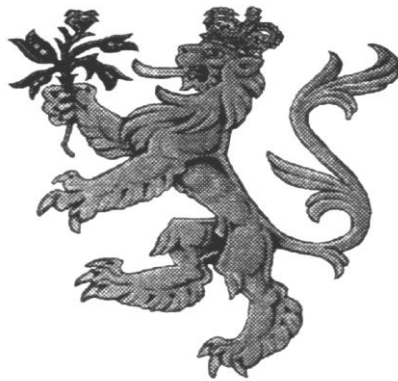


**STATES OF ALDERNEY**



**BILLET D'ETAT**

WEDNESDAY 14<sup>TH</sup> MARCH 2018

Price: £2.10

## **STATES OF ALDERNEY**

### **BILLET D'ETAT**

### **FOR WEDNESDAY 14<sup>TH</sup> MARCH 2018**

Members of the States:

I have the honour to inform you that the Meeting of the States will be held at 5:30 pm on Wednesday 14<sup>th</sup> March 2018. This will be preceded by the People's Meeting, which will be held on Wednesday 7<sup>th</sup> March 2018 at 7:00 pm in the Island Hall.

W Stuart Trought  
President

#### **Item I**      **Chief Pleas**

**Persons whose names are included on the Register of Voters and who have given due notice will address the States on matters of public interest.**

#### **Item II**      **The Speed Trials (Alderney) Ordinance, 2018**

**The following letter was received from Mrs Paris, Chairman of the General Services Committee:-**

*"I am pleased to be able to report that the Guernsey Kart and Motor Club applied to the General Services Committee for permission to organise a three-day Sprint and Hill Climb event from the 13<sup>th</sup> to the 15<sup>th</sup> September this year. The Committee, having delegated permission to the Chief Executive's office, has noted the times and dates of the event and raised no objection. The necessary Ordinance has been prepared.*

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

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

*I would be grateful if 'The Speed Trials (Alderney) Ordinance, 2018' could be placed before the States of Alderney at its next meeting together with an appropriate proposition.*

*Norma Paris, Chairman"*

**The States of Alderney is asked to approve "The Speed Trials (Alderney) Ordinance, 2018"**

**Item III**      **The Alderney eGambling (Amendment) Regulations, 2018**

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

*"The States of Alderney at its January meeting approved "The Alderney eGambling (Amendment) Ordinance, 2017", which introduced a fourth category of licence to allow for business outside of the Bailiwick to obtain an associates licence and able to deal directly with gambling customers (B2C Associate).*

*The Alderney eGambling (Amendment) Regulations, 2018 amend the 'Alderney eGambling Regulations, 2009' primarily to provide for the introduction of the Category 1 associate certificates and were made by the Commission on 11<sup>th</sup> January 2018 (when they came into force).*

*I would be grateful if you would place the Alderney eGambling (Amendment) Regulations, 2018 before the next meeting of the States of Alderney pursuant to Section 27(1)(c) of the Alderney eGambling Ordinance, 2009 with an appropriate proposition.*

*James Dent, Chairman"*

**The States of Alderney is asked to resolve that 'The Alderney eGambling (Amendment) Regulations, 2018' not be annulled.**

**Item IV**      **Land Use Plan Review 2017 – Approval in Principle**

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

*"Under Section 25 of the Building and Development Control (Alderney) Law, 2002 (**The Law**) the Building and Development Control Committee (**The Committee**) is required to review the Land Use Plan (**The LUP**) every five years.*

*The States approved the current LUP on 20 July 2016 after completion of the first phase of the Committee's 2016-17 review. The new Land Use Plan which is now presented to the States for approval will replace entirely the LUP which was approved by the States on 20 July 2016.*

*The Committee first published the revised draft Plan for public consultation on 12 June 2017 as part of the second and final phase of its review. The revised, final draft LUP 2017 consolidates the work which was completed in Phase 1 of its review in 2016 i.e. confirms the vision for the Island, guiding principles for development, the Plan outputs and housing policies. It also proposes new policies which have been*

