

**Subject** Alderney Land Use Plan 2017 – Summary of Inspector's Recommendations

**Date** 8 December 2017

## Alderney Land Use Plan 2017 – Summary of Inspector's Recommendations

Ref	Inspector's Report Page	Inspector's Report Paragraph	LUP 2017 Page	LUP 2017 Section / Policy / Paragraph / Figure / Table	Recommendation	Response and Action
1	6	19	General	General	Recommend against using the words "will be permitted" in policies - should instead be "may be permitted" or "must be satisfied".	In general, "will be permitted" has been changed to "may be permitted" where it retains the policy intention.
2	7	23	1-8	Para 1.38	Text added to para 1.38, as follows: "In particular, Statutory Guidance 01/17 sets out the circumstances in which an Environmental Impact Assessment will be needed, and what it should contain. Statutory Guidance 02/17 deals with proposals for Major Projects."	The recommended change has been made to paragraph 1.43 (was paragraph 1.38), excluding document references (01/17 and 02/17) as these references may change in the future. The sentence therefore reads: "In particular, statutory guidance has been issued which sets out the circumstances in which an Environmental Impact Assessment will be needed, and what it should contain. Statutory guidance has also been issued which deals with proposals for major projects."
3	8	27	2-3	Para 2.11; Glossary	Amendments in relation to use of the term 'second homes' - amendments in line with document OD24 (Written version of the statement made by Mr Evans in response to submissions made by Mr James).	The recommended change has been made. (On Change Log – ref. 6)
4	10	39	3-3	Table 3.1	Amendments to Table 3.1 to show a net change of +120 households over the Plan period, and a total of 1,120 households at the end of the Plan period in 2022.	The recommended change has been made. (On Change Log – ref. 8)
5	11	47	3-4	Section 3.5	Section 3.5 to be modified by the insertion of additional text to explain and justify proposed changes to the boundary of the Designated Area and Building Areas (at La Corvée, The Old Barn, Château à L'Etoc, The Arsenal and Platte Saline Battery).	The recommended change has been made. These changes will be subject to the Designated Area Ordinance, 2018.
6	12	52	3-5 and others	Figure 4.1; Figure 4.2; Figure 4.4 (was Figure 4.3); Figure 4.5 (was Figure 4.4); Land Use Plan Map; Land Use Plan Map: St Anne	Recommendation against the inclusion of the eastern part of Braye Bay within the Designated Area; retention of the Designated Area boundary in this location as shown in the LUP 2016.	The recommended change has been made.
7	14	61	4-52	Figure 4.5 (was Figure 4.4); Land Use Plan Map	L' Ancienne Ferme to be retained in the Designated Area, but included in the Agricultural Zone.	The recommended change has been made. (On Change Log – ref. 31)
8	15	65	3-9	Policy S2	Policy S2 to include a cross-reference to Policy NE2, which deals more particularly with flood risk.	The recommended change has been made. (On Change Log – ref. 10)
9	21	96	3-17	Policy S7	Policy S7 to be amended as follows: "A Development proposals of such a nature that they are likely to be of significance for the whole of, or a significant part of, the Island, or which the Building and Development Control Committee considers to be very significant for the Island in any other way, located wholly in the Building Area, may be permitted where: i. the need for the development is demonstrated, including that the type, nature and scale of development represents the most appropriate solution for meeting the identified need; ii. the development is demonstrated to be in the long term public interest; iii. there is no alternative site available that is more suitable for the proposed development;	The recommended change has been made. Note, to ensure consistency a small change has been made to the wording suggested in the Inspector's report, so that criteria ii of Part B of the policy reads: "the long term public interest arising from the development proposal outweighs the harm that would be caused by development in the Designated Area." (On Change Log – ref. 13.)

