

# STATES OF JERSEY

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## LAND IN ST. CLEMENT: REZONING

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Lodged au Greffe on 1st March 2005  
by Deputy G.C.L. Baudains of St. Clement

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STATES GREFFE

## PROPOSITION

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

to refer to their Act dated 11th July 2002 in which they approved the Island Plan 2002 and, *inter alia*, approved the zoning shown on the Island Proposals Map 1/02, and to agree to rezone with immediate effect from the Built Up Area to the Green Zone –

- (a) Field 108A in St. Clement (bounded on the east by Rue de Pontliétaut, to the south by Field 10 and to the west by Field 79);
- (b) the area of land in St. Clement bound on its northern side by the dwelling “Jambart House”, on the eastern side by Rue de Jambart and on its southern and western sides by Field 198A; and
- (c) the area of land in St. Clement designated as Built Up Zone on the 2002 Island Plan map and bound on its eastern side by Rue de Jambart and on its northern side by the dwelling “Jambart Farm”.

DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT

## REPORT

It is with regret that I trouble members with this amendment to the Island Plan, but, faced with a Planning authority that consistently refuses to honour the comfort given to the House by Deputy Layzell (and which enabled the Island Plan to proceed without a Reference Back), frankly I have little choice.

Without the comfort of that speech, there's little doubt in my mind the Reference Back would have succeeded and the Island Plan we have today would be very different.

It is unlikely, for example, that the zones Deputy Hilton identified in P.33/2005 and the ones I refer to here would be designated Built Up.

The significance of that speech must not be underestimated. I include a transcription and would highlight the paragraph about halfway through, starting "I would like to turn then to the specific concerns ....".

There are other issues that require clarification –

For instance, in the "Report to the Environment and Public Services Committee", dated 12 February 2003, the quote in paragraph 2.2 is totally false.

Likewise, the comments in 2.4 are misleading: "These issues (definition of the Built Up Area boundary and the policy regime applicable to it) were accepted by the Assembly **unanimously** and on a **standing vote**."

How can anyone declare a standing vote unanimous? Unless a vote is counted, it is not possible to know how many may support it or otherwise.

But, going back to paragraph 2.2, as one of the 2 Deputies concerned I can advise (and I have confirmed this with ex-Deputy H. Baudains) that we withdrew the Reference Back solely as a result of the comfort we drew from Deputy Layzell's speech, where the 'Secret Sites', as we called them, were declared to be considerably less vulnerable to development than would be the case had they been zoned as Built Up under the 1987 Island Plan.

We did not, and still don't, consider the Island Plan "was the result of a very open and inclusive process of consultation". The only concession we made was that any potential misleading as a result of rezoning was not deliberate.

In contrast, however, I would draw members' attention to paragraphs 3.6 and 3.7 of that report, where the latter acknowledges that the policies in the new Island Plan enable "inappropriate development within the BUA (to be) resisted" and "serve to provide the Committee with an effective armoury and a great degree of control to bring this about".

Finally, there was an inference on page 18 of P.33/2005 that Deputy H. Baudains and myself waited until the last minute before acting: "Matter raised by Deputies Baudains in States on 2 July– 9 weeks after lodging; 1 week before debate".

I had asked, and been waiting for, a map clearly identifying Zone boundaries ever since lodging, as I was anxious another Field 126 mistake should not be made. This material, albeit inadequate, was finally delivered by hand only a matter of days before the Island Plan debate, so, therefore, the delay was entirely attributable to the Planning Committee/Department and not to any tardiness on our part.

Members present during the debate on the Island Plan will recall Deputy H. Baudains and myself raised the issue of 'Secret Sites', where, in addition to rezoning fields for Category 'A' housing (of which St. Clement, the smallest of all the parishes, took more than any other parish), boundaries had been redrawn in other areas.

For example, whereas before the Built Up Zone might have been drawn around a dwelling, it now included whole gardens and possibly other nearby land as well.

