

The Building and Development Control (Alderney) (Amendment) Ordinance, 2018

THE STATES OF ALDERNEY, in pursuance of their Resolution of the 14th, March 2018, and in exercise of the powers conferred on them by sections 67(4) and 75 of the Building and Development Control (Alderney) Law, 2002^a and all other provisions enabling them in that behalf, hereby order:-

Amendment of the Law.

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

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

"Consultation before grant or refusal of permission.

5A. (1) Before making a decision under section 6, the Committee may consult in writing any person who reasonably appears to the Committee to have appropriate expertise relating to the development or other work in question and shall, in deciding the application, take into account any written representations received from that person, within, where relevant, any period specified by the Committee under subsection (2).

(2) Where the Committee consults a person under

^a Order in Council No. XII of 2003 as amended by Order in Council No. XV of 2004, Alderney Ordinances No. III of 2007, No. III of 2014 and Nos. X and XIV of 2016 and No. II of 2017.

subsection (1), it may require in writing that any representations are made to it within a specified period of not less than 14 days starting from the date on which the Authority consulted that person."

3. In section 6(1) (grant or refusal of permission), for "section 10(4)" substitute "sections 10(4) and 15A(4)".

4. Section 6A(5) is repealed.

5. In section 10 (register of applications), omit each reference to ", subject to the provisions of subsection (5)",.

6. For the heading to section 12 (prohibition on building in certain areas) substitute the following heading –

"Prohibition on development or other work in certain areas."

7. In section 12, for subsections (2) to (4) substitute the following subsection -

" (2) The prohibition in subsection (1) does not apply in relation to –

- (a) any development which is only included within the definition of development by virtue of falling within paragraph (b) or (c) of the definition of development in section 76(1),

(b) any work falling only within section 4(1)(f) or (g), or

(c) the placement on any site of a movable structure,

but, for the avoidance of doubt, such development or other work is otherwise subject in all respects to the provisions of this Law including, in particular, the matters the Committee is required to take into account in deciding whether or not to grant or refuse permission under Part II."

8. After section 12 insert the following section –

"Exceptions to the prohibition in section 12(1).

12A. (1) The Committee may, notwithstanding the provisions of section 12(1) and of any Ordinance thereunder but otherwise subject in all respects to the provisions of this Law (including, in particular, the matters the Committee is required to take into account in deciding whether or not to grant or refuse a permission under Part II), permit in an area designated under section 12(1) development or other work of any description set out in Schedule 1.

(2) Before the Policy and Finance Committee make a recommendation under paragraph 13(1) (development or other work of strategic importance) of Schedule 1 it must cause to be carried out, by an appropriately qualified and independent person, an assessment that the evidence it proposes to rely upon in making the recommendation meets the requirements of paragraph 13(4) of Schedule 1.

(3) Where the Policy and Finance Committee makes a recommendation under paragraph 13(1) (development or other work of strategic importance) of Schedule 1 it must –

(a) lay before the States in writing with that recommendation –

(i) a description of the development or other work and a description of the location of the same by reference to a map,

(ii) its reasons for making the recommendation to the States by reference to each item in paragraph 13(2) of Schedule 1, and

(iii) a reference to –

(A) all evidence it has relied upon in making its recommendation,

(B) any strategic policy document of the States it is required to take into account under paragraph 13(3) of Schedule 1, and

(C) the assessment it has caused to be carried out under subsection (2),

(b) subject to subsection (4), publish all evidence, any policy document and the assessment referred to in paragraph (a)(iii) –

(i) in such manner as it considers appropriate to bring them to the attention of the public and those persons likely to be affected by the development or other work, and

(ii) for a period of not less than 28 days before the date of the meeting of the States at which the proposition relating to the recommendation is to be debated.

(4) The Policy and Finance Committee may, upon written request from the person who provided the evidence, withhold information from the evidence required to be published under subsection (3)(b), if the Policy and Finance Committee considers it is appropriate to do so having regard to the need to preserve commercial confidentiality.

(5) For the avoidance of doubt, the period of 28 days referred to in subsection (3)(b) shall start from the date of publication and shall not include the day

of the meeting of the States."

9. Section 13 (restricted purposes) is repealed.

10. Immediately before section 16, insert the following section –

"Planning Inquiries into applications for development or other work which is very significant for the Island.

