



**OFFICIAL REPORT**

**OF THE**

**STATES OF THE**

**ISLAND OF ALDERNEY**

**HANSARD**

**The Court House, Alderney, Wednesday, 26th July 2017**

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official States of Alderney website [www.alderney.gov.gg](http://www.alderney.gov.gg)*

**Volume 5, No. 6**

**Present:**

**Mr Stuart Trought, President**

**Members**

Mr Tony Barnes  
Mr Matthew Birmingham  
Mr Mike Dean  
Mr James Dent  
Mr Louis Jean  
Mr Graham McKinley  
Mrs Norma Paris  
Mr Steve Roberts  
Mr Alex Snowdon  
Mr Ian Tugby

**The Greffier of the Court**

Mr Jonathan Anderson

**Business transacted**

Convener's Report of the People's Meeting held on 19th July 2017 .....	3
<b>Billet d'État for Wednesday, 26th July 2016 .....</b>	<b>3</b>
I. Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016 – Item approved .....	3
II. Questions and Reports – Building and Development Control Committee Report.....	5
<i>The Assembly adjourned at 6.23 p.m.</i> .....	16

# States of Alderney

*The States met at 5.30 p.m.*

[THE PRESIDENT *in the Chair*]

## PRAYERS

*The Greffier*

## ROLL CALL

*The Greffier*

**The President:** Mr Greffier, for the record I will point out that there is no representative of His Excellency the Lieutenant-Governor here today due to weather problems, and the Lieutenant-Governor's offices are aware of the fact.

### **Convener's Report of the People's Meeting held on 19th July 2017**

5 **The President:** Mr Tugby, as Convener, would you like to give us the Convener's Report, please.

**Mr Tugby:** I was the Convener and I was assisted by the Executive Officer and the Chief Executive. There were eight States Members there, excluding the Convener; the President; the Minutes Secretary; and there were 93 members of the public and three members of the press.

10

**The President:** Thank you.

## Billet d'État for Wednesday, 26th July 2016

### **I. Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016 – Item approved**

*The States is asked:*

*To approve the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016.*

**The President:** Mr Greffier, could we move to Item I, please.

15 **The Greffier:** Thank you, sir. Item I this evening is the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016.

A letter has been received from Mr Dent in his capacity as Chairman of the Policy and Finance Committee and the States of Alderney are asked to approve the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016.

20 **The President:** Thank you very much.  
Mr Tugby, as Convener, were there any comments on this Item?

**Mr Tugby:** Yes, sir, there were.  
25 Could the definition re public utilities be put into context? The Chief Executive clarified this matter, stating that this term 'public utilities' generally referred to the on-Island delivery and services such as water, electricity and telecommunications.

**The President:** Thank you, Mr Tugby.  
30 Mr Dent, I believe you wish to propose this.

**Mr Dent:** Mr President, thank you.  
Mr President and colleagues, it is important that our legislation is unambiguous. This Law will provide definitions for commonly used words and terms in our legislation. These will be definitions that are applied when specific laws do not provide alternative definitions. It is clearly a sensible  
35 piece of legislation, whose main purpose should be to limit the scope for disputes. I wholeheartedly support the purpose.

This is a Law that has already been passed by the Guernsey States of Deliberation and I am advised that our power is therefore either to approve it or not to approve it; we cannot propose amendments. In some respects this is a pity.

40 There is one small clause that I do not approve of. That is found at the end of section 21. Section 21 states that:

The Policy & Resources Committee

– that is the Policy and Resources Committee in Guernsey –

shall, before recommending the States to agree to make an Ordinance under this Law, consult –

- (a) the Policy and Finance Committee of the States of Alderney, and
- (b) the Policy and Performance Committee of the Chief Pleas of Sark ...

I have no problem with this, and indeed think it is a most appropriate requirement. However, the same section concludes by saying:

but a failure to comply with this section shall not invalidate any Ordinance made under this Law.

45 In my view, Mr President, colleagues, this is a get-out-of-jail-free card and is inappropriate.  
Mr Robert Titterington QC, HM Comptroller, and others from the Law Offices of the Crown have advised me that because the first part of the section says they 'shall' consult, we do not have to worry about the second part. In mitigation, he notes that it is always possible for the need to consult to be overlooked inadvertently. Well, Mr President, colleagues, it is just this possibility  
50 that causes me to dislike the word. I shall be voting for the approval of the Law but I would like you all to note my disapproval of these few words at the end of section 21. I should hope that the States of Alderney will in future be consulted before, not after, the event and that, should the States of Alderney have reasonable concerns, the States of Guernsey would not simply steamroller legislation through.