*derived during Phase 2 of the review from the economic, environmental, heritage strategies (published in draft in June 2017 and revised in November 2017 after the Planning Inquiry) and developed from the evidence gained and stakeholder input throughout the nearly three years of review.*

*The requirements of Section 23 and 25 – 28 of the Law have been complied with. In particular, an independent Inspector Mr Michael Hurley was appointed to conduct a Planning Inquiry into the Land Use Plan and the Committee's proposals. The Inquiry took place from 4-15 September 2017. The Inspector's report was received and published on 4 October 2017.*

*Having since carefully considered the Inspector's report with its advisers ARUP, the Committee has revised the consultation draft LUP. Most of the Inspector's principal recommendations have been adopted and many important revisions of wording in the Plan have also been made in accordance with the Inspector's recommendations.*

*For ease of reference, the Committee has published a schedule which summarises each of the Inspector's forty-nine recommendations, the Committee's responses and the changes made to the draft Plan. For each of the recommendations, it provides the references to the page numbers and paragraphs in the Inspector's report and the LUP page, policy and paragraph references. The Inspector's report is also published on the Billet as the Law requires.*

### **Conclusions**

*The new Plan is the outcome from nearly three years work from all those involved who are acknowledged in the Plan, and has benefited enormously from the active participation of the public and stakeholders throughout its preparation. The Committee wish to place on record its thanks for their contribution which has ensured the Plan is of such high quality.*

*The Committee is convinced the new Plan will provide a robust and appropriate framework for all future planning decisions and will prove to be of huge benefit to the people of Alderney for many years to come.*

*The Plan provides for the right balance between the preservation of the Island's unique heritage and environment and meeting the Island's future economic and community needs. It fulfils most of the objectives of the 2014 Planning Review. The policies now proposed have been closely scrutinised at two Planning Inquiries and have been subject to extensive public consultation.*

*The Committee strongly believe it is in the overwhelming public interest that the planning system has in place a secure and robust framework of policy and law which is fit for purpose and able to cope with the challenges for future years. One which provides the tools for our decision makers to make decisions which can guide future development towards that which our island community needs and can gain real benefit from while at the same time discouraging development which is not in the public interest.*

### **Effect of proposed Law changes**

*The Land Use Plan includes new policies which will be dependent for implementation on changes to the Building and Development Control (Alderney) Law, 2002, which are proposed to be made by the Ordinances presented by the Committee for adoption to the current States meeting.*

*These Law changes have also been subject to an extensive and comprehensive public consultation since June 2017 separate and additional to the Planning Inquiry which is explained in later on in the Billet. The Committee has been advised that the States should first debate and approve the proposed Law changes before formally*

*approving the Land Use Plan 2017 in pursuance of Section 29 of the Building and Development Control (Alderney) Law, 2002 .*

*Therefore the Committee first seek an “in –principle” approval of the Land Use Plan via a resolution to the States which will enable the States to debate and decide on the Land Use Plan before the debate on the Law Change. Then the Committee will seek States approval to a resolution to formally approve the Land Use Plan.*

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

*Matt Birmingham, Chairman”*

**NB** *The Summary of the Inspector’s recommendations is attached to this Billet. The 2017 Land Use Plan Document and the Inspector’s Report are both available for viewing at the States Offices and in the Library, and are available online at [www.alderney.gov.gg](http://www.alderney.gov.gg).*

*The Committee has also published an updated video. The LUP team explain the background, purpose and changes to the Plan since the LUP video was published in July 2017. The new video runs for 20 minutes and can be viewed online at [www.alderney.gov.gg/PlanningandBuilding](http://www.alderney.gov.gg/PlanningandBuilding). Alternatively, if viewing online use this electronic link:-  
<https://www.youtube.com/watch?v=QgQOhB1nrQ8>*

