

BILLET D'ÉTAT No. XX, 2007

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PROJET DE LOI

ENTITLED

The Cash Controls (Bailiwick of Guernsey) Law, 2007

THE STATES, in pursuance of their Resolution of the 26th September, 2007^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

Prohibition on carrying cash into or out of the Bailiwick.

1. (1) It is an offence for an individual to carry cash of an amount in excess of the specified amount into or out of the Bailiwick, unless -

- (a) the cash is carried into or out of a port or customs airport,
- (b) the individual completes a cash control declaration when he lands or leaves, and
- (c) all the information given in the cash control declaration is true.

(2) It is an offence for an individual to enter into an agreement or arrangement by which cash in excess of the specified amount is split up and carried

^a Article ** of Billet d'État No. **** of 2007.

by two or more individuals in order to avoid the making of a cash control declaration.

(3) The "**specified amount**" is €10,000 (ten thousand Euros) or any currency equivalent of that amount.

(4) This section may be amended by Ordinance of the States.

Cash control declaration.

2. The cash control declaration referred to in section 1 shall be given in such form and manner as may be directed by an officer either generally or in any particular case and must include the following information -

- (a) details of the individual carrying the cash, including his full name, date and place of birth and nationality,
- (b) the full name and address of the owner of the cash,
- (c) the full name and address of any intended recipient of the cash,
- (d) the amount and nature of the cash,
- (e) the provenance and intended use of the cash,
- (f) the transport route, and
- (g) the means of transport.

Acceptance of other cash control declarations.

3. An officer may accept a copy of a cash control declaration completed in another country or territory instead of the declaration required by section 1 provided that the declaration -

- (a) was made in respect of the same cash,
- (b) relates to the same journey,
- (c) is in English, and
- (d) contains all the information required by section 2.

Recording of information.

4. The Chief Officer of Customs and Excise shall record all information received from cash control declarations and shall retain such information for not less than 6 years from the date of the declaration.

Information sharing.

5. (1) Any information recorded under section 4 shall not be disclosed to anyone other than an officer except -

- (a) to the extent necessary to enable the Chief Officer of Customs and Excise to perform his functions,
- (b) to the extent that its disclosure is expressly authorised or required by or under any enactment relating to the functions of the Chief Officer of Customs and Excise,

- (c) for the purposes of any proceedings in connection with this Law or any customs Law,
- (d) for the purposes of the investigation, prevention or detection of crime or with a view to the investigation of, or otherwise for the purposes of, any criminal proceedings,
- (e) for the purposes of any investigation or proceedings under the Forfeiture of Money in Civil Proceedings (Bailiwick of Guernsey) Law, 2007,
- (f) where an officer has grounds to suspect that it relates to any illegal activity, in which case the information may be shared with the competent authority of another country or territory, provided that the competent authority agrees to provide the Chief Officer of Customs and Excise with cash controls information on a reciprocal basis,
- (g) with the consent of the person to whom it relates and (if different) the person from whom it was acquired,
- (h) to comply with an order of a court,
- (i) to an officer or servant of the States for the purposes of enabling that officer or servant to carry out his duties, or
- (j) to an officer or servant of the Guernsey Financial

Services Commission for the purposes of enabling him to carry out his functions,

and the expression "**competent authority**" means any person or body, or any class or description of person or body, prescribed for the purposes of this section by regulations of the Department.

(2) A person who discloses or causes or permits the disclosure of any document or information in contravention of subsection (1) is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the uniform scale, or to imprisonment for a term not exceeding 3 months, or to both.

Application of the Principal Law.

6. (1) This is a customs Law for the purposes of section 1(1) of the Principal Law.

(2) For the purpose of the Principal Law cash in excess of the specified amount carried by an individual shall be deemed to be goods.

Offences.

7. If any individual commits an offence under section 1 then -

(a) he is liable -

(i) on summary conviction, to a fine not exceeding twice level 5 on the uniform scale or three times the value of the cash, whichever is the greater, or to imprisonment for a term not exceeding three months, or to both;

- (ii) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both, and
- (b) the cash is liable to forfeiture (in whole or in part).

Application of forfeited cash.

8. Once the forfeiture proceedings are finally disposed of, cash forfeited under this Law and any accrued interest thereon shall be credited to the General Revenues of the States of Guernsey or to a seized asset fund, as directed by the States of Guernsey Treasury and Resources Department.

General provisions as to subordinate legislation.

9. (1) Any Ordinance, regulation or order under this Law -
- (a) may be amended or repealed by a subsequent Ordinance, regulation or order, as the case may be, hereunder,
 - (b) may contain such consequential, incidental, supplementary and transitional provision as may appear to be necessary or expedient, and
 - (c) may, in the case of an Ordinance, and without limitation, contain provision -
 - (i) as to the creation of new liabilities, obligations, penalties and offences,
 - (ii) making consequential amendments to this Law

and any other enactment,

- (iii) repealing, replacing, amending, extending, adapting, modifying or disapplying any rule of customary or common law, and
- (iv) authorising the Department to make regulations in relation to any matter in relation to which the Ordinance can make provision.

(2) Any power conferred by this Law to make any Ordinance, regulation or order may be exercised -

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,
- (b) so as to make, as respects the cases in relation to which it is exercised -
 - (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),
 - (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes,

- (iii) any such provision either unconditionally or subject to any prescribed conditions.

Interpretation.

10. (1) In this Law, unless the context otherwise requires –

"cash" means –

- (a) bearer negotiable instruments including monetary instruments in bearer form, such as travellers' cheques, negotiable instruments (including cheques, promissory notes and money orders) that are either in bearer form, endorsed without restriction, made out to a fictitious payee, or otherwise in such form that title thereto passes upon delivery, incomplete instruments (including cheques, promissory notes and money orders) signed, but with the payee's name omitted, and
- (b) banknotes and coins that are in circulation as a medium of exchange,

"to carry" and **"carried"** means to carry in baggage, or on or in one's person,

"Chief Officer of Customs and Excise" has the same meaning as in the Principal Law,

"competent authority", see section 5(1)

"customs airport" has the same meaning as in the Principal Law,

"**customs Law**" has the same meaning as in the Principal Law,

"**the Department**" means the States of Guernsey Home Department,

"**officer**" has the same meaning as in the Principal Law,

"**port**" has the same meaning as in the Principal Law,

"**the Principal Law**" means the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972,

"**specified amount**", see section 1(2).

(2) The definition of cash may be amended by Ordinance of the States.

(3) Any reference in this Law to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

(4) The Interpretation (Guernsey) Law, 1948^b applies to the interpretation of this Law throughout the Bailiwick of Guernsey.

Citation.

11. This Law may be cited as the Cash Controls (Bailiwick of Guernsey) Law, 2007.

^b Ordres en Conseil Vol. XIII, p. 355.

The Social Security (Reciprocal Agreement with Ireland) (Amendment) Ordinance, 2007

THE STATES, in exercise of the powers conferred on them by section 113 of the Social Insurance (Guernsey) Law, 1978, as amended^a, and all other powers enabling them in that behalf, hereby order:-

Amendment of Social Security (Reciprocal Agreement with Ireland) Ordinance, 2007.

1. In section 1(1) of the Social Security (Reciprocal Agreement with Ireland) Ordinance, 2007 immediately after "14th December 2004" insert "and modified by an Exchange of Notes effected between those governments on 3rd July 2007".

Interpretation.

2. The Interpretation (Guernsey) Law, 1948^b applies to the interpretation of this Ordinance throughout the islands of Guernsey, Alderney, Herm and Jethou.

Extent.

3. This Ordinance extends to the islands of Guernsey, Alderney, Herm

^a Ordres en Conseil Vol. XXVI, p. 292; Vol. XXVII, pp. 238, 307 and 392; Vol. XXIX, pp. 24, 148 and 422; Vol. XXXII, p. 59; Order in Council No. XII of 1993; Ordinance No. XIV of 1993 (Tome XXVI, p. 177); Orders in Council No. V of 1994; No's. VI and XIII of 1995; No. I of 1998; No. VI of 1999; No. X of 2000; No. IX of 2001; No. XXIII of 2002 (the Long-term Care Insurance (Guernsey) Law, 2002); No. XXIV of 2003; No. XI of 2004; and Ordinance No. XX of 2003.

^b Ordres en Conseil Vol. XIII, p. 355.

and Jethou.

Citation.

4. This Ordinance may be cited as the Social Security (Reciprocal Agreement with Ireland) (Amendment) Ordinance, 2007.

The Land Planning and Development (General Provisions) Ordinance, 2007

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The Land Planning and Development (General Provisions) Ordinance, 2007

THE STATES, in pursuance of their Resolutions of the 27th June 2002 and the 26th January 2005^a and in exercise of the powers conferred on them by sections 13(4) and (5), 16(3), 16(5) to (7), 21(2), 27, 31(2), 35(2), 39(1), 40(3) and (4), 44(1) and (2), 46(1), 81 and 89 of the Land Planning and Development (Guernsey) Law, 2005^b, and of all other powers enabling them in that behalf, hereby order:-

PART I MEANING OF DEVELOPMENT

Operations in relation to protected monuments.

1. Any operation which alters or extends a protected monument in any manner which affects the special interest by reason of which it is listed, shall constitute development irrespective of whether or not that operation would also constitute development in accordance with section 13(1) to (3) of the Law.

Operations in relation to protected buildings.

2. (1) Any operation which alters or extends a protected building, or any feature of such a building, in any manner which affects the character of that building as a building of the particular special interest by reason of which it is listed, shall constitute development irrespective of whether or not that operation would also constitute development in accordance with section 13(1) to (3) of the

^a Billet d'État No. XI of 2002 and Article I of Billet d'État No. I of 2005.

^b Order in Council No. XVI of 2005.

Law.

(2) In this section "**feature**" shall mean any internal or external feature consisting of a man-made object or structure fixed to the building or forming part of the land in the vicinity of the building.

Operations in relation to conservation areas.

3. The following operations shall constitute development, irrespective of whether or not they also constitute development in accordance with section 13(1) to (3) of the Law -

- (a) the installation of apparatus to provide external illumination of any structure, by way of floodlighting or other means providing a similar level of illumination, within a conservation area, or
- (b) within La Vallette (Bathing Pools) Conservation Area and those parts of the conservation areas identified in the Schedule -
 - (i) the placing, other than on a temporary basis, of public seating or public refuse bins, and
 - (ii) the replacement of street lights or street railings.

Operations in relation to sites of special significance.

4. The following operations shall constitute development in a site of

special significance, irrespective of whether or not they also constitute development in accordance with section 13(1) to (3) of the Law -

- (a) any works which disturb the ground in any way which materially affects the special interest by reason of which the site is designated,
- (b) any significant clearance of vegetation from the whole site or a significant part of it,
- (c) the removal of, or any significant damage to, any vegetation which contributes to the special interest by reason of which the site is designated,
- (d) the topping, lopping or felling of any tree which contributes to the special interest by reason of which the site is designated,
- (e) any works which significantly affect -
 - (i) any reservoir, stream, watercourse, borehole or other body of water on the site, or
 - (ii) the drainage of a significant part of the land on the site, or
- (f) any other action likely to affect materially the special interest by reason of which the site is designated.

Operations in relation to protected trees.

5. The following operations shall constitute development, irrespective of whether or not they also constitute development in accordance with section 13(1) to (3) of the Law, where they are carried out in relation to a protected tree -

- (a) cutting down or uprooting,
- (b) topping or lopping,
- (c) pruning,
- (d) cutting of roots,
- (e) the storage of plant and machinery within the root area and any other operation likely to compact the ground significantly within that area,
- (f) any operation likely to change significantly the level of the ground within the root area, or
- (g) any other wilful act likely to result in significant damage to or destruction of the tree.

Operations not constituting development.

6. Notwithstanding section 13 of the Law or any provisions of this Ordinance, the following operations shall not constitute development -

- (a) the carrying out, for the maintenance, improvement or other alteration of any structure, of works which affect only the interior of the structure except where such works constitute development falling within section 1

or 2,

- (b) the use of any land within the curtilage of a dwelling-house for a purpose relating to the enjoyment of the dwelling-house as such,
- (c) the use of any land for agriculture, horticulture or forestry (including afforestation) and the use, for any of those purposes, of any building occupied together with land in such use except where such land or building is in a site of special significance or within the curtilage of a protected monument, or
- (d) subject to the provisions of the Land Planning and Development (Use Classes) Ordinance, 2007^c, a change in the use of land from a use specified in one numbered use class to a use specified in the same numbered use class.

PART II

MAKING OF APPLICATIONS

Application for planning permission.

7. (1) Subject to subsection (3), an application for planning permission must -

- (a) be made on a form supplied by the Department and

^c Approved by resolution of the States on 26th September, 2007.

include the particulars specified in that form,

- (b) be accompanied by 4 copies of -
 - (i) a plan which clearly and accurately identifies the location of the site to which the application relates,
 - (ii) a block layout plan which clearly and accurately identifies the site to which the application relates, and
 - (iii) any other plans, drawings and information necessary to describe clearly the development which is the subject of the application,

and in making an application the applicant must have regard to any guidance in relation to the making of a planning application issued by the Department from time to time.

(2) The form supplied by the Department shall include a statement to be signed by the applicant -

- (a) that he is the owner or has the consent of the owner, of any part of the land to which the application relates, to the application being made, or
- (b) if he does not know who any such owner is, that he has made all reasonable enquiries to identify any such owner and obtain his consent.

(3) Subject to subsection (4), in the case of an application for outline permission, details need not be given of any reserved matters.

(4) Where the Department is of the opinion that, in the circumstances of the case, an application for outline permission ought not to be considered separately from all or any of the reserved matters, it must notify the applicant within 28 days beginning with the date of its receipt of the application that it is unable to determine the application unless further specified details are submitted.

(5) An application for outline permission can only be made in respect of the erection, re-erection, extension or alteration of a building and must not be made -

- (a) in respect of development in relation to, within the curtilage of or affecting the setting of a protected building or a protected monument,
- (b) in respect of development falling within sections 1, 2, 4 or 5,
- (c) in respect of a material change of use, or
- (d) where the application is also an EIA application.

Further information.

8. The Department may request the applicant in writing to supply any -

- (a) further information in writing, or

- (b) plans and drawings,

as it may consider necessary to determine an application for planning permission.

PART III

REGISTRATION OF AND PUBLICITY FOR PLANNING APPLICATIONS

Register of planning applications.

9. (1) The following information must be contained on the register to be maintained by the Department pursuant to section 21 of the Law in relation to any application for planning permission duly made to the Department –

- (a) the applicant's name and address,
- (b) the name and address of any person acting as agent for the applicant,
- (c) brief particulars of the development which is the subject of the application,
- (d) the date of registration of the application,
- (e) where the application is an EIA application, brief particulars of the non-technical summary of any Environmental Statement prepared as part of that Statement,
- (f) brief particulars of any decision made by -

- (i) the Department on the planning application including of any decision to decline to consider the application under section 16(1)(d) of the Law,
- (ii) the Planning Tribunal concerning a decision of the Department on the planning application, and
- (iii) the Royal Court in relation to a decision of the Planning Tribunal on the planning application,

and the register may contain such other information and documents in relation to such applications and any decisions made in relation to them as the Department considers appropriate.

(2) The Department shall also keep on the register of planning applications brief particulars of -

- (a) any reserved matters application made in respect of an outline permission,
- (b) any other application for consent required by a condition imposed on the grant of a planning permission, and
- (c) any decisions made by -
 - (i) the Department on an application falling within paragraph (a) or (b),

- (ii) the Planning Tribunal concerning a decision of the Department on an application falling within paragraph (a) or (b), and
- (iii) the Royal Court in relation to a decision of the Planning Tribunal on an application falling within paragraph (a) or (b).

(3) The register must be kept at the principal office of the Department, made available for inspection by the public free of charge at all reasonable times and the details and documents referred to in subsections (1) and (2) must be kept on the register for not less than 10 years.

(4) The Department must provide copies of any information or document on the register to any person upon written request and payment of a reasonable fee.

Publicity for planning applications.

10. (1) An application for planning permission must be publicised by site notice in accordance with subsections (3) to (5) unless the Department considers that the application is for development which is unlikely to have a material detrimental effect or a significant effect on -

- (a) the amenity of any land,
- (b) the special interest of any protected monument,
- (c) the character of a protected building as a building of special interest,

- (d) the character or appearance of a conservation area,
- (e) the interest by reason of which a site of special significance is designated as such,
- (f) a protected tree,
- (g) the circulation of traffic in the vicinity of the proposed development,
- (h) the environment,
- (i) the safety of persons, or
- (j) the reasonable enjoyment of neighbouring properties,

and must be so publicised if it is an application for EIA development.

(2) Where the Department considers that an application for planning permission does not require publicising by site notice in accordance with subsection (1), then it may publicise the application in such manner as it considers appropriate for the application in question.

(3) Where an application must be publicised by site notice, the Department must as soon as reasonably possible after it has registered the application, send a site notice in relation to the application to the applicant which shall be accompanied by -

- (a) a notice setting out the action that the applicant is

required to take pursuant to subsections (4) and (5),
and

(b) a receipt form.

(4) Upon receipt of the site notice and accompanying documents referred to in subsection (3), the applicant must take the following steps -

- (a) subject to subsection (5), display the site notice for not less than 21 days by fixing it firmly to some object on or near the land and in such a way and in such a position that it is visible and legible from a place to which the public have access,
- (b) as soon as possible after first displaying the site notice on the site, return the completed receipt form to the Department, and
- (c) as soon as possible after the expiry of the 21 day period referred to in paragraph (a), remove the site notice.

(5) The Department may send the applicant more than one site notice where the site is large or it is adjacent to or adjoining more than one public highway and the applicant shall display each of the site notices on a different part of the site and in accordance with the provisions of subsection (4)(a).

(6) Where the applicant fails to comply with subsections (4)(a) or (b) or (5) in respect of any site notice sent to him then he shall be guilty of an offence and liable -

- (a) on conviction on indictment, to a fine, or
- (b) on summary conviction, to a fine not exceeding level 5 on the uniform scale,

except that where a site notice is, without any fault or intention of the applicant, removed, obscured or defaced before the period of 21 days has elapsed, the applicant shall be treated as having displayed that notice as required if he has, as soon as possible, taken reasonable steps for the protection of that site notice and, if need be, its replacement.

(7) Where the Department considers that the application is for development of such a nature that it is likely to be of significance for the whole of, or a significant part of, Guernsey or it considers that it is very significant to Guernsey in any other way, then it shall, in addition to any other steps taken to publicise the application in accordance with this section, ensure that -

- (a) details concerning the application including, where the application is for EIA development, the Environmental Statement and, where relevant, the Compliance Document, and
- (b) a time limit for the making of representations in writing concerning the application and, where the application is for EIA development, the Environmental Statement and, where relevant, the Compliance Document,

are publicised in such manner as the Department considers appropriate in the local

media in Guernsey.

(8) The Department shall not determine an application for planning permission, where -

- (a) an application must be publicised by site notice -
 - (i) before the end of the period of 21 days beginning with the date on which the site notice was first displayed, or
 - (ii) where such an application also falls within subsection (7), before the end of the period given in the media, pursuant to that subsection, for the making of representations in writing,

whichever is the later, and in making that determination shall take into account any representations in writing received by it in response to that site notice or, where relevant, publication and made within the period during which the Department must not make a determination.

- (b) it is publicised in accordance with subsection (2), before the end of any period specified by the Department for the making of representations in writing and in making that decision the Department shall take into account any representations in writing received by it in response to that publicity and made within a reasonable time of the application being

publicised.

(9) In this section -

(a) **"receipt form"** means a form supplied by the Department with a site notice for the applicant to sign both to acknowledge receipt of the site notice and to confirm that he has put the site notice on display as required,

(b) **"site notice"** means a notice setting out -

(i) the details relating to the application which are contained on the register of planning applications pursuant to section 9(1)(a) to (d),

(ii) where the application is for EIA development, a statement to that effect and to the effect that an Environmental Statement and, where relevant, a Compliance Document have been submitted by the applicant,

(iii) how and where further details relating to the application may be obtained, and

(iv) how representations concerning the application and, where the application is for EIA development, the

Environmental Statement and, where relevant, the Compliance Document may be made to the Department.

Consultation before grant of permission.

11. (1) Before granting planning permission for development the Department may consult in writing any person or body who reasonably appears to the Department to have appropriate expertise relating to the development in question and shall, in determining the application, take into account any written representations received from that person or body, within, where relevant, any period specified by the Department pursuant to subsection (2).

(2) Where the Department consults a person or body pursuant to subsection (1), it may require in writing that any representations are made to it within a specified period of not less than 14 days starting from the date on which the Department consulted that person or body.