55 Thank you, Mr President.

**The President:** Mr Dent, just for clarity, can you advise us whether you are proposing to your fellow States Members that they accept this or that they do not accept it.

60 **Mr Dent:** I am advising that they accept it. I hope I made that clear.

**The President:** Thank you very much indeed.  
Mr Barnes, do you wish to second this?

65 **Mr Barnes:** I do. Mr President and fellow colleagues, I totally endorse what Mr Dent has said, and I think he is very right in pointing out that 'vague' area, but I do second this.

**The President:** Thank you very much, Mr Barnes.  
Does any member wish to speak on Item I? No Member wishes to speak on Item I.  
Mr Greffier, if you will record that as approved, please.

70 **The Greffier:** Thank you, sir.

## II. Questions and Reports – Building and Development Control Committee Report

**The President:** Could we move to Item II, please.

75 **The Greffier:** Thank you, sir.  
Item II this evening is Questions and Reports. I confirm I have received a single report from Mr Birmingham in his capacity as Chairman of the Building and Development Control Committee.

**The President:** Thank you very much indeed.  
80 Mr Tugby, as Convener, were there any comments on this, please?

**Mr Tugby:** Yes, there were quite a few.  
It was noted that consultation on the amendment was set to run in parallel with the Land Use Plan, leading to the States being asked to decide on it towards the end of the year.

85 It was noted that the ordinance will be required for the major project proposals to be adopted, as set out in the Land Use Plan.

It was clarified that the protection of the greenbelt will be included in the public consultation.  
Mr Lancaster from AEL stated that the amendment to section 2 is reinforcing the law, as this will remove the current exemptions that AEL and the States of Alderney hold for any utility works.

90 Reference to open planning meetings re restricting the numbers of objections and concerns that this would be undemocratic: Mr Birmingham clarified the only change to the objections process for the open planning meetings was to prevent the same objectors repeating their concerns when there was a follow-up hearing of a deferred application. If, however, there is a significant change to an application, it is republished and any objector would have the right to make fresh objections.

95 The public should have a voice – plebiscite/referendum.  
Many comments were made regarding FABLink and ARE.

**The President:** Mr Tugby, while you are on your feet, could you read out the first item.

100 **Mr Tugby:** Amendment to section 12 is carte blanche for development, unnecessary and rash.  
Mr Birmingham clarified that his report is for information of the public, that the amending ordinance will be put to public consultation with all the supporting documentation.  
Mr Birmingham clarified the proposed law changes as set out in his report, adding that it is a complex piece of law with a lot of underlying issues.

105

**The President:** Thank you very much, Mr Tugby.  
Mr Birmingham, would you care to introduce your report.

110 **Mr Birmingham:** Thank you, Mr President, fellow Members.

In introduction, I feel that it is necessary for me to address some of the issues that were raised at the People's Meeting and to try to again clarify the content of the report.

The report is to notify the States and the public of the intention of the BDCC to bring forward an amending ordinance to the Building and Development Control Law, 2002 in parallel with the  
115 new Land Use Plan when the final plan is adopted, hopefully later this year.

The proposed amending ordinance is aimed at addressing three separate but overlapping issues in our planning system: firstly, the current conflict between the existing designated area zonings within the Land Use Plan; section 12 of the Building and Development Law; and, I stress, the existing plan, whose designated area zonings have been enforced for a considerable number  
120 of years. This is just my view, but this is an issue concerning, I believe, an oversight by previous Building and Development Control Committees in the process of the introduction of the Land Use Plan and a lack of full consideration of some of the potential planning conflicts it created in its inception.

Those issues have been identified since I have been a member of the Building and Development  
125 Control Committee and it has always been my intention to attempt to square this particular circle since becoming Chairman. I do not believe that it is possible to have such a clear conflict within the planning system without undermining the system itself, and therefore I feel I am duty bound to address it.

Now a quick history. In 2013 the General Services Committee applied to the BDCC for planning  
130 permission, without needing to, for improvement works being undertaken on the campsite which sits within the designated area. However, the campsite is zoned in the Land Use Plan for the purpose of recreational use associated with camping. I will deal with the issues around the States applying for planning permission to itself in a moment – that is another cat's cradle – but there are two fundamental points to make.

