STATES OF JERSEY

ISLAND PLAN 2011: REVISED DRAFT REVISION – APPROVAL

Lodged au Greffe on 21st March 2014
by the Minister for Planning and Environment

STATES GREFFE

PROPOSITION

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

to refer to their Act dated 29th June 2011 in which they approved, as amended, the Island Plan 2011, and to approve, in accordance with Article 3(1) of the Planning and Building (Jersey) Law 2002, the revised draft revision to the Island Plan 2011.

MINISTER FOR PLANNING AND ENVIRONMENT

Note: The revised draft revision to the Island Plan 2011 (March 2014) is being published separately.

REPORT

1 Introduction

1.1 The Island Plan is the principal document for the planning and use of land in Jersey: it was last reviewed and adopted by the States in July 2011.

1.2 There is now a requirement to review parts of the Plan again – principally to meet the need for affordable homes: the rest of the Plan will remain unchanged.

1.3 The need to review parts of the Plan has largely come about because decisions made by the States Assembly in 2011 were not robust or sustainable in meeting the Island's housing needs for affordable homes.

1.4 It is important to ensure that the outcome this time, in the form of a revised Island Plan, is sustainable and can deliver homes to ease the severity of the housing problems faced by many people.

1.5 The proposed changes also deliver a clearer, more comprehensive planning policy regime for the Island's coast and countryside; provide a clear planning framework for strategic development that might occur here; update the safety zone around the Airport fuel farm; and ensure that policies in the Plan are capable of implementation.

2. Scope

2.1 The scope of this interim review of the 2011 Island Plan is limited to a small number of polices and proposals and does not involve a review of the entire plan. It is only changes to these parts of the Plan that can be considered at this time, as follows –

- Policy GD2: Demolition and replacement of buildings
- Proposal 4a: Restrict permitted development rights in the Coastal National Park
- Policy NE6: Coastal National Park
- Policy NE7: Green Zone
- Proposal 20: Provision of homes
- Policy H1: Category A affordable housing sites
- Policy H2: Other Category A affordable housing sites
- Proposal H3: Affordable housing proposal
- Policy H4: Housing mix
- Policy H5: Affordable housing in rural centres
- Policy H6: Housing development within the Built-up Area
- Policy NR8: Safety zones for hazardous installations
- Policy NR9: Utilities infrastructure facilities
- and associated Appendices.

2.2 The Minister has also agreed to consider whether other parts of the Island Plan require review, as set out in the proposition of Deputy J.H. Young of St. Brelade – P.71/2013: *Island Plan Review*, which was adopted by the States on 2nd July 2013. This work is underway. It is not part of this current interim review and will be reported on separately.

3. Process

3.1 The Minister's proposed revision of the 2011 Island Plan was published in July 2013 for a period of consultation that lasted until the end of September 2013. At the same time, the Minister announced the appointment of independent Planning Inspectors, Mr. Chris Shepley, C.B.E. and Mr. Alan Langton, to conduct an Examination in Public of the representations received and the issues raised. These were the same inspectors who had conducted the Examination into the original 2011 Island Plan.

3.2 Some 670 comments made by some 225 individuals and organisations were received in response to the initial consultation. The Minister considered and published his initial response to these in November 2013.

3.3 The Planning Inspectors held the Pre-Examination meeting on 21st November and the Examination in Public itself took place from 14th–23rd January 2014.

3.4 The Planning Inspectors' report was received and published by the Minister on 20th February 2014 and has been material to the Minister in shaping the revised draft of those parts of the Plan proposed for review.

4. Purpose of the review

4.1 There are 3 reasons for this interim review of the 2011 Island Plan and these can be examined in turn.

Need for affordable homes

4.2 The housing strategy that was approved in the 2011 Island Plan has failed to deliver sufficient Category A homes up to now.

4.3 This is because, firstly: those sites originally proposed to be rezoned to provide a supply of homes in the short term (up to 2015) were removed from the Draft 2011 Island Plan, and the States-owned sites included in the Plan to replace them have, thus far, failed to deliver.

4.4 Secondly, the policy mechanism requiring a proportion of affordable homes as part of private housing development (Policy H3 of the 2011 Island Plan) has never been implemented. The development industry has always expressed concern that this policy was not viable, and that its implementation would risk land not being brought forward for residential development, thus further undermining the supply of homes: it is, therefore, to be set aside, whilst other ways of capturing development value are explored.

4.5 In the meantime, the demand for homes remains and the challenging economic conditions that have prevailed since 2011 has meant that there is a greater requirement for affordable homes, particularly social rented homes.

