



Policy & Resources Committee

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11th July 2019

Dear Sir

Letter of Comment – Proposition No. P.2019/41 – Requête: Island Development Plan

I refer to the above Requête which is scheduled for debate by the States of Deliberation on 17th July 2019.

Deputy Merrett and six other Members of the States of Deliberation are seeking for the States to agree that it has the responsibility to direct policy adjustments to the Island Development Plan (“the IDP”) during this political term.

The Policy & Resources Committee acknowledges that these matters have wide-ranging implications and in accordance with Rule 28(2)(b) of the Rules of Procedure of the States of Deliberation and their Committees, consulted with the various Committees mandated with responsibility for the matters set out in the Requête.

Before turning to the individual Propositions, the Policy & Resources Committee believes it is important to revisit the objectives and purposes of both the Strategic Land Use Plan (the SLUP) and the IDP. Both are statutory plans under the Land Planning and Development (Guernsey) Law 2005 (“the 2005 Law”).

When approved by the States, the SLUP was one of the four Island Resource Plans that formed part of the States Strategic Plan¹ and was drafted on the basis of having a 20 year planning horizon. It seeks to ensure that the Island can adapt to accommodate

¹ The other Island Resource Plans, namely those covering energy, population policy and the Island’s infrastructure, have been replaced through other policy documents; the SLUP remains in force as it is a statutory plan prepared under the Land Planning and Development (Guernsey) Law, 2005 which is important in relation to the preparation of development plans.

sustainable development and growth in the longer term and in response to changing economic, social and environmental circumstances.

The purpose of the SLUP is:

“The Strategic Land Use Plan will contribute positively to maintaining Guernsey as a desirable place to live, work and enjoy leisure time through the implementation of land use policies that create a socially and economically strong Island balanced with the protection and enhancement of Guernsey’s physical environment and respecting international efforts to safeguard the global environment.”

The IDP has six purposes,

- To manage the physical environment so as to facilitate the delivery of the States of Guernsey strategic objectives that require the use of land, as set out in the Strategic Land Use Plan;
- To ensure that development is carried out in such a way as to appropriately balance the social, economic and environmental objectives of the States of Guernsey;
- To provide the policy framework for the determination of planning applications;
- To encourage suitable development on appropriate sites;
- To conserve and enhance the best of Guernsey’s physical environment; and
- To help to guide public and private investment in relation to land planning.

The IDP has been drafted on the basis on having a ten-year horizon, with a statutory review at the five-year point. When the IDP was adopted by the States in November 2016, the Development & Planning Authority advised the States that the review scheduled for debate in November 2021 would focus on the land supply for housing and employment.

Against this background, the Policy & Resources Committee wishes to make the following comments in respect of the various Propositions.

Proposition 1

The IDP was adopted by the States of Deliberation on 2nd November 2016, following a lengthy period of public consultation including a Planning Inquiry where representations were heard from many Islanders and interested parties. The IDP was adopted after nearly four days of debate and included the consideration of over 30 Amendments.

The IDP has a 10-year lifespan and can be extended by Resolution of the States. However, it is important to note that section 8(1)(b) of the 2005 Law, places a duty on the Development & Planning Authority to keep the Plan under review and, from time to time to consider whether any alteration to it is necessary. The quarterly and annual monitoring reports are prepared under the SLUP and the IDP and are a key part of meeting this review requirement.

Through these reports, the Development & Planning Authority is required to address any areas where Amendments may be required. It must be remembered that the 2017 Annual Monitoring Report² published in November 2018 was the first such report and the States were given an opportunity to debate it. It is considered too early in the life of the IDP and its reporting to identify any trends or unforeseen consequences of how the policies operate cumulatively.

The Requête is silent as to the level of detail of the work necessary in the formal consideration of proposed alterations to the Plan. If the objective of the Requête is to amend the IDP then the review process must comply with the provisions under the 2005 Law for reviewing and amending a development plan. **The planning legislation explicitly states that the Development & Planning Authority must prepare amendments to a development plan where required to do so by resolution of the States but also spells out that the normal procedure, including a public inquiry, will apply to such amendments initiated by States resolution³.** Also, a plan inspector is required to consider, in particular, whether or not the procedural requirements have been met and whether or not the proposals are sound which includes being based on founded on robust and credible evidence.

The Policy & Resources Committee agrees that the States has the power to direct policy adjustments to the IDP. The States has had such an opportunity during this political term when the IDP was debated in September and November 2016. They also had the opportunity in November 2018 to debate the first Annual Monitoring report. Further, the annual monitoring reports will inform and direct whether any Amendments to the IDP are required and these can now also be brought forward through the Policy & Resource Plan process following changes to Rule 23(1) of the Rules of Procedure of the States of Deliberation and their Committees⁴.

In conclusion, for the reasons set out below and, as addressed in more detail in the responses from the Development & Planning Authority and the Committee *for the Environment & Infrastructure*, the Policy & Resources Committee does not agree that there is a need for the States to have a further opportunity to direct policy adjustments to the IDP during this political term.

² Billet d'État XXV of 2018 refers

³ See section 3(1)(d)(iii) of the Land Planning and Development (Plans) Ordinance, 2007.

⁴ **23.** (1) Committees of the States must contribute to the formulation and, once agreed by the States, the application of the States' Policy & Resource Plan.

Recommendation: The Policy & Resources Committee believes that this Proposition has been discharged through the debates in October and November 2016 and November 2018 and that the States already has the ability, by resolution, to direct amendments to the IDP subject to compliance with the planning inquiry process and therefore supporting this proposition will result in no change.

Proposition 2

The Policy & Resources Committee has appended the Development & Planning Authority's response which addresses in detail the specific matters raised in the Proposition. It also notes and supports the Action Plan the Development & Planning Authority published on 17th June 2019. It is noted that the Action Plan proposes extending the scope of the planned 5-year review of the IDP from consideration of the supply of land for housing and employment to include most of the matters set out in Proposition 2 and the associated recitals.

The Policy & Resources Committee shares the Development & Planning Authority's concerns that the Requête has provided no clear evidence for bringing forward a review of the IDP ahead of that planned for 2021.