We raised this issue, having identified a possible 10 sites in St. Clement and others across the Island, because we felt there were 2 dangers: first, other members may have missed these changes, having been absorbed in the Category 'A' rezoning, and secondly we perceived a danger that these sites would be targeted by developers, resulting in houses being crammed into these sites to the detriment not only of the neighbours, but ultimately of the purchasers of these new dwellings as well.

The 2 sites addressed by Deputy Hilton in P.33/2005 are 2 of the 'Secret Sites' we had highlighted outside of St. Clement and this proposition addresses 3 of the 10 we highlighted within the parish.

Because of our concern, and the apparent realisation by other members that this was a problem which needed further work, a Reference Back was proposed during the Island Plan debate.

This appeared to have significant support and, as a result, much work went on behind the scenes overnight and before the States Sitting resumed the following morning.

The result was Deputy Layzell's (Planning's Vice-President) speech, in which it was emphasized that these sites were nowhere near as vulnerable as they might have been had they been zoned Built Up under the old '87 Island Plan.

This reassurance allowed the Reference Back to be withdrawn and the new Plan to be approved.

Sadly, our worst fears have been realised. As far as St. Clement is concerned, several of these sites have had Applications submitted and, in the main, what the developers have asked for they have got.

For example, Field 147, a small patch of shrub, trees and greenery less than a quarter of the way up Rue du Hocq on the left-hand side (one of the 10 sites) is now developed. It might have supported one house. Instead, 6 are crammed in.

Likewise, 2 sites in Rue de Samarès have had Applications submitted. One has been approved for 10 houses, the other has, I'm told, been approved in principle. These sites are being developed one after the other, in total contradiction to Deputy Layzell's indications and invariably contrary to Island Plan policies.

As his reassurances were instrumental in getting the Island Plan passed, I believe they form an integral part of the Plan.

It is therefore, in my view, incumbent on successive Planning committees to honour those commitments.

Sadly, this has not been the case. Policies are ignored in developers' favour. Applications are granted seemingly without regard for traffic, infrastructure, amenity or other issues. Country lanes are having mini-estates shoehorned into them – housing that is totally out of keeping with the surroundings and can only lead to future domestic and social problems.

Had this, or previous, committees honoured what the House was told by Deputy Layzell (and the press release issued jointly by the then-President, Senator N. Querée and the Director of Planning, P. Thorne), my amendment (and Deputy Hilton's Proposition P.33/2005) would be superfluous.

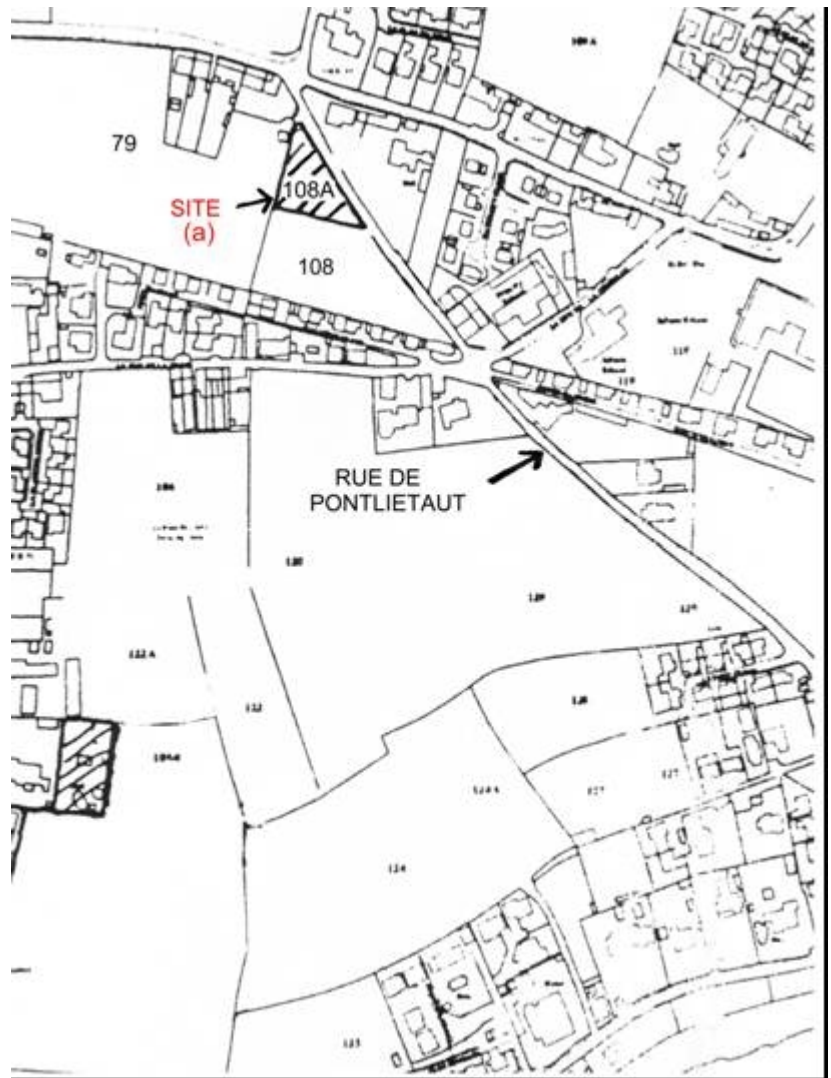
Sadly, the sites in question continue to be treated under the mindset of the '87 Plan. Whether the House was misled by Deputy Layzell or is being let down by subsequent committees is academic, although, on evidence, I suspect the latter.

