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# Statutory Guidance

2018

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## 02 Major Projects





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## Glossary and Abbreviations

Term	Definition
Alderney Official Gazette	The official channel of the States of Alderney for publishing States' business and other relevant material.
BACS	A form of electronic payment (previously known as Bankers' Automated Clearing Service).
Building and Development Control Committee	The committee of the States of Alderney which exercises planning powers and duties given to it under the Building and Development Control (Alderney) Law, 2002 (as amended). Decisions on planning policy are made at a Building and Development Control Committee Policy Meeting, and decisions on planning applications are made at an Open Planning Meeting unless a Planning Application Inquiry has been held on the planning application.
Building Area	The areas of the Island which are not included in the Designated Area (see below).
Code of Construction Practice	<p>A document used to set the principles and controls to manage impacts arising from a development during the construction phase, as well as to secure relevant mitigation identified where an Environmental Impact Assessment is undertaken.</p> <p>A Code of Construction Practice might include: information about the site operator and contact details; engagement with neighbours, the wider community, the States of Alderney and any other relevant bodies; site safety, health and safety and emergency procedures; hoarding arrangements; working hours; traffic and highways arrangements including access, routing, re-routing of public and pedestrian routes, and holding areas; local employment and skills strategy; and methods to manage relevant construction impacts e.g. noise and vibration, air quality, and waste management.</p>
Designated Area	The areas of the Island which are covered by the prevailing Building and Development Control (Designated Area) (Alderney) Ordinance and where development is prohibited, subject to the exceptions set out in Section 12 of the Building and Development Control (Alderney) Law, 2002 (as amended). The purpose of the Designated Area is to restrict development in order to retain the open character of the Island. It is sometimes referred to as the 'green belt'.
EIA	Environmental Impact Assessment. Process used to assess the likely significant effects on the environment and to inform the design and construction of the proposal to prevent, reduce or offset adverse effects.
ES	Environmental Statement. Report containing the EIA findings.
Full States	A meeting of the full States of Alderney where all executive/government decisions are made.
Heritage significance	A heritage asset's historic, architectural, traditional, artistic or archaeological interest. This definition relates to both registered and unregistered heritage assets.

Term	Definition
Land Use Plan	A planning document produced by the Building and Development Control Committee which serves to: manage development on Alderney; to facilitate the delivery of the States of Alderneys' strategic objectives; ensure development takes place in a sustainable manner; provide the policy framework for the determination of planning applications; encourage suitable development for particular sites and locations; protect and enhance Alderney's important natural and built environment and heritage; and guide public and private investment in relation to land use and planning.
Land Use Plan review	The process by which the Building and Development Control Committee reviews the Land Use Plan. A Land Use Plan review may be triggered by a proposal-specific Land Use Plan Inquiry, which must be held if the Building and Development Control Committee are disposed to approve a planning application which constitutes more than a minor departure from the existing Land Use Plan as a whole. If the departure is approved following the Inquiry, the Land Use Plan would be updated to include the proposals and the development can be approved.
Major Project	A development proposal "that is 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", as described in section 5(4) of the Building and Development Control (Alderney) Law, 2002 (as amended). Such development proposals are likely to be of such a scale or nature as to have the potential for Island-wide economic, social and/or environmental impacts.
(Planning) Agreement	A legal agreement made between the Building and Development Control Committee (acting for and on behalf of the States of Alderney) and another person or body in relation to the development or use of land, pursuant to section 16 of the Building and Development Control (Alderney) Law, 2002 (as amended).
Planning Application Inquiry	An inquiry to consider the merits of a specific, individual Major Project planning application, in accordance with section 15A of the Building and Development Control (Alderney) Law, 2002 (as amended).
Planning condition	A condition attached to a planning permission which is required to ensure the development is acceptable in planning terms, in accordance with sections 6 and 9 of the Building and Development Control (Alderney) Law, 2002 (as amended).
Planning Office	The officers who work for and on behalf of the Building and Development Control Committee assessing planning applications and preparing Land Use Plans or additions and alterations to it. Officers make recommendations on decisions to be made by the Building and Development Control Committee.
Planning Performance Agreement (PPA)	A signed, public agreement between the Planning Office and the applicant setting out commitments to certain procedures and timescales in relation to the planning application process.
Policy and Finance Committee	The leading committee of the States of Alderney responsible for preparing the annual budget of the States of Alderney and other financial and strategic policy issues. Decisions are made at a Policy and Finance Committee Meeting.

Term	Definition
Project of strategic importance	A resolution made by the States of Alderney on proposed projects in the Designated Area, where: the proposed development 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; there is a real possibility that the proposed development 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 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 on development in the Designated Area, as set out in paragraph 13(2) of Schedule 1 to the Building and Development Control (Alderney) Law, 2002 (as amended).
Register of Applications	A register maintained by the Building and Development Control Committee of all planning applications made to the Committee, in accordance with section 10 of the Building and Development Control (Alderney) Law, 2002 (as amended).
States of Alderney	Exercises government (executive) functions, usually through its committees, and passes legislation (acting as the legislature or Parliament for Alderney).
Statutory guidance	Guidance issued by the Building and Development Control Committee to provide practical guidance, advice and information in connection with provisions contained within section 74A of the Building and Development Control (Alderney) Law, 2002 (as amended).
Supplementary Planning Guidance	Guidance adopted and issued by the Building and Development Control Committee to provide further information or detail of matters specified within the policies of the Land Use Plan, in order to guide applicants and aid the consistent application of the Land Use Plan policies by the Building and Development Control Committee, under provisions contained within section 23A of the Building and Development Control (Alderney) Law, 2002 (as amended).

# 1 Introduction

- 1.1 This Statutory Guidance sets out the Building and Development Control Committee's approach to the pre-application, application and determination procedures for Major Projects (defined in Section 1.1, below). It provides practical statutory guidance on the relevant provisions of the Building and Development Control (Alderney) Law, 2002 (as amended), as well as other non-statutory advice and information on the Building and Development Control Committee's likely approach to Major Projects. Where advice is non-statutory in nature, this is clearly indicated in this Statutory Guidance; further information on which parts of this Statutory Guidance relate to provisions of the Building and Development Control (Alderney) Law, 2002 (as amended) can be provided by the Planning Office.
- 1.2 The guidance relates to the Law but should be read in conjunction with the relevant development-specific policy which makes provision for a Major Project or where this does not apply, Policy S7, (on Major Projects), in the Alderney Land Use Plan 2017 or its successor.
- 1.3 The Statutory Guidance has been prepared for use by applicants, infrastructure providers, third parties and decision makers in Alderney. It will be used to support the Planning Office in processing and assessing planning applications for Major Projects, and to guide the Building and Development Control Committee, who has responsibility for determining planning applications in Alderney. In those cases where a Planning Application Inquiry is held, the Statutory Guidance may also be used by Inspectors.
- 1.4 This document provides clarity on the approach that will be adopted for managing Major Projects so that, where relevant, it can be applied consistently and enable the planning system to respond efficiently to development proposals.
- 1.5 In producing this Statutory Guidance, the Building and Development Control Committee has complied with the relevant requirements set out in section 74A of the Building and Development Control (Alderney) Law, 2002 (as amended).
- 1.6 This Statutory Guidance was adopted in August 2018, following two rounds of public consultation. It should be referred to as "Statutory Guidance 2/18 (Major Projects)" and may be abbreviated as "SG 2/18 (Major Projects)".
- 1.7 For the purposes of clarity, this document refers to the following four bodies, whose responsibilities are as follows:
  - States of Alderney: exercises government (executive) functions, usually through its committees, and passes legislation (acting as the legislature or Parliament for Alderney). Executive or government decisions of the States of Alderney are made at a Full States Meeting.
  - Building and Development Control Committee: the committee of the States of Alderney which exercises planning powers and duties given to it under the Building and Development Control (Alderney) Law, 2002 (as amended). Decisions on planning policy are made at a Building and Development Control Committee

Policy Meeting, and decisions on planning applications are made at an Open Planning Meeting (unless a Planning Application Inquiry has been held on the planning application).

- Policy and Finance Committee: the leading committee of the States of Alderney responsible for preparing the annual budget of the States of Alderney and other financial and strategic policy issues. Decisions are made at a Policy and Finance Committee Meeting.
- Planning Office: the name given to the officers who work for and on behalf of the Building and Development Control Committee assessing planning applications and preparing Land Use Plans or additions and alterations to it. Officers make recommendations on decisions to be made by the Building and Development Control Committee.

## 1.1 Major Projects

- 1.8 A Major Project will generally be a development<sup>1</sup> proposal *“that is 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”* as described in section 5(4) of the Building and Development Control (Alderney) Law, 2002 (as amended). Such development proposals are therefore likely to be of such a scale or nature as to have the potential for Island-wide economic, social and/or environmental impacts.
- 1.9 Consideration should be given to the development proposal’s Environmental Impact Assessment (EIA) status (see Statutory Guidance 1/18 (Environmental Impact Assessment) (‘SG 1/18 (Environmental Impact Assessment)’)). Where a Full EIA is required by the Building and Development Control Committee under section 5(1) or (2) of the Building and Development Control (Alderney) Law, 2002 (as amended), a development proposal is also likely to be considered a Major Project for the purposes of the consenting process. Guidance is given on the likely requirements for EIA in SG 1/18 (Environmental Impact Assessment). Should an applicant want further clarity on the EIA status of their proposed development, it is recommended that advice is sought from Planning Office.
- 1.10 The final decision on whether a development proposal represents a Major Project, and therefore whether this Statutory Guidance applies, will be at the discretion of the Building and Development Control Committee taking into account the considerations referred to in paragraphs 1.8 and 1.9 above. Further detail on how the Building and Development Control Committee will determine whether a development proposal constitutes a Major Project is provided in Stage 0 of Section 3.
- 1.11 This Statutory Guidance is issued by the Building and Development Control Committee to assist understanding of the provisions in relation to Major Projects. It represents the Building and Development Control Committee’s interpretation of certain provisions of the legislation and is not intended to be exhaustive or a substitute for the full text of

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<sup>1</sup> For the purposes of this Statutory Guidance, references to ‘development’ include development or other work in accordance with section 4(1) of the Building and Development Control (Alderney) Law, 2002 (as amended).

the legislation copies of which are available from the Planning Office. Electronic copies are also available at [www.guernseylegalresources.gg](http://www.guernseylegalresources.gg). Substantive queries concerning the legislation should be addressed to the Planning Office by telephone on 01481 820031. The Building and Development Control Committee does not accept any liability for loss or expense arising out of the provision of, or reliance on, any advice given. You are recommended to seek advice from an independent professional advisor where appropriate.