The States of Alderney is asked :-

1. To agree in principle to the approval of the Land Use Plan 2017 subject to prior approval of:-
  - i. The Building and Development Control (Alderney) (Amendment) Ordinance, 2018
  - ii. The Building and Development Control (Designated Area) (Alderney) Ordinance, 2018
  - iii. The Building and Development Control (Exemptions) (Alderney) (Amendment) Ordinance, 2018, and
  - iv. The related amendments to the States of Alderney Rules of Procedure
2. Only if proposition 1 on this item is defeated, to direct the Building and Development Control Committee to return to the States of Alderney as soon as possible with advice on the implications of that decision of the States of Alderney for the review of the Land Use Plan, and the proposed amendments to the legislation referred to in proposition 1, taking into account any relevant requirements under the Building and Development Control (Alderney) Law, 2002.

#### **Item V      Building and Development Control Legislative Changes**

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

**“Building and Development Control Legislative Changes:-**

1. *Building and Development Control (Alderney) (Amendment) Ordinance, 2018*
2. *Building and Development Control (Designated Area) (Alderney) Ordinance, 2018*

3. *Building and Development Control (Exemptions) (Alderney) (Amendment) Ordinance, 2018*
  
1. ***Building and Development Control ((Alderney) (Amendment) Ordinance, 2018***

### ***Background to Law changes with the LUP process***

*In September 2015, the Building and Development Control Committee (**The Committee**) were advised that some of the planning policies in the 2011 Land Use Plan and historic planning decisions were inconsistent with the Building and Development Control (Alderney), 2002 (**The Law**) which was out of date and needed urgent revision. For example there had been no Designated Area Ordinance approved by the States for many years, a matter which the Committee rectified on 20 April 2016 before the 2016 LUP was submitted to the States for approval.*

*The Land Use Plan Review commenced in October 2015. It was realised some of the new LUP policies would require changes to the law confirming ARUP's recommendations in their 2014 Planning Review. A complete review of the Law required a Project de Loi but this could not be progressed on the same timetable as the Land Use Plan. The Committee decided with the Law Officers' agreement to progress those law changes which could be made by subordinate legislation through the States and to do so in parallel with the Land Use Plan Review.*

### ***Law changes progressed to date in connection with the LUP***

*The Committee have progressed changes in parallel with the Land Use Plan. So far four amending Ordinances have been approved. The Building and Development Control (Alderney) (Amendment) Ordinance, 2016 was approved by the States with Phase 1 of the Land Use Plan on 20 July 2016. This made procedural improvements, provided for planning consents to run with land, repealed the C Permit rules from 1 January 2017, provided greater flexibility for changes to existing dwellings in the designated area; it also added new material considerations for planning applications relating to biological diversity and sustainable development and provided for supplementary planning guidance in relation to LUP policies. The Building and Development Control (Alderney) (Amendment No. 2 and Fees) Ordinance, 2016 was approved in December, 2016 which made further amendments relating to the obtaining by the Committee of environmental impact assessments and other expert reports at the planning application stage. Subsequently the Building and Development Control (Alderney) (Amendment) Ordinance, 2017 was approved by the States on 14 June 2017 which provided an express power for environmental and heritage policies to be included in the LUP, enabled technical changes to the format and presentation of the LUP and enabled the Committee to issue procedural guidance on provisions of the Law.*

### ***Consultation Process on the Draft Ordinance***

*The Committee have ensured the substantive (policy) law changes which are required by new LUP policies have been subject to extensive public consultation at the same time as the LUP.*

*After the consultation draft LUP was published on 12 June 2017, a draft Building and Development Control (Alderney) (Amendment No 2) Ordinance, 2017 was published with a green paper on 31 July 2017 which introduced changes effecting the designated area. It was open to public representations until 4 September 2017. A large number of the written representations to the Planning Inquiry included comments about these proposed law changes. The Committee*

*extended the public consultation to 1 December 2017 and received over 320 representations. On 8 December 2017 the Committee instructed that changes be made to the draft legislation in response to the public comments. With the States not electing the new Committee until 10 January it was not until 17 January 2018 that these representations were published, redacted of personal information, via the States of Alderney website together with a new policy paper which set out in details the result of the consultations and the Committee's intentions to make changes.*

