

# ORDER IN COUNCIL

**XXVI**

**1997**

ratifying a Projet de Loi

ENTITLED

## **The Building and Development Control (Alderney) (Amendment) Law, 1997**

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(Registered on the Records of the Island of Guernsey  
on the 19th January, 1998.)

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**1997**

## ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 19th day of January, 1998 before Sir Graham Dorey, Bailiff;  
present:- Stanley Walter John Jehan, Leonard Arthur Moss, Charles  
Anthony Spensley, Lawrence Oscar Ozanne, David Charles Lowe,  
Esquires, Mrs. Eileen May Glass, Laurence Lenfestey Guille,  
Stephen Edward Francis Le Poidevin, Alan Cecil Bisson and David  
Michael Jory, Esquires, Jurats.*

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 26th November, 1997, approving and ratifying a Projet de Loi entitled "The Building and Development Control (Alderney) (Amendment) Law, 1997", THE COURT, after the reading of the said Order in Council and after having heard Her Majesty's Comptroller thereon, ORDERED:-

1. That the said Order in Council be registered on the records of this Island; and
2. That an extract of this present Act, together with a copy of the said Order in Council, be sent by Her Majesty's Greffier to the Clerk of the Court of Alderney for registration on the records of that Island of which Order in Council the tenor followeth:-

## At the Court at Buckingham Palace

The 26th day of November 1997

PRESENT:

### The Queen's Most Excellent Majesty in Council

WHEREAS there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the Affairs of Guernsey and Jersey dated the 17th day of November 1997 in the words following, viz.:-

"YOUR MAJESTY having been pleased, by Your General Order of Reference of the 22nd day of February 1952, to refer unto this Committee the humble Petition of Jon Kay-Mouat, Esquire, President of the States of Alderney, setting forth:-

"That at a meeting of the States of Alderney held on the 3rd day of September 1997, the States adopted a Resolution that a *Projet de Loi* entitled "The Building and Development Control (Alderney) (Amendment) Law, 1997" be approved: That at the meeting of the States aforesaid Your Humble Petitioner was authorised to present to Your Majesty in Council a Petition that the said *Projet de Loi* be sanctioned: That the said *Projet de Loi* is as set forth in the Schedule hereunto annexed: And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the *Projet de Loi* entitled "The Building and Development Control (Alderney) (Amendment) Law, 1997" and order that the same shall have force of Law within the Island of Alderney."

"THE LORDS OF THE COMMITTEE, in obedience to Your Majesty's said Order of Reference, have taken the said Petition and the *Projet de Loi* annexed thereto into consideration and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and approve of and ratify the said *Projet de Loi*."

HER MAJESTY having taken the said Report into consideration, is pleased, by and with the advice of Her Privy Council, to approve of and ratify the said Projet de Loi, and to order, and it is hereby ordered, that the same shall have the force of Law within the Island of Alderney.

AND HER MAJESTY doth hereby further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed), be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant Governor and Commander-in Chief of the Island of Guernsey, the Bailiff and Jurats, and all other Her Majesty's Officers for the time being, of the said Island of Guernsey, and also the Jurats of the said Island of Alderney, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

*N. H. Nicholls*

## **The Building and Development Control (Alderney) (Amendment) Law, 1997**

**THE STATES**, in pursuance of their Resolutions of the 4th June and 6th August, 1997, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Island of Alderney.

### **Amendment of 1975 Law.**

1. After section 15 of the Building and Development Control (Alderney) Law, 1975, as amended<sup>a</sup>, insert the following additional Part-

### **"PART IIIA LAND USE PLANS & PRELIMINARY DECLARATIONS**

### **Preparation of Land Use Plans.**

**15A.** (1) The Committee shall prepare Land Use Plans indicating the manner in which the Committee proposes that land should be used (whether by development or otherwise) and the stages by which such development should be carried out.

(2) Land Use Plans may be in sections and embrace such areas as the Committee may from time to time decide and shall not be invalidated by overlapping an earlier Plan approved by the States under the provisions of section 15H.