PART IV

MATERIAL PLANNING CONSIDERATIONS

Status of Plans, Local Planning Briefs and other material considerations.

12. (1) Subject to section 77(9) of the Law and section 18(3) of this Ordinance, where, pursuant to section 16(5)(b) of the Law, the Department has regard to any relevant Plan or Local Planning Brief in determining an application for planning permission for development which would involve a departure from such a Plan or Local Planning Brief then -

- (a) subject to subsection (2), it must refuse the application, and

- (b) it need not take into account any other matter to which it is required to have regard under the Law and this Ordinance.

(2) Where the Department considers, in response to a written request from the applicant, that to grant the application would only involve a minor departure from a relevant Plan or Local Planning Brief then, notwithstanding subsection (1) and subject to subsection (3), it may grant permission.

(3) For the avoidance of doubt, where, pursuant to section 16(5)(b) of the Law, the Department has regard to any relevant Plan or Local Planning Brief in determining an application for planning permission for development which –

- (a) would not involve a departure from such a Plan or Local Planning Brief,
- (b) would involve a minor departure from such a Plan or Local Planning Brief but the Department exercises its discretion in subsection (2), or
- (c) is strategically essential development,

then the Department shall have regard to such Plan or Local Planning Brief and to any other matters to which it is required to have regard under the Law and this Ordinance in determining the planning application and the weight to be given to the Plan or Local Planning Brief and any other matter shall be for the Department having regard to the particular facts and circumstances of the case.

General material considerations.

13. (1) Subject to section 12, in addition to the matters to which the Department is required to have regard under the Law and this Ordinance, in determining an application for planning permission, the Department must have regard to -

- (a) the likely effect of the development on the natural beauty and landscape quality of the locality in question,
- (b) the character and quality of the natural and built environment which is likely to be created by the development,
- (c) the appropriateness of the development in relation to its surroundings in terms of its design, layout, scale, siting and the materials to be used,
- (d) the likely effect of the development on the character and amenity of the locality in question,
- (e) the likely effect of the development on roads and other infrastructure, traffic and essential services,
- (f) the likely effect of the proposed use to which the application site is to be put and the likely effect of any other use to which it could be put without obtaining a further planning permission,
- (g) any proposed planning covenant which can be entered into in accordance with section 23 of the Law -

- (i) which provides a benefit having regard to the purposes of the Law or any other purpose for which a planning covenant may be entered into, and
- (ii) which would have a material connection with the development,
- (h) the likely effect of the development on parks, playing fields and other open spaces, and
- (i) the likely effect of the development on the reasonable enjoyment of neighbouring properties.

(2) In this section the "**quality of the natural and built environment**" shall include its quality in terms of the level of health, safety and security of persons afforded by that environment.

Additional material considerations in relation to protected monuments.

14. Subject to section 12, in addition to any other matter to which the Department is required to have regard under the Law and this Ordinance, in determining an application for planning permission for development in relation to, within the curtilage of or affecting the setting of a protected monument the Department must, in the light of the provisions in sections 30 and 31(1) of the Law, also have regard to -

- (a) the desirability of preserving the special interest by reason of which the protected monument is listed,

- (b) where any alteration to a protected monument is proposed, the appropriateness and compatibility of that alteration in relation to that monument, and
- (c) the opportunity that the development may afford to restore, enhance or improve the protected monument or its setting.

Additional material considerations in relation to protected buildings.

15. Subject to section 12, in addition to any other matters to which the Department is required to have regard under the Law and this Ordinance, in determining an application for planning permission for development in relation to, within the curtilage of or affecting the setting of a protected building the Department must, in the light of the provisions in sections 34 and 35(1) of the Law, also have regard to the considerations referred to in paragraphs (b) and (c) of section 14 of this Ordinance as though they referred to a protected building.

Additional material considerations in relation to protected trees.

16. Subject to section 12, in addition to any other matter to which the Department is required to have regard under the Law and this Ordinance, in determining an application for planning permission for development in relation to a protected tree, the Department must, in the light of the provisions in section 42 of the Law, have regard to -

- (a) the desirability of protecting the amenity value of the protected tree by reason of which the tree protection order in question was made and any future potential amenity value of that tree,
- (b) the health of the protected tree,

- (c) any harm which is likely to be caused by the protected tree, and
- (d) the likely amenity value of any proposals to mitigate any detrimental effect on amenity which is likely to arise from the development.

PART V

CONDITIONS, RESERVED MATTERS AND DETERMINATIONS

Conditions.

17. The Department may impose such conditions as it thinks fit pursuant to section 16(1) of the Law and, without prejudice to the generality of that section and the foregoing, such conditions may provide -

- (a) for development to be carried out in accordance with plans approved by the Department,
- (b) that, notwithstanding the provisions of the Law, this Ordinance and the Land Planning and Development (Exemptions) Ordinance, 2007^d, certain works or operations may not be carried out other than as expressly authorised by the planning permission in question,
- (c) for reducing any anticipated adverse effect of the

^d Approved by resolution of the States on 26th September, 2007.

development on land under the control of the applicant, whether or not it is land in respect of which the application was made,

- (d) for the restoration, enhancement, improvement or management of any buildings on, or other land forming part of, any land under the control of the applicant whether or not it is land in respect of which the application was made,
- (e) where the Department considers that certain works or facilities are reasonably required in connection with the development, for such works or facilities to be carried out or provided before commencement of development and whether or not they are wholly within the power of the applicant to provide,
- (f) for works to be carried out to provide services which are essential or important for the development on land which is -
 - (i) within the control of the applicant, or
 - (ii) within the control of the States and forms part of the application site,
- (g) where permission is granted for a limited period, for the removal of any buildings or works authorised by the permission, or the discontinuance of any use of buildings or other land so authorised, by the end of

that period, and the carrying out of any works for the reinstatement of any buildings or other land by the end of that period, or

- (h) for requirements relating to -
 - (i) where the development is in relation to, within the curtilage of or affecting the setting of a protected monument, the preservation of the special interest by reason of which the monument is listed,
 - (ii) where the development is in relation to, within the curtilage of or affecting the setting of a protected building, the preservation of the character of that building as a building of the particular special interest by reason of which it is listed,
 - (iii) where the development is to be carried out in a conservation area, the preservation and enhancement of the character and appearance of that area,
 - (iv) where the development is to be carried out in a site of special significance, preserving, enhancing and managing the character, appearance and environment of that site or any feature of special interest by reason of which it is designated, or

- (v) where the development relates to a protected tree, its protection.

Reserved matters.

18. (1) Details of all or any of the following matters may be reserved for subsequent approval on the grant of an outline permission in accordance with section 16(1)(b) of the Law -

- (a) siting,
- (b) design,
- (c) external appearance,
- (d) means of access, and
- (e) landscaping.

(2) An applicant must not make an application for approval of reserved matters that alters the nature, having regard to the development as a whole, of the development for which outline permission was granted.

(3) Notwithstanding section 12(1), the Department must not refuse an application for approval of reserved matters on grounds which go to the principle of the development for which outline permission was granted.

Determination of planning application.

19. (1) The Department shall notify the applicant of its decision on a planning application as soon as possible after it has made its decision and that

notification shall constitute the grant or refusal of the application in question.

(2) Where the notification is of a grant of planning permission it must include -

- (a) where conditions are imposed -
 - (i) the reasons for each condition imposed,
 - (ii) a copy of any representations made to the Department under section 11, and
 - (iii) a statement of the applicant's right of appeal under section 68(1)(b) of the Law,
- (b) where the application is for EIA development, a statement that the matters set out in the Environmental Statement, and, where relevant, the Compliance Document, have been taken into consideration by the Department in making its decision.

(3) Where notification is of a refusal of planning permission it must include -

- (a) the reasons for the refusal,
- (b) a copy of any representations made to the Department under section 11, and
- (c) a statement of the applicant's right of appeal under

section 68(1)(a) of the Law.

PART VI
MISCELLANEOUS

Interpretation.

20. (1) In this Ordinance, unless the context requires otherwise -

"Compliance Document" shall be construed in accordance with section 10(2) of the EIA Ordinance^e,

"conservation area" means an area which is identified in a Plan or Local Planning Brief as being of special architectural or historic interest and the character or appearance of which it is desirable to preserve or enhance by the application of the special provisions in chapter 3 of Part IV of the Law,

"Department" means the States of Guernsey Environment Department,

"development" shall be construed in accordance with section 13(1) of the Law and Part I of this Ordinance,

"Development Plan" means a current adopted plan prepared pursuant to sections 8 and 11 of the Law including any current adopted amendment thereto,

^e Approved by resolution of the States on 26th September, 2007.

"EIA application" shall have the meaning in section 13(1) of the EIA Ordinance,

"EIA development" shall be construed in accordance with section 2 of the EIA Ordinance,

"EIA Ordinance" means the Land Planning and Development (Environmental Impact Assessment) Ordinance, 2007,

"Environmental Statement" shall have the meaning in section 13(1) of the EIA Ordinance,

"landscaping" means the treatment of land (other than buildings), being the site or part of the site in respect of which an outline permission is granted, for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated,

"the Law" means the Land Planning and Development (Guernsey) Law, 2005,

"Local Planning Brief" means a current adopted brief prepared pursuant to sections 10 and 11 of the Law including any current adopted amendment thereto,

"means of access" means any means of access, whether private or public, including for pedestrians, and includes a public highway,

"notice" means notice in writing,

"notify" means notify in writing,

"outline permission" means planning permission subject to the reservation of particular matters for subsequent approval,

"Plan" means a Development Plan or a Subject Plan,

"Planning permission" means the permission which is required under section 14 of the Law for the carrying out of any development of land,

"Planning Tribunal" means the Tribunal the members of which are appointed under section 87 of the Law to hear and determine an appeal under the Law,

"protected building" means a building, or any part of a building, which is of special historic, architectural, traditional or other interest and which is listed on the protected buildings list,

"protected monument" means a monument, structure, artefact, cave, ruin or remains which are of archaeological, historic, traditional, artistic or other special interest and which is listed on the protected monuments list,

"protected tree" means any tree, group or area of trees or woodlands in relation to which a tree protection order has been made,

"public highway" includes any vehicular or pedestrian road, street, lane, track or path used by the public,

"receipt form" has the meaning given by section 10(9)(a),

"registration" means, in relation to the registration of an application for planning permission, the placing on the register of the details and documents specified in section 9(1)(a) to (d),

"reserved matters" shall be construed in accordance with section 18(1),

"site notice" has the meaning given by section 10 (9)(b),

"site of special significance" means an area which is identified in a Plan or Local Planning Brief as having special significance (whether because of archaeological, botanical, geological, scientific, cultural, zoological or any other interest) and which it is desirable to preserve, enhance or manage by the application of the special provisions in Chapter 4 of Part IV of the Law,

"strategically essential development" shall be construed in accordance with section 77 of the Law,

"Subject Plan" means a current adopted plan prepared pursuant to sections 9 and 11 of the Law including any current adopted amendment thereto,

"tree protection order" means an order made under section 43(1) of the Law for the protection of any tree, group or area of trees or woodlands,

"under the Law" includes provisions made under the Law,

"use class" means a class of uses identified as such by Ordinance of the States under section 13(6) of the Law^f,

and other terms used in this Ordinance which are not defined in it but are defined in the Law shall have the same meaning as in the Law.

^f See the Land Planning and Development (Use Classes) Ordinance, 2007
(Approved by resolution of the States on the 26th September, 2007)

(2) Any reference in this Ordinance to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Amendment of the Law.

21. (1) The Law shall be amended as follows.

(2) In Schedule 2 (interpretation) at the end add -

""**uniform scale**"" means the uniform scale of fines from time to time in force under the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989.".

Citation.

22. This Ordinance may be cited as the Land Planning and Development (General Provisions) Ordinance, 2007.

Commencement.

23. This Ordinance shall come into force on the same date as the Law.

SCHEDULE

Section 3(b)

PARTS OF CONSERVATION AREAS WHERE CERTAIN OPERATIONS
CONSTITUTE DEVELOPMENT

The St. Peter Port conservation area.

1. Those parts of the St. Peter Port conservation area which fall within South Esplanade, the Quay, North Esplanade, Gategny Esplanade, the Pollet, High Street, Hauteville, Fountain Street, Trinity Square, Mill Street, Mansell Street, Contree Mansell, Smith Street, Lefebvre Street, Rue du Manoir, College Street, Castle Emplacement, Crown Pier, La Salerie Harbour and Saint Julian's Avenue.

The Bridge conservation area.

2. Those parts of the Bridge Conservation area which fall within South Quay, the Bridge and North Side.

The Land Planning and Development (Plans) Ordinance, 2007

ARRANGEMENT OF SECTIONS

PART I

CONTENT OF PLANS AND LOCAL PLANNING BRIEFS

1. Designation of areas of special control.
2. Environmental Impact Assessment.

PART II

INITIATION OF PROPOSALS FOR A FRESH, REPLACEMENT OR AMENDED PLAN OR LOCAL PLANNING BRIEF

3. Notice of intention to prepare proposals for a fresh, replacement or amended Plan or Local Planning Brief.
4. Pre-publication consultation.
5. Certification of consistency with Strategic Land Use Plan.

PART III

APPOINTMENT OF INSPECTOR AND PUBLICATION OF PROPOSALS

6. Request for appointment of inspector.
7. Appointment of inspector.
8. Publication of proposals.

PART IV

APPROVAL OF PROPOSALS AND REVIEW OF PLANS AND LOCAL
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9. Inspector's report.
10. States consideration of proposals.
11. Date of coming into effect of Plan or Local Planning Brief or amendments thereto.
12. Notice of adoption.
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PART V
MISCELLANEOUS

15. Conflict between Plans and Briefs.
16. Availability of documents on a website.
17. Interpretation.
18. Amendment of the Law.
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The Land Planning and Development (Plans) Ordinance, 2007

THE STATES, in pursuance of their Resolutions of 27th June 2002 and of the 26th January 2005^a and in exercise of the powers conferred on them by sections 11(3), 12(1) and (2), 38(3)(b), and 89 of the Land Planning and Development (Guernsey) Law, 2005^b, and of all other powers enabling them in that behalf, hereby order:-

PART I

CONTENT OF PLANS AND LOCAL PLANNING BRIEFS

Designation of areas of special control.

1. (1) Where proposals make provision for the designation of a conservation area then they must specify -

- (a) the special architectural or historic interest of the area,
and
- (b) the character or appearance of the area which it is desirable to preserve or enhance by application of the provisions in chapter 3 of Part IV of the Law and, for the avoidance of doubt, such character or appearance may be contributed to by -

^a Billet d'État No. XI of 2002 and Article I of Billet d'État No. I of 2005.

^b Order in Council No. XVI of 2005.

- (i) open spaces, and
- (ii) buildings and structures which are not of special architectural or historic interest but are sited within an area which is generally of such interest.

(2) Where proposals make provision for the designation of a site of special significance they must -

- (a) specify the archaeological, historical, botanical, geological, scientific, cultural, zoological or other interest which gives the site special significance,
- (b) state why it is desirable to preserve, manage or enhance such a site by application of the provisions in chapter 4 of Part IV of the Law, and
- (c) include a map showing the location and dimensions of the area of special control and such map can be part of any map required under section 8(4) or 10(4) of the Law.

(3) An area of special control may be as large or as small as, in the opinion of the Department, is necessary to protect or support the special interest which gives rise to the designation.

Environmental Impact Assessment.

2. Where proposals include policies relating to EIA development, the non-technical summary of the Environmental Statement prepared as part of that statement must be annexed to the proposals.

PART II

**INITIATION OF PROPOSALS FOR A FRESH, REPLACEMENT OR
AMENDED PLAN OR LOCAL PLANNING BRIEF**

**Notice of intention to prepare proposals for a fresh, replacement or amended
Plan or Local Planning Brief.**

3. (1) Where the Department -
 - (a) decides to prepare a draft Plan or Local Planning Brief pursuant to section 8(1), 9(1) or 10(1) of the Law,
 - (b) decides to prepare amendments to a Development Plan pursuant to section 8(1) of the Law,
 - (c) decides to prepare amendments to a Subject Plan or a Local Planning Brief pursuant to subsection (2),
 - (d) is required to prepare -
 - (i) a draft Subject Plan by a direction in the Strategic Land Use Plan in accordance with section 9(1) of the Law,

- (ii) a draft Local Planning Brief by the Strategic Land Use Plan or a Plan in accordance with section 10(1) of the Law, or
- (iii) a draft of or amendments to a Plan or a Local Planning Brief by a resolution of the States pursuant to subsection (3), or
- (e) decides to prepare a draft of or amendments to a Plan or a Local Planning Brief pursuant to section 14,

then it shall as soon as reasonably possible after such decision or adoption of the Strategic Land Use Plan or Plan in question, as the case may be, give notice as required by subsection (4).

(2) The Department must prepare amendments to a Subject Plan or a Local Planning Brief for the consideration of the States where it appears to it that any such amendments are necessary.

(3) The Department must prepare a draft of or amendments to a Plan or Local Planning Brief if required to do so by a resolution of the States.

(4) Notice is given for any of the proposals in subsection (1) by -

- (a) the placement of a notice in La Gazette Officielle, setting out the Department's intention to prepare the proposals, which must include -
 - (i) the reasons why it has decided or been required to prepare the proposals,

- (ii) the steps that will be taken to inform the public of the main issues under consideration prior to the publication of the proposals under section 8, and
 - (iii) where the Department considers at the time that this is the case, that the proposals include or may include policies relating to EIA development,
- (b) notifying the following persons that it intends to prepare the proposals and, where the Department considers at the time that this is the case, that the proposals include or may include policies relating to EIA development -
 - (i) any department of the States whose area of responsibility may be affected by the proposals,
 - (ii) any public utility provider whose operations may be affected by the proposals, and
 - (iii) the Constables of each parish within any area covered or affected by the proposals.

Pre-publication consultation.

4. (1) During the preparation of the proposals and prior to their publication pursuant to section 8 the Department must consult in writing on the main issues it considers relevant to such proposals with -

- (a) any department of the States whose area of responsibility may be affected by the proposals,
- (b) any public utility provider whose operations may be affected by the proposals,
- (c) the Constables of each parish within any area covered or affected by the proposals,
- (d) where the proposals include policies relating to EIA development, such persons or bodies who reasonably appear to the Department to have appropriate expertise relating to the development in question,

and where the proposals contain policies relating to EIA development, any such consultation under this subsection shall include consultation on the scope of the EIA of those policies that it proposes to carry out.

(2) Where the Department consults on the scope of any EIA then the consultation document must include -

- (a) a brief description of the nature and purpose of the EIA development to which the policies relate,
- (b) a brief description of the relevant policies, and

- (c) a copy of any Screening Opinion issued pursuant to section 3(1) of the EIA Ordinance^c.

(3) The documents on which the Department consults pursuant to subsection (1) must include a statement explaining the steps which have or are to be undertaken, prior to publication of the proposals pursuant to section 8, to meet the requirement in subsection (1).

(4) The Department shall consider any written comments made to it in response to the consultation under this section before publishing the proposals pursuant to section 8.

Certification of consistency with Strategic Land Use Plan.

5. (1) Prior to publication of the proposals pursuant to section 8, the Department must have a certificate of consistency of the proposals with the Strategic Land Use Plan and a written request for such a certificate must be sent, with a copy of the proposals, to the Strategic Land Planning Group.

(2) Where the Strategic Land Planning Group receives a request from the Department for a certificate of consistency it must respond in writing by -

- (a) certifying that the proposals are consistent with the Strategic Land Use Plan, or
- (b) stating that the proposals are inconsistent with the Strategic Land Use Plan and giving its reasons for that decision.

^c Approved by resolution of the States on 26th September, 2007.

(3) Where the Strategic Land Planning Group gives a decision falling within subsection (2)(b) the Department must revise the proposals and send a further written request for a certificate of consistency with a copy of the revised proposals to the Strategic Land Planning Group.

(4) The Department must send the relevant certificate of consistency to the inspector appointed pursuant to section 7 before the start of an inquiry into the proposals.

PART III

APPOINTMENT OF INSPECTOR AND PUBLICATION OF PROPOSALS

Request for appointment of inspector.

6. (1) The Department must request the Policy Council in writing to appoint an inspector to conduct an inquiry into any proposals as soon as reasonably possible after the date it receives a certificate of consistency for those proposals.

(2) The Department may make a request for the appointment of an inspector to conduct an inquiry into proposals at any time on or after the date of its first request for a certificate of consistency for those proposals.

Appointment of inspector.

7. (1) Where the Policy Council receives a request under section 6 it must appoint an inspector to conduct an inquiry into the proposals.