The Requête variously refers to a public perception that some policies are not delivering the degree of development control in a way which appropriately balances the social, economic and environmental objectives of the States y but these assertions are not supported by reference to particular planning decisions made under the IDP.

The Requête asks for the review to be completed by April 2020. The Requête does not appear to have fully considered whether the staff and other resources are availability or whether the proposed timescale is sufficient.

The Policy & Resources Committee reiterates the serious concerns raised by the Development & Planning Authority in respect of the timescale of the proposed reviews and the additional costs of undertaking the work. It notes that the Development & Planning Authority's timetable for the 5-year review of the IDP, including the gathering and evaluation of evidence based on the operation of the IDP to date; full public consultation; and a planning inquiry, is based on a revised Plan being presented to the States for adoption in November 2021.

The Policy & Resources Committee also notes that the work required if Proposition 2 is supported could see an amended IDP presented to the States in September 2021, i.e. just two months sooner than under the Development & Planning Authority's timetable but at an additional cost of at least £200,000 and without full confidence that the statutory requirements for the adoption of a development plan under the 2005 Law are met.

For these reasons, the Policy & Resources Committee is unable to support this Proposition.

Recommendation: The Policy & Resources Committee does not recommend that Proposition 2 be supported.

Proposition 3

As part of the programme of Public Sector Reform relating to supporting government, the Policy & Resources Committee has agreed to include the Development & Planning Authority in its programme for review of the governance of Principal Committees. The objective of the review is to strengthen governance, including through clearer definitions of those matters that are operational and those that are policy-based. The Policy & Resources Committee believes that greater clarification will support the political body, the Planning Service and the wider community in better understanding the respective roles and responsibilities of the Development & Planning Authority and the Planning Service.

The Policy & Resources Committee will be consulting with the Development & Planning Authority and the independent reviewer to include this review into the programme.

Recommendation: The Policy & Resources Committee recommends that Proposition 3 be supported through the programme of Public Sector Reform, the Policy & Resources Committee has agreed to include the Development & Planning Authority in its programme for review of the governance of the Principal Committees.

Proposition 4

Following the debate on the 2019 Policy & Resource Plan, the States have resolved to provide for all Committees, Boards and Authorities to contribute formally to the Plan annually.

Going forward, the contributions of the Development & Planning Authority and the Committee *for the Environment & Infrastructure* will be integrated with the policy and resource planning process. This will be in addition to the pre-existing requirements for the statutory reviews of the SLUP and the IDP.

The Policy & Resources Committee is confident that the Development & Planning Authority's submissions to the Policy & Resource Plan will be informed by the data collected through its Quarterly and Annual Monitoring Reports. For this reason, the Policy & Resources Committee does not believe that there is a need for any further reconsideration of the cycle for the review and amendment of the SLUP or the IDP.

The Policy & Resources Committee is concerned that any perceived uncertainty over the Island's planning policy could be harmful to the economy and, in particular, the construction industry. The Policy & Resources Committee is mindful that many planning applications, especially larger commercial projects, can take some time, including pre-application discussions and third party negotiations, etc. Any shortening of the life of the IDP risks introducing nervousness amongst developers and their professional advisors. This may result in developments not being progressed or conversely developments being rushed to ensure they are considered before planning policy gateways may change and so risk the development not making best use of the Island's limited land resources and so contrary to the underlying purpose of the SLUP.

Recommendation: The Policy & Resources Committee does not recommend Proposition 4 be supported as, following approval of the 2019 Policy & Resource Plan, the Development & Planning Authority is now part of the reporting framework for the preparation of future Plans.

Proposition 5

The Policy & Resources Committee has appended the Policy & Resources Committee *for the Environment & Infrastructure's* response which addresses in detail the specific matters raised in the Proposition.

The Policy & Resources Committee notes the Committee *for the Environment & Infrastructure's* intention to bring a policy letter on third party representation in the planning appeal process in early 2020. To clarify, the Policy & Resources Committee understands that this letter would include recommendations on whether (1) third parties who had submitted written comments on planning applications should be able to appear at appeal hearings; and (2) such third parties should have rights of appeal against Development & Planning Authority decisions on planning applications.

The Policy & Resource Committee anticipates that if those making representations in the planning process are afforded a formal right of appeal on a planning decision there will be significant additional costs, including the possible need for extra staff resources. Such additional, on-going costs, have not been addressed in the Requête.

The Policy & Resources Committee understands that around half of all appeals in Jersey⁵ and Ireland⁶ (two jurisdictions where third party appeals against planning decisions may be made). The Policy & Resources Committee is therefore concerned that extending who may appeal a planning decision could have significant resource

⁵ Under Part 7 of the Planning and Building (Jersey) Law 2020, the Minister for the Environment makes the decision on an appeal after being advised by an independent planning inspector who conducts the appeal hearing.

⁶ The An Bord Pleanála is an independent appeal body which considers all appeals against planning decisions and makes decisions independently of the Minister for Housing, Planning and Local Government.

implications, including delays for the applicant in commencing works permitted through the grant of planning permission. The third party appeal periods in Jersey and Ireland are 28 days and 4 weeks respectively. However, when time for the parties to exchange submissions, a hearing to be held and a decision issued is included, the reality is that an applicant could be delayed for some four months before knowing whether or not he/she may be able to commence their planning permission.

The Policy & Resources Committee is concerned such delays and the associated uncertainty may have a negative impact on the viability and vitality of the construction sector. This may result in nervousness amongst developers including potentially scaling back proposals for some sites and so not making the best use of the limited land available for development.

Further, the same officers who currently consider planning applications are also involved in responding to planning appeals. Therefore, any increase in the number of planning appeals could have a knock-on effect for all planning applications.

Recommendation: The Policy & Resources Committee supports Proposition 5 on basis the Committee *for the Environment & Infrastructure* will undertake this work. However, emphasizes caution before agreeing to introduce a system for third party appeals against planning decisions because of the uncertainty over the financial and staff resources implications and the potential negative impact and delays for all those seeking planning permission linked to uncertainties associated with a third party appeal.

Proposition 6

This Proposition requires the Policy & Resources Committee to report back to the States by December 2019 but, in the intervening six months there is a requirement to consult five States Committees and the owners of the Leale's Yard site and as the whole Bridge area is mentioned it may be necessary to consult with other owners of land falling within that area.