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					<p>iv. the proposal accords with the vision and guiding principles of the Land Use Plan; and</p> <p>v. the proposal accords with any other policies in the Land Use Plan relevant to the proposal.</p> <p>B Development proposals of such a nature that they are likely to be of significance for the whole of, or a significant part of, the Island, or which the Building and Development Control Committee considers to be significant for the Island in any other way, located wholly or partially in the Designated Area, may be permitted where:</p> <p>i. they comply with the requirements of Part A of this policy; and</p> <p>ii. the long term public benefit to the Island arising from the development proposal outweighs the harm that would be caused by development in the Designated Area."</p>	
10	21	96	3-17	Para 3.67	<p>Amendment para 3.67 to read: "As paragraph 3.13 of this plan states, the purpose of the Designated Area is to restrict development. A major development project in the Designated Area would therefore entail more than a minor departure from the Land Use Plan. If the Building and Development Control Committee were disposed to approve an application for such a project, that would engage section 31(2) of the Building and Development Control (Alderney) Law, 2002. This makes provision for a Planning Inquiry to be convened, as if the application were a proposal by the Committee for an alteration or addition to the Land Use Plan."</p>	<p>As discussed during the Land Use Plan inquiry, the possibility of requiring a planning application inquiry (which does not currently exist on Alderney) for major development in the Designated Area was discussed. The Inspector's recommended amendment is a response to this discussion, aimed at ensuring there would be a Land Use Plan inquiry on such development (in the absence of a planning application inquiry). However, this proposed amendment would necessarily require there to be changes to a new or emerging Land Use Plan in order for these to be examined at a Land Use Plan Inquiry. It is however quite possible that a major project would be in accordance with the currently adopted Land Use Plan.</p> <p>To avoid the potentially perverse situation outlined above, the Building and Development Control Committee propose to make legal amendments which would include provisions for a planning application inquiry. This is in keeping with procedures for major projects in comparable planning regimes elsewhere. The Building and Development Control Committee will also be proposing an appropriate application fee scale for major projects to ensure sufficient expertise and capacity is put in place to support the States of Alderney in handling such planning applications.</p> <p>A planning application inquiry would involve the appointment of an independent planning inspector. They would convene public hearing(s) and produce a report with a recommendation to the Building and Development Control Committee.</p> <p>A longer term aspiration of the Building and Development Control Committee is a modernisation of the planning law. In the interim it is accepted that an application specific inquiry may then result in a need for a Land Use Plan inquiry.</p> <p>On this basis, it is considered that the Inspector's recommended amendment (designed to ensure a Land Use Plan inquiry in the absence of a planning application inquiry) is not required. The recommended change has therefore not been made.</p>
11	22	97	4-1	Para 4.4	Deletion of para 4.4.	<p>The recommended change has been made. (Change Log ref. 15 originally suggested amendment of this text rather than deletion; the Inspector's recommendation has been applied.)</p>
12	22	98		Figure 4.1; Land Use Plan Map	Amendment to rectify omission of tarmacadam plant as an Industrial and Storage Site/Premises.	<p>The recommended change has been made. This change also has consequential changes for the Economic Development Strategy. (On Change Log – ref. 17)</p>
13	25	118	4-21	Policy BA7	Additional Part C to read: "If proposed retail development cannot be accommodated in Victoria Street, it should be encouraged to be located in Braye."	<p>The recommended change has been made, with some minor amendments to the suggested wording to ensure consistency, so it reads: "Where proposed retail development cannot be accommodated in Victoria Street, the Braye area is the preferred secondary location." (On Change Log – ref. 22)</p>

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14	26	119	4-23	Para 4.45	Additional words <i>"and will not be permitted in Victoria Street"</i> be added to the third bullet point in para 4.45.	The recommended change has been made. (On Change Log – ref. 23)
15	28	132	4-33	Figure 4.4 (was Figure 4.3)	BOA11 in Figure 4.3 to be extended to include the eastern part of Braye Bay.	The recommended change has been made to Figure 4.4 (was Figure 4.3); a number of small subsequent changes have been made to the supporting text and description of the existing character of BOA11 to reflect this change. Braye Beach has also be removed from the list of beaches covered in the Recreation and Open Space Zone in Section 4.13, reflecting that the entirety of the beach now falls within the Building Area.
