

Building and Development Control
Committee

**Review of the Planning and
Development Control Process on
Alderney**

Final Report

Issue | May 2014

This report takes into account the particular
instructions and requirements of our client.

It is not intended for and should not be relied
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1 Introduction

1.1 Purpose of the Review

The States of Alderney Building and Development Control Committee (BDCC) have commissioned Arup to undertake a review of the planning and development control process. The review relates to the legislation and processes relating to producing a States-wide land use development plan (The Alderney Land Use Plan) and the processes of determining planning applications including:

- pre-application discussions with residents, builders and developers around development proposals, locations and design;
- the receipt, checking and public consultation of applications to build, develop or change use;
- decision-making to consider whether to grant planning permission; and
- ongoing issues around implementation and compliance with approved plans.

In commissioning this review, the States of Alderney are seeking to ensure that their planning system is fit for purpose and reflects best practice. It is recognised that the system and its processes must be in proportion to Alderney and the scale of change expected here. A major strength of planning in Alderney is that it fits within a strong stable governance structure, where decisions are taken on a non-partisan basis.

This is our Final Report, which sets out both the main findings and recommendations of the Review. The structure of the report is as follows:

- the remainder of this section (Section 1) outlines the approach adopted and people involved;
- Section 2 provides the context for the Review;
- the main findings and recommendations are presented in Sections 3 to 10, split into the different stages of the planning and development control processes set out above; and
- Section 11 draws the recommendations together to provide a suggested action plan.

1.2 Approach

The approach to the Review drew upon a wide range of information sources, detailed below.

States Objectives Review

A formal review of the overarching objectives of the States was undertaken, including: member discussion around high-level political, economic and social objectives of the States; a review of planning policy and guidance documents; and a review of objectives and issues highlighted in previous related work.

Contextual and Process Review

A review of a sample of planning applications, enforcement cases and appeals was undertaken and discussed with officers and, where appropriate, with applicants. This review was to consider the existing building law and planning and development process as it is currently operating on the Island.

Call for Evidence

A Call for Evidence was publicised by the States issued on 10 October 2013, and was open to responses until 01 November 2013. Views were sought as to the strengths and weaknesses of the current planning and development control process on Alderney, along with suggestions for future improvements.

Eighteen responses were received, representing a wide range of organisations, individuals and points of view. Two further responses were received after the deadline. All responses have been included within the Review.

Stakeholder Interviews

A list of key stakeholders was supplied by the States of Alderney, in order to undertake more in-depth discussions. The final interview list also drew upon those responding to the Call for Evidence where further discussion or clarification could be beneficial. Interviews were undertaken either in person or over the phone. A list of interviewees is provided within Appendix A.

Comparative Analysis

Following the initial review tasks, comparative analysis with other planning systems was undertaken in order to draw upon and learn from similar experiences and practices elsewhere. In addition, the wide-ranging experience of the project team was drawn upon throughout the process.

Discussion Seminar

A discussion seminar was held on 12 March 2014, with attendees drawn from those engaged in previous stages of the study. A list of attendees can be found in Appendix B. The seminar was designed to set out progress to date and identify a number of 'big picture' questions for discussion and inform the emerging recommendations. Four themes were covered, set out below:

- Theme 1: Planning for the future
- Theme 2: Efficiency and streamlining
- Theme 3: Transparency and trust
- Theme 4: Resourcing the system

A copy of the seminar presentation is provided within Appendix C and Appendix D provides copies of the 'voting' activity whereby attendees placed stickers on statements to express the extent to which they agreed with them.

1.3 Acknowledgements

We extend thanks and gratitude to all those who gave their time to respond to the Call for Evidence, those who agreed to be interviewed and those who attended the Discussion Seminar. It was clear to us that people care about their Island and its planning system and this leaves us enthused with the prospects for implementing recommendations and improvements.

We are grateful to the input and advice of the members and officers of the States of Alderney who helped to steer the study. This included:

- Matt Birmingham, BDCC (Chair);
- Ray Berry, BDCC;
- Steve Roberts, BDCC;
- Chris Rowley, BDCC;
- Francis Simonet, BDCC;
- Roy Burke, Chief Executive;
- Julie Turner, States Engineer; and
- Rachel Sowden, Planning Assistant.

The core study team comprised:

- Christopher Tunnell, Arup (Project Director);
- Kieron Hyams, Arup (Project Manager);
- Dan Evans, Arup;
- Chris Shepley, Chris Shepley Planning Consultancy (Advisory Panel); and
- Corinne Swain, Arup (Advisory Panel).

1.4 Next Steps

An outline Action Plan is provided within Section 11 of this report. It collates the recommendations, and sets out the mechanisms, actors and priority for reform, mindful of the potential timescales for each action.

It is important that the momentum generated by this review is sustained. The ownership and buy-in shown by States Members must continue. The keenness for improvement shown by officers must be harnessed to deliver better policy- and decision-making. The willing, knowledge and participation of other stakeholders needs to be captured at a catalyst for improvement.

It is also important that the States decide what planning system it wants. This means taking a view on each of the recommendations made by this report and determining the shape of the system moving forward.

Recommendation 1: This report should be published by the States of Alderney and be subject to public consultation.

Improving the planning system in Alderney will be as much about culture change as legislative change. Enhancing the system in terms of consistency and transparency begins with the process of reform itself.

During the consultation period, the States can decide on its opinion of the recommendations, and begin to put in place additional resources, a programme for reform and a means of ongoing dialogue.

2 Context

2.1 Legislative background

The legal framework for the planning system on Alderney is The Building and Development Control (Alderney) Law (2002), with permitted development rights set out in The Building and Development Control (Exemptions) (Alderney) Ordinance (2007). The Building and Development Control (Alderney) (Amendments and Fees) Ordinance (2014) was passed by Full States in January 2014, and amended the 2002 Law in respect of the sub-dividing of dwellings and demolishing and rebuilding of dwellings.

In addition to these laws, there is also a Policy Guidelines document which aims to support decision-making on planning applications and pre-application advice, as well as policy-specific Supplementary Planning Guidance documents.

The Alderney Land Use Plan (2011) sets out the use of land on the Island, and consists of a Land Use Map and an accompanying document which outlines the appropriate uses (and in some cases densities and design details) for each of 21 zones.

Below is a list of the laws, policy documents and materials that have been considered as part of this Review:

- The Building and Development Control (Alderney) Law (2002);
- Strategic Plan (2014);
- The Building and Development Control (Exemptions) (Alderney) Ordinance (2007);
- The Building and Development Control (Alderney) (Amendments and Fees) Ordinance (2014);
- Building and Development Control Committee Policy Guidelines (2008);
- Alderney Land Use Plan (2011);
- Land Use Plan Map (2011);
- Policy Statement: Housing Developments Requiring Section 33 Ordinances (2014);
- Tree Policy (2012);
- Replacement Windows in Registered Buildings and Conservation Areas (2011);
- Policy Guidelines for Stables and Field Shelters for Horses (2011);
- White Paper on Environmental Impact Assessment for Alderney, Sustainable Direction Ltd. (2012);
- An Island Plan: Sustaining Alderney's Future (2006); and
- Survey and Plan of the Island of Alderney ('The Davidge Report') (1968).

2.2 States' objectives

2.2.1 Strategic Plan 2014

The States' objectives have been set out in the Strategic Plan 2014 document. It includes the following strategic policies:

- securing the economic future of the Island with a growing population;
- protecting and promoting the environment and heritage;
- improving the quality of life for all; and
- modernising and improving service delivery and use of resources.

These strategic priorities are to be delivered through a series of discrete plans:

- Energy Plan;
- Tourism and Marketing Plan;
- Economic Development Plan;
- Medium Term Financial Plan;
- HR Strategy and Workforce Plan; and
- Service Delivery and Improvement Plans.

Objectives or targets included in the Strategic Plan which are particularly relevant to this Review are:

- a commitment to sustainable population and economic growth;
- support for a range of new energy initiatives, including the Alderney Renewable Energy (ARE) tidal power project;
- establishment of ferry connections to Alderney under a public services obligation, and to ascertain the options for development of existing aviation infrastructure; and
- to attract ten entrepreneurs to the Island, who in turn will employ ten new people each.

The Strategic Plan will be reviewed on a regular basis by States Members.

2.3 Working arrangements

The States of Alderney employs one officer (1.0 FTE) to operate all day-to-day aspects of the planning system. Planning falls under the supervision of the States Engineer, with approximately 0.2 FTE allocated to managing the planning function. In addition, the Chief Executive attends BDCC committee meetings and is engaged with planning work.

The BDCC is made up of five States Members (out of a total of ten), including a Chair and Vice Chair. The drafting of legislation is carried out by Guernsey legal officers. Other occasional support needs are supplemented by Guernsey planning officers on an informal basis.

3 Land Use Plan

3.1 Plan making and plan review

Current Approach

Land on Alderney is allocated for use through the Land Use Plan. Land broadly falls into two main categories: the Designated Area (more commonly known as the ‘Green Belt’ and sub-divided into agricultural, commercial, protected, public utility, recreational and residential uses); and the Building Area (sub-divided into separate zones with policies attached).

The Land Use Plan is reviewed at least every five years under the provisions of Section 25 of The Building and Development Control (Alderney) Law. The BDCC may also make proposals for alterations or additions to the Land Use Plan at any time. Any person may make representation at the Planning Inquiry to consider the Land Use Plan.

Observations

There is a general feeling that the Land Use Plan does not reflect a coherent vision for the future of the Island, and instead offers a snapshot of the ‘status quo’ in terms of current uses.

Changes to the Land Use Plan appear to be reactive or immediate re-zonings where issues have been raised, rather than a comprehensive (plan-wide) review to adjust or update the overall direction and coverage of the plan itself. There is a general understanding that a ‘minor’ change can be made at any time (under Section 31 of the Law), but is unclear what constitutes a minor change. There is a dimension of inefficiency in the current system, as proposals not according with the Land Use Plan sometimes result in re-zoning rather than simply a departure from the plan as it stands.

Concerns were raised as part of the Call for Evidence and stakeholder interviews that examination of the Land Use Plan only considered the BDCC’s case without sufficient challenge. We believe that this stems from limited responses to consultation around plan modification, and that the Inspector may only consider the evidence put before them. Without a robust response to consultation, this means that the Inspector would only be considering evidence provided by one party seeking to promote a re-zoning or allocation to the Land Use Plan. There appears to be a perceived lack of opportunity to engage in the plan making process, resulting in a feeling of frustration.

Recommendations

On balance, the plan-led system is the right one for Alderney, as it provides the opportunity to set out what types of development would normally be acceptable (in defined appropriate locations) whilst allowing for the protection of environmental assets, community uses and so on. The concept of a designated area and building area are well understood and work well.

However, the Land Use Plan has become in some ways overly complicated given the number of different zones and allocations. It is also detached from the wider strategic vision for the Island. It is important that the other policies and strategies that are being created are joined up with the Land Use Plan. The initial part of the plan ought to set out Island-wide objectives and the vision for the future; this can then be translated into targets or amounts of development types, which in turn can feed into policy principles for delivering those within a spatial land use allocation system. In reality, this would also involve the amalgamation of the Policy Guidelines into the Land Use Plan as well as the creation of a defined and quantified vision.

Land Use Plan: Suggested Structure

Vision: (new section) Reflecting the States' objectives in the Strategic Plan, including specific targets or levels of growth, protection, enhancement etc. This should define the desired 'end state' of the Island at the end of the plan period and would consider things such as repopulation, economic growth in areas such as ecotourism, and maintaining the high quality of the environment.

Evidence: A lightweight (proportionate) assessment of the current position, to serve as the baseline for the plan covering things such as population, jobs, houses and the built and natural environment. The evidence says where the Island is now, and enables the difference between the baseline and the vision to be established as the objective of the plan to deliver. A lot of this information is already held, or in the process of being gathered. The aim is to bring evidence together from different sources, address any gaps and then consider it in combination.

Strategic policies: Overarching components of the plan taken from the General and Design sections of the Policy Guidelines to be used as Island-wide planning policy objectives. Supplemented with some additional principles such as the role of the Green Belt, a strategic heritage policy setting a hierarchy of assets, guidance on maintaining a defined settlement pattern, setting the concentration of new retail facilities in St Anne, and parameters for a major harbourside development. To include criteria for deviating from the plan policies (exceptions) and so on. Few in number, but where the plan can have the most influence. These are the main means of delivering the vision.

Zone-based policies: A lower-tier set of policies which 'fill in the gaps' and ensure complete plan coverage that takes account of the unique characteristics and those parts of the Island not covered by strategic policies. Site-specific guidance around the future uses and development. To include the approximate scale and location of housing and employment uses.

Supplementary policies: Scope for additional policies to be added when needed. This could cover design guidance, setting out the planning application process and more specialist areas as topics emerge such as Environmental Impact Assessment.

Monitoring: To set out delivery mechanisms (how the plan will be delivered) and how and when it will be monitored and reviewed.

Importantly, this is an evolution of the current approach which enhances it to provide greater integration, certainty and consistency. It also aims to have the 'big discussions' around housing, employment, conservation etc. once at the point of

creating policy, rather than having to revisit these issues as part of each planning application.

The types of evidence the Land Use Plan will need to draw from should include the latest population counts (numbers, age, characteristics, skills profile etc.); environmental and heritage assets information (extent, quality, condition, status); housing requirements and availability (existing stock, size, condition, features); numbers and quality of vacant or under-used homes; and information on the economy and employment on Alderney. Evidence should be drawn from other sources such as the Strategic Plan, or produced as part of the plan making process if not available.