15A. (1) The Committee must request the President of the States to appoint a person to be an Inspector to –

(a) hold a Planning Inquiry in connection with the determination of an application made under section 5, and

(b) provide a report and recommendations to the Committee,

where the application relates to development or other work which the Committee may only permit in a designated area because the States have resolved, under paragraph 13(1) of Schedule 1, that it is development or other work of strategic importance.

(2) The Committee may request the President of the States to appoint a person to be an Inspector to –

(a) hold a Planning Inquiry in connection with the determination of an application made under section 5, and

- (b) provide a report and recommendations to the Committee,

in the circumstances set out in subsection (3).

(3) The circumstances referred to in subsection (2) are that–

- (a) the application does not relate to development or other work of a description referred to in subsection (1),
- (b) the application has been duly made in relation to development or other work under section 5(1), which the Committee considers is of such a nature that it is likely to be of significance for the whole of, or a significant part of, the Island, or which it considers to be very significant for the Island in any other way, and
- (c) objections have been duly made to the Committee in relation to the application following –
 - (i) public consultation or display of notices and site poles under section 5, or

- (ii) publication of information in relation to the application under section 10.

(4) Where an Inspector is appointed under this section, the Committee shall not grant or refuse permission under section 6 until after–

- (a) the completion of the Planning Inquiry (including any re-opened Inquiry), and
- (b) the Committee has considered the report and recommendations of the Inspector following the same.

(5) Schedule 3 (which makes further provision in relation to Planning Inquiries under this section) has effect.

(6) Subject to the provisions of this section and of Schedule 3 the procedure at a Planning Inquiry shall be at the discretion of the Inspector.

(7) In making any decision as to the procedure at a Planning Inquiry, the Inspector shall act with fairness and with regard to the need to avoid any unnecessary cost (whether to public funds, witnesses or others).

(8) For the avoidance of doubt –

- (a) the provisions of Part IV relating to Planning Inquiries do not apply in relation to a Planning

Inquiry held under this section except as provided by Schedule 3, and

- (b) the provisions of this section do not apply to a Planning Inquiry held under Part IV."

11. In section 27 (planning inquiries) -

- (a) after subsection (4)(e), add the following paragraphs-

- "(f) to refuse to permit any questioning or presentation of any matter which he considers to be irrelevant, repetitive, slanderous, frivolous or vexatious but where he refuses to permit the giving of oral evidence, the person wishing to give the evidence may submit to him any evidence or other matter in writing before the end of the Planning Inquiry,

- (g) to require any person who, in the Inspector's opinion, is acting in a disruptive manner to leave and the Inspector may-

- (i) refuse to permit that person to return, or

- (ii) permit him to return only on such conditions as the Inspector may specify,

but any such person may submit to him any evidence or other matter in writing before the close of the Planning Inquiry.",

(b) after subsection (5) add –

" (6) In making any decision as to the procedure at a Planning Inquiry, the Inspector shall act with fairness and with regard to the need to avoid any unnecessary cost (whether to public funds, witnesses or others).".

12. For the heading to section 67 (States not bound by certain provisions of this Law) substitute the following heading –

"Application of Law to the States."

13. In section 67 –

(a) in subsection (1), for "Parts II, III and VIII" substitute "Part VIII", and

(b) for subsections (2) and (3) substitute –

" (2) In the application of this Law to the States, the States may act by and through its individual committees, notwithstanding that those committees are not legal persons; and accordingly

anything which may be done under or for the purposes of this Law by a legal person (including, without limitation, the making of an appeal under section 62 or any other provision under this Law) may, in relation to the States when acting by and through an individual committee, be done by that committee.

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

14. After section 68(b) (general penalty), the word "or" is omitted and paragraph (c) is repealed.

15. In section 76(1) (interpretation) –

- (a) in the definition of "**development**", subparagraph (ii) is omitted,
- (b) in the definition of "**dwelling**", for "except in section 12" substitute "except in Schedule 1", and
- (c) in the definition of "**public highway**", after "includes" insert ", except for the purposes of paragraph 12(6) of Schedule 1,".

16. In section 77(1) (repeals and savings, etc.) for "the Schedule"

substitute "Schedule 2".

17. Immediately before the Schedule (repeals), insert the Schedule 1 (descriptions of development or other work for which the Committee may grant permission in a designated area) set out in Schedule 1 to this Ordinance.

