oliver: No.

1815 **Deputy Trott:** Well, let us hear from the Comptroller. I appreciate your knowledge, Deputy Oliver, but let us hear from the Comptroller on this important issue.

The Bailiff: Mr Comptroller, can you help?

1820 **The Comptroller:** Sir, looking at the policy letter, looking at paragraph 6.6 – that is the material paragraph – I have no reason to disagree with this. The actual granting of a Certificate of Lawful Use under an ordinance, 'when enacted, would be a matter for the Development & Planning Authority to consider'. It is not automatic, it is a matter of discretion.

If we just go onto the next sentence:

It would depend, in particular, on whether the information supplied by any applicant demonstrated that no enforcement action could be taken under the 2005 Law and that the use did not contravene a requirement of an extant compliance notice.

1825 Now, I do not know about the particular circumstances of this matter that has prompted this policy letter, but I think that is the nub of it. There is an element of discretion that would be given to the Authority. It seems to me the first hurdles would be no enforcement action could be taken and that the use did not contravene an extant compliance notice.

I do not know if that helps.

1830

Deputy Trott: It helps me, sir, through you.

It helps me enormously, to confirm that my thinking is correct on this, because it is by no means certain that the DPA will grant this business a certificate until such time as all of the outstanding planning irregularities have been completed.

1835

Now, I take some reassurance from Deputy Oliver's shaking of her head, there. If the DPA was able to give this Assembly an unequivocal assurance that this business and, let us face it, this is

what this policy letter is all about, will be granted that certificate, then great. But, of course, they cannot.

1840 Why? Because all of these matters need to be remedied in advance and then, sir, a planning inquiry will be required at a cost of £100,000, we are told, because there is no policy at the moment that allows this business to have a cafe in this place. That is the reality of it.

I concede, sir.

Deputy Tindall: I am sorry, I have to explain.

1845 We cannot confirm ... Yes, there is an element of discretion, we will need to see the application. However, the basis is that it is outside enforcement. That has been confirmed to us.

The second point is that we would not need to go to an inquiry. We would then decide whether or not we can grant a certificate.

1850 Because a cafe is considered ancillary, there are no further hoops to go through. The cafe is considered ancillary. If it is a wine bar, that is different. But a cafe is considered, under the current policy, acceptable.

So the only thing that they would have to do is what is stated in that paragraph, quoted by the Law Officer.

1855 **The Bailiff:** Thank you, Deputy Tindall.
Deputy Trott.

Deputy Trott: Thank you, sir.

1860 I think there is enough on the record now to make very clear to this Assembly that it is clearly in the DPA's intentions to grant the necessary certification to this business ...

Okay, I defer.

Deputy Gollop: If I could just intervene and say, as a point of order, 1.5 of our policy letter says:

This Ordinance could allow for the issuance of certificates of lawful use or certificates advising whether any enforcement action can be taken...

1865 We have already accepted that they cannot take enforcement action and the Authority has concluded that the 'introduction of such a system of certificates would be likely to deliver the outcome sought' by the Trott-put States' Resolution ...

... without the very significant immediate and medium-term resource implications involved in amending strategically detailed planning policy.

Now, that probably goes as close as any cautious public official report will go, that there is a strong prejudice in favour of a workable solution.

1870 **The Bailiff:** Deputy Trott.

Deputy Trott: With that in mind –

1875 **The Bailiff:** Giving way to Deputy Fallaize.

Deputy Fallaize: I am grateful to Deputy Trott. I thought if he could deliver his speech in part sentences, it might make it more enjoyable.

1880 Would he not agree with me that, in a sense, the Development & Planning Authority is trying to help the States get to a position where the States wants to get. The States has to help the Development & Planning Authority to get there without breaking the Law.

They clearly cannot pre-empt the outcome of an application, whether it is an application for a Certificate of Lawful Use, or a subsequent planning application.

1885 I think they are going as far as they can possibly go, indicating to the States what the outcome of either of those applications would be, without acting improperly, and I think it –

The Bailiff: Is this becoming a speech, rather than a give way point?

1890 **Deputy Fallaize:** It would be unwise, does Deputy Trott not agree with me, to try and push them any further, when I think they have probably gone as far as they could reasonably go?