(3) Land Use Plans shall include such maps and descriptive matter as may be necessary to make clear the Committee's proposals with such degree of particularity as may be appropriate to different parts of the Island and, without prejudice to the generality of the foregoing, the Plans may in particular-

(a) define areas in respect of which the Committee recommends that permission for development under the provisions of Part II of this Law-

(i) should not be granted;

(ii) should not be granted unless by reason of special considerations relating to the site it would be unreasonable for such permission not to be granted;

(iii) should, subject to the provisions of Parts II and III of this Law, be granted;

(b) define the sites of proposed roads, public and other buildings and works, parks, pleasure grounds, nature reserves and other open spaces or allocate areas of land for use for agricultural, horticultural, residential, commercial, industrial or other purposes of any class specified in the Plan;

<sup>a</sup> Ordres en Conseil Vol. XXV, p. 8; Vol. XXVI, p. 560; Vol. XXIX, p. 18; and Vol. XXX, pp. 21 and 371.

(c) contain such other matters as the Committee may think necessary or expedient.

**Duration of Land Use Plans.**

**15B.** Subject to the succeeding provisions of this Part of this Law, a Land Use Plans shall have effect for a period of five years commencing on the day on which the Plan is approved by the States under section 15H and thereafter shall continue to have effect subject to such alterations or additions, if any, as may from time to time be made under the provisions of this Law.

**Review of Land Use Plans.**

**15C.** (1) Before the expiration of the five years commencing on the day on which a Land Use Plan is approved by the States under section 15H, and thereafter at least once in every five years, the Committee shall review the Plan and shall, subject to the succeeding provisions of this Part of this Law, report to the States laying before them any alterations or additions to that or any other Land Use Plan which appear to the Committee to be required.

(2) Notwithstanding the provisions of subsection (1) and subject to the succeeding provisions of this Part of this Law, the Committee may at any time, and shall if so required by Resolution of the States, lay before the States proposals for such alterations or additions to any Land Use Plan or any part thereof as appear to the Committee to be desirable or required by Resolution of the States.

**Appointment of Inspectors.**

**15D.** (1) The Committee shall, before laying before the States a Land Use Plan or any proposal for alteration or addition thereto whether arising as a result of a review under subsection 15C(1) or otherwise, request the



President of the States to appoint a person to be an Inspector to hold a Planning Inquiry to consider the Plan or proposed alteration or addition and to hear any representation or objection made or offered thereto under subsection (2).

(2) When an Inspector has been appointed under subsection (1), the Committee shall cause to be published in the Alderney Official Gazette a notice specifying-

(a) the fact that it is intended to lay a Land Use Plan or a proposal for an alteration or addition thereto before the States;

(b) such particulars of the Plan, alteration or addition as the Committee may think necessary or expedient;

(c) the place where and the times at which the Plan, alteration or addition may be inspected;

and stating that any person who desires to make any representation or offer any objection to the Plan, alteration or addition may, subject to the provisions of section 15E, do so at a Planning Inquiry to be held by the Inspector at such place and at such time as shall be specified in the notice.

### **Planning Inquiries.**

**15E.** (1) Every Planning Inquiry shall be held in public.



(2) Any person who desires to make any representation or offer any objection to a Land Use Plan or any proposed alteration or addition thereto may do so-

(a) in person;

(b) by an Advocate of the Royal Court of Guernsey; or

(c) by such other class or description of person as may be prescribed by Ordinance.

