

# STATES OF JERSEY



## ISLAND PLAN REVIEW

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**Lodged au Greffe on 4th June 2013  
by Deputy J.H. Young of St. Brelade**

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**STATES GREFFE**

## PROPOSITION

**THE STATES are asked to decide whether they are of opinion –**

- (a) to request the Minister for Planning and Environment to carry out an interim review of the Island Plan policies adopted by the States in June 2011 to take account of economic circumstances, and consider the practical consequences and effect of the policies of the Island Plan 2011 as set out in sections 6(a)–(i) of the attached report, with the review to include, but not be limited to, the following policies –

Housing Policies H1, H2, H3, H5 and Multi-generation homes;  
ERE7 Derelict and Redundant Glasshouses;  
SP5 Economic Growth and Diversification;  
E1 Protection of Employment land;  
SP1 Spatial Strategy, for settlements outside the main built-up area;  
GD3 Density of Development;  
NE6 Coastal National Park;  
SCO6 Allotments;  
GD8 Percentage for Art;

and to further request the Minister, if he considers that amendments are needed to the Plan in light of his review, to conduct the required public consultation under the Planning and Building (Jersey) Law 2002 and, having taken account of the results of this public consultation, to bring forward for approval by the Assembly any amendments to the policies of the Island Plan that are deemed appropriate, no later than June 2014;

- (b) to request the Minister for Treasury and Resources to allocate sufficient funds from central reserves to enable the Minister for Planning and Environment to carry out the interim review in accordance with paragraph (a).

DEPUTY J.H. YOUNG OF ST. BRELADE

## **REPORT**

### **1. Purpose of the Island Plan**

The Island Plan is fundamental to the land use planning system and is a vital component in ensuring effective implementation of our strategic policies.

The Planning and Building (Jersey) Law 2002 (“the Law”) requires the Minister for Planning and Environment (“the Minister”) to prepare and present an Island Plan (“the Plan”) to the States for approval. The Plan must include a written statement of the Minister’s policies in respect of the development and use of land, together with a reasoned justification of them. These policies must further the purposes of the Law in Article 2, which includes ensuring the sustainable development of land. The Plan may designate land for particular development or use including land for residential development, whether rental or purchase, for persons who would otherwise have difficulty in renting or acquiring accommodation in the general market in Jersey.

In determining applications for planning applications, Article 19 of the Law requires the Minister to grant permission if the development is in accordance with the Island Plan.

The Minister is required by Article 3 of the Law to present to the States a draft revision to the Island Plan within 10 years of its approval. The next revision is not due until June 2021.

### **2. Establishing the Plan – the process**

The 2011 Island Plan has increased in complexity compared to the 1987 and 2002 Plans, as the Island’s population and development pressures have increased. With 100% land utilization in Jersey, there is competition for use of land. The preparation of the Island Plan has become a very substantial and difficult task. The current Plan runs to 442 pages, 20 maps, 140 policies and 31 proposals. Since the Law was implemented in 2006, the process for preparation and revision of the Plan has been proscribed, requiring extensive public consultation and the holding of an independent public Inquiry.

Preparing the Island Plan 2011 was a complex, iterative and resource-hungry process. The Plan started its gestation as a Green Paper published in July 2008 with an invitation for public submissions. The draft Plan was published in September 2009 with a three-month consultation period expiring in December 2009. In May 2010 the previous Minister published his response to the 1,200 representations he received, and a public Inquiry was held in September 2010 which reported in November 2010. The revised draft Plan was lodged in March 2011 and 50 amendments were lodged, many by the previous Minister in last-minute changes, and debated by the States between 21st and 29th June 2011. After 40 hours of debate it was approved by 37 votes to 1

### **3. Need for review of the Plan**

The Minister inherited the Plan from his predecessor and proposed an interim review in the Medium Term Financial Plan, but was unsuccessful in persuading the Council of Ministers to allocate resources to carry this out. Subsequent events have put the need for the review beyond doubt.