135 The underlying principle of the designated area zoning is a presumption against development and it only allows for very specific exceptions. Recreational zoning still has that same presumption against development; however, it allows for exceptions when it is judged that the requested development work is essential to the usage of a particular area. This is an eminently sensible provision. If you have a campsite, there are certain facilities that you need, such as toilets and  
140 showers, which are essential for it to operate as a campsite, but these are sensible exceptions under the Land Use Plan zoning – they do not exist under in the current very limited exceptions listed under subsection (2) of section 12 of the Law that relates to the designated area. Thus the Law and the Land Use Plan are at odds, and in this case, if you do not have the sensible exceptions that the Land Use Plan recreational zoning allows, then you will not have a campsite, you will have  
145 a field.

The same is true for all the other recreational area zonings in the existing Land Use Plan. If you take the fundamental interpretation of section 12 as some would, then that spells bad news if you are a member of the football club, the tennis club or the golf club. By the strict interpretation of section 12 it appears to my eyes that all three of these are illegal developments within the  
150 designated area and potentially that means that any proposed improvements to these very important parts of the Island's social infrastructure will be illegal also.

The problems are not just confined to the recreational zone; the public utility zone within the designated area has problems too. Section 12 does have an exception which allows public utilities such as the Water Board to undertake essential work in the designated area, but solid waste management is not defined as a public utility. Therefore, that means that solid waste management  
155 can only be dealt with under the blanket States exemption to development in the green belt under section 67. Over the years the States have dumped solid waste all over the Island as landfill with

no planning control whatsoever. Many years on, a lot of these infilled sites have returned to nature. A good example is Platte Saline Common. Forty years ago, that was excavated sand pits and now is a thriving area of common land. But these days, health and safety legislation requires stricter controls around such sites and there are issues of liability that mean waste dumping has to be more strictly controlled. In the modern day you cannot have a situation where section 12 makes development work illegal that may be classed as essential to the operation of a waste dumping area under health and safety legislation. In addition, the Impôt itself sits within the designated area and could potentially be affected by those same issues.

There are other areas of social infrastructure that, under the strict interpretation of section 12, are illegal development. Under section 12 exceptions, agricultural buildings are allowable. The bad news for horse owners is that keeping a horse is not classed as agriculture, so the section 12 exceptions allow an industrial chicken farm with large sheds in a green belt but not a small field shelter for a horse; and now, with animal welfare considerations, it means that any horse kept in Alderney must be provided with adequate shelter, so no shelters equals no horses.

Section 12 also makes no mention of the Alderney railway; so, members of the Railway Society, I am afraid no improvements are allowable. In fact, the train sheds may well be illegal development. I will have to check that out.

Many of you will also enjoy public art – Goldsworthy’s Stones were a marketing windfall for the Island and, personally, I love Simeon’s puffin on Longis Road; it is very Alderney, I have always thought – but you know what is coming: it is illegal development under section 12, so no more public art in the designated area.

After all this bad news, you probably want to have a sit down. That is fine, as long as it is not on a memorial bench in a designated area, because technically they are illegal as well, unless they are constructed under the States blanket exemption.

Section 12 was written into the Law about 50 years ago, and over time we have come to realise that there are certain things that have got caught under the Law that I do not believe were ever intended to be there. It is the old law of unintended consequences. We need to update the Law to ensure that these matters are dealt with, and that requires an amending ordinance, to which this report refers.

Moving on to the States blanket exemption under section 67, I have explained at previous States meetings about the issues relating to planning applications by the States. I believe that we should get rid of section 67 and make the States comply with proper planning procedure, but at the same time we cannot tie the States’ hands in terms of its duty to the public to operate and manage the Island. That is why it is the BDCC’s view that the major projects policy would be helpful. The major projects policy came about when it became apparent that a series of States economic-related projects started to run into problems under the planning law, the biggest of which at the time was the runway extension proposal championed by Mr Jean.

After examining the issue, the BDCC realised that, as the law currently stands, the only way that provision could be made under the Land Use Plan for the law for such a proposal was to remove a substantial area of the rear of the Island out of the designated area, placing it into the general building area. As you can imagine, the Committee were of the view that this was unlikely to be a popular move and felt there had to be a better way to go about dealing with this kind of situation. Why kick the door of the designated area down when all you need to do is find a way to open the door, make the quick change that has been identified as being in the interests of the Island and then shut the door?

The Committee decided that we should look at the issue under the Economic Development Strategy strand of the Land Use Plan process, which had been identified as one of the five individual workstreams at the start with the statutory process of the LUP in September 2015. This was then trailed in the Economic Development Strategy released for public consultation in January 2017 and now sits as the major project proposal in the draft Land Use Plan currently out for consultation.