## 1.2 Major Projects in the Land Use Plan

- 1.12 As part of undertaking a Land Use Plan review, consideration is given to development proposals which are known at that time (either currently under consideration or otherwise potential development with at least basic information within the public domain). This includes Major Projects. The Land Use Plan 2017, (or successors), therefore may make provision, where appropriate, through development-specific policies for Major Project development proposals.
- 1.13 In accordance with section 31(1) of the Building and Development Control (Alderney) Law, 2002 (as amended), the Building and Development Control Committee may grant permission for planning applications which accord with, or constitute a minor departure from, or make a minor alteration or addition to, the Land Use Plan.
- 1.14 In addition, and to avoid the situation arising where the Building and Development Control Committee is unable to consider planning applications for forms of development for which a development-specific policy was not provided in the Land Use Plan or where planning applications for forms of development that were not envisaged at the time of drafting the Land Use Plan, flexibility is incorporated into the Land Use Plan. This includes Policy S7 that enables the Building and Development Control Committee to consider Major Projects in circumstances otherwise not permissible under the other policies of the Land Use Plan.
- 1.15 However, there may be cases where development proposals for Major Projects constitute more than a minor departure from the Land Use Plan as a whole so that the Building and Development Control Committee cannot grant planning permission. In such cases, and where the Building and Development Control Committee is disposed to grant planning permission for a development proposal, the Committee may request that a Land Use Plan Inquiry<sup>2</sup> is held and the planning application will then be considered as if it were a proposal to make the relevant alteration or addition to the Land Use Plan. This enables required changes to the Land Use Plan to be proposed, considered and approved, so that planning permission can subsequently be granted in compliance with the Land Use Plan.
- 1.16 Where a Major Project is wholly or partially located within the Designated Area<sup>3</sup>, the Building and Development Control Committee is prohibited from granting planning

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<sup>2</sup> Undertaken in accordance with the provisions set out in sections 31(2) and 26 to 30 of the Building and Development Control (Alderney) Law, 2002 (as amended).

<sup>3</sup> The 'Designated Area' refers to the land designated pursuant to section 12(1) of the Building and Development Control (Alderney) Law, 2002 (as amended) as being areas within which permission to carry out any development or other work shall not be granted by the Building and Development Control Committee, except for those exceptions set out in Schedule 1 to

permission under section 12(1) of the Building and Development Control (Alderney) Law, 2002 (as amended). In such instances the Land Use Plan policies will not be relevant, unless the development is of a kind:

(1) to which the prohibition is disapplied; or

(2) for which there is a specific exception from the prohibition in the Law.

- 1.17 One of the exceptions is for Major Projects in respect of which the States of Alderney has passed a resolution stating that the development proposal is of strategic importance in accordance with paragraph 13 of Schedule 1 to the Building and Development Control (Alderney) Law, 2002 (as amended). Further detail on this exception and the relevant procedures for a resolution being passed by the States of Alderney is set out in Section 4. Further details on the application of the Land Use Plan and any associated requirements for a Land Use Plan Inquiry are provided in Section 3.

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the Law. The boundaries of the Designated Area are defined in the Building and Development Control (Designated Area) (Alderney) Ordinance, 2018 or its successor.

## 2 Consenting for Major Projects

2.1 As indicated in Section 1, the Land Use Plan context for Major Projects can differ, which will affect how planning permission could be sought for development proposals and the requirements of the decision-making process; this includes whether a Land Use Plan Inquiry would be required. A Planning Application Inquiry may also be required in relation to Major Projects. Table 2.1 summarises the characteristics of different types of planning application for a Major Project, and outlines the decision-making requirements. Should an applicant want further clarity on the requirements for their development proposal for a Major Project, it is recommended that advice is sought from the Planning Office on this matter.

Table 2.1: Types of Major Projects and decision-making requirements

	Type	Decision-making
<p><b>No Land Use Plan Inquiry Required</b></p>	<p>Major Projects that are:</p> <ul style="list-style-type: none"> <li>• <b>subject to development-specific policies</b> in the Land Use Plan; and</li> <li>• <b>in accordance with (or representing a minor departure from) relevant policies</b> in the Land Use Plan.</li> </ul> <p><b>OR</b> Major Projects that are:</p> <ul style="list-style-type: none"> <li>• <b>not subject to their own development-specific policies</b> (because the spatial extent was unknown or not sufficiently justified at the time of drafting the Land Use Plan or was not envisaged at the time of drafting the Land Use Plan); and</li> <li>• <b>in accordance with (or representing a minor departure from) relevant policies</b> in the Land Use Plan (including Policy S7 in the Land Use Plan 2017 or successors).</li> </ul>	<p>Applications will be determined by the Building and Development Control Committee in accordance with sections 5, 5A, 6 7, 8 and 9 of the Building and Development Control (Alderney) Law, 2002 (as amended). This <b>may include a Planning Application Inquiry</b>.</p>
<p><b>Land Use Plan Inquiry Required</b></p>	<p>Major Projects that are:</p> <ul style="list-style-type: none"> <li>• <b>in conflict with one or more policies</b> of the Land Use Plan which are relevant and where the conflict with one or more policies of the Land Use Plan is such as to amount to <b>more than a minor departure</b> from the Land Use Plan as a whole.</li> </ul>	<p>Applications will be considered by the Building and Development Control Committee, and <b>may include a Planning Application Inquiry</b> (following the same process as above). Should the Building and Development Control Committee be disposed to grant planning permission, the Committee may request that a <b>Land Use Plan Inquiry</b> is held and the application will then be considered as if it were a proposal to make the relevant, necessary alteration or addition to</p>

the Land Use Plan. Planning permission may only be granted following such a Land Use Plan Inquiry and subsequent approval of the alterations or additions by the States of Alderney.

- 2.2 Given the complexity, scale and nature of Major Projects, it is unlikely that the submission of a preliminary declaration as opposed to a planning application will be appropriate from both the perspective of a developer or the Building and Development Control Committee. This is because (given the potential of Major Projects to have Island-wide economic, social and/or environmental impacts) an application for a preliminary declaration is unlikely to be able to provide the required level of clarity and detail required for the Building and Development Control Committee to be able to decide whether, in principle, it would be likely to grant permission. Also, it would not give the same degree of assurance for a developer as an outline planning permission in the United Kingdom or Guernsey, as a preliminary declaration would not establish the principle of the development or confine the subsequent application to approval of agreed points of detail (reserved matters). The applicant would still need to make an application for planning permission afterwards. Should an applicant be considering the submission of a preliminary declaration they are strongly encouraged to discuss this matter with the Planning Office to determine at the earliest stage possible whether this represents an appropriate route for the Major Project.

### Major Projects within the Designated Area

- 2.3 The Building and Development Control Committee is prohibited from granting planning permission for development in the Designated Area under section 12(1) of the Building and Development Control (Alderney) Law, 2002 (as amended) unless the development is of a kind:
- (1) to which the prohibition is disapplied<sup>4</sup>; or
  - (2) for which there is a specific exception from the prohibition in the Law.
- 2.4 Most of the specific exceptions relate to essential States of Alderney or public utility development. There is a further exception for development which the States of Alderney have resolved is of strategic importance pursuant to paragraph 13 of Schedule 1 to the Building and Development Control (Alderney) Law, 2002 (as amended). Where such a resolution has been passed, the Building and Development Control Committee must be satisfied that the development for which planning permission is sought is the same or substantially the same as that for which a resolution by the States was passed.
- 2.5 If a Major Project, (that does not benefit from one of the specific disapplications or exceptions described above), is located wholly or partially within the Designated Area and is not development which the States of Alderney has resolved to be of strategic importance (pursuant to paragraph 13 of Schedule 1 to the Building and Development

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<sup>4</sup> See sections 12(2), 12A(1) and Schedule 1 to the Building and Development Control (Alderney) Law, 2002 (as amended).

Control (Alderney) Law, 2002 (as amended)) then the Building and Development Control Committee is prohibited from granting planning permission for that part of the development in the Designated Area. Further details are provided in Section 4.

## Planning Application Inquiry

- 2.6 For Major Projects located partially or entirely within the Designated Area, where the Building and Development Control Committee may only consider a grant of planning permission because the States of Alderney have resolved that the development is of strategic importance, the Committee will request that a Planning Application Inquiry is held<sup>5</sup>.
- 2.7 In addition, the Building and Development Control Committee has a discretionary power to request the appointment of an Inspector to hold a Planning Application Inquiry on other planning applications for Major Projects in the Designated Area (e.g. excepted States and public utility development) and the Building Area<sup>6</sup> where objections to the application have been properly made to the Committee. The objections are those made to the Building and Development Control Committee in response to public consultation, the display of notices and site poles or the publication of information on the submitted planning application in accordance with sections 5 and 10 of the Building and Development Control (Alderney) Law, 2002.
- 2.8 More details on when Planning Application Inquiries are required are provided in Stage 4 of Section 3.

## Land Use Plan Inquiry

- 2.9 A Land Use Plan Inquiry cannot be held on a Major Project unless the circumstances identified in Table 2.1 are met in accordance with section 31 of the Building and Development Control (Alderney) Law, 2002 (as amended)<sup>7</sup>.
- 2.10 Whether a Land Use Plan Inquiry is required will be formally determined following submission and review of a 'complete' planning application<sup>8</sup>. The Planning Office will endeavour to make this decision in a timely fashion (following receipt of sufficient information and payment of relevant fees etc.) having regard to the following factors (as relevant):
- the relevant development-specific policy or Policy S7 of the Land Use Plan 2017 or successors (as appropriate);
  - the extent of compliance with the Land Use Plan as a whole;

<sup>5</sup> See section 15A(1) of the Building and Development Control (Alderney) Law, 2002 (as amended).

<sup>6</sup> See section 15A(2) and (3) of the Building and Development Control (Alderney) Law, 2002 (as amended).

<sup>7</sup> Although, as set out in paragraph 1.14, as part of a periodic Land Use Plan review consideration may be given to Major Project development proposals which are known at that time, and may make provision through development-specific policies for Major Project development proposals.

<sup>8</sup> For the purposes of this Statutory Guidance, 'complete' planning applications are those where the applicant has: supplied all information required under section 5(2) of the Building and Development Control (Alderney) Law, 2002 (as amended) including an Environmental Statement; paid any fees charged; and, if applicable provided security under section 5(2B)(b) of the Law for costs of evaluation of an Environmental Statement or other expert assessment. The Building and Development Control Committee may refuse an application under section 6(5) if it is not accompanied by all information and application fee(s) required.

- the extent of compliance with any relevant supplementary planning guidance insofar as this is relevant to determining compliance with the Land Use Plan as a whole;
- evidence provided in an Environment Statement documenting the EIA process, in accordance with section 5 of the Building and Development Control (Alderney) Law, 2002 (as amended). (See SG 1/18 (Environmental Impact Assessment) for related guidance);
- any relevant procedural and other guidance provided in statutory guidance documents; and
- other material considerations relevant to the decision making process including those set out in sections 7, 8 and 9 of the Building and Development Control (Alderney) Law, 2002 (as amended).