Updating the Plan will be a major task if left until 2021. The Plan should be kept up-to-date with changed circumstances and take full account of experience gained of its policies when dealing with planning applications.

The review is necessary to take account of changed economic conditions since the Plan was adopted, and the problems which have arisen with unintended effects of some of the policies.

The objective should be to complete the review in time for any required Policy revisions to be approved by the States Assembly at the very latest by June 2014.

#### **4. Changes in economic conditions**

The Plan was drafted before the Island was hit by the economic shocks of the credit crunch in the autumn of 2008 when it was hoped these effects would be short-lived. Five years later we have seen that the adverse economic circumstances are fundamental and much longer lasting. The most optimistic expert forecasts do not predict an early return to the pre-2008 economic conditions. It has to be asked whether the current Island Plan policies are sufficiently flexible to encourage the taking of economic opportunities on sites which are unlikely to cause damage to the environment. Alternatively, it is argued by some that the present policies combine with high planning charges and an overly bureaucratic planning process to operate as a damper on economic initiatives. A review of the policies would answer these questions.

#### **5. Complexity of the Policies**

Problems have arisen unintentionally from the complexity of some of the Island Plan policies and some ambiguities and contradictions in their meaning. This may be the result of a new Policy being adopted, either by drafting the policies in Committee or by piecemeal amendment.

It is frequently argued by those who regularly submit planning applications that some of the policies include many contradictions, so that it falls to the judgment of individual Planning Officers to interpret them as best they can. This leads to many challenges of decision and a tendency for Planning Officers to adopt a process-driven approach. This can create uncertainty over the outcome of planning applications. Consequently, applicants have less confidence in the Planning process and may be discouraged in making investment in their schemes. The architects' fees and high planning charges mean that significant sums are at risk. Members of the Planning Applications Panel who are required to determine individual planning applications have expressed concern over the Policy complexities which they are required to deal with.

The Policy complexity and ambiguities in some Policies of the Plan have resulted in the Minister issuing Supplementary Planning Guidance documents (SPG) to explain how the Policies are meant to work. Unfortunately, some SPGs have increased the complexity of the Policy which they seek to explain, rather than clarifying their meaning. The SPG for the Protection of Employment Land Policy (Policy E1), approved in June 2012, runs to 19 pages, and the draft SPG for the Coastal National Park (Policy NE6), issued in May 2012, runs to 16 pages.

The Policies most affected, together with their SPGs, need to be rewritten to ensure their purpose is clear and any ambiguity in their meaning is reduced.

In my proposition I have included a list of those Policies which I consider require an interim review before 2021, but this is not an exclusive list, as the Minister and other members may consider other Policies of the Plan should be included.

In the following paragraphs 6(a)–(i), I have attempted to summarise the issues which have arisen in implementing each of the Policies listed in my proposition which I propose should be included in the review. Whilst it is to be expected that there will be varying opinions on these issues, they are sufficiently important to justify an early Policy review.

## **6. The Island Plan Policies for review**

### **(a) Housing Policies**

Much of the States debate in 2011 was about the Plan's housing policies, which 2 years later are proven not be working properly and require urgent updating. The Chief Minister's statement of 17th April 2013 to the Assembly includes a commitment to the review of the Island Plan housing policies which needs to be commenced urgently.

**Policy H3** for affordable homes on privately-owned sites was never implemented, has been shown to be unworkable, and effectively has been withdrawn. A replacement Policy is urgently required which provides for a proper definition of affordable homes which will effect all the Plan's housing policies.

**Policy H1** includes a target for 150 units of affordable housing on States-owned sites in the first 5 years of the Plan. It is now recognized that the failure in the supply of affordable and social housing in the last few years means this target is insufficient and should be reviewed.