The Policy & Resources Committee notes that consultation is already taking place with the owners of Leale's Yard to bring forward the development of the site. The site is one of several sites which are referred to in the Committee *for Economic Development's* States of Guernsey Economic Development Strategy which was approved by the States in June 2018¹. The Strategy reiterates that a number of key factors must be in place to ensure that Guernsey's continued prosperity founded on being an open, liberal, free-trading economy, including a skilled workforce, the availability of land, connectivity, and working in partnership.

The Strategy recognises that:

¹ Billet d'État XVIII of 2018 refers.

8.4.1 Guernsey's size demands that its limited landmass is used efficiently to support and foster economic activity, while ensuring that the Island's high quality natural and built environment is not detrimentally affected. Local distinctiveness and culture are critical to the way the Island is regarded by those looking to invest in, visit, and make their home on Guernsey. Development conducted in an appropriate and sympathetic manner can enhance the Island through investment in its buildings and places whilst supporting enhancement of its natural resources and environment and, therefore, add to its overall economic performance and attractiveness.

...

8.4.4 The application of the States' planning policies is the mandate of the Development & Planning Authority. Those policies contain the checks and balances which are rightly needed in the planning system to balance the need for development with the protection of the Island's built heritage, natural environment and infrastructure. The Committee is pleased to see a much more proactive approach to development within the Island Development Plan which has flexible and proactive policies and indicate that, from a land planning perspective, the Island is open for business. This is evidenced by the designation of Harbour Action Areas and the Regeneration Areas, which offer real potential for growth, enhancement, and investment.

8.4.5 Whilst the Island Development Plan has shown it is flexible, it has not yet been fully tested. However, improvements can always be made and initial conversations with the Development & Planning Authority have been positive. The Committee will work with the Development & Planning Authority to ensure that changes that are made benefit the economy whilst retaining flexibility and the principal aims of the Strategic Land Use Plan and Island Development Plan.

The development of the Leale's Yard site, as one of the designated Regeneration Areas offering "... real potential for growth, enhancement, and investment", is being progressed in line with the general direction set by the States of Guernsey Economic Development Strategy to ensure that the potential for growth, enhancement, and investment from this site is maximised for the benefit of Guernsey as a whole.

The Policy & Resources Committee's supports the purpose underlying Proposition 6. However, it shares concerns around the wording of the Proposition, namely what is meant by "the regeneration of the Bridge area". The Requête does not provide any indication as to the extent of the Bridge area; is the intention to focus on the Leale's Yard site, i.e. the area set out in the IDP as the Leale's Yard Regeneration Area?; just the land within that area in the ownership of the principal land owner?; or is the intention to include land along North Side and South Side?.

The Policy & Resources Committee is also concerned that, given the large number of parties, including several States Committees, with an interest in the site and the requirement to consider and model incentives and mechanisms to facilitate the development of the site, the timescale for reporting back to the States is unrealistically short.

For these reasons, the Policy & Resources Committee is proposing an amendment to Proposition 6 to:

- (a) Limit the work to consideration of the land within the Leale's Yard Regeneration Area as defined within the IDP; and
- (b) Report back to the States no later than April 2020.

Recommendation: The Policy & Resources Committee does not recommend that Proposition 6, as drafted, be supported but recommends that the Amendment to Proposition 6 be supported.

Proposition 7

Rule 4(3) of the Rules of Procedure requires that,

Every proposition laid before the States which has financial implications to the States shall include or have appended to it in a policy letter or requête or otherwise an estimate of the financial implications to the States of carrying the proposal into effect;

Provided that:

the proposer(s) of such a proposition may request from any Committee any information required to enable such an estimate to be included or appended and the Policy & Resources Committee shall thereupon provide complete and accurate information to enable the proposer(s) to set out the estimate.

The Policy & Resources Committee notes that the Requête includes some broad and general estimates regarding the financial implications of carrying the proposals into effect. The Policy & Resources Committee is concerned that these estimates may do not reflect the full cost of the work required to deliver each of the Propositions. Appendix 1 sets out the Policy & Resources Committee's best estimates as to the likely resources required to fulfil the Propositions as set out in the Requête.

The Policy & Resources Committee estimates that in the region of £500,000 of one-off budget would be required in 2019/2020 to fund additional costs incurred to fulfil the requirements of this Requête. In addition, other work streams would be delayed as officers are diverted from their planned duties. This £500,000 of additional expenditure cannot be fully accommodated within existing budgets and, for 2019,

would require funding from the Budget Reserve which, at the time of writing, is largely committed.

In respect of 2020, the resource requirements would be included within the recommended Cash Limits which would reduce the amount of funding available for other priorities.

Recommendation: The Policy & Resources Committee does not recommend that Proposition 7 be supported because the financial implications set out in the Requête do not represent the full cost of all the proposals and the additional expenditure cannot be fully accommodated with the existing budgets for 2019.

In conclusion, the Policy & Resources Committee understands the concerns which have given rise to the Requête but for the reasons set out in this letter cannot support all the Propositions.

The provisions for the review and amendment of a development plan under the Land Planning and Development (Guernsey) Law, 2005 mean that the IDP **can only be changed where there is credible and robust evidence to support amendments**. The Requête contains many assertions and statements concerns and perceptions regarding how the IDP is operating and its practical implementation. These concerns and perceptions whilst honestly held are not supported by any credible or robust evidence for the need for change. Further, any amendments to the IDP will not have any retrospective effect. Where planning permission has been granted, that permission will remain valid unless and until it otherwise lapses or is superseded by a revised or new application.

The Policy & Resources Committee is also mindful that several of the Housing Allocation Sites designated under the IDP have been identified as areas for new housing under previous development plans. The owners of these, and other sites with the potential for development, have a legitimate expectation regarding how they may use the land and this will be reflected in the value of these land parcels. Any perceived uncertainty over the future development opportunities for such sites could have significant and unintended negative consequences for Guernsey's economy, especially for those most directly involved in the wider construction sector.

The Policy & Resources Committee is very concerned that, if supported, the Propositions set out in the Requête will result in significant uncertainty around land use in Guernsey. Such uncertainty will undoubtedly have a negative impact on the vitality of Guernsey's economy and would not create the environment needed to ensure Guernsey's continued prosperity and that it remains open for businesses to the benefit of all of its residents.