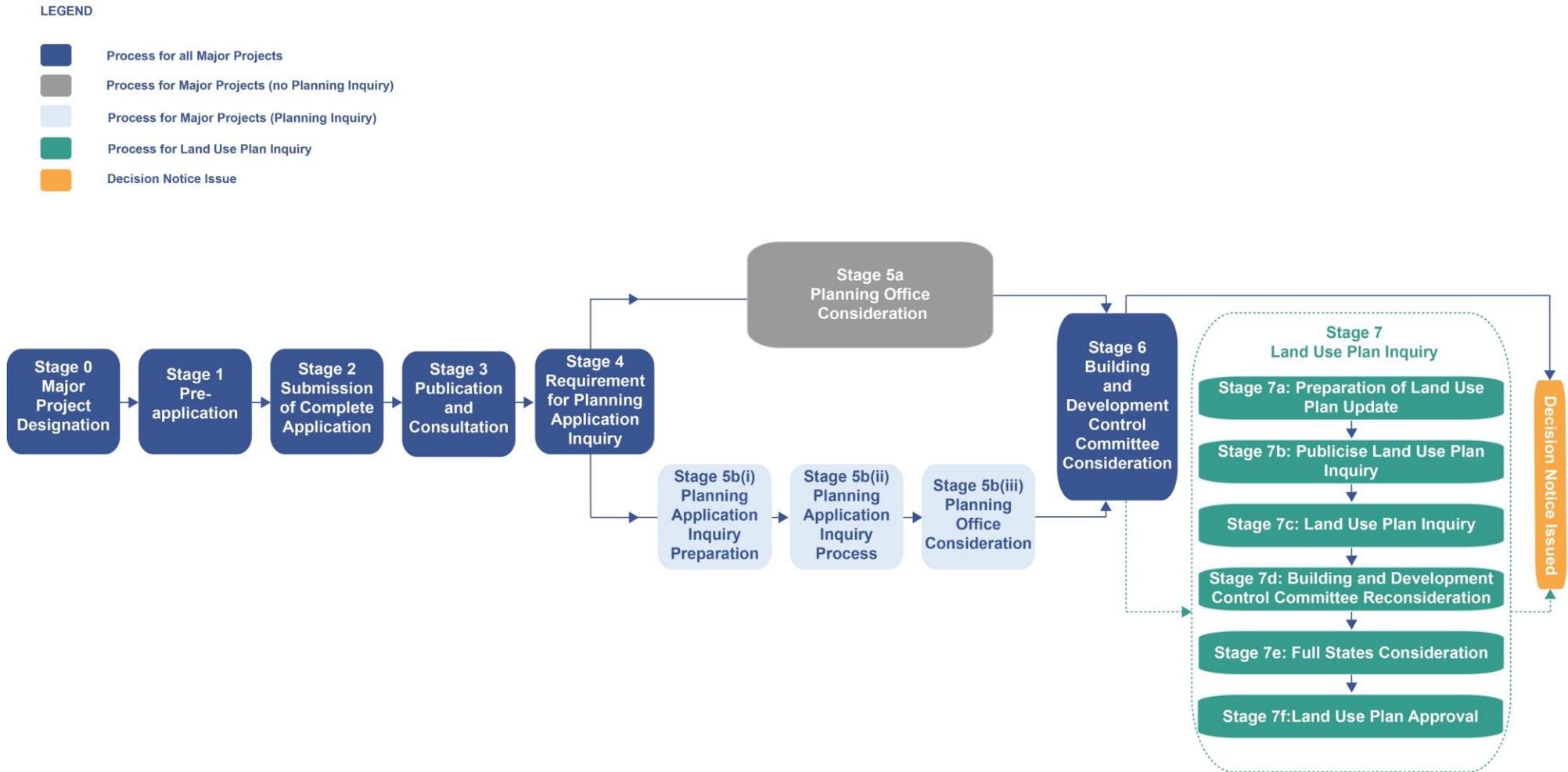
- 2.11 To support the Planning Office in making this decision, applicants may be required to provide a written planning statement as part of a planning application for a Major Project, summarising the extent of their compliance with the Land Use Plan.
- 2.12 In accordance with section 2(2) of the Building and Development Control (Alderney) Law, 2002 (as amended), if there is a Planning Application Inquiry the Inspector will advise on use of the Building and Development Control Committee's powers in section 31(2) of the Law in the case of a departure from, or minor alterations or additions to, the Land Use Plan.
- 2.13 The Planning Office will review the materials supplied, and make a recommendation to the Building and Development Control Committee as to whether a request should be made to the President to appoint an Inspector to hold a Land Use Plan Inquiry for a Major Project. A Land Use Plan Inquiry is required where the Building and Development Control Committee are disposed to approve a planning application which constitutes more than a minor departure from the existing Land Use Plan as a whole.
- 2.14 Where the requirement for a Land Use Plan Inquiry is known, a decision will be issued to the applicant promptly. Both the receipt of a planning statement and the issue of a decision will be recorded and published in the same way as a planning application. For the avoidance of doubt, a decision that the Building and Development Control Committee is disposed to approve an application and plans to request an Inquiry to be held in effect to consider relevant amendments to the Land Use Plan does not mean that planning permission will necessarily be granted as this will depend on the outcome of the Land Use Plan Inquiry and the later decision of the States of Alderney as to whether to amend the Land Use Plan.
- 2.15 During the pre-application and determination stages, and as scheme information emerges, the Planning Office may advise a (potential) applicant whether the Building and Development Control Committee is likely to be disposed to approve the application and request the President to appoint an Inspector to hold a Land Use Plan Inquiry for their Major Project. Any advice given is not binding until the applicant is formally notified of the final decision as set out in paragraphs 2.9 and 2.10, and may be subject to change as a development proposal develops. This follows good practice by enabling an on-going dialogue between the Planning Office and the applicant in a

flexible way that enables schemes to evolve based on pre-application discussions and consultation.

## 3 Process and Procedure

- 3.1 The process for planning applications for Major Projects, covering both the pre-application period and determination process is summarised in Figure 3.1. By following this process, applicants can expect to facilitate an efficient, effective and expedient planning process for their development proposal.
- 3.2 The designation and pre-application stages are the same for all types of Major Project. The processes differ only in relation to the decision-making requirements of the scheme (in other words, the need for a Planning Application Inquiry or Land Use Plan Inquiry – see Section 2). Figure 3.1 summarises how the overall major projects process differs at these points.
- 3.3 Although Figure 3.1 implies a broadly linear process, several of the stages set out will likely take place simultaneously to efficiently and effectively handle a planning application for a Major Project. Some stages are more structured with clear timescales, such as consultation on a planning application. Other stages are more iterative and fluid, such as pre-application consultation undertaken by an applicant and consideration of the planning application by the Planning Office. It is also possible that some stages identified in Figure 3.1 may need to be revisited depending on the circumstances of an individual planning application for a Major Project. For example, this could include re-consultation on the planning application where additional information is received by the Planning Office or where material changes are made to development proposals during the determination of the planning application.
- 3.4 The following sub-sections provide a summary of each stage of the planning application process for a Major Project.

Figure 3.1: Major Projects pre-application and determination process



## Stage 0: Designation as a Major Project

- 3.5 Although there is no legal requirement to do so, and therefore the guidance in this section is provided on a non-statutory basis, it is recommended that applicants should, through writing to the Building and Development Control Committee, seek the Committee's views as to whether their proposal is likely to constitute a Major Project. Based on the information provided, the Building and Development Control Committee will confirm their view through exchange of letters. A Major Project will generally be a proposal *"that is likely to be of significance for the whole of, or a significant part of, the Island or which the Committee considers to be very significant for the Island in any other way"*, as described in section 5(4) of the Building and Development Control (Alderney) Law, 2002 (as amended).
- 3.6 In deciding whether a proposal should be designated a Major Project, the Building and Development Control Committee will take into account the following considerations relevant to significance:
- the size/scale of the project (e.g. the square meterage of the application site area, the proposed floorspace to be altered and/or created and/or the height and prominence of the development);
  - the type of project including, for example, the potential contribution it could make to the Island's economy or society;
  - the complexity of the project, in terms of planning issues raised, number of people affected or number of stakeholders to be consulted and/or any other likely impacts; and
  - any other relevant considerations.
- 3.7 A Major Project may comprise a new development, or the refurbishment or redevelopment of an existing building or structure.
- 3.8 Seeking the Building and Development Control Committee's views on whether a proposal constitutes a Major Project is in the best interests of the applicant. Having clarity on the status of the project guides what is expected in terms of pre-application engagement and public consultation, what the planning application should include<sup>9</sup>, and the likely decision-making requirements (in other words, the need for a Planning Application Inquiry and/or Land Use Plan Inquiry). The guidance on Stage 0 and Stage 1 is guidance on the pre-application stage<sup>10</sup> as referred to in section 74A(4) of the Building and Development Control (Alderney) Law, 2002 (as amended). The Building and Development Control Committee and any person preparing a planning application are required to take it into account<sup>11</sup>.
- 3.9 Where a project is wholly or partially located within the Designated Area and does not benefit from a specific disapplication or exception to the prohibition against granting planning permission, the applicant will also need to request that the States of Alderney

<sup>9</sup> In accordance with likely requirements under section 5 of the Building and Development Control (Alderney) Law, 2002 (as amended).

<sup>10</sup> Stage 1 set out the benefits and advantages of pre-application engagement, advice and consultation.

<sup>11</sup> See section 74A(5) and (6)(a) of the Building and Development Control (Alderney) Law, 2002 (as amended).

resolve that the project is of strategic importance prior to a planning application being submitted. The process for this designation is set out in Section 4.

## Stage 1: Pre-application

- 3.10 For the purposes of this Statutory Guidance, pre-application consultation covers both pre-application engagement with the Planning Office, as well as consultation with technical stakeholders, members of the public and other interested parties. The remainder of this section provides further guidance on what such pre-application consultation and engagement should comprise.
- 3.11 Although there is no legal requirement for pre-application consultation, and therefore the guidance in this section is provided on a non-statutory basis, the Building and Development Control Committee recommend that applicants undertake pre-application engagement. Pre-application consultation is central to a successful planning application for a Major Project. It is important that consultation both lets consultees (the public and other stakeholders) understand what is proposed, but also to let their views shape the proposals. This is also important where an applicant is seeking advice from the Planning Office. For Major Projects, there are distinct advantages to there being a pre-application stage (which is sometimes called the 'pre-planning stage') of consultation so that likely issues are identified early.

### Pre-application Engagement with the Planning Office

- 3.12 The Building and Development Control Committee encourages applicants to participate in pre-application engagement with the Planning Office prior to the submission of a planning application for a Major Project. This provides the opportunity to facilitate an efficient, effective and expedient planning process for their development proposal. The Planning Office can advise on policy compliance, respond to draft designs, provide advice on wider consultation and ensure members of the Building and Development Control Committee remain briefed on emerging development proposals.
- 3.13 Where a development proposal has been designated as a Major Project (see Stage 0), or where the applicant is of the view that the development proposal could potentially constitute a Major Project, applicants should notify the Planning Office of their intention to submit a planning application for a Major Project at least six weeks prior to the intended submission date. Notwithstanding this, the Building and Development Control Committee encourages applicants to engage with the Planning Office as early as possible in the formation and refinement of development proposals. This enables the Planning Office to provide guidance and advice as the development proposal develops and to co-ordinate the necessary resource and expertise to input into the pre-application process.
- 3.14 Following notification of a Major Project, an initial pre-application meeting should take place between the applicant and the Planning Office, to facilitate discussion on:
- the potential Major Project proposal – high level development proposals and parameters;
  - the Land Use Plan policy context for the scheme;

- the applicant's preferred timetable for the planning process with regard to Planning Office resource States of Alderney meetings and other relevant issues; and
  - whether a Planning Application Inquiry or Land Use Plan Inquiry may be required and any related procedural and timing elements.
- 3.15 If relevant, the pre-application meeting may also be used to discuss the Major Project's status in relation to paragraph 13 of Schedule 1 to the Building and Development Control (Alderney) Law, 2002 (as amended) should the applicant be proposing development, which is located wholly or partially within the Designated Area and which does not benefit from another specific disapplication or exception. The decision as to whether such a development proposal represents a development of strategic importance (relevant if the Major Project is located wholly or partially within the Designated Area) will be made through a separate process as set out in Section 4, but it may be discussed at this time. Applicants proposing a Major Project of this kind are encouraged to engage with the Planning Office as early as possible in the planning process<sup>12</sup>.
- 3.16 In advance of this initial pre-application meeting, the Planning Office will issue a request for information to the applicant to inform discussions. The information required will vary between Major Projects and will be at the discretion of the Planning Office. However, it is likely to include: a scheme description, high level plans/drawings and a summary of the proposed approach to consultation. The applicant will be expected to provide the requested information at least five working days prior to the pre-application meeting.
- 3.17 Following this initial pre-application meeting, the Building and Development Control Committee encourages applicants to enter in to a series of meetings (at appropriate milestones, or other relevant timing) to cover topics relevant to the Major Project. The topics covered will likely vary depending on the specific development proposal but may include:
- pre-application stakeholder and public consultation;
  - planning application process and expectations;
  - form and content of the planning application;
  - non-statutory requirements for EIA Screening/Scoping as guided on in SG 1/18 (Environmental Impact Assessment);
  - requirements for other technical assessments;
  - discussion of potential planning issues; and/or
  - possible decision-making requirements, although the need for a Planning Application Inquiry or a Land Use Plan Inquiry cannot be confirmed until after

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<sup>12</sup> The decision on whether a development is of strategic importance is made by the States of Alderney, following consideration by the Policy and Finance Committee. The Building and Development Control Committee therefore encourages applicants who consider that they may be subject to this process to engage with the Policy and Finance Committee prior to submission of a planning application for a Major Project to agree the timescales and information requirements. Further details are provided in Section 4.

submission of a planning application (in accordance with the details set out in Section 2).

