

STATES OF JERSEY



ISLAND PLAN 2011: APPROVAL (P.48/2011): THIRTY-SEVENTH AMENDMENT

Lodged au Greffe on 26th April 2011
by Deputy J.A.N. Le Fondré of St. Lawrence

STATES GREFFE

ISLAND PLAN 2011: APPROVAL (P.48/2011): THIRTY-SEVENTH
AMENDMENT

1 PAGE 2 –

After the words “the revised draft Island Plan 2011” insert the words “except that –

- (a) in paragraph 1.22 (page 60) for the words ‘Supplementary planning guidance will be used to provide further information about the use and arrangements for planning obligation agreements’ substitute the words ‘Supplementary planning guidance will be updated and used to provide further information about the use and arrangements for planning obligation agreements, and shall, in particular, indicate by what point in the life of a development (in the normal course of events) planning gain should be provided, depending upon the nature of such gain. Once the supplementary guidance has been updated, the Minister will inform the States Assembly of any new proposals by way of a report.’;
- (b) in Policy GD4 – Planning Obligations (page 61) after the last paragraph insert new paragraphs as follows –

‘The Minister will update and publish guidance in relation to planning gain and planning obligation agreements, and such guidance shall, in particular, indicate by what point in the life of a development (in the normal course of events) planning gain should be provided, depending upon the nature of such gain.’ ”.

2 PAGE 2 –

After the words “the revised draft Island Plan 2011” insert the words “except that –

- (a) in Proposal 10 – Guidelines for residential development and regeneration (page 144), after the words ‘other parts of the Island.’ insert the words ‘In addition it will consider whether there should be any further increase in internal space standards.’;
- (b) in Proposal 10 – Guidelines for residential development and regeneration (page 144), after the words ‘increase in internal space standards’ inserted by paragraph (a) above, insert the words ‘and whether there should be any improvements in internal noise and sound insulation of, and between, units of accommodation.’;
- (c) in paragraph 6.153 (page 260) after the words ‘Minister for Planning and Environment.’ insert the words ‘Such supplementary planning guidance will also include consideration as to whether there should be any further increase in internal space standards.’;
- (d) in paragraph 6.153 (page 260) after the words ‘increase in internal space standards’ inserted by paragraph (c) above, insert the words ‘and any further improvements in standards for internal noise and sound insulation of and between units of accommodation.’;

- (e) in Policy H6 – Housing Development within the Built-up Area (page 261) after the words ‘through supplementary planning guidance.’ insert the words ‘Such supplementary planning guidance will include the outcome from considerations as to whether there should be any further increase in internal space standards.’;
- (f) in Policy H6 – Housing Development within the Built-up Area (page 261) after the words ‘increase in internal space standards’ inserted by paragraph (e) above, insert the words ‘and any further improvements in standards for internal noise and sound insulation of and between units of accommodation.’”.

3 PAGE 2 –

After the words “the revised draft Island Plan 2011” insert the words “except that –

- (a) in paragraph 4.71 (page 145) after the words ‘where there are States-owned assets.’ insert the following words ‘In such cases it will be required that financial appraisals and risk analyses of any proposed development schemes that are linked with the States of Jersey or any entity controlled by the States of Jersey will require the consideration of the States Assembly prior to the approval and adoption of a Masterplan by the Minister.’;
- (b) in paragraph 4.72 (page 145) after the words ‘have been identified and are defined as’ insert the word ‘proposed’;
- (c) in Proposal 11 – St. Helier Regeneration Zones (page 148) after the words ‘The following areas are identified as’ insert the word ‘proposed’;
- (d) in Proposal 11 – St. Helier Regeneration Zones (page 148) after the words ‘regeneration and development activity in the ’ insert the word ‘proposed’;
- (e) in Proposal 11 – St. Helier Regeneration Zones (pages 148–149), insert the following words at the end of the Proposal –
 - ‘The States will asked to approve the final status of an area as a regeneration zone only after the following has been presented to the States –
 - 1. A Masterplan, and comprehensive development brief(s) for the area and any key sites within that area;
 - 2. Financial appraisals and risk analyses of any proposed development schemes relating to sites within the proposed regeneration area that are to be undertaken by the States of Jersey or by any entity controlled by the States of Jersey.