210 There are those that ascertain that the major projects policy is all about FABLink. Let me state  
again, as I did at the People's Meeting, that the major projects policy has not been created at the  
behest of FABLink. The need for a better approach to dealing with major projects had been  
identified long before FABLink came forward with a proposal. In fact, I would say that all the issues  
with FABLink show us exactly why we need a clear process to deal with projects of this scale. But  
would the MPP create a route by which projects such as FABLink might have a planning application  
215 considered? Yes, it might. Does that mean that such a planning application will be passed  
automatically? No, it would not. Every application would have to go through the same process as  
any other. The BDCC is tasked with the independent operation of the Building and Development  
Control Law and it is not in the pocket of the rest of the States. The very fact that the BDCC turned  
down parts of the original campsite redevelopment proposal highlights this. The MPP is a proposal  
220 that is part of the new Land Use Plan and is subject to review at the Land Use Plan inquiry. If  
members of the public have concerns relating to it, they are free to make representations to the  
Land Use Plan inquiry and inspector. However, if the MPP is still part of the final Land Use Plan  
that is adopted by the States, then there will be the requirement for it to be included as the  
exception that forms part of a final amending ordinance to the Building and Development Control  
225 Law. But if the MPP is not in the final Land Use Plan, then there will be no requirement for it to be  
in the ordinance.

I believe that the MPP is good policy that creates clarity and consistency, replacing chaos and  
confusion, but I fully understand and support the concerns of those who do not wish to see  
unfettered development in the green belt. I would suggest that every action I have undertaken as  
230 Chairman of the BDCC supports that position. The inclusion of both the natural environment and  
the Built Heritage Strategy within the new LUP underscores this, along with the hierarchy created  
to assess the potential release of designated land which was in the 2016 review in relation to  
housing development.

If the inspector comes forward with a suggested alteration to the policy to tighten the process  
235 by which it operates, then I believe that members of the Building and Development Control  
Committee would be fully supportive. In fact, I think that you may find that they support any  
changes that may give comfort to the concerns of those who believe that this proposed policy  
would lead to unfettered development. Remember, this is a process of consultation; it is not a fait  
accompli.

240 When I was first elected to the position of BDCC Chair by my fellow States Members, I was  
tasked with the implementation of reforming the planning system to make it fit for purpose for  
the 21st century. It is essential that we balance the pro-development and anti-development scales  
for the Island to function, and that is what I continue to try to do. Those who make wild,  
unsubstantiated allegations into the motives of the BDCC for bringing forward the proposed  
245 changes do so to support their own agendas.

**The President:** Mr Birmingham, could you please refine your comments to those relating  
precisely to the report. We do not want to enter into people's opinions here.

250 **Mr Birmingham:** Well, if I may –

**The President:** Would you keep away from –

**Mr Birmingham:** These were issues that were brought up at the People's Meeting.

255

**The President:** Right, but not all of them were wild and unsubstantiated, so can we stop using  
inflammatory language.



**Mr Birmingham:** Okay, I will.

260 All I would say to the people of the Island is please review the proposals the BDCC are bringing forward with an open mind, and if you have concerns or suggestions feel free to make them as part of the consultation.

It is the intention of the Committee to publish the consultation document on Monday, 31st July. The full details of that consultation will be issued as part of the press release, including where the documents will be available to be viewed.

265 Finally, one point was raised in relation to the change in the protocol for open planning meetings. The change has been made as it is the Committee's view that the ability for an objector to make continued objections after an application has been deferred was unnecessary and potentially unfair to an applicant, and in the interest of balance it was felt that the continued reiteration of the same grounds of objection a second or third time should not be permitted, 270 hence the minor change to the Committee protocol. Other than that, the Committee believes that the open planning meetings have so far gone well and we continue with the experiment in the interest of transparency.

I commend the report to the States.

275 **The President:** Thank you, Mr Birmingham.

As you are aware, this is a report and not an item for resolution. Therefore, does any Member of the States wish to ask a question of the Chairman?

**Mr Snowdon:** A point of clarification, if I –

280

**The President:** Is this a point of order?

**Mr Snowdon:** No, it is a point of clarification or a question.

285 **The President:** Would you please stand while you are speaking.

**Mr Snowdon:** Thank you, Mr President.

Mr Birmingham, just one simple question: with the ordinance, will there be an inquiry connected to that, or is that jumping the gun to say that there will be or not?

290

**The President:** That sounds like a question to me, which is fine.

**Mr Snowdon:** Thank you.

295 **Mr Birmingham:** I would say at the present moment that is jumping the gun. It is certainly something that, as you all know, we have discussed in committee in terms of whether it is possible to fit it in to the ordinance. With any of these things we are always waiting for legal replies from the Law Officers into exactly whether that could actually fit in under the law and exactly how that might be worded.