- 3.18 It should be noted that the views expressed and any advice provided through the pre-application stage by the Planning Office is done so on a without prejudice basis.
- 3.19 Through pre-application discussions with applicants, the Planning Office will identify the likely resource and expertise required to determine the planning application for a Major Project. Specific resource will be identified to consider the planning application. The Planning Office will endeavour to provide consistent resource to take development proposals for Major Projects from the pre-application stage through to determination.

### **Planning Performance Agreements**

- 3.20 Although there is no legal requirement for pre-application consultation, and therefore the guidance in this section is provided on a non-statutory basis, the Building and Development Control Committee recommend that applicants engage in this process. By working collaboratively, the Planning Office and applicant can seek to identify, understand and resolve any potential issues at an early stage to avoid issues later in the planning application process for a Major Project.
- 3.21 One way to ensure this strong working relationship between the Planning Office and applicant, during the pre-application and post-submission stages, is to enter into a Planning Performance Agreement (PPA) to manage the pre-application and determination process, and agree procedure and resources for progressing the planning application for a Major Project. PPAs are commonly used as project management tools in the United Kingdom.
- 3.22 A PPA would comprise a signed, public agreement between the Planning Office and the applicant, which sets out commitments to certain procedures in relation to the planning application process for a Major Project. A PPA is usually drawn up prior to the submission of a planning application and may cover activities during the pre-application and determination stages of a planning application for a Major Project. A PPA should be as simple as possible, and proportionate to the scale and potential impact of the Major Project. It is therefore unlikely that a standard PPA can be utilised since the process set out in the PPA will vary depending on the scale, nature and complexity of the Major Project and the associated issues to be considered.
- 3.23 Although the exact content would vary dependent on the Major Project, a PPA would likely cover the following topics:
- the approach to pre-application engagement including, for example, the number of pre-application meetings and procedures for agendas, minutes etc.;
  - a list of key topics for discussion at pre-application meetings;
  - a timeline for the planning application to enable workflow planning, design iteration, financing etc.
  - an agreement of the timeliness of responses, correspondence and submissions between the Planning Office and applicant;

- how the determination phase will be managed including factual review of officer reports, preparation of draft conditions and the legal requirements for a Planning Application Inquiry; and
  - a summary of any specialist support required by the States of Alderney.
- 3.24 A PPA would not be binding on either party. It would usually be documented in a similar way to a memorandum of understanding rather than as a binding contract.
- 3.25 In the absence of a formal PPA, the Planning Office would welcome discussions with applicants to discuss and agree, (on a more ad hoc basis), certain elements of procedure and process to ensure that the pre-application and determination process for Major Projects runs as effectively as possible. Where this less formal approach is taken, any advice provided will be documented in writing and issued to the applicant.
- 3.26 In other planning jurisdictions, including the United Kingdom, PPAs may be used as a basis for any voluntary contributions which the applicant has offered to pay to fund additional resource to process extraordinary elements of a planning application or to ensure a dedicated resource is available to help meet a challenging timetable; this would be for resources additional to the costs of expert reviews and evaluations at the application stage which the Building and Development Control Committee may require the applicant to pay under section 5(2B) of the Building and Development Control (Alderney) Law, 2002 (as amended).
- 3.27 Subject to the legal framework, the Building and Development Control Committee intends to explore opportunities to obtain voluntary contributions from applicants for Major Projects during the pre-application process, to enable cost recovery for the time spent on such applications, reflecting the added complexity of such applications and the significant additional resource and management requirements. In the interim, the Planning Office welcomes discussions with applicants as to how PPAs might include resource provision<sup>13</sup>. Until this point, applicants for Major Projects will be required to pay the appropriate application fee, in accordance with the Building and Development Control (Alderney) (Fees) (Amendment) Ordinance, 2018 as amended or repealed and replaced.
- 3.28 Where the Building and Development Control Committee requires a planning application to be supported by an Environmental Statement (ES) setting out the findings of an EIA or a report of an assessment or other effects of the development required by the Committee, a fee may be payable for the review and evaluation of the EIA and ES, including the engagement of the services of an expert (not employed by the States of Alderney) to review and evaluate the assessment<sup>14</sup>.

## Pre-application Consultation

- 3.29 Although there is no legal requirement to do so (and therefore this guidance is provided on a non-statutory basis), the Building and Development Control Committee recommend that applicants, alongside engagement with the Planning Office, undertake pre-application consultation with technical stakeholders, members of the public and

<sup>13</sup> For example, see <https://www.gov.uk/guidance/before-submitting-an-application>.

<sup>14</sup> Section 5(2B) and (2C) of the Building and Development Control (Alderney) Law, 2002 (as amended).

other interested parties prior to submission of any planning application for a Major Project to identify issues early. Consultation should be proportionate to the scale, nature and complexity of the development proposal, and should be meaningful with the ability to influence the proposed development. The relevant stakeholders should be identified through discussion with the Planning Office. In determining who may be a relevant stakeholder, regard should be had to the list of technical stakeholders identified in Appendix D of SG 1/18 (Environmental Impact Assessment).

- 3.30 It is advised that as part of the pre-application process, consultation is undertaken with members of the public. Applicants for Major Projects will be encouraged to agree the approach to this public consultation with the Planning Office prior to commencing the consultation. When considering their approach, applicants should take into account:
- the identification of a consultation area which is of a sufficient size to cater for all parts of the community which may be affected by the Major Project. Most Major Projects are likely to require Island-wide consultation as a minimum;
  - the use of appropriate consultation techniques, including electronic methods which are suitable to the community;
  - the presentation, design and format of consultation material which is clear, understandable and accessible to all parts of the community;
  - the location of any consultation venues to ensure they are accessible to all parts of the community and are of appropriate size and located in the vicinity of the communities targeted; and
  - the timing of any consultation events to ensure they are accessible to all members of the public, including those who work or have other responsibilities during the day, and avoid public holiday periods where possible.
- 3.31 During the pre-application stage, the Planning Office may also consider it necessary or appropriate to consult with members on the Building and Development Control Committee. Should this be the case, applicants will be expected to prepare for and attend Member Briefing(s).
- 3.32 The applicant should keep a record of all pre-application consultation, including:
- dates, times, attendees and (where relevant) locations of consultation;
  - a summary of responses made and the issues raised; and
  - details of how consultee responses have been considered and have informed the Major Project development proposal.

## Stage 2: Submission of a Planning Application

- 3.33 On completion of the pre-application process, the applicant will be expected to produce the relevant application documents and submit their planning application for a Major Project for consideration by the Building and Development Control Committee. This section provides further detail on the planning application documents which the Planning Office will request to accompany a Major Project planning application in accordance with section 5(1)(a) and section 4 of the Building and Development Control

(Alderney) Law, 2002 (as amended), and the process for submission of such a planning application.

## Application Documents

- 3.34 The submission of a 'complete' planning application requires the applicant to comply with the requirements of: section 5(1)(a) and 5(2) relating to provision of information, section 5(1)(b) regarding payment of fees; and section 5(2B)(b) of the Law for costs of evaluation of an Environmental Statement or other expert assessment.
- 3.35 Under section 5(2)(a) of the Building and Development Control (Alderney) Law, 2002 (as amended), the Planning Office, on behalf of the Building and Development Control Committee, has the power to request further information from the applicant in relation to a planning application, including different requirements for different cases or circumstances, including for Major Projects (as set out in section 5(4)). The Building and Development Control Committee is not required to consider an application further, and may refuse an application, if the applicant has not supplied all further information requested<sup>15</sup>. Therefore, where deemed necessary and/or appropriate the Planning Office (or Inspector if a Planning Application Inquiry is held) may request further information be submitted in support of a planning application for a Major Project. This could be an up-front request to enable the application to be included on the Register of Applications, or later as the Planning Office is reviewing and appraising the application. The Planning Office will endeavour to make such requests in a timely manner and it is advised that applicants endeavour to respond to those within similarly reasonable timescales.
- 3.36 Planning applications will be reviewed to confirm whether they are a Major Project and, if so, whether the advised pre-application stages (set out in Stage 1) have been undertaken. If those stages have not been undertaken, the Planning Office may advise that such stages should be undertaken before the application is considered.
- 3.37 The Building and Development Control Committee is prohibited from granting planning permission for development in the Designated Area unless the development is of a kind:
- (1) to which the prohibition is disapplied<sup>16</sup>; or
  - (2) for which there is a specific exception from the prohibition in the Law.
- 3.38 Most of the relevant exceptions relate to essential States of Alderney or public utility development. There is a further exception for development which the States of Alderney have resolved is of strategic importance (see Section 4).
- 3.39 Table 3.1 provides a summary of the documentation that will be required as part of a planning application for a Major Project. However, in accordance with section 5(1)(a) there may be instances where additional information is also required, depending on the nature, scale and complexity of the Major Project, and the requirements of the Land Use Plan 2017 or its successor. Table 3.1 is not intended to cover the further

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<sup>15</sup> Section 5(3) and section 6(5) of the Building and Development Control (Alderney) Law, 2002 (as amended).

<sup>16</sup> See sections 12(2) and 12A(1) and Schedule 1 to the Building and Development Control (Alderney) Law, 2002 (as amended).

information that might be requested by the Building and Development Control Committee post submission of a planning application pursuant to section 5(2) of the Building and Development Control (Alderney) Law, 2002 (as amended) as this will be tailored to the particular planning application. It is recommended that as part of pre-application discussions, agreement is reached with the Planning Office and other technical stakeholders on those documents which will need to be submitted in support of the planning application, and where relevant the scope and content of such documents. This will reduce the likelihood of the Planning Office requesting additional information at a later date.

Table 3.1: Planning application documents for Major Projects required in accordance with sections 5(1)(a) and (4) of the Building and Development Control (Alderney) Law, 2002 (as amended)

Document	Requirement	Mandatory/ Optional	Description
States of Alderney Application Form	All Major Projects	Mandatory	Form providing information on the development proposal, including land ownership details.
Correct Application Fee	All Major Projects	Mandatory	Refer to paragraph 3.44.
Location Plan	All Major Projects	Mandatory	Plan showing the location of the application site, and Alderney Land Register AY title number(s) for the site, at an appropriate scale. Should include a scale bar, key dimensions and indicate north.
Site Plan	All Major Projects	Mandatory	Plan showing the application site, related Alderney Land Register AY title number(s), and existing uses, at an appropriate scale. Should include a scale bar, key dimensions and indicate north.

