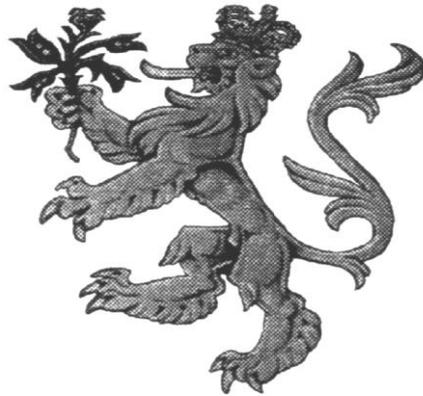


# **States of Alderney**



# **DELIBERATIONS**

WEDNESDAY 21<sup>ST</sup> OCTOBER 2015

**STATES OF ALDERNEY**  
**DELIBERATIONS FOR THE MEETING**  
**ON WEDNESDAY 21<sup>ST</sup> OCTOBER 2015 AT 17:30**

Present: Mr Stuart Trought, President  
Mr Matt Birmingham  
Mr Louis Jean  
Mr Francis Simonet  
Mr Robert McDowall  
Mr Chris Rowley  
Mr Steve Roberts  
Mr Graham McKinley

Colonel Colin Mason represented His Excellency The Lieutenant-Governor of the Bailiwick of Guernsey.

**Item I**      **Budgets for 2016 and Revised Budgets 2015**

The States of Alderney resolved, after consideration of the Budget Report, to accept:-

- i.    The States of Alderney Revenue and Capital Budgets for 2016  
  
and
- ii.   The States of Alderney Water Board Revenue and Capital Budgets for 2016

*Proposed by Mr McDowall and seconded by Mr Simonet*

*Approved unanimously*

**Item II**      **Occupier's Rate 2016**

The States of Alderney resolved to approve "The Occupier's Rate (Level for 2016) Ordinance, 2015".

*Proposed by Mr McDowall and seconded by Mr McKinley*

*Approved unanimously*

**Item III**      **Questions and Reports**

**Mr Birmingham summarised the following report:-**

**“Implementation of the Planning Review**

*The 2014 ARUP Planning review identified the need for many significant improvements to Alderney’s Planning procedures. Following the recruitment of a Planning Officer on a two year contract in June this year, the Committee have set in train a number of initiatives to achieve the earliest possible implementation of changes to the Planning law and the Land Use Plan, both key tools of the Committee to help ensure that the Island special natural environment and heritage assets are conserved while our community’s needs for housing, the economy and recreation can be met.*

**1.      Changes to Building & Development Control (Alderney) Law, 2002 by Ordinance**

*The review identified certain amendments required to the Building and Development Control (Alderney) Law, 2002 (the Law). Where amendments require more extensive or significant changes or new powers to make provision by ordinance, the Committee has been advised by the Law Officers of the Crown that it would be appropriate to progress these changes by promoting an amending law (Projet de Loi), which would require over twelve months to progress. Other changes, clearly within the scope of the current law, could be made by amending ordinance. Further details on the proposals will be published as this work progresses to enable consultation, which is likely to include a full merits appeal process independent of the Court, and the removal of part V of the law. This proposal is likely to require new planning policies to protect local residents with consequential changes to the law to enable such policies, and will require public consultation. The Committee does not envisage this being completed until late 2016/early 2017.*

*The Building and Development Control Committee at its meeting on 14<sup>th</sup> July 2015, having recognised the necessity for an extended timetable, have taken the view that the following amendments to the Building and Development Control (Alderney) Law, 2002 should be progressed by ordinance during 2016.*

**(a) Impacts on biodiversity and facilitating sustainable development**

*Currently there is no specific provision requiring consideration by the Committee to the effect of development (or other work) on wildlife, flora or fauna when considering planning applications, either directly or through the impact on natural resources or the general environment. It is consistent with Alderney’s environmental tourism strategy to require that consideration of the impact on biodiversity, and the desirability of facilitating the sustainable development of land (having regard to the competing demands of the community for its use), should be matters that the Committee takes into account when considering applications for permission to carry out development or other work.*

*It is proposed to amend section 7 under Part 2 of the Law to add to the matters required to be taken into account by the Committee when exercising powers under section 6 (including to grant or refuse permission, or impose conditions on permission) to include these considerations.*

**(b) Change of Use**

*The Committee already has powers to control changes of use of land and buildings, providing that the change of use is “material”. This is because a material change of use is included in the definition of ‘development’ in section 76(1) of the Law. Section 76(3) specifies that certain changes of use*

