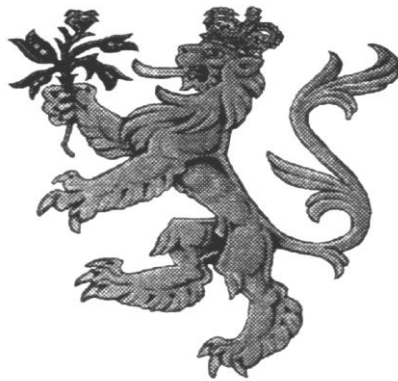


STATES OF ALDERNEY



BILLET D'ETAT

WEDNESDAY 20TH JULY 2016

Price: £2.10

STATES OF ALDERNEY

BILLET D'ETAT

FOR WEDNESDAY 20TH JULY 2016

Members of the States:

I have the honour to inform you that the Meeting of the States will be held at 5:30 pm on Wednesday 20th July 2016. This will be preceded by the People's Meeting, which will be held on Wednesday 13th July 2016 at 7:00 pm in the Island Hall.

**W Stuart Trought
President**

Statement from the President re Brexit:-

The decision for the UK to leave the European Union, which has yet to be made by Parliament but is heralded by the result of the referendum on 23 June, has ramifications for the Channel Islands and the Isle of Man. The most obvious issue which will need addressing is deciding what will replace 'Protocol 3' - the existing mechanism by which those living in the Channel Islands and the Isle of Man avail of free movement within the EU together with access to markets.

The reality for us is that the pace and overall agenda will be set primarily by the UK, together with the European Commission. Certainly it is highly unlikely that the UK Government will enter into detailed negotiations prior to the election of a new Prime Minister, currently scheduled for September.

Both the States of Guernsey and Jersey have made initial statements, largely designed to register the interests of the Channel Islands with the UK. Some preliminary discussions have taken place between representatives of the Policy and Finance Committee of the States of Alderney and representatives of the Guernsey Policy and Resources Committee. Assurances were given by the latter that there would be detailed consultations across the 3 governments within the Bailiwick of Guernsey.

As negotiations progress regular updates will be provided through the Policy and Finance Committee and debates will be held in the full States as and when required.

It is sensible for the Channel Islands to work collectively, where common cause can be made. It is also appropriate for the individual governments to seek to protect and advance the interests of their citizens. I would therefore expect that the States of Alderney will co-operate with colleagues within the Bailiwick of Guernsey and with our fellow Channel Islanders in Jersey. However, I expect also that our States will remember that its first duty is to the people of our island and will act always in their interest.

Item I **Amendment to Section 59 of The Government of Alderney Law, 2004**

The following letter was received from Mr McDowall, Chairman of the Policy & Finance Committee:-

“Section 59 of the Government of Alderney Law, 2004, states that “The Treasurer shall, not later than 7th May (or such other date as the States may by Ordinance appoint) in each year, prepare and publish in Alderney a financial statement showing the revenue and expenditure of the States during the previous calendar year”.

In practice this means that the financial statements are submitted for approval each April in order to meet the stipulated date in May, as States Meetings are normally held towards the end of the month. However as part of the Review of the Financial Relationship a significant amount of additional information will be required in future from external sources including various States of Guernsey Departments. Due to this it is anticipated that going forwards this date will become difficult to meet. It is therefore suggested that the Government of Alderney Law be amended by Ordinance to reflect a later submission date of 30th June in any given year. Obviously should the statements be ready earlier then they will be submitted prior to this date, however it is felt that it would be prudent to make these changes now rather than having to adjust the deadline annually.

This amendment was unanimously approved by the Policy & Finance Committee at its meeting held on 24th May 2016.

I would therefore be grateful if you would place this matter before the States of Alderney with appropriate propositions.

*R McDowall
Chairman”*

The States of Alderney is asked to approve the “Government of Alderney Law, 2004, (Amendment) Ordinance 2016”, substituting the date of 7th May with 30th June.