Deputy Trott: I welcome that intervention and I think the DPA will, as this debate progresses, get a very clear view from the Assembly that this is not a matter that it wishes to see frustrated much longer.

1895 Thank you.

The Bailiff: I had thought this might not be very controversial, but perhaps I was wrong on that.

1900 Could I just have an indication of how many people wish to speak on this item? There are four, five people. We then have the Hedges Ordinance, there is an amendment to the schedule of business.

I think we rise now and resume at 2.30 p.m.

*The Assembly adjourned at 12.35 p.m.
and resumed its sitting at 2.30 p.m.*

DEVELOPMENT & PLANNING AUTHORITY

VIII. The Island Development Plan – Provision for a café at Stan Brouard Group's Landes du Marche site through the introduction of Certificates of Lawful Use – Debate continued – Propositions carried

1905 **The Bailiff:** We can continue the debate on the Development & Planning Authority's policy letter on the Island Development Plan – Provision for a café at Stan Brouard Group's Landes du Marche site through the introduction of Certificates of Lawful Use.

Deputy Roffey.

Deputy Roffey: Thank you, sir.

1910 I have a feeling I might be in a minority of one here, but I am going to say what I think anyway. I am absolutely, implacably, opposed to these Propositions. *(Laughter)*

Of course, there are two levels to this, aren't there – there is the micro level about whether or not it is a good idea to be able to get a cup of tea and a toasted teacake at Stan Brouard Ltd and there is the macro thing about the introduction of this new device called the Certificate of Lawful Use.

1915 To be honest, I think I am against it on both levels. I have no strong feelings about caffeine availability at Stan Brouard but, I have to say, I voted against the Fallaize amendment ... is that a victory sign Deputy Fallaize or were there two amendments?

Deputy Fallaize: No, I was saying Deputy Roffey was one of only two who voted that way.

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Deputy Roffey: Oh, then maybe I won't be in a minority of one today! (*Laughter*)

And I did that for two reasons really. The first was actually during the IDP debate I was deeply unhappy about the idea that this Assembly, this parliament, should be settling individual planning applications effectively on a single site for the benefit of a single owner. It took me back to the bad old days of the debates of the DDP's where we had a hundred and one amendments on behalf of Mrs La Farge and Mrs Le Page who wanted just to change a little bit of greenbelt to develop land behind their house because their daughter or son needed a bungalow, allegedly. (*Laughter*) And so I do not think it is the role of this parliament, I really do not. I think our role in this parliament is to set policy, not to determine these sort of detailed planning applications.

But the other thing that made me feel uncomfortable was the message that I felt we were sending out that we were rewarding illegal activity, that if you can flout the planning Law and get away with it long enough then you get ... that's it, you have crossed that line, you have managed to get away with illegal activity for a number of years, here you are, here is your little present or prize for doing that. What kind of message is that sending out to this Island? What is it suggesting to other people who, by and large, play by the rules?

Now, I know that sometimes people do things illegally by mistake and there is a system there called retrospective applications to try and regularise the situation. But, as Deputy Gollop rightly pointed out before lunchtime, the planners' comments in 2.4, and I will reiterate it:

The unfortunate existing situation pertaining at this site brings no credit to the business, which made the change of use without the necessary planning permission and has not subsequently applied for retrospective planning permission.

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And on the page before it makes it quite clear that the activity there is unlawful but time has passed and therefore no action is possible, I accept that. I think it is a great shame. I think the IDC of the day was tardy, they did not do what they should have done, but I accept that that is the situation.

Some people are saying if we cannot prosecute anyway, well then, let's give it the sort of stamp of approval saying let's make it at least legal rather than something that is illegal but ongoing. The difference is that a cafe is an ancillary activity that can only be granted ... policy would allow it to be granted as, of course, as I understand it to a garden shop which is lawfully operating under the law. So we are saying today that in order to allow extra facilities to be built as ancillary we will go back and deem something that is clearly illegal to be legal. To me, to be honest, it is almost oxymoronic, it is not legal but we will say that it is. It reminds me of the *Taming of the Shrew* 'Tis Moon if I say it is Moon.' (**A Member:** She!) Do you know that play anybody? No, okay. (*Laughter and interjection*)

Where do we go? Okay that is a micro thing here, but the macro thing, this new device means it can be applied in all sorts of circumstances.