18. For the heading to the Schedule substitute the following heading –

" SCHEDULE 2
REPEALS".

19. After renumbered Schedule 2 (repeals) insert the Schedule 3 (further provision in relation to planning inquiries into development or other work which is very significant for the Island) set out in Schedule 2 to this Ordinance.

Interpretation.

20. (1) In this Ordinance -

"**Alderney Electricity Limited**" means Alderney Electricity Limited, a company referred to in the Alderney Electricity Concession Law, 1953 and registered in Alderney under company number C/7 and whose registered office is situated at Maison des Venelles, Venelles des Gaudion, Alderney GY9 3TW,

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

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

Law, 2002,

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

"**Sure (Guernsey) Limited**" means Sure (Guernsey) Limited, a company registered in Guernsey under company number 38694 and whose registered office is situated at Centenary House, La Vrangue, St. Peter Port, Guernsey GY1 2EY,

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

(2) The Interpretation (Guernsey) Law, 1948^b applies to the interpretation of this Ordinance.

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

Transitional Provisions.

21. The lawfulness of any development or other work carried out before the commencement of this Ordinance without the permission of the Committee by

^b Ordres en Conseil Vol. XIII, p. 355.

virtue of –

- (a) the disapplication of Parts II and III of the Law to the States under section 67(1) of the Law, or
- (b) the carrying out of certain works by Alderney Electricity Limited or Sure (Guernsey) Limited not involving development in accordance with subparagraph (ii) of the proviso to the definition of "**development**" in section 76(1) of the Law,

is not affected by the amendments to those sections made by this Ordinance and any such development or other work commenced but not completed as at the date of commencement of this Ordinance may be continued, without the need for permission from the Committee, provided that it is completed within 6 months of the commencement of this Ordinance.

Citation and commencement.

22. This Ordinance may be cited as the Building and Development Control (Alderney) (Amendment) Ordinance, 2018 and shall come into force on the 14th March, 2018.

SCHEDULE 1

Section 17

"SCHEDULE 1

Section 12A

DESCRIPTIONS OF DEVELOPMENT OR OTHER WORK FOR WHICH THE
COMMITTEE MAY GRANT PERMISSION IN A DESIGNATED AREA

Construction, alteration or extension of structures.

1. (1) The reconstruction of, or extension or alteration to, an existing immovable structure in any designated area.

(2) The construction of –

- (a) a freestanding residential annex for use in conjunction with and ancillary to an existing dwelling,
- (b) a garage, gate, wall, fence, shed or other structure for use in conjunction with an existing immovable structure, or
- (c) an immovable or other structure designed and intended for use principally for agricultural purposes,

in any designated area.

(3) The construction of an immovable or other structure designed and intended for use principally for the shelter or accommodation of animals in any designated area.

- (4) Any development or other work necessary for –
 - (a) the construction of an immovable or other structure,
or
 - (b) the provision of any other facility,

designed and intended for use principally for the purposes of recreation in any part of a designated area zoned for recreation and open space under the Land Use Plan.

(5) For the purposes of paragraph 1(1), development or other work shall be considered to be a reconstruction of an existing immovable structure only if -

- (a) in the case of development or other work relating to a dwelling within any part of a designated area zoned for residential development under the Land Use Plan, its position, dimensions, external design, external appearance and other characteristics are consistent with any relevant policy relating to such a reconstruction of a dwelling set out in the Land Use Plan, or
- (b) in the case of any other reconstruction in any designated area –
 - (i) it occupies the same or approximately the same position, and

- (ii) it is of comparable dimensions, external design and external appearance,

to the existing immovable structure.

Material change of use.

2. The making of a material change in the use of any building or other land in any designated area except for a material change of use from any use to use as a dwelling.

Development or other work necessary for the purposes of Alderney railways.

3. Any development or other work necessary for the construction, maintenance, alteration, replacement or extension of railway track, track equipment (including signal boxes, signalling equipment and other appliances), railway stations, level crossings, railway bridges, embankments, sidings, engine sheds or other structures, infrastructure or equipment forming part of or used principally for the purposes of the Alderney Railway or the Alderney Miniature Railway in any designated area.

Development or other work necessary for the supply of electricity to the public.