*The Committee sent this policy paper to every person who had made representations with an invitation to attend a personal surgery meeting with the Committee. A total of 26 meetings took place between 29 January and 8 February 2018 when the amended draft Ordinance was discussed. This required over 40 hours of individual discussion with approximately 35 people who had made representations. One meeting was held with representatives of the Alderney Wildlife Trust and Alderney Society.*

*Two follow up meetings were held, the Chairman leading every surgery meeting. On 2 February 2018 the revised draft Ordinance was published subject to final consultation. This resulted in further comments being received. On 16 February 2018 a third and final draft Ordinance was published in advance of the March Billet.*

### **Summary of proposed changes in this Ordinance.**

*The draft legislation revises Section 12 of the existing Law which prohibits the Committee from granting a planning application for development of other work in the designated area to which section 12(1) applies unless it falls within the exceptions listed in a new Schedule 1. This list includes pre-existing exceptions, together with the addition of minor developments which have previously been allowed notwithstanding their absence from the Law, the addition of States and Utilities infrastructure developments consequent on the removal of the disapplication for such developments from the need to make planning applications (amendment of Section 67 and other changes), and a new provision to allow the States by resolution to make an exemption for other developments which are judged by States resolution to be of strategic importance to the Island. It is this new provision which has attracted comment.*

*The Committee have added very significant procedural safeguards to the draft which will apply to the use of this power - see new S12A. The draft law sets out extensive requirements which the Policy and Finance Committee will have to comply with to obtain a States resolution which enables such an application to be considered by the planning system. This includes a requirement that an independent assessment that the evidence is objective, credible and robust is undertaken and a related amendment to the States rules of procedure. The provisions are set out in new Section 12A(2) to (5). The criteria for such a resolution (new Schedule 1, para 13) have also been revised and will work in close harmony with revised LUP policy S7B following the Inspector's report, to set more exacting criteria for such developments.*

*The most significant change to the Ordinance is the inclusion of provisions providing for a Planning Inquiry into an application. This provision is similar to provisions in Jersey, the UK and elsewhere but Guernsey currently has no such provision. The Committee may request the President to appoint an Inspector to hold an Inquiry into any application which it considers to be very significant for the Island and which has been subject to objections. If such application is in the designated area and the Committee could only permit it because the States have resolved the development is of strategic importance then the Committee must request the President to appoint an Inspector to hold an inquiry and this applies whether or not any objections have been received.*

*The rules for the conduct of the Planning Inquiry are set in new section 15A and Schedule 3. The Committee will set the Inquiry terms of reference which must include the mandatory requirements set out in paragraph 2 of Schedule 3. Essential to the application inquiry will be the Inspector's opinion whether the application complies with LUP policies (Including S7B). If not the Inspector has to make recommendations in relation to whether the departure is a minor departure from a LUP policy. If it is not a minor departure from the LUP a second Planning Inquiry would have to be held, if the Committee wanted to grant permission, into a change of the Land Use Plan. These new safeguards are considered to be extremely robust.*

*The draft also provides a power for the Committee to consult persons or bodies having special knowledge in relation to a planning application.*

*Having completed extraordinary consultation, the Committee consider this draft Ordinance, which is in part necessary in relation to the policies of the Land Use Plan 2017, is now ready for submission to the States for approval.*

## **2. Building and Development Control (Designated Area) (Alderney) Ordinance, 2018**

*Having completed the review of the Land Use Plan 2017 under Section 25 of the Building and Development Control (Alderney) Law, 2002 (the Law), the Building and Development Control Committee (the Committee) pursuant to Section 12(1) of the Law propose that the States designate the areas shown in the Ordinance as being areas within which permission to carry out any development or other work referred to in Section 4 of the Law shall not be granted by the Committee under the provisions of Section 6 of the Law.*