I do wonder what Deputy Queripel is doing over there ... (*Laughter*) but I won't let it put me off! Under what circumstances; which illegal activity is going to get the benefit of this amnesty in future?

We heard this morning all about 'objective criteria', what objective criteria are going to be applied in future? And do not tell me there are only a few and it is never going to happen again, the law is now such that we will never have things flying under the radar. I do not believe it. That is the theory. It is going to happen, there will be other such anomalies existing in future and you will have this rule which they will be able to use, sir, to either stamp it and say what you did illegally is now legal or not. What objective criteria are you going to apply?

I really hope it is not how many people the owners have lobbied in a high profile way or how many people in this Assembly they know on first name basis. I am sorry, but I hope it is not that and I want a guarantee that it is not that and I want to know what objective criteria you were applying to this particular case, which you think is likely. Why do you think it is likely? Deputy Gollop, through you, sir? (*Laughter*) Why does Deputy Gollop think it is likely that the outcome, if

1970 we pass this new provision, will likely satisfy the Fallaize amendment? They must already have criteria for when to apply a Certificate of Lawful Use to know that that is the likely outcome. I am sure anybody else in the same circumstance would like to know what that is, to know how it is going to affect them, or is this a site specific, banana republic-type approach. I think it is and I want nothing to do with it.

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Deputy Gollop: Point of order, sir.

The Bailiff: Deputy Gollop.

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Deputy Gollop: Thank you.

The reality is there are much more powerful enforcement provisions against difficult uses now, non-confirming use, and we are actually looking at even tighter proposals for anomalies in the future.

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The Bailiff: Deputy Dorey.

Deputy Dorey: Thank you, Mr Bailiff.

I will not oppose these Propositions, but I have a lot of sympathy with what Deputy Roffey has said.

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I think the situation is very unsatisfactory that we have unauthorised use of a site that we will be regularising if we approve these Propositions and then subsequently the application is approved. But I fully accept we are where we are.

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The point I wish to make is that there is a significant cost in civil service time, this Assembly's time, Law Officers' time to regularise something that is unlawful and it is expected, based on current knowledge, there are only two cases, this and one other. I think in the Report it talks about fees in the UK of £200. I think that is totally unacceptable. The fees should reflect not just the cost of the application but the cost of introducing such a system as a Certificate for Lawful Use. It would be very wrong if the taxpayer has to fund introducing such a system when somebody has deliberately developed a site without planning permission and then wants to do a further commercial development i.e. create a cafe, and the taxpayer has a considerable bill for that. That is, to me, unacceptable.

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So I will support these but I would like Deputy Gollop, when he sums up, to give me some indication – and I appreciate it is not part of these Propositions – that they will set the fees at a far higher rate which reflects the cost of not just the application but of introducing the system.

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Thank you.

The Bailiff: Deputy Fallaize.

Deputy Fallaize: Thank you, sir.

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I disagree with Deputy Roffey completely because I think what needs to be remembered is that the problem with this site applies both to the owner of the site and to the States. I do not disagree with him that the Island Development Committee of the day should not have permitted or should not have failed to take action against the unlawful development of the site, but they did, that is what happened. So we have been left here – and it is that we, as the States, have been left, as much as the owner has been left, with a very well developed site with now well established businesses but happening unlawfully. Now that is not in the interests of the States and it is not in the interests of the owner either.

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What Deputy Roffey really is saying is we should leave the thing in that sort of position, in limbo, that we are not going to take any action against it but the activities continue unlawfully.

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Now, I do not think that is a very sensible position to reach. It maybe is a sort of purist view, but I do not think it is very sensible. So the two options are either to take enforcement action or to try

to regularise the use. The Development & Planning Authority is proposing the latter and I agree with them. I think it was Deputy Trott who proposed the amendment, I only seconded it, but this is what I think we had in mind, the issuing of Certificates of Lawful Use.

2025 I think Deputy Roffey is exaggerating the possibility of landowners trying to get around the planning system by utilising Certificates of Lawful Use in the future. The idea that somebody is going to – given that there are now more enforcement powers and there is greater keenness to enforce them – the idea that a landowner is deliberately going to flout planning law, carry on these sort of activities, running the possibility of being prosecuted in the anticipation that some years down the line they will be able to turn up and say, ‘I now want a Certificate of Lawful Use’, I think is far-fetched. I am not saying that there is no chance of it ever happening, but the prospect of it happening seems to me to be really quite slim. Considering that dating back to the days when there were fewer enforcement powers there were only two sites in this position, so if there were only two sites that have arisen now then how many sites are there going to be in the future?