4. (1) Any development or other work to be carried out by or on behalf of Alderney Electricity Limited in any designated area which is necessary for the purpose of the supply of electricity to the public.

(2) The development or other work referred to in subparagraph (1) includes, without limitation, any development or other work necessary –

- (a) for the erection, installation, maintenance, alteration,

improvement or replacement of cables or lines, surface wiring, mains, distribution pillars, high voltage switchgear or transformers, electricity substations, switch stations, inspection chambers, poles or street cabinets,

- (b) for the making of connections to anything referred to in item (a), or
- (c) to avoid contact between any tree or other vegetation and overhead power lines.

Development or other work necessary for the supply of telecommunications services to the public.

5. (1) Any development or other work to be carried out by or on behalf of Sure (Guernsey) Limited, JT (Guernsey) Limited or Guernsey Airtel Limited in any designated area which is necessary for the purpose of the supply of telecommunications services to the public.

(2) The development or other work referred to in subparagraph (1) includes, without limitation, any development or other work necessary –

- (a) for the erection, installation, maintenance, alteration, improvement or replacement of cables or lines, surface wiring, inspection chambers, roadside distribution pillars, poles, street cabinets, block terminals, dish or multiple rod aerials, telecommunications masts or satellite stations, or,

- (b) for the making of connections to anything referred to in item (a).

Development or other work necessary for the supply of sewerage disposal services to the public.

6. (1) Any development or other work to be carried out by or on behalf of the States in any designated area which is necessary for the purpose of the supply of sewerage services to the public.

(2) The development or other work referred to in subparagraph (1) includes, without limitation, any development or other work necessary –

- (a) for the installation, maintenance, alteration, improvement or replacement of pipes, mains, drains, sewers, sewage outfalls, sewage treatment works, septic tanks or pumping facilities, or
- (b) for the making of connections to anything referred to in item (a).

Development or other work necessary for the supply of water to the public.

7. (1) Any development or other work to be carried out by or on behalf of the States in any designated area which is necessary for the purpose of the supply of water to the public.

(2) The development or other work referred to in subparagraph (1) includes, without limitation, any development or other work necessary –

- (a) for the construction, installation, maintenance,

alteration, improvement, replacement or extension of mains, drains, pipes, pumping facilities, reservoirs, wells or water treatment works,

(b) for the making of connections to anything referred to in item (a), or

(c) the extraction of water from a borehole.

Development or other work necessary for the provision of waste disposal or recovery facilities to the public.

8. (1) Any development or other work to be carried out by or on behalf of the States in any designated area which is necessary for the purpose of the provision of waste disposal or recovery facilities to the public.

(2) The development or other work referred to in subparagraph (1) includes, without limitation, any development or other work necessary for the construction, installation, maintenance, alteration, improvement or replacement of facilities for the disposal or recovery of waste.

Development or other work which is necessary for the provision of postal services to the public.

9. (1) Any development or other work to be carried out by or on behalf of Guernsey Post Limited in any designated area which is necessary for the purpose of the provision of postal services to the public.

(2) The development or other work referred to in subparagraph (1) includes, without limitation, any development or other work necessary for the erection, maintenance, alteration, improvement or replacement of post boxes or

letter boxes.

Development or other work which is necessary for the provision of a system for the delivery of heat to premises.

10. (1) Any development or other work to be carried out by or on behalf of Alderney Electricity Limited or the States in any designated area which is necessary for the purpose of the provision of a system for the delivery of heat to more than one premises through pipes or conduits.

(2) The development or other work referred to in subparagraph (1) includes, without limitation, any development or other work necessary for the installation, maintenance, alteration, improvement, replacement or extension of a system for the delivery of heat to more than one premises through pipes or conduits.

Other development or other work by a public utility undertaking which is necessary for the purposes of a public utility service.

11. Any development or other work, not falling within paragraphs 4 to 10, which is of a description prescribed by Ordinance of the States for the purposes of this paragraph and is –

- (a) to be carried out by or on behalf of a public utility undertaking, and
- (b) necessary for the purposes of the provision of a public utility service.

Other States development or other work.

12. (1) Any development or other work to be carried out by or on behalf of the States in any designated area which is necessary –

- (a) for the construction, maintenance, resurfacing, alteration or improvement or extension of any highway or any private pedestrian road, street, track or path, however named, or
- (b) to avoid the obstruction of any highway or private pedestrian road, street, track or path, however named, by any tree or other vegetation.