Recommendation 2: The Land Use Plan should be based on a long term vision for the future, including planned population, housing and employment. It should be informed by the strategic objectives for the Island set out in the Strategic Plan.

Recommendation 3: The Land Use Plan should be informed by evidence. Any gaps in evidence should be dealt with as part of the plan-making process.

Recommendation 4: The Land Use Plan should be comprehensively reviewed on a rolling basis, rather than only dealing with specific zoning amendments. Each review should thus consider the plan and allocations in their entirety. Reviews should be informed by monitoring the effectiveness of the plan in the preceding time period as well as any revised evidence in order to result in an updated vision for the upcoming plan period.

Recommendation 5: Review of the Land Use Plan should include opportunities for stakeholder and public consultation. For sites, allocations etc. that do not elicit any response through consultation, the Inspector should be encouraged to adopt a more balanced or critical perspective.

Implementation

A legal review will need to be undertaken to ensure that a new ‘vision-led’ plan structure can have appropriate status, and to ensure the ‘primacy’ of the Land Use Plan. This might require a change to primary legislation to formalise opportunities for early consultation in the plan review process.

The current mechanism for, and timing of, examinations continues to be appropriate.

The increased emphasis in policy-making and the specificity of that policy will create a resource requirement for the States. This is addressed in Section 10.

4 Supplementary Policy

4.1 Development management process

Current Approach

In addition to the main planning law, the current process and main ways of working have been developed over time and exist as ‘habit’. Whilst this is not in itself bad, it means it can be hard for applicants or the public to gauge the service that has been provided. Further, whilst on the one hand it provides flexibility for the States to react sensitively and appropriately to each case it can also mean that the service is not always delivered consistently.

There were anecdotal examples where some stakeholders felt that the system was ‘personal’ and that it was not necessarily being delivered impartially or consistently.

Observations

A discretionary system will not always be transparent or predictable, but the current approach could be better defined and improved. It is important that the system continue to be proportionate, but at the same time deliver consistency and impartiality. Suggested areas of process which would benefit from specification include:

- **Pre-application advice:** There appears to be an ad hoc (but well-meaning) approach to pre-application discussions. An ‘open door’ approach is adopted whereby applicants and interested parties can visit the States’ planning department. However, there is no log of the advice given to the applicant and it is not clear how this advice is conveyed to the BDCC in a resulting application (See Section 5).
- **Registration and validation:** There is no current validation checklist that is used to consistently determine whether an application is of an appropriate standard for determination. Such guidance could also be used to require specific documents for certain types of application, i.e. design notes for development in a conservation area, EIA for development over a certain threshold, details of materials and finishes etc.
- **Plans and drawings:** There were examples of applications with poor plans being accepted by the States for determination. This included hand-drawn plans not to scale. It is accepted that location plans might not always be required for modifications to an existing building and that officer’s local knowledge of the Island is high. However, plans should be sufficient to also enable public consultation to be carried out effectively and to ensure that decision-making is precise in terms of design, siting, size etc.
- **Consultation:** The decision on who to consult at the moment is done on a ‘best judgement’ basis by the States. There is no statutory notification procedure. Representations received are not made public. It is not known how comments are treated in the decision-making process in terms of setting out issues and attaching weight to them.

- **Committee meetings:** There is no committee protocol or item running order governing the way in which committee business is conducted. A protocol is useful to establish a consistent approach, to ensure that probity and member interests are handled appropriately, and to deal with the rights of the applicant/agent to appear and the powers of the BDCC to operate in certain ways such as requesting a site visit, requesting applicants/agents appear for questioning and empowering officers to make decisions through delegated means.
- **Training:** To set out the States' commitment to member and officer training. Including a view on mandatory training/a minimum level of knowledge or experience to sit on/lead the BDCC.

Recommendations

It is recommended that supplementary planning guidance (SPG) be developed to cover the operation of the planning application process. This should of course reflect the desired system and in turn be used to deliver performance and process improvements so that the desired system is indeed the actual system.

Recommendation 6: Gradually develop supplementary development management policy to articulate the desired (and actual) operation of the system.

Implementation

Many planning authorities produce detailed development management manuals to assist officers and members and to promote consistent working practices. This would be excessive for Alderney. It is suggested that a series of short protocols (perhaps only 1-3 sides in length with a summary process flow chart where helpful) could be produced to support the system.

Mindful of the other recommendations, it might be helpful to produce and agree a programme and to table/discuss draft and to formally ratify/adopt final notes at each committee meeting taking one topic at a time. The aim would be to gradually build up the system.

4.2 Housing

Current Approach

The overall objective of the current approach is well-intentioned, aiming to provide housing that meets local needs. This is in the context of concerns around the need to ensure affordable and available housing for inhabitants and wary of the Island's finite resources.

There are allocations made within the Land Use Plan as to where residential development could occur and what the approximate scale and/or massing should be. Anecdotally, this is not always adhered to and does not always confer the certainty that might have been intended.

The right to build a residential unit is an emotive issue in Alderney. In addition to the spatial policy there is also the need to become a 'qualifying person' based on residency and 'need' (though not owning elsewhere) – the 'C Permit' system. In conjunction with this is the situation whereby a residential planning permission remains personal to the applicant and does not run with the land/site.

The emerging Strategic Plan explicitly refers to the aim of attracting and retaining people meaning that the Island will need to consider how and where it provides the housing that meets this need. An important aspect of this is the understanding of the current level of housing, its condition and what stock is available to meet that need. Some stakeholders feel that a significant proportion of future need can be met through the existing stock.

The Alderney Housing Association (AHA) has been recently established and is beginning to take effect, managing and delivering a number of schemes designed to increase the number and quality of affordable homes. The AHA is also preparing a Housing Strategy.

Observations

The Land Use Plan provides little detail and does not always appear to be adhered to, with examples of inconsistent decision-making over time taking place within this policy envelope. Thus the policy is not providing certainty.

A central issue is the C Permit system. An initial observation is that the debate is disproportionate to the incidence of applications – there have not been many attempts to build through this route and each year the BDCC has not reached its 'limit' on this type of development. However, it is important that the system is fair by design and this element of the system is seen as discrediting the overall planning system.

The C Permit system creates a commodity in right to build. For those that do qualify, houses can be built, occupied and eventually sold on and there is anecdotal evidence of applications being made in the names of children to benefit from this one-time right. Thus, in theory and given an appropriate timescale the system could be circumvented. Further, the permit system only handles new build and not the sale of existing properties. So whilst only residents can build a new dwelling, anyone can come to Alderney and purchase an existing dwelling.

It is also possible to point towards this policy and identify a number of historical schemes which would not, in current thinking, be desirable. This includes issues around location, design, scale, massing (both lack of open space and low-density building) and overall lack of, or integration with, community facilities. There is a need to learn the lessons from the past, to avoid repeating them, and to ensure they cannot be used as a 'precedent' for the operation of the desired system, to argue for 'exceptions' to it, or to otherwise promote (uncoordinated) incremental development.

A practical consideration is the lack of distinction between the planning application for a new dwelling and the exemption ordinance required in order to enable an applicant to qualify to build a dwelling from an approved planning application. There appears to be inconsistency in terms of the order in which the permission and exemption should come, the role of the BDCC in agreeing to promote a proposed exemption ordinance to the Full States of Alderney Council,

and the ability to distinguish between the planning and legalistic decisions to be made.

The exemptions ordinance process is listed as under review in 2008 Policy Guidelines but there has been no fundamental reform to the system. A recent legal reform was passed to cover the ability to demolish and rebuild a dwelling, to allow anyone to improve a home without such works requiring a C Permit.

Lastly in terms of housing more generally, there is no clear audit, policy or strategy depicting how many houses are required where, what tenure they ought to be and the means to best tackle ‘heritage properties’ which are characterful and intrinsic to the Island aesthetic, but in poor condition and ill-suited to modern living.

Recommendations

It is clear that the C Permit system does not achieve its aims. It is also clear that it is almost universally unpopular and certainly not the ideal system. It is important that the development of housing on Alderney is controlled and that there is consideration and provision for the housing needs of inhabitants.

The recommended system for the delivery and control of housing is a combination of the Land Use Plan Vision evidence-based policy over the number of new dwellings required, a policy decision over where those dwellings ought to be developed and a joined-up view on the tenure of those dwellings. The main conduit for delivering affordable local accommodation should be the AHA, although it will continue to be reasonable to expect major developments to contribute affordable housing units as part of their proposals.

Outside the direct scope of this review, but relevant for the delivery of its recommendations is the emphasis that the Housing Strategy ought to place in considering the ways in which a quasi-private rental sector can be encouraged and/or created and sustained. There needs to be a ‘stepping off’ point between social housing and private ownership. The desire for ‘self-build’ stems, in the main, from the lack of transition or the diversity of the offer and the lack (to date at least) of intermediary housing options.

Recommendation 7: To implement housing reform including removing C Permit controls, ensuring permissions run with the land, and tasking AHA to monitor and provide local (affordable) housing.

Implementation

This will be a wide-reaching reform that will require a combination of primary legislation reform, policy update and cultural change in how the planning system operates.

The C Permit legislation (sections) will need to be revoked/replaced, the AHA remit will need to be reviewed to ensure its focus/selection criteria are aligned with the system and to ensure locals prioritised.

Importantly, the Land Use Plan will need to be updated to encompass evidence on the current housing stock, to incorporate a quantified vision of the future housing position and to allocate sites/plan to deliver the vision

4.3 Design guidance

Current Approach

Design is a subjective area. Parts of the Island are rich in design and others less so. In some places there is a real ‘old’ and ‘new’ distinction.

Currently, applications are each considered on their own merits. Applicants (and their agents) are not always certain as to what BDCC views on schemes will be, and pre-application advice is not always valued as it might not relate to the subsequent views of the BDCC.

Good design is a feature of the current system. This is reflected in the importance of listing buildings on the register, designating conservation areas, and drawing upon the responses from and local expertise of stakeholders such as (but not restricted to) the Alderney Society.

Observations

There is no single view or understanding as to what is the Alderney vernacular, accepting that the Island is a changing and vibrant location looking as much to the future as the past.

There is considerable importance attached to conservation areas and listing of a building on the register, but this is undermined by lack of evidence over the reasons for inclusion or listing on the register. Without information about what the design assets of a building are, it is hard to reach a consensus about how to improve it or to contextualise and determine development proposals for it.

Following on from the previous sections around C Permits and inconsistent decision-making, there are examples of near-identical planning applications being accepted/refused for different applicants. Although even near-identical design applications tend to differ from each other it does still suggest an inconsistent approach over time to design issues by the BDCC.

There was universal stakeholder enthusiasm by the agent community for a greater specification of design within the Alderney planning system, along with a willingness to submit high quality design proposals pending specification of what those proposals ought to contain.

Recommendations

Recommendation 8: Produce a design guide as SPG to the Land Use Plan to (a) cover conservation areas and (b) provide some Island-wide guidance for other areas

The needs of the conservation areas are clearly different to the rest of the Island. In other locations, the listing of buildings on the Historic Buildings and

Conservation Areas List appears to be a functional (and proportionate) means of signifying the importance of design in current and future development or use.

The design guidance needs to be a lightweight document and it is suggested that it is based on existing good practice examples from elsewhere. For example, the two design guides nominated for Royal Town Planning Institute awards this year (for (a) Bassetlaw District Council, Bolsover District Council, Chesterfield Borough Council and North East Derbyshire District Council, and (b) the Northern Ireland Department of the Environment) and Swansea's Gower AONB Design Guide are all thought to be useful starting points.

Implementation

No specific legislative changes are required beyond those required with the Land Use Plan to give material standing to a design SPG.

Given capacity constraints and local knowledge, it is recommended that a local agent and other stakeholder working group be established. To avoid any claims of partisan authoring, this should be a collaborative exercise chaired by a BDCC member, tasked with coming up with functional design guide.

4.4 Permitted development

Current Approach

Within most planning systems there is the opportunity to undertake routine (minor) works without the full requirements of planning consent. In the UK context, these are commonly referred to as 'permitted development' rights.

Currently, permitted development rights are provided through the Building and Development Control (Exemptions) Ordinance 2007. This covers development within the residential curtilage, non-domestic buildings, maintenance and repair, agricultural development, development by the States and signs/advertisements.

The Island is a sensitive 'receptor' – because of its comparatively small size, the scale of applications which might be felt to have an 'impact' is correspondingly lower. As a result of this the planning system in Alderney controls a finer grain of development compared to other systems, with planning covering development such as garden sheds, walls, fences, greenhouses and so on. In many planning systems, such developments would be permissible to a larger threshold and would not require planning consent.

Related to this, the ability to improve existing homes is important. There are some dwellings that require modernisation and some cases where the flexibility to extend or remodel might be preferential compared to demolish/rebuild or creation of a new dwelling elsewhere.

Observations

It is wrong to assume that it is only 'big' applications that are complex and/or contentious. There was a general willingness by stakeholders to consider reform to the current position of permitted development rights.

Whilst the current situation is not by itself inefficient in regard to these smaller-scale developments, these need to be contextualised against the future objectives of the States in terms of repopulation, harbour development, land use plan update, housing development, creating SPG around design, creating a hierarchy of natural and build environment assets and so on. In a situation where there is inevitably a limit to the resources available, this is one area where it might be prudent to ‘let go’ and relax planning control of some of these smaller things to free up resources and focus on the bigger picture.

