

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

REQUÊTE

ISLAND DEVELOPMENT PLAN

The States are asked to decide:-

Whether, after consideration of the Requête titled "Island Development Plan" dated 21st May 2019, they are of the opinion:-

1. To agree that the States has the responsibility, and should have the opportunity, to direct policy adjustments to the IDP during this political term;
2. To direct the Development & Planning Authority, in consultation with the Committee *for the* Environment & Infrastructure, the Policy & Resources Committee, and other relevant stakeholders, to carry out a review of the IDP, to be brought back to the States by April 2020, that includes recommendations on how to best address the concerns expressed in Recitals 4 to 17 to this Petition, with a specific view to:
 - (a) Giving greater consideration to the cumulative impact of separate developments, and the density of development in certain areas;
 - (b) Re-evaluating the need for Development Frameworks, and any associated thresholds;
 - (c) Reconsidering the approach to prioritisation of development on Housing Allocation Areas, in a manner that affords greater protection to greenfield sites designated as Housing Allocation Areas;
 - (d) Affording protection to areas of open land, not currently classified as Important Open Land, within the main centres, main centre outer areas and local centres;
 - (e) Affording greater protection to ABIs, giving particular consideration to whether any should be re-designated as SSS;
 - (f) Incorporating the findings of the Guernsey Housing Market Review and accompanying policy letter, and bringing forward the review of land supply for housing and employment; and
 - (g) Considering how the development of Community Plans can be stimulated and supported;

3. To direct the Policy & Resources Committee to coordinate a review of the role and function of the Development & Planning Authority, as described in Recital 18 to this Petition, to be brought to the States no later than April 2020, including the constraints placed on its political and democratically-accountable character as a result of planning legislation, planning policy and other law, and how these might best be resolved; and whether or not the planning legislation should be amended to give the Development & Planning Authority discretion to make more than minor departures from a development plan where other material planning considerations weigh in favour of such a departure;
4. To direct the Policy & Resources Committee, in consultation with the Committee for the Environment & Infrastructure, the Development & Planning Authority and the States Assembly and Constitution Committee, and further to Recitals 5-7 to this Petition, to consider how to integrate reviews of the Strategic Land Use Plan into the Policy & Resource Plan process, in order to ensure alignment with States strategic objectives; to reconsider the cycle of reviews and updates associated with the SLUP and the IDP in order to enable meaningful debate within each States term; and to bring forward its recommendations in respect of timing no later than the final Policy & Resource Plan of this States term;
5. To direct the Committee for the Environment & Infrastructure to bring a policy letter to the States, no later than April 2020, on third party representations in the Planning Tribunal process, as described in Recitals 19-20 to this Petition.
6. To direct the Policy & Resources Committee to consult with the Committee for the Environment & Infrastructure, the Committee for Economic Development, the Committee for Employment & Social Security, the Committee for Health & Social Care, the Development & Planning Authority and the principal owner of the land within Leale's Yard, and to report back to the States with a policy letter on the regeneration of the Bridge area, as described in Recitals 10-11 to this Petition, no later than December 2019, containing recommendations to enable the progression of development, giving consideration to States involvement in the delivery of the development, if appropriate, including consideration of incentives and mechanisms to facilitate the development of the site and the funding of the same.
7. To direct the Policy & Resources Committee to find sufficient resources to enable the work set out in these Propositions to be achieved within the timescales directed;

8. To direct the preparation of such legislation as is necessary to give effect to their decisions.

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 STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

REQUÊTE

ISLAND DEVELOPMENT PLAN

THE HUMBLE PETITION of the undersigned Members of the States of Deliberation
SHEWETH THAT:

1. The Development & Planning Authority (DPA) is mandated to advise the States of Deliberation (the States) on land use policy and to develop and implement detailed land use policies in particular those in the Island Development Plan (IDP). The Committee *for the* Environment & Infrastructure (E&I) is mandated to protect and enhance the natural and physical environment and is responsible for advising the States on a range of matters including spatial planning (in particular the Strategic Land Use Plan (SLUP)), the protection and conservation of the natural environment and general housing policy in relation to land use, biodiversity and agriculture. The Committee *for* Employment & Social Security (ESS) is mandated to foster a compassionate, cohesive and aspirational society and it is responsible for social housing and equality and social inclusion.
2. In November 2016, the States adopted the IDP, subject to modifications originating from numerous successful amendments.¹ The policy letter explained the legal requirement for consistency between the SLUP and the IDP, as set out in section 8(3) of the Land Planning Law.²
3. The DPA is tasked with monitoring the IDP and proposing policy adjustments if required. The IDP has a ten year life span, over the course of which the DPA is required to produce quarterly and annual monitoring reports. These reports provide data on the effectiveness of the IDP in achieving its objectives. The first Annual Monitoring Report (AMR) was published as an appendix to Billet d'État No. XXV of 2018 and debated on the 28th and 29th November 2018. The DPA did not, however, propose any policy adjustments, and because the AMR was not

