

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

31st January, 2020

Proposition No. P.2019/144

Requête

Towards a more effective structure of government

AMENDMENT

Proposed by: Deputy D A Tindall

Seconded by: Deputy V S Oliver

1. To amend Proposition 3 as follows:

To insert the words “and to review the role and function of the Development & Planning Authority” before the words “and to agree that the Committee must consider,”.

2. To add an additional Proposition 9:

To direct the Policy & Resources Committee to determine the precise objectives and terms of reference for the review of the role and function of the Development & Planning Authority by the States’ Investigation & Advisory Committee taking into account the views expressed in the debate and Proposition 3 of the Requête entitled “ISLAND DEVELOPMENT PLAN P.2019/41” (“the IDP Requête”) and the views expressed in the debate in that regard.

3. To rescind Resolution 3 of the IDP Requête which stated:

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.”

Explanatory Note

In July 2019, as part of the IDP Requête¹ the States resolved as follows:

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.

From reviewing the IDP Requête and Hansard, however, neither the basis for the previous States’ decision in this respect, nor the intended terms of reference of the review, are entirely clear. It is also understood that work in relation to this Resolution has not to date been prioritised by P&R.

The D&PA has no objection whatsoever to there being an objective review of its role and function, however, it is considered that there would be benefit for the States, and the D&PA, in being clearer at the outset on how a review would be undertaken and what its terms of reference would be likely to look like.

In terms of precedent, a review of the planning function in the States of Guernsey was carried out in 2008 by Mr Chris Shepley² which greatly benefitted the then Environment Department and along with the introduction of the 2005 Land Planning and Development Law in 2009 was a significant milestone in the modernisation of Guernsey’s planning system. The terms of reference for the Shepley review were as follows:

“This review is intended to take all aspects of the planning service into account but to focus in particular in answering the following key questions:

- How effective are current organisational arrangements in setting strategic policy objectives for the planning system and ensuring that they are fulfilled?

¹ Billet D’État XIII 2019

² The Shepley Report 2008 (<https://gov.gg/CHttpHandler.ashx?id=6016&p=0>)

- By what means can the planning system be made more responsive to the reasonable expectations of its many different customer groups and how might this approach be carried forward into a service level agreement?
- What are the specific, practical measures that would need to be taken to enable the Development Control system to make legally robust and timely decisions on planning applications without a significant increase in planning posts and what are the likely costs and benefits of such an approach?

It is expected that the reviewer will examine the following matters and comment on them in the report:-

- The degree to which the planning system is understood and supported by the general public, States Members and States Departments and, in particular, whether their respective expectations of the system can realistically be met.
- The boundary between the responsibilities of the Strategic Land Planning Group and the Environment Department
- The way in which the planning service is managed as a division within the Environment Department and issues arising from this arrangement including, for example, the Environment Department's responsibility for administering Crown land.
- The rigidity/flexibility of the planning system both in terms of Development Plan policies and the way these are interpreted in dealing with individual planning applications.
- The handling of consultations on planning applications with official consultees, other stakeholders and the general public bearing in mind the arrangements to be brought in under the new planning law.
- The efficiency of the Development Control process including levels and standards of control, checking and reporting procedures, use of exemptions and use of delegation. Particular consideration should be given to the proportionality of exercising detailed control of small scale development.
- The organisational structure and respective workloads of staff in different planning sections and whether staff are deployed where they can best contribute to the overall effectiveness of the planning service.
- The relationship between planning and building control and the costs and benefits of a 'one stop shop' approach.
- Where is the demarcation line or lines between the responsibilities of politicians and civil servants? On what basis are decisions referred to politicians and why, and on what basis are they dealt with by civil servants? Should those demarcation lines be published?
- Should an applicant, or any third party who is likely to be affected by any decision, be able to enquire whether an application is being dealt with by a civil servant or politicians, and what stage the application has reached?

- Should the planning authority view planning applications on the basis that planning permission will be granted unless there are written policy reasons, in the Detailed Development Plans, that they should be refused?
- Such other matters as the reviewer may consider relevant.”

It will be seen from the above that some of these issues no longer exist. Some however remain as matters of contention, for example: “The degree to which the planning system is understood and supported by the general public, States Members and States Departments and, in particular, whether their respective expectations of the system can realistically be met”, and: “The rigidity/flexibility of the planning system both in terms of Development Plan policies and the way these are interpreted in dealing with individual planning applications.”

Given that proposition 3 of the Governance Requête seeks the establishment of a States’ Investigation & Advisory Committee to consider matters relating to the current structure of Government, there is merit in aligning with this the previous States’ resolution concerning a review of the D&PA. Particular benefits would be to ensure clarity on the purpose and consequent terms of reference of such a review and to consider this in the context of the Government as a whole, not just a limited part thereof.

This amendment to the Governance Requête seeks to integrate the review of the D&PA as part of the work of a States’ Investigation & Advisory Committee, if agreed by the States, and thus allow the previous resolution 3 of the IDP Requête to be rescinded.