2030 I think his argument is an exaggeration.

2035 The problem at the moment is that there is the cafe issue; but the problem goes beyond that because as a result of the status of the site, for example, there is a requirement for the same product to be stored differently depending on to whom it is being distributed, whether on a wholesale basis or a retail basis. Now, that is caused by the current status of this site and it is ridiculous. And I do not think it is sensible for us as a Government to say we think that our predecessors should have taken action against you and therefore we are going to refuse to accept the reality as it has developed. I think that is what Deputy Roffey wants us to do but I do not think it is sensible.

2040 I also do not think that this is action being taken in respect of only one business because the title of the policy letter is ... oh, okay, fair enough, this will disprove my argument – but I will develop it in a way that I will get myself out of it! (*Laughter*) ‘The Island Development Plan – Provision for a café at Stan Brouard Group’s ... through the introduction of Certificates of Lawful Use’. Now actually, in the Propositions 1 and 2 there is nothing about the Stan Brouard Group. All there is is a proposal in respect of establishing this concept of Certificates of Lawful Use. The Development & Planning Authority would not be able to come to the States and ask for approval to grant permission for any particular business to carry out any particular activity. It has a statutory function; it has to discharge it according to law and planning policy. Deputy Roffey is right; it is not for this parliament to determine planning applications.

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2055 What is being laid before the States is a matter of policy. The Development & Planning Authority is saying, having looked at it, they consider that introducing an ordinance which allows them to issue Certificates of Lawful Use would be in the best interests of land owners, in some cases, and of the States. I think it would be a bit unwise for the States not to accept their advice.

The only concern I have is how long this is all going to take, because the 2005 Law provides for the States to make an ordinance to allow Certificates of Lawful Use to be issued, so actually this is not a new concept. This must have been foreseen at the time the 2005 Law was introduced. I wonder how long it is going to take to prepare the ordinance and then to go through the process of applying for a Certificate of Lawful Use because I think there is an issue here of justice, because I do not think the States can leave the status of the site in limbo. I have heard it claimed that it could take two years to get to the point where an ordinance comes back to the States and an application could be made for a Certificate of Lawful Use. I think that is quite ridiculous. It has already taken several years to get to this point. The IDP was debated in October, we are now in June. I would want some assurance from Deputy Gollop that the ordinance could be prepared reasonably swiftly, if not expeditiously or urgently, and that the regime of Certificates of Lawful Use could be put in place, let’s say within the year, rather than it taking years and years. I think if Deputy Gollop could provide some clarity about that or some assurance about that when he replies to the debate it would be very useful.

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But I really do not think that this site can be allowed to remain in limbo, or indeed any other site. I am not sure if anybody is allowed to name the other site, but most of us know where it is,

2075 and neither of these sites should be allowed to continue with the activity unlawfully. Either enforcement action needs to be taken or the use of the site needs to be regularised. Anything else is frankly illogical and by the DPA's own admission it is now too late to take enforcement action so I think this is an example of the Authority being very pragmatic and I ask the States to support the proposals.

2080 **A Member:** Hear, hear.

The Bailiff: Deputy de Lisle.

Deputy de Lisle: Sir, to me this is another travesty, to be quite honest.

2085 The situation is being criticised as unsatisfactory by the independent planning inspectors, planning policy within the Island Development Plan, which is based on the States Strategic Planning Policy and the Strategic Land Use Plan, the SLUP, and the findings of the Guernsey Retail Strategy, precludes the granting of retrospective planning permission for any retail development in this location. We go about devising policy to favour the Town so that we get that energy and
2090 that focus on the Town and the Bridge in order to compete, if you like, with other urban centres outside of this Island, which we are not doing at the moment because of the dispersion of development here and yet we have got something of this sort.

But what really annoys me is this whole business of gateways. The gateway that really disturbed me was, of course, that for the development which resulted in the 120 m extension of
2095 the runway into the west. (*Interjection*) That extension took away 11 agricultural fields and a whole kilometre of earth banks, earth banks that we are supposed to be looking after and not allowing to go, so anybody else would not have had that permission. But no we put in a gateway. That gateway was for a very big project, now we are down to cafes going through this particular gateway system! I think, personally, it is a total travesty and should not be something that we
2100 should be allowing to go through.