4.6 Given this situation, the Minister for Planning and Environment has responded by doing 3 things.

4.7 First, he has revised the estimates of housing need using the latest data available, to ensure that the proposed changes to the Plan are responding to current demand. A combination of population and household size modelling, using the 2011 Census, has been used to estimate the demand for homes for the remainder of the Plan period. This 'bare' statistical modelling has been supplemented by data from the latest housing needs assessment and housing affordability index to take account of housing aspirations, moderated by considerations of realistic affordability.

4.8 Second, he has changed the definition of Category A housing – so that the affordable homes to be provided are accessible only to households on or below the median income levels, as assessed by the Housing Gateway – to ensure that assistance is targeted to those who are most in housing need.

4.9 And thirdly, the Minister has set out a much more robust strategy for the supply of Category A homes. Significantly, this strategy is capable of actually delivering the affordable homes that are required over the remainder of the Plan period.

4.10 Nearly 70% of the proposed supply of affordable homes set out in the Minister's changes is to be made on States-owned land, which provides the government with a direct ability to influence housing supply. The Minister for Housing has clearly set out his intent to relentlessly pursue the delivery of affordable homes in response to housing needs, and land administered by his Department represents an important source of this supply (see section 6.53–6.56 of the revised Plan). This intent is backed up by changes in governance and funding which will better enable him to deliver more homes and achieve his objectives.

4.11 And on other States-owned land, administered by Jersey Property Holdings, there is real evidence of progress, represented by live planning applications (at the former JCG site) and extant planning permission (at the Summerland and Ambulance HQ sites) for the delivery of affordable homes. This is supplemented by clear timescales for the actual release of sites and programmes for the development and the delivery of homes.

4.12 The proposed rezoning of private land to deliver affordable homes to supplement those to be provided on States-owned sites, represents a relatively small source of supply of Category A homes in the Minister's revised housing strategy. The 4 sites proposed for rezoning that are of strategic significance (at De La Mare Nurseries, Grouville; Samarès Nurseries, St. Clement; Le Quesne Nurseries, St. Clement; and Longueville Nurseries, St. Saviour) represent approximately 25% of overall Category A supply.

4.13 All of these sites have landowners who are willing to develop them: if rezoned, these sites can be brought forward quickly for the development of homes.

4.14 In the event that they do not come forward for development, the Minister's proposed revision to the Plan includes a policy reference to the potential use of compulsory purchase powers. This serves to reinforce the intent to deliver much-needed homes by direct government intervention, if necessary, if they do not come forward.

4.15 The inclusion of this policy does not commit the States to anything: indeed, a separate decision of the Assembly would be required to use compulsory purchase powers on a site-specific basis. The Planning Inspectors have supported the retention of this policy option in the Plan.

4.16 There is, already built-in to the proposed revisions, an overall surplus of approximately 400 homes (which represents about 12% of overall demand). For Category A homes there is a potential surplus of 150 homes (representing 15% of demand for affordable homes). These potential surpluses are considered to be prudent in view of potential changes in demand and supply, relative to the estimates that are made in the Plan, that might occur within the remainder of the Plan period, which will continue to be monitored and reviewed.

4.17 The Planning Inspectors, of course, considered the matter of housing supply very closely and were of the view that the provision being made by the Minister was reasonable. They felt, however, that a potential surplus of 400 homes was the minimum necessary to provide some flexibility in the Plan to deal with any housing demand that was higher than that estimated up to 2020.

4.18 They also made the point, quite strongly, that should either the States fail to support any or all of the proposed rezoned sites; or substantial progress fail to be made by the start of 2016 on the Summerland/Ambulance Station site, that readily implementable alternative housing sites should urgently be sought. This would trigger yet another interim review of the Plan.

Other housing issues

Adequacy of supply/reserve sites

4.19 It is considered that the housing strategy in the revised Plan is robust, sustainable and deliverable, and that there is no requirement or justification to either rezone any further land for housing or to develop a list of reserve sites.

4.20 To do so would challenge the strategic spatial policy of the Plan; undermine the focus and delivery of homes in the Built-up Area and on States-owned land; and has the potential to cause further delay because of the need for further public consultation.

4.21 About 40 sites were proposed by private landowners and have been assessed and considered by the Minister and the independent Planning Inspectors: none are supported or are included in the Plan at this time.

Tenure split

4.22 The proposals to rezone land for affordable housing seek to ensure that the homes provided on them are in the proportion of 80% for social rent and 20% for affordable homes for purchase. This is stated on the face of the policy and is based on evidence, provided by the States Statistics Unit, to meet current demand. The issue was scrutinised at the Examination in Public, and the Planning Inspectors found no evidence or convincing argument to suggest a change to the proposal. Indeed, they suggested that the Minister would require the strength of an adopted policy to ensure adherence to this ratio on rezoned sites.