300 I think earlier Mr Dent made the comments about the words 'shall' and 'may' and how they have completely different meanings under the law in terms of interpretation, so we need really to get more information, but I certainly believe that there is a likelihood that that would be part of the consultation process.

305 **The President:** Thank you, Mr Snowdon.  
Does any other Member have a question for Mr Birmingham?

**Mr Dent:** Mr President, colleagues, thank you.

310 Would the Chairman of BDCC be minded to consider an amendment to item 5 in his report and along these lines: to make a new exception to section 12 which would commit BDCC to approve a development or work in the designated area which the States, on the proposition of the P&F Committee and after appropriate consultation with the people, have approved as being strategically important and of long-term benefit?

315 Would he agree that this might be particularly appropriate given our lack of a party political system, and when States Members seek election it is not easy for them to foresee issues relating to our green belt?

I very much support the concept embodied in the proposed new section 12 but feel there should be maximum safeguards. Does the Chairman of BDCC agree?

320 **The President:** Just before you answer that, you obviously cannot answer on behalf of BDCC a question which they have not been asked yet, so please confine your response to your own opinion.

**Mr Birmingham:** Okay, I will try to.

325 What I can say is on 4th July the BDCC resolved to consult along the lines set out in this report, but the suggestion that you put forward here is certainly, in my view, one that is quite possible to consider. I will say this: we have to remember that there are certain statutory guidelines that we have to stick to when we are actually dealing with planning applications, so we have to make clear the differential of the planning application process and what happens before.

330 So, what I would say is it is not for the Building and Development Committee to determine how Policy and Finance reaches a decision on whether something is strategic. I believe that it is for Policy and Finance to create an adequate framework with which it feels comfortable, and if that includes public consultation then I would say that is fine. But at the end of the day that is a matter for Policy and Finance rather than a matter for Building and Development Control.

335 In terms of the second part – do I feel there should be maximum safeguards – I do not know about the term ‘maximum’ but I think we would all agree that all systems should have reasonable and proportionate safeguards within them. Checks and balances are very important and therefore checks and balances that are sought as being reasonable to the process I think are perfectly acceptable.

340

**The President:** Thank you very much, Mr Birmingham.

Does any other Member have a question for Mr Birmingham? Mr Jean.

**Mr Jean:** Would the Chairman agree with me that consultation means consultation?

345 And if I may ask a second question, would the Chairman agree with me that on three occasions I did speak to land use and to how at their open meetings ... and was a Member of the States of Alderney who raised concern about the abolition of the C-permits system. Would the Chairman agree with me ... was any notice taken at all of that in consultation?

350 **The President:** Mr Jean, the questions are in relation to the report.

**Mr Jean:** They are in the very nature of what I am coming to.

355 Would the Chairman agree with me that I should be concerned about the Chairman’s discretion and would the Chairman agree with me that I should be concerned that it might be, from my point of view, too much power in one pair of hands, because the Committee is not included here – in the Chairman’s discretion – and I am concerned about it?

**The President:** Thank you, Mr Jean.

360 Mr Birmingham, you do not need to answer any questions that do not pertain to those matters within the report.

**Mr Birmingham:** I am happy to answer it how I can.

Does consultation mean consultation: the thing about consultation is it can cover a wide gamut of different approaches. What we are trying to do with the BDCC Committee at the moment, in  
365 discussions that we are having in relation to consultation on this particular item, is to find the most effective way that we can consult, because obviously, I think as you would appreciate, this can get a little bit complex and a little bit dense in terms of the law and is not necessarily an easy thing for the lay person to understand. We have been having those discussions over the last few days. I believe that we have pretty much settled on an approach, and, as I have mentioned in the  
370 report, the intention is that the report will be out for consultation on Monday with a press release that should inform everybody of where the documents will be, how they can access them and hopefully with enough supporting documentation to explain it to people. But of course if people have questions, they are more than entitled to contact me or the planning officer for some clarification.

375 In terms of – very quickly – the C-permit part, which I appreciate follows on from the consultation part because, as you will remember, we did have workshops where members of the public actually sat and we discussed certain items ... From memory, under the C-permit section, if you remember, we had charts on the wall and people came up and put stickers on, answering the various questions. I seem to remember that on a question of should the C-permit system be  
380 abolished it was fairly strong in favour; I do not think it was unanimously in favour, but I am pretty sure that it was something in the region of 80% or 90% in favour of abolition, if memory serves. I am prepared to be proved wrong on that, but the information is still available somewhere.