Item II **Land Use Plan Review 2016 Phase 1**

The following letter was received from Mr Birmingham, Chairman of the Building and Development Control Committee:-

*“Under Section 25 of the Building and Development Control (Alderney) Law, 2002 (**The Law**) the Building and Development Control Committee (**The Committee**) is required to review the Land Use Plan (**The LUP**) every five years. The States approved the current LUP on 16 November 2011. The Committee have now completed the first phase of its review and the requirements of Section 23 and 25 – 28 of the Law have been complied with. In particular, an Independent Inspector Mr Alan Langton was appointed to conduct a Planning Inquiry into the Land Use Plan and the Committee’s proposals. The Inspector’s report has been received and published on 20 May 2016.*

Having considered the Inspector’s report, the Committee has resolved to lay before the States a revised Land Use Plan in pursuance of Section 29 of the Law. The Committee recommends the States adopt the entire 2016 Land Use Plan which will replace the previously approved Plan. This plan incorporates the Committee’s proposed changes from the work completed in Phase 1 of its review of the Land Use Plan. It establishes a vision for the Island and sets out its approach to housing.

Further updates to the Land Use Plan in 2017 are planned to take account of economic, natural environment and built heritage policies.

The 2016 Land Use Plan Documents

The Committee's resolution seeks States approval to the following documents which together comprise the Alderney Land Use Plan:

Alderney Land Use Plan. Section 1: Policies

Alderney Land Use Plan. Section 2: Sites

Alderney Phase 1 Housing Land Use Plan 2016 (Map)

*The Call for Sites document which was published and subject to the Planning Inquiry, is **NOT** a part of the LUP. It is referred to by the Planning Inspector in his report but is not laid before the States for approval. It provides evidence which supports the Committee's policy proposals in the LUP and has been scrutinised by the Inspector.*

Changes Proposed by the Committee in the March 2016 Consultation draft Land Use Plan

1. LUP Section 1 – Policies

The Policy guidelines which were approved by the BDCC on 2 December 2008 and received and noted by the States of Alderney on 17 December 2008 are proposed to be adopted as Land Use Plan Policies, subject to the following changes:

- (a) Paragraph numbers 2.2 to 2.4 have been inserted to establish a long term vision, guiding principles and plan outputs for the Land Use Plan.*
- (b) The Policy guidelines for Housing (p18-19 of 2008 doc) which were under review when adopted, have been completely replaced. Paragraph 5.1 has been re-drafted to reflect the recommendations of the Housing Strategy (debated in the States in April 2016) and includes five new housing policies (paragraphs 5.2.1- 5.2.5).*

Other than the above changes listed in 1a) and b) which have been incorporated in Section 1 of the LUP, the policies proposed for adoption have not been substantively changed from the Policy Guidelines which were approved by the BDCC and received and noted by the States in December 2008. These LUP policies will be subject to review and amendment as part of Phase 2 of the LUP in 2017

2. LUP Section 2 – Sites

The substantive policy in the Land Use Plan previously approved by the States of Alderney on 16 November 2011 is carried forward into the 2016 Plan, subject to the following updates and amendments. These amendments relate to Housing policies and there are several consequential changes and minor corrections.

Designated Area

- (a) Section F, Residential Zone has been updated to include an amended policy in relation to the scale and nature of the reconstruction and/or extension of existing dwellings within the Designated Area. The introduction of the updated policy is dependent on amendments to the Building and Development Control (Alderney) Law, 2002. Until such time as the law has been amended, the existing policy remains in force.*