**Policy H2** sets the housing mix of 55% first-time buyers or lifelong homes (for people over 55)/45% social rented/Jersey HomeBuy mix on certain privately-owned sites. Since these sites were zoned, the market for first-time buyers has since contracted severely because of lack of affordability, restrictive lending policies, difficulty for purchasers in raising deposits and anxieties over security of future employment.

A replacement for the withdrawn Jersey HomeBuy scheme is required. This should provide the equivalent of equity share or affordable homes. Policy H2 also defines the 9 sites zoned in 2008 for over-55s. There is a need to review and consider extending this Policy to zoning more privately-owned sites for affordable housing for the over-55s for sale, providing this releases under-occupied family homes to the market at affordable terms.

**Policy H5** for housing in rural centres currently restricts this to the northern and central parishes, the review should consider its extension to all parishes.

**Policy for multi-generation homes:** At present the Plan policies discourage the creation of new units within existing buildings outside the built-up areas, which is an inefficient use of resources. A change in Policy could make a valuable contribution to meeting housing needs by enabling the sub-division, conversion or extension of

existing dwellings including those outside the built-up areas to provide multi-generation homes, where the site and configuration of buildings can facilitate such an arrangement without causing problems. The review should consider the need for such a new Policy.

**(b) Policy ERE7: Derelict and Redundant Glasshouses**

In the event of the Island Plan target for the provision of 150 affordable homes from States-owned sites in Policy H1 not being met, Policy H1 identifies 6 privately-owned outworn glasshouse sites which would be considered for the development of a minimum of 150 affordable homes. The Chief Minister's Statement of 17th April 2013 of the proposed review of housing policies included these and other glasshouse sites, to which Policy ERE7 will apply. The review should therefore include this Policy.

**(c) Policy SP5: Economic Growth and Diversification**

This Policy is intended to assist maintenance and diversification of the economy and support new and existing businesses, especially where these are low footprint/high-value businesses.

The Policy seeks to meet the following objectives –

- Protect and maintain existing employment land
- Redevelop vacant and under-used existing employment land for new employment purposes
- Provide sufficient land and development opportunities for new and existing businesses.

Two of these objectives are addressed by Policy E1 for existing employment land which I have proposed for review.

The third objective, providing new development opportunities for businesses, is even more relevant than it was in 2011. The Island Plan includes 2 proposals – 12 and 13 – to bring forward masterplans for the St. Helier Regeneration and Airport Regeneration Zones. Yet 2 years on, there is little sign of these being actively progressed.

The review of the Plan should consider whether this Policy is sufficient, or whether additional policies and actions are required.

**(d) Policy E1: Protection of Employment land**

The purpose of introducing this new Policy in 2011 was to protect land being lost to alternative uses, causing job losses.

There is a longstanding shortage of existing commercial sites in the Island of the standard required which was not fully addressed in the Island Plan 2011. The main sites of light industrial and warehousing have been very intensively used for many years, and there is severe competition for space. Part of this unfulfilled demand has historically been met by sites in the countryside which have been released from agricultural use.

Some of these sites are often close to houses or may cause traffic problems, rendering them unsuitable for industrial use. These premises have previously been restricted to dead storage of goods by the Planning Department.

Because of the severe limitation of housing policies in the Plan, these sites are now subject to speculative pressure of residential development when the use becomes unviable. This may be because of declining market or high cost of rents or maintenance.

Since this Policy was adopted, the applications for redevelopment of these sites have been very contentious. Applicants have been required to pass Policy tests, e.g. advertising for tenants, financial appraisals. The working of this Policy in practice has been bizarre, and arguably perverse. Planning Officers have argued for the refurbishment and repair, and even demolition and replacement, of worn-out commercial buildings rather than concede their residential redevelopment, even though this would cause problems for neighbours and traffic concerns. The Policy has also not prevented other premises from leaving employment use, e.g. a well-known former restaurant in St. Brelade's Bay.

This Policy and its SPG is a well-meaning but problematic attempt to intervene in the economy which ought to be reviewed. Rather, the Island Plan should consider the need for industrial land and whether there are any suitable sites where employment use can be established or expanded without major problems.