The Policy & Resources Committee's position on each of the Propositions is summarised as follows:

Proposition 1 - for the reasons set out in this letter, the Policy & Resources Committee believes that this Proposition has been discharged through the debates in October and November 2016 and November 2018 and the existing duty under the legislation for plan amendments to be initiated if directed by resolution of the States subject to following the normal inquiry process.

Proposition 2 - The Policy & Resources Committee does not support this Proposition. It has serious concerns in respect of the timescale of the proposed reviews and the costs of undertaking the work. The Policy & Resources Committee is anticipating requests from the Development & Planning Authority for its budget to be increased for 2021 and 2022 to cover the costs associated with the 5-year review of the IDP, including a planning inquiry, which is an appropriate timeframe for the first review.

Proposition 3 - As part of the programme of Public Sector Reform, the Policy & Resources Committee has agreed to include the Development & Planning Authority in its programme for review of the governance of the Principal Committees.

Proposition 4 - The Policy & Resources Committee does not support this Proposition. Following approval of the 2019 Policy & Resource Plan, the Development & Planning Authority is now part of the reporting framework for the preparation of future Plans. The Development & Planning Authority's submissions will be informed by the data collected through its Quarterly and Annual Monitoring Reports. For these reasons, the Policy & Resources Committee does not believe that there is a need for any further reconsideration of the cycle for the review and amendment of the SLUP or the IDP.

Proposition 5 - The Policy & Resources Committee supports this Proposition. It is understood that the Policy & Resources Committee *for the Environment & Infrastructure* will bring a policy letter to the States, no later than April 2020, on third party representations and rights of appeal in the planning appeal process.

Proposition 6 - The Policy & Resources Committee does not support this Proposition. The Policy & Resources Committee has submitted an Amendment to address the concerns it has highlighted.

Proposition 7 - The Policy & Resources Committee does not support this Proposition. The Policy & Resources Committee believes that the financial implications, as set out in the Requête, do not represent the full cost of the various reviews and actions set out in the various Propositions. Further, the additional expenditure cannot be fully accommodated with the existing budgets for 2019.

The Policy & Resources Committee remains concerned that if adopted, the Propositions for review of, and amendments to, the IDP may not be:

- (a) capable of being justified at any formal Inquiry; in other words any such amendments may not be properly justified by evidence rather but rather

- based on assumptions or assertion;
- (b) consistent with the SLUP;
- (c) internally consistent (i.e. consistent with the existing policies in the IDP and when the IDP is read as a whole⁸); and
- (d) capable of implementation lawfully through the Island's planning process.

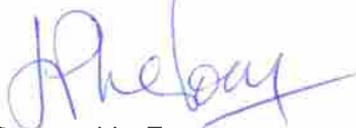
The IDP was drafted, consulted on and reviewed through an independent planning inquiry on the basis of providing a planning policy document which includes policies which positively promote development in appropriate circumstances whilst conserving and enhancing the natural and built environment and providing a flexible and proportionate approach to the management of development⁹.

Finally, the Policy & Resources Committee has also appended for publication the responses received from the following Committees:

- the Committee *for the Environment & Infrastructure*;
- the Committee *for Employment & Social Security*; and
- the Development & Planning Authority.

The Committee for Economic Development has advised the Policy & Resources Committee that it has not provided a response under Rule 28(2)(b) setting out a Committee view on the matters raised in the Requête.

Yours faithfully



Deputy J Le Tocq
Member
Policy & Resources Committee

⁸ Paragraph 1.5.2 states:

The Island Development Plan policies, their supporting preceding text and the Annexes, together with the Proposals Map, are all integral parts of the Island Development Plan. For this reason, it is important that they are read as a whole and that no part is taken out of context or in isolation.

⁹ Paragraph 1.4.2 of the IDP refers.

Appendix 1 – Table of estimated costs associated with the Proposition No. P.2019/41 – Requête: Island Development Plan

Proposition	Committees	Amount	Year	One-off / Ongoing	Notes
1	N/A	Nil	N/A		As set out in its letter, the Policy & Resources Committee believes this proposition has been discharged
2	<ul style="list-style-type: none"> - Development & Planning Authority - Committee <i>for the Environment & Infrastructure</i> 	£200,000 (estimated for additional preparatory work in advance of the statutory review of the IDP) £25,000 (consultation on Community Plans)	2019 / 2020	One-off - £225,000 Ongoing - £250,000 (in 2020 and 2021 for the Planning Inquiry)	These costs will be in addition to the costs of the Planning Inquiry required under sections 8 and 12 of the 2005 Law for the preparation, examination, and revision of the IDP; these costs are based on the costs for the Planning Inquiry prior to the adoption of the IDP in November 2016, estimated at c. £250,000; these costs would include additional resources to support the Development & Planning Authority in the preparation of evidence documents to inform any proposed amendments to the IDP, and the Committee <i>for the Environment & Infrastructure</i> Committee in relation to the running of the Planning inquiry, including the payments to the Planning Inspector/s, and the appointment of a Programme Officer; the costs associated with the 5 year statutory review of the IDP are already being budgeted for by the relevant Committees; the costs for consultation to raise awareness of Community Plans (Recital 4(j)) is based on

	the costs for the recent consultation on the Seafrost Enhancement Programme.			
3	<p>- Policy & Resources Committee</p>	£20,000	2019 / 2020	<p>One-off - £20,000</p> <p>This figure is based on the costs of the similar reviews already undertaken for the Committee for Health & Social Care and the Committee for Home Affairs; it should be noted that until the terms of reference for the review are agreed, it is difficult to give a clear estimate as to the likely costs.</p>
4	<p>- Policy & Resources Committee</p>	Nil	N/A	<p>For the reasons set out in this letter, the Policy & Resources Committee believes that the changes to the Policy & Resource Plan reporting, together with the quarterly and annual monitoring reports on the IDP that the Development & Planning Authority has a statutory duty to undertake, the direction of this Proposition has been met.</p>
5	<p>- Committee for the Environment & Infrastructure</p>	£20,000	2019 / 2020	<p>The one-off costs are to cover the costs of researching and drafting proposals to bring third party representations into the planning appeal process; depending on how third party representations are brought into the planning appeal process, the on-going costs could be significant; in Ireland and Jersey, where a third party has a right of appeal to a planning tribunal, approximately 50% of all appeals are made by third parties; the ongoing costs are therefore based on a 50% increase in the Planning Panel's work, including the likely need to appoint additional Panel members.</p> <p>One-off - £20,000 Ongoing - £50,000 to £70,000</p>