Recommendations

This planning review focused on more strategic challenges to the planning system and did not examine smaller cases in details. The review does not, therefore, make specific recommendations on the types of application or threshold at which they might be exempt from a requirement for planning consent.

Recommendation 9: Undertake a brief review of permitted development rights.

Implementation

This will require input from others in order to gauge the appropriate level at which development can be undertaken without the need for planning permission.

The review should ideally include:

- A review of smaller cases from recent years to examine which uses (type, scale and location) were least contentious and most straightforward in planning terms;
- A paper to the BDCC for discussion on the pros and cons of changing the thresholds based on the review and whether reform might apply differently to different uses and in different locations (i.e. urban/rural and in the designated area or conservation area); and
- Publication of the revised paper and a consultation exercise to gauge public and specialist support.

Final implementation would be through an update to the 2007 Exemptions Ordinance.

4.5 Changes of Use

Current Approach

The UK definition of ‘development’ covers uses as well as physical alterations. This is regulated through a classification of uses – so-called ‘use classes’. In this way, a change of use is also controlled and requires planning permission even though no physical changes may have occurred. This also covers intensification of uses.

In Alderney, the use classes are defined quite broadly into residential, agricultural and all other uses. As there is no control of changes of uses within these three overarching classes, including no control of intensification within them (with the exception of sub-division of a residential unit), there is limited power to control uses on the Island.

Observations

It seems that there is a desire to keep 'high street' uses within the main commercial streets of St Anne, and there is some concern around the potential impact of intensification of current uses. There is evidence of retail uses appearing in the harbour area, of some 'high street' type retail units being used as offices and also more anecdotal concerns of industrial uses arising in unsuitable premises.

Whilst it is important to keep any classification simple, there are challenges associated with dealing with 'changes of use' when the classes are as broad as they are currently defined. Further, there are similar challenges around dealing with intensification on this basis. There is nothing wrong with flexibility so long as it is not at the expense of control to prevent buildings, site or areas changing contrary to or otherwise undermining the land use plan vision.

Recommendations

Recommendation 10: Establish an increased number of use classes with ability to create (and amend) policy around how they are used and which uses can change into others.

The aim is to offer appropriate granularity and avoid unintended consequences. When the economy is more buoyant, there is potential for development pressure to drive land use in unintended ways.

This mechanism would also enable distinguishing between permanently occupied residential, temporary residential and holiday home uses and control the change between these uses. Perhaps controversially, this might also provide the basis to distinguish between these uses in other ways for licensing, charging or servicing purposes.

The minimum standard would be to distinguish between retail, industrial (light and heavy) and office/commercial uses. Further, any development not clearly within the established use classes (which might not be comprehensive within a proportionate system) could be deemed to be 'sui generis' (of its own kind) by default.

Implementation

This would require primary legislation to give the power to define uses/classes. A SPG could be established (and periodically reviewed/updated) setting out the use typology and views on intensification and moving between specific uses.

4.6 Infrastructure

Current Approach

There is currently no formal ‘planning obligation’ or similar process for identifying and capturing the cost of infrastructure works associated with planning permissions.

More generally, stakeholders felt that the States had ‘ownership’ of the off-site infrastructure implication of new development. Some felt that the only exception to this might be in the case of a large-scale development.

Observations

Evidence from recent applications suggests that on-site (and connecting) infrastructure can and generally is delivered by requiring that infrastructure be undertaken by the applicant. This normally takes the form of surface access (roads) but has also involved extensions to utility supplies.

Use of developer contributions towards infrastructure (planning obligations) in the past has been problematic. In part this was due to the ad hoc nature of the requests in the absence of an agreed and transparent framework for such agreements. A wider perception was that such attempts endangered the objectivity of the planning determination process.

Whilst other parts of the UK are exploring legal- and tariff-based mechanisms to collect contributions towards off site infrastructure, there is no desire by stakeholders to bring in similar measures in Alderney.

Whilst it is important to consider (and plan for) the off-site impacts of development (such as the need for school places, lifecycle costs of existing Island-wide infrastructure etc.) a proportionate approach is currently adopted which ensures that the direct on-site issues are handled.

There are no recommendations in relation to infrastructure.

4.7 Conservation and the Environment

Current Approach

Alderney and its immediate neighbouring islands together have a large number of built and natural environment assets. In 2005 part of this island grouping was designated as a Ramsar site (as per the UN convention on Wetlands of International Importance).

The main current mechanisms for protecting these assets are through inclusion within one of the main Land Use Plan designations such as being within the designated area (green belt) or from inclusion on the register of historic buildings and conservation areas.

As well as the direct duty of care by the States of Alderney, there is significant work undertaken by stakeholder organisations including the Alderney Wildlife Trust (AWT) and Alderney Society (AS) voluntary organisations. Discussions

with stakeholders highlight ongoing work around cataloguing, investigating (and restoring) a range of built (and historic) assets. Work is also ongoing in terms of the natural environment including a range of biodiversity conservation and enhancement measures through the Living Islands Programme.

Observations

There is concern from some stakeholders about the level of protection afforded to the natural and built environment by the Land Use Plan. There is also no clear hierarchy about which assets are important relative to each other. Thus, at the same time there is both unclear protection for those championing conservation interests and little information available to policy- and decision- makers. This creates a working environment with some uncertainty.

Examples of the information and policy challenges include a lack of an ‘exceptions’ policy or criteria for the BDCC to use to weigh up development proposals against environmental interests to reinforce the weight to be attached to such policies. Similarly, whilst the register of historic buildings lists those dwellings and other structures to be protected, it does not provide any further knowledge about why it has been included on the register, whether the whole building (as opposed to purely the façade) is included and the relative quality of the asset.

Finally, Environmental Impact Assessment is not fully embedded within the planning system which could potentially pose a challenge to handling larger planning proposals. A suggestion on how to handle this has been proposed by the AWT and this could form a part of the wider SPG recommendation set out in Recommendation 6.

Recommendations

Recommendation 11: As part of both the Land Use Plan evidence base and ongoing conservation efforts, a comprehensive hierarchy of built and natural assets ought to be developed.

This recommendation encompassed two distinct elements, namely (a) creating Island-wide knowledge of assets and (b) determining the relative standing of those assets. For example, the Island is home to ‘only one’ Puffin reserve but ‘many hundreds’ of wartime fortifications. One cannot be directly equated with the other, but policy emphases ought to reflect the scarcity, quality and unique requirements of each subset/asset.

Implementation

There is significant on-Island expertise. Efforts are already underway to improve the knowledge of assets and it is important that these efforts are joined up and worthwhile. A working group, chaired by the BDCC, should be established to produce the relevant evidence base and draft ‘ranking’ (akin to Grade I, Grade II* listings etc.) proposals for inclusion within policy.

To avoid any perception of partisan engagement by any parties in the working group the proposals should be subject to public consultation prior to incorporation into a future Land Use Plan.

Critically, the aim is not to mothball assets or to cover the Island in protective designations, but rather to differentiate assets and help prioritise conservation efforts. These are likely to be central to a number of elements of the Strategic Plan around developing the economy and ecotourism as well as assuring the populace that growth aspirations can be met through a planning system that sets a vision within an appropriate context.

5 Pre-application Advice

5.1 Availability of pre-application advice

Current Approach

An open door, informal approach to pre-application advice is currently delivered with advice provided by the States planning officer. No fee is charged.

Members also inevitably engage with applicants, although this is on an informal basis.

It is not clear if pre-application advice is included in the officer report to committee.

Observations

From a process perspective, there is no log of advice given. The person seeking the advice does not receive a record of the advice. The States does not record the advice against the site record or in a retrievable way to inform future applications.

There is no member training on how to approach and deal with pre-application engagement. Such training ought to cover aspects such as predetermination and probity.

As with many planning systems, pre-applications advice is not binding on the planning committee. Some applicants felt that this diminished the utility of such advice and that it did not provide significant greater certainty of decision or outcome. The quality of advice thought to be good, and 'helpful'. However, there is thought to be little take-up of the service and stakeholders express some concerns that the advice, whilst technically sound, was not always helpful with a view to obtaining approval from the BDCC.

Recommendations

Recommendation 12: The pre-application process should be set out in SPG or similar note. It should include principles for offering advice, issuing a record of advice given, inclusion in officer reports and member involvement in the process. There should be a periodic review of the quality of advice given.

Generally advice can be split into two broad categories: appraising options on a site/types of use ("What can I do here?") compared to 'dry run' commenting on a specific scheme ("Can I do this here?"). Both types of advice are important and encourage early engagement with the system. Early engagement enables appropriate schemes and designs to be formulated to the satisfaction of the States whilst also creating a shorter, more certain path for the applicant.

Advice given should be recorded (using a standard pro forma) with a copy given to the applicant and a copy retained by the States. The States copy needs to be logged against the site as, at this point in the process, there is no application. It will also both help inform future pre-application advice on that site and also help

inform future pre-application advice for that type/scale of development. The advice should set out the main policy position, recommendations for improving the proposed scheme and identify the necessary supporting documentation (plans, elevations, reports etc.) to be submitted as part of the application.

Other recommendations in this report, around improving the Land Use Plan, providing a Design Guide and creating a hierarchy of assets will all, in combination, help provide applicants with certainty. Having a robust pre-application advice service with retrievable information is another element of this overall approach towards enhancing the consistency and certainty of the service.

From a transparency perspective, it is standard for commercially sensitive sites and/or discussions to remain redacted from public records including public files, officer reports and committee minutes.

Pre-application advice should continue to be free at the point of delivery, accepting that (based on other recommendations in this review) the ideal flexible approach would also enable the BDCC to approve an application subject to suggested (specified) amendments.

Implementation

To ensure a robust and consistent approach, there should be an adopted policy/process note. This should be accompanied by member training and improved record-keeping.

6 Application Submission

6.1 Application forms

Current approach

Applicants apply for planning permission using one of two forms, depending on the scale of the application:

- Form A – for works of a minor or temporary nature; or
- Form B – for new buildings, extensions, structural alterations, and works of a similar nature.

Information requested on the application form includes:

- Applicant and agent details;
- Description of the proposed development;
- Details of application site, including address and parcel number;
- Trees and hedges information, with any removals indicated on the site plan;
- Details of fuel and waste storage (Form B only);
- Confirmation of vehicular and pedestrian access and parking details;
- Demolition information, with any demolition indicated on the submitted plans; and
- Declaration of ownership – where the applicant is not the owner of the land, written consent of the owner(s) must be enclosed with the application.

Observations

The process review undertaken established that the application forms currently used are largely successful, in that they record the information required to consider and determine an application, without being onerous for the applicant.

There is anecdotal evidence that there have been instances of applications granted permission and built which do not have a legal right of access to the land, and where this has not been picked up during the planning application. Whilst the application forms ask whether new or altered vehicular or pedestrian access is proposed as part of the application, it does not cover legal access to use private roads etc.

Comparative analysis

Below is a comparison of the information requested on application forms used in Alderney, Guernsey, the Isles of Scilly and the Isle of Man.

Information requested	Alderney	Guernsey	Isles of Scilly	Isle of Man
Trees and hedges	✓	✓	✓	✓
Protected buildings		✓		✓
Biological and geological conservation			✓	
Demolition	✓	✓		
Access	✓	✓	✓	✓
Parking	✓	✓	✓	✓
Materials		✓	✓	✓
Existing use			✓	✓
Proposed use			✓	✓
Residential units		✓	✓	
Floor space of other uses		✓	✓	
Visitor accommodation		✓		
Employment			✓	
Pre-application advice		✓	✓	✓

The table above shows that Alderney does not require as much information as some comparable island planning regimes. That is not to say that this information isn't provided at the current time by most applicants, or that it isn't often able to be deduced from drawings etc. But in these cases, there is no official statement by the applicant that the number/information assumed is indeed correct.

Recommendations

Recommendation 13: Form A and Form B should be amended in order to request the following additional information:

- a) **declaration of pre-application advice sought from the States of Alderney (tick box);**
- b) **existing use of site and proposed use of the site;**
- c) **declaration that there is *legal* vehicular and pedestrian access to the site (tick box); and**
- d) **confirmation that the applicant has displayed site notices as required (tick box).**

It is not recommended that planning application forms include the requirement to outline details of residential units, floor space of other uses or details of visitor accommodation, as this is felt to be disproportionate and any risk of miscommunication low; the information provided elsewhere on the form is sufficient. However, the States may wish to consider additional information

requests to the forms once the strategic direction of the Island has been established. For instance, if an aim for a certain number of additional visitor accommodation beds were to be established, it may be desirable to include a section recording net number proposed for monitoring purposes.

A declaration of legal vehicular and pedestrian access to the site is designed to ensure that negotiations over access occur before a planning application is made, and so that the development is deliverable. Whilst this is not included in the other application forms included within the comparative analysis, it has been proposed here due to the anecdotal evidence that legal access has been an issue in previous applications. There should be no obligation for the States to perform due diligence on legal rights of access.

Implementation

Changes to the application forms will not require any change to legislation. Section 36 of the Building and Development Control (Alderney) Law (2002) will continue to apply; with any applicant knowingly making false statements being liable.

6.2 Quality of submission

Current approach

Alongside the application form, applicants for new buildings or similar (Form B) are also required to submit:

- Location Plan (scale 1:1250);
- Site Plan (scale 1:200); and
- Drawings or plans (scale 1:100).

