

DRAFT ISLAND PLANNING (AMENDMENT No. 8) (JERSEY) LAW 200

**Lodged au Greffe on 28th May 2002
by the Planning and Environment Committee**



STATES OF JERSEY

STATES GREFFE

150

2002

P.94

Price code: B

European Convention on Human Rights

The President of the Planning and Environment Committee has made the following statement -

In the view of the Planning and Environment Committee the provisions of the Draft Island Planning (Amendment No. 8) (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Senator N.L. Querée**

REPORT

Members will recall that Article 25 of the Planning and Building (Jersey) Law 2002, approved in Third Reading by the States on 17th April 2002, provides for agreements between developers and the Planning and Environment Committee to regulate the development and use of land. It is a wholly new provision in Jersey planning law, and is intended to cover factors that cannot be dealt with by conditions on a planning permission.

Because of resource difficulties, it is likely that there will be a delay in introducing the new Law. However, the ability to enter into planning obligations is important in implementing the Island Plan which, it is hoped, will be approved by the States in the summer. In particular, it is critical that the Committee has the power to control the mix and tenure of development on sites zoned for Category A housing development to ensure that all housing needs are met.

While the Committee is able, through planning conditions, to ensure that housing produced by the private sector on zoned sites is limited to first-time buyers, it has no equivalent power for social rented housing. At this stage, the Committee anticipates that all sites zoned in the plan will be required to provide an equitable proportion of social-rented homes in addition to first-time buyer homes, special needs homes, and community facilities as appropriate.

The Committee accordingly seeks the agreement of the States to introduce Planning Obligations into the Island Planning (Jersey) Law 1964, so that the Committee can secure the Island's objectives for social housing provision by binding agreement with the private sector. Without the ability to make such agreements, the only way that these objectives can be achieved is by the States acquiring the development sites so that it has proprietorial control. This will have major implications for States capital expenditure.

Resource implications

There will be cost implications for the Committee in preparing and registering contracts in the Royal Court.

There will be additional work for both the Planning Department and the Law Officers' Department, but it is likely that the legal work can be contracted out.

The Amendment has no implications for States manpower numbers.

European Convention on Human Rights

Article 16 of the Human Rights (Jersey) Law 2000 will, when brought into force by Act of the States, require the Committee in charge of a Projet de Loi to make a statement about the compatibility of the provisions of the Projet with the Convention rights (as defined by Article 1 of the Law). Although the Human Rights (Jersey) Law 2000 is not yet in force, on 24th May 2002 the Planning and Environment Committee made the following statement before Second Reading of this projet in the States Assembly -

In the view of the Planning and Environment Committee the provisions of the Draft Island Planning (Amendment No. 8) (Jersey) Law 200- are compatible with the Convention Rights.

Explanatory Note

The intention of this Law is to amend further the Island Planning (Jersey) Law 1964 to allow for the imposition of planning obligations.

ISLAND PLANNING (AMENDMENT No. 8) (JERSEY) LAW 200-

A LAW to amend further the Island Planning (Jersey) Law 1964, sanctioned by Order of Her Majesty in Council of the

(Registered on the _____ day of _____ 200-)

STATES OF JERSEY

The _____ day of _____ 200-

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law -

ARTICLE 1

After Article 8 of the Island Planning (Jersey) Law 1964,^[1] as amended,^[2] there shall be inserted the following Article -

“ARTICLE 8A

Planning obligations

- (1) The owner of an interest in land may by agreement with the Committee enter into an obligation (“a planning obligation”).
- (2) A planning obligation may -
 - (a) restrict the development or use of the land in a specified way;
 - (b) require a specified operation or activity to be undertaken in, on, under or over the land; or
 - (c) require the land to be used in a specified way.
- (3) The agreement need not be limited to land on which development is to be undertaken or to land in respect of which an application for permission to develop the land has been made.
- (4) The agreement may provide that a sum or sums of money be paid to the Treasurer of the States on a specified date or dates or periodically.
- (5) The agreement shall -
 - (a) state that the agreement is an agreement imposing a planning obligation in accordance with this Article;
 - (b) identify the person entering into the obligation;
 - (c) identify the land that is the subject of the obligation; and
 - (d) state the nature of the interest the person owns in that land.
- (6) A planning obligation may -
 - (a) be unconditional or subject to conditions;

- (b) impose a restriction or requirement mentioned in paragraph (2) either indefinitely or for a specified period or periods;
- (c) if it requires a sum or sums to be paid, require the payment of a specified amount determined as specified in the agreement;
- (d) if it requires the payment of periodical sums, require them to be paid indefinitely or for a specified period.

(7) Except as provided by paragraph (8), a planning obligation in respect of land is enforceable by the Committee against the person who entered into the obligation and any person who derives title to the land from that person.

(8) The agreement with the Committee may provide that a person is not to be bound by the planning obligation when the person no longer has an interest in the land that is the subject of the obligation.

(9) A restriction or requirement under a planning obligation is enforceable by injunction.

(10) Without prejudice to paragraph (9), if there is a breach of a requirement in a planning obligation to undertake an operation in, on, under or over the land to which the obligation relates, the Committee may -

- (a) enter the land and undertake the operation; and
- (b) recover the expenses reasonably incurred by the Committee in so doing as a debt due to the Committee from the person or persons against whom the obligation is enforceable.

(11) The Committee shall give not less than 28 days' notice to the person against whom the planning obligation is enforceable before exercising its powers under paragraph (10)(a).

(12) A planning obligation may be modified or discharged by agreement between the Committee and the person or persons against whom the obligation is enforceable.

(13) The Committee shall maintain a register called the Register of Planning Obligations containing details of each planning obligation.

(14) The Committee shall make the register and any agreement imposing a planning obligation (and any agreement modifying or discharging the obligation) available for public inspection at all reasonable times.

(15) As soon as practicable after a planning obligation has been entered into the Committee shall apply to the Royal Court for an order that the obligation be registered in the Public Registry of Contracts.

(16) As soon as practicable after an agreement modifying or discharging a planning obligation has been entered into the Committee shall apply to the Royal Court for an order that the agreement be registered in the Public Registry of Contracts.”.

ARTICLE 2

This Law may be cited as the Island Planning (Amendment No. 8) (Jersey) Law 2000 and shall come into force on the seventh day following its registration.

^[1] Volume 1963-1965, page 361.

^[2] Volume 1996-1997, page 35 and R&O 9196.