The unfortunate existing situation pertaining at this site brings no credit to this parliament, no credit to business, which made the change of use without the necessary planning permission and has not subsequently applied for retrospective planning permission, to the former Island Development Committee, which failed or was unable to take enforcement action at the
2105 appropriate time, nor to the Island planning system which does not provide the Environment Department with a route to regularise the situation other than through an application of retrospective planning permission.

So my concern is with the whole business of gateways. And, of course, if the gateway is there and that is available to Islanders and Islanders can come through this Chamber and solicit favour
2110 for their particular project, whatever it is, through such a gateway system, then really I do not in any way blame an organisation or a company like this actually going for it because it is there for them to use.

My objection is not against that particular company but it is against this whole gateway process whereby one can actually work around the planning process and all the rules and
2115 regulations that we put in in order to further development in this Island.

Thank you, sir.

The Bailiff: Deputy Brouard.

2120 **Deputy Brouard:** Thank you, sir.

Just to declare I may have an interest, I am not involved in any of the two sites that have been mentioned, sir, so I will not be taking part in the debate or voting.

Thank you, sir.

The Bailiff: Deputy Tindall.

Deputy Tindall: Thank you, sir.

In order to assist the Assembly I had originally written a speech detailing the process, explaining how the Authority fulfilled its obligation in respect of the November 2016 Resolution but, after the speech of Deputy Trott this morning, I thought I would go direct to the issues he raised.

However, whilst I feel we successfully dealt with the misconception raised by Deputy Trott, including making it clear that the Authority would not predetermine an application on the floor of the Chamber, I do still feel it necessary to set out the process. This is not only because I think it needs summarising, but also for the benefit of the public who are listening who may have been confused by the quick fire debate earlier.

Last year, the Development & Planning Authority was directed, after consultation with other relevant Committees of the States, to determine which changes would need to be made to legislation or policy in order to establish a gateway for the development of a cafe. That was the Resolution mentioned the cafe. Our officers therefore looked at planning policies and legislation to see if a solution could be found. This was done and the solution does not cost a fortune. The Authority has considered the changes needed, as I say, in consultation with the two Committees, and with their approval has identified changes that could be made.

Sir, the amendment was proposed, as I understand it, and no doubt Deputy Trott will advise me if I am wrong, because it was felt that we, the States, should not prevent a cafe being built at the Landes du Marche site. As Deputy Gollop explained this morning, the existing retail use at Landes du Marche is unauthorised under planning law. I refer Members to paragraph 2.2 of the policy letter which says:

However, due to the time elapsed it is no longer possible to take enforcement action against this unauthorised use.

There are no means under current planning law of regularising an unlawful development. A situation which was criticised by the independent planning inspectors who chaired the Island Development Plan. (**A Member:** Hear, hear.)

In order to comply with the Resolution, the Authority reviewed the current position and identified what changes could be made to enable such a gateway through amendments to the policies which underpin the planning Law. In order to allow such an application, changes would be needed and such changes would be extensive, impacting on the IDP, the SLUP and the Retail Strategy. The costs of examining such changes would be very considerable, both financially in terms of the time it would take. Furthermore, the outcome of such a process cannot be predicted with any certainty. The approach of seeking to change planning policy to establish a gateway for a cafe is therefore not considered to represent a viable option, especially as there is an alternative.

Sir, the Land Planning and Development (Guernsey) Law 2005 already contains, in section 22, a power for the States to provide, by ordinance, a means by which a use of a site could be declared lawful.

By introducing the ability for the Authority to issue Certificates of Lawful Use and, if an application were made and were approved in the case of Landes du Marche site, the retail use would then be recognised as lawful. It would be possible *then* for a cafe to be established without planning permission being required. Sir, I hope that clarifies the point for Deputy Trott.