(2) A person is eligible to be appointed an inspector in relation to particular proposals if that person appears to the Policy Council to have -

(a) qualifications and experience in planning matters,

- (b) where proposals include a fresh or replacement Subject Plan or significant amendments thereto, qualifications and experience relevant to the issue or proposal which that Subject Plan addresses,
 - (c) experience in the conduct of inquiries, and
 - (d) no prior involvement directly or indirectly with the preparation of those proposals.
- (3) A person may not be appointed as an inspector if he is -
- (a) a Member of the States of Deliberation within the meaning of the Reform (Guernsey) Law 1948^d,
 - (b) an employee of the States who is employed by the States within the Department, a member of the Department or a person who carries out work for, or provides services to, the Department in relation to any functions of the Department under the Law or the repealed enactments,

^d Ordres en Conseil Vol. XIII, p. 288 as amended by Vol. XIV, p. 407; Vol. XV, p. 279; Vol. XVI, p. 178; Vol. XVIII, p. 275; Vol. XIX, pp. 84 and 140; Vol. XXII, p. 122; Vol. XXIII, p. 476; Vol. XXV, p. 326; Vol. XXVI, p. 255; Vol. XXIX, p. 56; Vol. XXX, p. 16; Vol. XXXI, pp. 164 and 278; Vol. XXXII, p. 41; No. V of 1993; No. II of 1996; No. III of 1998; No. X of 1998; No. XIII of 2003; No. III of 2004; and Ordinances XXXIII of 2003 and III of 2004.

- (c) a member of the Strategic Land Planning Group or the Planning Panel,
- (d) a person who holds appointment to any judicial office in Guernsey, or
- (e) a person who has a significant direct or indirect personal or financial interest in any of the matters set out in the proposals,

or has fallen within any of paragraphs (a) to (d) at any time within the period of two years before the date of the proposed appointment.

(4) The terms of appointment of an inspector are to be agreed between the inspector and the Policy Council.

(5) Where an inspector is appointed to conduct an inquiry pursuant to this section in carrying out that inquiry he shall, in particular, consider -

- (a) whether or not the relevant requirements of sections 8 to 11 of the Law and sections 1 to 5 and 8 of this Ordinance have been complied with in relation to the proposals,
- (b) whether or not the proposals are sound and in considering this the inspector shall in particular consider whether -

- (i) the policies in the proposals represent the most appropriate ones in all the circumstances, having considered relevant alternatives, and whether they are founded on robust and credible evidence,
 - (ii) there are clear mechanisms for the implementation and monitoring of any policies in the proposals containing targets or milestones or any other similar measurable matter, and
 - (iii) the proposals are reasonably flexible to allow them to deal with changing circumstances.
- (c) where the proposals include policies relating to EIA development, whether or not the Environmental Statement includes all the matters that must be included in the Environmental Statement pursuant to the EIA Ordinance.

Publication of proposals.

8. (1) Subject to subsection (2), when the Department receives a certificate of consistency for proposals then it must, as soon as reasonably possible, take the steps set out in subsection (3).

(2) If at the date of receipt of the certificate of consistency for proposals an inspector has not been appointed pursuant to section 7(1) in relation to those proposals, then the Department does not have to take the steps set out in subsection (3) until as soon as reasonably possible after an inspector is so appointed.

(3) The steps to be taken by the Department referred to in subsections (1) and (2) are -

(a) to place a notice in La Gazette Officielle on two consecutive weeks, setting out -

(i) that the proposals have been published,

(ii) the times and public places at which copies of the proposals, and where they include policies relating to EIA development, the Environmental Statement, are available for public inspection and purchase pursuant to subsection (3)(b), and

(iii) the steps which are to be taken in the process of adoption of the proposals,

(b) to make the proposals and, where they include policies relating to EIA development, the Environmental Statement available -

(i) for inspection at the Greffe and such other public places as the Department considers appropriate, and

(ii) for inspection and purchase of a copy, on payment of a reasonable fee, at the Department,

- (c) to inform in writing the Policy Council and the Constables of each parish, within any area covered or affected by the proposals, of the publication of the proposals and, where they include policies relating to EIA development, that the Environmental Statement is available for public inspection, and
- (d) to send a copy of the proposals and, where they include policies relating to EIA development, a statement to this effect and to the effect that the Environmental Statement is available for public inspection, to -
 - (i) the persons and bodies consulted prior to publication pursuant to section 4(1), and
 - (ii) any other person or body who, in the reasonable opinion of the Department, appears appropriate.

(4) The Department may take any additional steps it considers appropriate to bring to the attention of the general public -

- (a) the proposals, and
- (b) where relevant, the fact that the proposals include policies relating to EIA development and that an Environmental Statement is available for public inspection.

PART IV
APPROVAL OF PROPOSALS AND REVIEW OF PLANS AND LOCAL
PLANNING BRIEFS

Inspector's report.

9. (1) After the close of the inquiry the inspector must make a report in writing to the Department which must include -

- (a) his conclusions and recommendations on the proposals including any changes he recommends to the proposals, and
- (b) his reasons for such conclusions and recommendations.

(2) Subject to subsection (5), the Department must consider any written representations, the inspector's report and, where the proposals include policies relating to EIA development, the Environmental Statement and refer the following to the Strategic Land Planning Group -

- (a) the report and, where the proposals include policies relating to EIA development, the Environmental Statement, and
- (b) the Department's written conclusions on -
 - (i) the inspector's report, and
 - (ii) the written representations,

- (iii) where the proposals include policies relating to EIA development, the Environmental Statement, and
- (iv) its written reasons for those conclusions including, where relevant, its reasons for rejecting any recommendations of the inspector.

(3) The Strategic Land Planning Group may give comments in writing to the Department but only in relation to the following matters -

- (a) the matters referred to in the proposals, and
- (b) the documents referred to in subsection (2),

and shall inform the Department in writing if it does not intend to give any such comments.

(4) Subject to subsection (5), after the Department has had a reasonable time to consider any written comments made pursuant to subsection (3), the Department must request the Policy Council to lay before the States in writing -

- (a) the proposals, as published pursuant to section 8, and where the proposals include policies relating to EIA development, the Environmental Statement,
- (b) the inspector's report,

(c) any written comments duly made by the Strategic Land Planning Group,

(d) the Department's conclusions on -

(i) the inspector's report,

(ii) the written representations, and

(iii) where the policies include policies relating to EIA development, the Environmental Statement,

and its reasons for those conclusions including, where relevant, its reasons for rejecting any recommendations of the inspector, and

(e) any changes recommended by the Department to the proposals, and its reasons for those changes, having taken into account -

(i) the written representations,

(ii) where the proposals include policies relating to EIA development, the Environmental Statement,

(iii) the inspector's report, and

- (iv) any written comments duly made by the Strategic Land Planning Group.

(5) In carrying out its functions under subsections (2) and (4), the Department may disregard any representations, evidence or other document received -

- (a) where an inquiry hearing has been held, after that hearing has closed, or
- (b) where no inquiry hearing has been held, after the expiry of the relevant time limits specified for the making of written representations pursuant to the Plans Regulations,

other than written comments duly made by the Strategic Land Planning Group pursuant to subsection (3).

States consideration of proposals.

10. (1) After consideration of the inspector's report and the Department's conclusions and recommendations, the States may -

- (a) adopt the proposals, as amended in accordance with any recommendations made by the Department under section 9(4)(e),
- (b) reject the proposals, or

- (c) seek additional amendments to the proposals before adopting them in accordance with any rules of procedure for the time being in force.

(2) Where the States seek additional amendments to the proposals, they shall give the Department an opportunity to withdraw the Department's proposals so that the Department may consider any implications of such amendments including -

- (a) the implications of the amendments for other parts of those proposals, and
- (b) where the proposals include, or would include as so amended, policies relating to EIA development, the implications in relation to the duty of the Department to carry out or secure the carrying out of an Environmental Impact Assessment under the EIA Ordinance.

(3) Where the States give the Department an opportunity to withdraw its proposals then the Department may recommend to the Policy Council that the Policy Council refer the proposals back to the inspector, or to a different inspector, to re-open the inquiry to consider any amendments sought by the States and if the Policy Council rejects such a recommendation it must notify the Department of this and of the reasons why.

(4) Any Plan, Local Planning Brief or amendments thereto adopted by the States must, for the purposes of identification, be signed and dated by the Presiding Officer of the States and lodged at the Greffe.

Date of coming into effect of Plan or Local Planning Brief or amendments thereto.

11. A Plan, Local Planning Brief or amendments thereto shall have effect from their date of adoption by the States.

Notice of adoption.

12. The Department must, as soon as reasonably possible after the date on which a Plan, Local Planning Brief or amendments thereto have been adopted by the States -

- (a) place a notice in La Gazette Officielle specifying in relation to that Plan, Local Planning Brief or those amendments -
 - (i) the date of adoption, and
 - (ii) the times that copies are available for public inspection at the Greffe and at specified offices of the Department, and
- (b) make copies available for public inspection as specified in the notice in La Gazette Officielle and, on payment of a reasonable fee, for purchase.

Effective period of Plan or Local Planning Brief.

13. A Plan or Local Planning Brief shall have effect for 10 years from the date of its adoption by the States subject to -

- (a) the extension of that period at any time by resolution of the States in which case it shall have effect until the date specified in that resolution, and
- (b) such alterations as may from time to time be made to it pursuant to the Law and this Ordinance.

Review of Plans and Local Planning Briefs.

14. The Department must review a Plan or Local Planning Brief at least once every 10 years and, if it appears to the Department that an alteration or a replacement is necessary, it must prepare proposals in accordance with the Law and this Ordinance.

PART V

MISCELLANEOUS

Conflict between Plans and Briefs.

15. Where there is a conflict between the provisions in any Plan or Local Planning Brief and those in any other Plan or Local Planning Brief, the more recently adopted provisions shall prevail.

Availability of documents on a website.

16. Where documents are required to be made available for public inspection pursuant to this Ordinance, the Department may also make such documents available at the same time on a website and where it does so the notice in La Gazette Officielle which specifies the times and places at which those documents are available shall also include -

- (a) the address of the website, and

- (b) details of how the documents may be accessed from that website,

and such information shall also be displayed at the places where the documents are made available for public inspection.

Interpretation.

17. (1) In this Ordinance, unless the context requires otherwise -

"area of special control" means a conservation area or a site of special significance,

"certificate of consistency" means a document certifying the matters set out in section 5(2)(a),

"conservation area" means an area which is identified in a Plan or Local Planning Brief as being of special architectural or historic interest and the character or appearance of which it is desirable to preserve or enhance by application of the special provisions in chapter 3 of Part IV of the Law,

"Department" means the States of Guernsey Environment Department,

"department of the States" includes any council or committee (however called) thereof,

"development" shall be construed in accordance with section 13(1) of the Law and Part I of the Land Planning and Development (General Provisions) Ordinance, 2007^e,

"Development Plan" means a current adopted plan prepared pursuant to sections 8 and 11 of the Law including any current adopted amendment thereto,

"EIA development" shall be construed in accordance with section 2 of the EIA Ordinance,

"EIA Ordinance" means the Land Planning and Development (Environmental Impact Assessment) Ordinance, 2007,

"Environmental Impact Assessment" means carrying out the steps necessary to assess the environmental effects of the Plan or Local Planning Brief policies in question in accordance with the requirements of the EIA Ordinance,

"Environmental Statement" shall have the meaning in section 13(1) of the EIA Ordinance,

"inquiry" means the process which an inspector is appointed to conduct under section 7 in order to -

- (a) consider particular proposals,

^e Approved by resolution of the States on 26th September, 2007.

(b) consider any written representations and response by the Department in relation to such proposals, and

(c) conduct any inquiry hearing into such proposals, written representations and responses,

so as to make a report to the Department with his conclusions and recommendations in relation to such proposals,

"the Law" means the Land Planning and Development (Guernsey) Law, 2005,

"Local Planning Brief" means a current adopted brief prepared pursuant to sections 10 and 11 of the Law including any current adopted amendment thereto,

"non-technical summary of the Environmental Statement" means the non-technical summary prepared pursuant to paragraph 1(f) of Schedule 6 to the EIA Ordinance,

"notice" means notice in writing,

"notifying" means notifying in writing and related terms shall be construed accordingly,

"Plan" means a Development Plan or a Subject Plan,

"Planning Panel" means the Panel established under section 86 of the Law,

"Plans Regulations" means the Land Planning and Development (Plans Inquiry) Regulations, 2007,

"Policy Council" means the States of Guernsey Policy Council,

"proposals" means proposals for a fresh or replacement Plan or Local Planning Brief or for amendments thereto,

"public utility provider" means a provider of a public utility service,

"public utility service" means -

- (a) water, gas, electricity, telecommunications, transport or sewerage disposal services, or
- (b) any other service appearing to the States to be of public utility,

"screening opinion" shall have the meaning in section 13(1) of the EIA Ordinance,

"site of special significance" means an area which is identified in a Plan or Local Planning Brief as having special significance (whether because of archaeological, botanical, geological, scientific, cultural, zoological or any other interest) and which it is desirable to

preserve, enhance or manage by the application of the special provisions in Chapter 4 of Part IV of the Law,

"Strategic Land Planning Group" means the Group appointed under section 3(1) of the Law,

"Strategic Land Use Plan" means the plan which is the current Strategic Land Use Plan pursuant to sections 4 and 5 of the Law including any current adopted amendment thereto,

"Subject Plan" means a current adopted plan prepared pursuant to sections 9 and 11 of the Law including any current adopted amendment thereto,

"subordinate legislation" means any ordinance, statutory instrument, regulation, rule, order, notice, rule of court, resolution, scheme, warrant, byelaw or other instrument made under any enactment and having legislative effect,

"under the Law or the repealed enactments" includes provisions made under the Law or the repealed enactments and related expressions shall be construed accordingly,

"written representations" means representations duly made to the inspector in accordance with the requirements of the Plans Regulations and not withdrawn,

and other terms used in this Ordinance which are not defined in it but are defined in the Law shall have the same meaning as in the Law.

(2) Any reference in this Ordinance to an enactment or to any subordinate legislation is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Amendment of the Law.

18. (1) The Law is amended as follows.

(2) In section 7 (transition from current plans to Development Plans, Subject Plans and Local Planning Briefs) in subsections (1) and (2) for the words "known as" substitute "deemed to be".

(3) In section 11 (further provisions as to the contents of Development Plans, Subject Plans and Local Planning Briefs) in subsections (1) and (2) -

(a) for the words "or Subject Plan" substitute ", Subject Plan or Local Planning Brief", and

(b) for the words "the Plan" substitute "the Plan or Brief".

(4) In Schedule 2 (Interpretation) -

(a) in the definition of "conservation area" for the words "or Subject Plan" substitute ", Subject Plan or Local Planning Brief",

(b) for the definition of "**Development Plan**" substitute -

"**Development Plan**" means a current adopted Plan prepared pursuant to sections 8 and 11 including any current adopted amendment thereto,"

- (c) for the definition of "**Local Planning Brief**" substitute-

"**Local Planning Brief**" means a current adopted Brief prepared pursuant to sections 10 and 11 including any current adopted amendment thereto,"

- (d) in the definition of "site of special significance" for the words "or Subject Plan" substitute ", Subject Plan or Local Planning Brief",

- (e) for the definition of "**Strategic Land Use Plan**" substitute -

"**Strategic Land Use Plan**" means the Plan which is the current Strategic Land Use Plan pursuant to sections 4 and 5 including any current adopted amendment thereto," and

- (f) for the definition of "**Subject Plan**" substitute -

"**Subject Plan**" means a current adopted Plan prepared pursuant to sections 9 and 11 including any current adopted amendment thereto, ".

Transitional provisions.

- 19. Section 7 of the Law shall apply to any -

- (a) adopted Detailed Development Plan prepared under section 6 of the Island Development (Guernsey) Law, 1966^f, and
- (b) outline planning brief adopted by the States,

which was in effect immediately before the commencement of Part II of the Law and which is not listed in Schedule 1 to the Law as it applies to those listed in that Schedule.

Citation.

20. This Ordinance may be cited as the Land Planning and Development (Plans) Ordinance, 2007.

Commencement.

21. This Ordinance shall come into force on the same date as the Law.

^f Ordres en Conseil Vol. XX, p. 276 as amended by Vol. XXII, p. 573, Vol. XXIII, p. 231, Vol. XXXI, p. 61, Vol. XXXII, p.33.

The Land Planning and Development (Exemptions) Ordinance, 2007

ARRANGEMENT OF SECTIONS

1. Exempt development.
2. Interpretation and construction.
3. Repeal and saving.
4. Citation.
5. Commencement.

SCHEDULE

- | | |
|----------|---|
| Class 1 | Development within the curtilage of a dwelling-house. |
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The Land Planning and Development (Exemptions) Ordinance, 2007

THE STATES, in pursuance of their Resolutions of the 27th June 2002 and the 26th January, 2005^a, and in exercise of the powers conferred on them by sections 28, 78(1)(a) and 89 of the Land Planning and Development (Guernsey) Law, 2005^b, and of all other powers enabling them in that behalf, hereby order:-

Exempt development.

1. (1) Subject to subsections (3) and (4), planning permission is not required for the carrying out of any development specified in the Schedule in the circumstances, and subject to the provisos if any, specified in relation to that development in the Schedule and in subsection (2).

(2) The proviso referred to in subsection (1), is that the total area of ground within the curtilage of the dwelling-house, covered by development falling within any one or more of-

- (a) paragraphs 9 to 14 (porch, extension, garden structure, shed, glasshouse, garage or other outbuilding), and
- (b) paragraph 19 (swimming or other pool),

^a Billet d'État No. XI of 2002 and Article I of Billet d'État No. I of 2005.

^b Order in Council No. XVI of 2005.

of Class 1 to the Schedule (development within the curtilage of a dwelling-house), including that to be constructed, does not exceed 50% of the total area of the curtilage (excluding the ground area of the dwelling-house as it was originally constructed).

(3) Subsection (1) does not apply in relation to the carrying out of any development-

(a) in relation to, or

(b) within the curtilage of,

a protected building or protected monument except where there is a specific reference in the Schedule to such development.

(4) For the avoidance of doubt, subsection (1) does not operate to exclude the development specified in the Schedule from requirements imposed under any building regulations.

(5) Where under any provision of the Schedule more than one proviso is attached to an exemption, the exemption applies only if all of those provisos are fulfilled.

Interpretation and construction.

2. (1) In this Ordinance, unless the context requires otherwise-

"**agricultural purposes**" includes all purposes directly connected with the use of land as arable, meadow or pasture land,

"**building regulations**" means regulations made by the

Department under section 17 of the Law^c,

"conservation area" means an area which is identified in a Development Plan, Subject Plan or Local Planning Brief as being of special architectural or historic interest and the character or appearance of which it is desirable to preserve or enhance by application of the special provisions in chapter 3 of Part IV of the Law,

"Department" means the States of Guernsey Environment Department,

"development" shall be construed in accordance with section 13(1) of the Law and Part I of the Land Planning and Development (General Provisions) Ordinance, 2007^d,

"Development Plan" means a current adopted plan prepared pursuant to sections 8 and 11 of the Law including any current adopted amendment thereto,

"dormer" means a projecting upright window in a sloping roof, the height of which is lower than the apex of the roof from which it projects,

"drain" has the meaning in section 29(1) of the Sewerage

^c By virtue of section 93(7) of the Law, the Building Regulations, 1992, as amended (Guernsey S.I. No. 27 of 1992, as amended by G.S.I No. 39 of 2006), have effect as if made under section 17 of the Law.

^d Approved by resolution of the States on 26th September, 2007.