4.23 It is relevant to note that the tenure of an affordable home on a rezoned site could change after initial occupation: this would be a matter for the Strategic Housing Unit and assessment through the Housing Gateway, and would be determined relative to need at that time.

Housing for people aged over 55

4.24 It is commonly understood that Jersey, as elsewhere, needs to respond to the challenges presented by an ageing society. And the Minister would contend that he has already sought, to some extent, to respond to the physical demands of an ageing society by ensuring that all new homes built in Jersey since 2007 meet local lifetime homes standards. This ensures that new residential accommodation remains habitable and capable of adaptation, thus facilitating its occupation for as long as possible by ageing residents.

4.25 The Health and Social Services Department recognises that there is greater community benefit, in terms of cost and efficacy of care, for packages of support to be delivered to elderly people in their homes, and the new Health Strategy is based on this.

4.26 The notion of providing some form of clustered community specifically for elderly residents, where homes are perhaps smaller and within easy reach of local services, is a popular one, particularly amongst the Island's parochial authorities, where there is a desire to ensure older members of a community can stay in the Parish. Many Parishes already provide for this, even if the degree of shelteredness or care/support is either very limited or non-existent. The existing Island Plan facilitates further provision of this sort being made where it is in the Built-up Area. There are examples of private sector provision of this type having already been made at Tabor Park (St. Brelade), Avalon (St. Clement), L'Hermitage (St. Peter) and now at Langtry Gardens, St. Saviour.

4.27 Evidence for the current supply of homes specifically for over-55s is good, as reported in the recent Residential Land Availability (RLA) report. The Minister for Housing has also clearly stated that the Housing Gateway can be used in a flexible way to provide homes for those in real housing need who are also over 55.

4.28 Beyond the matter of homes that are specifically designed, marketed and/or allocated to elderly residents, it is also relevant to note that the RLA, at the start of 2013, indicated that out of a total number of commitments for 3,000 homes, over 2,000 of those homes are for one- and two-bedroom units of accommodation. If and when these homes are built, they will accord with lifetime homes standards and will thus provide considerable opportunity in the open market for people to downsize: this is an aspiration commonly expressed as part of the justification to provide homes for the elderly.

4.29 On the basis of all of the above, there are no proposals in the revised Plan to specifically zone land for this purpose: in the context of Jersey's overall affordability problem, and in the absence of specific evidence of need, the Inspectors considered this to be a reasonable approach.

Policy H5: affordable housing in rural areas

4.30 The current approach to the provision of housing in rural Parishes has allowed them to develop their own proposals to a much greater degree than perhaps in the past, before formal engagement with the Minister and his Department. This has raised some issues of process, whereby proposals have emerged which have been developed with varying levels of rigour, relative to the assessment of alternatives and open engagement with parishioners.

4.31 Because of this, the Minister has accepted the recommendations of the Planning Inspectors and is only proposing the rezoning of one site in St. Ouen, at Field 785, Rue des Cosnets; and is proposing that the States endorse the proposal to rezone Field 402 in St. Martin, in principle, subject to the preparation of a village plan by the Parish, and its subsequent adoption, as supplementary planning guidance, by the Minister for Planning and Environment.

4.32 The original proposal to rezone Field 622 in St. Ouen has been deleted from the Plan in the absence of a village plan and the open consideration of alternatives by parishioners, at the recommendation of the Planning Inspectors. The Minister is, however, willing to provide the Parish with advice and assistance to enable the preparation of a village plan to ensure that suitable site can be identified and brought forward appropriately.

4.33 The Minister remains committed to ensure, however, that any sites brought forward in the rural Parishes under Policy H5 contribute to the Island's need for affordable homes. Any such sites will need to provide Category A homes in the proportionate split of 80% for social rent and 20% for affordable homes for purchase, as assessed by the Housing Gateway. The Minister for Housing has helpfully indicated that he is happy to operate the Gateway in a flexible way to support Parish objectives and to meet local needs, whether that be for prospective occupants/purchasers with Parish links and/or age-related requirements, i.e. for people aged over 55.

Unqualified housing

4.34 Representations were made to the Minister and the Planning Inspectors received evidence at the Examination in Public asserting that more needed to be done to address the problem of the quality of unqualified accommodation in Jersey.

4.35 The extent to which the planning system and the Island Plan can assist to resolve this issue is limited, as it can only regulate standards of new residential accommodation for staff and key workers: it cannot address problems associated with the quality of existing stock. The Minister will seek to ensure, however, that the policy in the Island Plan that deals with this matter (Policy H9) is appropriately applied and that standards in the unqualified sector are improved.

