

# The Building and Development Control (Alderney) (Amendment) Ordinance, 2017

THE STATES OF ALDERNEY, in pursuance of their Resolution of the 14<sup>th</sup> June, 2017, and in exercise of the powers conferred on them by section 75 of the Building and Development Control (Alderney) Law, 2002<sup>a</sup> and all other provisions enabling them in that behalf, hereby order:-

## Amendment of the Law.

1. The Building and Development Control (Alderney) Law, 2002 ("the Law") is amended as follows.

2. After section 5(3) (applications for permission to develop, etc.), add the following subsection –

"(4) For the avoidance of doubt, the Committee may impose different requirements under subsection (1)(a) or (2) in relation to different cases or circumstances, including, without limitation, in relation to, applications for –

(a) minor development or other work, or

(b) development or other work which the Committee considers is of such a nature that it

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<sup>a</sup> Order in Council No. XII of 2003 as amended by Order in Council No. XV of 2004 and Alderney Ordinances No. III of 2007, No. III of 2014 and Nos. X and XIV of 2016.

is likely to be of significance for the whole of, or a significant part of, the Island, or which it considers to be very significant for the Island in any other way."

3. In section 23 (preparation of Land Use Plans) –

(a) in subsection (1), for all the words from and including "the manner in which the Committee" to the end of the subsection, substitute "the Committee's proposals in respect of development or other work referred to in section 4 or other use of land in the Island together with a reasoned justification of each proposal.",

(b) in subsection (2), after "such areas" insert " or parts of the Island, or issues relevant to the matters set out in subsection (1),",

(c) in subsection (3) –

(i) for "such maps and" substitute "at least one map and such",

(ii) for "different parts of the Island" substitute "indicate where each of the proposals shall be implemented or applied",

(iii) for "the foregoing, the Plans may in particular" substitute "the foregoing provisions of this

section, the Plans may",

(iv) in paragraph (a) –

(A) before "define areas" insert "subject to the prohibition on the Committee granting permission in section 12", and

(B) in subparagraph (iii), for "Parts II and III" substitute " Part II",

(v) in paragraph (b) –

(A) for "define the sites of proposed roads" substitute "provide for policies in respect of roads and other infrastructure", and

(B) after "open spaces" insert ", heritage assets, sustainable development or areas important for biological diversity as defined in section 7(3)",

(d) after subsection (3) insert the following subsection –

" (3A) In preparing a Land Use Plan or any alteration or addition to the same the Committee shall have regard to any strategic policy document of the States –

(a) which is from time to time in force and approved by Resolution of the States, and

(b) in respect of which the States have by Resolution –

(i) agreed that the document has significant implications for land planning and use of land on the Island, and

(ii) directed the Committee to have regard to the document in preparing a Land Use Plan or any alteration or addition to the same.",

(e) in subsection (4) -

(i) for "document" substitute "statement", and

(ii) for "the map" substitute "the written statement", and

(f) after subsection (4) insert the following subsection –

" (5) For the avoidance of doubt, in this section, "**proposals**"

includes general and other policies.".

4. After section 74 (exclusion of States' liability) insert the following section –

**"Guidance.**

74A. (1) The Committee may issue such guidance as it considers appropriate for the purpose of providing practical guidance, advice and information in connection with provisions under this Law.

(2) Before issuing, revising or withdrawing guidance under this section the Committee shall consult with such persons as it considers appropriate.

(3) The Committee may –

(a) revise guidance under this section by giving further guidance, or

(b) withdraw guidance under this section by giving further guidance or by notice.

(4) Guidance issued under subsection (1) may, without limitation, contain guidance –

(a) in relation to applications under this Law including in relation to –

(i) informal pre-application discussions

or advice,

- (ii) the information required by the Committee to accompany an application under section 5(1),
- (iii) the circumstances in which the Committee is likely to require a statement or report of assessments of environmental impacts or other effects to accompany an application under section 5(1),
- (iv) the information which the Committee may require to be included in a statement or report of assessments of environmental impacts or other effects of proposed development or other work required to accompany an application under section 5(1), or
- (v) the public consultation the Committee is likely to require an applicant to undertake under section 5(2)(c),

in different cases or circumstances, and

- (b) in relation to the circumstances in which the Committee considers that permission would

be required for a material change in the use of a building or any other land.

(5) Any person preparing or making an application or appeal, or considering whether or not it is necessary to make an application, under this Law shall take into account any relevant guidance issued under this section.

(6) Guidance under this section -

(a) shall be taken into account by the Committee in exercising its functions under this Law but -

(i) is not binding on the Committee or on any other person,

(ii) is merely indicative of the Committee's likely approach to any particular issue,

(iii) does not prejudice the Committee's discretion to decide any particular case differently according to its merits,

(iv) does not relieve any person of any obligation, restriction or liability imposed by or under this Law, and

(b) may, subject to the limitations set out in paragraph (a), be received in proceedings under

this Law.

- (7) Nothing in this section authorises –
- (a) the issuing of any guidance about a particular application or otherwise about a particular case,
  - (b) the issuing of guidance which purports to provide further information or detail in respect of policies set out in a Land Use Plan, or
  - (c) the issuing of guidance in relation to the requirements of building regulations.

(8) The Committee shall publish any guidance or notice issued by it under this section in such manner as as it considers appropriate for bringing the guidance to the attention of persons likely to be affected by it.

(9) For the avoidance of doubt, in this section "**under this Law**" includes in any Ordinance or regulation made under it."

**Interpretation.**

5. (1) In this Ordinance -

"**enactment**" includes a Law, an Ordinance and any subordinate legislation and includes any provision or portion of a Law, an Ordinance or any subordinate legislation,

"**the Law**" means the Building and Development Control (Alderney) Law, 2002,

"**subordinate legislation**" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any statutory, customary or inherent power and having legislative effect, but does not include an Ordinance,

and other expressions, unless the context requires otherwise, have the same meanings as in the Law.

(2) The Interpretation (Guernsey) Law, 1948<sup>b</sup> applies to the interpretation of this Ordinance.

(3) Any reference in this Ordinance to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

**Citation and commencement.**

6. This Ordinance may be cited as the Building and Development Control (Alderney) (Amendment) Ordinance, 2017 and shall come into force on the 14<sup>th</sup> June, 2017.

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<sup>b</sup> Ordres en Conseil Vol. XIII, p. 355.