(Guernsey) Law, 1974^e,

"dwelling-house" does not include-

- (a) a flat or a maisonette or a building containing one or more flats or maisonettes, or
- (b) any building which was originally constructed, adapted for use or is used, as self-contained self-catering holiday accommodation,

"enactment" includes a Law, an Ordinance and any subordinate legislation and any provision or portion of a Law, an Ordinance or any subordinate legislation,

"extension" means a structure, other than a porch, which is attached to, and used solely for the non-commercial purposes of, a dwelling-house,

"glasshouse" means a structure made predominantly of glass or other transparent or translucent material, which is not attached to a dwelling-house, and which is designed and used for growing plants,

"highway" means any -

- (a) vehicular or pedestrian road, street, lane or clos, track or path, however named, used by the

^e Ordres en Conseil Vol. XXIV, p. 372.

public, and

- (b) any private vehicular road, street, lane or clos,
however named,

"the Law" means the Land Planning and Development (Guernsey) Law, 2005,

"Local Planning Brief" means a current adopted brief prepared pursuant to sections 10 and 11 of the Law including any current adopted amendment thereto,

"natural stone" does not include reconstituted stone,

"non-domestic building" means a building which is not, and is not within the curtilage of, a dwelling-house,

"operational area" means, in relation to each place referred to in paragraphs 6 to 10 of Class 5 to the Schedule, that part of the place which is used for purposes connected with its operation as such a place,

"outline permission" means planning permission subject to the reservation of particular matters for subsequent approval,

"planning permission" means the permission which is required under section 14 of the Law for the carrying out of any development of land,

"protected building" means a building, or any part of a building, which is of special historic, architectural, traditional or other interest and which is listed on the protected buildings list,

"protected monument" means a monument, structure, artefact, cave, ruin or remains which are of archaeological, historic, traditional, artistic or other special interest and which are listed on the protected monuments list,

"protected tree" means any tree, group or area of trees or woodlands in relation to which a tree protection order has been made,

"public" includes any section of the public,

"public utility service" means the supply to the public of water, gas, electricity, telecommunications or sewerage disposal services,

"roof-light" means a window, in the same alignment as a roof slope, which does not project substantially from that roof slope,

"sewer" has the meaning in section 29(1) of the Sewerage (Guernsey) Law, 1974,

"site of special significance" means an area which is identified in a Development Plan, Subject Plan or Local Planning Brief as having special significance (whether because of archaeological, botanical, geological, scientific, cultural, zoological or any other interest) and which it is desirable to preserve, enhance or manage by the application of the special provisions in Chapter 4 of Part IV of the Law,

"Subject Plan" means a current adopted plan prepared pursuant to sections 9 and 11 of the Law including any current adopted amendment thereto,

"**subordinate legislation**" means any ordinance, statutory instrument, regulation, rule, order, notice, rule of court, resolution, scheme, warrant, byelaw or other instrument made under any enactment and having legislative effect,

"**use class**" means a class of uses identified as such by Ordinance of the States under section 13(6) of the Law^f,

and other terms used in this Ordinance which are not defined in it but are defined in the Law shall have the same meaning as in the Law.

(2) For the purposes of construction of the Schedule to this Ordinance, unless the context requires otherwise -

- (a) a reference to an "**existing**" feature or use includes only a feature in place or use immediately before commencement of the new development, work or use concerned, and not created or carried on in breach of the Law,
- (b) a proviso that there "**is only one**" of a specified structure or other feature refers to the circumstances on completion of the new development concerned,
- (c) a proviso that something is "**not within**" a specified

^f See the Land Planning and Development (Use Classes) Ordinance, 2007, approved by resolution of the States on 26th September, 2007.

site, distance of any boundary or highway, or curtilage means that no part of it is within that site, distance or curtilage,

- (d) in a proviso limiting the floor or base area of any structure all necessary measurements are to be taken internally,
- (e) a maximum height or projection means that no part of the structure or feature concerned is to exceed that maximum in height or projection except where such a maximum is expressly required only in relation to a particular part of such a structure or feature, and
- (f) in a proviso that a structure or other feature is not within a specified distance of any boundary or highway all necessary measurements are to be taken from the outside face of that structure or other feature and not from any drain, pipes or other fitments to that structure or feature.

(3) Any reference in this Ordinance to an enactment or to any subordinate legislation is a reference thereto as from time to time amended, re-enacted (with or without modification), extended, or applied.

Repeal and saving.

3. (1) The Island Development (Exemptions) Ordinance, 1997^g is repealed.

^g Ordinance No. XLII of 1997.

(2) The lawfulness of any development or other work carried out before the commencement of this Ordinance without the permission of the Department but in accordance with the Island Development (Exemptions) Ordinance, 1997 is not affected by the repeal of that Ordinance, and any such development or other work commenced but not completed may be continued provided that it is completed within 12 months of that repeal.

Citation.

4. This Ordinance may be cited as the Land Planning and Development (Exemptions) Ordinance, 2007.

Commencement.

5. This Ordinance shall come into force on the same date as the Law.

**SCHEDULE
EXEMPT DEVELOPMENT**

**CLASS 1
DEVELOPMENT WITHIN THE CURTILAGE OF
A DWELLING-HOUSE**

Alterations to the external walls of a dwelling-house.

1. Alterations to the external walls of a dwelling-house consisting of rendering, removing render or re-cladding in natural stone or wood provided that the development is not carried out in relation to any building which was substantially constructed before 1900 or which is within a conservation area.

Satellite dish antennas.

2. Installation of a satellite dish antenna on, or within the curtilage of, a dwelling-house provided that -

- (a) there is only one satellite dish antenna on, or within the curtilage of, the dwelling-house,
- (b) the size of the satellite dish antenna, including any means of fixing, measured in any dimension, does not exceed 90 centimetres.

Solar panels.

3. Installation of a solar panel on, or within the curtilage of, a dwelling-house provided that-

- (a) where the panel is mounted on a roof, it is installed

parallel to the plane of the roof slope and it projects no more than 30 centimetres from that plane,

- (b) the panel is not installed on any roof slope facing a highway,
- (c) where the panel is mounted on the ground, no part of it is located forward of any elevation of the dwelling-house that faces a highway,
- (d) where the solar panel is mounted on the ground-
 - (i) it does not exceed 2 metres in height,
 - (ii) the total area of the panel to be installed, or of that panel together with any other panel mounted on the ground within the curtilage, does not exceed 10 square metres, and
 - (iii) it is not located more than 30 metres from the dwelling-house.

Replacement of a door or window in existing aperture.

4. The replacement of a door or window within an existing aperture in a dwelling-house provided that where the dwelling-house is within a conservation area or is substantially constructed before 1900 the replacement is of the same design, means of opening and made of the same material as the one it replaces.

Installation of a door or window in new aperture.

5. The installation of a door or window within a new aperture in a dwelling-house provided that -

- (a) the new door or window is not installed in any elevation of the dwelling-house that faces a highway,
- (b) where the new door or window is installed in any elevation of the dwelling-house that faces a boundary with a neighbouring dwelling-house, such door or window is not within 5 metres of that boundary unless that elevation already has a door or window,
- (c) the new door or window is not installed above ground floor level.

Re-roofing.

6. The re-roofing of a dwelling-house or of an outbuilding within the curtilage of a dwelling-house provided that where the dwelling-house or outbuilding is within a conservation area or is substantially constructed before 1900 the material to be used is natural slate or clay tiles.

Installation of roof-light.

7. The installation of a roof-light on the roof of a dwelling-house provided that -

- (a) the roof-light does not exceed 1 metre x 0.6 metre, measured in any dimension,

- (b) the roof-light is installed on a roof slope that does not face a highway,
- (c) there are no more than two roof-lights, including that to be installed, on the roof-slope in question.

Installation of dormer.

8. The installation of a dormer within the roof-space of a dwelling-house provided that -

- (a) the maximum width of the dormer, measured across its outside face, does not exceed 1.10 metres,
- (b) the dormer is not installed in a roof slope that faces a highway,
- (c) any glazing on the dormer is not within 10 metres, measured horizontally, of a boundary with a neighbouring residential property,
- (d) there are no more than two dormers, including that to be installed, on the roof-slope in question.

Erection of porch.

9. The erection of a porch on any elevation of a dwelling-house provided that -

- (a) where the dwelling-house is within a conservation area or is substantially constructed before 1900, the porch

is located on an elevation of the dwelling-house that does not face a highway,

- (b) the floor area of the porch does not exceed 3 square metres and the height of the porch does not exceed 3 metres,
- (c) the porch is not within 2 metres of a highway,
- (d) there is only one porch attached to the dwelling-house,
- (e) the dwelling-house is not within a site of special significance.

The erection of an extension to a dwelling-house.

10. The erection of an extension to a dwelling-house provided that -

- (a) no part of the extension extends forward of any elevation of that dwelling-house that faces a highway,
- (b) where the dwelling-house is within a conservation area or is substantially constructed before 1900, the extension does not have a flat roof and is located on an elevation of the house that is not visible from a highway,
- (c) where the dwelling-house is not within a conservation area, is not substantially constructed before 1900 and the extension has a flat roof, the extension is located on an elevation of the property that is not visible from a

highway,

- (d) where the extension does not have a flat roof, the roof is a lean to or a double-pitched roof with, in both cases, a pitch of not less than 22 and a half degrees,
- (e) the floor area of the extension does not exceed 20 square metres,
- (f) the height of any elevation of the extension, where it meets the eaves of the roof of that extension, does not exceed 3 metres and the height of the roof of the extension, measured to the apex of that roof where that roof is pitched, does not exceed 4 metres,
- (g) where any part of the extension is within 1 metre of any boundary with a neighbouring property, the height of that part does not exceed 2 metres,
- (h) glazing is not included within any elevation which is located within 1 metre of a boundary with a neighbouring property,
- (i) the extension is attached to the external walls of the dwelling-house as it was originally constructed,
- (j) the walls, other than glazed areas, are constructed of the same material as the predominant material used in the construction of the walls of the dwelling-house,

- (k) the roof, other than glazed areas, is covered in a material to match the predominant material used in the existing roof of the dwelling-house,
- (l) any opening designed to admit a motor vehicle is set back at least 5 metres from a highway accessible from that opening,
- (m) the dwelling-house including the extension to be erected is not within a site of special significance.

Erection of garden structure.

11. The erection of a structure designed and used for the support of plants within the curtilage of a dwelling-house provided that-

- (a) no part of the structure extends forward of any elevation of the dwelling-house that faces a highway,
- (b) the height of the structure does not exceed 3 metres,
- (c) where any part of the structure is within 1 metre of the boundary of a neighbouring property the height of that part does not exceed 2 metres,
- (d) no part of the structure is located more than 30 metres from the dwelling-house,
- (e) neither the dwelling-house nor the structure to be erected is within a site of special significance.

Erection of shed.

12. The erection of a freestanding shed, within the curtilage of a dwelling-house, to be used solely for the non-commercial purposes of that dwelling-house provided that-

- (a) no part of the shed extends forward of any elevation of the dwelling-house that faces a highway,
- (b) the height of the shed does not exceed 3 metres,
- (c) where any part of the shed is located within 1 metre of the boundary of a neighbouring property the height of that part does not exceed 2 metres,
- (d) the base area of the shed does not exceed 6 square metres,
- (e) no part of the shed is located more than 30 metres from the dwelling-house,
- (f) the walls of the shed, other than glazed areas, are constructed of timber, natural stone or rendered blockwork,
- (g) there is only one shed within the curtilage,
- (h) neither the dwelling-house nor the shed is within a site of special significance.

Erection of glasshouse.

13. The erection of a freestanding glasshouse, within the curtilage of a dwelling-house, to be used solely for the non-commercial purposes of that dwelling-house provided that-

- (a) no part of the glasshouse extends forward of any elevation of the dwelling-house that faces a highway,
- (b) the height of the glasshouse does not exceed 4 metres,
- (c) where any part of the glasshouse is located within 1 metre of the boundary of a neighbouring property the height of that part does not exceed 2 metres,
- (d) the base area of the glasshouse does not exceed 20 square metres,
- (e) no part of the glasshouse is located more than 30 metres from the dwelling-house,
- (f) there is only one glasshouse within the curtilage,
- (g) neither the dwelling-house nor the glasshouse is within a site of special significance.

Erection of freestanding garage or other outbuilding.

14. The erection of a freestanding garage or other freestanding outbuilding (not falling within paragraphs 12 or 13) within the curtilage of a dwelling-house, to be used solely for the non-commercial purposes of that dwelling-house provided that-

- (a) no part of the garage or other outbuilding extends forward of any elevation of the dwelling-house that faces a highway,
- (b) where the garage or other outbuilding is within a conservation area the roof-
 - (i) is pitched and has a pitch of not less than 22 and a half degrees, and
 - (ii) is of natural slate or clay tiles.
- (c) the height of any elevation of the garage or other outbuilding, where it meets the eaves of the roof of that garage or other outbuilding, does not exceed 3 metres and the height of the roof of the garage or other outbuilding, measured to the apex of that roof where that roof is pitched, does not exceed 4 metres,
- (d) where any part of the garage or other outbuilding is located within 1 metre of the boundary of a neighbouring property the height of that part does not exceed 2 metres,
- (e) the base area of the garage or other outbuilding does not exceed 20 square metres,
- (f) no part of the garage or other outbuilding is located more than 30 metres from the dwelling-house,

- (g) the walls of the garage or other outbuilding, other than glazed areas, are constructed of timber, natural stone or rendered blockwork,
- (h) any opening designed to admit a motor vehicle is set back at least 5 metres from a highway accessible from that opening,
- (i) there is only one such structure within the curtilage,
- (j) neither the dwelling-house nor the garage or other outbuilding is within a site of special significance.

Hard-surfaced areas.

15. The creation, extension or re-surfacing of a hard-surfaced area, including timber decking, within the curtilage of a dwelling-house provided that -

- (a) where the dwelling-house or the hard-surfaced area is within a conservation area the material used is-
 - (i) loose laid natural stone gravel,
 - (ii) pavements or bricks made, in either case, from concrete or clay,
 - (iii) natural stone setts or natural paving slabs,
 - (iv) concrete with rolled-in aggregate, or
 - (v) timber boarding,

or, in the case of an extension or resurfacing of an existing hard-surface, is the same as the existing material,

- (b) no part of any area created or extended is more than 30 metres from the dwelling-house,
- (c) the height of any timber decking or any other hard-surface created is not more than 50 centimetres above ground level,
- (d) neither the dwelling-house nor the hard-surfaced area is within a site of special significance.

Gates, fences, walls and earthbanks.

16. The erection of a gate, fence, wall or earthbank within or along a boundary of the curtilage of a dwelling-house provided that-

- (a) the height of such a structure erected within or along a boundary of the curtilage of a dwelling-house does not exceed 2 metres in height above any land within 2 metres on either side,
- (b) the height of that part of a structure which is erected in front of any elevation of the dwelling-house that faces a highway does not exceed 90 centimetres in height above any land within 2 metres on either side,
- (c) any fence is of timber construction,

- (d) any gate is of timber or metal construction,
- (e) any wall is of natural stone or rendered blockwork,
- (f) neither the dwelling-house nor the structure to be erected is within a site of special significance.

Domestic fuel containers.

17. The installation within the curtilage of a dwelling-house, including where such house or its curtilage is, or is within the curtilage of, a protected building, of one container (including any associated catchpit) for any type of fuel and used exclusively for the domestic purposes of that dwelling-house, provided that-

- (a) where the container is sited forward of any elevation of the dwelling-house that faces a highway it is completely buried below the level of the ground surrounding it,
- (b) no part of the container (disregarding pipes and fittings) is more than 2.5 metres above the ground surrounding it,
- (c) the volume of the container does not exceed 1.50 cubic metres,
- (d) neither the dwelling-house nor the container is within a site of special significance.

Domestic cesspits or soakaways.

18. The installation of a cesspit or soakaway, wholly below ground, within

the curtilage of the dwelling-house which it serves, including where such house or its curtilage is, or is within the curtilage of, a protected building, provided that neither the dwelling-house nor the cesspit or soakaway is within a site of special significance.

Installation of a swimming or other pool.

19. The installation of a swimming or other pool within the curtilage of a dwelling-house, including where such house or its curtilage is, or is within the curtilage of, a protected building, provided that-

- (a) the swimming or other pool is not located forward of any elevation of the dwelling-house that faces a highway,
- (b) the swimming or other pool is located within 30 metres of the dwelling-house,
- (c) neither the dwelling-house nor the swimming or other pool is within a site of special significance,
- (d) the swimming or other pool is not located within 2 metres of a boundary with a neighbouring residential property.

Installation of a traffic mirror.

20. The installation of a traffic mirror within the curtilage of a dwelling-house, including where such house or its curtilage is, or is within the curtilage of, a protected building, provided that -

- (a) there is only one within the curtilage, and

- (b) the size of the mirror, including any means of fixing, measured in any dimension, does not exceed 90 centimetres.

Installation of a flag pole.

21. The installation of a free-standing flagpole within the curtilage of a dwelling-house, including where such house or its curtilage is, or is within the curtilage of, a protected building, provided that-

- (a) the height of the flagpole does not exceed 5 metres,
- (b) no advertising material is flown from the flagpole,
- (c) there is only one flagpole within the curtilage of the dwelling-house.

Placing of a caravan.

22. The placing of a caravan on land within the curtilage of a dwelling-house, including where such house or its curtilage is, or is within the curtilage of, a protected building, provided that-

- (a) the caravan is not used for human habitation,
- (b) there is only one caravan within the curtilage of the dwelling-house, and
- (c) the caravan is not placed forward of any elevation of the dwelling-house that faces a highway.

CLASS 2
DEVELOPMENT WITHIN THE CURTILAGE OF
NON-DOMESTIC BUILDINGS

Replacement of a door or window in existing aperture.

1. Replacement of any existing door or window of a non-domestic building provided that -

- (a) the door or window is not part of a shop front,
- (b) the replacement is of the same design, means of opening and made of the same materials as the one it replaces.

Re-roofing.

2. Re-cladding an existing felt-clad or corrugated-sheet-clad roof of a non-domestic building in natural slate or clay tiles.

Hard-surfaced areas.

3. The creation, extension or resurfacing of a hard-surfaced area within the curtilage of a non-domestic building provided that-

- (a) where the non-domestic building or hard-surfaced area is within a conservation area the material used is-
 - (i) loose laid natural stone gravel,
 - (ii) pavements or bricks made, in either case, from concrete or clay,
 - (iii) natural stone setts or natural paving slabs, or

(iv) concrete with rolled-in aggregate,

or, in the case of an extension or resurfacing of an existing hard-surface, is the same as the existing material,

(b) no part of any area created or extended is more than 30 metres from the non-domestic building,

(c) the height of any hard-surface created is not more than 50 centimetres above ground level,

(d) neither the non-domestic building nor the hard-surfaced area is within a site of special significance.

Non-domestic cesspits or soakaways.

4. The installation of a cesspit or soakaway, wholly below ground, within the curtilage of the non-domestic building which it serves provided that neither the non-domestic building nor the cesspit or soakaway is within a site of special significance.

CLASS 3

**MAINTENANCE, REPAIR, MINOR ALTERATIONS AND TEMPORARY
STRUCTURES AND USES**

Maintenance, repair, and minor alterations.

1. The maintenance or repair of, or the making of any minor alteration to, a dwelling-house or a non-domestic building or to a structure or other feature within the curtilage of such a house or building, including where such house or

building or the curtilage thereof is, or is within the curtilage of, a protected building, provided that-

- (a) the works are not exempt to the extent that they comprise development of a description for which an exemption is provided under another paragraph of this Schedule subject to the meeting of any provisos specified in that paragraph,
- (b) the works are not exempt to the extent that they comprise the painting for the first time of any significant part of any structure or other feature,
- (c) there is no material effect on the external appearance of any structure or other feature other than that arising from any repainting of the exterior of that structure or other feature.

Temporary development required during approved operations.

2. Temporary use of land on a site where building operations are currently taking place for purposes connected with those operations, and erection, installation or siting temporarily on such land of buildings, structures, works, plant and machinery provided that -

- (a) the building operations are taking place in accordance with a planning permission,
- (b) any such buildings, structures, works, plant and machinery are-

- (i) necessary for the purpose of those operations,
- (ii) not used for any other purpose,
- (iii) without prejudice to subitem (ii) of this proviso, not used for any residential purpose, and
- (iv) permanently removed from the site upon completion of those operations, or within 12 months of their erection, installation or siting, whichever is sooner.

CLASS 4
AGRICULTURAL DEVELOPMENT

Fencing of agricultural land.

1. Erection of a post and wire fence for agricultural purposes provided that -

- (a) the fence is inside an existing hedge or earth bank,
- (b) the fence does not exceed 1.2 metres in height.

Farm gates.

2. Installation of a gate across an existing opening (and not involving the creation or widening of any opening) anywhere on land used for agricultural purposes.

CLASS 5

DEVELOPMENT BY THE STATES AND PUBLIC UTILITY PROVIDERS

The carrying out of any of the development specified in the following paragraphs of this Class other than within a Site of Special Significance.

Installation etc. of mains, drains, sewers, lines, pipes and cables.

1. (1) Any development referred to in subparagraph (2) which is carried out by or on behalf of a person listed in subparagraph (3) in connection with the provision by that person of a public utility service.

(2) The development referred to in subparagraph (1) is any development, not falling within paragraphs 4 to 7, which is necessary for the –

- (a) installation, inspection, maintenance, repair or renewal of mains, drains, sewers, pipes, cables, lines, or
- (b) making of connections to anything referred to in item (a),

provided that any hard surface which is disturbed by the development is restored with a finish which is not significantly different from the existing finish and in the case of granite cobbles or flags is restored with the same materials.

(3) The persons referred to in subparagraph (1) are –

- (a) the States,
- (b) Guernsey Gas Limited, or

- (c) a person who is a licensee under the Telecommunications (Bailiwick of Guernsey) Law, 2001^h or the Electricity (Guernsey) Law, 2001ⁱ.