Until such time as consent from the States Assembly has been provided then the areas in question shall be designated as proposed regeneration zones.’;
- (f) in Proposal 12 – Jersey Airport Regeneration Zone (page 151) for the words ‘A Regeneration Zone is identified for Jersey Airport’ substitute the words ‘A proposed Regeneration Zone is identified for Jersey Airport’;

(g) in Proposal 12 – Jersey Airport Regeneration Zone (page 151) after the words ‘To promote and guide the desired regeneration and development activity in the ’ insert the word ‘proposed’;

(h) in Proposal 12 – Jersey Airport Regeneration Zone (page 151), insert the following words at the end of the Proposal –

‘The States will asked to approve the final status of the area as a regeneration zone only after the following has been presented to the States:

1. A Masterplan, and comprehensive development brief(s) for the area and any key sites within that area.
2. Financial appraisals and risk analyses of any proposed development schemes relating to sites within the proposed regeneration area that are to be undertaken by the States of Jersey or by any entity controlled by the States of Jersey.

Until such time as consent from the States Assembly has been provided then the area in question shall be designated as a proposed regeneration zone.’ ”.

4 PAGE 2 –

After the words “the revised draft Island Plan 2011” insert the words “except that –

(a) in Policy BE5 – Tall buildings (page 160) for the words ‘five storeys’ where they appear in the first line and in the last paragraph, substitute the words ‘approximately 18 metres’ and for the words ‘two storeys’ in the first paragraph substitute the words ‘approximately 7 metres’ ”;

(b) in Policy BE5 – Tall buildings (page 160), insert the following paragraph at the end of the policy ‘For the avoidance of doubt, for the purposes of the definition of a tall building as laid out in the first paragraph of this policy, where roof top plant is incorporated into the design of the building, there will be a further 2 metres allowed in the calculation of the height of the building before it is defined as a tall building.’ ”.

5 PAGE 2 –

After the words “the revised draft Island Plan 2011” insert the words “except that –

(a) for paragraphs 6.110 to 6.135 and Policy H3 (pages 249–256) there shall be substituted the following paragraph and new Proposal –

‘6.110 This issue is of sufficient importance that the detailed proposals will be presented separately to the States Assembly for approval.

Proposal 18 – Affordable Housing

The Minister will bring forward for approval by the States a revision to this Plan to make new provision for the delivery of affordable homes, giving details at that time of the proposed supplementary planning guidance.’;

- (b) the revised draft Island Plan 2011 be renumbered and further amended in such respects as may be necessary to amend all references to Policy H3 consequent upon the adoption of (a);

6 PAGE 2 –

After the words “the revised draft Island Plan 2011” insert the words “except that –

- (a) after Policy TT3 (page 307) insert new paragraphs and a new Proposal as follows –

‘8.61 Whilst the earlier policies seek to protect the loss of the existing pedestrian or cycle network (or other rights of way), and also consider the potential to provide new or enhanced footpaths, or off road cycle facilities, there is also a recognition that there should be a holistic approach to such provision.

8.62 Accordingly the Minister will seek to produce a holistic plan of the network in order to complement and inform the existing policies and to complement existing provision within the Island.

Proposal 20 – Island path network

The Minister for Planning and Environment will, in partnership with all other relevant stakeholders, seek to develop a plan for the development and maintenance of a network of off-road footpaths, bridle paths and cycle routes across the Island, including the protection, improvement and expansion of the existing network.’

and renumber accordingly;

- (b) in Policy NE8 – Access and awareness (page 105) after the word ‘countryside’ insert the words ‘and particularly in order to contribute to the development of a comprehensive network of off road footpaths, bridle paths and cycle paths across the Island, in accord with Proposal 20 – Island path network’.”