Applications for minor works must submit a Location Plan alongside details of dimensions, materials and appearance of the proposed works.

There is no guidance for applicants on the quality of the submission over and above these requirements set out on Form A and Form B.

Observations

The process review undertaken established that the quality of submissions varied quite considerably. Some applications were of poor quality, for instance including plans not drawn to scale or not including measurements, or not providing details of materials used. These applications were usually validated by the officers with additional information subsequently requested in order to progress the application when necessary.

Recommendations

Recommendation 14: Planning officers should refuse to validate poor quality planning applications, particularly where they do not include drawings or where the drawings are of a poor quality (e.g. not drawn to scale), or where the information required to determine the application (e.g. heights of buildings) are not included.

Recommendation 15: The States of Alderney should develop SPG for planning submissions, detailing the validation requirements and what constitutes an acceptable submission. This should be made available on the States of Alderney website and made reference to as part of any pre-application discussions that take place.

Implementation

Improving the quality of applications would not require a change in legislation. The States of Alderney have the power to refuse to accept planning applications under Section 5 (1) (a) of The Building and Development Control (Alderney) Law (2002).

6.3 Planning application fees

Current approach

Planning fees are currently set through ordinances, the most recent being The Building and Development Control (Alderney) (Amendment and Fees) Ordinance (2014). Fees are set out on the States of Alderney website.

Some fees are set per proposed unit (for example, a £580 for each dwelling-house erected or created), whilst others are calculated on floorspace (for example, £115 for the first 20m² of an extension and £25 for each additional 10m²).

Observations

It costs approximately £85,000 per year to run the planning function, and around £27,000 of planning application fees are received each year. Whilst there are parts of the service that might not cover their costs, this represents a recovery rate of less than 32%. There were mixed views expressed during stakeholder interviews and the Call for Evidence regarding whether an increase in fees would be acceptable. At the discussion workshop there were also mixed opinions over whether planning fees should be set at a level to recover the full cost of work in determining planning applications.

Recommendations

Recommendation 16: Planning fees should be regularly reviewed to ensure they keep pace with the cost and performance of the service.

It is recommended that the States should aim to recover a greater proportion of the cost of the planning application function. This is especially relevant given the recommendations later in this report in regard to the resources underpinning the planning service. However, it is not recommended that fees should meet the full cost of the service, recognising that as well as benefiting the applicant it delivers a public service and that aspects such as planning policy and democratic costs are not traditionally covered by the application fee.

Implementation

The ability to set planning fees is set by Ordinance under the Building and Development Control (Alderney) Law (2002).

The fee schedule should be prepared and updated following adoption/review by the BDCC. This schedule could be broadened out to cover any other planning charges or levies such as land searches, copies of plans or other similar services provided.

7 Consultation

7.1 Notification of applications

Current approach

Public notification of applications received is made via an application list, displayed and publicised online. Applicants may also be required to mark out the area of the proposed development, together with height poles to indicate the height and profile. This may assist the States officer and BDCC when undertaking site visits.

Observations

Anecdotal evidence suggests that the public (and even stakeholders taking a regular interest in planning applications) are not always aware of applications and are therefore not able to make representations they otherwise would have made. It was also suggested that the public are not always clear at what stage in the process they are able to make representations.

Recommendations

Recommendation 17: Applicants should be required to display one or more site notice(s) for all planning applications. The States should provide a template and guidance on its use.

It is recommended that applicants should be responsible for displaying site notices as part of the application, and required to declare on the application form that they have done so. The States should provide a template to be used, which would provide details of how representations should be made and provide spaces for the applicant to provide information on:

- location of development;
- description of development; and
- date of application (after which the public would have a certain number of days to respond).

The States should also provide guidance on how site notices should be displayed, secured, weatherproofed and so on.

If officers believe that site notices have not been displayed they should have the right to refuse to validate the application or extend the period of consultation. Section 36 of the Building and Development Control (Alderney) Law (2002) (any applicant knowingly making false statements being liable) would also apply.

The use of site notices may remove the requirement for site poles to be displayed. If the requirement is retained, then guidance should be provided on their purpose and use.

Implementation

The requirement for site notices will require a change to the application form and the preparation of the appropriate template. It will not require any change to legislation but should be reflected in any SPG covering this part of the process.

7.2 Consultees

Current approach

The public are able to view hard copies of planning applications by visiting Island Hall. There is no method of viewing applications online. Representations are made by writing to the Planning Office.

There are no 'statutory' consultees, although the planning officer will contact some parties based on the merits of individual cases.

Observations

It has been found that both individuals and organisations such as the AWT and AS are consulted on and do view and make representations on applications. Similar to the point made above, there is anecdotal evidence that interested parties are not always aware of planning applications.

Recommendations

Recommendation 18: Particular individuals and organisations should be notified in the case of any applications that meet pre-agreed criteria.

Criteria for which applications would result in particular individuals or organisations being notified would need to be drawn up, ideally in agreement with those individuals or organisations. There may be a need for initial training, including on: role and expectations of notified bodies; planning reasons for support or objection; and the style and method of representations.

It should be emphasised that representations received from individuals or organisations that have been automatically notified are not binding. For example, a consultee would not be able to issue a holding objection or direct approval or refusal. Rather, these representations are made to inform the consideration of the application by the officers and BDCC and to draw in relevant technical expertise and/or support. The aim is to bring about greater consistency and involvement and to make decisions in a more informed way. The 'bar' for consultation should be set at a level which consults meaningfully on certain applications and not 'as standard' or on minor issues.

Implementation

This would require a change in process, ideally documented in SPG and through agreement with the stakeholder organisations or experts involved.

Organisations expected to be included within this arrangement are AWT, AS and AHA. As with the recommendations on resources for the planning system, this might also require identification of off-Island expertise to cover certain topics and call-off arrangements to consult in instances where this expertise is required.

7.3 Public information

Current approach

Material submitted as part of a planning application is publically available, as part of the declaration signed on the application form. Representations made on planning applications are not made public; however, they are made available as a matter of course to the applicant once the application has been determined.

Observations

It was found that the current method of viewing planning applications at Island Hall broadly works well.

It was put forward that the reason why representations are not made publically available, or immediately available to the applicant, is the possibility of them including personal and/or non-planning related materials. As a result of this, applicants are not always aware of the precise nature of any objections against the proposal; though the officers do aim to discuss issues raised in a general sense.

There does seem to be an inherent unfairness that an applicant might be able to view something that a member of the public could not. In all likelihood, there would probably be little demand to view representations. However, the ability to view the application, the representations made, the officer's report and the committee minutes offers an open way of reinforcing public confidence in the planning system.

Recommendations

Recommendation 19: Representations made on planning applications should be made publically available. Personal or commercial information should be redacted prior to viewing.

Recommendation 20: Applicants should be made aware (upon request) of any representations made, in order to respond and make amendments if necessary. This should only occur after consultation has closed, but before determination.

It is recommended that all representations made should be kept on public file (with only personal or commercially sensitive information redacted prior to viewing). It is believed that, so long as it is made clear that any representations made are public documents, they will rarely include information which is unsuitable.

Furthermore, applicants should be (upon request) made aware of any representations made following the consultation period in order to be able to make clarifications to the officers or amendments to the application if necessary.

Implementation

Making representations public and available to the applicant will not require a change in legislation, but should be set out in SPG covering consultation. To reduce administrative burden, representations should not be redacted as standard but rather undertaken upon request. In turn, this means that requests to view such information will need to be given in advance. In these cases the original should be filed separately to the public redacted version.

8 Decision Making

8.1 Powers of delegation

Current approach

Powers of delegation to officers currently exist in a *de facto* sense. Prior to each meeting, proposed decisions for minor (small) and non-contentious applications are circulated by officers ahead of each meeting and agreed upon at the start of the meeting. If the committee wishes to consider an application in more detail then it will be discussed at the meeting.

Observations

It was found that the current system of delegation works well and is supported by officers and members. Some stakeholders called for greater powers of delegation. This would be preferable in order to allow the BDCC to have a richer, deeper debate on fewer applications, i.e. to focus their time on those applications which require enhanced decision-making. This will also create the time for appearances and speaking at committee.

Recommendations

Recommendation 21: The current powers of delegation to officers should be formalised. It should be documented on the planning register where decisions have been made by officers or the BDCC.

The current process of *de facto* delegation works well in improving the efficiency of the system and should be retained. Formalising the system would have the benefit of providing clarity on:

- what the criteria for ‘minor and non-contentious’ applications are – this should be set out in a delegation SPG note;
- in what circumstances the officers may wish to refer the decision to committee (for instance, after a specific number of representations have been reached); and
- the process for ‘calling in’ an application for discussion at committee. The BDCC could be circulated with the planning application (received) list and specifically request that the application be heard by the BDCC if there is a compelling planning reason for doing so.

It will be important to make it clear to applicants and the public the types of applications which are likely to be delegated, and document where decisions have been made by officers.

In performance terms, the level of delegation should be monitored to see that both officers and the BDCC are implementing this policy correctly. It is suggested that, as a starting point, around two-thirds of applications are determined by delegation. However, this should be regularly reviewed to ensure smooth working.

Implementation

Modification to legislation will be required to formalise the powers of delegation to officers. A SPG on delegation would set out those applications to be determined under delegated authority and the process/reasons for calling an application in.

8.2 Committee procedures

Current approach

Committees meetings are attended by the BDCC, officers and the Chief Executive.

Meetings are not open to the public, and neither the applicant nor other interested parties are able to make oral representations.

Applicants are informed of the outcome of their application shortly after the meeting.

Minutes from the meeting are published following the next meeting, where they are approved.

Observations

There is a general public lack of understanding surrounding the committee process – particularly the various decision-making roles of the BDCC and officers – and a perception that there is a lack of rigour and consistency across the decisions made ‘behind closed doors’.

Many people at the discussion seminar felt both that applicants and interested parties should be allowed to make representations directly to the planning committee, and that voting on applications should be part of an open meeting.

Recommendations

Recommendation 22: Applicants and interested parties (those who have made representations on the application) should have the right to make oral representations directly to the BDCC at committee meetings, subject to defined time limits and protocols. BDCC members should have the opportunity to ask questions of clarification but not engage in debate with those making representations. Parties should be able to hear the representations of others.

Recommendation 23: Voting on planning applications should continue to be made in a closed meeting to ensure robust planning decisions are made.

On balance, it is not recommended at this stage to introduce wholly open committee meetings (in other words, where discussion and voting on planning applications are made in public). It is believed that this could result in ‘political’ decisions that are popular with the public being made, rather than decisions based

solely on the planning merits of the application. However, it may be desirable to fully open up committees at a later date once the system has ‘bedded in’.

What is, therefore, recommended is a ‘semi-open’ meeting. This would enable applicants, those making representations, the press and the public to hear the speaking slots for each application. This will need some consideration and practise to decide whether each application should be considered in turn (requiring the public to leave and return for each vote) or whether the officer presentation and public representations are made for all cases on the agenda prior to the public leaving for voting on all cases on the agenda.

It would be necessary for the States to produce a (SPG) protocol for public speaking at committees, clearly setting out the procedure for registering to speak, time limits for speaking, code of conduct and so on. This should be reviewed in two years’ time to reflect on its success and consider whether all parts of the committee meeting could be made public.

Implementation

Allowing public speaking would require a documented process in order to formalise arrangements, as well as guidance for its smooth operation. Information on forthcoming issues (such as agreeing enforcement action) should continue to remain private.

These arrangements could potentially also set a precedent for other States’ committees which are currently not open to the public. Thus, these arrangements need to be handled sensitively and carefully. Any abuse by applicants or the public should be handled firmly.

8.3 Record keeping

Current approach

Agendas and minutes from each committee meeting are produced and made available on the website.

Observations

The quality of the minutes from committee meetings varied and did not always reflect the discussion that had taken place or the planning reasons for the decisions that had been made. This was found to be in contrast to the committee reports produced by the officers for use in the meeting, which clearly set out planning considerations. It was also noted that the minutes were not always made available in a timely fashion, as they are released following the next meeting, in accordance with States-wide protocol.

Recommendations

Recommendation 24: The minutes from committee meetings should provide a timely public summary of the debate and clearly set out the planning reasons for the decision.

Recommendation 25: Both (a) Committee reports produced by officers for use in committee decisions and (b) the decision notice should be made publically available alongside the minutes of the meeting.

The publication of committee reports alongside minutes from the planning meeting would provide a transparent record of the decision making process and improve trust in the system. It would be acceptable for personal or commercial information to be redacted.

Implementation

No legislation is required for this recommendation. Additional administrative support may be required in order to prepare high-quality and timely records of decisions.

8.4 Appeals

Current approach

Applicants have the right to appeal against refusal of permission, under the Building and Development Control (Alderney) Law, 2002. Appeals are made to the Court of Alderney, on the basis that the decision made was *ultras vires* or was an unreasonable exercise of its powers. The Court looks at the information that went before the BDCC, rather than making use of affidavits.

Thus, the current appeal system focuses on matters of law. There is no right to appeal against the *planning* merits of the decision made.

Observations

Appeals against decisions are rare on Alderney; there have only been seven instances since 2007, with none occurring since 2009. Of these seven, four were upheld by the Court of Alderney.