Building Area

- (b) *Housing Character Areas have been introduced to provide more guidance and clarity on the type, size and design of housing development that is likely to be acceptable within the Building Area. The Housing Character Areas replace the following designations contained in the 2011 Land Use Plan: Zone 2, Zone 6, Zone 10, Zone 11, Zone 12, Zone 14, Zone 15 and the Remainder of Building Area (General Building Area).*
- (c) *The Housing Character Areas result in minor amendments to the policies for Zone 7 and Zone 8.*
- (d) *Minor amendments have been made to the policies for Zone 20 to reflect the Call for Sites assessment.*
- (e) *The guidance provided replaces the notes/definitions on low and medium density housing development.*
- (f) *Zone 7 Harbour & Braye Bay Comprehensive Development Zone
Minor amendments have been made to reflect the Housing Character Areas, which state that there is a presumption against Housing development to the east of Zone 7.*
- (g) *Zone 8 Fort Zone
Minor amendments have been made to this policy to reflect Policy HOU3 Section 1: Policy Guidelines and the requirement that any residential development included in a mixed use forts scheme should demonstrate that the redevelopment will support sustainable patterns of development on the Island.*
- (h) *Zone 20 Whitegates (South Side) (AY1832)
Minor amendments have been made to this policy to reflect the Call for Sites assessment.*

Other than the above changes listed (a) – (h) which have been incorporated in Section 2 of the LUP, the Land Use Plan policies proposed for re-adoption have not been changed substantively from those approved in the LUP in November 2011. These policies will be subject to review and amendment as part of Phase 2 of the LUP in 2017.

Independent Inspector's Report and the Committee's response to the inspector's recommendations on the LUP

The independent inspector's report is required to accompany the Land Use Plan documents as the Law requires. It is presented to the States with a list of the Independent Inspector's recommendations and the Committee's response to them. Most of the Inspectors recommendations have been accepted. The list highlights the changes which have been made to give effect to these recommendations and explains the Committee position on the two exceptions including Whitegates where the LUP is not proposed for change in Phase 1.

*M Birmingham
Chairman"*

The States of Alderney is asked:-

- 1. In pursuance of Section 30 (1) of the Building and Development Control (Alderney) Law 2002, as amended, to approve the undermentioned documents (i-iii), as the Land Use Plan prepared under Part IV of the Building and Development Control (Alderney) Law 2002, in replacement of the Land Use Plan (as amended) approved by the States on 16th November 2011;**

- (i) Alderney Land Use Plan 2016 Section 1: Policies;**
- (ii) Alderney Land Use Plan 2016 Section 2: Sites;**
- (iii) Alderney Phase 1 Housing Land Use Plan 2016 (Map)**

and

- 2. In pursuance of Section 30 (2) of the Building and Development Control (Alderney) Law 2002, as amended, to authorise the President of the States of Alderney to sign and date the approved Land Use Plan documents (i), (ii) and (iii) for the purposes of identification.**

Item III Building and Development Control (Alderney) (Amendment) Ordinance, 2016

The following letter was received from Mr Birmingham, Chairman of the Building and Development Control Committee:-

“The Planning review identified the need for changes to Building and Development Control (Alderney) Law, 2002 (the law) to ensure the Building and Development Control Committee (the Committee) can meet States policy objectives and conserve the natural beauty and heritage of Alderney whilst enabling sustainable development.

Changes to the law which cannot clearly be made by Ordinance such as, provision for a new appeals system, stronger enforcement and creation of specific use classes, will be subject to further prior, public consultation. The Housing Strategy and Phase 1 of the Land Use Plan Review have identified the need for other amendments to the law to implement new policies effectively. The Committee is therefore proposing the Ordinance to make these changes to the Law at the same time as seeking approval to the Land Use plan. The main Law Changes included in the Ordinance are as follows.

- (a) The matters which the Committee are required to take into account when deciding whether or not to grant an application for permission for development or other work are proposed to be extended to include "the effect of the development or other work on the biological diversity of the island" and "the desirability of facilitating the sustainable development of land having regard to the competing demands of the community for its use " (Section 7 of the law); a power is also added so that the Committee need not consider an application further until it the applicant has met all requirements of the Committee under section 5(2) including those relating to further information and public consultation and display of site notices.*

This change will be in line with the setting of policies for the environment and economic needs in the second phase of the Land Use Plan review. It corrects a longstanding omission and brings the legislation closer into line with other British jurisdictions.