It is therefore imperative the sites identified are put back into the Green Zone in order to protect them and the areas in which they reside. Had I known Deputy Layzell's assurances would not be honoured, I'd have brought all the sites back for re-assessment much sooner. Now that several are either approved for development or already built on, I can only bring those remaining that deserve non-development.

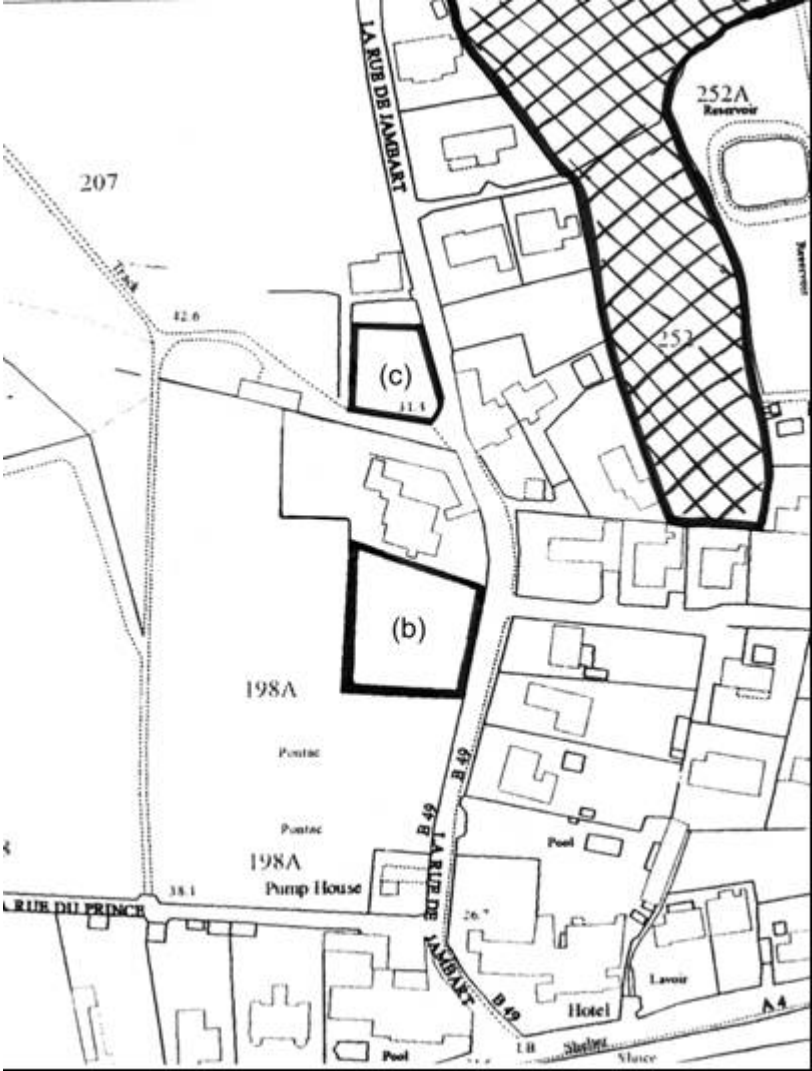
I do not believe that there are any financial or manpower implications arising from this proposition.