(3) No person may, at a Planning Inquiry, make any representation, or offer any objection, in relation to a Land Use Plan or any proposed alteration or addition thereto unless he, or some other person acting on his behalf and described in subsection (2)(b) or (c), has, not less than ten days prior to the day of the commencement of the Inquiry, given written notice to the Inspector of his intention to make the representation or offer the objection; and any such notice-

(a) shall give an explanation of the proposed representation or objection sufficient to enable the Inspector to understand the essence of it; and

(b) shall be published in the Alderney Official Gazette (if there is time before the commencement of the Inquiry), exhibited on the notice board outside the Alderney Court House and made available for inspection in the States Office:

Provided always that-

(i) the Inspector may, in his absolute discretion, waive all or any of the requirements of this subsection in the case of any person desiring to make any such representation or offer any such objection at a Planning Inquiry;

(ii) the requirements of this subsection shall not apply to any person desiring to make any representation or objection in relation to such a representation or objection at a Planning Inquiry.

(4) For the purposes of a Planning Inquiry an Inspector shall have power-

(a) by summons under his hand to call before him and examine all such persons as he thinks fit;

(b) to require any such person to answer any question, furnish any information or produce any book, document, or article which the Inspector may consider relevant;

(c) to retain any such book, document or article until after he has submitted his report to the Committee;

(d) to take statements from all such persons as he may think fit;

(e) to enter and inspect any premises the entry into or inspection of which appears to him to be necessary for the purposes of the Inquiry.

(5) Subject to the preceding provisions of this section, the procedure at a Planning Inquiry shall be in the discretion of the Inspector.

**Inspectors' Reports.**

**15F.** After holding a Planning Inquiry the Inspector shall prepare a report in writing containing his recommendations on the Land Use Plan or the proposal for alteration or addition thereto, as the case may be, and shall submit that report to the Committee.

**Land Use Plans and reports to be laid before States.**

**15G.** On receiving the report of an Inspector under section 15F, the Committee shall lay the Land Use Plan or the proposal for alteration or addition thereto, as the case may be, and the report of the Inspector before the States together with any recommendation which the Committee may think desirable.

**States' approval of Land Use Plans.**

**15H. (1)** Upon a Land Use Plan or any proposal for alteration or addition thereto being laid before them the States may approve the Plan, alteration or addition without modification or subject to such modifications as they may consider necessary or expedient.

(2) Every Land Use Plan and every alteration or addition thereto approved by the States shall, for the purposes of identification, be signed and dated by the President of the States and lodged with the Clerk of the States.

**Departures from Land Use Plans.**

**15I.** (1) Notwithstanding the provisions of section 7(1)(h) the Committee may grant permission to carry out development or work involving a departure from a Land Use Plan if, in the opinion of the Committee, it is a departure of a minor nature not warranting specific reference to the States under the provisions of section 15C.

(2) Where the Committee is disposed to approve an application for permission to carry out development or work involving a departure from a Land Use Plan which may not be granted under subsection (1) the Committee may request the President of the States to appoint an Inspector to hold a Planning Inquiry and the provisions of sections 15D to 15H shall thereupon apply as if the application were a proposal by the Committee for an alteration or addition to the Land Use Plan.

(3) A decision by the Committee to refuse permission to carry out development or work involving a departure from a Land Use Plan on the ground that, in the opinion of the Committee, it is not a departure of a minor nature shall not be subject to appeal under the provisions of section 21.

**Preliminary declarations.**

**15J.** (1) A person who desires to carry out any development or work for which permission is required under this Law may, before making an application to the Committee in that behalf, apply to the Committee for a preliminary declaration as to whether, in principle, the Committee, on the submission to it of an application with such detailed plans or information or

both as the Committee may require, would be likely to grant permission for such development or work.

(2) A preliminary declaration issued under the provisions of this section shall remain valid for a period of three years from the date on which it was issued."

**Other minor amendments to 1975 Law.**

2. (1) In section 6(1)(c)(i) of the Building and Development Control (Alderney) Law, 1975, as amended, after the words "in its construction" insert ", or the period within which it must be completed".

(2) In section 6(3) of the said Law for "one year" substitute "three years".

(3) After section 7(1)(g) of the said Law insert the following paragraph-

" and (h) any Land Use Plan approved by the States."

**Citation.**

3. This Law may be cited as the Building and Development Control (Alderney) (Amendment) Law, 1997.