¹ Billet d'État No XXVII of 2016, "The Island Development Plan- Development & Planning Authority Recommendations", Resolution 2.

² See <http://www.guernseylegalresources.gg/CHttpHandler.ashx?id=71103&p=0>

accompanied by a policy letter the Assembly did not have an opportunity to suggest policy adjustments by amendment.

4. Your Petitioners note that during the debate on the AMR, the majority of Members took the opportunity to raise concerns in relation to the IDP and its practical implementation – for example, but not limited to:
- (a) Concerns about the cumulative impact of separate developments, and the density of development in certain areas of the Island;
 - (b) Concerns that the IDP was functioning inadequately, in part as a result of limited resources, and that the structure appeared inappropriate to a small-island community;
 - (c) A perception that greenfield sites are targeted for development, and that the DPA does not prioritise Development Frameworks in a way that would give more emphasis to brownfield sites;
 - (d) Concerns that the threshold for sites requiring Development Frameworks was set too low;
 - (e) Concerns that the amenity value of open or green land in densely populated areas isn't given enough weight in planning approval decisions;
 - (f) Concerns that an overly permissive approach to the extension of domestic curtilage was taken by the DPA;
 - (g) A perception that small greenfield sites in the main centres and main centre outer areas are not adequately protected by current policies³;
 - (h) Concerns that the Development Framers are inadequately resourced;
 - (i) A perception that the IDP is overly bureaucratic;
 - (j) Concerns that, in attempting to develop policies capable of anticipating every possible planning application, the IDP had sought to codify decisions that could only be subjective, and had become inaccessible and disproportionate to the community's needs;
 - (k) Concerns that the flexibility of the IDP to respond to changing circumstances – something many identified as a key strength in the original debate – has not materialised;
 - (l) Concerns that little work had been done to raise awareness of Community Plans, to support local communities in developing them, or to ensure their effectiveness;
 - (m) Concerns that policies within the IDP were based on unreliable data;

³ MC1 (Important Open Land in Main Centres and Main Centre Outer Areas) and LC1 (Important Open Land in Local Centres)

- (n) A perception that the DPA either does not have enough latitude to, or chooses not to, exercise sufficient political judgement, whether in the way it prioritises its own work or in the matters it refers to the States;
 - (o) Concerns that the constitution and functions of the DPA as a political body may be constrained by the legal framework in ways that were not envisaged by Members or the community; and
 - (p) Concerns that the opportunity for policy adjustments to the IDP is limited by the time and cost involved in the Planning Inquiry process.
5. Your Petitioners note that further concerns were raised regarding the timing of the original IDP debate, which was very early in the new political term. However, as this Assembly was responsible for the adoption of the IDP, your Petitioners believe it is good governance for this Assembly to make any policy adjustments to it that they feel are necessary in light of their experience of its implementation.
6. Unless a change to the IDP cycle is introduced, the future government elected in 2020 will find itself in the same scenario: a review of certain elements of the IDP (at this juncture, only the matter of land supply for housing and employment) will be brought to the States early in the new term, in October 2020, and there will be no meaningful opportunity for informed political engagement with the IDP later in the term.
7. Also, your petitioners consider that, as long as the Strategic Land Use Plan (SLUP), remains in force, E&I should consider, in consultation with P&R, whether the SLUP requires amendment as part of the process for the first resubmission of the P&R Plan to the States following a general election. This will put a process in place to ensure that the SLUP, and in turn the IDP, remain consistent with the strategic objectives of the States. It would also be consistent with the position, prior to 2016, where reviews of the SLUP were considered as part of the review of the States Strategic Plan of which it formed part.
8. Your Petitioners note that the Guernsey Housing Market Review was completed a year after the IDP was debated, and that a policy paper entitled 'Local Market Housing Review and Development of Future Housing Strategy' was debated on the 19th July, 2018⁴. The resolutions adopted significantly reduced the forecast housing requirements for the Island, and therefore had a fundamental bearing on policies in the IDP. Your Petitioners believe the States