16	28	134	4-32; 4-33	Table 4.4; Figure 4.4 (was Figure 4.3)	Figure 4.3 to be amended by the exclusion from BOA 12 (Braye Beach and Common) of land safeguarded for the expansion of outdoor sports facilities for use by St Anne's School; Table 4.4 of the draft LUP be amended by the deletion of the first sentence of the Development Principles for BOA 12.	The recommended change has been made. Further amendment to amend Part C of Policy BA13 to add an additional sentence after the first sentence which reads: <i>"Any new, extended or reconstructed buildings, structures or works at Braye Common may be permitted where it is demonstrated that they are essential facilities for this purpose and they are: of a high design quality; sympathetic to the built and natural environment surroundings; and do not result in new overlooking."</i> (On Change Log – ref. 26.)
17	30	145	4-38	Table 4.5	First paragraph of the Development Principles for OA 4 (The Arsenal) to be amended to read: <i>"Development proposals for new buildings for serviced visitor accommodation will be encouraged. Proposals for mixed use development including offices, industrial and storage uses, are likely to be acceptable. Residential development is likely to be resisted, except where it can be demonstrated that it would accord with Policy BA1."</i>	The recommended change has been made, with the exception of the inclusion of the word 'industrial' in the development principles. This is because the development of additional industrial uses would not reflect the Arsenal's significant opportunities. This does not impact on the existing industrial uses on the site or works to ensure their continued operation.
18	31	146	4-47; 4-48	Table 4.6	Text to be amended to make it clear that non-residential buildings must be ancillary to existing residential units.	The recommended change has been made. (On Change Log – ref. 28)
19	34	160	4-53	Figure 4.5 (was Figure 4.4)	Legend to be amended to include Recreation and Open Space Zone.	The recommended change has been made to Figure 4.5 (was Figure 4.4). (On Change Log – ref. 30)
20	35	169	4-59	Para 4.116	Deletion of para 4.116.	The recommended change has been made. (Change Log ref. 32 suggests amendment of this text rather than deletion. However, Recommended change 21 below meets the same purpose and so the Inspector's recommendation has been applied.)
21	35	172	4-59	Policy DA5	Additional text in Policy DA5 to read: <i>"There will be a presumption against the provision of unserviced visitor accommodation in the Designated Area outside the Unserved Visitor Accommodation Zone. The reconstruction of existing buildings in the Unserved Visitor Zone will not be permitted."</i>	The recommended change has been made in the form of an additional Part B and Part C; the recommended wording has been slightly amended to ensure consistency across the Land Use Plan. Part C also includes reference to extension of existing buildings not being permitted. (On Change Log – ref. 33)
22	36-37	178	4-60	Policy DA6	Policy DA6 B to be amended to read: <i>"Ancillary development may be permitted where it is demonstrated that it is needed to support agricultural/horticultural activities. However, a condition may be imposed, requiring the removal of the development permitted, on the cessation of either the ancillary use or the primary use to which it relates."</i>	The recommended change has been made; however, to ensure that Building and Development Control Committee have flexibility in the means by which they secure this the Inspector's wording has been modified to read: <i>"A condition (or other mechanism) may be used to require the removal of the development permitted, on the cessation of either the ancillary use or the primary use to which it relates."</i> (On Change Log – ref. 34)
23	37	178	4-65	Policy DA10	Policy DA10 C to be amended in a similar manner to Policy DA6.	The recommended change has been made to Part B (was Part D). (On Change Log – ref. 34)
24	37	178	6-29	Para 6.93	Para 6.93 (supporting Policy IW20) to be amended in a similar manner to Policy DA6.	The recommended change has been made. (On Change Log – ref. 34)
25	37	180	4-62	Policy DA7	Opening part of Policy DA7 to be amended to read: <i>"Development proposals for new, extended or reconstructed agricultural, horticultural or ancillary buildings in the Agricultural Zone should: i accord with Part A and Part B of Policy DA6 ..."</i>	The recommended change has been made. (On Change Log – ref. 35)