Document	Requirement	Mandatory/ Optional	Description
Proposed Works Plans	All Major Projects	Mandatory	Plan showing details of nature, scale, dimensions and location of proposed development within the application site, and Alderney Land Register AY title number(s), at an appropriate scale. Should include proposed general arrangements, elevations and site sections sufficient to illustrate the development proposal. Should include a scale bar, key dimensions and indicate north.
Need and Public Benefit Justification	All Major Projects	Mandatory where not subject to, and falling within, a development specific policy/zone in the Land Use Plan 2017 or its successor	Document will summarising the need for the development, including evidence that the type, nature and scale of development represents the most appropriate solution for meeting identified need; and provide a clear justification as to the public benefit of the development proposal. This should include relevant technical evidence to justify the identified need and benefit.
Site Selection Study	All Major Projects	Mandatory where not subject to, and falling within, a development specific policy/zone in the Land Use Plan 2017 or its successor	A comprehensive study justifying the particular choice of location for the proposed development and demonstrating that the proposed location is the most suitable site that is available, taking into account all relevant economic, social and environmental considerations.

Document	Requirement	Mandatory/ Optional	Description
Planning Statement	All Major Projects	Mandatory	A summary document stating how the proposed development complies with the Land Use Plan and how the principles therein have been incorporated into the proposed development. Should there be any areas of non-compliance with/departure from the Land Use Plan, these should be set out clearly and explicitly as this will help support the Planning Office to come to an early and informed decision regarding whether a Land Use Plan Inquiry is required for the Major Project (as described in Section 2).
Pre-application Consultation Report	All Major Projects, where consultation has been carried out as advised in Stage 1	Mandatory, where consultation has been carried out	A summary of the pre-application consultation undertaken and how the comments received have been taken into account.

Document	Requirement	Mandatory/ Optional	Description
Environmental Statement setting out findings of Environmental Impact Assessment (including Transport Assessment)	In accordance with the thresholds set out in SG 1/18 (Environmental Impact Assessment)	Mandatory where development is likely to have an environmental impact	<p>A statement setting out the findings of an assessment of the likely significant environmental impacts of the proposed development in accordance with section 5(1)(a) of the Building and Development Control (Alderney) Law, 2002 (as amended) – see SG 1/18 (Environmental Impact Assessment) for further guidance.</p> <p>Where transport has been scoped into the Environmental Impact Assessment, the Environmental Statement should include the findings of a Transport Assessment and associated Travel Plans to provide an assessment of the impact of vehicle movements generated by the proposed development on the efficient and safe operation of the road network, including the potential impact on the operation of existing entry and exit points onto the Island (including the airport and harbour).</p>
Design Statement	All Major Projects	Mandatory	<p>A statement summarising the design approach to the proposed development. This will include details of the scale, massing, layout, treatment, materials, appearance, landscaping and access arrangements of the proposed development. It should address how the proposed development relates to its surroundings.</p>

Document	Requirement	Mandatory/ Optional	Description
Employment Strategy	All Major Projects	Mandatory	<p>Required in accordance with Policy S5 of the Land Use Plan 2017 or its successor, a document covering both construction and operation phases of the development, which sets out:</p> <ul style="list-style-type: none"> <li>the expected workforce required (both number and specialist skills);</li> <li>where the workforce will be recruited from (i.e. on-Island or off-Island); and</li> <li>how any off-Island staff will be housed (if appropriate).</li> </ul>
Code of Construction Practice and/or thematic Construction Management Plans	All Major Projects	Mandatory where development involves significant environmental disturbances during construction, including excavation and demolition	<p>A document, or series of documents, as required in accordance with Policy IW10 of the Land Use Plan 2017 or its successor, which sets out the standards and procedures to which applicants and contractors will adhere to when constructing a Major Project. This will include, but not be limited to, details of site operations, construction traffic and transport, construction noise and air pollution, and construction waste management.</p>
Assessment of landscape character	All Major Projects	Mandatory	<p>An assessment of local landscape character of the application site and its setting, and how it can be protected and enhanced through the proposed design where such should be carried out in accordance with Policy HE4 of the Land Use Plan 2017 or its successor.</p>

Document	Requirement	Mandatory/ Optional	Description
Additional information on Heritage Assets	Any Major Project which may impact on a registered heritage asset or its setting.	Mandatory where development proposals may impact on a registered heritage asset or its setting	<p>The submission of additional information on registered heritage assets may be requested. This includes:</p> <ul style="list-style-type: none"> <li>• a description of the significance of any registered heritage asset affected, including the contribution made by its setting;</li> <li>• an evaluation of the impact the development may have on this significance; and</li> <li>• a demonstration of how the significance of the registered heritage asset has informed the design of the proposed development.</li> </ul>
Additional information on conservation areas	Any Major Project which may impact on a conservation area or its setting (including views in and out).	Mandatory where development proposals may impact on a conservation area or its setting	<p>The submission of additional information on conservation areas may be requested. This includes:</p> <ul style="list-style-type: none"> <li>• a description of the character and significance of the conservation area, including the contribution made by its setting;</li> <li>• an evaluation of the impact the development may have on this significance; and</li> <li>• a demonstration of how the character and significance of the conservation area has informed the design of the proposed development.</li> </ul>

Document	Requirement	Mandatory/ Optional	Description
Additional information on terrestrial and intertidal archaeology	Any Major Project which may impact on an area of terrestrial and intertidal archaeology.	Mandatory where development proposals may impact on an area of terrestrial and intertidal archaeology	Additional information demonstrating how the development proposal will protect archaeological value in accordance with the relevant sections of Policy HE3 of the Land Use Plan 2017 or its successor.
Flood Risk Assessment	Any Major Project located within 100m of the coast or any water body or where the application site has previously experienced flooding.	Mandatory where located within 100m of the coast or any water body or where the application site has previously experienced flooding	An assessment of the likely impacts of flooding and provision of proposals for mitigation and management of any flood risk within the application site and elsewhere on the Island, where required in accordance with Policy NE2 of the Land Use Plan 2017 or its successor <sup>17</sup> . This should include consideration of how people can be evacuated if necessary and how these evacuation plans should be communicated to residents and other site users.
Sustainability Statement	All Major Projects	Mandatory	A summary of how the applicant has incorporated sustainability measures into their design.

<sup>17</sup> In the Land Use Plan 2017, the Building and Development Control Committee committed to undertaking further detailed studies to develop a hierarchy of areas susceptible to flooding, to enhance understanding of flood risk in Alderney which will be adopted as Supplementary Planning Guidance. This will enable the coordinated identification and monitoring of flood risk areas across the Island.

Document	Requirement	Mandatory/ Optional	Description
Arboricultural Statement	All Major Projects which include significant works to trees or may have an impact on any trees	Mandatory where development proposals include significant works to trees or may have an impact on any trees	A summary statement identifying the value of any trees within the application site, setting out how construction works will be carried out close to trees without causing them any damage, where necessary identifying trees for removal and means of removal, and setting out how the Major Project development proposals are in accordance with Policy IW13 of the Land Use Plan 2017 or its successor.
Illustrative visualisation materials	All Major Projects	Optional upon submission, but may form part of a subsequent request for information	Additional materials to illustrate the development proposal, for example physical models, axonometric drawings, or 'fly-through' animations. Additional visualisation materials should be proportionate to the Major Project.
Draft Planning Conditions	All Major Projects	Optional upon submission, but may form part of a subsequent request for information	A list of potential planning conditions which will accompany the planning application in accordance with sections 6 and 9 of the Building and Development Control (Alderney) Law, 2002 (as amended). This approach is good practice for large applications in other jurisdictions.
Draft Agreement	All Major Projects	Optional upon submission, but may form part of a subsequent request for information	A draft agreement as defined within section 16 of the Building and Development Control (Alderney) Law, 2002 (as amended). This approach is good practice for large applications in other jurisdictions.

## Submission and Registration Procedure

- 3.40 Applications should be submitted in both electronic and hard copy format.
- 3.41 Electronic documents should generally (unless specifically requested or otherwise agreed) be in PDF format, ensuring that they load correctly orientated. No file should be larger than 5MB. Any file larger than this should be split (in appropriate places in the document, such as at chapter end points) into 5MB maximum sections. Care should be taken to avoid excessive file compression or other loss of quality. Please do not use ZIP, EXE or other archive formats.
- 3.42 Care should be taken when creating PDF versions of plans and drawings, so that the intended print size is clear and so that, when printed at that size, appropriate scaled measurements can be taken or made. If a file cannot be opened or viewed, or is in some way deficient, the Planning Office may request a corrected version. In keeping with good practice, submitting plans and drawings on A3 will help the Planning Office process the planning application for a Major Project. Applicants could consider placing fewer elevations on smaller page sizes to allow these to be processed, even if this means submitting more documents and only using colour where necessary.
- 3.43 At least three paper copies of all application documents should be provided to the Planning Office. A single set of electronic documents should be submitted at the same time on CD-ROM, DVD-ROM, USB memory stick or similar portable drive. Files should be confirmed as having been scanned and free from viruses or malware. Submission via download link(s) or similar will not be accepted.
- 3.44 Applications must be accompanied by the correct application fee. If payment is made electronically, payment should be made on or as soon as possible after submission as the planning application is required to be accompanied by the fee. Receipt of the fee will be required for any planning application for a Major Project to proceed for consideration. Electronic payment (BACS) is encouraged where possible. Applicants should ensure they enter the site address as a payment reference in these instances. If unable to use electronic payment, applicants can submit the correct application fee using a cheque. Cheques should be made payable to 'The States of Alderney' and sent to the Planning Office, States of Alderney, PO Box 1001, Alderney, GY9 3AA with the planning application. When submitting cheques, applicants should ensure the site address is written on the back of the cheque. The Building and Development Control Committee may refuse a planning application where the application or other fees have not been paid, under section 6(5) or the Building and Development Control (Alderney) Law, 2002 (as amended).
- 3.45 On receipt of a planning application which complies with the requirements under the Building and Development Control (Alderney) Law, 2002 (as amended), as referred to in the guidelines above, the Planning Office will go through a process of reviewing the information received.
- 3.46 The Planning Office will seek to confirm receipt of all necessary information required to determine the planning application as soon as practicable having regard to the potential requirement to seek expert advice in accordance with section 5(2)(a) of the

Building and Development Control (Alderney) Law, 2002 (as amended). Any additional information required will be confirmed at this time, and timescales agreed with the applicant for submission of this information. The Planning Office will re-publicise any additional information through the Register of Applications (in accordance with section 10(3) of the Building and Development Control (Alderney) Law, 2002 (as amended)) as required, to promote public awareness of the development proposal.

- 3.47 Following submission of the planning application for a Major Project, the Planning Office will consider the decision-making requirements (in other words, the requirement for a Planning Application Inquiry and/or Land Use Plan Inquiry) of the planning application. Where the requirement for a Planning Application Inquiry is dependent in part upon the degree of support or opposition expressed during consultation on the planning application, its requirement will not be known until consultation on, and publication of the planning application has been undertaken.