⁴ Article 8 of Billet d'État No XIX of 2018

should have the opportunity to make policy adjustments to the IDP so as to take account of the very significant change in the number of housing units that will be required in the medium term. Arguably, greenfield sites could and should be removed from Housing Allocation Areas if there are sufficient brownfield sites to fulfil the States Strategic Housing Indicator.

9. Your Petitioners are of the strong view that, given the significant reduction in forecast housing requirements since the IDP was adopted, greenfield sites that had previously been identified as Housing Allocation Areas (HAAs) could and should now be reconsidered.
10. Furthermore, your Petitioners believe that the regeneration of the Bridge area (which includes Leale's Yard) is aligned to the P&R Plan as agreed by the States. As the President of P&R stated in his introduction to 'Future Guernsey', "our quality of life must ensure a healthy community which remains a safe, secure and attractive place to live." Therefore, the Bridge area, which spans two of the most densely populated Parishes on our island, needs immediate investment in regeneration.
11. Your Petitioners consider that the relevant States committees (in particular the Policy & Resources Committee (P&R), E&I, the Committee for Economic Development (ED), the Committee for Health & Social Care (HSC), and ESS), in consultation with the DPA, should examine what mechanisms might encourage the prioritisation of brownfield sites over greenfield sites, and (separately if necessary) the regeneration of the Bridge area specifically, and return to the States with proposals.
12. Your Petitioners note the frequent requirement for Development Frameworks (DFs) in the IDP. Since November 2016, we understand that 13 DFs have been approved, and a further 13 are currently in development. Your petitioners consider that the considerable time planning officers spend on drawing up the DFs, which only reflect already approved policy in the IDP, may be better utilised elsewhere within the DPA (for example, to support Community Plans), given that DFs are non-statutory and in practice brought forward at the behest of developers, rather than by political strategic overview.
13. Your Petitioners are concerned that in practice, greenfield sites, areas of open land and designated Areas of Biodiversity Importance (ABIs) are not given as much protection as they had expected when the IDP was originally debated;

nor has the IDP successfully prevented the significant expansion of domestic curtilage around the Island.

14. For example, the policies that designate areas of 'Important Open Land' appear to relate only to large or connected areas of land, but do not cover areas of additional land which are also arguably important. These, although small or standalone areas of land, would be considered 'greenfield' sites by our community and would appear to fall within the policy definition of important open land as: "areas of land, of varying character and quality, which are important because of their openness, providing important gaps in development and offering relief from otherwise developed areas." These policies have not been sufficient to justify refusal of permission on sites such as Maresquet (Vale) or La Pointe (Vale).
15. Similarly, the stated intention of policy GP3 is to ensure that biodiversity is protected and, where possible, enhanced, but the DPA has advised that the policy would not be used to prevent development that could have a detrimental impact on biodiversity. These concerns have been brought to the DPA's attention on various occasions, and although the DPA has assured the Assembly it will address these concerns, there have been no indications that this work is even scheduled, let alone underway.
16. Furthermore, the information used to designate sites as Areas of Biodiversity Importance in the IDP was outdated even at the time of the Planning Inquiry. While areas identified as Sites of Special Significance (SSS) were based on very recent research, other classed only as Areas of Biodiversity Importance relied on reports dating back to 2006 and 2003 respectively. It is possible that some of these may need upgrading to SSS status, but the survey work needed to establish this was not due to take place until this year, and there is formal requirement that this should be fed into the five-year review of the IDP; potentially leaving some important areas vulnerable to significant development in the interim.
17. Your Petitioners are disappointed that little work has been done to raise awareness of Community Plans or to support local communities in developing them, and are concerned that any such plans would, in any event, have little influence on the Planning process. Your Petitioners consider that this is an area which requires leadership from the DPA in order to stimulate local action, and believes that this would be a useful tool in building sustainable communities and maintaining and enhancing quality of life in the Island.