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26	38	186	4-53	Figure 4.5 (was Figure 4.4); Para 4.129	Addition of Clonque Bay to Recreation and Open Space Zone.	The recommended change has been made; it has also been included in the list of beaches in Figure 4.3. (On Change Log – ref. 39)
27	39	190	4-65	Policy DA10	Opening part of Policy DA10 D be amended to read: <i>"Development proposals solely for the purposes of public utility services outside the Utilities Zone may be permitted where they comply with the criteria set out in part A of this policy, and: ..."</i> .	The recommended change has been made to Part C (was Part D). (On Change Log – ref. 40)
28	40	194	4-66	Para 4.145	Amendment to para 4.145 to make it clear that waste consolidation at the Impot could come forward under the proposed Schedule 1 of the 2002 Law, or if designated as a major project.	The recommended change has been made. (On Change Log – ref. 42)
29	40	195	5-3	Policy HE1	Amend title to reflect that policy does not cover conservation areas.	The Committee accept the point made by the Inspector, but consider that amendment or paragraph 5.7 is a more effective method of clarifying what is covered by each policy. (See Change Log ref. 44)
30	40	196	5-3	Policy HE1	Delete the word 'registered' from the fifth line of Policy HE1D.	The recommended change has been made. (On Change Log – ref. 45)
31	43	215	5-7 - 5-10; B-7 - B-22	Policy HE2; Table B2.	Delete Policy HE2 and Table B2 of Appendix B, together with the supporting text.	The recommended change has been made. In addition, a reference to the list of significant historic assets included in the Built Environment and Heritage Strategy has been added to Section 5.2, reflecting that this information may be material to planning decisions. The BDCC will seek to undertake a programme of registration as and when resources permit. The glossary entry for "unregistered heritage asset" has also been deleted.
32	44	216	5-11	Policy HE3	Amend wording in Policy HE3 to reflect that used in section 46 of the 2002 Law.	References to "preserve and enhance" in Policy HE2 (was Policy HE3) have been changed to "preserve or enhance" to reflect the wording contained in the Law. (On Change Log – ref. 47)
33	45	222	5-15	Policy HE4	Amendments to Policy HE4: the word 'registered' be deleted from Policy HE4B; Policy HE4C be deleted; consequential amendments be made to Policy HE4.	The recommended change has been made. Reference to "special regard" has been removed from Policy HE3 (was Policy HE4) as it is a test set out in the Law relating to registered assets. Additional supporting text has been added to reflect the special regard which should be taken in relation to registered archaeological assets.
34	45	223	5-15	Policy HE4	Amend the first sentence of Policy HE4D to read: <i>"Development proposals affecting assets of archaeological importance must be accompanied by a written scheme of investigation. ..."</i>	The recommended change has been made. (On Change Log – ref. 50)
35	45	224	5-16; B-23 - B-28	Para 5.31; Table B4.	Archaeological assets which are located in Alderney's internal waters to be added to the list of Archaeological Assets in Appendix B4 of the draft LUP; with reference to this in paragraph 5.31.	The recommended change has been made. (On Change Log – ref. 66)
36	45	225	5-16	Para 5.32	Amend the second and third sentence in paragraph 5.32 to be replaced by the following: <i>"Consistent with the precautionary approach, where development is permitted and the archaeological context is unknown, planning conditions may be attached to the permission which set out the obligations on the developer should archaeology be identified on the site."</i>	The recommended change has been made. (On Change Log – ref. 51)
37	46	229	5-16	Para 5.32	New text to be added to paragraph 5.32 to clarify that, where information about archaeological assets not previously identified was brought to the attention of the Planning Office, this would be collated in a database; and if relevant to a planning application, the information in the database would become a material consideration in the determination of that application.	The recommended change has been made. (On Change Log – ref. 52)
38	52	261	5-21	Policy NE1	Amend Policy NE1B to read: <i>"Development proposals within or affecting known designated sites, habitats or species will be permitted when they comply with the relevant development principles set out in Table 5.1 or in Part D of this policy."</i>	The recommended change has been made. (On Change Log – ref. 53)