I acknowledge the actual granting of a Certificate of Lawful Use would be a matter for the Development & Planning Authority to consider. Applications for Certificates of Lawful Use would have to be made, processed and determined in a similar way to planning applications at present and a fee would be charged for an application. As mentioned in the policy letter, the UK fee for an equivalent application is currently around £200. It should be noted that this is not necessarily the fee that will be set by the Authority, as we would carefully consider and decide on what is an appropriate fee in the Guernsey context, having regard to the States guidance on fees and charging. However, the introduction of a new system to provide for Certificates of Lawful Use,

2175 whilst costing less than amending planning policy will still have resource implications. There would be costs to the States, not just in drafting the legislation, but also in creating the processes required for such a system to operate, including the right of appeal.

I also add that the Authority have every intention to ensure this sort of situation does not happen again. Enforcement action *will* be taken. As to timing, I believe it is also up to the Policy & Resources Committee to prioritise legislation. So again, that might not be in our gift.

2180 In conclusion, sir, the States' Resolution passed in November last year sought to enable one individual commercial business to achieve a cafe facility. That is where this one business gateway is mentioned, and actually the Resolutions, as drafted, are as a result of my request for that reference to be removed. The policy letter has set out a way to achieve this.

2185 As I say, whilst I agreed to support the Propositions, because it rectifies an issue criticised and it is solely because it rectifies an issue criticised by the independent planning inspectors, I have severe reservations that this is a good use of States' Resources.

2190 This is particularly relevant as we are shortly going to debate our policy priorities for the next five years. As we know, the Development & Planning Authority was not asked to submit its own policy priorities as part of the P&R plan. You will therefore not be given a chance to choose if these Resolutions are passed what priority this work should be given in the grand scheme of things. You will therefore not be forced to choose whether to leave other priorities out of the plan in order to enact this legislation.

2195 Personally, if I had been asked to choose between this and any of the other priorities identified by all seven Committees – well, nearly all the other priorities – I would not choose to include this policy change and the amendment for legislation, and I do hope sincerely, sir, that this type of amendment is not going to be the norm. I would choose to support far more pressing and important policies which are relevant to the population of the Bailiwick as a whole and which are a good use of the limited resources we have. In my view, these Resolutions would again benefit the few, not the many.

2200 Thank you, sir.

The Bailiff: I see no one else. Deputy Gollop will reply.

Deputy Gollop: Thank you very much.

2205 In many ways Deputy Tindall has done my job for me by going through many of the issues, particularly those raised by Deputy Trott.

2210 Deputy Roffey gave us a little bit of nostalgia, which I enjoyed, about the bad old days, or the good old days, of the detailed development plans. I actually sat in the Public Gallery listening to some of those debates. We had eminent and learned Members as well as Members of all the parish Douzaines, and they would debate at length quarry sites in those far-off days – long before you, sir, were involved in the political side of Island life, or rather in the public side of law. There were even legal Members who would bring up clients in the States and things that would not be done nowadays. I think perhaps we have a stronger sense of corporate governance and a stronger sense of process, but Guernsey got things done and it worked in its way, and we are where we are.

2215 Of course, in a purist way Deputy Roffey is right that we should not, as a parliamentary Assembly, be talking about individual sites and we should not be rewarding maladaptive behaviour; but as Deputy Fallaize reminded us, what else do we do in this sort of situation? One disturbing alternative that I have seen on our sister island of Jersey was when a planning breach occurred the property was demolished. That has happened more than once. I cannot imagine, even if we had those powers, that that would be popular with the public, let alone any of the commercial interests.

2220 I have been informed, for example, that the old Island Development Committee and Environment Department tried twice to challenge these uses but were told that a successful

2225 prosecution could not have been made or challenged under the 1966 legislation, so that was how it was. We have moved on from there.

It is also true, if one looks, that we currently have, as we know from past debates, a system of challenge notices, compliance notices and interim compliance notices as well as the New Use Class Ordinances that we collectively approved only a few weeks ago, and as I have intimated, 2230 these may be further developed for private sites where there have been questions raised in occasional open planning meetings.

Deputy Fallaize criticised Deputy Roffey perhaps for the conditions that he was setting on us in bringing this to the Chamber, but he himself started to set onerous conditions because he wanted assurance on a timeline. I am not in a position to give that assurance. We suspect that because 2235 the Ordinance would have to take into account a new system of fees, charges, appeals and legislation, realistically it would take 12 months to draft, which would take us up to maybe June or July 2018. It was suggested that I could ask Her Majesty's Procureur as to whether that is a realistic timetable but, in a way, control of the speed of legislation is not a matter for the Attorney General, it is a matter for Policy & Resources, and as Deputy Trott is the senior member of Policy 2240 & Resources today he perhaps can point out that this, if passed today, will be speedily put through the process of legislation prioritisation, just as we are seeing with financial legislation such as Wires at the moment. So the ball is in their court more than mine, I would suggest, on that particular set of circumstances.