(2) Any development or other work to be carried out by or on behalf of the States or the States of Guernsey in any designated area which is necessary –

- (a) for the safe navigation of ships or aircraft,
- (b) for the safe operation of a port or airport, or
- (c) to avoid the obstruction of navigation points or navigation lights by any tree or other vegetation,

including, without limitation, any such development or other work in relation to a lighthouse or an airport guidance station.

(3) Any development or other work to be carried out by or on behalf of the States or the States of Guernsey in any designated area which is necessary for the construction, maintenance, alteration, replacement or extension of coastal defences.

(4) Any development or other work to be carried out by or on behalf of the States in any designated area which is necessary for the construction, maintenance, alteration, improvement or extension of water courses or outfalls or for the carrying out of land drainage.

(5) Any development or other work to be carried out by or on behalf of the States in any designated area for the purpose of the provision of a cremation, burial or other facility for the cremation, burial, interment or other disposal of human remains.

(6) Any development or other work to be carried out by or on behalf of the States in any designated area which is necessary for the installation, maintenance, alteration, improvement or replacement of any fixed street furniture and in this subparagraph –

(a) "**street furniture**" includes lamp standards and other street lighting, public seating, cycle racks, signposts, closed circuit television, signs, refuse bins, bollards, rails, fences and barriers for safeguarding persons using the public highway, and

(b) "**public highway**" means any vehicular or pedestrian road, street, lane, track or path, however named, used by the public.

(7) Any development or other work to be carried out by or on behalf of the States for the purpose of the extraction of aggregates or minerals in any designated area.

(8) Any development of other work to be carried out by or on behalf of the States in any designated area which is necessary to carry out works of archaeological investigation or evaluation.

Development or other work of strategic importance.

13. (1) Any development or other work –

(a) not falling within any other paragraph of this Schedule, and

(b) to be carried out in any designated area,

which the States, on the recommendation of the Policy and Finance Committee, have resolved is development or other work of strategic importance.

(2) The States may pass a Resolution, for the purposes of this paragraph, that development or other work is of strategic importance only if in their opinion –

(a) the development or other work is likely to be of significance for the whole of, or a significant part of, the Island, or it is very significant for the Island in any other way,

(b) there is a real possibility that the development or other work will be of long term benefit to the public or to the Island such that there is a real possibility that it will be in the wider public interest, and

- (c) the potential long term benefit is so significant, having regard to the long term strategic interests of the Island, as to justify an exception from the prohibition in section 12(1).

(3) In having regard to the long-term strategic interests of the Island, the States must take into account any strategic policy document of the States referred to in section 23(3A).

(4) For the avoidance of doubt, the States must reach their opinion under subparagraph (2) on the basis of objective, credible and robust evidence but are only required to consider such information as is reasonably available at the time, in all the circumstances, for them to make an assessment of whether or not the criteria in subparagraph (2) are met.

Development or other work necessary to enable the carrying out etc. of other excepted development or work.

14. Any development or other work (including, without limitation, demolition or excavation) which is necessary to enable the carrying out of, or which is incidental to, any development or other work of a description set out in any other paragraph of this Schedule.

Interpretation of the Schedule.

15. (1) In this Schedule, unless the context requires otherwise –

"**agricultural purposes**" means the purposes of any trade or business of –

- (a) dairy farming,

- (b) the producing, rearing or maintenance of livestock,
- (c) market gardening, seed growing or fruit growing, or
- (d) the outdoor cultivation of flowers, bulbs or nursery stock,

"**Alderney Electricity Limited**" means Alderney Electricity Limited, a company referred to in the Alderney Electricity Concession Law, 1953 and registered in Alderney under company number C/7 and whose registered office is situated at Maison des Venelles, Venelles des Gaudion, Alderney GY9 3TW,

"**Alderney Miniature Railway**" means the miniature railway on the Island operating at the Mannez Quarry,

"**Alderney Railway**" means the railway on the Island operating between Braye Road Station and Mannez Station together with the disused railway track running between Braye Road Station and the breakwater in Braye Harbour,

"**construction**" includes erection and related expressions shall be construed accordingly,

"**dwelling**" means any building or part of a building which is occupied as a dwelling,