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39	52	261	5-21	Policy NE1	Amend Policy NE1D to read: <i>"Development proposals which are assessed as being likely to have a significant adverse impact on a designated site, habitat or species, may be permitted, where it can be demonstrated that; i the development is in the long-term interest of the Island; and ii there is no alternative site available that is suitable for the proposed development."</i>	The recommended change has been made, with the exception that the wording "more suitable" has been used in criteria ii in place of "suitable". (On Change Log – ref. 53; Inspector's alternative wording has been adopted)
40	52	261	5-23 - 5-28	Figure 5.4 (was Figure 5.5); Figure 5.5 (was Figure 5.6); Table C1	References to 'open grassland', 'dune scrub' and 'improved grassland' in Figures 5.5 to 5.7 and Table C1 of the draft LUP be corrected.	The recommended change has been made. These changes also have consequential changes for the Natural Environment Strategy. (On Change Log – ref. 71, 72, 73)
41	52	261	C-2 - C-6	Table C1	Add information to Table C1 to show the sources, by reference to which biodiversity sites have been classified.	The recommended change has been made. (On Change Log – ref. 70)
42	52	261	G-1	Glossary	Add definitions of 'net biodiversity gain', 'residual significant effect' and 'ecological receptor' to the Glossary.	The recommended change has been made. (On Change Log – ref. 65)
43	52	261	5-21	Policy NE1	Add a new Part F be added to Policy NE1, to read: <i>"Development which would adversely affect a known bat roost will not be permitted in the absence of satisfactory mitigation measures."</i>	The recommended change has been made.
44	55	271	6-15	Policy IW10	Add the following text to Part C of Policy IW10: <i>"Proposals for development that would entail the use or storage of hazardous material should demonstrate that the proposed location is suitable, and that measures have been incorporated to manage the potential impact of the hazard acceptably."</i>	The recommended change has been made. (On Change Log – ref. 57; Inspector's alternative wording has been adopted)
45	58	285	6-21	Para 6.64	Add a new paragraph after paragraph 6.64 to read: <i>"The Building and Development Control Committee will adopt a proportionate approach to the removal, eradication and management of invasive species, taking into account severity, dangers to human health, effects on biodiversity, and other potential harm. This will need to be considered against the proposed development in terms of scale of development, type of development, proliferation rate, and exposure/risk."</i>	The recommended change has been made. (On Change Log – ref. 59)
46	58	285	6-21	Para 6.65	Add text to paragraph 6.65 to read: <i>"In the absence of this guidance, applicants may find the prevailing Guernsey and Jersey invasive species lists a useful reference. However, the difference in threat level assessment between these jurisdictions should be noted, and may mean, in some instances, that these lists are not directly applicable to the Alderney context."</i>	The recommended change has been made. (On Change Log – ref. 58)
47	59	292	6-30	Policy IW21	Further consideration to be given to the creation of a Minerals Zone within the Designated Area.	The Committee has given further consideration to the creation of a Minerals Zone. Based on the level of information relating to minerals supply and demand on the Island and the impacts of extracting materials in particular locations, it is considered that it would not be possible to include a spatially defined Minerals Zone in the Land Use Plan 2017. Instead, Policy IW21 provides policy relating to proposals for minerals extraction in any location on the Island. This will be controlled through the requirement for planning permission and any associated licenses and procedures.
48	61	300	G-1	Glossary	Definitions for non-primary ownership; agri-tourism; biodiversity gain; residual significant impact; ecological receptor; and Code of Construction Practice to be added to the Glossary.	The recommended change has been made. (On Change Log – ref. 6, 64, 65)
<b>Additional amendments following Land Use Plan Inquiry and Inspector's Report</b>						
49	-	-	4-2	Table 4.1	N/A	In order to provide greater clarity, reference to "derelict/unused plots" in Tier 3 and Tier 4 of the Housing Land Preference Hierarchy has been amended to "derelict/unused land".