### Stage 3: Publication and Consultation

- 3.48 Following submission of a planning application for a Major Project, there will be a formal consultation period<sup>18</sup>. The consultation will last for a minimum of 28 working days, and provide the opportunity for members of the public, technical stakeholders and other interested parties to make representations on the development proposal.
- 3.49 Information in relation to the planning application will be available on the Register of Applications which is open for public inspection and relevant extracts of the Register will be published in the Alderney Official Gazette<sup>19</sup>. A hard copy of the planning application for a Major Project will also be made available to members of the public at the Island Hall. In addition, details of the planning application, including a full set of application documents, will be shared on the States of Alderney website.
- 3.50 The applicant will be asked to publicise the planning application details in the local media. This should provide details of the planning application, the link to the application documents hosted on the States of Alderney website and how representations on it can be made to the Planning Office. The Planning Office will support the applicant in preparing a suitable form of words for this advertisement. Proof of publication will need to be provided to the Planning Office. Where there are additional periods of consultation, then additional publicity may be required.
- 3.51 Applicants will be responsible for the display of site notices as part of the planning application for a Major Project<sup>20</sup>. They must provide details of the location of development; description of development; the link to the application documents hosted on the States of Alderney website; the date of application (and consultation period); and details of how representations can be made to the Planning Office. Site notices should use the States of Alderney template format (the Planning Office can assist in creating these) and must be approved by the Planning Office prior to display.

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<sup>18</sup> Under the powers to require the applicant to undertake public consultation in section 5(2)(c) of the Building and Development Control (Alderney) Law, 2002 (as amended).

<sup>19</sup> See section 10 of the Building and Development Control (Alderney) Law, 2002 (as amended).

<sup>20</sup> As required under section 5(2)(d) of the Building and Development Control (Alderney) Law, 2002 (as amended).

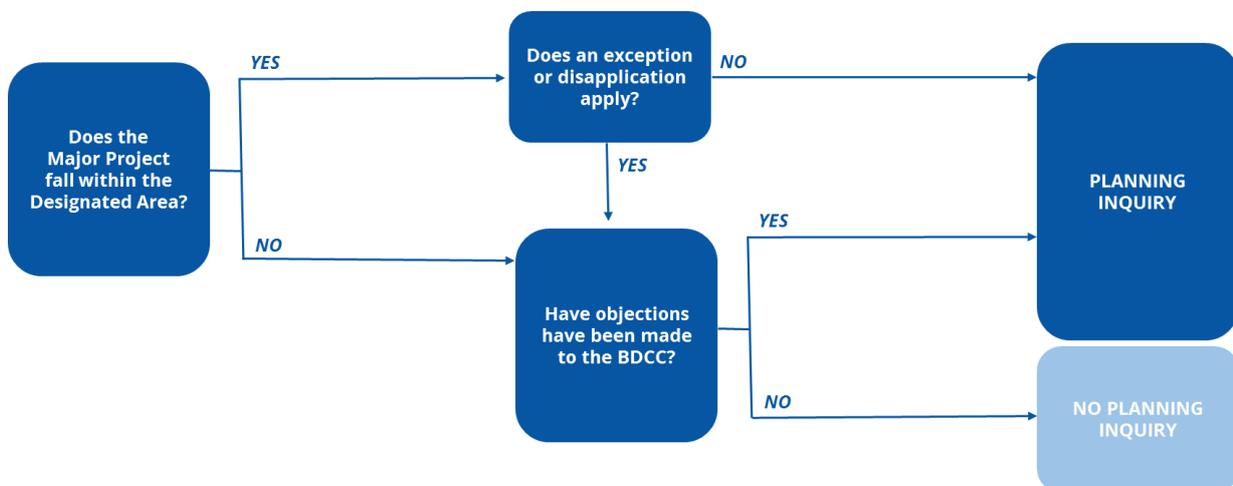
Site notices should be displayed in a secure and weatherproof manner and be visible from the public highway. Applicants should provide self-certified photographic evidence to the Planning Office that site notices have been displayed, in accordance with this Statutory Guidance. The site notices should be displayed for a minimum of 28 working days, in line with the consultation period. Applicants will be responsible for the replacement of any site notices damaged or removed during the consultation period. Applicants will also be responsible for the removal of all sites notices at the end of the consultation period. Where there are additional periods of consultation, then additional site notices may be required.

- 3.52 Applicants may also be required to mark out the area of the proposed development, in a form to be agreed with the Planning Office, together with the use of height poles (or similar) to indicate the height, extent and profile of the development proposals, as set out in section 5(2) of the Building and Development Control (Alderney) Law, 2002 (as amended).
- 3.53 The Building and Development Control Committee may require the applicant to undertake public consultation on the application, in such a manner as is prescribed by the Committee, as set out in section 5(2)(c) of the Building and Development Control (Alderney) Law, 2002 (as amended).
- 3.54 Alongside members of the public, consultation with people with appropriate expertise will take place as part of this formal period, in accordance with section 5A of the Building and Development Control (Alderney) Law, 2002 (as amended). The Planning Office will identify the relevant experts, including other committees within the States of Alderney, and provide them with the planning application details. In doing so, the Planning Office will have regard to those stakeholders listed at Appendix D of SG 1/18 (Environmental Impact Assessment). The applicant may be requested to provide additional hard copies of application documents to relevant experts, where appropriate.
- 3.55 Members of the public, technical stakeholders and other interested parties will be able to submit representations to the Planning Office. The Planning Office will monitor and collate the representations received. Representations received after the end of the 28 day formal period of consultation may or may not be considered, at the discretion of the Planning Office. Whilst no personal details (names, email addresses, phone numbers or signatures) from representations will be published online, representations made to the Planning Office from stakeholders and members of the public will be treated as public documents in the same manner as the planning application documents.
- 3.56 Representations received by the Planning Office will be shared with the applicant, who may be required to provide additional information to assist the Planning Office in addressing any questions, issues or concerns raised.

## Stage 4: Decision on Requirement for a Planning Application Inquiry

- 3.57 The Building and Development Control Committee has a discretionary power to request the appointment of an Inspector to hold a Planning Application Inquiry for a Major Project in the Designated Area which benefit from a specific exception or disapplication (e.g. excepted States and public utility development) and those in the Building Area where in both cases objections to the planning application have been made. The objections are those made to the Building and Development Control Committee in response to public consultation, the display of notices and site poles etc. or the publication of information on the submitted planning application in accordance with the Building and Development Control (Alderney) Law, 2002 (as amended), as guided on in Stage 3.
- 3.58 For Major Projects located partially or entirely within the Designated Area (other than those where specific disapplications or exceptions apply), where the Building and Development Control Committee may only consider a grant of planning permission because the States of Alderney have resolved that the development is of strategic importance, it is mandatory for the Committee to request the appointment of an Inspector to hold a Planning Application Inquiry.

Figure 3.2: Requirement for a Planning Application Inquiry



- 3.59 The next stage(s) of the planning application determination process are dependent on whether a Planning Application Inquiry on the planning application will be held. Where a Planning Application Inquiry is not required, Stage 5a will be followed. Where a Planning Application Inquiry is required, Stages 5b (i and ii) will be followed.

## Stage 5a: No Planning Application Inquiry: Consideration by the Planning Office

- 3.60 The Planning Office will begin consideration of the planning application documents against the Land Use Plan and other material planning considerations to determine its acceptability in planning terms. This process will be informed by the representations

received. The Planning Office may also appoint external expertise to review the application or parts of the application, consider the representations or otherwise assist the Planning Office in undertaking its functions including drafting and/or review of the Officer Report and associated recommendation(s) and supporting the Building and Development Control Committee in reaching a decision on the planning application.

- 3.61 In undertaking a review of the planning application, the Planning Office (or their agents, advisors or experts) will conduct a site visit<sup>21</sup>. The applicant should be available to take the Planning Office and, if appropriate, Members of the Building and Development Control Committee around the site. In such instances, Members will not directly engage any third party person(s) present (including the applicant) at the site visit and will address any questions through the Planning Office. No decisions will be made during the site visit. There is no right for objectors or other interested parties to attend a site visit.
- 3.62 Throughout this stage, the Planning Office may request further information from the applicant to respond to any possible areas of concern<sup>22</sup>.

## Stage 5b(i): Planning Application Inquiry: Preparation for the Inquiry

### Inspector Appointment and Briefing

- 3.63 Where a Planning Application Inquiry on the planning application for a Major Project (Stage 4) will be held, an Inspector is appointed by the President of the States of Alderney to preside over the Inquiry, in accordance with section 15A(2) of the Building and Development Control (Alderney) Law, 2002. The Building and Development Control Committee will support this process and define its remit (see 'Terms of Reference' below).

### Notice and Publication

- 3.64 In accordance with paragraph 1(1) of Schedule 3 to the Building and Development Control (Alderney) Law, 2002 (as amended), once the Inspector is appointed, the Building and Development Control Committee will publish a notice of the Inquiry in the Alderney Official Gazette or by other such means as the Committee considers will bring the Inquiry to the attention of persons likely to be affected by the proposal and the public.
- 3.65 As a minimum, the notice must contain the information identified in paragraph 1(2) of Schedule 3 to the Building and Development Control (Alderney) Law, 2002 (as amended), which comprises:

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<sup>21</sup> The Building and Development Control Committee has powers to require an applicant to permit a site visit under section 5(2)(b) of the Building and Development Control (Alderney) Law, 2002 (as amended). If access is refused the Building and Development Control Committee is not obliged to consider an application further.

<sup>22</sup> Under their power to require information at any time after receipt of an application under section 5(2) of the Building and Development Control (Alderney) Law, 2002 (as amended).

- a brief description of the application and confirmation that information on the application has been published and is available for inspection on the Register of Applications;
- details of any post application public consultation or display of site notices and poles undertaken by the applicant as required by the Building and Development Control Committee;
- a statement that a Planning Application Inquiry is to be held in connection with the determination of the planning application;
- details of the Inquiry location, date and time, the name and address of the Inspector and the address of the Planning Application Inquiry website;
- the Terms of Reference for the Inspector;
- the date by which written representations must be made to the Inspector; and
- any requirements imposed by the Inspector regarding written representations.

3.66 Written representations will be permitted within a period of not less than 28 days prior to the Inquiry.

### **Terms of Reference**

3.67 In accordance with paragraph 2(1) of Schedule 3 to the Building and Development Control (Alderney) Law, 2002 (as amended), the Building and Development Control Committee will be responsible for setting the Terms of Reference for the Inspector. This will include direction to the Inspector to draw conclusions and make recommendations in relation to the application.

3.68 In addition to the requirements set out in paragraph 2(2) of Schedule 3 to the Building and Development Control (Alderney) Law, 2002 (as amended), the Terms of Reference may include:

- a summary of the planning application details;
- a summary of engagement with the applicant;
- the results of the Building and Development Control Committee's consideration of the Major Project at the designation stage (Stage 0); and
- the reasons for the holding of the Planning Application Inquiry.

3.69 As set out in paragraph 2(3) of Schedule 3 to the Building and Development Control (Alderney) Law, 2002 (as amended), where the Terms of Reference relate in whole or in part to development within the Designated Area and the Building and Development Control Committee may permit the development only because it is development which the States of Alderney has resolved is of strategic importance in accordance with paragraph 13 of Schedule 1 to the Building and Development Control (Alderney) Law, 2002 (as amended), the Terms of Reference will include a requirement for the Inspector to consider whether or not that development is the same or substantially the same as that in respect of which the States of Alderney has passed a resolution under paragraph 13 of Schedule 1.