- (b) Authority to the Building and Development Control Committee to adopt and issue Supplementary Planning Guidance (SPG) to applicants in connection with individual Land Use Plan policies. The guidance may only provide further information or detail in respect of the Land Use Plan policies. There is a requirement for public consultation before the Committee can adopt such guidance. A further amendment is also made to spell out for clarity that Land Use Plans may include sections relating to general policies in respect of development or other work.*

Some of the new Land Use Plan policies will be supported by SPGs as mentioned in the 2016 review.

- (c) *The Law currently restricts the Committee's authority to give consent to certain types of development proposed in the Designated Area and certain amendments are proposed to the types of development or other work which may be permitted in line with the proposed changes to the LUP policy.*

The amendments proposed are to ensure that the Committee has a clear power to permit certain extensions, garages and freestanding residential annexes in the Designated Area and to permit reconstructions of dwellings in the Residential Zone of the Designated Area providing that they meet the policy requirements set out in the amended LUP rather than such reconstructions having to occupy approximately the same position.

These amendments do not affect the application of the LUP policies in the Designated Area as the Committee must still take into account those policies when determining planning applications.

The proposal in practical terms mainly affects existing dwellings in this area (which are listed in the Residential Zone of the Land Use Plan). Currently the Committee may only give consent to a minor extension of an existing dwelling (15% increase in floor area has been applied under the LUP since 2001) and the reconstruction of an existing dwelling is required to be in approximately the same position and be of a comparable size, design and appearance under the Law. The Committee considers this to be unduly restrictive.

The change proposed, in particular in new subsection 12(3), allows more flexibility but within strict limits set in the Land Use Plan which guards against inappropriate change in the unspoilt character of the designated area. The amendments to the Law allow the Committee to approve the extension or redevelopment (including reconstruction) of existing dwellings within the designated area including building a garage to be used with an existing dwelling. The amendments amend the current restrictions for reconstructions of dwellings so that these may be permitted if their position, dimensions, external design, external appearance and other characteristics are consistent with any relevant policy set in the Land Use Plan.

The changes also permit the construction of a freestanding residential annexe which is for use in conjunction with, and ancillary to, an existing dwelling within the dwelling limits. The change is to ensure that the Committee has a power to grant permission for such development or other work consistent with the amended LUP policy.

- (d) *Part V of the Law "Control of the Construction of dwellings" known as the "C permit" system is repealed (removed entirely).*

This part of the Law in effect currently imposes qualifying requirements on an applicant for permission to construct a new dwelling. The Committee is prevented from granting permission other than to persons who have never been granted such consent or owned a dwelling anywhere in the world either alone or jointly with another person, are over 18 years of age and have been ordinarily resident in Alderney for an aggregate of not less than 16 years in any 20 year period. In effect these, local qualifying requirements apply to the applicant. This is distinct from the policies set out in the LUP and the considerations in the Law which the Committee has to take into account in determining any application for permission. The Law provides a power for the States to grant permission by Ordinance to persons who do not fall into the local qualifying requirements set out in the Law. The Committee, as this issue falls within its policy area, has promoted Ordinances to the States to in effect allow it to grant permission to non-locally qualified persons (known as Exemption Ordinances).