6	<ul style="list-style-type: none"> - Policy & Resources - Development & Planning Authority - Committee for the Environment & Infrastructure - Committee for Economic Development - Committee for Employment & Social Security 	<ul style="list-style-type: none"> - £20,000 per Committee for additional staff resources - £25,000 to £30,000 for consultation 	2019 / 2020	One-off - £120,000 (staff) + £25,000 to £30,000 (consultation)	<p>The one-off costs are to cover researching and drafting proposals for and consultation on the development of the Leale's Yard Regeneration Area; these costs would be significantly higher if the area envisaged under Proposition 6 covers the wider Bridge area; the consultation costs are based on the costs for the recent consultation on the Seafront Enhancement Programme; the costs would also include between £50,000 and £100,000 for the preparation of a Development Framework for the area; however this cost will be incurred outwith this Proposition to progress the development of the Leale's Yard Regeneration Area; at this stage it is difficult to estimate the costs of any incentives or mechanisms to facilitate the development of the site; it should be noted that such costs may be ongoing, as there are 3 other regeneration areas designated under the IDP.</p>
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157 July 2019

Dear Deputy St Pier

Guernsey

Requête P.2019/41 – Island Development Plan

Thank you for your letter of 14 June 2019 seeking the Committee for the Environment & Infrastructure's comments on the above Requête.

The Requête seeks to direct the Committee for the Environment & Infrastructure (CfE&I) in relation to one proposition.

If agreed by the States Assembly, Proposition 5 would direct the CfE&I to bring a policy letter to the States, no later than April 2020, on third party representations in the Planning Tribunal process as described in Recitals 19-20. The CfE&I anticipates that it will be able to submit a policy letter for States consideration within the specified timeframe, to include costs in terms of resources and legislation changes, using existing resources within Environment & Infrastructure service areas, as well as other parts of the States of Guernsey.

The CfE&I would also like to comment on a number of other matters in the Requête that are relevant to its mandate.

Review of the SLUP and the P&R Plan

Under its mandate the CfE&I has the responsibility to advise the States and to develop and implement policies on matters relating to strategic spatial planning, including the Strategic Land Use Plan (SLUP). Proposition 4 directs the Policy & Resources Committee (P&RC) but is specifically concerning a review of the SLUP.

On this point there is an inconsistency between the requirements of Proposition 4, insofar as it relates to the SLUP, and the relevant Recitals 5-7. Whilst the proposition if agreed would direct the P&RC, in consultation with the CfE&I and others, to consider how to integrate reviews of the SLUP into the Policy and Resource Plan (P&R Plan) process and to bring forward recommendations on timing no later than the final P&R Plan of this States term, Recital 7 says that the CfE&I should consider, in consultation with the P&RC, whether the SLUP requires amendment as part of the process for the first submission of

the P&R Plan to the States following a general election. As these are two different proposed requirements with different deadlines, the CfE&I will take the Proposition to have precedence and if directed this matter will be progressed by the P&RC, in consultation with the CfE&I and others, as set out in Proposition 4.

The CfE&I's view is that this needs some clarification. The SLUP is a strategic document with a 20-year horizon, which sets out the States' strategic plan for land use and the best way to achieve the States objectives through land use and spatial planning. The Island Development Plan (IDP) is the framework which sets out the steps that can be taken to deliver the objectives of both the SLUP and the P&R Plan. The IDP is subject to quarterly and annual monitoring reports with the input of the Committees of the States.

The SLUP needs to remain fit for purpose over time and be capable of adjusting to future revisions to the strategic policies of the States. Although Section 5 of the Land Planning & Development (Guernsey) Law, 2005 (the Law) requires the CfE&I, from time to time, to consider if amendments are needed to the SLUP there is no requirement in the Law or the P&R Plan that the SLUP be monitored on a regular basis to ensure its continued effectiveness unless the CfE&I decides itself that amendments to the SLUP are necessary or the P&RC directs it to make amendments.

The Committee will, if directed by the States, contribute to the investigation of ways of ensuring enhanced alignment between the SLUP and the P&R Plan process to ensure that strategic land use policy remains robust and fit for purpose and can continue to deliver the priorities of the States. It does not, however, believe that a review of the SLUP *per se* is needed at this stage. The CfE&I's view is that the continued adequacy of the SLUP to deliver the States' objectives would, in any case, be more usefully considered alongside the P&RC's development of a statement of policy objectives for the next political term.

In addition, the monitoring of the IDP should ensure that any revisions that are needed can be made, and that is the correct way to bring the flexibility that is presumably sought by the signatories of the Requête. Section 8 of the 2005 Law requires the Development & Planning Authority to keep the IDP under review and, where necessary, propose any amendments and revisions to the IDP. It is important to recognise that the IDP can be amended and remain consistent with the SLUP. This is because the detail of particular IDP policies can be drafted in a number of different ways but still remain consistent with the overarching, high-level strategic policies set out in the SLUP.

Proposition 2

The CfE&I has also considered Proposition 2 in relation to its mandate. The SLUP is a statutory plan provided for in the 2005 Law and any changes to the policies of the IDP must fulfil the statutory requirements set out in the 2005 Law. This includes, but is not limited to, receiving a certificate of consistency with the SLUP from the CfE&I and the carrying out of an independent Planning Inquiry. If these legal requirements are not met any resultant Plan will be *ultra vires* and will be open to legal challenge. This is important as the IDP is the mechanism by which the States strategic land use policies in the SLUP are delivered.

The Committee's 2020 budget has not included provision for a planning inquiry for a review of the IDP which, given the number of matters set out in Proposition 2 and experience of the planning inquiry for the IDP in 2015, it is anticipated could cost in excess of £300,000 if the States agrees the Proposition.