Appended are maps to assist identification of sites (a) (Jambart) and (b) and (c) (Pontorson).

A transcript of Deputy Layzell's speech and the report to the Committee, dated 12 February 2003, are also appended.











**ISLAND PLAN DEBATE – JULY 2002**

**DEPUTY A. LAYZELL'S SPEECH**

We are, as you say, discussing the reference back proposed by Deputy Harry Baudains and I wondered if I could, given that the President has already spoken, take Members through the process that was used by the Committee to get us to where we are today.

Members will know that the consultation draft was published thirteen months ago in June 2001 and that was preceded by a presentation to a number of States Members at the St. Paul's Centre. Following that, the Draft Plan was exhibited through a series of written presentations, but also large scale maps, at exhibitions in each Parish Hall in June and July 2001, and those were presentations which were manned by officers of our own Department and also the consultants, W.S. Atkins. That was followed by the Querée and Layzell roadshow which successfully went round the Parish Halls in June and July and they were very well-attended meetings. They were hot meetings at times and they were interesting and exciting meetings and they resulted in clearly people having looked at the maps which were put up for their benefit, in some cases making written representations for changes of the lines that had been drawn as proposed and for the Committee subsequently acceding to a number of those requests.

Then there was a separate permanent exhibition which was very well publicised at premises on the Esplanade for four weeks in June/July 2001. All the written representations, and there were a lot of them, were considered as the President has said by the Independent Reviewer, Professor Patrick McAuslan. The Committee then considered Professor McAuslan's recommendations and all the written representations, all the letters weren't just sent to the Professor they were also copied to Members of the Committee. And as I've said some boundaries were changed as a result.

Meetings were held with the Parishes of St. Martin, St. John, at the request of those Parishes, to discuss details of the Draft Plan including where the new boundaries would fall. Then the Draft Plan was lodged on 30 April 2002, that's ten weeks ago. There was a meeting of States Members, a very well-attended one because it followed the end of a normal States meeting, on 23 May in this Chamber to discuss the Draft Plan. Subsequently there was a Parish Assembly in St. Lawrence, at the request of the Constable of St. Lawrence, to discuss details of the Draft Plan and the matter raised by Deputy Baudains, or Deputy Baudains', in the States on 2 July was nine weeks after the lodging and one week before the debate. Now the Committee really feels that it has done all it could almost possibly do to encourage members of the public and States Members, their representatives, to take part in the consultation process and I think it important, Ma'am, to try to establish why we've done what we've done.

A fundamental purpose of the Island Plan Review was to classify settlements and re-assess boundaries and although we touched upon this in another debate yesterday, I think it bears repeating that we had an extremely, or currently have because the '87 Plan is still in existence, we have a very unsatisfactory situation where the Agricultural Priority Zone washes over a number of what are clearly Built Up Areas and that has prevented development in those areas, and I said I think in response to the debate provoked by Deputy Voisin yesterday that the reorganisation was to the benefit of the community because clearly where small plots of land, alongside houses between one house and another house, existed there would now be the potential to put a house in there where previously those applications, and there were quite a number of them, had been continually denied, not just by this Committee but by every Committee since the '87 Island Plan was approved.

The process was explained, all that process, I remember explaining it myself at several of the meetings, it was explained in great detail by myself and by the President in the meetings that we had and at the presentations, and we have had excellent work by the officers last night to prepare a single sheet of A4 which has been put on all Members' desks which shows what you might call the most significant changes to the re-drawing of the line. There were minor changes, it says that on the bottom of the A4 sheet, because as the drawers went round they might for instance have re-drawn the Built Up Area around a garage where previously it was around a garden and that sort of thing, and were we to produce that sort of list well we would have a document which was twice as thick as the Island Plan before us today.