The reasons for the repeal of Part V can be summarised as follows:

- *The Planning Policy report has reported that the C permit system has outlived its purpose, that the local conditions which required this additional control over the release of land for new housing restriction no longer apply, and the Exemption Ordinance arrangement is unsatisfactory, creating the perception of selective patronage.*
- *The Housing Strategy concluded that the C permit system has had a negative effect on the provision of homes for the island's needs and it should be reformed, and reliance should be placed on Land Use Plan policies. The Planning Inspector also concluded that the C permit approach and the approach of the new policies in the 2016 LUP are incompatible.*
- *The Committee notes that the Inspector's examination of the housing policies proceeded on the assumption that the C permit system will be abolished in parallel with the adoption of the Land Use Plan. The draft Ordinance to amend the legislation provides for a repeal of the C permit system consistent with this understanding and recommendation 18 of the Land Use Plan Review-Housing Strategy. However, in view of the significance of this change to the Law, the Committee has proposed a long commencement date for this change and the related amendments to the Law with these coming into force five months after the new LUP policies, on 1st January 2017. This is to give islanders advance notice of these significant changes and allow further time for the Committee to carry out work on planned supplementary planning guidance to be issued in relation to certain LUP policies and to be drafted and consulted on during this period before the repeal of Part V and other related amendments take effect".*

There are consequential or complimentary changes in the proposed amendments to the Law

- (e) *Planning consent will in future run with the land. Unusually the law in Alderney is considered, consistent with the C permit system, to provide that Planning permission for construction of dwellings is personal to the applicant. Permission for construction of dwellings presently ceases to have effect in the event of a change in the ownership of the land.*

There are significant advantages in changing the Law so that all Planning consents run with the land. It will provide greater certainty for purchasers when property is sold and it will enable a new owner to benefit from the efforts and investment of previous owners.

The change will not apply retrospectively but apply only to new Planning permissions, other than those planning permissions to which for special policy reasons, the Committee have attached a condition limiting the consent to the applicant.

- (f) *Planning Permits currently expire three years after they are granted, subject to a power to impose a condition limiting this period, irrespective of when a development is commenced. The change proposes that the permission will cease to have effect unless the development or other work it allows is **commenced** within three years from the date the permission is granted. This will bring the effective period of a permission in line with most other British jurisdictions.*

The change also allows the Committee to attach a condition providing for a shorter period within which the permission will cease to have effect if the development or other work has not been commenced. This gives flexibility to

respond to changing circumstances or LUP policy. For any significant development to commence, a building application will have to be made and a licence issued. Therefore, in practical terms in many cases if no building regulation application is made within three years of planning consent the planning consent is likely to lapse as the person concerned will not have obtained the necessary licence to start the building work.

Regulations, 2014. These will continue to expire three years after the date of approval of plans.

The period of validity for preliminary declarations issued by the Committee remains the same (i.e. valid for three years from the date of issue) except that a power to impose a condition limiting this period has been added to give the Committee increased flexibility to respond to changing circumstances or LUP policy. Preliminary declarations will also run with the land.

- (g) *In addition there are minor technical amendments and consequential changes as a result of the substantive changes summarised in a) – f)*

In this work, the Committee wishes to acknowledge the advice and drafting work of the Law Officers of the Crown, particularly Crown Advocate Helen Shorey who has worked with our Planning Officer on these changes and legal aspects of the Land Use Plan.

*M Birmingham
Chairman”*

The States of Alderney is asked to approve the Building and Development Control (Alderney) (Amendment) Ordinance, 2016.

Item IV **Elections 2016**

The following letter was received from Mr McDowall, Chairman of the Policy & Finance Committee:-

“Section 28(1) of the Government of Alderney Law, 2004, as amended states that the States shall appoint a day not earlier than 14th November and no later than 14th December on which an ordinary election shall be held for the purpose of electing members of the States in place of the members whose terms of office expire at the end of 2016, namely Mr Neil Harvey; Mr Louis Jean; Mr Robert McDowall; Mr Chris Rowley and Mr Francis Simonet.

Section 28(2) of the Law states that the States shall ... appoint a day in November not less than 2 days before the last day on which, in accordance with an Ordinance made under section 31, nominations for the ordinary elections in that year must be submitted to the Chief Executive, on which an ordinary presidential election shall be held for the purpose of electing a President of the States in place of the President whose term of office expires in that year.