**(e) Policy SP1: Spatial Strategy, for settlements outside the main built-up area**

The Island Plan's Spatial Strategy (pages 13–18) sets a hierarchy of development which may be summarized –

- the main built-up area of St. Helier
- the built-up area in the settlements outside St. Helier
- brown field land outside the built-up area
- to support the rural economies or parish communities.

In a change from the 2002 Plan, the Spatial Policy adopted in 2011 does not differentiate between urban, suburban and isolated rural settlements. The Plan zones all residential settlements as the built-up area. Outside the main built-up area, these settlements, many which pre-date the Planning Law, widely vary in age, their individual character and density. Their variation is one of Jersey's very special qualities which I believe is worthy of conservation. Settlements may be on the edge of the Coastal National Park, have an open aspect over coasts or headlands, in isolated rural pockets or alongside popular tourist beaches such as St. Brelade, along our southern coast or be on the edge of town. Because of their lower density and greater amenity of open space which encourages community life, they are very pleasant places to live. Most of these communities have become settled and their residents have lived there in peace and harmony throughout much of their lives.

The effect of the one built-up zone Policy adopted in 2011 has opened all these areas to high density redevelopment, which is proving to be a very socially divisive. It runs entirely counter to the Minister's commitment to community planning. The Policy protection from over-development which is presently enjoyed by residents living in

rural areas should be extended to those living in all urban, suburban and isolated built-up rural settlements.

The blanket Policy of Policy SP1 to treat these built-up areas equally was well intentioned to generate more homes, but I submit it is misguided. The social cost of opening up these areas to indiscriminate high density development has not justified this Policy.

I tabled a written question on 17th April 2012 seeking information on the density of development and number of residential units approved in all zoned built-up areas since the Plan was approved, but this information is not available. The Planning Department therefore has no means of monitoring the effect of this Policy.

The review should consider all settlements outside the main built-up area which are zoned as built-up areas separately, and consider either assigning a sub-classification based on their characteristics with the intention of ensuring the density of development permitted is appropriate to the particular area, or removing them from the built-up zone entirely.

**(f) Policy GD3: Density of Development**

This Policy enforces an equally high density of redevelopment in all zoned built-up areas as required by Policy SP1, irrespective of the character of the area, with all the damaging consequences which I have explained in paragraph 6(e). It has resulted in speculative high density commercial developments taking up garden areas in residential areas. The GD3 Policy also has the effect of overriding the requirements of Policy GD1 (General Development Considerations), which is intended to prevent developments which cause damage to the character of the area and prejudice to neighbouring properties. Policy GD1 is tried and tested, having been developed and applied in practice over many years, but is being undermined by GD3. Having attended the Planning Applications Panel and made representations on behalf of concerned neighbours and residents against several such over developments, I believe this arises because the Planning Officers have taken a robust view of the GD3 Policy, and the Planning Applications Panel has little choice but to approve applications which rely on this Policy, despite the very negative effect on neighbours and local communities.

Information on the additional number of dwelling units created by this Policy is unknown. But the social costs are too high. I believe the GD3 Policy is misguided, damaging and socially divisive and should be set aside. The right policies to secure the new housing development we require are the Housing Policies.

**(g) Policy NE6: Coastal National Park**

The Coastal National Park Policy was adopted in 2011 following a very high level of support from public consultation. It was intended to afford the highest level of protection the Law could afford to our very special unspoilt places, which were identified in paragraphs 2.55 to 2.62 of the Plan. These areas include those which were previously zoned as outstanding character in the 2002 Plan, the headlands and coastal strip from St. Aubin to Corbière, St. Ouen's Bay, and the north and north-east coast through to Gorey. It also includes the valleys running inland from the north and St. Martin's coast.