Natural environment

The CfE&I would like to clarify that, whereas Recital 1 emphasises certain aspects of the Committees mandate that relate to the natural environment, it has a separate responsibility concerning spatial planning and the SLUP. In developing the SLUP the Committee has to provide strategic land use direction which takes account equally of the States agreed strategic economic, social and environmental objectives and requirements in land use terms.

Thank you for the opportunity to comment on this Requête.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Brehaut', written in a cursive style.

Deputy B L Brehaut
President
Committee *for the* Environment & Infrastructure

cc Deputy P Roffey, Herat, Rue de St Andre, GY6 8UN



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Deputy G A St Pier
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Date: 03 July 2018

By email

Dear Deputy St Pier

**Requête – P.2019/41
Proposal – Island Development Plan**

Thank you for your letter of 14 June 2019 inviting the Committee's views on the Requête lodged by Deputy Merrett and other signatories.

The Committee *for* Employment & Social Security met with Deputy Merrett on 2 July 2019. Following that meeting, the Committee considered its response to the Requête. Deputy Yerby absented herself from the discussion as she is one of the signatories.

Debate on the Policy & Resource Plan was fresh in Members' minds, in particular the need for prioritisation of limited resources. In the short time remaining in this term of the States, the Committee has to remain focussed on delivering its key policy proposals referred to in the Plan. To agree to participate in the work described in the Requête, even by way of an assisting role and not the lead, will inevitably detract staff and Committee resources from the recently endorsed priorities. The Committee does not consider that the content of the Requête is of sufficient urgency to warrant reprioritisation.

The Committee decided, therefore, that it would be unable to support the Requête.

Yours sincerely

Deputy Michelle Le Clerc
President

The President
Policy & Resources Committee
Sir Charles Frossard House
St Peter Port
Guernsey
GY1 1FH

3 July 2019

Dear Deputy St Pier,

Requête P.2019/41 – Island Development Plan

Thank you for your letter of 14 June 2019 seeking the comments of the Development & Planning Authority (“the D&PA”) on the Requête.

The Requête seeks to direct the D&PA in relation to only one proposition, that being Proposition 2, which states as follows:

“2. To direct the Development & Planning Authority, in consultation with the Committee for the Environment & Infrastructure, the Policy & Resources Committee, and other relevant stakeholders, to carry out a review of the IDP, to be brought back to the States by April 2020, that includes recommendations on how to best address the concerns expressed in Recitals 4 to 17 to this Petition, with a specific view to:

(a) Giving greater consideration to the cumulative impact of separate developments, and the density of development in certain areas;

(b) Re-evaluating the need for Development Frameworks, and any associated thresholds;

(c) Reconsidering the approach to prioritisation of development on Housing Allocation Areas, in a manner that affords greater protection to greenfield sites designated as Housing Allocation Areas;

(d) Affording protection to areas of open land, not currently classified as Important Open Land, within the main centres, main centre outer areas and local centres;

(e) Affording greater protection to ABIs, giving particular consideration to whether any should be re-designated as SSS;

(f) Incorporating the findings of the Guernsey Housing Market Review and accompanying policy letter, and bringing forward the review of land supply for housing and employment; and

(g) Considering how the development of Community Plans can be stimulated and supported;”

In order to clarify what the Requéants sought from this Proposition, the D&PA has engaged with States' Members who have signed the Requête.

The Requéants have advised, through the lead Requéant, that they do not seek a review of the Island Development Plan (the "IDP") in its entirety but solely in respect of the aspects raised both in Proposition 2 and Recitals 4 to 17. The Requéants have also advised that they are not seeking the D&PA to complete the statutory procedures for amending a Development Plan prior to returning to the States with a Policy Letter in April 2020. They confirmed that they would be content with "in principle" recommendations to amend the IDP within the Policy Letter. They also acknowledged that the date of October 2020 mentioned in Recital 6 of the Requête is incorrect and should be October 2021.

The statutory procedures for changing the IDP, as with any Development Plan or indeed any amendment to such a Plan, is set out in the Land Planning and Development (Guernsey) Law, 2005 ("the 2005 Law"). These statutory procedures, which must be followed to provide a lawful Development Plan, include consultation, the obtaining of a certificate of consistency with the Strategic Land Use Plan ("the SLUP"), consideration of an Environmental Impact Assessment, the independent Planning Inquiry and the laying of the amended Plan before the Assembly.

As any Development Plan must be able to be altered during its lifetime if the need arises and because these statutory procedures are lengthy and not inexpensive, the IDP includes both a requirement for monitoring of the IDP, both quarterly and annually, and the requirement for the review of housing land supply and employment land supply after five years following formal adoption of the IDP ("the five-year review").

The D&PA, in accordance with the SLUP, was due to commence work on the five-year review of the IDP in May 2019, with a view to reporting to the States by November 2021. Having taken account of the feedback from the Annual Monitoring Review 2017 debate, representations from the public to both planning applications and Development Frameworks and meetings with interested parties such as the Douzaines, the D&PA decided in January 2019 to go through a process of identifying extra items to be included in the five-year review.

On the 8th May, having considered the results of that identification process, the D&PA approved an Action Plan which set out the D&PA's intention to consider additional items as part of the five-year review, as well as to take a number of other actions within its mandate to address concerns that have been raised regarding planning matters. Considering the main source of concern had been the 2018 AMR debate, the D&PA and planning officers were not unsurprised to note, upon publication of the Requête on the 21st May, that nearly all of the matters mentioned in the Action Plan are also in the Requête.

As the D&PA is open to returning to the Assembly to debate the proposed additional items as mentioned in the Action Plan for inclusion in the five-year review, so the D&PA is willing to be directed to extend the five-year review to include the matters raised in the Requête. Whilst such an extension would enable the areas to be considered within the Committee's existing resources, there is no intention to return to the Assembly with any "in-principle" or "firm" recommendations to amend the IDP until 2021 as part of the statutory process.

The D&PA notes that the Requête does not contain any evidence that the IDP is not delivering the objectives of the SLUP, other States of Guernsey objectives or the purposes of the 2005 Law. Neither has any such evidence been presented through the IDP Annual Monitoring Reports (the “AMRs”) (both the report as already published regarding 2017 and that of 2018 although this is based on advice of officers as the D&PA have yet to see this), or otherwise. Rather, the Requête is based on broadly expressed concerns and assertions, without evidence or analysis to support them.