I am not entirely sure, in terms of the Chairman's discretion area, of the point that you are trying to make. I am assuming you mean in the circumstances where we might have a tied  
385 Committee on a planning application and the Chairman has the ability to have a casting vote.

**Mr Jean:** May I clarify?

**The President:** If it is a point of order, please rise.

390

**Mr Jean:** It is a point of order. I would like to have seen the wording include 'Chairman and his Committee'. I think that that is only right. The Chairman chairs the Committee but it is the Committee that makes the decisions, and the only time the Chairman gets to exercise his vote is when the Committee is tied. It is too much power in one pair of hands and I would like that  
395 changed.

**Mr Birmingham:** Thank you. I have followed where you are now. It is under section 3 that you are referring to in the report. Yes, okay, I am with you there.

Those are the rules of the States. Currently, on all States committees the Chairman has a  
400 casting vote. That is the current situation within the law. I believe the correct wording is that if there is a tied vote the chairman may use his casting vote, but otherwise – we are talking about a planning application here – he can refer it, for the decision to be made, to the Policy and Finance Committee, and I am pretty sure that is the process that is listed under the Law.

405 In terms of specifically what we are dealing with here, I see the point that you are making. I would always say that in these particular circumstances, where we are talking about me exercising the discretion, I would always be doing that under the guidance of the Committee members. That would just be good practice, as far as I would be concerned. But I take your point and I, myself, personally, would have no problems with changing that to 'Chairman's discretion after consultation with the Committee'.

410 **Mr Jean:** Wonderful.

**The President:** Thank you.

Does any other Member have a question for Mr Birmingham, please? Mr McKinley.

415 **Mr McKinley:** Thank you, Mr President.

Forgive me if I just have half a minute of introduction to the questions.

**The President:** Provided it is not your opinion and is a question to do with the report.

420 **Mr McKinley:** Not the opinion; it is an introduction to put into context my question.

**The President:** I will be the judge of that. Please proceed.

**Mr McKinley:** Thank you, sir.

425 I first came to this beautiful Island in 1963, 54 years ago. I have been here on and off ever since. My parents had a house here and were residents here and I bought my own house here 30 years ago. So, although I am not technically an Islander, just a settler, I have been here on and off for longer than some of my fellow States Members have been alive.

430 I love Alderney for its uniqueness and for its people, or I would not be here. I do not want Alderney to remain in the 19th century, but nor do I want to see developments that would affect that uniqueness –

**The President:** Mr McKinley –

435 **Mr McKinley:** – and lead to fewer new homeowners –

**The President:** Mr McKinley –

**Mr McKinley:** – with residence, along with the possible departure –

440

**The President:** I think we have enough context. Please ask your question.

**Mr McKinley:** I would like to that the significance of the possible impact of this proposal is of very clear concern to the electorate, so there will be some form of public consultation. Mr Birmingham has confirmed that there will be a public consultation. I therefore ask the following questions.

445 Can he give an example of the types of major projects envisaged? You have actually done that in terms of the airport and you have also mentioned FABLink; you also mentioned one or two smaller ones. But what is the policy for housebuilding in the green belt or house improvement in the green belt?

450 When will the public consultation take place and in what form will it be held or presented? You have given us some idea, but I think the people listening to this, the people sitting in the Public Gallery, would like to know a little bit more about where, when and the format of the consultation.

455 I believe also that this proposed amendment is such a sensitive issue, with the very real possibility of a number of serious and negative consequences, that there should be a separate plebiscite –

**The President:** Mr McKinley –

460 **Mr McKinley:** – to gather the –

**The President:** Mr McKinley, please limit yourself to questions to the Chairman with regard to the report. What you think should happen is not what we are here for tonight. Your opportunity is to question the Chairman with regard to his report, not to use this forum as something in which to express your opinion. Can I make that very clear?

465

**Mr McKinley:** I am just going to ask him what his feeling would be for a plebiscite linked to the plebiscite that we already –

**The President:** Is that contained in the report?

470

**Mr McKinley:** It was a question. Such is the concern –

**The President:** Questions with regard to the report.

475

**Mr McKinley:** Anyway, in that way we will be at least aware of what we might see in terms of the FABLink proposal, if it ever happens, and more importantly we will know the opinions and feelings of those whom we were elected to represent.

Thank you, sir.

480

**The President:** You do not need to answer any of these things which are not relevant to the report.

**Mr Birmingham:** Yes, I am just formalising the specific questions out of that.

485

In terms of more clarity in terms of the public consultation, we are actually just at the moment putting the last touches to it, so I think it would be pre-empting our release of that information on Monday for me to make specific statements on that. As I say, it will be out on Monday and everybody will see how that will work.