4.36 It is incumbent on others, particularly the Minister for Housing and the Strategic Housing Unit, to do more to address issues of existing accommodation and it is acknowledged that work is currently being undertaken to address this.

A clearer, stronger policy for the coast and countryside

4.37 The need for affordable homes is undoubtedly the principal driver for this interim review of the Island Plan. This has, however, also afforded an opportunity to review the planning policy for the Island's Coastal National Park (Policy NE6) in particular to address issues that have arisen in its interpretation and application since 2011.

4.38 For consistency of presentation and approach to the whole of the Island's countryside (which is covered by the CNP and the Green Zone) Policy NE7: Green Zone, has also been included in this review.

4.39 The proposed revisions, which have been amended in line with the Planning Inspectors' recommendations, will provide enhanced clarity and consistency of outcome in their use when applied to the assessment of planning applications in the Coastal National Park and Green Zone. This is achieved by disaggregating potential development categories and specifically addressing each in the preamble and policy.

4.40 The proposed revisions also seek to strengthen the policies by introducing some objective parameters of assessment (for example, extensions should be subservient to the existing building and should not disproportionately increase the size of the dwelling; and replacement dwellings should be no larger than the building being replaced). These provide a clear steer against excessive enlargements to buildings in the countryside, but stop short of rigidly prescribed numerical or percentage limits, whilst still allowing a margin of discretion to decision-makers.

4.41 Views on these proposed changes varied from those who see the changes as strengthening planning safeguards in the Coastal National Park and Green Zone – which was welcomed by some and regarded as too draconian by others – to those who perceived the changes as weakening or failing to strengthen them. Having examined the matter, the Planning Inspectors have

suggested that it might be tempting to conclude that the Minister must, therefore, have got it about right.

4.42 The one issue where the Minister differs from the views expressed by the Planning Inspectors relates to his proposed change to Policy NE6 for the Coastal National Park which would permit, subject to a series of tests, the conversion of employment buildings here to residential use. The current 2011 Island Plan Policy NE6 sets out a strong presumption against the use of commercial buildings for purposes other than that for which permission was originally granted.

4.43 The Planning Inspectors expressed concern that this proposed change might encourage owners of vacant or redundant commercial buildings to look less diligently for future commercial occupants, and that their conversion to residential use would increase the number of people living in the Coastal National Park and also potentially adversely affect and undermine its character.

4.44 The Minister takes a different view and would suggest that, in the case of a former hotel or tourism building in the Coastal National Park for example, it is difficult, in planning terms, to justify the refusal of planning permission for conversion to residential use, particularly where the policy requires the delivery of environmental gains, a reduction in the intensity of occupation and use; and a visual improvement in the design and appearance of the land and buildings. The Minister has, however, proposed further amendment to the policy to make it explicitly clear that modern agricultural buildings and glasshouses are excluded from this provision.

4.45 The Minister's overall changes to Polices NE6 and NE7 are considered to maintain and enhance the protection for the Island's coast and countryside, whilst at the same time, recognising that the Coastal National Park and the Green Zone encompass homes and businesses and must allow for some limited development: the planning framework will, therefore be inevitably more complex but the proposed changes seek to set this out as clearly and as plainly as possible.

4.46 They maintain a distinct policy difference between the Coastal National Park and the Green Zone: there are firmer controls in the former, in recognition of the special qualities and particular aims and purposes for the Coastal National Park, and the Minister also intends to remove some permitted development rights here too (this will require separate amendment of the Planning and Building (General Development) (Jersey) Order)). There is recognition in the Green Zone of the much wider extent, more varied character and greater range of appropriate uses. For example, and in contrast to Policy NE6, the proposed NE7: Green Zone policy retains provisions, in principle, for the erection of agricultural worker accommodation, multi-generational homes, erection of ancillary buildings and/or structures; and managed open space, such as allotments, playing-fields, other amenity green spaces and cemeteries.

4.47 The Island Plan does not determine planning applications, but rather its policies provide a framework against which planning applications might be assessed. This is particularly relevant to those changes proposed by the

Minister to the Coastal National Park, and Green Zone policies concerning the possible emergence of strategic development proposals during the period up to 2020. These might include the need to enhance the infrastructure for the Island's water supply; maintain the supply of aggregates; or to develop a new secondary school to serve the west of the Island. The Planning Inspectors considered these changes to be sensible and reasonable and recommend no change to them. This also applies to the consequential changes to Policy NR9: Utilities infrastructure facilities of the Plan.