"**Guernsey Airtel Limited**" means Guernsey Airtel Limited, a

company registered in Guernsey under company number 45232, whose registered office is situated at 45 High Street, St. Peter Port, Guernsey, GY1 2JT,

"Guernsey Post Limited" means Guernsey Post Limited, a company registered in Guernsey under company number 38693 and whose registered office is situated at Envoy House, La Vrangue, St Peter Port, Guernsey GY1 1AA,

"highway" means any –

- (a) vehicular or pedestrian road, street, lane, track or path, however named, used by the public, and
- (b) any private vehicular road, street or lane, however named,

"JT (Guernsey) Limited" means JT (Guernsey) Limited, a company registered in Guernsey under company number 39971, whose registered office is situated at PO Box 296, Sarnia House, Le Truchot, St. Peter Port, Guernsey GY1 4NA,

"public" means the public on the Island and includes a section of the public on the Island,

"public utility service" means the supply or provision to the public of–

- (a) water, electricity, telecommunications services,

sewerage or foul water disposal services, postal services, waste disposal or recovery facilities or of a system for the delivery of heat to more than one premises through pipes or conduits, or

- (b) such other service as the States may prescribe by Ordinance for the purposes of paragraph 11,

"public utility undertaking" means -

- (a) the States,
- (b) Alderney Electricity Limited,
- (c) Guernsey Airtel Limited,
- (d) Guernsey Post Limited,
- (e) JT (Guernsey) Limited,
- (f) Sure (Guernsey) Limited, or
- (g) such other person as the States may prescribe by Ordinance for the purposes of paragraph 11, and

"Sure (Guernsey) Limited" means Sure (Guernsey) Limited, a company registered in Guernsey under company number 38694 and whose registered office is situated at Centenary House, La Vrangue, St. Peter Port,

Guernsey GY1 2EY.

(2) In this Schedule, where development or other work is expressed to be necessary for a specified purpose or matter (however worded), it is to be construed as not falling within the relevant description of development or other work where it is to be carried out principally for another purpose.

SCHEDULE 2

Section 19

"SCHEDULE 3

Section 15A(5)

FURTHER PROVISION IN RELATION TO PLANNING INQUIRIES INTO
DEVELOPMENT OR OTHER WORK WHICH IS VERY SIGNIFICANT FOR THE
ISLAND

Notice of Inquiry.

1. (1) When an Inspector has been appointed under section 15A, the Committee shall publish a notice, setting out the details in subparagraph (2)-

(a) in the Alderney Official Gazette, or

(b) by such other means as the Committee considers is appropriate to bring it to the attention of those persons likely to be affected by the application and the public.

(2) The details referred to in subparagraph (1) are –

(a) a brief description of the application and a statement that information concerning the application has been published and is available for public inspection on the Register of Applications,

(b) brief details of any public consultation or display of notices and site poles under section 5,

- (c) a statement that a Planning Inquiry is to be held in connection with the determination of the application,
- (d) the date, time and place of the Inquiry, the name and address of the Inspector and the address of any Inquiry website,
- (e) the terms of reference for the Inspector,
- (f) the date (being not less than 28 days starting from the date of the notice) by which written representations must be made to the Inspector, and
- (g) any requirements and limitations imposed by the Inspector in relation to written representations under item (f) in accordance with paragraph 5(2)(a).

Terms of reference of Inquiry.

2. (1) The Committee shall, subject to subparagraph (2), set the terms of reference for the Inspector which may include a direction to the Inspector to draw conclusions and make recommendations in relation to the application.

- (2) The terms of reference shall require the Inspector –
 - (a) where the Inspector concludes that the application relates to development or other work involving a departure from a Land Use Plan, or
 - (b) where the Inspector concludes that it would be

desirable for the Committee to make alterations or additions to the Land Use Plan of a minor nature,

to draw conclusions and make recommendations in relation to the exercise of the Committee's powers under section 31(1) and (2) (in the case of a departure) and 31(1) (in the case of an alteration or addition).

- (3) Where the application relates, in whole or in part, to -
 - (a) development or other work in a designated area, and
 - (b) the Committee may permit that development or other work only because it is development or other work falling within the description set out in paragraph 13 of Schedule 1 (development or other work of strategic importance),

the terms of reference shall require the Inspector to consider whether or not that development or other work is the same, or substantially the same, development or other work as that in respect of which the States has passed a Resolution under paragraph 13 of Schedule 1.