To properly address these concerns and assertions, it would be for the D&PA to conduct its own evidence-gathering, beyond that of the AMR process, followed by analysis of the evidence, the drawing of conclusions and the making of recommendations with respect to whether any alteration to the IDP is necessary with respect to the matters raised. This work would have to be sufficiently rigorous to enable robust and reasoned conclusions to be drawn on the necessity of making any recommendations to amend the IDP which could then form the basis of evidence to any Planning Inquiry held.

On that basis, the outcome of any review must be:

1. capable of being justified at any formal Planning Inquiry, having been arrived at through a process of research / evidence gathering; analysis and consideration of alternatives (i.e. it should be properly justified by evidence rather than being based on assumptions or assertion).
2. externally consistent (e.g. with the SLUP);
3. internally consistent (e.g. with other existing and proposed policies of the IDP);
4. capable of implementation and unambiguous.

Recommendations and alternative approaches should be assessed by reference to consistency with other policies in the IDP, including sustainability. The D&PA consider that even “in principle” recommendations to amend the IDP need to be backed up by this level of research as, without it, the D&PA could not be confident they could advise the Assembly that the amendments could satisfy the statutory requirements.

It is the D&PA’s firm view that such a review is impossible to practically deliver within the timescale envisaged by the Requête. Even if the D&PA were to attempt such a review it would need to be conducted by off-Island consultants at a financial cost estimated in the Requête at £200,000 with no promise that it would lead to even “in principle” recommendations nor even a final report in time for debate in April 2020. Of more concern is that the commissioning of such a report, or even the need to return to the Assembly with a Policy Letter which is more detailed than that of an expansion of the areas set out in the Action Plan, would lead to a delay of the five-year review.

An illustration of the timeline required to report back to the States in April 2020 following the July 2019 debate on the Requête is attached together with the current proposed timeline. It will be noted that under the scenario that would arise from the Requête, assuming that a report could practically be delivered to the States in April 2020, an amended IDP could possibly be submitted to the States no earlier than September 2021. This represents a maximum potential time saving of just two months compared with the projected date of November 2021 for the five-year review, at an estimated minimum additional cost of £200,000 to the States and including significant risks, particularly in relation to provision of robust evidence, lack of meaningful consultation and potential failure to meet statutory requirements.

In reality, the identification of consultants for each research topic, writing of consultant's briefs for each research topic, invitation of expressions of interest, and the negotiation and award of contracts is likely to take more than two months. Similarly, the carrying out of topic-based research and evidence-gathering and the update of baseline reports, including consultation with Committees and stakeholders, as required by the Requête, and assessing the evidence and evaluating options would then have to be done in three months, between October 2019 and January 2020, allowing less than two months for consolidation of findings, drafting of the Policy Letter and obtaining legal review, before submitting the Policy Letter in March 2020 for debate at the April States' meeting.

The effect of the Requête would be for a report with recommendations to be brought back to the States by April 2020, however, for the reasons given above such a report, delivered within the timescale proposed in Proposition 2, would not contain robust evidence that would be likely to prevail in a subsequent Planning Inquiry, nor would it have undergone any meaningful consultation with stakeholders which could be construed as relating to any part of the statutory process that is required for the adoption and review of a Development Plan.

Due to this unrealistic timescale which the D&PA believes is sought by the Requête, it is the D&PA's firm view that such a review is impossible to deliver in practice.

The Requêteants have advised that they do not wish to delay the five-year review. They have indicated that they would wish for the statutory process to run parallel to that requested in the Requête. However this is not feasible as the work that would have been undertaken would be only a partial review of any subject and so would not be research that could contribute to any meaningful debate. Even if there was research which could be included, by requiring its inclusion, it would increase the work required and reduce the amount of time for compilation of the Policy Letter.

The D&PA have, therefore, concluded that the commissioning of such a report, or even the need to return to the Assembly with a Policy Letter which is substantially more detailed than set out in the Action Plan, would lead to a delay of the five-year review.

For these reasons, and whilst demonstrating through its own Action Plan its willingness to consider the matters raised in Proposition 2 as part of the five-year review of the IDP, the D&PA must oppose that Proposition in the Requête.

By submitting the D&PA's proposals to the Assembly for expanding the remit of the five-year review of the IDP to include the matters referred to in Proposition 2 of the Requête, the D&PA believes this represents the most efficient and cost-effective route for these matters to be properly and fully aired and addressed. As the five-year review will accord with the requirements of the 2005 Law and there will be sufficient time for meaningful consultation and engagement with stakeholders on the issues to be considered, the risks that this process will not provide robust evidence or that it would fail to address statutory requirements resulting in an unlawful Plan would be minimised. Furthermore, the five-year review will be carried out mainly by experienced States of Guernsey staff and within existing budgets.

It should also be noted that the D&PA's Action Plan also addresses elements of Proposition 2 without the need to include these actions in the review of the IDP and these are namely:

Proposition 2(a) – The D&PA will liaise with the Committee *for the* Environment & Infrastructure to support the production of the Long Term Infrastructure Investment Plan or its equivalent; will continue to identify local infrastructure requirements and where reasonable and appropriate incorporate them into Development Frameworks or as conditions in respect of planning applications and, where reasonable and proportionate, require Traffic Impact Assessments to be provided; will liaise with both the Committee *for the* Environment & Infrastructure and the Committee *for* Home Affairs to identify what statutory protection can be achieved for the Ruettes Tranquilles; and will liaise with other Committees as appropriate to identify aspects which the D&PA believe could be taken into account in planning applications and Development Frameworks if they had a policy or statutory footing.

Proposition 2(b) - The Action Plan confirms that the D&PA will reconsider the policy for Development Frameworks including assessing their usefulness; re-evaluating the criteria for them in respect of the size, inclusion of land in different ownership, time it can take, communication of consultation and results; and will identify the means and timeline for improvements in process.

Proposition 2(g) - The Action Plan confirms that the D&PA will produce a Communication Plan which includes the holding of regular workshops, drop-ins and open days to engage the public on Community Plans, how to make representations into the planning process and matters relating to the Parish Douzaines’ role in the planning process.