The adoption of the Coastal National Park zone raised public expectation that there would be a very high level of protection which would prevent any further spread of developments in these special areas, which would be conserved in perpetuity for future generations to enjoy. It was expected that the Policy protection would be stronger than the Policy in the former Green Zone area of the 2002 Plan, which had become weakened and would be at least equivalent to that applicable to the previous Plan's outstanding character zone. The expectation was that Jersey had adopted the UK National Park standard of protection from development in these areas.

From the reports and correspondence I have received from concerned public-spirited citizens monitoring planning decisions in St. Ouen's Bay, there is very considerable disappointment with planning decisions which have been made to allow significant redevelopment within this zone, which it was expected would not be encouraged.

It is clear there are alternative interpretations of the exceptions to this Policy, the Minister's draft SPG and the Policy criteria being applied. There has been a Royal Court decision to overturn the Minister's decision to approve a development of a property in St. Ouen's Bay on the grounds of this Policy.

The new Policy sought to recognize that this zone includes many buildings and land uses within it and was said to be "a living landscape". Experience has illustrated the difficulty of setting this inland boundary of this zone. As an example, the landscape and vegetation of the Plémont headland close to the cliff-edge is partly Coastal National Park and partly Green Zone. There is a need to re-examine the boundaries of the Coastal National Park Zone.

It was intended that this Coastal National Park Policy should provide the strongest possible protection, and the exceptions listed which tend to undermine this Policy should be reviewed and modified or removed.

Because of the Royal Court decision, the Minister has already declared his intention to review this Policy.

**(h) Policy SCO6: Allotments**

An allotment can enhance people's lives, especially for those who live in urban environments and who have limited open space. The many benefits of the provision of enabling more allotments are set out in the Island Plan. The very successful scheme at Les Creux Country Park, which is well managed, is an excellent example, but it is heavily over-subscribed, and there is an unfulfilled need.

The Policy seeks to limit allotments to sites which are close to or within built-up areas which will not have adverse environmental impacts. To minimise their visual impact, the erection of the necessary sheds and enclosures is also constrained by this Policy.

Without the allocation of suitable public land for this community purpose, sites can only be considered where they are offered by landowners. In practice it has proven very difficult to meet these strict criteria, and after lengthy searches, several sites have been refused consent or discouraged from being taken forward. In practice this Policy is too restrictive. There is a strong case for review of the Policy with a view to some relaxation, and ideally the identification of suitable sites for new allotments, including public land.

**(i) Policy GD8: Percentage for Art**

This Policy to impose a Planning Obligation to provide public art in the form of sculpture on major developments has made an important contribution to the public realm. However, in recent years the choice of such works of art has been increasingly being questioned. It has been suggested that the scope of such obligation should be extended to a percentage contribution for the environment or for a community purpose. At a recent scrutiny hearing, the Minister indicated his preparedness to consider this.

**7. Financial and manpower implications: cost of the interim review**

There are no manpower implications.

The Planning Department has advised me that the principal costs associated with a review of the Plan arise from –

- the need to undertake any additional background research/evidence-gathering, the Department would assess whether it needs to engage any consultant support;
- the scale and duration of an Examination in Public, run by an independent Planning Inspector; the scale will be dependent upon the number of representations received and the number of issues that the Inspectors wish to review.

The Minister for Planning and Environment's own unsuccessful bid for funding to the MTFP for the review of the Plan which he proposed last year was £150,000.

The Chief Minister has already made a commitment to an early review of the Island Plan Housing Policies, which I have included in this proposition.

I estimate the cost of the review which I propose at between £100,000 and £150,000, depending on the scope of the review which is finally settled.

Subsequent to the withdrawal of my second amendment to the MTFP, which sought to provide additional resources for environmental purposes, a commitment was given to alternative funding from the Central Planning Vote for these purposes in pages 85 and 86 of the Addendum to the MTFP published by the Minister for Treasury and Resources on 14th January 2013.

Part (b) of my proposition seeks the Assembly's support for the allocation of funds from this source to carry out the review.