490

As I said, we are trying to find an appropriate method, because this is a bit technical and we need to find a way that we can communicate to the lay person all these issues that we are crossing, because, as I pointed out in the report, it does cover three quite different but associated issues.

495

In terms of public consultation further down the line, in terms of the amending ordinance, I think we are far too early to be in a situation there, because as I pointed out, particularly under the major project proposal, that has got to go through the Land Use Plan inquiry first and, as I have said, you might find that at the Land Use Plan inquiry we get a negative response from the inspector, which would mean that it may not appear in the final amending ordinance that we need to take to the States. So I do not think we are yet in a position to be able to comment upon that.

Certainly once we have got the inspector's report from the Land Use Plan inquiry, then we will have more information and be able to deal with that at that point, and I think in that case the two points specifically you were making unless I misunderstood.

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**Mr McKinley:** I did ask one question about housebuilding in the green belt.

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**Mr Birmingham:** Yes, certainly; you are quite right, my mistake. I think we dealt with that last year in the 2016 portion of the Land Use Plan inquiry. What we actually fundamentally did there was strengthen the controls for housing development within the designated area. Previously, any individual Land Use Plan inquiry could come forward and request a rezone of a piece of land for residential development, but there were no criteria under which ... how you would assess that application. What we did was we put in a series of very strong criteria. I cannot remember the full list at the present moment in time, but for the Committee to even consider supporting the release of green belt land for residential development a series of other steps would have to be passed in relation to proof that there was no other land available for residential development, fundamentally.

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I would direct you to the Land Use Plan. The current one has many of the policies that were discussed last year and formulated last year, and if you look at the relevant section of the Land Use Plan you will see the very strict controls that have been put in place in terms of release of land for residential development. Also, the Plan very clearly does state that the Committee does not support the increase in the number of residences within the designated area.

I hope that answers the questions.

**The President:** Thank you, Mr Birmingham.

Does any other Member have a question for Mr Birmingham with regard to the report? Mrs Paris.

**Mrs Paris:** Thank you, sir, colleagues.

I should like to ask Mr Birmingham a couple of specific questions about section 1, part (1), which is about the removal of the States' blanket exemption from the need to make a planning application for any development or work, except for some exemptions for routine maintenance work. I would like just to say that I approve of that in itself. I think the States should not be above its own laws. It is both bad practice and it sets a bad example. However, reading around your report I do have some concerns. These are particularly with our lack of manpower and lack of money –

**The President:** Mrs Paris, could you please get to the question.

**Mrs Paris:** Yes, certainly, sir. I would like to ask does he feel that what he is suggesting is appropriate for a jurisdiction of the size that we are. We look at the environment impact assessments and there are 40 separate headings and 20 separate bodies who may have to be asked about what one is doing. Some of those bodies are in fact us, the States, and I would just ask how is this going to work and, as a States, how are we going to try and continue with our work on the Island's infrastructure improvement if the enhancement of the planning laws becomes so very complex.

**The President:** Thank you, Mrs Paris.

Mr Birmingham.

**Mr Birmingham:** Yes, it is a valid question. I think you have to take into consideration actually the scale of the project or any projects that we are talking about. There are a number of day-to-day operational matters, that particularly General Services deal with, that are actually covered under the 2007 exemptions Ordinance, but again the problem tends to trip us up here where it applies in the general building area but then does not apply in conservation areas and the designated area, and many of those things are very understandable things that you would require exemptions on – issues like coastal defence work and things like that.

**Mrs Paris:** Could I just have a point of –

**The President:** Point of order, yes. Please rise.

**Mrs Paris:** Well, of information, really. Taking a quotation out of the Environment and Impact Assessment, it actually states ... Well, the guidelines very clearly say that even routine maintenance of coastal work to combat erosion will fall into the requirements for a basic environmental infrastructure assessment.

**The President:** Thank you, Mrs Paris.

565 **Mr Birmingham:** And I am sure you have read the environmental impact assessment proposal and you will notice that it covers three levels: no environmental assessment at all; what is called a 'light touch' assessment, which is effectively a self-assessment; and then full-blown environmental impact assessment in circumstances where it is deemed necessary.

I would say it is pretty likely that in most of the day-to-day operational work of the GSC you will be talking about certain situations where the light touch is what will be required and it would be for all the utilities firms. I will give an example very recently of something where perhaps it might have been useful if there had been some light touch EIA work particularly of the trench down at the Nunnery.