Maintenance and the prevention of the obstruction of highways.

2. Any development by or on behalf of the States which is necessary –

- (a) for the maintenance of any highway or any private pedestrian road, street, clos, track or path, however named, provided that such maintenance does not involve-
 - (i) the hard surfacing of any lane, track or path that was not previously hard-surfaced, or
 - (ii) the creation, laying out or material widening of a means of access to that highway or pedestrian road, street, clos, track or path, or
- (b) to avoid the obstruction of any highway or any private pedestrian road, street, clos, track or path, however named, by any tree or other vegetation.

Maintenance of water courses, outfalls or carrying out of land drainage works.

3. Any development by or on behalf of the States which is necessary for the maintenance of water courses or outfalls or for the carrying out of land drainage

^h Order in Council No. XIV of 2001 as amended by XXX of 2003.

ⁱ Order in Council No. XIII of 2001 as amended by Ordinance L of 2001.

works.

Development in relation to minor equipment by suppliers of electricity and telecommunications services.

4. Any development which –

- (a) is carried out by or on behalf of a person who is a licensee under the Telecommunications (Bailiwick of Guernsey) Law, 2001 or the Electricity (Guernsey) Law, 2001, and
- (b) is necessary for the maintenance or replacement of overhead lines, cables, surface wiring, block terminals and dish or multiple rod aerials used for the purpose of supplying electricity or providing telecommunications services to the public,

provided that any replacement is not significantly different in terms of its siting, design, size and appearance to the equipment that it replaced and that any hard surface which is disturbed by the development is restored with a finish which is not significantly different from the existing finish and in the case of granite cobbles or flags is restored with the same materials.

Development in relation to the supply of electricity.

5. Any development which –

- (a) is carried out by or on behalf of a person who is a licensee under the Electricity (Guernsey) Law, 2001, and

(b) is necessary –

- (i) for the replacement of roadside distribution pillars, high voltage switchgear and transformers, poles and street cabinets for the purpose of supplying electricity to the public, provided that any replacement is not significantly different in terms of its siting, size, design and appearance to the equipment that it replaced, or
- (ii) to avoid contact between any tree or other vegetation and over head power lines,

provided that any hard surface which is disturbed by the development is restored with a finish which is not significantly different from the existing finish and in the case of granite cobbles or flags is restored with the same materials.

Development within the operational areas of water treatment works, foul water treatment works, pumping stations and reservoirs etc.

6. Any development by or on behalf of the States which is carried out within the operational areas of water treatment works, foul water treatment works, pumping stations, reservoirs or other places where water is stored and which is necessary for –

- (a) the provision of water supplies, or
- (b) the maintenance or security of any such place,

provided that such development is not carried out in relation to any land or structure forming any part of the perimeter of any such place.

Development within the operational area of a power station.

7. Any development by or on behalf of a person who is a licensee under the Electricity (Guernsey) Law, 2001 which is carried out within the operational area of a power station and which is necessary for –

- (a) the relocation of pumping equipment and over ground piping within the operational area of a power station provided that there is no significant change to –
 - (i) the siting, and
 - (ii) the visibility from a highway,
 of such piping or equipment, or
- (b) the security of the power station,

provided that such development is not carried out in relation to any land or structure forming any part of the perimeter of the power station.

Development within the operational area of an airport.

8. Any development by or on behalf of the States within the operational area of an airport which is necessary for –

- (a) the provision of air traffic control services,
- (b) the safe navigation of aircraft,

- (c) the security of the airport, or
- (d) the maintenance or resurfacing of an airport runway or to make minor alterations to the camber of such a runway,

provided that such development is not carried out in relation to any land or structure forming any part of the perimeter of the airport and that, where carried out in relation to an airport runway, it does not extend that runway.

Development within the operational area of a harbour.

9. Any development by or on behalf of the States within the operational area of a harbour which is necessary for –

- (a) the provision of harbour control or safe navigation of ships, or
- (b) the security of the harbour,

provided that such development is not carried out in relation to any land or structure forming any part of the perimeter of the harbour.

Minor works for navigational purposes.

10. (1) Any development by or on behalf of the States outside the operational area of a harbour or an airport which is necessary to –

- (a) carry out any minor works for the purpose of –
 - (i) the safe navigation of ships or aircraft, or

(ii) the safe operation of the port or airport in question, or

(b) avoid the obstruction of navigation points or navigation lights by any tree or other vegetation.

(2) In this paragraph "**minor works**" means –

(a) minor maintenance work, or

(b) replacement of fixed plant,

which does not involve any work to buildings, walls or fences.

Coastal defences.

11. Any development by or on behalf of the States necessary for the maintenance of existing coastal defences provided that such development does not include development consisting of land reclamation and does not affect any shingle bank or other natural feature forming part of such defences.

Street furniture.

12. (1) Any development by or on behalf of the States necessary for the replacement or maintenance of any fixed street furniture, other than traffic signs, provided that any replacement is not installed in La Vallette (Bathing Pools) Conservation Area and those parts of the conservation areas identified in subparagraph (2).

(2) The parts of the conservation areas referred to in subparagraph (1) are those parts of –

- (a) the St. Peter Port conservation area which fall within South Esplanade, the Quay, North Esplanade, Gategny Esplanade, the Pollet, High Street, Hauteville, Fountain Street, Trinity Square, Mill Street, Mansell Street, Contree Mansell, Smith Street, Lefebvre Street, Rue du Manoir, College Street, Saint Julian's Avenue, Castle Emplacement, Crown Pier and La Salerie Harbour, and
 - (b) the Bridge Conservation area which fall within South Quay, the Bridge and North Side.
- (3) In this paragraph -
- (a) **"street furniture"** includes lamp standards and other street lighting, public seating, cycle racks, signposts, signs, refuse bins, bollards, rails, fences and barriers for safeguarding persons using the public highway, and
 - (b) **"public highway"** means any vehicular or pedestrian road, street, lane or clos, track or path, however named, used by the public.

Closed circuit television.

13. Any development by or on behalf of the States necessary for the –

- (a) installation and maintenance of one closed circuit television camera on any one structure or object provided that the dimensions of the camera, including

its housing and fixing bracket, do not exceed 90 centimetres by 25 centimetres by 55 centimetres, or

- (b) temporary installation and maintenance of closed circuit television cameras to cover a public event or in an emergency provided that the cameras are in place for no more than 14 days.

CLASS 6

INDUSTRIAL CHANGE OF USE

Changes from general to light industrial use.

1. Change in the use of any land, including of any land which is, or is within the curtilage of, a protected building or protected monument, from an existing use for any general industrial purpose within use class 38 to use for any light industrial purpose within use class 37.

Changes from special to general or light industrial use.

2. Change in the use of any land, including of any land which is, or is within the curtilage of, a protected building or protected monument, from an existing use for any purpose within use classes 40 to 43 inclusive to use for any general industrial purpose within use class 38 or any light industrial purpose within use class 37.

CLASS 7

TREES

Pruning of trees.

1. The pruning of any protected tree provided that it is carried out in accordance with British Standard Specification 3998/1989 on Recommendations for

Tree Work as revised or re-issued from time to time^j.

Dead and diseased trees.

2. The cutting down, uprooting, topping, lopping or pruning of any protected tree or part of such a tree which has been certified as being dead or in a hazardous state by an –

- (a) arboriculturist, or
- (b) other person who has sufficient expertise to make such a certification,

provided that the tree is not within a site of special significance.

Cutting down etc. of trees in compliance with statutory requirements, to abate or prevent a nuisance or implement a planning permission.

3. The cutting down, uprooting, topping, lopping or pruning of any protected tree or part of such a tree to the extent that such action is –

- (a) necessary to comply with any requirements by or under any enactment including the Ordonnance relative à la Hauteur des Haies bordant les encoignures des Voies Publiques, 1931^k and the Cutting of Hedges Ordinance, 1953^l,

^j Current edition B.S. 3998:1989 which came into effect on 31st May 1989.

^k Recueil d'Ordonnances Tome V, p. 370.

^l Recueil d'Ordonnances Tome X, p. 373 as amended by Tome XXV, p. 76.

- (b) necessary to prevent or abate a nuisance, or
- (c) required to enable a person to implement any planning permission except for an outline permission.

Cutting down etc. of trees to prevent obstruction of a highway or to ensure safe and efficient use for civil aviation purposes.

4. The cutting down, uprooting, topping, lopping or pruning of any protected tree to the extent that such action is necessary -

- (a) to prevent obstruction of a highway, or
- (b) to ensure the safe and efficient use for civil aviation purposes of any land, structures, works or apparatus.

Cutting down of certain species of trees.

5. The cutting down, uprooting, topping, lopping or pruning of a tree of any of the following species which is a protected tree by virtue of being one of a group or area of trees or woodlands in relation to which a tree protection order has been made -

- (a) X *Cupressocyparis leylandii* (Leyland Cypress),
- (b) *Chamaecyparis nootkatensis* (Nootka Cypress), or
- (c) *Cupressus macrocarpa* (Monterey Cypress),

provided that such operations do not cause any significant damage to any other tree, not of any of such species, which forms part of that group or area of trees or woodlands.

CLASS 8
SIGNS AND ADVERTISEMENTS

Contractors signs.

1. Temporary display of a contractor's signboard on a building or site where the contractor is currently engaged in building or other works provided that -

- (a) any planning permission required under the Law for those works has been granted,
- (b) there is only one such signboard on the building or site,
- (c) the signboard is not internally illuminated,
- (d) the signboard is removed upon completion of the works.

Nameplates.

2. Display on a building of a nameplate identifying any individual, company or firm carrying on a trade, business or profession in or from that building provided that-

- (a) the trade, profession or business concerned is not being carried on in contravention of the Law,
- (b) the nameplate is not internally illuminated,
- (c) the size of the nameplate, measured in any dimension, does not exceed 60 centimetres.

Signs for charity and public events.

3. Temporary display of a sign advertising, or giving directions to the location of, a charity or public event provided that -

- (a) the sign is not illuminated, either internally or by external illumination,
- (b) the sign is not displayed for more than 2 weeks prior to the date of the event,
- (c) the sign is removed immediately after the event has ended,
- (d) in the case of any banner displayed across a street in St. Peter Port or St. Sampson, the sign does not include any commercial advertising material.

Election signs.

4. Temporary display, including on, or within the curtilage of, a protected building or protected monument, during the period immediately preceding an election for any States or Parish office, of a sign promoting a candidate at, or otherwise in connection with, that election.

Signs advertising garden produce.

5. Display within the curtilage of a dwelling-house, including where such house or its curtilage is, or is within the curtilage of, a protected building or a protected monument of one sign advertising the sale of produce grown, otherwise than on a commercial basis, within the curtilage of the dwelling-house provided that -

- (a) there is only one such sign within the curtilage,
- (b) the size of the sign does not exceed 60 centimetres measured in any dimension.

Repainting or replacement of existing signs.

6. Repainting or replacement of an existing sign provided that -

- (a) the sign, as repainted or replaced, is not internally illuminated,
- (b) the overall size and location of the sign is not altered as a result of the repainting or replacement.

Terre à l'amende signs.

7. Display of a terre à l'amende sign on a wall or a building provided that-

- (a) the Royal Court has granted an application, in respect of the land in question, for notices to be published in La Gazette Officielle to the effect that the land is terre mis à l'amende,
- (b) the sign is not illuminated, either internally or by external illumination,
- (c) the size of the sign, measured in any dimension, does not exceed 60 centimetres.

CLASS 9
RETAIL AND ADMINISTRATIVE, FINANCIAL AND PROFESSIONAL
CHANGE OF USE

Changes from special to general retail use.

1. Change in the use of any land, including of any land which is, or is within the curtilage of, a protected building or protected monument, from an existing use within use classes 15 to 17 (special retail) to a use within use class 14 (general retail).

Changes from use as an office to use for temporary re-location in emergency.

2. Change in the use of any land, including of any land which is, or is within the curtilage of, a protected building or protected monument, from an existing use within use class 22 (use as an administrative office) to a use within use class 23 (temporary re-location of administrative office in emergency).

CLASS 10
DEMOLITION

Demolition of a shed, glasshouse, temporary or garden structure, fence, gate or exempt structure.

1. The demolition of any shed, freestanding glasshouse, temporary structure, garden structure, fence, gate or exempt structure provided that-

- (a) the structure is not substantially constructed before 1900,
- (b) the demolition work would not create a vehicular access to premises,

- (c) in the case of partial demolition, the remaining structure is made good,
- (d) the structure to be demolished is not a wall or an earthbank which forms a field boundary or adjoins a highway,
- (e) the structure to be demolished is not within a site of special significance,

and in this paragraph "**exempt structure**" means a structure or other feature the erection, creation or installation of which would be exempt development pursuant to this Schedule.

The Land Planning and Development (Environmental Impact Assessment) Ordinance, 2007

ARRANGEMENT OF SECTIONS

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The Land Planning and Development (Environmental Impact Assessment) Ordinance, 2007

THE STATES in pursuance of their Resolutions of the 27th June 2002 and of the 26th January 2005^a and in exercise of the powers conferred on them by sections 11(3), 12, 16(5) to (7), 28(3), 81 and 89 of the Land Planning and Development (Guernsey) Law, 2005^b and of all other powers enabling them in that behalf, hereby order:-

PART I INTRODUCTORY PROVISIONS

Application.

1. This Ordinance applies to -
 - (a) any proposals in respect of which notice is given, pursuant to section 3(4) of the Plans Ordinance^c, on or after the commencement of this Ordinance, and
 - (b) any application for planning permission made on or after the commencement of this Ordinance.

EIA development.

^a Billet d'État No. XI of 2002 and Article I of Billet d'État No. I of 2005.

^b Order in Council No. XVI of 2005.

^c Approved by resolution of the States on the 26th September, 2007.

2. (1) Subject to subsection (2), "**EIA development**" means development -

(a) of a description set out in Schedule 1 ("**Schedule 1 development**"),

(b) to be carried out on land owned or occupied by the States and in respect of which the States have resolved that the Department must not determine a planning application until -

(i) an EIA has been carried out, and

(ii) the environmental information arising from that EIA has been taken into account in determining the application ("**States development**"), or

(c) of a description set out in -

(i) Schedule 2 ("**Schedule 2 development**"), or

(ii) section 40(5) or 44(3) of the Law ("**Section 40(5) or 44(3) development**") in relation to which the Department is satisfied that it must have regard to the matters set out in section 40(5) or 44(3), as the case may be,

and in respect of which the Department has issued a Screening Opinion to the effect that the development is

EIA development by virtue of it being likely to have a significant effect on the environment.

- (2) Development shall not be treated as –
- (a) Schedule 1 or 2 development, if the Department determines in writing that the development in question is of so minor a nature that it is incapable of having a significant adverse effect on the quality of the environment, use of natural resources or biological diversity, or
 - (b) Schedule 1, 2 or section 40(5) or 44(3) development in relation to an EIA application for such development, if the Department determines in writing that the application would have to be refused by the Department in accordance with section 12(1) of the General Ordinance^d,

and where an EIA application is made that determination shall be made within 28 days beginning with the date of the Department's receipt of the application or within such longer period as the Department and the applicant may agree in writing.

PART II

EIA IN RELATION TO PLANS AND BRIEFS

^d Approved by resolution of the States on the 26th September, 2007.

Plans and Local Planning Briefs-requirement for EIA.

3. (1) Where proposals include policies relating to development which is Schedule 2 or Section 40(5) or 44(3) development, the Department shall issue a Screening Opinion as to whether or not the development is EIA development and in considering whether or not such development is likely to have significant environmental effects it shall –

- (a) consider, in particular the matters set out in Schedule 4, and
- (b) give brief reasons for its conclusions.

(2) Where proposals include policies relating to EIA development then the Department shall –

- (a) carry out or secure the carrying out of an EIA of the policies to which that development relates, and
- (b) prepare or secure the preparation of an Environmental Statement in relation to that EIA,

during the preparation of those proposals and, where the proposals contain such policies at that time, before the proposals are published under section 8 of the Plans Ordinance.

(3) The EIA carried out and Environmental Statement prepared pursuant to subsection (2) shall be undertaken in such detail and at such a level as reflects the level of detail regarding the EIA development set out in the policy in question including in particular –

- (a) whether a particular site has been selected for the development so that a more precise assessment of the environmental effects of the policy can be undertaken, and
- (b) the details set out regarding the precise nature of the development.

Prohibition on adopting Plans and Local Planning Briefs without consideration of environmental information.

4. Proposals containing policies relating to EIA development shall not be -

- (a) submitted to the States for adoption unless the Department has complied with the requirements of section 3(2) of this Ordinance and with those provisions of section 9(2) and (4) of the Plans Ordinance which specifically relate to EIA development,
- (b) adopted by the States unless the States has taken the Environmental Statement relating to the EIA of those policies into account before passing its resolution.

PART III

**EIA IN RELATION TO PLANNING APPLICATIONS AND CERTAIN
APPEALS**

Prohibition on granting planning permission without consideration of environmental information.

5. (1) The Department or the Planning Tribunal must not grant planning permission pursuant to an application or appeal under section 68 of the Law relating to EIA development unless -

- (a) an EIA has been carried out,
- (b) an Environmental Statement of that EIA has been provided,
- (c) where a Compliance Document is required pursuant to section 10(2), a Compliance Document has been provided, and
- (d) it has taken the matters set out in the Environmental Statement, and, where relevant, the Compliance Document, into consideration in making its decision.

(2) For the avoidance of doubt, the provisions of section 5(1)(d) apply on the determination of an appeal by the Planning Tribunal notwithstanding the provisions of section 69(1) of the Law.

Pre-application stage-request for Screening Opinion.

6. (1) The Department shall issue a Screening Opinion as to whether or not an EIA is required within 28 days beginning with the date of its receipt of a duly made request for a Screening Opinion under subsection (2) or within such longer period as the Department and the applicant may agree in writing.

(2) A person who is minded to carry out development may request the Department in writing to adopt a Screening Opinion in relation to the proposed development before he submits an application for planning permission.

(3) A request to the Department under subsection (2) must include -

- (a) a plan sufficient to identify the development site,
- (b) a brief description of the nature and purpose of the development,
- (c) a description of the current use of the development site and the condition of the environment at that site,
- (d) a description of any information which is readily or publicly available relating to the environmental impact of the development and the view of the person making the request as to the reliability and adequacy of that information, and
- (e) a description of the environmental impacts of the development which the person making the request considers will need to be addressed.

(4) The Department may request in writing such additional information as it considers necessary to issue a Screening Opinion if on receipt of a request it considers that it has not been given sufficient information to issue an opinion.

(5) Where the Department has to consider whether or not Schedule 2 or section 40(5) or 44(3) development is likely to have significant environmental effects, the Department shall –

- (a) consider in particular the matters set out in Schedule 4, and
- (b) give brief reasons for its conclusions.

Application stage-procedure where it is established that an EIA is required.

7. Where the Department receives an EIA application for EIA development which is -

- (a) Schedule 1 or States development, or
- (b) Schedule 2 or Section 40(5) or 44(3) development in respect of which it has issued a Screening Opinion at the pre-application stage pursuant to section 6 to the effect that it is EIA development,

it must, unless it issues a determination under section 2(2), issue an opinion in writing to the applicant specifying the matters that the EIA should address and the level of detail required ("**Scoping Opinion**") within 28 days beginning with the date of receipt of the planning application or within such longer period as the Department and the applicant may agree in writing.

Application stage-procedure where it is not established that an EIA is required.

8. (1) Where the Department receives a planning application for development, which is Schedule 2 or Section 40(5) or 44(3) development, in respect

of which it has not issued a Screening Opinion at the pre-application stage pursuant to section 6, it must, unless it issues a determination under section 2(2) -

- (a) send the applicant a written request for such of the information set out in section 6(3) as it requires to issue a Screening Opinion, or
- (b) where it requires no such further information, issue a Screening Opinion and, where it decides that the development is EIA development, a Scoping Opinion to the applicant,

within 28 days beginning with the date of receipt of the planning application or within such longer period as the Department and the applicant may agree in writing.

(2) Where the Department requests further information under subsection (1), it shall -

- (a) issue a Screening Opinion, and
- (b) where it decides, following receipt of that information, that the development is EIA development, a Scoping Opinion,

to the applicant within 28 days beginning with the date of its receipt of that information or within such longer period as the Department and the applicant may agree in writing.

Scoping Opinions.

9. (1) Any Scoping Opinion may include a summary of any requirements relating to the environmental impact of the development which –

(a) the Department is likely to require by way of condition or otherwise before granting planning permission, and

(b) the Department considers are likely to be required pursuant to any other enactment.