DEPUTY J.A.N. LE FONDRÉ OF ST. LAWRENCE

REPORT

Amendment (1) – paragraph 1.22 and Policy GD4

It is evident that there is more and more use of ‘Planning gain’ and related planning obligation agreements (POAs).

I welcome the fact that the Minister proposes to review supplementary planning guidance on such POAs.

It seems to me that one area that could usefully be given greater clarity is that of the timing as to when planning gain should be delivered. Obviously this will depend upon the nature of the development, and the nature of the stipulated planning gain (e.g. additional infrastructure or amenities or commuted payments).

However, in the normal course of events it would seem that there should be a reasonable expectation as to when such benefits are delivered, be it at the beginning of a project, at the end (probably less desirable from the perspective of the Government), or when the development is (say) 25% or 50% complete.

The fact that the existing Supplementary Planning Guidance on this matter is to be reviewed does offer the opportunity for a level of clarity to be achieved. Accordingly, I have brought this amendment, and hope members will consider giving it their support.

Financial and manpower implications

On the basis that the Minister considers that there are no financial or manpower implications for the States arising from the proposition, then there are unlikely to be any arising from this amendment.

Amendment (2) – Proposal 10, paragraph 6.153 and Policy H3

I am very supportive of the Minister’s previous increase in internal space standards. Proposal 10 and Policy H6 both make reference to supplementary planning guidance to be produced by the Minister. Section 4 refers generally to the principles of higher density, for example in St. Helier.

Through this amendment, I wish to continue the emphasis on the importance of appropriate internal space standards, particularly if densities are to be increased, and am asking for present standards to be considered as to whether they should be further increased in order to continue to improve conditions for residents of the relevant developments.

It was during the drafting of this amendment (originally just relating to internal space standards) that I also considered sound insulation, which can obviously be quite a significant problem in apartment buildings if it is inadequate. I was quite surprised that of the 89 references to ‘noise’ in the Island Plan, only 3 appeared to relate to noise/sound insulation standards. The balance appears to relate to external noise, for example from aircraft, construction work or traffic.

Even if higher density dwellings were not to be the way forward, assessing whether our sound insulation standards are still adequate, or could be improved, particularly by reference to the UK and Europe, must surely be appropriate in this day and age. Accordingly, I have added provisions in respect of sound/noise insulation into this amendment, mainly to reinforce this as an important issue for consideration during the course of the Island Plan.

I have structured the amendment so that separate votes are possible if desired.

Financial and manpower implications

On the basis that the Minister considers that there are no financial or manpower implications for the States arising from the proposition, then there are unlikely to be any arising from this amendment.

Amendment (3) – paragraphs 4.71 and 4.72 and Proposals 11 and 12

My rationale for this particular amendment is to ensure the continued primacy of the States Assembly on matters of significant importance to the built environment and to the economic future of the Island.

In addition, this will also give the opportunity for the indicative boundaries of the regeneration zones to be more clearly defined, and therefore provide greater certainty to the States.

The States have considered 2 Masterplans – the Esplanade Quarter and the North of St. Helier. The precedent has therefore been set that the States should have the opportunity to properly consider such matters.

Given the continued controversy over the whole subject of the establishment and governance of SOJDC, it seems appropriate that controls are put in place to ensure the continued primacy of the States as to overall process, and as the ultimate owner and decision-maker in respect of all property-related matters.

As far as is relevant to this amendment, the proposals in P.73/2010 (Property and Infrastructure Regeneration: the States of Jersey Development Company Limited), are as follows –

“The Island Plan, as approved by the States of Jersey, will indicate Regeneration Zones. The initial Regeneration Zones will include the East of Albert Areas, the Esplanade Quarter, the Airport and other St. Helier Regeneration Areas. The Island Plan will also include a mechanism to designate future Regeneration Zones where it is felt appropriate.”