Senator Kinnard, I just want to pick up a point which she made yesterday, talked about the U.K. process of putting applications on the actual site of the application and of course that does happen in the U.K. and the States has agreed that that will happen in the new Planning Law which is not yet in force, and it is an entirely sensible thing to do but were we to have done that in respect of the time then we would have had thousands of little posts and notices and I think it would have been, frankly, impractical to do. Clearly, Ma'am, it is the responsibility of States Members to scrutinise the Plan in the interests of the public at large and one might say their constituents in particular and many Members clearly did that, some did not, and some have admitted that they came to it very late in the day. But I don't think that any States Member can justifiably claim to be unaware of the process involved in the content of the review of the '87 Plan.

Ma'am, I think Members need to think very carefully about the effect of successful reference back. Would we ask, for instance, all States Members to take a detailed look and bring back the changes they propose. If so, well we should really send the lines out for public consultation again, a huge, a huge and costly exercise, a long exercise, and all the gains in the Plan that we have voted for in the last two days, and they are considerable gains, would have to be put on hold. Members would have to face their constituents who are desperate for new homes because the housing sites would be put on hold because the Bailiff ruled yesterday that the map cannot be de-linked from the proposition itself, Frankly, it is difficult, Ma'am, to know what else the Committee would have done. If the system has failed us, well, if Members have left it too late to do their work on behalf of their constituents I don't think that those people waiting for housing sites and new homes should have to suffer.

I would like to turn then to the specific concerns as articulated by Deputy Harry Baudains, supported by Deputy Gerard Baudains. It seems to me that the debate, and it seems to the Committee, that the debate turns upon how vulnerable to develop are the fields that they have identified as what they, I suppose, would term anomalies to the drawn line and I guess we all left the Chamber last night thinking that, well if we were in the 1987 mindset for Planning, they would be vulnerable because there is a presumption in the Built Up Area that it will be Built Up, or to put it another way there is not a presumption against development in the Built Up Area and therefore somebody coming along and saying "I want to build a house in the Built Up Area" would be likely to gain permission. But sleeping on it, one has realised that of course that is the '87 culture. What we are dealing with now is a different Planning culture, a different policy set and I would ask Members to turn to Page 4.3 of the Draft Plan where Policy G1 is printed in bold – the policy of sustainable development. And if I can take Members through what would likely happen let us say if somebody applied, and this is purely hypothetical, to build a house in one of the attractive fields that are photographed on the board in Le Hocq Lane or on the piece of green land opposite Tesson Mill where the children use the trees to swing to and from, if we can all be Planners for a moment and consider, as I say under the '87 Plan, the presumption is in the favour of the applicant. But under this Plan, firstly the applicant would have to meet the criteria laid out in Policy G1 the sustainable development, so (1) integrate new development with the existing Built Up Areas. Conserve, I'm picking from the box but Members can follow me, I'm sure, conserve or enhance the natural environment and the cultural heritage of the Island. And then crucially over the page, the applicant would have to demonstrate under Policy G2 that the proposed development will not unreasonably affect the character and amenity of the area. Now I wonder if the person who wanted to build a house on the little green land opposite Tesson Mill could actually demonstrate that. Or conversely, whether the Committee could prove that actually building a house there would affect the character and amenity of the area. Similarly, they would have to demonstrate that the application would not have an unreasonable impact on neighbouring uses and the local environment by reason of visual intrusion or other amenity considerations and it might be said that the Committee is entitled to say that the green space opposite Tesson Mill was an amenity area for the children of the 1960s estate alongside that Deputy Baudains dislikes. So, it is a different policy set.

