Re-issue

STATEMENT TO BE MADE BY THE PRESIDENT OF THE ENVIRONMENT AND PUBLIC SERVICES COMMITTEE ON 14th SEPTEMBER 2004

Members will recall that on 21st July 2004, the States considered the Deputy of St Peter's proposition P.133/2004, which requested the Committee to reconsider its decision '*to limit development on the said fields to a maximum of 54 x three-bedroomed two-storey units or 68 x two-bedroomed units, or any equivalent combination of three and two-bedroomed units*' The proposition was carried 25 votes to 18.

The purpose of this statement is to explain that the Committee has reconsidered the application, and has decided to maintain its original decision.

Members will recall that prior to the States decision on 1st July 2004, the Environment and Public Services Committee had resolved to grant development permission for the development of Category A housing on the above fields, the site having been zoned for that purpose on 11th July 2002, as part of the Island Plan.

The decision to grant permission was subject to the submission of revised plans showing a lower number of dwellings (72) than applied for (78), the subsequent agreement of detailed matters, and the signing of an Agreement under Article 8A of the Island Planning Law 1964, as amended, ensuring an approximate 55%/45% split between first-time buyers and social rented housing, and a financial contribution towards a link to the cycle network in the vicinity of the Airport.

The application for 72 homes would provide the following accommodation –

Size	First-time buyer	Social Rented	Total
3 bed	30	16	46
2 bed	2	3	5
1 bed	9	12 (incl. 8 sheltered)	21
Total	41	31	72

This provides a total of 72 homes at a density of 61 habitable rooms per acre. The net density, once the area of public open space is deducted from the total area, is just below the average density envisaged by the Island Plan at 69 habitable rooms per acre. (Paragraph 8.69….. '*The theoretical potential yield of homes from each site has been estimated based upon 10% of the site area being public open space and the remaining area being developed at an average density of 70 habitable rooms to the acre.*')

There are a total of 169 bedrooms. By comparison, the Deputy of St. Peter's proposal for 54 x 3-bedroom dwellings would have a total of 162 bedrooms. What matters in assessing the impact of a development are not the absolute number of dwellings, but rather the population it houses and the capacity of the site and the neighbourhood to accept that number of people. For example, the mix of development that the Committee has approved is likely to generate less children because there are fewer family homes, and yet the impact on the local primary school was one of the Deputy's main arguments against the proposed development.

The Committee has also now had the benefit of advice from H.M. Attorney General as to the legal implications were it to modify its decision in response to the States request; his advice reminded the Committee that the States had zoned the land for Category A housing, and that the Island Plan had indicated, at paragraph 8.80, that the site was suitable for *approximately* 68 homes. Furthermore, the Committee had approved a development brief as required by Policy H6 of the Plan. He states that the decision of 1st July is neither an approval nor a refusal of permission. However, it is a clear indication to the applicant of what the Committee will approve.

The applicant is entitled to a decision on his application and the Committee has determined the application. The Committee upheld the previous decision. The Committee had been unanimous on 1st July. On this occasion there

was one dissenting voice.

Were the Committee to accede to the States' request, it would have little option but to refuse the application. The applicant would thus be entitled to appeal to the Royal Court under Article 21 of the Island Planning Law or to seek a Board of Administrative Review.

The Committee is bound by its duty under the Island Planning Law. The Committee is required to demonstrate that it has considered the application taking into account only material planning matters.

When making its original decision the Committee had considered at some length and in detail the representations made by the Connétable and Deputy of St. Peter, weighed them with the advice of expert advisers, and decided that the objections could not be sustained. Its decision was in accordance with the States approved Island Plan and the development brief, and the total yield was very close to that indicated in the Island Plan. The development provided sheltered housing in accordance with the Island's needs and the States Strategic Plan.

If the Committee changed that decision by refusing the application and the applicant appealed, the Committee would be required to demonstrate what material planning grounds had arisen for it to reach a decision at odds with the one made on 1st July. The Royal Court would need to be satisfied that the States had all the relevant information before it on which to make a planning decision, for the Committee to regard the States decision as a material consideration in its decision making. Clearly it did not.

It is the Committee's view, supported by the Attorney General, that there are no material planning grounds for changing its decision, and on appeal, the Royal Court would decide the arguments in favour of the applicant. Accordingly, the Committee has maintained the decision it made on 1st July.

I understand that some States members will be disappointed with the Committee's decision. However, the Committee has statutory duties under the Law which it must adhere to, and is not prepared to substitute a decision which cannot successfully be defended in the Royal Court.