Also, with regard to Proposition 2(e), the D&PA has already finalised a Consultant’s Brief and is currently going out for expressions of interest to appoint a consultant with substantial experience and recognised expertise in the subject of conservation of the natural environment to survey the Areas of Biodiversity Importance (the “ABIs”) and recommend if they have sufficient biodiversity interest to be designated; establish the Guidelines for the Selection of ABIs as well as Criteria for the Selection of ABIs; and provide robust evidence that will justify the designation, or not, of a site as an ABI. The main output of this work will be a report, plus illustrations as appropriate, maps and appendices which makes recommendations, on the basis of robust criteria and supported by appropriate evidence, in respect of the current ABIs (other than the Foreshore and those ABIs associated with a SSS) and any new ABIs. It is anticipated that this work will be completed in 2019.

With regard to the remaining Propositions, the D&PA can comment as follows:

Proposition 1 – the D&PA has no observations to make on this Proposition

Proposition 3 – The D&PA has identified several actions in its Action Plan which relate to this Proposition namely that the D&PA will liaise with the Committee *for* Economic Development to understand the outcomes from the review of the Red Tape Audit, to implement them as a matter of urgency where possible; will scope out the review of the Planning Law with a view to returning to the States with a Policy Letter in 2020; and have created a Communication Plan which includes the presentation of a series of workshops.

Proposition 4 – As previously suggested by the President of the D&PA, this Proposition may be satisfied by aligning the completion of the annual monitoring of the IDP with that of the

completion of the Policy & Resource Plan considering the D&PA is now automatically part of that process.

Proposition 5 – the D&PA has no observations to make on this Proposition.

Proposition 6 – We refer to the D&PA's Action Plan and, in particular, point 1 under Development Frameworks and we can confirm that the D&PA have commenced work on the Development Framework for Leale's Yard.

Propositions 7 and 8 – the D&PA has no observations to make on these Propositions.

Thank you for the opportunity to comment on the Requête.

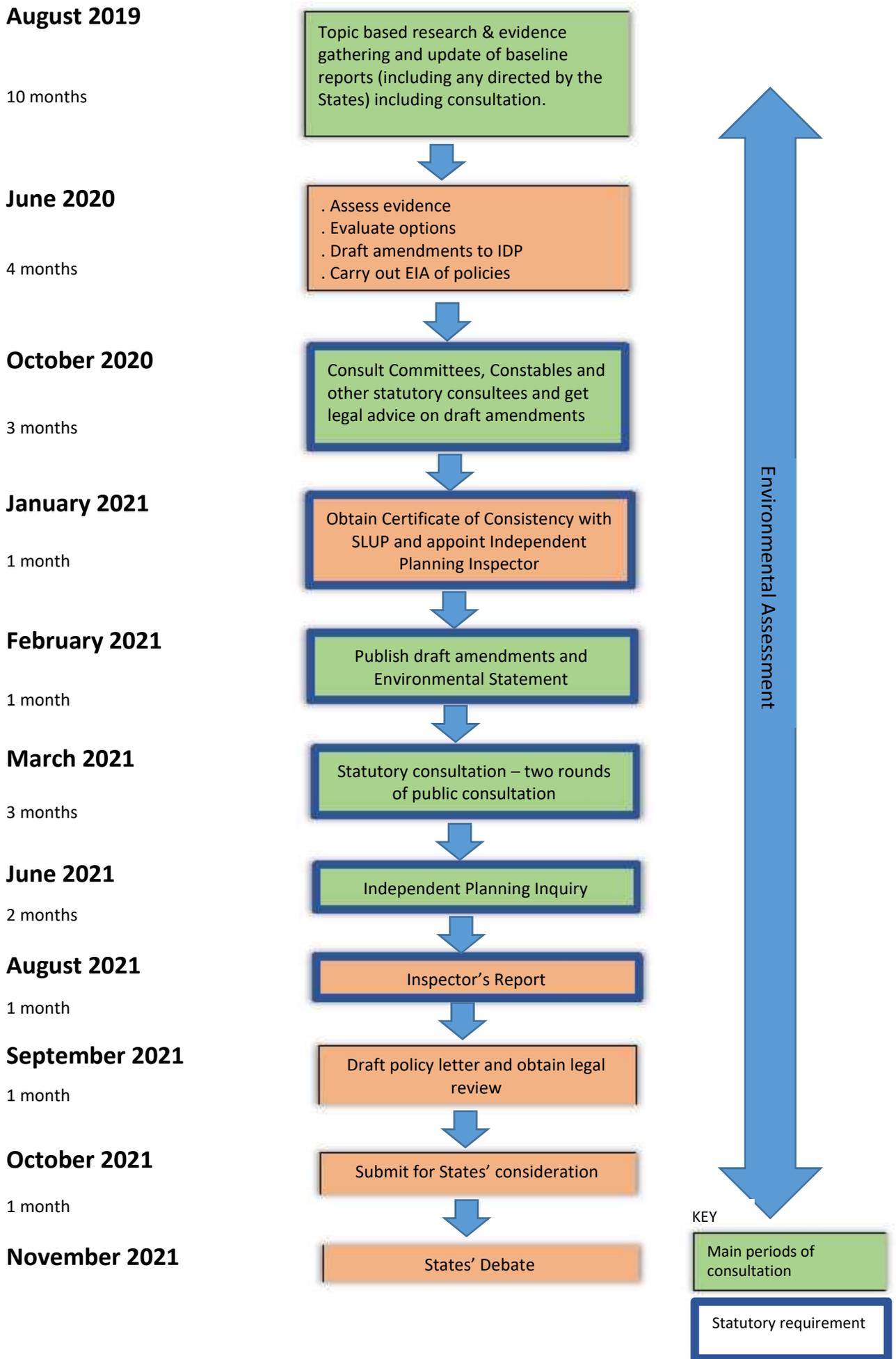
Yours sincerely

A handwritten signature in black ink, appearing to read 'Dawn Tindall', written in a cursive style.

Deputy Dawn Tindall

President, Development & Planning Authority

TIMELINE FOR IDP REVIEW – 5 YEAR REVIEW ROUTE



TIMELINE FOR IDP REVIEW – REQUETE ROUTE