“The Masterplans providing the details of each Regeneration Zone will be approved by the Minister for Planning and Environment, following consultation with the Regeneration Steering Group.”

“Planning – before any land transfer takes place between Property Holdings and SoJDC, the Minister for Planning and Environment must have adopted the Regeneration Zone within which the assets are located and approved the Masterplan for that particular Regeneration Zone. This will partly remove the

planning risk of the regeneration proposals and will enable a detailed planning application to be worked up within the parameters of the adopted Masterplan and Development Brief according to the agreed Development Plan set with the RSG.”

“Assessment of Risk Management ... WEB already has a strong risk management framework in place which includes market demand assessments, the application of sophisticated financial risk modelling tools in assessing project feasibility, and risk management matrices that are used to manage non financial risks through the project lifecycle.”

Therefore, in order to ensure that there is adequate control over this process, and to ensure that the Minister for Planning and Environment is able to properly produce and consult on Masterplans, etc., I am proposing that the States should not, at this stage, give a blanket approval to creating these regeneration zones. I am proposing that these should be designated as ‘proposed’ regeneration zones, which will then need to be ratified by the States once the appropriate level of Masterplanning has been performed. As a States member, I expect that such plans will also include appropriate financial appraisals and risk analyses for consideration by the States.

I hope Members will be supportive of this proposal.

Financial and manpower implications

On the basis that the Minister considers that there are no financial or manpower implications for the States arising from the proposition, then there are unlikely to be any arising from this amendment.

Amendment (4) – Policy B3

This amendment seeks to bring some clarity to Policy BE5, and the definition of tall buildings.

The definition is presently expressed in terms of storeys, and a tall building is defined as those either above 5 storeys in height or rising more than 2 storeys above their neighbours.

As members may appreciate, there is, however, a difference between the average height of a residential storey, compared to that of a storey in a commercial building.

Hence I would suspect that most laymen, and probably a number of professionals, are probably more concerned about the actual height of a building rather than notionally how many storeys it consists of.

Accordingly, I am seeking to change this into a measurement of height, in metres, rather than what appears to be a moving target depending upon the type of construction. This amendment therefore does not seek to change the principles of BE5, just to clarify the detail: i.e. it is trying to introduce a more objective test as to height, to determine at what point policy BE5 takes effect.

In preparing this amendment it has become clear that ‘what is the height of a building’ is not as obvious an answer as one might think.

The [Building Bye-laws \(Jersey\) 2007](#) state [Bye-law 1(3)]:

- “(3) For the purposes of these bye-laws the height of a building is its height measured from the lowest level of the ground adjoining the outside of its external walls to –
- (a) its roof line, provided that where the roof is pitched, the height is measured vertically to a level midway between the top and the bottom of its roof; or
 - (b) the top of its walls or of its parapet, if any,
- whichever is the higher.”.

However, it appears that in the United Kingdom, height is measured slightly differently.

Height of top storey – this is measured from ground floor level on the lowest side of the building to the upper surface of the top floor.

This is consistent with Jersey procedure.

However, it then appears that ‘roof-top plant areas are excluded from this measurement, as are any top storeys consisting exclusively of plant rooms’.

Hence it would appear, for example, that any building with an enclosed top floor (just containing plant) would not usually have that counted when calculating its height. This seems slightly odd.

Combining this with how BE5 will interact with the new policy of BE10 (roofscape), it would seem likely that there will be greater enclosure of roof-top plant than has previously occurred. Accordingly, I have made separate provision for a reasonable height allocation for roof top plant (of 2 metres).

The advice from the Planning Department is that a commercial storey height is generally accepted to be a total of 3.5 metres. Therefore 5 storeys equates to 17.5 metres, which I have rounded up to 18.

Given the earlier comments about roof-top plant, I have suggested a relatively modest allowance of 2 metres, and have structured the amendment in such a way as to allow a separate vote on this.

The intention of all of this is to give an objective measure to the definition of ‘five storeys’.