Timetable for proceedings of the Inquiry.

3. (1) The Inspector must arrange a timetable for the proceedings of the Planning Inquiry and may, at any time, vary the timetable.

(2) The Inspector shall no later than 14 days before the start of the Planning Inquiry send to every person entitled to appear at the Inquiry a copy of the timetable for the proceedings.

(3) Any changes to the timetable must be notified to every person entitled to appear at the Planning Inquiry.

Holding of Inquiry and persons entitled to appear.

4. (1) Every Planning Inquiry shall be held in public.

(2) The following persons shall be entitled to appear at the Planning Inquiry –

(a) the Committee,

(b) the applicant,

(c) any person who the Committee has consulted in relation to the application under section 5A,

(d) any person who has duly made written representations –

(i) to the Committee in relation to the application which have been duly made and not withdrawn, or

(ii) to the Inspector in response to the notice under paragraph 1.

(3) Nothing in subparagraph (2) prevents the Inspector from permitting other persons to appear at the Planning Inquiry.

- (4) Any person entitled or permitted to appear may do so –
- (a) in person,
 - (b) by an Advocate of the Royal Court of Guernsey, or
 - (c) by another person (including a joint spokesperson) authorised by that person as a representative.

(5) The Inspector may proceed with a Planning Inquiry in the absence of a person entitled to appear at it.

Powers of the Inspector.

5. (1) The Inspector shall have the powers set out in section 27(4) for the purposes of a Planning Inquiry under section 15A.

(2) The Inspector may impose reasonable requirements and limitations in relation to –

- (a) the submission of written representations to the Inspector under paragraph 1(2)(f) and the circulation of the same to persons entitled to appear, and
- (b) the giving of oral evidence at the Planning Inquiry.

Inspector's report.

6. After holding a Planning Inquiry under section 15A, the Inspector shall prepare a report in writing on the Inspector's conclusions and

recommendations in relation to the matters referred to the Inspector in the terms of reference set under paragraph 2 and shall submit that report to the Committee.

Power to request that the Inquiry be re-opened.

7. (1) The Committee may request the President of the States to appoint an Inspector to re-open the Planning Inquiry if it appears to the Committee, before making a decision on the application, that –

(a) there are material considerations or any material matter included in the terms of reference that are not mentioned or are insufficiently considered in the Inspector's report, or

(b) the report contains any significant finding of fact that is incorrect in a material particular.

(2) Where a Planning Inquiry is re-opened under subparagraph (1) (whether by the same or a different Inspector) the Committee shall set the terms of reference for the Inspector which may include a direction to the Inspector to draw conclusions and make recommendations in relation to the matters in respect of which the Inquiry is re-opened.

(3) The following provisions shall apply to a re-opened Inquiry and to an Inspector appointed under this paragraph and any reference in those provisions to a Planning Inquiry, unless the context requires otherwise, shall be construed as referring to the re-opened Planning Inquiry -

(a) sections 15A(6) to (8),

- (b) paragraph 1 with the modification that –
 - (i) the notice required under subparagraph (1) of that paragraph must also include a brief reference to the previous holding of the Planning Inquiry, and
 - (ii) the date to be included in the notice under subparagraph (2)(f) may be any date that the Committee considers reasonable in all the circumstances,
- (c) paragraphs 4 and 5, and
- (d) paragraph 6 with the modification that it refers to the matters referred to the Inspector under this paragraph.

Procedure post Inquiry.

8. (1) When making its decision on the application, the Committee may disregard any representations received after the close of the Planning Inquiry (including any re-opened Planning Inquiry).

- (2) The Committee shall –
 - (a) if having considered the Inspector's report, it grants permission subject to conditions or refuses permission, send a copy of the Inspector's report to the applicant with the notice required to be served on

the applicant under section 65, and

- (b) as soon as practicable after making a decision to –
 - (i) grant or refuse permission, or
 - (ii) request the President of the States to appoint an Inspector to hold a Planning Inquiry under section 31(2) (as if the application were a proposal by the Committee for an alteration or addition to the Land Use Plan),

publish the Inspector's report and the Committee's decision and reasons for the same in such manner as it considers appropriate to bring them to the attention of the public and those persons likely to be affected by the decision."