(2) The Department, in preparing a Scoping Opinion –

(a) must consult with any department of the States whose area of responsibility may be affected by the development in question which shall include any department of the States which –

(i) is promoting or supporting the development in question, or

(ii) is responsible for the requirements of any legislation referred to in the Scoping Opinion,

(b) may consult with any department of the States not falling within paragraph (a), and

(c) may seek advice from or consult with any persons or bodies who reasonably appear to the Department to have appropriate expertise

relating to the matters to be addressed in the Scoping Opinion.

(3) A Scoping Opinion must include a brief description of the nature and purpose of the development and, subject to subsections (4) and (6), must include such of the matters set out in Schedule 3 as the Department reasonably considers are relevant to the development in question.

(4) Where the Department considers that a particular matter relating to the environment need not be addressed in the EIA then the Scoping Opinion must set out the reasons why.

(5) Where at any time before the determination of the planning application in question it appears to the Department that the EIA should address matters not referred to in the Scoping Opinion, then it shall issue an amended Scoping Opinion and, for the avoidance of doubt -

- (a) subsections (2) to (4) shall apply to the preparation and issue of the amended Scoping Opinion, and
- (b) this subsection shall apply to any amended Scoping Opinion.

(6) Where a document purporting to be an Environmental Statement is submitted with a planning application for EIA development, then the Scoping Opinion -

- (a) may only include such of the matters set out in Schedule 3 as the Department considers are necessary to specify any additional matters that need to be

addressed in the EIA as evidenced by that document,
and

- (b) may state that the document demonstrates that an EIA has been carried out and that the Department accepts the document submitted as an Environmental Statement for the purposes of this Ordinance.

Environmental Impact Assessment.

10. (1) Subject to section 9(6), where a Scoping Opinion has been issued in relation to an EIA application, then the applicant shall carry out or secure the carrying out of an EIA and send an Environmental Statement to the Department.

(2) Where the Department has included in its Scoping Opinion a summary of any requirements relating to the environmental impact of the development pursuant to section 9(1), the applicant must send to the Department a written statement, in non-technical terms, setting out how the applicant, or person minded to carry out the development, proposes to comply with those requirements ("**Compliance Document**") and such Compliance Document may form part of the Environmental Statement.

(3) Subject to subsection (5), upon receipt of a document which the applicant has submitted as an Environmental Statement (whether submitted with or after the planning application) or a Compliance Document, the Department must consider whether the document in question includes all the matters that must be included in the Environmental Statement or the Compliance Document, as the case may be.

(4) If the Department considers that the document submitted does not include all the matters that must be included in the Environmental Statement or

the Compliance Document, as the case may be, then it may request in writing that a revised document is submitted which includes the additional matters specified in that request.

(5) Where the Department is the applicant (whether alone or jointly with any other person) for an EIA application, instead of complying with subsection (3) it may send the document it has prepared as an Environmental Statement to any independent person or body it considers has appropriate expertise to consider whether the document includes all the matters that must be included in an Environmental Statement and in finalising the document the Department must take into account the conclusions of that body or person.

EIA applications and period for making a decision.

11. For the purposes of section 68(8) (calculation of periods for purposes of certain appeals) of the Law an EIA application shall not be considered to be duly made until any of the following has occurred -

- (a) the Department has made a determination pursuant to section 2(2) or issued a Screening Opinion to the effect that the development is not EIA development,
- (b) except in the circumstances set out in paragraph (c), the Department has received an Environmental Statement and, where required, a Compliance Document in respect of the application, or
- (c) where a Scoping Opinion falling within section 9(6)(b) has been issued which does not require the applicant to send a Compliance Document to the Department, that Scoping Opinion has been issued,

except that where the Department fails to make a determination pursuant to section 2(2), issue a Screening Opinion, a Scoping Opinion or any request under section 8(1) within the period specified or agreed pursuant to this Ordinance for the issuing of the document in question then time shall start to run, for the purposes of calculating the three month period for the making of a decision, and shall continue to run until the Department issues the relevant document.

Appeal to the Planning Tribunal without an Environmental Statement.

12. (1) Where, on determination of an appeal under section 68 of the Law -

- (a) the Planning Tribunal is to deal with a planning application which is the subject of the appeal, and
- (b) it appears to the Planning Tribunal that the relevant application is an EIA application in respect of which no determination under section 2(2), Screening Opinion or Scoping Opinion has been issued by the Department,

then sections 2(2), 7 (except subsection (b)) and 8, 9 (except subsection (6)) and 10 (except subsection (5)) shall apply to the appeal in respect of an EIA application as they apply to an EIA application with any necessary modifications including those set out in subsection (2).

(2) The modifications referred to in subsection (1) are that -

- (a) references to "the Department" except -
 - (i) those referred to in paragraph (b), and

- (ii) those referring to the Department not issuing a Screening Opinion at the pre-application stage, or related expressions,

shall be read as referring to "the Planning Tribunal",

- (b) provisions referring to the Department receiving a planning application or an EIA application or to the date of receipt of a planning application, or related expressions, shall be construed as referring to where the Chairman of the Planning Panel receives a notice of appeal in relation to an EIA application pursuant to section 68(5) of the Law or the date of his receipt of that notice, as the case may be,
- (c) subject to paragraph (b), references to "application", "EIA application" or "planning application" shall be read as "appeal relating to an EIA application",
- (d) references to "applicant" shall be read as referring to "appellant", and
- (e) references to section 9(6) shall be omitted.

PART IV

GENERAL PROVISIONS

Interpretation.

- 13. (1) In this Ordinance, unless the context requires otherwise -

"Compliance Document" shall be construed in accordance with section 10(2),

"Department" means the States of Guernsey Environment Department,

"department of the States" includes any Council or Committee, however called, thereof,

"development" shall be construed in accordance with section 13(1) of the Law and Part I of the General Ordinance,

"Development Plan" means a current adopted plan prepared pursuant to sections 8 and 11 of the Law and includes any current adopted amendment thereto,

"EIA application" means an application for planning permission for Schedule 1 or 2, States or Section 40(5) or 44(3) development and shall include an application for development falling within section 2(2),

"EIA development" shall be construed in accordance with section 2,

"enactment" includes a Law, an Ordinance and any subordinate legislation and any provision or portion of a Law, an Ordinance or any subordinate legislation,

"Environmental Impact Assessment" ("EIA") means carrying out the steps necessary to assess the environmental effects of the EIA

development or Plan or Local Planning Brief policies in question, as the case may be, in accordance with -

- (a) the requirements of this Ordinance, and
- (b) any Scoping Opinion issued by the Department,

"Environmental Statement" means a written statement of the findings from carrying out an EIA which includes -

- (a) in relation to an EIA of EIA development, the matters set out in Schedule 5, or
- (b) in relation to an EIA of a Plan or Local Planning Brief policy, the matters set out in Schedule 6,

"General Ordinance" means the Land Planning and Development (General Provisions) Ordinance, 2007,

"the Law" means the Land Planning and Development (Guernsey) Law, 2005,

"Local Planning Brief" means a current adopted brief prepared pursuant to sections 10 and 11 of the Law including any current adopted amendment thereto,

"Plan" means a Development Plan or a Subject Plan,

"Planning Panel" means the Panel established under section 86 of the Law,

"Planning permission" means the permission which is required under section 14 of the Law for the carrying out of any development of land,

"Planning Tribunal" means the Tribunal the members of which are appointed under section 87 of the Law to hear and determine an appeal under the Law,

"Plans Ordinance" means the Land Planning and Development (Plans) Ordinance, 2007,

"proposals" means proposals for a fresh or replacement Plan or Local Planning Brief or for amendments thereto,

"Ramsar site" means a wetland designated under paragraph 1 of article 2, for inclusion in the list of wetlands of international importance referred to in that article, of the Convention on Wetlands of International Importance especially as Waterfowl Habitat signed at Ramsar on 2nd February 1971 as revised or re-issued from time to time,

"Schedule 1 development" means development of a description set out in Schedule 1 and related terms shall be construed accordingly,

"Schedule 2 development" means development of a description set out in Schedule 2 and related terms shall be construed accordingly,

"Scoping Opinion" shall be construed in accordance with section 7 and, for the avoidance of doubt, shall include any amendment thereto made pursuant to section 9(5),

"Screening Opinion" means a written statement of the opinion of the Department as to whether or not development is EIA development,

"Section 40(5) or 44(3) development" means development of a description set out in section 40(5) or 44(3) of the Law in relation to which the Department is satisfied that it must have regard to the matters set out in section 40(5) or 44(3) of the Law, respectively and related terms shall be construed accordingly,

"site of special significance" means an area which is identified in a Plan or Local Planning Brief as having special significance (whether because of archaeological, botanical, geological, scientific, cultural, zoological or any other interest) and which it is desirable to preserve, enhance or manage by the application of the special provisions in Chapter 4 of Part IV of the Law,

"States development" shall be construed in accordance with section 2(1)(b),

"Subject Plan" means a current adopted plan prepared pursuant to sections 9 and 11 of the Law including any current adopted amendment thereto,

"subordinate legislation" means any regulation, rule, order, notice, rule of court, resolution, scheme, warrant, byelaw or other instrument made under any enactment and having legislative effect,

"under the Law" includes provisions made under the Law,

"waste" includes -

- (a) scrap material, effluent or other unwanted surplus arising from any process, and
- (b) anything which requires to be disposed of as being broken, worn out, contaminated, spoiled or redundant,

and other terms used in this Ordinance which are not defined in it but are defined in the Law shall have the same meaning as in the Law.

(2) Any reference in this Ordinance to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Citation.

14. This Ordinance may be cited as the Land Planning and Development (Environmental Impact Assessment) Ordinance, 2007.

Commencement.

15. This Ordinance shall come into force on the same date as the Law.

SCHEDULE 1

Sections 2(1)(a)
and 13, Schedule
2, items (a), (d)
and (j)

DEVELOPMENT REQUIRING AN EIA

The carrying out of development comprising or providing any of the following -

- (a) a site for the disposal or processing of waste, including landfill sites, sites for the disposal of hazardous waste, for waste incineration or for the production of energy from waste, but, for the avoidance of doubt, excluding a small scale facility for the recycling or sorting of waste,
- (b) reservoirs for public water supply, waste water plants or sewage treatment plants,
- (c) sludge deposition sites,
- (d) quarries or the extraction of minerals by quarrying, mining or drilling,
- (e) extraction of minerals by marine dredging,
- (f) reclamation of land from the sea,
- (g) non-domestic installations for the production of energy, including, without limitation, installations for marine power

generation and for the harnessing of wind power, but excluding installations for the harnessing of wind power where the development involves the installation of no more than 1 turbine,

- (h) water management projects for agriculture, including irrigation, land drainage projects and the construction of reservoirs for agricultural purposes,
- (i) storage of metals or vehicles for scrap,
- (j) golf courses, and
- (k) airport runways.

SCHEDULE 2

Sections 2(1)(c)(i) and 13(1)

DEVELOPMENT REQUIRING A SCREENING OPINION AS TO WHETHER
OR NOT AN EIA IS REQUIRED

The carrying out of development comprising or providing any of the following -

- (a) any development project, not falling within Schedule 1, including any business parks or industrial estates or retail or leisure development, where the area of the development exceeds 1 hectare,
- (b) construction of roads, harbours and port installations,
- (c) works to provide new coastal and sea defences and reconstruct existing defences,
- (d) any infrastructure project, not falling within Schedule 1 or any other item of this Schedule, which is of island-wide significance,
- (e) any project on, or which may affect, a Ramsar site,
- (f) waste management projects for agriculture,
- (g) installations for the slaughter of animals,
- (h) installations for the storage of natural gas with a capacity of more than 1000 kilogrammes,

- (i) installations for the storage of petroleum, petrochemicals or other hazardous chemicals with a capacity of more than 10,000 litres, and
- (j) any change or extension to any development of a description set out in –
 - (i) Schedule 1, or
 - (ii) paragraphs (a) to (i) of this Schedule,

where planning permission has already been given for that development or that development has already been carried out or is being carried out, and the change or extension may have significant adverse effects on the environment.

SCHEDULE 3

Section 9(3) and (6)

SCOPING OPINIONS

The matters that a Scoping Opinion must include if relevant to the development in question are -

- (a) a summary of any relevant policies in a Plan or Local Planning Brief,
- (b) a description of the sensitivity of the environment on the development site and on land adjoining or adjacent to that site,
- (c) a description of any information which is readily available relating to the environmental impact of the development and a statement as to the reliability and adequacy of that information,
- (d) a list of the principal emissions which are likely to arise,
- (e) the main matters that should be addressed in the EIA,
- (f) an outline of the proposed methodology for collecting information, assessing environmental impacts and

identifying ways of mitigating the effects of those impacts on the environment, and

- (g) a summary of the advice received or comments made to the Department pursuant to section 9(2).

SCHEDULE 4

Sections 3(1) and 6(5)

SCREENING OPINIONS-SCHEDULE 2 OR SECTION 40(5) OR 44(3)
DEVELOPMENT

The matters which the Department shall in particular, consider, are -

- (a) the characteristics of the development and, in particular -
 - (i) its size,
 - (ii) any reasonably foreseeable cumulative environmental effects of the development and of any other activity having an effect in the same area as the development,
 - (iii) its likely use of natural resources and production of waste,
 - (iv) the likely pollution and nuisances arising from the development, and
 - (v) the risk of accidents, having regard in particular to the substances or technologies used,
- (b) the development site and, in particular -
 - (i) the existing use and existing environmental condition of the development site,

- (ii) the abundance, quality and regenerative capacity of natural resources on the development site and on land adjoining or adjacent to it, and
- (iii) the potential vulnerability of any area of land adjoining or adjacent to the development to environmental impacts, and in considering such vulnerability the Department shall in particular consider -
 - (A) the presence of any coastal areas, Ramsar sites or other wetlands, sites of special significance, nature reserves, parks or other landscapes of historical, cultural or archaeological significance situated in that area, and
 - (B) the density of the human population on the development site and on land adjacent or adjoining it,
- (c) the characteristics of the potential environmental impact of the development and, in particular -
 - (i) the extent of that impact both in terms of the area and human population affected,
 - (ii) the scale and complexity of the impact,
 - (iii) the likelihood of any adverse impact occurring, and
 - (iv) the duration, frequency and reversibility of the impact.

SCHEDULE 5

section 13(1)

ENVIRONMENTAL STATEMENTS IN RELATION TO EIA DEVELOPMENT

1. An Environmental Statement must include the following matters -

- (a) a description of the development comprising information on the development site and the design, size and nature of the development,
- (b) the data required to identify and assess the main effects which the development is likely to have on the environment,
- (c) an outline of the main alternatives considered by the applicant or the person minded to carry out the development to the development selected including -
 - (i) where relevant in relation to certain aspects of the development, the option of not carrying out certain parts of the development, and
 - (ii) an indication of the main reasons for the choice of the development selected taking into account the environmental effects of those alternatives, and

- (d) an assessment of the likely significant environmental effects of the development including an assessment of any matters, where relevant, which the Scoping Opinion specifies must be addressed in the EIA and such an assessment must -
 - (i) specify the methodology used in carrying out that assessment,
 - (ii) specify the criteria used for assessing environmental effects,
 - (iii) include a suitable and sufficient assessment of the main significant effects which the development is likely to have on the environment including effects on population, fauna, flora, soil, water, air, climatic factors, material assets (including the architectural and archaeological heritage) and landscape,
 - (iv) specify how it is intended to remedy or mitigate and manage the likely significant adverse effects on the environment and to enhance any likely significant beneficial effects on the environment,
 - (v) specify the likely residual effects on the environment after the likely significant adverse effects are mitigated and managed as set out in sub-item (iv), and

- (vi) specify how the effects on the environment arising from the development are to be monitored when and after the development is carried out,
- (e) a description of any difficulties encountered by the applicant, or person minded to carry out the development, in compiling the information required to prepare the Environmental Statement and in particular any difficulties arising from technical deficiencies or lack of relevant knowledge,
- (f) a glossary of terms used in the Environmental Statement,
- (g) figures illustrating the material set out in the Environmental Statement,
- (h) the following appendices -
 - (i) any studies carried out to enable the Environmental Statement to be compiled, and
 - (ii) a copy of the relevant Scoping Opinion, and
- (i) a non-technical summary of the matters set out in this paragraph.

2. An Environmental Statement must also include such of the following matters as is reasonably required to enable the Department to assess the environmental impact of the development -

- (a) a summary of any relevant policies in a Plan or Local Planning Brief,
- (b) a summary of the planning history of the development site insofar as it is relevant to the effects of the development on the environment.

SCHEDULE 6

Section 13(1)

ENVIRONMENTAL STATEMENTS IN RELATION TO POLICIES IN A PLAN
OR LOCAL PLANNING BRIEF

1. Subject to section 3(3), an Environmental Statement must include the following matters –

- (a) the category of EIA development referred to in the policy by reason of which EIA is required and concise details, in broad terms, of any existing or potential proposals for development within that category,
- (b) where more specific details of the type of development are known, a concise summary of such details in relation to existing proposals for development falling within item (a),
- (c) an assessment of the likely significant environmental effects, including effects on population, fauna, flora, soil, water, air, climatic factors, material assets (including architectural and archaeological heritage) and landscape, of any development identified under item (b) or, if no such development is identified, of a typical development of the type envisaged in the policy,
- (d) the reasons for the choice of policy and the implications of that choice for the environment and of any alternative policy approach including the option of

not having a policy of the kind envisaged,

- (e) matters that should, having regard to the relevant requirements of this Ordinance, be included in an Environmental Statement or any Compliance Document, relating to the category of EIA development referred to in the policy, and
- (f) a non-technical summary of the matters set out in this paragraph.

2. Subject to section 3(3), an Environmental Statement must also include such of the following matters as the Department considers is reasonably required to enable it to assess the environmental impact of the policy –

- (a) details of any information which is readily available concerning any proposals for development falling within paragraph 1(a) or, if no such development is identified, of a typical development of the type envisaged in the policy,
- (b) the Department's view as to the adequacy and reliability of any readily or publicly available information concerning the environmental effects assessed pursuant to paragraph 1(c),
- (c) any assumptions that have been made relating to the nature and scale of the development or the likely significant environmental effects in complying with paragraph 1(d),

(d) any relevant –

(i) national or international standards or guidance,
or

(ii) requirements under applicable legislation,

setting out limits for particular environmental impacts
for the type of development in question and any
criteria adopted for the mitigation of such impacts, and

(e) any criteria adopted for identifying any areas of search
or for selecting any site for the type of development in
question.

The Land Planning and Development (Special Controls) Ordinance, 2007

ARRANGEMENT OF SECTIONS

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The Land Planning and Development (Special Controls) Ordinance, 2007

THE STATES, in pursuance of their Resolutions of the 27th June 2002 and the 26th January 2005^a and in exercise of the powers conferred on them by sections 29(3) and (4), 31(2) and (3), 33(4) to (6), 35(2), 43(5), 81 and 89 of the Land Planning and Development (Guernsey) Law, 2005^b, and of all other powers enabling them in that behalf, hereby order:-

PART I

PROTECTED MONUMENTS AND PROTECTED BUILDINGS

The protected monuments list and the protected buildings list.

1. (1) The protected monuments list and the protected buildings list must be kept at the principal offices of the Department and at the Greffe and made available for inspection at those offices by the public, free of charge and at all reasonable times.

(2) The Department may also keep such lists in electronic form and may make either or both of them available on a website.

(3) In relation to each protected monument or protected building the following information must be included in the relevant list –

^a Billet d'État No. XI of 2002 and Article I of Billet d'État No. I of 2005.

^b Order in Council No. XVI of 2005.

- (a) the date of the entry,
- (b) its name (where applicable) and its address,
- (c) in the case of a protected monument, a plan identifying the location and extent of the area to be regarded as part of the protected monument for the purposes of chapter 1 of Part IV of the Law, and
- (d) in the case of a protected building, a plan identifying the location and extent of the area to be regarded as part of the protected building for the purposes of chapter 2 of Part IV of the Law.

(4) The protected monuments list may also include, in relation to any protected monument, a description of any particular special interest by reason of which it is listed although any such description shall be indicative only and shall not be taken to be an exhaustive description of any relevant special interest.

(5) The protected buildings list may also include, in relation to any protected building, a description of any particular special interest by reason of which it is listed and of any feature which the Department considers it is desirable to preserve although any such description shall be indicative only and shall not be taken to be an exhaustive description of any relevant special interest or of any such feature.

Area to be regarded as part of a protected monument and extent of a protected building.

2. (1) The area to be regarded as part of a protected monument for the purposes of chapter 1 of Part IV of the Law shall include not only the land in or on which it is situated but also any adjoining land which appears to the Department to be necessary for the support or preservation of the monument or for the preservation of its setting.