It was found that there was a perception of a high cost of appeal; however, this was not borne out in practice. The appeal process is efficient, though appeals can be delayed by the availability of Advocates; it is not widely understood that there is legal support available on the Island, and that appellants can represent themselves.

It was found that the majority of stakeholders supported the introduction of a planning appeal which would be able to consider the planning merits of a decision. It was felt that the individual(s) determining planning appeals would need to be sufficiently qualified to understand the planning merits. However, there were mixed views on how an appeal function would be administered, and the relationship it may have with the Court of Alderney.

Comparative analysis

Planning Panel, Guernsey

The Planning Panel determines appeals against planning decisions made by Guernsey's Environment Department. Decisions are determined on the basis of a 'merits review' of the original decision, limited to the material that was before the Environment Department at the time of the decision.

The Planning Panel is made up of eight members who have been appointed by the States of Guernsey; at least two thirds of the Panel must be permanently resident in the Channel Islands. The Panel is made up of a mix of Professional Members (chartered planners with experience of the UK Planning Inspectorate) and Ordinary Members (drawn from a range of backgrounds but with some experience of the planning process, for example surveyors or lawyers). The appeal is undertaken by an independent Tribunal or Single Professional Member, drawn off the Panel.

In most cases, the appeal fee is the same as the fee paid for the original application.

Appeals to the Minister for the Department of Infrastructure, Isle of Man

Applicants are able to appeal to the Minister for the Department of Infrastructure against a decision made by the Planning Authority. An independent person is then appointed to consider the appeal and make a recommendation. The Minister will then make a decision to either allow or dismiss the appeal; and may in either case reverse or vary any part of their decision, whether or not the appeal relates to that part. Appeals are determined based on either written statements or hearings; the Inspector will make a site visit in all cases.

Where an appeal is upheld, the fee initially paid by the appellant will be refunded.

Recommendations

Recommendation 26: A system for lodging an appeal against refusal of planning consent should be established. Cases should be heard by an impartial planning professional (an 'Inspector') who should consider the planning merits of a case, i.e. the materiality and weight to be attached to each element. Appeals to the Court of Alderney should remain separate and continue to focus on the legal and procedural aspects of the decision.

The introduction of a planning appeal process would be act as a 'check and balance' on the decisions made by the BDCC. It is not anticipated that appeals would be numerous and it should be possible for most appeals to be undertaken via written representations. More complex cases may require a hearing or inquiry. Appeals should be limited to the material that was before the BDCC at the time of the decision.

It is important to retain a distinction between a planning appeal and the legal appeal made to the Court of Alderney. Both should exist, but should operate independently of each other. It is noted that the Chair and Jurats of the Court do not have sufficient capacity or experience to hear planning appeals, and so it is

recommended that an impartial planning professional (or several such professionals) should act as an ‘Inspector’ to hear appeals. It will be important for the Inspector to have a good knowledge of the Alderney context.

It is noted that comparable systems such as Guernsey (see above) utilise an appeal panel. However, this would attract an additional resource burden, and so does not form part of the recommendation. The States of Alderney may wish to form a panel of planning professionals from which to ‘call off’ an Inspector when required.

There was no strong support for third party rights of appeals (interested parties appealing against the granting of planning consent) as part of the stakeholder interviews or discussion seminar. It is recommended that third party rights of appeal are not taken forward. The recommendations to improve consultation procedures will strengthen the role of third parties in the planning process without the need to introduce a right of appeal.

Implementation

Additional legislation will be required to legislate for the right of appeal. A body or other call-off arrangement will need to be established to appoint appropriate individuals to act as Inspectors.

9 Monitoring

9.1 Enforcement

Current approach

This is a very small area of work in Alderney and so must be viewed in this context. There is evidence of collaborative and conciliatory approaches towards monitoring compliance.

However, enforcement (or at least the power to undertake enforcement action) is a critical element of the planning system. It makes the system robust and ensures there remains an incentive to operate within the system. There is evidence of the need for an effective enforcement system on the Island.

Observations

An iterative approach has been adopted in cases to date. Officers and members have discussed and agreed the appropriate course of action at each stage of cases as they develop. Once a decision is made to pursue enforcement action, the BDCC and officers agree the next stage of action, report progress, consider the next stage etc. This approach is flexible and able to respond to specific circumstances. At the same time, it does not create a consistent approach and can result in lots of letters and/or informal approaches to those alleged to be in breach of planning control.

From an outside perspective it seems that escalating enforcement action is seen as a last resort and that there is no clear 'end game' identified at the beginning of embarking on enforcement action. Reviewing cases in hindsight, it is always possible to 'pick holes' but in considering enforcement action it would be helpful to reflect what initial and secondary enforcement actions the BDCC and officers would wish to instruct in current and previous cases knowing the extent, effort and time periods involved. It could even be argued that delaying more firm enforcement action, resulting in a protracted process, is unfair even upon the alleged offender. Uncertainty enables cases to drag on for a long time expending resources, efforts and affecting the lives of all those involved and surrounding.

There was evidence of seeking informal enforcement advice from Guernsey officers which was felt to be a helpful resource and proportionate way of seeking specialist advice.

The power to enforce is not clear, for example in regards of serving notices (as opposed to letters) and the more extreme course of action such as seeking injunctions and taking direct action. A formal 'road map' or 'decision tree' might assist in decision-making and escalating enforcement action towards an effective conclusion.

Recommendations

Recommendation 27: An enforcement SPG should be drafted setting out the States' policy on, and process of, enforcing breaches of planning control. This should contain a defined approach which can be adhered to.

Implementation

The BDCC will need to consider what they wish their approach to enforcement to be, what process they wish to consider and the timetable they wish to operate to. An example process to consider might include stages such as:

- a) **Letter** - writing to the alleged offender informing them of a suspected breach, warning of further action if not rectified and requiring the submission of further information to determine whether there is a breach and, if there is, the extent and severity of it.
- b) **Warning** – a follow up letter that has determined that a breach of planning control is considered to exist. Sets out a deadline for rectifying the breach to the satisfaction of the States and providing a timeline for enforcement action that could follow if the deadline is not met.
- c) **Enforcement Notice** – serving of legal papers that define the breach and require remedial action. Breach of this would be a criminal act and would result in enforcement action.
- d) **Enforcement Action** – either direct action to rectify the breach (at the offenders' expense with costs recovered) or other form of appropriate remediation such as a fine if a use continues.

The starting point will need to be a review of the current enforcement powers, followed by a debate over the desired process. Legislation might need to be reviewed and updated to match the powers and process. The finalised process should be set out in SPG.

9.2 Plan and Policy Review

Current approach

The Land Use Plan is regularly reviewed and work in keeping an up to date plan in place is to be praised. However the plan review appears to operate on an 'exceptions' basis rather than a wholesale fresh review of the plan.

Currently, there is no ongoing resource allocated to policy work. There is also no clear 'owner' of policy between officers and members.

Finally, although this review has highlighted the fragility of the current plan review process, there is evidence of ongoing changes and work to update the system such as the recent updated fees regulations.

Observations

As outlined in Section 3 it is important that the whole plan be reviewed.

Ideally, plan review should be on a rolling/ongoing basis. When one review is complete the next should begin. Whilst focused on the Land Use Plan, review should also cover other ancillary policies as well.

There was no evidence of an overall policy review programme or project management of the task to manage its discrete elements or integrate with other relevant strategies or policies.

In order to achieve adequate depth, scope and timing of plan and policy review it is important that there are appropriate resources in place.

Recommendations

Recommendation 28: The States should design a rolling plan and policy review programme. This should be integrated with other States strategies and policies (such as joining up with the Strategic Plan and Housing Strategy).

It is inevitable that delays and slippages will occur. However, this does not detract from the importance of having an overall plan and policy review programme. This will also assist the BDCC to align its work with the election cycle to ensure work can be completed and signed-off.

Implementation

Implementation is by creating a programme setting out a (guide) timeline and order for reviewing the Land Use Plan and policy. For the 'initial cycle' it is likely that this can (and should) be combined with the action plan arising from this review.

It is important that the BDCC involve the other states members to provide an integrated policy approach.

10 Resources

10.1 Staff

Current approach

As set out in Section 2.3 the Alderney planning function is delivered through one officer (1.0 FTE) and approximately 0.2 FTE allocated to management. There is day-to-day involvement from BDCC members and the Chief Executive.

Observations

The planning officer post, by effectively running the service, is given a wide range of tasks with no differentiation between administration, technical and professional work. This results in the service being stretched (at an individual level) and unable to delegate more repetitive tasks. There is also arguably little resilience in the system.

Stakeholders highlighted a need for a professional planner. This review identifies a need for both (a) administrative support to deal with day-to-day support tasks and (b) intermediate support between the planning officer and the states engineer in the form of a more senior planning position which can help to steer, support and challenge members.

Recommendations

Recommendation 29: Increase the resources for the planning function to include administrative/technical support and senior support.

The aim is to create sufficient capacity to deliver both the desired planning function and also to undertake the research, reform and policy production to get there. A potential allocation of tasks and scale of role is set out below:

Planning Support (0.5 FTE)	Planning Officer (1.0 FTE)	Planning Manager (0.2 FTE)	States Engineer (0.2 FTE)
General enquiries	Pre-application advice	Officer report review	Corporate link to policy/strategy
Registration/ Validation/ Consultation	Determination and recommendations (incl. reports)	Committee critical friend	Member probity and support
Filing/plans	Presentation to committee	Training (officer and member)	Budget, governance and service planning
Site visits for monitoring or enforcement	Member queries	LUP/Policy review and programme	Day-to-day line management/performance review
Committee papers and minutes	Policy-making and LUP work	Planning appeals	
Policy research		Enforcement action	

Implementation

There was universal consensus and support that delivering an increased level of service would require an increased level of resource. For this to be delivered the States need to budget and fund for that resource.

There was no clear consensus as to how this resource should be engaged. Some felt other Channel Islands/Guernsey could provide the necessary resource whilst others felt that this would be inappropriate.

Our suggestion is that the planning support role be permanent, recruited by the States and Island-based. The planning manager would only need to be resident for blocks of time around the committee cycle and so could be a shared resource with another planning authority. This would be an attractive option for a planning (team) manager within a nearby English local planning authority (LPA) seeking to further their career and demonstrate management potential. As such this post could be advertised but the 0.2FTE is unlikely to generate much response from well-qualified, experienced candidates. Alternatively, discussions could take place with potential LPAs to see if they would agree to some form of service level agreement.

10.2 Additional resources

Current approach

The States make occasional use of bought-in services where specialisms are required.

Help can be sought from the Guernsey secretariat around legal support and for complex planning advice. This is an informal, but trusted and reliable, arrangement.

Observations

It is inevitable that, given the overall staffing complement, there will be skills and expertise gaps around certain specialist topic areas. Examples of specialism which are likely to be increasingly important for Alderney include design, urban design, conservation, environment, viability, marine planning and energy but this list is not intended to be exhaustive. Whilst there is an extensive network of skills and specialisms in Alderney it is vital that experiences and good practice from elsewhere can also be harnessed.

Recommendations

Recommendation 30: Establish a network of specialist resources that can be called upon where needed to provide impartial specialist advice.

Implementation

Given the unknown level of specialist resource that will be required in the future, it is probably not practical to go through the procurement and tendering processes

for setting up a specialist supplier's framework. More practically, it would be useful to establish a register of potential suppliers for specialist areas and organisations that could be used when required. Some suppliers could be invited to visit Alderney and 'pitch' their services to the BDCC to better understand what each might offer. This would not only establish a network beyond current working circles but also identify appropriate individuals within prospective organisations.

Finally, a more bespoke approach towards handling larger applications (see below) would be a means of funding the required specialist resource, although this is less likely to be able to fund specialist inputs to Island-wide policy.

10.3 Large applications

Current approach

The States has sustainable growth aspirations including a harbour development and the review learned of anecdotal potential for a number of major schemes.

There is recognition amongst stakeholders that any of these applications coming forward to submission (or even advanced negotiation) could 'swamp' the States secretariat and have specialist demands in order to provide a robust position to negotiate or determine an application from.

There is currently no clear approach to how development proposals of this scale might be handled beyond a need for the promoter to provide (in some form) resources to assist the States.

Observations

It is not clear to what extent the lack of a clear process for consenting major development schemes acts as a disincentive for promoters to invest in Alderney.

There is a mix of stakeholder views about how large applications should be handled. Some felt that the promoter should directly appoint appropriate experts to help the States whilst others felt that promoters should provide the necessary funds to enable the States to finance/appoint the required resources.

There are challenges to ensure that resources are impartial, available when required ('online' quickly and able to devote the required resources).

Current UK practice includes specialised planning processes to deal with large applications (such as Development Control Orders and the Nationally Significant Infrastructure Project regime). At a project specific level, Planning Performance Agreements (PPAs) are made between LPAs and promoters to agree contributions to resources to fund the planning process and also importantly (when used well) serve as a project management tool to agree timings, information flows and the requirements and obligation of both parties.

Recommendations

Developing and defining any form of bespoke process for major applications would be of disproportionate burden for Alderney. However, it would be helpful

to articulate that a bespoke process could be devised when a promoter is interested.

Recommendation 31: Devise and adopt a brief SPG note that sets out how the States would wish to engage with a developer/promoter to conduct the planning process.

Implementation

This would not set out the process, but offer comfort that a negotiated process would be possible, and defines the topics that might need to be covered such as those covered by PPAs in the UK. It is an important part of demonstrating that Alderney can ‘do business’ at scale and provide a responsive service.