## Stage 5b (ii): Planning Application Inquiry: Inquiry Process

- 3.70 Planning Application Inquiries will be held in public as set out in paragraph 4(1) of Schedule 3 to the Building and Development Control (Alderney) Law, 2002 (as amended).
- 3.71 Written representations may be made and any person who has made representations, and not withdrawn them, at Stage 3 to the Building and Development Control Committee or to the Inspector (in compliance with any requirements imposed<sup>23</sup>) will be entitled to appear at the Inquiry, alongside the Committee and the applicant, in accordance with paragraph 4(2) of Schedule 3 to the Building and Development Control (Alderney) Law, 2002 (as amended). The Inspector can permit other persons to appear at the Inquiry, and may proceed with an Inquiry in the absence of a person entitled to appear at it. The Inspector has other powers (set out in section 27(4) and conferred through paragraph 5(1) of Schedule 3 to the Building and Development Control (Alderney) Law, 2002 (as amended)), including summoning persons to an Inquiry and requesting and retaining information in relation to an Inquiry.
- 3.72 The Inspector will arrange a timetable for proceedings at the Inquiry. All parties entitled to appear at the Inquiry will be notified of the timetable for proceedings at least 14 days before the Inquiry commences, as set out in paragraph 3(2) of Schedule 3 to the Building and Development Control (Alderney) Law, 2002 (as amended). All persons entitled to appear at the Inquiry will be notified of any changes to the timetable.
- 3.73 During the Inquiry, the Inspector may request submission of representations, and the giving of oral evidence. As set out in paragraph 4(4) of Schedule 3 to the Building and Development Control (Alderney) Law, 2002 (as amended), any person permitted to appear at the Inquiry may do so in person, by an Advocate of the Royal Court of Guernsey, or by another person authorised by that person as a representative.

## Stage 5b (iii): Planning Office Consideration

- 3.74 After holding a Planning Application Inquiry, the Inspector will prepare a written report on their conclusions and recommendations about the Major Project having regard to the established Terms of Reference. The report shall be submitted to the Building and Development Control Committee for consideration. The Inspector's Report is not binding. The Inspector's Report will be published as soon as practicable after determination of the planning application in accordance with the provisions set out in paragraph 8 of Schedule 3 to the Building and Development Control (Alderney) Law, 2002 (as amended).
- 3.75 The Building and Development Control Commission may request the President to appoint an Inspector to re-open the Planning Application Inquiry if the Building and Development Control Committee believes that there are material considerations or matters included in the Terms of Reference that are not mentioned or insufficiently considered in the Inspector's Report, or if the Inspector's Report contains any

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<sup>23</sup> See paragraph 5(2) of Schedule 3 to the Building and Development Control (Alderney) Law, 2002 (as amended).

significant incorrect finding of fact. This is in accordance with paragraph 7 of Schedule 3 to the Building and Development Control (Alderney) Law, 2002 (as amended).

- 3.76 The Planning Office will then undertake its functions in supporting the Building and Development Control Committee in reaching a decision, including production of an Officer Report.

## Stage 6: Consideration by the Building and Development Control Committee

- 3.77 Once the Planning Office has sufficient information to come to a reasoned conclusion in relation to the Major Project proposal (including having had regard to the Inspector's Report – where a Planning Application Inquiry has taken place) to be able to make a recommendation within a report, it shall arrange for the planning application to be considered by the Building and Development Control Committee at an Open Planning Meeting. This process applies to all Major Project applications, whether they have been subject to Planning Application Inquiry or not. This could occur at either an ordinary or extraordinary meeting of the Building and Development Control Committee.
- 3.78 An Officer Report will be produced in advance of the Open Planning Meeting which presents a summary of the Planning Office's assessment of the relevant material planning considerations associated with the Major Project. This will include a recommendation to the Building and Development Control Committee.
- 3.79 This Officer Report will be published at least ten working days prior to the Open Planning Meeting. The Officer Report (irrespective of its recommendation) should include a proposed set of planning conditions, which takes account of the draft set submitted by the applicant. Conditions will be imposed in accordance with sections 6 and 9 of the Building and Development Control (Alderney) Law, 2002 (as amended). The Officer Report may also be accompanied by a draft agreement as provided for in section 16 of the Building and Development Control (Alderney) Law, 2002 (as amended). Where this is the case, at a minimum the Heads of Terms of this draft agreement should be made public.
- 3.80 Prior to the publication of the Officer Report, the Planning Office may share a draft of the Officer Report (including proposed planning conditions) with the applicant for comment on matters of fact. At least ten working days prior to the Open Planning Meeting date, the Planning Office will formally notify the applicant of the date and agenda. Information about the Planning Meeting will also be published on the States of Alderney by this deadline.

### Open Planning Meetings Procedure

- 3.81 Open Planning Meetings for Major Projects will operate in accordance with the Protocol for the Operation of Open Planning Meetings ('the Protocol'). Guidance in this section is provided on a non-statutory basis.
- 3.82 Where a Planning Application Inquiry has been held on a Major Project, the Building and Control Committee may make a decision without having an Open Planning

Meeting. Both the applicant and interested members of the public have already had the opportunity to speak on the planning application as part of the Planning Application Inquiry. The decision made by the Building and Development Management Committee will be minuted and recorded and thus publically available.

- 3.83 Where an Open Planning Meeting is held, the applicant and/or their agent for a planning application for a Major Project which is under consideration will be entitled to speak at that Open Planning Meeting to expand and explain their application and answer any questions from the Building and Development Control Committee, subject to the rules of the Protocol.
- 3.84 In addition, any member of the public will be entitled to speak on the planning application (either for or against) in accordance with the rules and procedures set out in the Protocol.
- 3.85 The Building and Development Control Committee will endeavour to allow all those speaking on the planning application sufficient and equal time to make their views known. The arrangements and timings for speaking at the Open Planning Meeting will be in accordance with the prevailing Protocol, unless the Building and Development Control Committee agree otherwise with all relevant parties in advance any deviation. This may include, but not be restricted to, allowing further speaking time.
- 3.86 The Building and Development Control Committee may, as they consider suitable or appropriate, consider variations to the Protocol to ensure the planning application is considered in the best way and in the public interest. They may consider the following matters:
- whether to schedule a standalone Open Planning Meeting or consider the Major Project alongside other applications;
  - variations to the time allowed for speakers including whether multiple speakers wishing to support or oppose the development proposals may need to appoint a spokesperson to represent them collectively; and
  - hosting arrangements, such as location and room size.

### **Outcomes of the Building and Development Control Committee Meeting**

- 3.87 As set out in Section 2, some Major Project proposals will require a Land Use Plan Inquiry before the Building and Development Control Committee can approve them. Dependent on whether a Land Use Plan Inquiry is required or not, the Building and Development Control Committee will be asked to consider a planning application for a Major Project under the following procedures:
- **Major Projects not requiring a Land Use Plan Inquiry:** at the Open Planning Meeting (or subsequent meeting in the case of deferral), on review of the Officer Report and oral representations made, the Building and Development Control Committee will review the planning application and vote on whether to grant planning permission for the Major Project including any conditions and/or agreement under section 16 of the Building and Development Control (Alderney) Law, 2002 (as amended) to which the Major Project should be subject. Following

this, a decision notice will be issued recording the decision (granting or refusing planning) to the applicant<sup>24</sup>, which will be made available on the States of Alderney website for public viewing.

- **Major Projects Requiring a Land Use Plan Inquiry:** at the Open Planning Meeting (or subsequent meeting in the case of deferral), on review of the Officer Report and oral representations made, the Building and Development Control Committee will review the application and vote on whether it is disposed to approve the planning application, for the Major Project, subject to the alteration or addition of the Land Use Plan. Where the Building and Development Control Committee is disposed to approve the planning application the planning application for a Major Project will be subject to the additional determination stages (refer to Stages 7a – 7f). Where a planning application is refused a decision notice will be issued recording the decision to the applicant, which will be made available on the States of Alderney website for public viewing.

## Stage 7: Preparation of Land Use Plan Update

### Stage 7a: Preparation of Addition or Alteration to the Land Use Plan by the Building and Development Control Committee

- 3.88 This stage of the planning application process applies only to those developments which require a Land Use Plan Inquiry. Any Major Project not requiring a Land Use Plan addition or alteration will be approved or refused under the process set out in Stage 6.
- 3.89 In the circumstances that a Land Use Plan Inquiry is required, following direction from the Building and Development Control Committee that they are disposed to approve the planning application subject to any necessary addition or alteration to the Land Use Plan, the Planning Office will undertake the necessary proposed addition(s) or alteration(s) to the Land Use Plan. The Land Use Plan update will be completed in accordance with the requirements set out in Section 23 of the Building and Development Control (Alderney) Law, 2002 (as amended) and follow the procedure in sections 26 to 30 of the Building and Development Control (Alderney) Law, 2002 (as amended). This will include a period for the public to make representations on the proposed additions or alterations to the Land Use Plan and a Land use Plan Inquiry chaired by an independent Inspector (see Stage 7c).
- 3.90 The timescales for such a Land Use Plan amendment may vary, depending on the extent of the proposed addition(s) or alteration(s) required. The applicant will be expected to engage in the Land Use Plan amendment process and provide information as required to support this process.

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<sup>24</sup> See section 65 and paragraph 8 of Schedule 3 to the Building and Development Control (Alderney) Law, 2002 (as amended).

## Stage 7b and Stage 7c: Land Use Plan Inquiry

### Inspector Appointment and Briefing

- 3.91 Where the Building and Development Control Committee is disposed to approve the planning application, it will use its power to request the President to appoint an independent Inspector to hold the Inquiry into the amendment, in accordance with sections 31(2) and 26 of the Building and Development Control (Alderney) Law, 2002 (as amended).
- 3.92 It is expected that the Planning Office will produce a Briefing Report for the Inspector that provides:
- a summary of the planning application details;
  - the results of the Building and Development Control Committee's consideration of the Major Project (Stage 6); and
  - the draft addition(s) or alteration(s) required to the Land Use Plan (Stage 7a).
- 3.93 The applicant will be expected to support and engage in this process and may be required to assist the Planning Office in the preparation and/or review of materials.

### Publicising the Land Use Plan Inquiry

- 3.94 Once the Inspector is appointed the Building and Development Control Committee will publish notice of the date of the Inquiry in Alderney Official Gazette. This will also be promoted elsewhere, in order to promote public involvement (which may include local press and social media). The arrangements for making representations ahead of the Land Use Plan Inquiry will be undertaken in accordance with the requirements set out in sections 27(2) and 27(3) of the Building and Development Control (Alderney) Law, 2002 (as amended).

### Land Use Plan Inquiry

- 3.95 One appointed, the Inspector will determine, subject to the provisions in section 27 of the Building and Development Control (Alderney) Law 2002 (as amended), how the Land Use Plan Inquiry proceedings will operate. Representations can be made by members of the public, stakeholders and other interested parties to the Inspector, in accordance with Section 27 of the Building and Development Control (Alderney) Law, 2002 (as amended).

## Stage 7d: Reconsideration by the Building and Development Control Committee

- 3.96 Following a Land Use Plan Inquiry, the Inspector will prepare a written report summarising their recommendations on the proposed alteration(s) or addition(s) to the Land Use Plan. The report shall be submitted to the Building and Development Control Committee for consideration. The Inspector's Report will be published as soon as practicable after receipt and review. The Inspector's Report is not binding.

## Stage 7e: Consideration by the Full States

- 3.97 Should the Building and Development Control Committee wish to follow the recommendations of the Inspector, they will lay the Inspector's Report and proposed alteration(s) or addition(s) to the Land Use Plan before the States of Alderney who may approve the Land Use Plan, without modification or subject to such modifications as they may consider necessary or expedient, in accordance with section 30 of the Building and Development Control (Alderney) Law, 2002 (as amended).
- 3.98 Should the Building and Development Control wish to deviate from the Inspector's recommendations, they will produce a separate report which will set out and justify how and why the Building and Development Control Committee has come to a different recommendation to that of the Inspector. This document will be laid before the States of Alderney alongside amendments to the Land Use Plan.