The latter is open to interpretation in too many ways, and that can surely not be good for the application of independent, objective interpretation of the rules.

I trust members will understand this perspective, and will consider supporting this amendment.

Financial and manpower implications

On the basis that the Minister considers that there are no financial or manpower implications for the States arising from the proposition, then there are unlikely to be any arising from this amendment.

Amendment (5) – paragraphs 6.110 and 6.135 and Policy H3

It is absolutely clear to me that there should be a policy which addresses the future provision of affordable housing on this Island. Indeed, in P.33/2008, (debated on 2nd April 2008) 41 members (including myself) voted in favour of the Deputy of Grouville's proposition to "... request the Minister for Planning and Environment to bring forward a Policy that requires planning applications of over a certain size to provide a percentage of their build for social need whether that be social rented, first-time buyer, retirement, sheltered housing or a mix, whichever is most appropriate for the site...".

It could be argued that the proposed policy of H3 is the implementation of that proposition. However, I am extremely concerned that this might be yet another 'half-baked' proposal which does not properly address the fundamental requirement of delivering the most equitable means of funding our future affordable housing needs. I fear that once more we are being asked to approve a scheme for which we have not been given the full details, without which we will potentially not understand the possible ramifications of the present proposals.

I am minded to make a comparison to the first Homebuy transaction, which has generated quite a lot of controversy. In essence we were promised a scheme, and we were promised that supplementary planning guidance ("SPG") would be provided. The interim PAC report on Homebuy makes it very clear that, despite best intentions, due process was not followed. For example the promised SPG was not produced until after the Homebuy transactions had been agreed.

If this is to become policy, is it a tax? Or is it a levy? Are there better ways of imposing such a charge? If it is a levy why is it imposed just on residential accommodation? Could (should?) it be imposed across all development, including commercial office blocks? What is the likely impact on the market? If monies are to be raised from this scheme, how are they to be allocated? Traditionally, the Treasury does not like ring-fencing, yet this would presumably have to be agreed in order to achieve the aims of the policy.

These are just a few of the questions which come to mind when looking at this policy, and which do not appear to have been properly addressed within the document that we are being asked to approve.

Whilst this seems to be a policy based on good intentions, Members should be under no illusion regarding its significance. I am very concerned that we may approve this without having a clear fundamental structure in place, and without us understanding the impact of such a policy.

I believe this important policy warrants a separate, fully informed debate, rather than just being swallowed up by the vast swathe of issues covered by the entire Island Plan.

I revert to one of the conclusions from the interim Public Accounts Committee report on Homebuy which is: "...It appears that the Homebuy Scheme demonstrates the worst aspects of Ministerial Government. The States have approved an incomplete policy based on future assurances which have not materialised....".

Let us not make the same mistake again, and walk blindly into a scheme which could generate all sorts of unforeseen consequences.

Let us reaffirm the principle that we should have a policy on affordable housing. But let us consider that separately to this entire Island Plan, with input from relevant Ministers and Scrutiny Panels in order to have an informed decision which this entire Assembly can then adopt.

I trust members will understand this perspective, and hope they will support this amendment.

Financial and manpower implications

On the basis that the Minister considers that there are no financial or manpower implications for the States arising from the proposition, then there can not be any arising from this amendment.

Amendment (6) – Policies TT3 and NE3

I would hope this is a very straightforward proposition.

Members may be aware of my involvement in the past with the St. Lawrence Millennium Footpath Project in Waterworks Valley. Over time, I have become more and more aware of the various fantastic opportunities we have in this Island that allow us to explore both the coast and the interior.

All this amendment seeks is to bring a degree of co-ordination to the existing network of off-road footpaths, bridle paths and cycle paths, such that we can begin to improve the network for the benefit of both Islanders and visitors alike.

Financial and manpower implications

On the basis that the Minister considers that there are no financial or manpower implications for the States arising from the proposition, then there are unlikely to be any arising from this amendment.