Then we go on, well (3) probably isn't relevant, or might be relevant I suppose, it doesn't have an unreasonable impact on agricultural land, but probably not in the cases that Deputy Baudains has cited. And then at (4) the applicant will have to demonstrate that the application or the development will not have an unreasonable impact on the landscape, ecology, archaeological remains or architectural features. That could be Tesson Mill – an architectural feature listed by the Committee, and includes where appropriate measures for the enhancement of such features and the landscaping of the site. At (6) – will not have an unreasonable impact on important open space, so if we consider those to be important open space areas I suppose the Committee might be entitled to reject the application. It wouldn't have an unreasonable impact on built features – Tesson Mill, including trees, hedgerows, banks, walls and fosses. At (8), will not lead to unacceptable problems with traffic generation, safety or parking.

I not going to prolong the debate now and I hope that I have demonstrated to Members, with the benefit of some thought overnight, that this is a very big Plan, it's taken a long time to prepare, there are a lot of policies in it, but crucially going to the heart of the matter there is a different policy set, a different way of thinking. So I come back to the issue, the narrow issue, that the Deputies of St. Clement have raised. How vulnerable are the lands which they consider to be anomalies to the line as redrawn? I say to them that they are nowhere near as vulnerable as was the case under the '87 Plan, the existing Plan, and that the Committee is entitled to adopt, if this Plan is adopted, a different and new approach to the way those sites are considered. I hope Members will appreciate that that is a significant shift in the way Planning is conducted and it will alleviate some of their concerns about the way in which the line was drawn.

## REPORT TO THE ENVIRONMENT AND PUBLIC SERVICES COMMITTEE

8/36/1

12 February 2003

ISLAND PLAN 2002

**Built up Area boundary definition and policy****1. Purpose of the report**

- 1.1. In the course of the determination of planning applications, Members have raised concerns relating to the definition of and policy regime applicable to the Built up Area boundary as defined in the new Island Plan 2002. The purpose of this report is to provide the reasoned justification for this element of the Plan.

**2. Background**

- 2.1. During the States Assembly's deliberations regarding the new Island Plan in July 2002 Deputies G. and H. Baudains of St. Clement sought a reference back on this issue of the definition of the Built up Area boundary. An accusation was levelled at the Planning and Environment Committee that it had acted in an underhand way in reviewing the Built up Area boundary, the implications of which would mean, according to the Deputies Baudains', a rash of new development on green spaces within and at the edge of the Island's urban areas.
- 2.2. The accusation of a lack of transparency was withdrawn as were the proposals for a reference back on the basis of an acceptance by the St. Clement deputies that the final draft of the Island Plan was the result of a very open and inclusive process of consultation.
- 2.3. This is not believed to be the issue with which present Members of the Committee are concerned, however and, for the purpose of providing background information, appendices 1 and 2 respectively give details of the information provided by the Department in response to the issues raised and the response given to the Assembly by the then Vice-President, Deputy Alastair Layzell during the Island Plan debate.
- 2.4. The substantive issues for the present Committee are, however, believed to be the definition of the Built up Area boundary and the policy regime applicable to it. These issues were addressed during the States debate and were accepted by the Assembly **unanimously** and on a **standing vote, only seven months ago**, but are revisited here in accord with the wishes of the Committee.

**3. Built up Area boundary****3.1. Definition**

- 3.2. There are a number of distinct reasons for the review of the Built up Area boundary (BUA) undertaken as an integral part of the Island Plan Review. These are summarised below:

**Outdatedness of 1987 Island Plan BUA**

- 3.2.1. The outdatedness of the 1987 Island Plan was apparent on a daily basis from the perspective of development control. Significant urban areas e.g. Maufant, were, in the 1987 plan, defined as being outwith the BUA and thus effectively in 'the countryside' which would require development proposals to be considered under landscape protection policies (such as the old Green Zone, Agricultural Priority Zone and SLAAP Zone, policies). Consequently, a comprehensive review of the BUA was undertaken to resolve this issue. Tables one and two of Appendix 3 list the principal changes in definition of the BUA between the 1987 and 2002 Island Plans.