*It is proposed that the draft Ordinance "The Building and Development Control (Designated Area) (Alderney) Ordinance, 2018" repeals and replaces that approved by the States of Alderney on 20 April 2016 and accords with the draft Land Use Plan 2017 (the LUP). It includes the following changes of site boundaries within the designated area which are detailed in the LUP, pages 3-4 and 3-7.*

- **Land immediately to the west of La Corvée Industrial Estate:** to ensure continuity between the Industrial Estate and the remainder of the Central Building Area.
- **The Barn and surrounding land, Longis:** to reflect its established use as a restaurant and retail premises.
- **The Arsenal, Château à L'Etoc, and Platte Saline Battery:** to reflect opportunities for future conservation and re-use (in line with Policy BA11).

## **3. Building and Development Control (Exemptions) (Alderney) (Amendment) Ordinance, 2018**

*Following the Completion of the draft Land Use Plan 2017 and draft Building and Development Control (Alderney) (Amendment) Ordinance, 2018 further Ordinances are required to allow the changes embodied in the Land Use Plan and as a consequence of changes in the main amending Ordinance.*

*The amendment of Section 67 and the definition of "development" to remove the disapplication of provisions of the Law relating to planning applications and the Land Use Plan to the States and public utilities has required a review of the exemptions Ordinance. This has been carefully reviewed with the Law Officers concurrently with the drafting of exceptions to the designated area provisions*



*(Schedule 1 of the main amending Ordinance) to make sure that there are no inconsistencies. The policy intention of the new CATEGORY 5 relating to development by the States and public utilities of the revised Ordinance is that new infrastructure projects and significant enhancements will require a planning application to be made and decided against the new LUP policies, but day to day maintenance and repair work of essential utilities will be able to proceed without unnecessary delay.*

*The revised Ordinance makes some adjustments to the other categories in order to align the exemptions Ordinance with the new Land Use policies including the removal of certain exemptions.*

*The existing Ordinance was last approved in 2007 based on Guernsey exemptions. Following the completion of the Planning Inquiry in September 2017, it has been adapted for Alderney requirements in detail by the former Planning Officer, James Lancaster of AEL Ltd and Aaron Bray representing States works. It was published on 17 January 2018 on the States website for consultation and no comments have been received*

*The Committee considers the exemptions Ordinance which is required as a result of the amendments to the Law and by the Land Use Plan is ready for submission to the States for approval.*

*I would be grateful if you would place these matters before the March meeting of the States of Alderney with an appropriate proposition.*

*Matt Birmingham, Chairman”*

**The States of Alderney is asked, only if proposition 1 on Item IV is approved –**

**1. To approve:-**

- i. “The Building and Development Control (Alderney) (Amendment) Ordinance, 2018”;**
- ii. “The Building and Development Control (Designated Area) (Alderney) Ordinance, 2018”; and**
- iii. “The Building and Development Control (Exemptions) (Alderney) (Amendment) Ordinance, 2018”.**

**2. And only if proposition 1 on this item is defeated, to direct the Building and Development Control Committee to return to the States of Alderney as soon as possible with advice on the implication of that decision of the States of Alderney for the proposed amendments to the legislation and the review of the Land Use Plan, taking into account any relevant requirements under the Building and Development Control Law, 2002.**

## **Item VI      Rules of Procedure States of Alderney: Amendments**

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

*“At the January meeting of the Policy and Finance Committee it was agreed to recommend to the States a revision to the Rules of Procedure so as to ensure that any recommendation it makes to the States for a potential project to be regarded as*

*being of strategic importance, would have to be published, along with any relevant supporting evidence for at least 28 days before the matter was debated by the States.*

*The proposed revision to the Rules of Procedures is as follows:-*

- **Amend Rule 4 (a) (i) of States of Alderney Rules of Procedure (made under the Government of Alderney Law, 2004) after the first reference to “the President” insert ‘except for a letter to which 4A applies’;**
- **Immediately before Rule 5 insert the following new rule 4A:-**