The SPG or policy note might establish that anything that would be “EIA development” (by Alderney’s definition) would require pre-application discussions and a PPA. For Alderney, the PPA could be a lightweight joint undertaking following meetings between the promoter and Officers and members, to cover:

- what topics are important;
- how each will be addressed (by the applicant and the States);
- what consultation is required;
- what specialist support is required;
- a staged payment schedule to provide resources to the States and what this will be spent on; and
- a timeline for the application to enable workflow planning, design iteration, financing etc.

10.4 Training

Current approach

When new BDCC members are elected or appointed to the BDCC they are given a copy of the 2002 Law and learn on the job. There does not appear to be any initial or ongoing training around the planning system.

Continuing Professional Development by the secretariat is undertaken on an *ad hoc* basis, often in staffs’ own time.

Observations

Given the States’ aspirations for Alderney, there is a clear need to invest in a skilled system. Further, a number of the anecdotal experiences around inconsistency or perceived unfairness might have been avoided if better trained.

Alderney system is relatively unique. This means that there will not be many ‘off the shelf’ materials or courses to deliver exactly what is required. However, there

is enough Island-based stakeholder expertise to draw upon these materials and ‘convert’ them for use in Alderney. This also presents an ideal opportunity to create deeper working relationships with those stakeholders. Further, if a planning manager can be added to the overall resource, this would help create capacity to prepare and deliver more training.

Recommendations

Recommendation 32: Devise a training programme for officers and members.

Member training should be mandatory prior to serving (voting) on the BDCC. For new members it should cover the system, law, material considerations and probity as a minimum. Ongoing training should cover policy updates, specialist topics and review recent cases/developments.

Officer training should also be provided to support the planning function. In particular, it should facilitate policy production and ongoing plan review.

Implementation

Moving from a current lack of training towards more regular training will require budget (for course, materials etc.) and time (where prepared in-house, and for attendance). Training should be co-ordinated across ongoing programme to ideally dovetail with known workload such as forthcoming applications of policy topics.

11 Action Plan

An Action Plan is provided below to guide the implementation of the recommendations set out in the preceding chapters. It sets out the recommendations in order of short, medium and long term actions, as well as indicating the priority, mechanism and owner of each change.

The central action underpinning all other recommendations is the need to enhance the resources of the planning function. This is a critical enabler for other recommendations.

The other major changes to the system that, in our view, should be prioritised relate to: controls over new housing; introducing a system of appeals on the planning merits of the case; and widening the scope of the Land Use Plan. These are categorised as short term actions to reflect their priority.

Many of the recommendations relate to formalising or tightening up of existing practices involved in determining planning applications, often to make them more transparent and consistent. Some of these changes can be implemented straight away, for example more comprehensive committee meeting notes (Recommendations 24 and 25); some can be implemented following the documentation of new protocols, for example refusing to validate poor quality applications (Recommendation 14); and some require a change of culture and will therefore take a little longer to introduce, for example making representations publicly available (Recommendation 19).

For the recommendations relating to practice issues that would benefit from new protocols, it would be beneficial to agree a programme to bring forward protocol notes at subsequent committee meetings taking one topic at a time, so that they build up to form a development management manual or SPG in due course.

Recommendation	Priority	Mechanism	Owner	Timescale
Recommendation 29: Increase the resources for the planning function to include administrative/technical support and senior support.	HIGH	Funding/recruitment	BDCC	SHORT
Recommendation 2: The Land Use Plan should be based on a long term vision for the future, including planned population, housing and employment. It should be informed by the strategic objectives for the Island set out in the Strategic Plan.	HIGH	Visioning	BDCC, Officers	SHORT
Recommendation 3: The Land Use Plan should be informed by evidence. Any gaps in evidence should be dealt with as part of the plan-making process.	HIGH	Evidence base research	Officers	SHORT
Recommendation 7: To implement housing reform including removing C Permit controls, ensuring permissions run with the land, and tasking AHA to monitor and provide local (affordable) housing.	HIGH	Legal reform	Officers, BDCC	SHORT
Recommendation 11: As part of both the Land Use Plan evidence base and ongoing conservation efforts, a comprehensive hierarchy of built and natural assets ought to be developed.	HIGH	Working groups	BDCC	SHORT
Recommendation 24: The minutes from committee meetings should provide a timely public summary of the debate and clearly set out the planning reasons for the decision.	HIGH	Minutes	Officers, BDCC	SHORT
Recommendation 26: A system for lodging an appeal against refusal of planning consent should be established. Cases should be heard by an impartial planning professional (an 'Inspector') and should consider the planning merits of a case, i.e. the materiality and weight to be attached to each element. Appeals to the Court of Alderney should remain separate and continue to focus on the legal and procedural aspects of the decision.	HIGH	Legal reform	BDCC, Officers	SHORT

Recommendation	Priority	Mechanism	Owner	Timescale
Recommendation 14: Planning officers should refuse to validate poor quality planning applications, particularly where they do not include drawings or where the drawings are of a poor quality (e.g. not drawn to scale), or where the information required to determine the application (e.g. heights of buildings) are not included.	MEDIUM	SPG	Officers	SHORT
Recommendation 15: The States of Alderney should develop SPG for planning submissions, detailing the validation requirements and what constitutes an acceptable submission. This should be made available on the States of Alderney website and made reference to as part of any pre-application discussions that take place.	MEDIUM	SPG	Officers	SHORT
Recommendation 17: Applicants should be required to display one or more site notice(s) for all planning applications. The States should provide a template and guidance on its use.	MEDIUM	SPG, forms	Officers	SHORT
Recommendation 21: The current powers of delegation to officers should be formalised. It should be documented on the planning register where decisions have been made by officers or the BDCC.	MEDIUM	Legal reform	BDCC, Officers	SHORT
Recommendation 1: This report should be published by the States of Alderney and be subject to public consultation.	LOW	Publication online, consultation	BDCC	SHORT
Recommendation 25: Both (a) Committee reports produced by officers for use in committee decisions and (b) the decision notice should be made publically available alongside the minutes of the meeting.	HIGH	Reports	Officers	MEDIUM
Recommendation 32: Devise a training programme for officers and members.	HIGH	Training	Officers	MEDIUM

Recommendation	Priority	Mechanism	Owner	Timescale
Recommendation 6: Gradually develop supplementary development management policy to articulate the desired (and actual) operation of the system.	MEDIUM	SPG	Officers	MEDIUM
Recommendation 8: Produce a design guide as SPG to the Land Use Plan to (a) cover conservation areas and (b) provide some Island-wide guidance for other areas	MEDIUM	Working groups	BDCC, Officers	MEDIUM
Recommendation 12: The pre-application process should be set out in SPG or similar note. It should include principles for offering advice, issuing a record of advice given, inclusion in officer reports and member involvement in the process. There should be a periodic review of the quality of advice given.	MEDIUM	SPG	Officers	MEDIUM
Recommendation 18: Particular individuals and organisations should be notified in the case of any applications that meet pre-agreed criteria.	MEDIUM	SPG	Officers	MEDIUM
Recommendation 19: Representations made on planning applications should be made publically available. Personal or commercial information should be redacted prior to viewing.	MEDIUM	SPG	Officers	MEDIUM
Recommendation 20: Applicants should be made aware (upon request) of any representations made, in order to respond and make amendments if necessary. This should only occur after consultation has closed, but before determination.	MEDIUM	SPG	Officers	MEDIUM

Recommendation	Priority	Mechanism	Owner	Timescale
Recommendation 22: Applicants and interested parties (those who have made representations on the application) should have the right to make oral representations directly to the BDCC at committee meetings, subject to defined time limits and protocols. BDCC members should have the opportunity to ask questions of clarification but not engage in debate with those making representations. Parties should be able to hear the representations of others.	MEDIUM	SPG	BDCC	MEDIUM
Recommendation 23: Voting on planning applications should continue to be made in a closed meeting to ensure robust planning decisions are made.	MEDIUM	SPG	BDCC, Officers	MEDIUM
Recommendation 27: An enforcement SPG should be drafted setting out the States' policy on, and process of, enforcing breaches of planning control. This should contain a defined approach which can be adhered to.	MEDIUM	SPG	BDCC, Officers	MEDIUM
Recommendation 31: Devise and adopt a brief SPG note that sets out how the States would wish to engage with a developer/promoter to conduct the planning process.	MEDIUM	SPG	BDCC, Officers	MEDIUM
Recommendation 30: Establish a network of specialist resources that can be called upon where needed to provide impartial specialist advice.	LOW	Officer research	Officers, BDCC	MEDIUM
Recommendation 4: The Land Use Plan should be comprehensively reviewed on a rolling basis, rather than only dealing with specific zoning amendments. Each review should thus consider the plan and allocations in their entirety. Reviews should be informed by monitoring the effectiveness of the plan in the preceding time period as well as any revised evidence in order to result in an updated vision for the upcoming plan period.	MEDIUM	Existing plan review process	Officers	LONG

Recommendation	Priority	Mechanism	Owner	Timescale
Recommendation 5: Review of the Land Use Plan should include opportunities for stakeholder and public consultation. For sites, allocations etc. that do not elicit any response through consultation, the Inspector should be encouraged to adopt a more balanced or critical perspective.	MEDIUM	Existing plan review process	Officers	LONG
Recommendation 9: Undertake a brief review of permitted development rights.	LOW	Legal reform	Officers, BDCC	LONG
Recommendation 10: Establish an increased number of use classes with ability to create (and amend) policy around how they are used and which uses can change into others.	LOW	Legal reform	Officers	LONG
Recommendation 13: Form A and Form B should be amended in order to request <i>[the following]</i> additional information: ...	LOW	New forms	Officers	LONG
Recommendation 16: Planning fees should be regularly reviewed to ensure they keep pace with the cost and performance of the service.	LOW	Legal reform, SPG	Officers	LONG
Recommendation 28: The States should design a rolling plan and policy review programme. This should be integrated with other States strategies and policies (such as joining up with the strategic plan and housing strategy).	LOW	Project plan	Officers	LONG

Appendix A

Stakeholder Interviewees

A1 Stakeholder Interviewees

Name	Capacity / Organisation	Method
Paul Beney	Local architect and planner	Face-to-face
Ray Berry	BDCC Member	Focus group
Matt Birmingham	BDCC Member	Focus group
Roy Burke	Chief Executive	Face-to-face
Trevor Davenport	President, The Alderney Society	Face-to-face
Andrew Eggleston	Chair, Chamber of Commerce	Face-to-face
Alan Fulford	Estate agent	Face-to-face
Roland Gauvain	Trust Manager, Alderney Wildlife Trust	Face-to-face
David Gillingham	Past applicant	Telephone
Doug Hamon	Local architect	Face-to-face
Neil Harvey	States Member	Focus group
Donald Hughes	Historic buildings advisor; Board Member, Alderney Housing Association	Face-to-face
Louis Jean	States Member	Focus group
Sarah Kelly	Court of Alderney	Face-to-face
Darren Keung	Architect	Face-to-face
Victor Levine	Past applicant	Face-to-face
Colin Partridge	Local architect; former Chair, Court of Alderney	Face-to-face
Cynthia Roberts	Former Planning Officer, States of Alderney	Face-to-face
Steve Roberts	BDCC Member	Focus group
Jim Rowles	Director of Planning, States of Guernsey	
Chris Rowley	BDCC Member	Focus group
Helen Shorey	Crown Advocate, Law Officers of the Crown, States of Guernsey	Telephone
Francis Simonet	States Member	Focus group
Rachel Sowden	Secretariat	Face-to-face
David Thornburrow	Vice-President, The Alderney Society	Face-to-face
Ian Tugby	States Member	Focus group
Julie Turner	Secretariat	Face-to-face
John Weir	Manager, Alderney Housing Association	Face-to-face

Appendix B

Seminar Attendees

B1 Seminar Attendees

Name	Capacity / Organisation
Ray Berry	BDCC Member
Matt Birmingham	BDCC Member
Mark Bristow	Architect
Roy Burke	Chief Executive
Alan Fulford	Estate agent
Roland Gauvain	Trust Manager, Alderney Wildlife Trust
Doug Hamon	Local architect
Donald Hughes	Historic buildings advisor; Board Member, Alderney Housing Association
Sarah Kelly	Court of Alderney
Robert McDowell	States Member
Pam Pearson	Alderney Society
Francis Simonet	BDCC Member
Rachel Sowden	Secretariat
David Thornburrow	Vice-President, The Alderney Society
Ian Tugby	States Member
Julie Turner	Secretariat
John Weir	Manager, Alderney Housing Association
Robin Whicker	Trustee, Alderney Wildlife Trust

Appendix C

Seminar Presentation

Review of the Planning and Development Control Process: Discussion Seminar

Island Hall, 12 March 2014

ARUP

Agenda

- 09:45** Welcome and housekeeping
- 09:50** Introduction by the BDCC
- 10:00** Presentation: Review to Date
- 10:30** Break - refreshments
- 10:00** Topics for discussion
- 11:15** Break out session 1
- 12:15** Lunch
- 13:00** Break out session 2
- 14:00** Emerging themes & next steps
- 14:15** Close

ARUP

Introduction from the BDCC



STATES OF ALDERNEY

ARUP

Presentation Outline

- Purpose and aim of today
- Context
- Scope
- Methodology
- Progress to date
- Themes in more detail
 1. Planning for the Future
 2. Efficiency and streamlining
 3. Transparency and trust
 4. Resourcing the system

ARUP

Purpose and Aim of Today

- To bring stakeholders together to discuss the future of the planning and development control process in Alderney
- To present back on the work undertaken so far
- To set out the emerging themes and issues
- To facilitate discussion around a sub-set of those issues
- To inform the recommendations of the review
- To advise on the timeline for completing the review
- No 'rules' for the day ...but be nice please!