## Stage 7f: Approval of the Land Use Plan

- 3.99 Should the Full States approve or approve with modifications the addition(s) or alteration(s) to the Land Use Plan, the Building and Development Control Committee will then meet to make a formal decision on the planning application, and issue a decision notice to the applicant, which will be made available on the States of Alderney website for public viewing. Should the Full States decide not to approve the addition(s) or alteration(s) to the Land Use Plan, then the Building and Development Control Committee will issue a decision notice confirming the planning application has been refused to the applicant, which will be made available on the States of Alderney website for public viewing.

## 4 Major Projects Located Within the Designated Area

### 4.1 Overview

- 4.1 Where a Major Project is wholly or partially located within the Designated Area and does not benefit from a specific disapplication from or exception to the prohibition against granting permission, the Building and Development Control Committee is prohibited from granting permission under section 12(1) of the Building and Development Control (Alderney) Law, 2002 (as amended). However, there is a further exception in paragraph 13 of Schedule 1 to the Building and Development Control (Alderney) Law, 2002 (as amended), for development which the States of Alderney resolve to be of strategic importance that enables the Building and Development Control Committee to consider a planning application for such a project in the Designated Area and to determine whether planning permission should be granted. Where such a resolution has been passed, the Building and Development Control Committee must be satisfied that the development for which planning permission is sought is the same or substantially the same as that for which a resolution by the States of Alderney was passed.
- 4.2 The 'test' for the States of Alderney in deciding whether to pass such a resolution is whether the Major Project is considered to be of strategic importance. In deciding whether a Major Project meets this 'test', the States of Alderney must determine that the Major Project complies with all three of the criteria set out in paragraph 13(2) of Schedule 1 to the Building and Development Control (Alderney) Law, 2002 (as amended):
- 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;
  - there is a real possibility that the development proposal 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
  - 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 on development in section 12(1) of the Building and Development Control (Alderney) Law, 2002 (as amended).
- 4.3 For the avoidance of doubt, development proposals which comply with the definition of a Major Project, are located wholly or partially within the Designated Area, which do not either benefit from a specific exception or disapplication from the prohibition (mainly States and public utility projects) against development in that area or where the States of Alderney has not resolved that the development proposal is of strategic importance **cannot be granted planning permission** by the Building and Development and

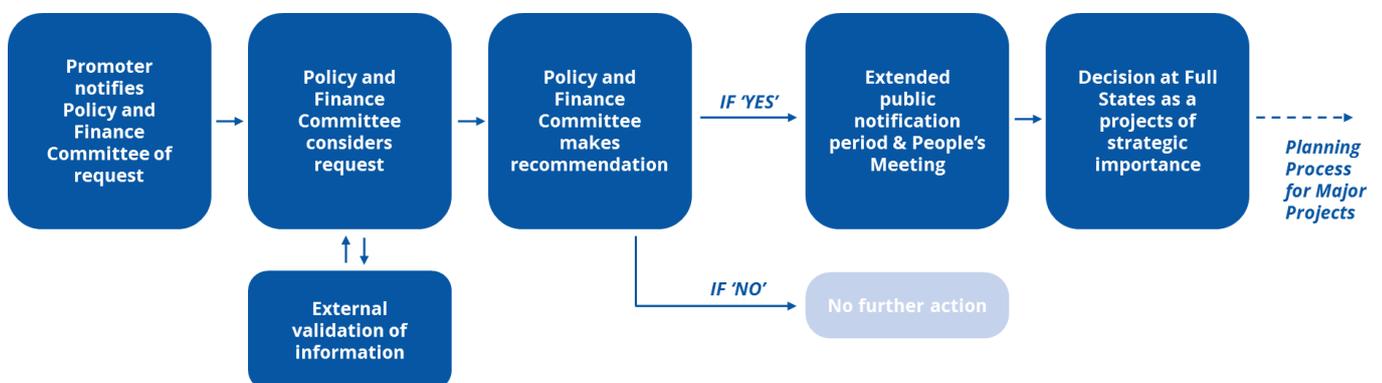
Control Committee under current legislation<sup>25</sup>. This is because the Building and Development Control Committee is prohibited from granting such planning applications. Where a development proposal does not benefit from a specific exception or disapplication, an applicant must therefore request the States of Alderney to resolve that its development is of strategic importance prior to the submission of a planning application.

- 4.4 The Building and Development Control Committee therefore encourages applicants who consider that they may be subject to this process to engage with the Policy and Finance Committee prior to submission of a planning application for a Major Project to agree the timescales and information requirements.
- 4.5 Where development proposals are only partially located within the Designated Area, an applicant may wish to explore with the Planning Office whether the same development outcomes might be achieved through a different configuration or layout to avoid the need for the development proposal to be subject to the designation process set out above.

## 4.2 Process

- 4.6 The process for designating a Major Projects located partially or wholly within the Designated Area, where they do not benefit from a specific exception or disapplication, is summarised in Figure 4.1 and described in more detail below. The figure contains the minimum steps which the Policy and Finance Committee must follow in coming to a decision about whether to recommend to the States of Alderney whether to designate a project in accordance with paragraph 13 of Schedule 1 to the Building and Development Control (Alderney) Law, 2002 (as amended). The Policy and Finance Committee may issue further policies or guidance on how it intends to operate this process, which are not included in the diagram. In addition, the Policy and Finance Committee may have additional policy, promoter or commercial responsibilities, falling within its normal remit, which are not included in the diagram.

Figure 4.1: Process for Designation as a Project of Strategic Importance



<sup>25</sup> Whilst there is the possibility that an amendment to the Designated Area itself might be made via Ordinance approved by the Full States, where such a change would be significant it would necessitate an amendment to the Land Use Plan to avoid inconsistency between the Plan and legislation.

- 4.7 The States of Alderney is required to consider such objective, credible and robust information as is reasonably available at the time for it to assess whether the criteria set out in paragraph 13(2) of Schedule 1 to the Building and Development Control (Alderney) Law, 2002 (as amended) are met. Development proposals must comply with all of the criteria set out in paragraph 4.2 above to be designated a development of strategic importance.
- 4.8 The decision as to whether a Major Project, that is wholly or partially located within the Designated Area, constitutes a development of strategic importance will be made by the States of Alderney upon receipt of sufficient information. This means that the timing of this decision is likely to vary depending on the individual circumstances of a Major Project.
- 4.9 There is a clear distinction between:
- (a) this early, high-level, strategic decision which recognises the potential benefits of a major project; and
  - (b) the 'downstream' more detailed, planning functions of the Building and Development Control Committee in making a decision in relation to whether to grant planning permission.
- 4.10 These are separate decisions and processes made by different parts of the States (the Full States and the Building and Development Control Committee), and designation as a Major Project by the Building and Development Control Committee, or the States of Alderney resolving that development is of strategic importance does not bind the Building and Development Control Committee or confer any status on a development proposal in relation to planning permission. As the decision is a strategic one and to emphasise the separation between the two parts of the process, the Building and Development Control (Alderney) Law, 2002 (as amended) provides for the Policy and Finance Committee to recommend to the Full States that they should resolve that a particular major project is of strategic importance.
- 4.11 The recommended process for requesting that the States of Alderney resolve that a project is of strategic importance is as follows<sup>26</sup>:
- the applicant should notify the Policy and Finance Committee of their request for consideration of a recommendation to the States of Alderney, accompanied by relevant information;
  - the Chair of the Policy and Finance Committee may request further information, as is reasonable to provide, to inform its decision; and
  - the Policy and Finance Committee will then consider whether to recommend to the States of Alderney that they should resolve that the project is of strategic importance. The Policy and Finance Committee must reach their decision based on objective, credible and robust evidence – which may include (but is not limited

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<sup>26</sup> See paragraph 13 of Schedule 1 and section 12A(2) to (5) of the Building and Development Control (Alderney) Law, 2002 (as amended) for the relevant legislation.

to) relevant evidence relating to economic or social impacts of the proposal, or the financing or other financial implications or risks of the proposal.

- 4.12 In deciding, the Policy and Finance Committee must have regard to any strategic policy documents referred to in section 23(3A) of the Building and Development Control (Alderney) Law, 2002 (as amended)<sup>27</sup>. The Policy and Finance Committee may publish strategies, policies or other such guidance that supports its role on Major Projects<sup>28</sup>.
- 4.13 Pursuant to section 12A(2) of the Building and Development Control (Alderney) Law, 2002 (as amended), before the Policy and Finance Committee makes a recommendation, it must cause to be carried out an assessment that the evidence it proposes to rely upon in making its recommendation is objective, credible and robust. This assessment must be made by an appropriately qualified and independent person.
- 4.14 If the Policy and Finance Committee decides to recommend to the States of Alderney that they resolve that a Major Project is of strategic importance, the Chair of the Committee will submit a letter to the President of the States of Alderney, who will set out the letter on the relevant Billet d'Etat with a draft resolution. In accordance with section 12A(3) of the Building and Development Control (Alderney) Law, 2002 (as amended), the following documents must be submitted to the States of Alderney to accompany the recommendation:
- a description of the project and a description of the location by reference to a map location;
  - its reasons for making the recommendation to the States of Alderney, referencing all the matters in accordance with paragraph 13(2) of Schedule 1 to the Building and Development Control (Alderney) Law, 2002 (as amended); and
  - a reference to all evidence it has relied upon in making its recommendation, to any strategic policy document it is required to consider under paragraph 13(3) of Schedule 1 to the Building and Development Control (Alderney) Law, 2002 (as amended) and the assessment it has caused to be carried out (see paragraph 4.13 above).
- 4.15 Any information which the Policy and Finance Committee has relied upon in making a recommendation will be published in a manner the Committee considers appropriate to bring it to the attention of the public/those persons likely to be affected by the development for a period of at least 28 days (starting from the date of publication and not including the day of the Full States meeting). Information which the Policy and Finance Committee is satisfied is commercially confidential, upon request from the person who provided the evidence, may be withheld. The documents submitted to the States of Alderney must also be published for the same period.

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<sup>27</sup> Such documents must be those which the States of Alderney have resolved have significant implications for land planning and meet the other requirements of section 23(3A) of the Building and Development Control (Alderney) Law, 2002 (as amended).

<sup>28</sup> Such guidance may be in the form of statutory guidance (under the section 74A of the Building and Development Control (Alderney) Law, 2002 (as amended)), a strategic policy document meeting the description contained in section 23(3A) of the Building and Development Control (Alderney) Law, 2002 (as amended), or any other form.

- 4.16 A resolution as to whether a Major Project is of strategic importance will be made at the Full States.
- 4.17 If the Policy and Finance Committee decides not to recommend that the States resolve that the Major Project is of strategic importance no further action will be taken.
- 4.18 It should be noted that the decision on whether a development proposal is of strategic importance is made separately to any decisions of the Building and Development Control Committee. Therefore any decision by the Full States as to whether the development proposal is of strategic importance is separate to the consideration of whether a development proposal constitutes a Major Project for this Statutory Guidance, and to the determination of a planning application for a Major Project by the Building and Development Control Committee.
- 4.19 A request that the States of Alderney resolve that a project is of strategic importance can be sought following designation as a Major Project by the Building and Development Control Committee (see Stage 0 of Section 3), in parallel with this designation, or ahead of this designation.





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