575 The idea is not to burden the Island with too much red tape, but it is to realise that in certain circumstances we do need to undertake certain checks and balances, particularly in areas where we know that there are areas of sensitive archaeology or areas where we know that there is a sensitive natural environment. One of the advantages of the current Land Use Plan policy is that – well, certainly the Land Use Plan that is coming forward, I should say – we have a natural environment strategy that actually lists some of the key natural environments on the Island. So  
580 actually, we now know when we should be saying, 'Hold on a minute, we do need to be careful in this area.'

I think it is going to be rare circumstances when a full-blown environmental impact analysis would be required. I think we are talking about some very large-scale projects there in terms of something brought forward as a States infrastructure. Perhaps the most likely might be –

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**The President:** Mr Birmingham, could you make clear what is your opinion and what is fact. This is about the report. If you are going to state opinion, please say so.

**Mr Birmingham:** Okay, yes. Well, in my opinion, I think it is unlikely that we would be imposing  
590 the full-scale environmental impact assessment on many occasions. That would be my view.

**The President:** Thank you.

Does any other States Member have any questions for the Chairman? Mr Dean, I believe you have a question for him.

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**Mr Dean:** Mr President, fellow States Members, obviously your report, Matt, was the start of a green paper. I took the trouble to have a look and was pleasantly ... well, not pleasantly, just surprised when it actually stated what a green paper was:

A green paper is a report of Government proposals that is published in order to provoke discussion.

Judging by the People's Meeting, it did just that.

600 I think it is important to clarify that this report is open to consultation and changes and this is the Committee's first draft and it is far from a finished article – would that be correct?

Also, the fact that P&F Committee have not come back with any comments yet – is that correct?

605 And in the same way that Norma has just flagged up, that the General Services certainly need to have some comments into this report.

**The President:** Thank you, Mr Dean.

**Mr Birmingham:** Thank you, my erstwhile Deputy Chair, for making those questions.

610 As you point out, yes ... and I think actually this is partially my fault: I do not think I stressed enough that this is a green paper proposal. I think that might have helped in terms of public understanding.

615 It is only a draft, as you quite rightly mention. As I say, we will be going through a full process  
of consultation on this and, as I pointed out, some of what is going to be occurring perhaps in the  
final form will be relevant though the Land Use Plan inquiry, and until we have had some feedback  
on certain areas like that we ourselves in the Committee will not know what that final ordinance  
looks like. So yes, it is only a draft and thank you for raising that.

620 So far, has there been any feedback from Policy and Finance? Not yet. We asked them for a  
consolidated response. I believe at the present moment it's for the members of P&F to funnel  
their responses to the Chief Executive, who will make a consolidated response back to the BDCC.

625 And likewise, yes, we definitely do need feedback from GSC. As the GSC has pointed out and I  
did mention, it is important that we do not end up in a situation of unintended consequences  
again and we end up tying the hands of the GSC when they have got fundamentally important  
work that might require doing. But we do have, as I just mentioned, the 2007 exemptions  
ordinance. I think downstream from this work we would want to go through that and ensure that  
all areas are covered, but it is fairly comprehensive and that has gone to certainly members of the  
Civil Service for their view as to whether there are other bits that needed adjusting in terms of  
that ordinance. The response that we have had so far on that has been that they are fairly content  
that it contains most of the exemptions that would be needed, and I believe the same is true of  
630 certainly AEL, who are obviously one of the major public utilities providers on the Island. In fact I  
think, as was mentioned in the Convener's Report, the managing director of AEL is very supportive  
of the proposals that the Committee are making towards removing section 67 – which applies,  
yes, specifically to the States, but a part of it also applies to public utilities companies.

635 **The President:** Thank you, Mr Birmingham.

**Mr Dent:** Point of information?

640 **The President:** Can you just wait? There are three Members who have not asked a question. If  
you are going to ask another question, it should specifically relate to the answer which he has just  
given you.

**Mr Dent:** A point of information relating to –

645 **The President:** A point of order?

**Mr Dent:** Yes, a point of order, or information. Thank you, Mr President.

650 I just wanted to point out that P&F Members were asked to forward their comments by  
31st July to the CEO and he would collate them. It is an important thing to note. Thank you.

**The President:** Do any of the remaining three States Members who have so far not asked a  
question wish to do so? Do any States Members wish to ask the Chairman a question relating to  
his last response? In that case, Item II is now closed.

655 That being the final Item on the Billet, Mr Greffier, if you would bring the meeting to a close.

**PRAYERS**

*The Greffier*

*The Assembly adjourned at 6.23 p.m.*