I do perhaps resent one or two comments about 'banana republic'. I would not mind the 2245 bananas, but I might be impeached if I was a president in a banana republic! (Laughter) I appreciated the Shakespearean allusion from The Taming of the Shrew, but it made me think of another play, perhaps more Hamlet, along the lines of 'To tea or not to tea, that is the question' – to have a cafe tea and the teacakes! (Laughter and interjection) As I say, maybe people in the outside world will say, 'Why are we spending valuable time talking about a teacake cafe in the 2250 middle of the Island?'

Well, we have already spent a long time on this, so ... I cannot see I have heard any real opposition today from any Member. We have had nuances (Laughter) of thinking on the Committee. As you know, Deputy Tindall has ... and is not alone, like Deputy Roffey, in questioning how we got to this process and perhaps the strategy of the amendment to the IDP, 2255 but we have done our job, we have come back with the goods and a pragmatic, sensible way forward and I hope you will trust us to deliver by supporting unanimously, or virtually unanimously, this policy letter today.

The Bailiff: Well, Members, there are two Propositions and I have had passed to me a request 2260 for a recorded vote, so we will have a recorded vote on both Propositions.

There was a recorded vote.

POLICY & RESOURCES COMMITTEE

IX. Amendment to the Cutting of Hedges Ordinance, 1953 – Proposition carried

Article IX.

The States are asked to decide:

Whether, after consideration of the Policy Letter entitled 'Amendment to the Cutting of Hedges Ordinance, 1953' dated 25th April 2017, they are of the opinion:

1. To amend Section 1(1) of the Cutting of Hedges Ordinance, 1953 to require the owner of land bordering a public road to, between the 1st day and the 15th day of June and between the 15th

day and the 30th day of September in each year, cut away such parts of all hedges as overhang such public road and immediately thereafter remove from such public road all material cut from such hedges; and

2. To direct the preparation of the 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.

The Bailiff: While those votes are counted we will move on, if we may, with the next matter Greffier. Can you just call the next item?

2265 **The Senior Deputy Greffier:** Article IX, Policy & Resources Committee, Amendment to the Cutting of Hedges Ordinance, 1953.

2270 **The Bailiff:** The debate will be opened by a member of the Committee, Deputy Brouard. *(Interjection)* It was on both Propositions. Sorry. I said vote on both. Sorry, the second one was just enacting legislation to give effect to the first one, so it seemed to me it was sensible to take them both together. *(Interjection)* Keep up!

Deputy Brouard will open debate on the Amendment to the Cutting of Hedges Ordinance, 1953. Deputy Brouard.

2275 **Deputy Brouard:** Thank you, sir.

Members of the Assembly, this is a fairly simple amendment. It is a minor change with regard to hedge cutting. It basically moves the responsibility for the cutting of hedges from the occupier of the land to the landowner, basically bringing it in line with streams.

2280 For the vast majority, the occupier and the landowner are one and the same, but following the changes to the legislation for Douzaines, giving them more powers, there is a requirement to have more certainty as to who one should be taking account with, and in that regarding knowing who the occupier is is sometimes a little difficult. In the past it may have been a lot easier, but certainly now it is not. But we do have much more certainty over who owns the property and hence the request for the change not only from all the Douzaines but also from the Parochial Appeals Tribunal, who would also adjudicate if they are asked to do so.

2285 So, on that basis I would ask all Members to support this minor change from the occupier of a property to the landowner or owner of the property.

Thank you, sir.

2290 **The Bailiff:** Any debate? No. Well, again, there are two Propositions. I put both Propositions to you together. Those in favour; those against.

Members voted Pour.

The Bailiff: We will just wait for the result of the vote on the last Article.