(2) For the avoidance of doubt, any man-made object or structure fixed to a protected building forms part of that building.

(3) The area to be regarded as part of the protected building for the purposes of chapter 2 of Part IV of the Law shall include not only the land in or on which it is situated but also any land in the vicinity of the protected building which appears to the Department to be necessary for the preservation of any –

(a) man-made object or structure forming part of the land, or

(b) any object not forming part of the building,

and which is of special historic, architectural, traditional or other interest and is associated with the building.

Effect of Listing.

3. (1) For the avoidance of doubt –

(a) the listing of any –

(i) monument, structure, artefact, cave, ruin or other remains in the protected monuments list, or

(ii) building in the protected buildings list,

has effect from the time that the information required to be included under section 1(3) is entered in the list, and

(b) any amendment to an entry on the relevant list shall take effect from the time of that amendment or deletion.

(2) Subject to subsection (3), the listing of any monument, structure, artefact, cave, ruin or other remains as a protected monument or any building as a protected building shall not affect the validity of any planning permission, including in relation to any development which has not been carried out under it, as at the time of listing.

(3) Where, as a result of the listing of any protected monument or protected building, operations constitute development on a basis which did not apply immediately before the listing, including by virtue of such operations –

(a) no longer falling within a description of exempt development, or

(b) falling within section 1 or 2 of the General Ordinance^c,

^c Approved by resolution of the States on 26th September, 2007.

then the development in question may not be carried out without a grant or a further grant of planning permission for the description of development in question, notwithstanding that the development may also fall within another description of development for which there is an extant planning permission and in these circumstances where there is a conflict between the terms of any extant planning permission and the terms of any later planning permission required in accordance with this subsection, the terms of the later planning permission shall take precedence.

Notifications and publicity.

4. (1) As soon as practicable after an entry on the protected monuments list or the protected buildings list is inserted (except by way of inclusion in the list under section 5(1)), amended or deleted the Department shall –

(a) notify the following persons of that fact and include with that notification a copy of the entry in question –

(i) any owner and occupier of the protected monument or protected building in question, and

(ii) any other person appearing to the Department to have an interest in the land comprising the protected monument or protected building in question which may be materially affected by the listing,

(b) place a notice in La Gazette Officielle of that

fact which must also include –

- (i) the name (where applicable) and address of the protected monument or protected building, former protected monument or protected building in question, and
- (ii) brief details of where and when the entry on the relevant register may be inspected.

(2) A notification under subsection (1)(a), in relation to a new or modified entry, must be accompanied by brief particulars of –

- (a) brief particulars of the right of appeal against listing under section 18, and
- (b) brief particulars of the grounds on which, period within which and manner in which such an appeal must be made.

Transition from Register to lists.

5. (1) The Department shall on first preparing –

- (a) the protected monuments list include in it any building, structure or object –
 - (i) included on the Register of Ancient Monuments and Protected Buildings as

maintained by Her Majesty's Greffier under the 1967 Law^d ("**the Register**") immediately before the commencement of chapter 1 of Part IV of the Law, or

- (ii) in respect of which the Department has issued a direction pursuant to section 2(1) of the 1967 Law but which has not been registered in the Register immediately before the commencement of chapter 1 of Part IV of the Law,

and which it considers appropriate to list as a monument, structure, artefact, cave, ruin or remain falling within section 29(1) of the Law,

- (b) the protected buildings list include therein any building, structure or object –

- (i) included on the Register immediately before the commencement of Chapter 2 of Part IV of the Law, or

- (ii) in respect of which the Department has issued a direction pursuant to section 2(1) of the 1967 Law but which has not been registered in the

^d Ordres en Conseil Vol. XXI p. 219.

Register immediately before the commencement of chapter 2 of Part IV of the Law,

and which it considers is appropriate to list as a building falling within section 33(1) of the Law.

(2) As soon as practicable after any building, structure or object is included in the protected monuments list or the protected buildings list pursuant to subsection (1), the Department shall notify the following persons of that fact and include with that notification a copy of the entry in question –

- (a) any owner and occupier of the protected monument or protected building in question, and
- (b) any other person appearing to the Department to have an interest in the land comprising the protected monument or protected building in question which may be materially affected by the listing.

(3) A notification under subsection (2) must be accompanied by brief particulars of –

- (a) the right of appeal against listing under section 18, and
- (b) the grounds on which, period within which and manner in which such an appeal must be made.

Consultation with experts.

6. (1) The Department may consult in writing with any person or

body who reasonably appears to the Department to have appropriate expertise where the Department is –

- (a) preparing and keeping under review the protected monuments list or the protected buildings list,
- (b) deciding whether or not to insert, amend or delete an entry on the protected monuments list or the protected buildings list, or
- (c) deciding whether or not to serve a preservation notice,

and the Department shall in carrying out the function in question take into account any written representations received from that person or body, within, where relevant, any period specified by the Department pursuant to subsection (2).

(2) Where the Department consults a person or body pursuant to subsection (1), it may require in writing that any representations are made to it within a specified period of not less than 14 days beginning with the date on which the Department first consulted that person or body in relation to the matter in question.

(3) Where the Department takes into account written representations made under this section and such representations were material to its decision it must send a copy of such representations with –

- (a) any notification of a new or modified entry on the protected buildings list or the protected monuments list

under section 4,

- (b) any notification of its decision to include a building, structure or object on the protected monuments list or the protected buildings list under section 5(2), and
- (c) any preservation notice served on a owner of a protected building or protected monument pursuant to section 7.

Preservation notices.

7. (1) If it appears to the Department that any works are urgently necessary to –

- (a) preserve or protect a protected monument or protected building, or
- (b) prevent the deterioration of a protected monument or protected building,

it may serve a notice, specifying the matters set out in subsection (3), on the owner requiring him to carry out such works ("**a preservation notice**").

(2) The Department must, within 7 days beginning with the date of service of the preservation notice, serve a copy on the occupier of the land, if he is not its owner, and on any other person appearing to the Department to have an interest in that protected monument or protected building, as the case may be, which is materially affected by the notice.

(3) A preservation notice must –

- (a) identify the protected monument or protected building to which it relates (by means of a plan or otherwise),
- (b) specify why the Department considers that works are urgently necessary to preserve or protect the protected monument or protected building or to prevent its deterioration,
- (c) specify the works the Department requires the owner to carry out to preserve or protect the protected monument or protected building or to prevent its deterioration,
- (d) specify the period within which the Department requires the works to be carried out (which may differ where more than one lot of works is required),
- (e) specify that there is a right of appeal to the Planning Tribunal against the notice under section 19,
- (f) give brief particulars of the grounds on which, period within which and manner in which an appeal must be made, and
- (g) specify that a failure by the owner to carry out any of the works specified in the notice within

the relevant period required is an offence in accordance with section 8.

Contravention of preservation notice.

8. (1) If any works required to be carried out by a preservation notice are not carried out within the relevant period specified in the notice, the owner of the protected monument or protected building in question, is guilty of an offence.

(2) It is a defence for a person charged with an offence under this section to prove that he took all reasonable steps to secure compliance with the notice.

(3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the uniform scale.

Execution and costs of works required by preservation notice.

9. Section 50(1) to (5) of the Law (execution and cost of works required by compliance notice) shall apply in relation to works required to be carried out by a preservation notice and not carried out within the period required for the works in question as it applies to measures required to be taken by a compliance notice and not taken within the compliance period.

Reporting and recording of finds.

10. (1) This section applies where any person finds an object –

(a) of archaeological or historic significance and the find –

(i) is made at a protected monument or in the vicinity of such a monument, or

- (ii) is made elsewhere and is likely to be material in determining whether any monument, structure, artefact, cave, ruins or remains become a protected monument or any site is designated as a site of special significance,

- (b) of historic significance and the find –

- (i) is made at a protected building or in the vicinity of such a building, or
- (ii) is made elsewhere and is likely to be material in determining whether any building becomes a protected building.

- (2) The person making the find shall –

- (a) inform the Department in writing, within a period of 28 days, beginning with the date the find was made, of the nature of the object and the precise place at which it was found,
- (b) where required in writing by the Department –
 - (i) give the Department such further information as it may require, and
 - (ii) produce the object to the Department.

(3) The Department shall copy any information received by it pursuant to subsection (2) to the Culture and Leisure Department and keep a record in writing of such information.

(4) A person who contravenes subsection (2) is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the uniform scale.

PART II

TREE PROTECTION ORDERS

Content of order.

11. A tree protection order must contain or have annexed to it a map indicating the position of the tree, group or area of trees or woodlands to which the order relates and where the map is annexed to an order it shall be treated as part of the order.

Provisional effect of order.

12. An order taking effect under section 43(3) of the Law shall take effect for a period of six months from the date it is made and, thereafter, shall only continue in force if confirmed by the Department in accordance with section 15.

Procedure after making an order.

13. (1) As soon as practicable after making a tree protection order, the Department shall –

- (a) place a copy of the order on the register of tree protection orders kept in accordance with section 17,
- (b) serve on any –

- (i) owner and occupier of the land affected by the order, and
- (ii) other person appearing to the Department to have an interest in the land which may be materially affected by the order,

a copy of the order and a notice containing the matters set out in subsection (2).

- (c) place a notice in La Gazette Officielle setting out –
 - (i) that a tree protection order has been made and specifying the protected tree in relation to which it was made,
 - (ii) that a copy of the order is available for inspection at the principal offices of the Department, free of charge, at all reasonable times, and
 - (iii) the period within which objections and representations in respect of the order can be made.

(2) The matters referred to in subsection (1)(b) are –

- (a) a summary of the effect of the order including of –

- (i) the operations which constitute development for which planning permission is required where carried out in relation to a protected tree and the additional material considerations to which the Department must have regard in determining an application for such permission, and
 - (ii) development in relation to a protected tree which is exempt development for which planning permission is not required,
- (b) a statement that objections and representations with regard to any protected tree to which the order relates may be made to the Department in accordance with section 14, and
- (c) a copy of section 14.

Objections and representations.

14. (1) Objections and representations in relation to the making of a tree protection order must be made to the Department in writing within a period of 28 days beginning with the date of service of the notice under section 13(1)(b) and –

- (a) must specify the protected tree in relation to which they are made, and

- (b) in the case of objections, must include the reasons for the objections.

Procedure for confirmation of a tree protection order.

15. (1) The Department must consider any objections and representations duly made under section 14 and not withdrawn in deciding whether to –

- (a) confirm the tree protection order, with or without modifications, in which case it shall continue in effect beyond the provisional six month period unless and until revoked by a further order of the Department, or
- (b) make a further order revoking the tree protection order.

(2) Where an order is confirmed it shall be endorsed to that effect and the endorsement shall also indicate –

- (a) that the order was confirmed with or without modifications, as the case may be, and
- (b) the date on which it was confirmed.

(3) Where an order is confirmed with modifications, the modifications shall be indicated in the order by a distinctive type or other means.

(4) Where the Department revokes an order, it shall, as soon as practicable endorse the order with a statement to that effect and with the date of its

decision.

Notification of decision in respect of tree protection order.

16. (1) The Department must notify the following persons of any decision made under section 15 (1) –

- (a) any owner and occupier of the land affected by the order,
- (b) any other person appearing to the Department to have an interest in the land which may be materially affected by the order, and
- (c) any person who made duly made objections or representations concerning the tree protection order that were not withdrawn,

and, where an order is confirmed with modifications, send with the notice a copy of the order as modified and confirmed.

Register of tree protection orders.

17. (1) The Department shall prepare and maintain a register of tree protection orders which must contain –

- (a) a copy of any tree protection order in force, and
- (b) a copy of any order revoking a tree protection order.

(2) Where a tree protection order is endorsed or modifications are indicated on it pursuant to section 15(2) to (4), the copy of the order on the register

must be replaced with a copy of the order as so endorsed or endorsed and modified.

(3) The register must be kept at the principal offices of the Department and made available for inspection by the public free of charge at all reasonable times.

PART III APPEALS

Appeals against listing.

18. (1) Where the Department insert (including by way of inclusion in the list under section 5(1)) or amend an entry on the protected monuments list, any person who the Department is required to notify of that fact under section 4 or 5(2) may, subject to subsection (2), appeal to the Planning Tribunal on the ground –

- (a) that the protected monument has no special interest,
- (b) that land regarded as part of the protected monument is more than is necessary for its support or preservation or for the preservation of its setting,
- (c) that the entry is in any material respect factually incorrect, or
- (d) that the insertion or amendment of the entry was (for any other reason) ultra vires or unreasonable.

(2) No appeal lies against a listing under section 5(1)(a) except –

- (a) on a ground falling within subsection (1)(b) or (c) in

respect of a material difference in the entry on the protected monuments list from the corresponding entry on the Register, or

- (b) on the ground that the building, structure or object should have been listed on the protected buildings list instead.

(3) Where the Department insert or amend an entry on the protected buildings list (including by way of inclusion in the list under section 5(1)), any person who the Department are required to notify of that fact under section 4 or 5(2) may, subject to subsection (4), appeal to the Planning Tribunal on the ground –

- (a) that the protected building has no special interest,
- (b) that land regarded as part of the protected building is more than is necessary to protect–
 - (i) any man-made object or structure forming part of the land in the vicinity of the building, or
 - (ii) an object not forming part of the building,
- (c) that the entry is in any material respect factually incorrect, or
- (d) that the insertion or amendment of the entry was (for any other reason) ultra vires or unreasonable.

- (4) No appeal lies against a listing under section 5(1)(b) except –

- (a) on a ground falling within subsection (3)(b) or (c) in respect of a material difference in the entry on the protected buildings list from the corresponding entry on the Register, or
- (b) on the ground that the building, structure or object should have been listed on the protected monuments list instead.

Appeals against preservation notices.

19. Any owner of land on whom a preservation notice is served may appeal to the Planning Tribunal on the ground –

- (a) that any works specified in the notice are not urgently necessary to preserve or protect, or prevent the deterioration of, the protected monument or protected building in question,
- (b) that the period specified in the notice for carrying out any such works is unreasonably short, or
- (c) that the issue of the notice was (for any other reason) ultra vires or unreasonable.

Appeal to Royal Court against decision of Department to confirm a tree protection order.

20. (1) A person aggrieved by a decision of the Department to confirm a tree protection order under section 15(1)(a) may appeal to the Royal Court on a question of law.

(2) An appeal on a question of law shall, with the leave of the Royal Court or the Court of Appeal, lie to the Court of Appeal from any decision of the Royal Court under this section.

(3) Section 74 of the Law (review proceedings: rules of court) shall apply to an appeal to the Royal Court under this section as it applies to an appeal to the Royal Court under section 72 of the Law.

Making of appeals under section 18 or 19.

21. An appeal under section 18 or 19 must be made –

- (a) within a period of 28 days beginning with the date on which –
 - (i) in the case of an appeal against listing, the appellant was notified under section 4 or 5(2), or
 - (ii) in the case of an appeal against a preservation notice, the notice was served on the appellant under section 7(1),
- (b) by notice served on the Minister of the Department stating the grounds and material facts on which the appellant relies; and the Department shall immediately transmit the notice to the Chairman of the Planning Panel to enable him (or, if he is unavailable, the Deputy Chairman) to appoint, from the membership of the Panel, the members of the Planning Tribunal to

hear and determine the appeal, and

- (c) in accordance with other relevant requirements set out in the Land Planning and Development (Appeals) Ordinance, 2007^e.

PART IV MISCELLANEOUS

Interpretation.

22. (1) In this Ordinance, unless the context requires otherwise –

"1967 Law" means the Ancient Monuments and Protected Buildings (Guernsey) Law, 1967,

"Chairman of the Planning Panel" means the person who is designated, from time to time, as the Chairman of the Planning Panel pursuant to section 86(3)(c) of the Law,

"Department" means the States of Guernsey Environment Department,

"Deputy Chairman" means the person who is designated, from time to time, as the Deputy Chairman of the Planning Panel pursuant to section 86(3)(d) of the Law,

"development" shall be construed in accordance with section 13(1)

^e Approved by resolution of the States on the 26th September, 2007.

of the Law and Part I of the General Ordinance,

"Development Plan" means a current adopted plan prepared pursuant to sections 8 and 11 of the Law including any current adopted amendment thereto,

"Exempt development" means development –

- (a) specified in the Schedule to the Land Planning and Development (Exemptions) Ordinance, 2007^f, or
- (b) falling within section 6 of the General Ordinance,

"feature" in relation to a protected building includes anything falling within section 2(2) and paragraphs (a) and (b) of section 2(3),

"General Ordinance" means the Land Planning and Development (General Provisions) Ordinance, 2007,

"the Law" means the Land Planning and Development (Guernsey) Law, 2005,

"Local Planning Brief" means a current adopted brief prepared pursuant to sections 10 and 11 of the Law including any current adopted

^f Approved by resolution of the States on the 26th September, 2007.

amendment thereto,

"notice" means notice in writing,

"notify" means notify in writing,

"Plan" means a Development Plan or a Subject Plan,

"Planning Panel" means the Panel established under section 86 of the Law,

"Planning permission" means the permission which is required under section 14 of the Law for the carrying out of any development of land,

"Planning Tribunal" means the Tribunal the members of which are appointed under section 87 of the Law to hear and determine an appeal under the Law,

"preservation notice" shall be construed in accordance with section 7(1),

"protected building" means a building, or any part of a building, which is of special historic, architectural, traditional or other interest and which is listed on the protected buildings list,

"protected buildings list" means the list of protected buildings prepared, maintained, and kept under review by the Department under section 33(1) of the Law,

"protected monument" means a monument, structure, artefact,

cave, ruin or remains which are of archaeological, historic, traditional, artistic or other special interest and which is listed on the protected monuments list,

"protected monuments list" means the list of protected monuments prepared, maintained and kept under review by the Department under section 29(1) of the Law,

"protected tree" means any tree, group or area of trees or woodlands in relation to which a tree protection order has been made,

"Register" shall be construed in accordance with section 5(1)(a)(i),

"relevant list" means, in relation to a protected monument, the protected monuments list and, in relation to a protected building, the protected buildings list,

"site of special significance" means an area which is identified in a Plan or Local Planning Brief as having special significance (whether because of archaeological, botanical, geological, scientific, cultural, zoological or any other interest) and which it is desirable to preserve, enhance or manage by the application of the special provisions in Chapter 4 of Part IV of the Law,

"Subject Plan" means a current adopted plan prepared pursuant to sections 9 and 11 of the Law including any current adopted amendment thereto,

"tree protection order" means an order made under section 43(1) of the Law for the protection of any tree, group or area of trees or woodlands,

"under the Law" includes provisions made under the Law,

and other terms used in this Ordinance which are not defined in it but are defined in the Law shall have the same meaning as in the Law.

(2) Any reference in this Ordinance to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Amendment of the Law.

23. (1) The Law shall be amended as follows.

(2) In the arrangement of sections, after the entry relating to section 45 insert -

CHAPTER 5A
GLASSHOUSE LAND ETC.

45A. Glasshouse land etc."

(3) In sections 31(2)(c) and 35(2)(c), which make provision for the execution of works for the protection and preservation of protected monuments and protected buildings respectively, at the end add –

"and for appeals in connection with such provisions including matters corresponding to provision made by or under Part VI or VIII of this Law".

(4) In section 33(6)(c) (provision for appeals against listing of a

protected building), for the words "Part VI" substitute "Part VI or VIII".

(5) In sections 38(1) (general functions of authorities as respects conservation areas) and 40(1) (control of development, etc. on sites of special significance) of the Law, for the words "any powers" substitute "any functions".

(6) For section 43(5) (Ordinance making powers in relation to tree protection orders) substitute the following subsection –

" (5) The States may, by Ordinance under this subsection, make such provision as they think fit in relation to tree protection orders, including, without limitation, provision in relation to –

- (a) the matters to be taken into account in determining what is in the interests of amenity under subsection (1),
- (b) the publicity to be given to the making of such orders,
- (c) the duration of such orders,
- (d) the making of objections to the making of such orders, and
- (e) appeals against the making or confirmation of such orders (including matters corresponding to provision made by or under Part VI or VIII of this Law)."

(7) After section 45 insert the following chapter -

*"CHAPTER 5A
GLASSHOUSE LAND ETC.*

Glasshouse land etc.

45A. In this Law and in any Plan or Brief, land of the following descriptions, except for land used as a garden (other than a market garden) shall be treated as land used for agriculture –

- (a) land used or, with the application of good husbandry, capable of being used, for –
 - (i) dairy farming,
 - (ii) production, rearing or maintenance of livestock, or
 - (iii) market gardening or the outdoor cultivation of flowers, bulbs or nursery stock,
- (b) land which is covered by a glasshouse, or
- (c) land which was covered by a glasshouse and falls within paragraph (a).".