**“Other matters for inclusion in the Billet and related President’s power to defer**

**4A.** (1) *This Rule applies to a letter to the President signed by the Chairman of the Policy and Finance Committee which refers to a resolution of the Policy and Finance Committee, approved by a quorate meeting of that Committee (whether unanimously or by a majority), to recommend to the States that they resolve that development or other work is of strategic importance under paragraph 13(1) of Schedule 1 to the Building and Development Control (Alderney) Law, 2002.*

(2) *The President shall publish –*

- (a) *a letter to which this Rule applies; and*
- (b) *any other matter required to be laid before the States, under section 12A(3)(a) of the Building and Development Control (Alderney) Law 2002,*

*as soon as reasonably practicable after he has received all such matters from the Policy and Finance Committee and in such manner as the President considers appropriate to bring them to the attention of Members of the States and the public.*

(3) *A letter to which this Rules applies and any other matter required to be laid before the States, under section 12A(3)(a) of the Building and Development Control (Alderney) Law, 2002 shall, subject to paragraph (4), be included in a Billet d'Etat for the first meeting of the States occurring after –*

- (a) *the letter and other matters referred to in paragraph (2) have been published by the President for a period of 28 days in accordance with this Rule; and*
- (b) *the Policy and Finance Committee has published the evidence and other documents required to be published in accordance with section 12A(3)(b) of the Building and Development Control (Alderney) Law, 2002, for the period of 28 days required by that section.*

(4) *The President may, if he gives notification to the Chairman of the Policy and Finance Committee of the reason before the Billet d'Etat is prepared, defer inclusion of a letter to which this Rule applies until the Billet d'Etat convening the second meeting of*

*the States occurring after the requirements of paragraph (3) are met.*

(5) *The period of 28 days referred to in paragraph (3)(a) shall start from the date of publication under paragraph (2) and shall not include the day of the meeting of the States.*

(6) *In this Rule "**development**" and "**other work**" shall be construed in accordance with the Building and Development Control (Alderney) Law, 2002."*

- **In the definition of "President" in Rule 25, after "4," insert "4A."**

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

*James Dent, Chairman"*

**The States of Alderney is asked, only if proposition 1 on Item IV and proposition 1 on Item V are approved, to approve in exercise of their powers to prescribe rules of procedure applicable to meetings of the States under section 45(1) of the Government of Alderney Law, 2004, that the following amendments are made to the States of Alderney Rules of Procedure, as amended:-**

- (a) **in Rule 3 (3 day-Billet) after "any matter" insert "(except for a letter to which Rule 4A applies)";**
- (b) **in Rule 4(a)(i) (Matters for inclusion in the Billet), after the first reference to "the President" insert ", except for a letter to which Rule 4A applies,";**
- (c) **immediately before Rule 5 (Billet to Bailiff) insert the new rule 4A as set out in this item above;**
- (d) **in the definition of "President" in Rule 25, after "4" insert "4A".**

#### **Item VII      Land Use Plan 2017 – Formal Approval**

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

*"With reference to Items IV, V and VI, and subject to the approval of these items, I would then like to ask the Members to give their formal approval for the 2017 Land Use Plan in its entirety.*

*Matt Birmingham, Chairman"*

**The States of Alderney is asked, only if proposition 1 on Item IV, proposition 1 on Item V and the proposition on Item VI are approved -**

- 1. To approve, under section 30 of the Building and Development Control (Alderney) Law, 2002, (the Law), the Land Use Plan 2017 prepared under Part IV of the Law in replacement of the Land Use Plan approved by the States of Alderney on the 20<sup>th</sup> July 2016.**

2. **And only if proposition 1 on this item is defeated, to direct the Building and Development Control Committee to return to the States of Alderney as soon as possible with advice on the implications of that decision of the States of Alderney for the review of the Land Use Plan and the approved amendments to the legislation and taking into account any relevant requirements under the Building and Development Control (Alderney) Law, 2002.**

**Item VIII**    **Questions and Reports**

No Questions or Reports received.

**Issued: 2 March 2018**