Other changes

Policy NR8: safety zone for hazardous installations

4.48 Since adoption of the 2011 Island Plan, the risks posed to development from one of the Island's hazardous installations at the Jersey Gas site in the north of the town has changed, and new information about the extent of risk has become available at the Airport Fuel Farm. Because of this, the Minister proposes to amend Policy NR8: Safety zones for hazardous installations and the Proposals Map, to reflect the current situation.

4.49 The Planning Inspectors have reviewed this proposed change and recommend that the Minister proceeds as he intends.

Policy GD2: Demolition

4.50 This aspect of the Minister's proposed changes differs from the others in proposing to delete a policy – GD2: Demolition and replacement of buildings – without modification or replacement. Its use and application has proved to be difficult in practice, for both decision-makers and applicants, and there are also other policies in the Plan which deal with demolition and associated issues of environmental performance. For these reasons, the Minister is proposing to delete the Policy, and consequential references to it, from the Plan.

4.51 The sustainability of re-using buildings as opposed to their replacement has proved to be extremely difficult to measure and assess. An important – many would say vital – element of the environmental sustainability, for example, concerns minimising greenhouse gas emissions, generally measured in CO2e (carbon dioxide equivalent). In principle it is possible to assess the embedded carbon retained in an existing building, expended in its refurbishment and operational carbon emitted over the remainder of its expected life, and to compare the net impact against the embedded carbon expended in its demolition and replacement together with the latter's annual operational carbon emitted over the equivalent period. In practice, however, this is far from simple. To such complexities, simply in assessing CO2e, need to be added the other considerations of sustainability, from other environmental social and economic perspectives.

4.52 Despite their support for the general principle of considering retention and refurbishment of a building before demolition and replacement, the Planning Inspectors concluded that the Minister had made a sufficient case to warrant deletion of the Policy from the Plan. They were further assured by the evident firming up of control of demolition waste brought about by the 2011 Island

Plan (Policy WM1) and the Minister's separate intention to amend the Island's Building Regulations still further to require incrementally improved energy efficiency in new buildings. They also noted the Minister's intention to require design statements to better address the environment performance of development proposals through the introduction of a simple 'sustainability checklist'.

5 Relationship to rest of Plan

5.1 As stated at the outset, this interim review of the 2011 Island Plan only relates to a handful of policies: the remainder of the 2011 Island Plan will remain unaffected by the Minister's proposed changes.

5.2 As part of their consideration of the Minister's proposals to amend only part of the Island Plan, the Planning Inspectors were asked to consider how they fitted with the remainder of the document, particularly the strategic polices of the Plan.

5.3 They concluded that the Minister's changes are a good fit. They consider that all four of the privately owned strategic sites for rezoning should go ahead and that they were well located on the edge of existing Built-up Areas and involved the use of already developed land.

5.4 Turning to the proposed affordable housing sites in rural areas, whilst these were more remote from main urban centres in the Island, they were small in scale and were designed to support the viability and vitality of rural Parishes. The Inspectors considered their local justification to be crucial and, in all cases, they are supported by the Parishes concerned.

6 Process of engagement and change

6.1 Finally, it is considered important to remind Members of the background against which the requirement to amend the 2011 Island Plan is brought, and of their role and responsibility in this process.

6.2 Some Members have been extremely engaged in this process up to now and have made a significant contribution: most have not.

6.3 In 2011, 38 amendments to the Plan raised new matters which had not been raised by Members before the Plan was lodged. Some of these were fundamental (and challenged the whole basis of the Plan); others were relatively minor and could have been considered much earlier. Ultimately, the States considered over 50 amendments to the Plan in a debate which lasted over 40 hours. This was not a good use of valuable States time or resources.

6.4 The ability of Members to help influence and shape the Plan is clearly crucial and is more likely to result in a better Plan. But to do so right at the end of a process introduces unnecessary inefficiency, expense and unpredictability, and is likely to result in a poorer outcome.

6.5 As stated at the outset, the Minister is essentially having to review the Plan because the decisions made by the Assembly in 2011 have proved to be unsustainable. We are now having to revisit and review the same issues and, in many cases, the same sites, that were considered for the provision of homes in 2011.

6.6 The severity of the housing problems facing people in the Island has not eased over the period of time that has elapsed and, in many instances, is likely to have worsened. There is now an even greater imperative to take difficult decisions and to deliver an Island Plan that can actually deliver the homes that are required: the Minister's proposed housing strategy, as set out in these changes, can do this, if it is approved.

Financial and manpower implications

There are no financial or manpower implications for the States arising from this proposition.