Saturday 12th November has been identified for the start of the election process for 2016 commencing with the Ordinary Presidential Election. Nominations to be received during the seven days ending at 4pm on 1st November 2016.

Saturday 26th November has been identified as the day for the Ordinary Election. Nominations to be received during the seven days ending at 4pm on 15th November 2016.

The Plebiscite to take place on Saturday, 10th December 2016. Nominations to be received during the seven days ending at 4pm, 29th November 2016.

I would be grateful if this matter could be placed before the next meeting of the States of Alderney with an appropriate proposition.

*R McDowall
Chairman”*

The States of Alderney is asked to approve that:

- (i) The date for the Presidential Ordinary Election be Saturday, 12th November 2016;**
- (ii) The date of the Ordinary Election be Saturday, 26th November 2016; and**
- (iii) That the Plebiscite be held on Saturday, 10th December 2016.**

Item V Independent Health Review

The following letter was received from Mr McDowall, Chairman of the Policy & Finance Committee:-

“Terms of Reference for a proposed independent review of health and social care needs, provision and governance were considered and approved by the Policy and Finance Committee at its meeting on 21 June 2016. A report is attached which includes these Terms of Reference.

I would be grateful if you would place this matter before the next meeting of the States of Alderney with an appropriate proposition.

*Mr R McDowall
Chairman”*

The States of Alderney is asked to approve the attached report containing the Terms of Reference for the independent review of health and social care need, provision and governance in Alderney.

Item VI The Speed Trials (Alderney) Ordinance, 2016

The following letter was received from Mr Tugby, Chairman of the General Services Committee:-

“I am pleased to be able to report that the Guernsey Kart and Motor Club applied to the General Services Committee for permission to organise a three-day Sprint and Hill Climb event from the 15th to the 17th September this year. The Committee, having delegated permission to the Chief Executive’s office, has noted the times and dates of the event and raised no objection. The necessary Ordinance has been prepared.

The Ordinance will allow competing vehicles to exceed the speed limit etc., and to permit the closure along the course (a) on the road extending from Whitegates (Hammond Memorial) to Route des Mielles (Corbletts Bay car park), (b) the road extending from Le Grand Val (Judges Pond) to Tourgis Hill and (c) Tourgis Hill along the extent of the Hill Climb course, from the road junction of the Petit Val with Route de Picaterre to the junction of Tourgis Hill Road with Le Grand Val.

As in past years, the Guernsey Kart and Motor Club have undertaken to put in place all necessary safety precautions and to liaise with the Police, Ambulance and Fire Service for these events.

I would be grateful if 'The Speed Trials (Alderney) Ordinance, 2016' could be placed before the States of Alderney at its next meeting together with an appropriate proposition.

*I Tugby
Chairman"*

The States of Alderney is asked to approve "The Speed Trials (Alderney) Ordinance, 2016".

Item VII Air Transport Licensing (Alderney) Law, 1996 - Policy Statement

The following letter was received from Mr McDowall, Chairman of the Policy & Finance Committee:-

"Under the provisions of the "Air Transport Licensing (Alderney) Law, 1996" the policy statement means the published policy in relation to the licensing of air transport services prepared by the States of Guernsey (Commerce and Employment Department) and approved by the States of Deliberation as from time to time amended or replaced (with or without modification) by Resolution of the States of Deliberation, and as from time to time modified in relation to Alderney by a Resolution of the States of Alderney.

The Policy Statement attached has been amended slightly in order to best preserve Alderney's position and also to remove some now redundant text.

I would be grateful if you would place this matter before the next meeting of the States of Alderney with an appropriate proposition.

*R McDowall
Chairman"*

The States of Alderney is asked to approve the modified policy in relation to the licensing of Alderney's air transport services as approved by the States of Deliberation, and for this policy statement to replace the previous policy.

Item VIII Questions and Reports

No Questions or Reports received.