ARUP

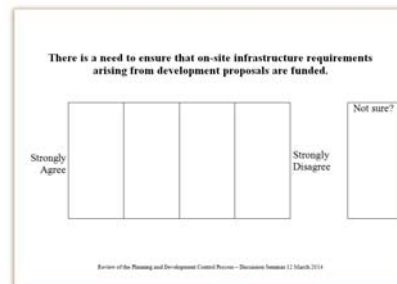
Things to Keep in Mind

- How do we deal with 'that' at the moment?
- Is there a better way of doing it?
- Should it change?
- If yes, how should this change be delivered:
 - Legislation
 - Policy
 - Guidance
 - Process
 - Training
 - Culture change
 - i.e. Who, What, Why, When and How
- **It needs to work for Alderney**

ARUP

Why Have You Given Me Stickers?

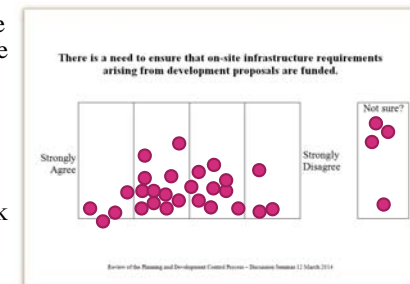
- Testing some of the statements and questions around the themes in the seminar briefing paper
- We have re-worded them (to help you indicate a preference) to make them a statement which it is easier to agree or disagree with
 - Should not could
 - All worded in the positive to avoid a double negative
- "Agreeing" is about:
 - Does that sound right?
 - Is it a priority?
 - Would I pay for it?
 - Would I support and work with this approach?
- **Tell us what you think during the breaks**



ARUP

Why Have You Given Me Stickers?

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- We have re-worded them (to help you indicate a preference) to make them a statement which it is easier to agree or disagree with
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 - Would I support and work with this approach?
- **Tell us what you think during the breaks**



ARUP

Context

- Island of around 1,900 people and around three square miles
- Ageing and declining population
- Distinct culture and character
- Transport and tourism are important
- Economic drivers associated with construction and ICT/gambling/regulation
- Significant natural and built heritage
- Discretionary plan-led planning system
- A lot of other things are also underway across the States...
 - Building and Development Control (Alderney) (Amendment and Fees) Ordinance, Building (Alderney) Regulations
 - Housing Strategy, Business Development Action Plan
 - States of Alderney Strategic Plan

ARUP

Strategic Plan 2014

- Mission: create a sustainable economic future
- Planning for expected population increase
- Inclusive approach – way of working
- Environment plan – environment and land use plan well underway ... acknowledged that this will have to be a consultative process ... critical to maintain the balance of the natural eco-system and the commercial drivers of the island
- Business development plan – attract 10 entrepreneurs that will eventually employ 10 people each (potentially 110 new residents) in a way that is environmentally compatible

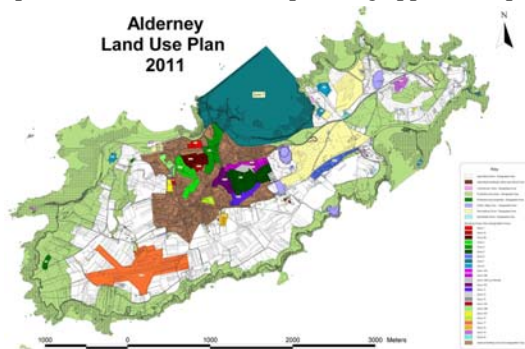
Our strategic priorities

SP1	Secure our economic future with a growing population.
SP2	Protect and promote our environment and heritage.
SP3	Improve the quality of life for all.
SP4	Modernise and improve service delivery and use of resources.

ARUP

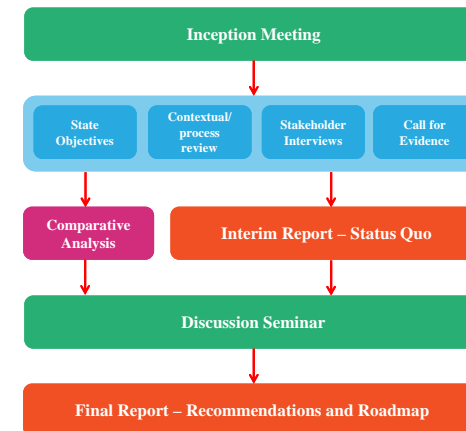
Scope: Systems Review

- Review of the planning and development control process
- Plan-making: processes and legislation
- Development control: end-to-end planning application process



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Methodology



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Progress to Date

- Call for evidence
 - 18 formal responses
 - Several enquiries
- Week-long Visit
 - Face-to-face interviews
 - Members, Officers, Court, Natural and built heritage, Architects, applicants, interested persons
- Seminar – today!
- Clear desire to participate and engage
- Number of recurring themes with varying degrees of consensus



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Developing Themes

- Consideration of emerging issues in a more manageable way
- Designed to promote a ‘systems view’ of planning
- What are the ‘principles’ behind the overall system and process?
- You told us...
 - Not always clear how the plan relates to development and its (un)acceptability = **planning for the future**
 - Wide range of matters considered with a process built on convention (and habit?) = **efficiency and streamlining**
 - Challenges of working in a close community, the system can get ‘personal’, wider decision-making = **transparency and trust**
 - Different views on the scale, quality and allocation of resources (people, skills, money, infrastructure) = **resourcing the system**

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1. Planning for the Future

- Alderney has a plan-based system. The plan policies affect specific locations.
- The basic model is clear: Building Area and Designated Area are understood and accepted
- In theory there is a lot of flexibility and scope to deviate from the plan, in reality the plan holds up quite well...
- The plan needs a (quantified) vision of where it is moving towards – a plan should provide certainty
- No clear ‘exceptions’ policy
- No clear delimitation between conservation assets
- Reviewing the plan currently a site-based exercise
- Independent Inspector, but some concerns with the process

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1. Planning for the Future

- Housing is an emotive issue. C-Permits...
- Link to a housing strategy/work of Alderney Housing Association
- Design challenge – can this be clarified?
- Given the growth aspirations of the Strategic Plan, where is the growth going to go?
- What if a ‘big scheme’ does come to fruition?
- There will be winners and losers
- How can the plan manage a finite source (land) competitively?
- Who ‘owns’ (and prepares) policy?

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2. Efficiency and Streamlining

- Alderney has an Exemptions Ordinance that provides some development rights in certain areas for certain minor operations
 - Takes some things out of the system
- Challenge of detail and sensitivity
 - The planning system gets involved in a lot; fences, walls, sheds
 - But a family of 5 moving to the Island is a 0.25% increase
- Can the system 'let go' of some of the little things?
 - This would free up effort and resource
 - Wouldn't have to be island-wide
 - Little things can be contentious though
- How can the system deal with evolving (or intensifying) uses?

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2. Efficiency and Streamlining

- Processes are in place and have come about by convention
 - Recent example of enforcement action
- Open door approach to pre-application discussion
 - But is the advice good when compared to the decision?
- Informal delegation arrangements in place
 - Summary of items to be dealt with first by the committee
- Risk that convention can be overturned (or ignored)
- Manuals, protocols, procedures, schemes...!?
 - A bit excessive for Alderney
 - A light-touch solution is required

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3. Transparency and Trust

- Alderney is a small community, and States Members and residents have day-to-day interactions
 - No party system
 - Regular (re-)election to the BDCC but still with some churn
 - Perception can often be as important as 'fact'
- The planning service runs a paper file system
 - Representations are not made available
- Anecdotal evidence of people not realising applications had been made close to them or somewhere they were interested in
 - No automated consultation arrangements
- Blurring between BDCC responsibilities/issues and States-wide ones
 - Exemptions ordinance versus specific planning application

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3. Transparency and Trust

- Committee meetings
 - Are not open to the public to attend
 - The extent of officer influence is unclear
 - Members decision-making and planning reasons can be unclear
 - No opportunity to make direct representations (for or against)
 - Something about 'process' and something about 'reporting'
 - Remit for planning decisions and not political decisions
- Appeals – there is a legal right of appeal through the court
 - There is a high proof of evidence
 - The focus is on the process and reasonableness of decision
 - It is not on the merit of the case
 - Introducing a non-judicial appeal would require buy-in and present some challenges

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4. Resourcing

- Alderney strives to run at a cost-effective level, meaning a small civil service compared to the scale of function and responsibilities
- Resources to run the system as:
 - Number of people involved (staff and members)
 - Training and CPD
 - Specialist knowledge
 - Resource balancing – peaks and troughs
- Desire to keep the running services affordable, meaning fees that might not recover the running costs of the service
- Also needs to be considered alongside the costs of the wider provision of infrastructure associated with development
 - Direct infrastructure supported
 - Indirect infrastructure considered to be for the public sector

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4. Resourcing the System

- One post (with supervision) currently tasked with almost everything
- Management of both policy and development control?
- Role of officers and Members?
- Resources in the future:
 - How can capacity be improved?
 - How can specialist advice be accessed?
 - What training is needed?
- Mindful of the resource implications of the review recommendations
 - What mechanisms might be used?
 - Who pays?

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Summing up

- Need to improve the current system
- Support the island to evolve and grow
- Provide certainty and flexibility
- Enable greater transparency and trust
- Achieve efficiency and improved processes
- A reformed system must fit the context and issues

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Questions?

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Break for Refreshments

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Topics for Discussion

- This is your last chance to influence the review report...
- We will split into two break-out groups
 - Aiming for a broadly even split of interests
- Two discussion sessions
 - 2 x 1 hour with some lunch in-between
- Both groups will discuss the same things (but not in the same order)
- Aiming for an open and constructive forum
 - “Alderney House” rules
 - Everyone encouraged to have a view
- Please try to stick to the discussion topics
 - We will facilitate, and ask you to justify your views
- Don't forget to use your stickers!

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Break Out Session 1: Policy and Efficiency

1. A vision-led policy

- Challenges of defining the number of houses, jobs etc
- Agreeing where development goes
- Keeping the market competitive

2. The C-Permit system

- How to ensure local affordability
- How to manage the market of existing and new housing

3. Streamlining the system

- A clear hierarchy of conservation sites

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Break Out Session 2: Transparency and Resourcing

1. Publicising and consulting

- Site notices, neighbour notification, site poles, statutory consultees, representations available

2. Planning Committees

- Open or closed voting?
- Able to make representations in person?
- How much detail for minutes?

3. Extra resources

- What is needed: admin, technician, officer, planning lead, policy
- Where does it come from and how is it paid for?

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Break Out Session 1

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Lunch

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Break Out Session 2

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Break Out Session 2: Transparency and Resourcing

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Plenary Session

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Emerging Themes

- Feeding back from the discussions...
- Anything else you'd like to add...?

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Next Steps

- Draft Final Report submitted mid-April
- BDCC discuss report and feed clarifications/comments back
- Final Report submitted mid-May
- Report will include views on implementation, phasing and timescale
- Recommendation for publication and consultation
- **You have to make it happen**

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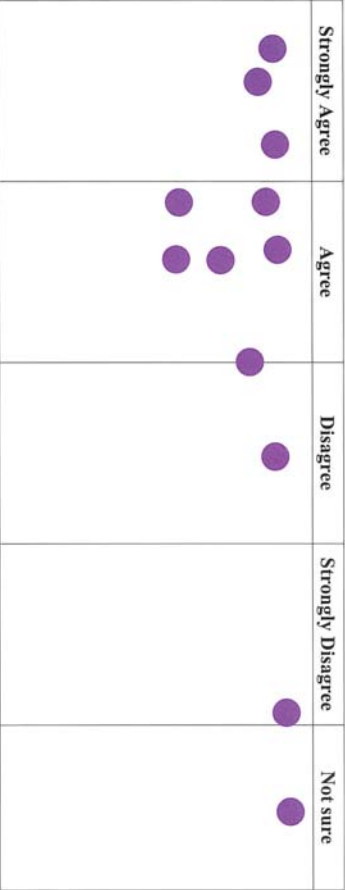
Thank you!