18. Your Petitioners consider that a more flexible and responsive approach to Planning matters might be achieved through changes to the constitution or function of the Development & Planning Authority, and/or through changes to the legal framework. Consideration should be given to changing the direction that the DPA can only consider "minor" departures from the IDP, and cannot therefore give the weight to other material considerations which our community might otherwise expect (an approach which is common in other jurisdictions). Your Petitioners are of the view that these opportunities to improve the responsiveness of the Planning system should be explored.
19. Finally, your Petitioners would like to see greater representation for third parties in the planning system. In the interests of fairness, your petitioners consider that a person who has made written representations on a planning application should have the right to be heard by, or have their views adequately represented to, the Planning Tribunal. It is also considered that such persons should have the right to make written representations to the Planning Tribunal in the same circumstances where an appeal is determined without a hearing.
20. In the interests of fairness for those affected by neighbouring development, your Petitioners also believe that consideration should be given to introducing a third party right of appeal against decisions on planning applications for owners or occupiers of land situated within 50 metres of any part of the application site who have made written representations on the planning application. This would be consistent with a similar third party right of appeal against planning application decisions in Jersey. Your Petitioners consider that such appeals could be required to be made within 28 days of the DPA decision to avoid an extended period of uncertainty for land owners and developers.

What this Requête is seeking

21. The propositions in this Requête seek, in particular:
 - (a) Alignment of IDP (and potentially SLUP) timescales, including the reviews of housing land supply and of biodiversity, to allow informed political decisions to be taken on planning policy during each States term, in a manner that aligns with the Policy & Resource Plan;
 - (b) A review of the Planning system, before the end of this States term, to ensure that it is appropriately simple and flexible, and that the powers of the Planning Service, the Development & Planning Authority, and the

Tribunal enable decision-making to happen at the appropriate level and with the responsiveness that would be expected by our community;

- (c) Recommendations from the DPA on how to enhance protection of biodiversity (through policies relating to SSS and ABI sites); how to protect greenfield sites from development (through policies relating to important open land, and through a reconsideration of Housing Allocation Areas); how to stimulate the development of Community Plans; and a re-evaluation of its approach to domestic curtilage;
- (d) Recommendations from the relevant Committees, coordinated by P&R, to encourage and enable regeneration of the Bridge area; and
- (e) Recommendations from E&I to address the matter of third-party representation in the Planning application and appeals process.

22. Your Petitioners request the Policy & Resources Committee to find the resources necessary to enable this work to take place promptly, in order that this Assembly can debate any proposed changes to the IDP or the Planning system prior to the end of this States term, informed by the experience States Members have gained, since October 2016, of the operation of the Planning system in practice. Your Petitioners are of the strong view that this States, having enacted the IDP, are accountable for its consequences, and good governance demands that we address concerns raised by our community and give the political direction that is required.

Costs

23. In accordance with Rule 4 of the Rules of Procedure of the States of Deliberation, your Petitioners have sought an indication of costs for the work set out in these propositions, and have received the following 'best guess' estimates from officers of the Planning service, in respect of costs that would be faced by the Development & Planning Authority:

Review of the IDP including:	£200,000
<ul style="list-style-type: none"> • Review of housing land supply • Review of employment land supply • Examining mechanisms for the development of brownfield sites over greenfield sites • Various options for Development Frameworks, and their impact and implications 	

<ul style="list-style-type: none"> • Examination of Important Open Land including criteria for designation and review of extent and number • Review of extent of protection in ABIs and options to strengthen protection 	
Review of the Planning system, including: <ul style="list-style-type: none"> • Role of the SLUP within the planning process • Role of planning inquiries and examination of alternative mechanisms and impacts • Role and function of the DPA 	£100,000
Examination of the mechanisms, processes and procedures, and legal provisions, required to implement a third party appeal system	£50,000
A Development Framework or other overall plan for the development of Leale's Yard [that is, the regeneration of the Bridge area]	£50,000
Resources for input and oversight of the above and for additional work on the review and in relation to community plans = 2 FTE staff	£100,000
	£500,000

THESE PREMISES CONSIDERED, YOUR PETITIONERS humbly pray that the States may be pleased to resolve:

1. To agree that the States has the responsibility, and should have the opportunity, to direct policy adjustments to the IDP during this political term;
2. To direct the Development & Planning Authority, in consultation with the Committee *for the* Environment & Infrastructure, the Policy & Resources Committee, and other relevant stakeholders, to carry out a review of the IDP, to be brought back to the States by April 2020, that includes recommendations on how to best address the concerns expressed in Recitals 4 to 17 to this Petition, with a specific view to:
 - (a) Giving greater consideration to the cumulative impact of separate developments, and the density of development in certain areas;
 - (b) Re-evaluating the need for Development Frameworks, and any associated thresholds;

- (c) Reconsidering the approach to prioritisation of development on Housing Allocation Areas, in a manner that affords greater protection to greenfield sites designated as Housing Allocation Areas;
 - (d) Affording protection to areas of open land, not currently classified as Important Open Land, within the main centres, main centre outer areas and local centres;
 - (e) Affording greater protection to ABIs, giving particular consideration to whether any should be re-designated as SSS;
 - (f) Incorporating the findings of the Guernsey Housing Market Review and accompanying policy letter, and bringing forward the review of land supply for housing and employment; and
 - (g) Considering how the development of Community Plans can be stimulated and supported;
3. To direct the Policy & Resources Committee to coordinate a review of the role and function of the Development & Planning Authority, as described in Recital 18 to this Petition, to be brought to the States no later than April 2020, including the constraints placed on its political and democratically-accountable character as a result of planning legislation, planning policy and other law, and how these might best be resolved; and whether or not the planning legislation should be amended to give the Development & Planning Authority discretion to make more than minor departures from a development plan where other material planning considerations weigh in favour of such a departure;
 4. To direct the Policy & Resources Committee, in consultation with the Committee for the Environment & Infrastructure, the Development & Planning Authority and the States Assembly and Constitution Committee, and further to Recitals 5-7 to this Petition, to consider how to integrate reviews of the Strategic Land Use Plan into the Policy & Resource Plan process, in order to ensure alignment with States strategic objectives; to reconsider the cycle of reviews and updates associated with the SLUP and the IDP in order to enable meaningful debate within each States term; and to bring forward its recommendations in respect of timing no later than the final Policy & Resource Plan of this States term;
 5. To direct the Committee for the Environment & Infrastructure to bring a policy letter to the States, no later than April 2020, on third party representations in the Planning Tribunal process, as described in Recitals 19-20 to this Petition.

6. To direct the Policy & Resources Committee to consult with the Committee for the Environment & Infrastructure, the Committee for Economic Development, the Committee for Employment & Social Security, the Committee for Health & Social Care, the Development & Planning Authority and the principal owner of the land within Leale's Yard, and to report back to the States with a policy letter on the regeneration of the Bridge area, as described in Recitals 10-11 to this Petition, no later than December 2019, containing recommendations to enable the progression of development, giving consideration to States involvement in the delivery of the development, if appropriate, including consideration of incentives and mechanisms to facilitate the development of the site and the funding of the same.
7. To direct the Policy & Resources Committee to find sufficient resources to enable the work set out in these Propositions to be achieved within the timescales directed;
8. To direct the preparation of such legislation as is necessary to give effect to their decisions.

AND YOUR PETITIONERS WILL EVER PRAY
GUERNSEY

This 21st day of May 2019

Deputy J S Merrett

The original signed copy of
this Requete is held at the
Greffé

Deputy R H Graham

Deputy H J R Soulsby

Deputy M J Fallaize

Deputy E A Yerby

Deputy C N K Parkinson

Deputy H L De Sausmarez

STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

DEPUTY J.S. MERRETT & SIX OTHERS

REQUETE: ISLAND DEVELOPMENT PLAN

The President
Policy & Resources Committee
Sir Charles Frossard House
La Charroterie
St Peter Port

21 May, 2019

Dear Deputy St Pier

Preferred date for consideration by the States of Deliberation

In accordance with Rule 4(2) of the Rules of Procedure of the States of Deliberation and their Committees, the Requerants request that the Propositions be considered at the States Meeting to be held on 17 July, 2019.

The Requete seeks work to be undertaken before the end of this States' term. It is therefore important to allow the Development & Planning Authority, and other relevant Committees, the greatest possible opportunity to deliver on the direction of the States, and enable a meaningful States' debate to take place before the end of this term. In order to do so, it is vital that the States have the opportunity to debate this Requete by July at the latest.

Yours sincerely

J S Merrett

R H Graham

H J Soulsby

M J Fallaize

E A Yerby

C N Parkinson

H L De Sausmarez