*are material changes, but this is "without limitation" so that other material changes of use are also classed as development. Apart from section 76(3) the Law makes no reference to which particular uses are considered to be material changes of use or not.*

*The Committee proposes to amend the Law to provide for a change of use between specified classes of use to be considered as a material change of use and to include a schedule of the specified uses, having regard to uses commonly arising in Alderney, which cause significantly different planning impacts (visual, noise etc.) so that a change between them would be material and require permission for the change of use. This would be subject to standard exceptions for minor, ancillary or incidental uses. Where a change involves a use which does not fall within the scheduled classes, a change could still be material depending on the circumstances but this would require individual consideration rather than being automatically regarded as a material change of use. This will bring clarity to what will or will not constitute a change of use.*

(c) Site Notices

*The Committee has the power under Section 5(2) to require applicants to undertake public consultation and to comply with any instruction of the Committee including without limitation, any instruction regarding the display of notices and site poles. It is proposed to use the latter power to require applicants to display notices so as to alert the public to the development or works. In order to enforce this proposed requirement, the Committee propose to amend the Law to provide that the Committee need not further consider an application until the applicant has complied with all of the matters required under section 5(2) of the Law including any required site notices.*

(d) Summary

*The Committee propose to work with the Law Officers on any necessary amendments to legislation to give effect to the following by draft Ordinance to the States of Alderney during 2016:-*

- i. To amend section 7 of the Building and Development Control (Alderney) Law, 2002 ("the Law") to add to the matters required to be taken into account by the Committee when exercising powers under section 6 (including to grant or refuse permission, or impose conditions on permission), to include the effect of the development or other work on biodiversity and the desirability of facilitating the sustainable development of land (having regard to the competing demands of the community for its use).*
- ii. To amend the Law to provide for a change of use between specified classes of use to be considered a material change of use and to include a specific schedule of the specified uses, having regard to uses commonly arising in Alderney which cause significantly different planning impacts (visual, noise etc.). A change between them would then be material and require permission for the change of use. This would be subject to standard exceptions for minor, ancillary or incidental uses.*
- iii. To amend the Law to provide that the Committee need not further consider a planning application until the applicant has complied with all of the matters required under section 5(2) of the Law including any required site notices.*

## **2. The Land Use Plan Review**

*The Committee is bound by Part IV of the Building and Development Control (Alderney) Law 2002 to review the Land Use Plan in 2016.*

*The ARUP review identified that significant improvements were required in the process and substance of the Land Use Plan.*

*The Committee have invited ARUP to submit proposals to support the Committee in completing this task in 2016, incorporating the required improvements. The Committee concluded that the resource implications are too great and the timescale too ambitious for full implementation of all the changes in the 2016 review. It is also likely that some of the changes required to the Land Use plan may be contingent on changes to the Law. Taking both these factors into account, it has decided to phase this vital work over three financial years commencing this month, to complete an interim review during 2016 and to complete the full review in 2017/18.*

*Until the review of the land use plan commences it will not be possible for the Committee to determine which aspects of the review can be included in 2016 and which will be deferred until 2017/18. The Committee anticipates being able to make these decisions very early in 2016 and will publish these details at that time, setting down a timetable for public consultation and for the Planning inquiry on the initial review. This is provisionally set for the week of 25<sup>th</sup> April 2016 with the interim land use plan being submitted to the States in July 2016*

*Having now concluded agreement with ARUP on the support required for the initial stage of the review of the land use plan, work is due to commence on 21st October 2015. The initial work will include the development of a housing strategy for Alderney which will be including consultation with the public and stakeholders. This will be completed by the end of the year. As part of this process a meeting will be held with all States members to identify the scope of change required.*

## **3. Open Planning Meetings**

*The Committee has taken note of the ARUP review recommendation regarding open planning meetings. The Committee is keen to progress towards this but is aware that this proposal will impact on future departmental resource. Also there are a number of further implications relating to operational management of such meetings, legal questions relating to qualified privilege and that clear procedural protocols would need to be agreed and established. The Committee also have some doubts about the veracity of making planning meetings open to the public but the decision making process then being made in camera as the ARUP report suggests. In order to progress this recommendation the committee has tasked the senior planner to compile a report on this matter for consideration by the committee in 2016."*

**Meeting Closed: 1840hrs**

**Issued: 23<sup>rd</sup> October 2015**