### **Strategic objectives**

- 3.2.2. It is important to relate the specific policies and land-use zonings of the Island Plan to the overall strategic policy objectives that it sets out to achieve. In the context of the definition of the BUA, there are two key strategic objectives that are of particular relevance:

#### **Spatial strategy**

- 3.2.2.1. The spatial strategy of the new Island Plan sets the framework for land use to achieve the objectives of sustainable development and protection of the Island's environment. What this means is that the policy seeks to ensure that new development is well related to the existing BUA in order that goods and services are easier to access, and that the best of the Island's coastal and rural environment is protected from development.
- 3.2.2.2. The redefinition of the BUA sought to contribute towards this objective by providing opportunities that are well related to existing urban areas but which have a minimal impact on the rural landscape.

#### **Economic and community strategy**

- 3.2.2.3. Achieving the vision and objectives of the Island Plan requires the promotion and facilitation of development opportunities that are essential to the Island's economy and community life. This includes providing opportunities for new housing development, in accord with the spatial strategy, and to ensure that there is a balance between the different types of housing provision.
- 3.2.2.4. There is a requirement and demand for homes across all tenures. The Plan sets out to allocate specific areas of land for Category A type housing (social rent and first-time buyer homes) and these are safeguarded for this particular purpose. The Plan also has to have regard for the provision of development opportunities for other types of housing which are secured through open market 'windfall' development: Category B (private sector homes). The provision of Category A 'windfall' housing development will make an important contribution to the overall provision of homes in the Island during the Plan period.
- 3.2.2.5. Owing to the 'tight' definition and the strict application of the 1987 BUA, opportunities for windfall development within the 1987 Island Plan BUA boundary were considered to be limited. It was, therefore, a specific objective of the review of the BUA to effectively 'loosen' the BUA boundary in order to create opportunity for new windfall development, in accord with the spatial strategy of the Plan, which is to focus new development where it is well related to the existing urban area.
- 3.2.2.6. Extracts from the Island Plan 2002, at appendix 4, provide further information about the contribution of Category B homes to the overall supply of housing over the Plan period.

### **3.3. Policy regime**

- 3.4. As rehearsed during the Island Plan debate in July 2002, the crux of this matter relates to the policy regime applicable to development proposals that fall within the BUA boundary. It is important to note that the 1987 Island Plan Built up Area boundary effectively conferred a **presumption in favour of development** which was **not qualified in any way** within the limited policy framework provided by the 1987 Island Plan.
- 3.5. Whilst the 2002 Island Plan might build upon some of the principles set down in 1987, it is an

entirely different document and provides a much richer policy framework within which development proposals are required to be considered.

- 3.6. It thus engenders a new approach to the consideration of development proposals, including those for sites within the BUA, and **replaces the unqualified presumption in favour of development**, which existed in the 1987 Plan, **with a heavily qualified presumption**. This is effected, in the case of proposals for housing development within the BUA, by policies such as G2, G3 and H8, which are reproduced at appendix 5. A press release (at appendix 6), which sought to quas speculation about 'unchecked' development on sites which had been included within the BUA in the 2002 Island Plan, was issued in November under the auspices of the former Committee, to reinforce the policy basis of the BUA.
- 3.7. These policies provide a number of rigorous criteria which applications for development are required to have regard to and to comply with. The policies are designed to ensure that inappropriate development within the BUA is resisted and they serve to provide the Committee with an effective armoury and a great degree of control to bring this about.

#### 4. Summary and conclusions

- 4.1. Whilst the basis for the Committee's deliberations concerning the proposed development of previously undeveloped sites within the new BUA are acknowledged it is considered, having regard to the above, that the justification for the inclusion of such sites within the BUA is sound and that there exists, within the rich and extensive policy regime provided by the new Island Plan, a significant degree of control to ensure that inappropriate and unsympathetic development on these sites is resisted.
- 4.2. It is also considered important to note that the 2002 Island Plan represents a comprehensive and integrated policy document that has the weight of recent and extensive public and political scrutiny behind it and that to seek to amend any element of this policy framework in an *ad hoc* manner so soon after its unanimous approval would seek to undermine the validity of the process of its production and the document itself.
- 4.3. On the basis of the above, it is recommended that the Environment and Public Services Committee:
  - 4.3.1. notes and endorses the contents of this report and thus seeks to determine applications within the defined Built up Area, as set out in the Island Plan, in accord with the relevant policy framework provided therein.