Article VIII:

Carried – Pour 31, Contre 1, Ne vote pas 3, Absent 3

POUR

Deputy Gollop
Deputy Parkinson
Deputy Lester Queripel
Deputy Le Clerc
Deputy Leadbeater
Deputy Mooney
Deputy Trott

CONTRE

Deputy Roffey

NE VOTE PAS

Deputy Brouard
Deputy De Lisle
Deputy Ferbrache

ABSENT

Deputy St Pier
Deputy Inder
Deputy Le Tocq

Deputy Le Pelley
Deputy Merrett
Deputy Stephens
Deputy Meerveld
Deputy Fallaize
Deputy Lowe
Deputy Laurie Queripel
Deputy Smithies
Deputy Hansmann
Rouxel
Deputy Graham
Deputy Green
Deputy Paint
Deputy Dorey
Deputy Dudley-Owen
Deputy Yerby
Deputy Langlois
Deputy Soulsby
Deputy De Sausmarez
Deputy Prow
Deputy Oliver
Deputy Kuttelwascher
Deputy Tindall
Deputy Brehaut
Deputy Tooley

The Bailiff: The voting on the Development Planning Authority's Article is 31 in favour, with 1 against and 3 abstentions. I declare those Propositions carried.

POLICY & RESOURCES COMMITTEE

X. Amended Schedule for Future States' Business – Proposition carried

Article X.

The States are asked to decide:

Whether, after consideration of the attached Schedule for future States' business, which sets out items for consideration at the Meeting of the 20th June 2017 and subsequent States' Meetings, they are of opinion to approve the Schedule.

2295 **The Bailiff:** There is a revised amendment to be distributed in relation to the Schedule of Future Business, so if the Greffier would just call that up we will then pause while that can be circulated and digested by everybody.

The Senior Deputy Greffier: Article X. Schedule for Future States' Business for approval.

2300 **The Bailiff:** They are now being distributed. Does everyone now have a copy, including the Greffier – do you have one? Yes. Right, everybody has a copy. Greffier, could you perhaps read it for the benefit of anybody who might be listening.

2305 **The Senior Deputy Greffier:** Policy & Resources Committee Schedule for Future States' business. Amendment proposed by Deputy Trott and seconded by Deputy Brouard.

Amendment:

To insert the following wording at the end of the Proposition –

'subject to inserting the items appearing at the end of paragraph (g) of the Schedule entitled "P. 2017/50 Committee for Home Affairs – Video Recorded Evidence in Criminal Proceedings" and "P. 2017/51 Committee for Health & Social Care – Bowel Cancer Screening" immediately before the item entitled "P.2017/49 States' Assembly & Constitution Committee – Referendum on Guernsey's Voting System".'

The Bailiff: I just need to explain, Members, I think this is the first time there has been an amendment to the Schedule and there are special rules that apply in Rule 3(16) through to 3(18). Any Member may propose an amendment either to move an item to an alternative meeting or a different order of business. This is a different order of business within a meeting. It so happens that it is members of Policy & Resources moving it, but that need not be the case – any Member may do so. Under Rule 3(18), special rules apply to the debating. Only the proposer of the amendment, the President of the Committee concerned – which I interpret as being all the committees concerned – or if a requête, the lead requérant, and the President of Policy & Resources may speak, and they should be restricted to a maximum of two minutes each and no other debate shall be permitted on the amendment.

So that means that the only people who may speak are Deputy Trott and then Deputy Soulsby, Deputy Lowe and Deputy Fallaize. Those are the three committees affected by this change of order.

Deputy Trott: Thank you, sir.

The Bailiff: Deputy Trott.

Deputy Trott: Haven't we got some funny rules these days, this being one of them! *(Laughter)* Purely a procedural matter. The Policy & Resources Committee have been approached by both HSC and the Committee for Home Affairs advising that these matters are time critical and, for contractual and legislative reasons, the Policy & Resources Committee asks the Assembly to prioritise them ahead of the debate on Island-wide voting, which is not time critical, sir.

Thank you.

The Bailiff: Deputy Brouard, you formally second the amendment, do you?

Deputy Brouard: Yes, sir, thank you.

The Bailiff: And then do any of those three Committee Presidents to whom I referred wish to speak? No. In that case, we go to vote on the amendment. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare it carried and we therefore vote on the Schedule as amended. Those in favour; those against.

Members voted Pour.

The Bailiff: I declare that carried and that concludes the business of this meeting. Thank you, Members.

The Assembly adjourned at 3.15 p.m.