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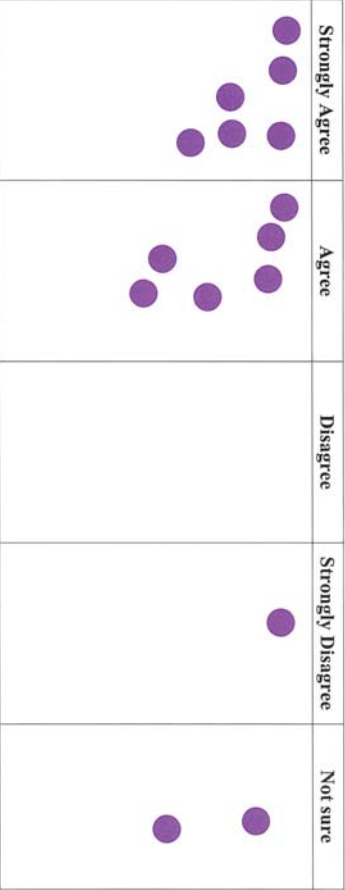
Appendix D

Seminar Voting Activity

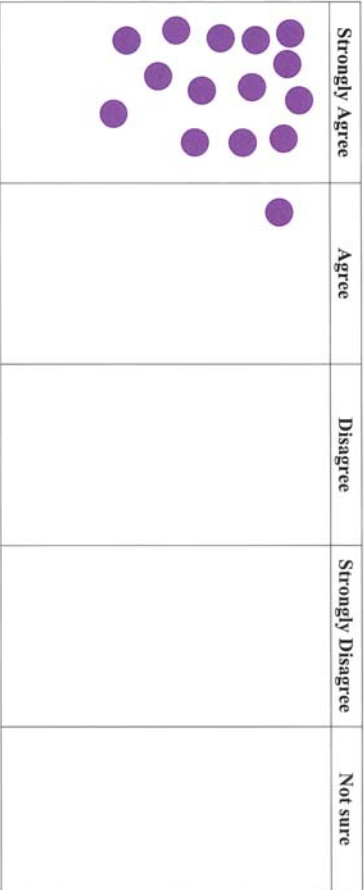
The land use plan should be reviewed on a rolling basis, with each review taking into account local and stakeholder views, evidence and resulting in an updated vision.



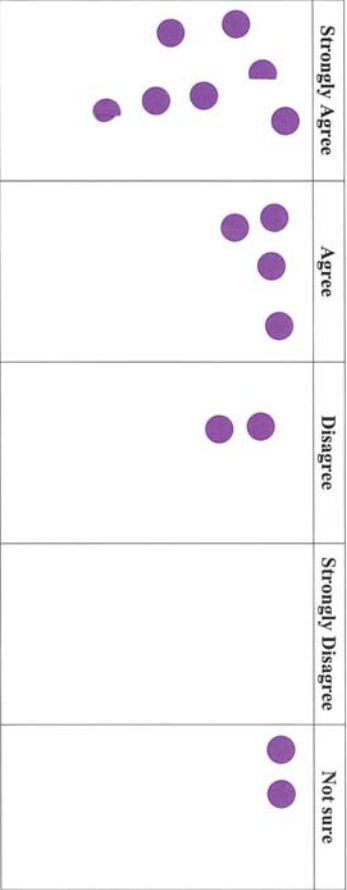
The C-Permit system has unintended consequences and has created a commodity in the right to build a house. An evidence-based land use plan that plans for future need, along with delivery by the Alderney Housing Association, may be a better route for meeting local housing needs.






The land use plan should be based on a long-term vision for the future, including planned levels of population, housing and employment. This should be based on evidence and judgement.





Evidence provides the context for plan-making. There are currently some gaps in the plan evidence base, such as the number and quality of vacant or under-used houses and the number and quality of built and natural heritage assets.




**There should be an increased permitted development rights covering sheds, walls, fences and trees within ‘less sensitive’ areas.
This would relate to development in line with an agreed design guide.**

Strongly Agree	Agree	Disagree	Strongly Disagree	Not sure
				



Delegation by the BDCC to officers should be a formalised and documented arrangement. The BDCC should aim to have a richer, deeper debate on fewer applications.

Strongly Agree	Agree	Disagree	Strongly Disagree	Not sure
				

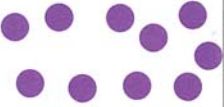



Alongside the plan, additional design guidance would assist applicants by providing greater certainty and would promote quality design.

Strongly Agree	Agree	Disagree	Strongly Disagree	Not sure
				





The planning system should focus its resources on decision-making in relation to complex and controversial cases. This means ‘letting go’ of some simpler and less controversial cases.

Strongly Agree	Agree	Disagree	Strongly Disagree	Not sure
				



There needs to be a more certain and transparent planning application process, including the availability of application materials and representations.

Strongly Agree	Agree	Disagree	Strongly Disagree	Not sure
				



There should be some individuals and organisations that are notified in the case of applications that meet pre-agreed criteria.

Strongly Agree	Agree	Disagree	Strongly Disagree	Not sure
				

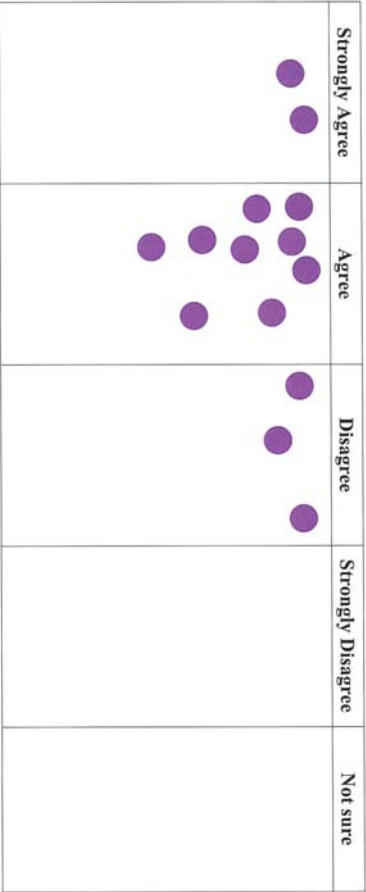
The pre-application discussion process should be more clearly defined and result in a record of the advice given.

Strongly Agree	Agree	Disagree	Strongly Disagree	Not sure
				

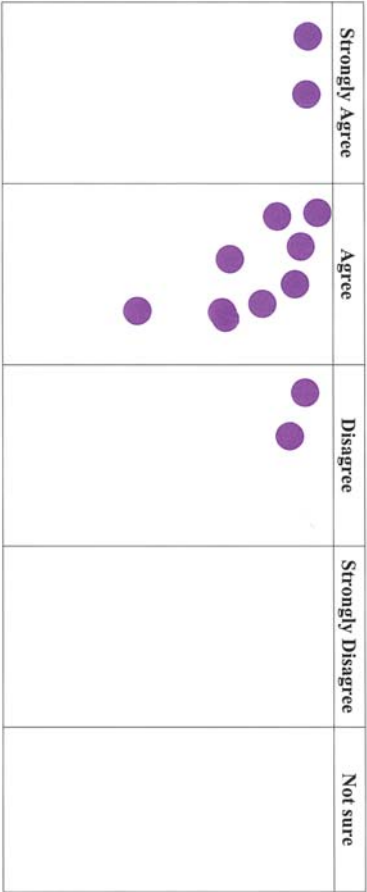
Enforcement processes should also be more clearly defined.

Strongly Agree	Agree	Disagree	Strongly Disagree	Not sure
				

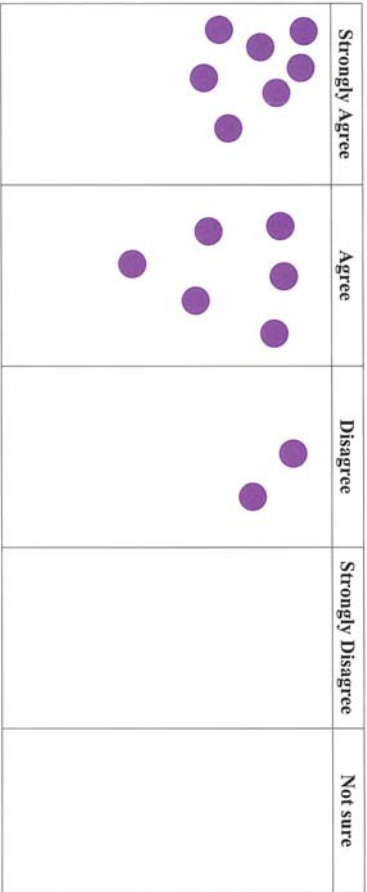
Applicants and interested parties should be able to make representations directly to the planning committee.



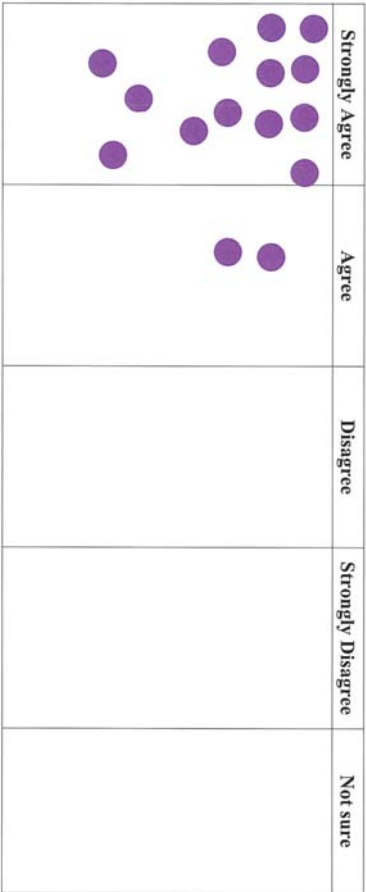
Voting on planning applications to approve or refuse permission should be part of an open meeting.



Site notices should be displayed for all applications.



Member training should be offered to all BDCC members.



There should be additional local resource put in place to provide an enhanced planning (policy and application) service.

Strongly Agree	Agree	Disagree	Strongly Disagree	Not sure
8	4	5	0	0

There should be a call-off agreement, framework or panel to provide further independent expertise across a range of specialist areas such as biodiversity, marine environments, viability, urban design, architecture, archaeology and similar.

Strongly Agree	Agree	Disagree	Strongly Disagree	Not sure
7	6	3	0	0

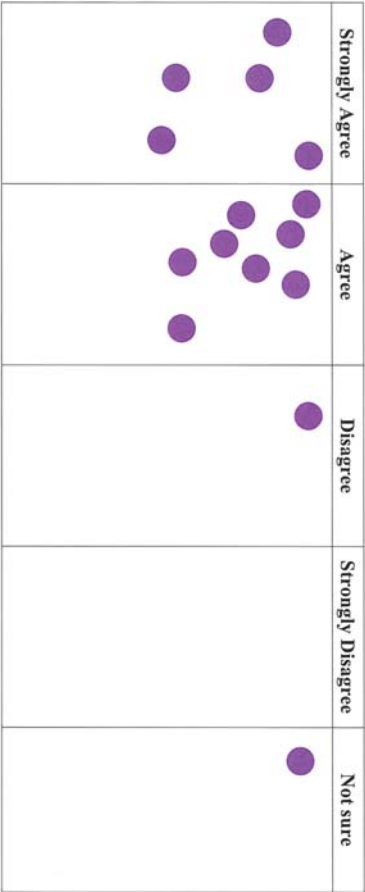
Committee minutes should provide a public summary of the debate and planning reasons for each decision.

Strongly Agree	Agree	Disagree	Strongly Disagree	Not sure
7	8	0	0	1

There should be a system for lodging an appeal against refusal of planning consent. This could consider the merits for refusal (material considerations, weight attached) and should be heard by an impartial planning professional.

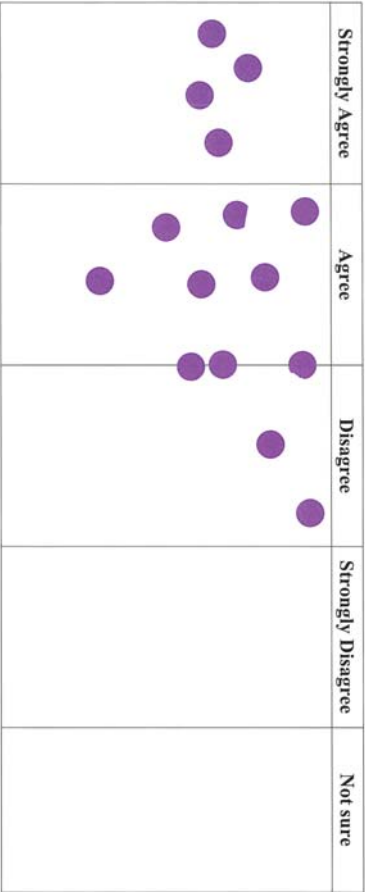
Strongly Agree	Agree	Disagree	Strongly Disagree	Not sure
7	6	0	0	0

There is a need to ensure that on-site infrastructure requirements arising from development proposals are funded.

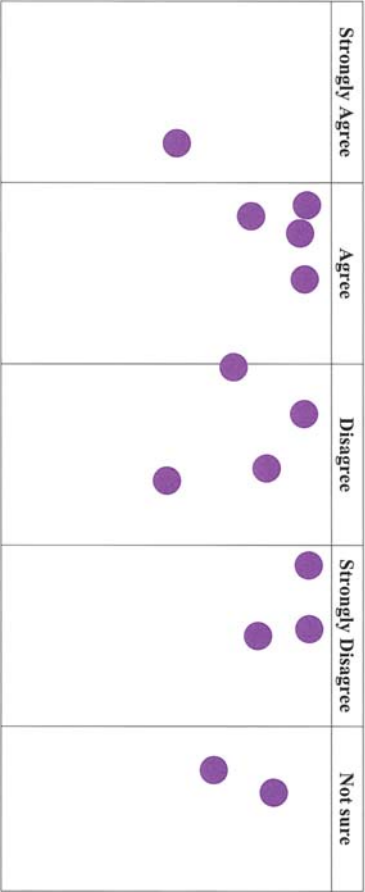


There should be a Section 106 or development tariff type mechanism to pay for off-site infrastructure.

(planning gain)



Planning fees should be set at a level to recover the full cost of work in determining planning applications.



A new policy should be devised to determine developer contributions towards resource requirements associated with major applications.