(8) In section 46(2) and (5), for the words "Chapters 1 to 5" substitute "Chapters 1 to 6".

(9) In Schedule 2 (interpretation), in the definition of "**protected buildings**" after the words "means buildings" insert ", or any parts of buildings,".

Citation.

24. This Ordinance may be cited as the Land Planning and Development (Special Controls) Ordinance, 2007.

Commencement.

25. This Ordinance shall come into force on the same date as the Law.

The Land Planning and Development (Use Classes) Ordinance, 2007

THE STATES, in pursuance of their Resolutions of the 27th June 2002 and the 26th of January 2005^a, and in exercise of the powers conferred on them by sections 13(4) and (6) and 89 of the Land Planning and Development (Guernsey) Law, 2005^b and of all other powers enabling them in that behalf hereby order:-

Use Classes.

1. (1) Any numbered class of use identified in the Schedule is hereby prescribed as a use class for the purposes of the Law and for the purposes of any description used in the Strategic Land Use Plan and any Plan or Local Planning Brief.

(2) Subject to sections 2 to 4, where a building or other land is used for a purpose of any numbered class specified in the Schedule, the use of that building or other land for any other purpose of the same numbered class shall not be taken to constitute development.

(3) References in subsection (2) to a building include references to land occupied with the building and used for the same purposes.

Ancillary and incidental uses.

2. Subject to section 4(4), where the principal use of any premises falls within a use class any other use of those premises (or of adjacent premises used as part of the same undertaking) for a purpose which is ancillary or ordinarily

^a Billet d'État No. XI of 2002 and Article I of Billet d'État No. I of 2005.

^b Order in Council No. XVI of 2005.

incidental to that principal use is to be regarded as also falling within that use class, notwithstanding that such other use might (if carried on independently of the principal use) have fallen within a different use class.

Minor uses.

3. Subject to section 4(4), where the principal use of any premises falls within a use class, any other insignificant, temporary or occasional use of those premises is to be regarded as also falling within that use class –

- (a) unless that other use has material effects, having regard to the matters set out in section 13(1)(a), (d), (e) and (i) of the General Ordinance^c as though that section referred to the likely effect of that use, and
- (b) notwithstanding that it might (if carried on at a significant, permanent or frequent level) have fallen within a different use class.

Uses falling outside use classes.

4. (1) For the avoidance of doubt, if a change is made between two uses, and one or both of those uses does not fall within a use class, that change of use constitutes development within the meaning of the Law only if it is a material change.

(2) Where premises are used for a mixture of uses that do not fall within one use class so that there is no principal use ("mixed use"), then any of the uses comprising that mixed use shall be regarded as not falling within any use class, notwithstanding that any such use might (if carried out independently of the other

^c Approved by resolution of the States on 26th September, 2007.

uses) have fallen within a specified use class.

(3) Subject to sections 2 and 3, no use class specified in the Schedule includes use -

- (a) for the sale of fuel for motor vehicles or boats,
- (b) as a taxi business,
- (c) as a betting office,
- (d) as a funeral parlour or for the business of a funeral director or undertaker,
- (e) as a veterinary clinic or for the boarding of animals,
- (f) as an abattoir or a knacker's yard,
- (g) for the sale, or display for sale or hire, of motor vehicles, or
- (h) as a casino.

(4) No use class specified in the Schedule includes use for the accommodation of people in tents on a commercial basis including, notwithstanding sections 2 and 3 -

- (a) where such use is ancillary or ordinarily incidental to the principal use of the premises in question, or

- (b) where such use is an insignificant, temporary or occasional use which would fall within the principal use class on the premises in question pursuant to section 3.

Interpretation.

5. (1) In this Ordinance, unless the context requires otherwise -

"animals" includes birds, fish, insects and reptiles,

"art gallery" means premises used for the public display of works of art for their appreciation and not for their sale,

"boarding permit" means a permit granted by the States of Guernsey Commerce and Employment Department under and for the purposes of the Tourist Law, 1948^d,

"care" means personal care for people in need of such care by reason of age, disablement, past or present dependence on alcohol or drugs, or past or present mental disorder,

"day centre" means premises which are visited during the day for social or recreational purposes or for the purposes of rehabilitation or occupational training, at which care is also provided,

"Department" means the States of Guernsey Environment Department,

^d Ordres en Conseil Vol. XIII, p. 329 as amended by Vol. XXI, p. 104, XXVIII, p. 275 and Order in Council No. XI of 1998.

"development" shall be construed in accordance with section 13(1) of the Law and Part I of the General Ordinance,

"Development Plan" means a current adopted plan prepared pursuant to sections 8 and 11 of the Law including any current adopted amendment thereto,

"dwelling" means a building or part of a building designed for human habitation, and includes any land within the curtilage of that building,

"flat" means a self contained dwelling comprising part of a building and lying wholly or partly above or below some other part of that building,

"food" includes drinks,

"garden centre" means premises used as a plant centre and for all of the following uses -

- (a) the retail sale of any other goods associated with plants and gardening,
- (b) the offering of services related to gardening to the public,
- (c) the holding on an occasional basis of fairs and other events related to gardening,

"general industrial purpose" means an industrial purpose which is

not a light industrial purpose or a special industrial purpose and does not fall within use classes 39 or 41 to 43,

"General Ordinance" means the Land Planning and Development (General Provisions) Ordinance, 2007,

"household" means -

- (a) a person living alone,
- (b) any number of people living together as a family, or
- (c) up to six people living together as a single household,

"industrial purpose" means the carrying on of any process, including data processing for, or incidental to, any of the following purposes, namely -

- (a) the making of any article or of part of any article (including a ship or vessel, or a film, video, Compact Disc, Digital Versatile Disc or sound recording),
- (b) the altering, repairing, maintaining, decorating, finishing, cleaning, washing, packing, canning, adapting for sale, breaking up or destruction of any article,
- (c) the dressing of stone, being a process carried on in the course of a trade or business other than agriculture,

"the Law" means the Land Planning and Development (Guernsey) Law, 2005,

"light industrial purpose" means any industrial purpose which is not a special industrial purpose and does not fall within use classes 39 or 41 to 43, where the processes carried on and the machinery installed are such as could be carried on or installed in any residential area without detriment to the amenity of that area for any reason including by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit, artificial lighting or discharge of solid or liquid substances,

"Local Planning Brief" means a current adopted brief prepared pursuant to sections 10 and 11 of the Law including any current adopted amendment thereto,

"lodging house" means a dwelling in which one or more rooms are occupied by people other than the owner or principal tenant, under contract of tenancy or lodgement or other similar arrangements, but does not include any premises in respect of which a boarding permit is for the time being in force,

"nursing home" means premises used for the accommodation and nursing of people suffering from sickness, injury or infirmity,

"Plan" means a Development Plan or a Subject Plan,

"plant centre" means premises used for the retail sale of plants and goods used in relation to the growing and care of plants,

"premises" includes buildings and any other land,

"the public" includes any section of the public,

"retail trade or business" means the trade or business of -

- (a) selling goods other than hot food,
- (b) a post office,
- (c) selling tickets or of a travel agency,
- (d) selling cold food for consumption off the premises,
- (e) hairdressing,
- (f) displaying goods for sale,
- (g) hiring out domestic or personal goods or articles, or
- (h) receiving goods to be washed, cleaned or repaired, to, from, or for, visiting members of the public,

"special industrial purpose" means an industrial purpose, not falling within use classes 39 or 41 to 43 -

- (a) which falls within the following subparagraphs -
 - (i) extraction, grinding, crushing or screening of minerals in bulk,

- (ii) breaking vehicles, crushing or baling scrap metal,
 - (iii) recovering metal from scrap, or
 - (iv) power-hammering, power-forging, riveting, panel beating or similar metal working activities, or
- (b) where the processes carried on and the machinery installed are such as could not be installed or carried on in any residential area without causing a serious detrimental effect to the amenity of that area for any reason including by reason of noise, vibration, smell, fumes, smoke, ash, dust or grit, artificial lighting or discharge of any solid or liquid substances,

"Strategic Land Use Plan" means the Plan which is the current Strategic Land Use Plan pursuant to sections 4 and 5 of the Law including any current adopted amendment thereto,

"Subject Plan" means a current adopted plan prepared pursuant to sections 9 and 11 of the Law including any current adopted amendment thereto,

"use class" shall be construed in accordance with section 1(1),

"visitor attraction" means any premises used to provide entertainment, interest or education to the public and which are -

- (a) established on a permanent basis, and
- (b) open to the public without prior booking for published periods during the year,

"waste" includes -

- (a) scrap material, effluent or other unwanted surplus arising from any process, and
- (b) anything which requires to be disposed of as being broken, worn out, contaminated, spoiled or redundant,

and other terms used in this Ordinance which are not defined in it but are defined in the Law shall have the same meaning as in the Law.

(2) A reference in this Ordinance to a use class followed by a number is a reference to the use class of that number identified in the Schedule.

(3) Any reference in this Ordinance to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Repeal.

6. The Island Development (Use Classes) Ordinance, 1991^e and the

^e Recueil d'Ordonnance, Vol. XXV, p. 240 as amended by Ordinance No. VI of 2000.

Island Development (Sheltered Housing Use Class) Ordinance, 2000^f are hereby repealed.

Citation.

7. This Ordinance may be cited as the Land Planning and Development (Use Classes) Ordinance, 2007.

Commencement.

8. This Ordinance shall come into force on the same date as the Law.

^f Ordinance No. VI of 2000.

SCHEDULE

Section 1(1)

USE CLASSES

Residential use classes

Residential use class 1:	<p>Use, other than a use falling within use classes 2 to 4, of -</p> <p>(a) a detached dwelling, or</p> <p>(b) one of a pair or one of a group of dwellings sharing common dividing walls or linked by garages,</p> <p>as a permanent residence for one household.</p>
Residential use class 2:	Use, other than a use falling within use class 1, 3 or 4, of a flat as a permanent residence for one household.
Residential use class 3:	Use of one of a group of dwellings affording facilities specially suited to the needs of older or disabled people, including the on-call assistance of a resident or nearby warden -

	<p>(a) as a permanent residence for a person living alone who, or</p> <p>(b) as a permanent residence for two persons living together of whom at least one,</p> <p>has either attained an age of 55 years, or requires access to those facilities because of his disability.</p>
Residential use class 4:	<p>Use of any dwelling principally as a permanent residence for one household but also, by a member of that household, for professional or business purposes or retail trade or business and carried on in not more than two rooms but which does not involve -</p> <p>(a) storage of hazardous or odorous materials,</p> <p>(b) a use falling within use classes 39 or 41 to 43 or for any general or special industrial purpose, or</p> <p>(c) any other use which could</p>

	not be carried on without material detrimental effects on a neighbouring property.
Residential use class 5:	Use of a dwelling, other than a use falling within use classes 6 to 9, as a permanent residence for more than one household.
Residential use class 6:	Use as a lodging house.
Residential use class 7:	Use as a hospital.
Residential use class 8:	Use as a nursing home or as a residential establishment for the provision of accommodation and care, other than a use falling within use classes 3 or 4.
Residential use class 9:	Use as a residential school, college or training centre.

Visitor Economy use classes

Visitor economy use class 10:	Use in accordance with a boarding permit of a guest house or private hotel, other than a use falling within use class 11.
Visitor economy use class 11:	Use in accordance with a boarding permit of an hotel licensed for the supply of intoxicating liquor to non-residents.
Visitor economy use class 12:	Use for the accommodation of people, other than a use falling within use classes 1 to 11, including use primarily

	for the accommodation of visitors on a self-catering basis (whether or not the premises are served by communal facilities).
Visitor economy use class 13:	<p>Use as a visitor attraction other than -</p> <ul style="list-style-type: none"> (a) a use for a retail trade or business falling within use class 14, (b) a use as a theatre or cinema falling within use class 28, or (c) a use falling within use class 29.

Retail use classes

Retail use class 14:	<p>Any retail trade or business use, not falling within use classes 15 to 20, the purpose of which is to -</p> <ul style="list-style-type: none"> (a) sell or display goods for retail sale, or (b) offer services, <p>to the public.</p>
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Retail use class 15:	Sale of food for consumption on the premises.
Retail use class 16:	Sale of hot food for consumption off the premises.
Retail use class 17:	Use as a launderette.
Retail use class 18:	Use as a plant centre.
Retail use class 19:	Use as a garden centre.
Retail use class 20:	Sale, or display for sale, to visiting members of the public of live animals.

Administrative, financial and professional services

Administrative, financial and professional services use class 21:	Use for providing professional or financial services to visiting members of the public.
Administrative, financial and professional services use class 22:	Use as an administrative office for any purpose, other than a use falling within use classes 21 or 23.
Administrative, financial and professional services use class 23:	Use for the temporary relocation of an administrative office in the event of an emergency.

Public amenity use classes

Public amenity use class 24:	Use of any premises – (a) for the provision of non-residential medical or health services, or
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	<p>(b) as a crèche or childrens' day nursery, or</p> <p>(c) as a day centre.</p>
Public amenity use class 25:	Use as a non-residential educational establishment or training centre.
Public amenity use class 26:	Use of any premises as a museum, public archive, art gallery, library or reading room.
Public amenity use class 27:	<p>Use as a place -</p> <p>(a) of public assembly, or</p> <p>(b) of public worship or for the social and recreational activities of a religious body.</p>
Public amenity use class 28:	<p>Use as a -</p> <p>(a) commercial exhibition hall or conference centre, or</p> <p>(b) theatre, cinema or concert hall.</p>
Public amenity use class 29:	<p>Use as a commercial -</p> <p>(a) gymnasium or sports hall,</p>

	<p>or</p> <p>(b) fitness centre or health suite.</p>
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Storage/Distribution use classes

Storage/Distribution use class 30:	Use, not falling within use classes 31 to 36, for the commercial storage of any goods.
Storage/Distribution use class 31:	Use for cooled or refrigerated storage exceeding 10 cubic metres.
Storage/Distribution use class 32:	Use, not falling within use class 36, for storage of solid fuels, building materials or non-hazardous materials.
Storage/Distribution use class 33:	Use for storage or parking of motor vehicles.
Storage/Distribution use class 34:	<p>Use for -</p> <p>(a) the transfer of goods, or</p> <p>(b) for the distribution of goods in connection with their commercial storage.</p>
Storage/Distribution use class 35:	Use for data and archive storage in any form relating to a business carried out elsewhere.
Storage/Distribution use class 36:	Use for storage of hazardous, odorous,

	putrescible or offensive material, of noxious organic material or of leather, hide or skin.
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Industrial use classes

Industrial use class 37:	Use for any light industrial purpose.
Industrial use class 38:	Use for any general industrial purpose.
Industrial use class 39:	Use of buildings, other than use falling within use class 17, for cleaning, laundering or drying of clothes or fabrics.
Industrial use class 40:	Use for any special industrial purpose.
Industrial use class 41:	Use for the production or processing of any article or substance which may in any reasonably foreseeable circumstances be hazardous, or present a risk to public health or safety.
Industrial use class 42:	Use, other than use falling within use class 43, for the sorting, treatment, baling, disposal or transfer of putrescible or inert waste.
Industrial use class 43:	Use for processing putrescible or offensive material or noxious organic material including - (a) tanning or dressing leather, hide or skin,

	<p>(b) curing fish, or</p> <p>(c) composting carried out on a commercial basis or on a large scale.</p>
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Agricultural use class

Agricultural use class 44:	Use of land for agriculture, horticulture or forestry (including afforestation), including, for the avoidance of doubt, use for any of those purposes of any building occupied together with land so used.
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The Land Planning and Development (Enforcement) Ordinance, 2007

THE STATES, in pursuance of their Resolutions of the 27th June 2002 and of the 26th January 2005^a, and in exercise of the powers conferred on them by sections 47(3), 48(5), 49, 53, 61(2), 81 and 89 of the Land Planning and Development (Guernsey) Law, 2005^b, and of all other powers enabling them in that behalf, hereby order:-

Contents of challenge notice.

1. (1) A challenge notice must specify the following matters in addition to the information required to be given to the Department –

- (a) that it is served under section 47 of the Law,
 - (b) the matters which appear to the Department to constitute the suspected breach of planning control including any –
 - (i) condition of a planning permission, or
 - (ii) requirement of building regulations,
- in respect of which the breach is suspected,

^a Billet d'État No. XI of 2002 and Article I of Billet d'État No. I of 2005.

^b Order in Council No. XVI of 2005.

- (c) the land to which it relates (by means of a plan or otherwise), and
- (d) that a failure by a person on whom the notice is served to comply with any requirement of the notice within 21 days beginning with its date of service is an offence in accordance with section 58 of the Law.

(2) For the avoidance of doubt, where it appears to the Department that any requirement of the building regulations may not have been complied with, a challenge notice may require such information to be given which would necessitate the opening up of building work.

Contents of compliance notice.

2. A compliance notice must specify the following matters in addition to those set out in section 49(1) of the Law –

- (a) that it is issued under section 48(1) of the Law,
- (b) that there is a right of appeal to the Planning Tribunal against the notice under section 70(1) of the Law,
- (c) brief particulars of the grounds on which, period within which and manner in which an appeal must be made, and
- (d) that if any measure required by the notice is not taken within the compliance period -
 - (i) every person on whom it is served, and

- (ii) every person who is the owner of the land, after the expiry of that period and whilst the failure to take such measure continues,

will commit an offence under section 59 of the Law.

Modification of section 48(4) of the Law.

3. (1) Section 48(4) (when a compliance notice may be issued) of the Law shall be modified –

- (a) where an alleged breach relates to any development, other than a material change of use, so that the period of 10 years in paragraph (a) reads "4 years", and
- (b) where an immunity certificate has been issued in accordance with the following provisions of this section, so that no action may be taken under Part V of the Law, as a consequence of the issuing of a compliance notice, in respect of land to which the certificate relates where such action is -
 - (i) in respect of a breach occurring on or before the date of the certificate; and
 - (ii) against the persons on whom the certificate confers immunity.

(2) In connection with the purchase of any land, a purchaser may apply to the Department for an immunity certificate in relation to that land.

(3) An application for an immunity certificate must be –

- (a) made on a form supplied by the Department and include the particulars specified on that form which shall include a declaration as to whether or not he has been, in the last 4 years, an owner, occupier or person with an interest in the land in question, and
- (b) accompanied by such fee as the Department may by Regulations prescribe.

(4) Upon receipt of an application complying with subsection (3), the Department must, as soon as practicable, search –

- (a) the register of enforcement notices, and
- (b) subject to subsection (9), any file of the Department relating to the land in question which is relevant to the taking or potential taking of action under Part V of the Law.

(5) Where the Department is satisfied, after carrying out such a search that, subject to subsections (6) and (7), it has not taken and is not considering taking, any action under Part V of the Law in relation to the land it must issue an immunity certificate.

(6) Where the Department is satisfied that all relevant breaches or suspected breaches in relation to which action under Part V of the Law has or might be taken have been remedied, it must issue an immunity certificate.

(7) For the avoidance of doubt, the Department may, in considering whether or not it is satisfied of the matters in subsection (5), carry out an inspection of the land or take any other action that it may take under the Law to ascertain whether there has been a breach of planning control.

(8) An immunity certificate shall –

- (a) identify the land to which it relates,
- (b) have effect from its date of issue,
- (c) confer immunity on –
 - (i) the applicant, and
 - (ii) any person who is the occupier or has an interest in the land who –
 - (A) becomes such on or after the date of issue of the certificate, and
 - (B) who has not been such or the owner of the land at any time within a period of four years before the date of issue of the certificate,

in respect of any action which may be taken under Part V of the Law, as a consequence of the issuing of a compliance notice, in relation to any breaches or

suspected breaches in relation to the land in question which occurred on or before its date of issue,

but, for the avoidance of doubt, shall not prevent the Department taking action under the repealed enactments (in respect of a breach of planning control occurring before the date of commencement of Part V of the Law) in accordance with section 48(8) of the Law.

(9) In searching any file of the Department under subsection (4)(b) the Department shall –

- (a) notwithstanding section 93(6) of the Law, not be required to search any file relating to any action under the repealed enactments,
- (b) be required to search any file relating to action under Part V of the Law only for –
 - (i) where an alleged breach relates to a material change of use, any action which has been taken or which the Department is considering taking within a period of 10 years beginning with the date of that breach, and
 - (ii) where an alleged breach relates to development other than a material change of use, any action which has been taken or which the Department is considering taking within a period of 4 years beginning with the date of that breach.

Restriction on activities an interim compliance notice may prohibit.

4. (1) An interim compliance notice shall not prohibit –
- (a) the use of any building as a dwelling-house, or
 - (b) subject to subsection (2), the carrying out of any activity if the activity has been carried out (whether continuously or not) for a period of more than four years ending with the date of service of the notice,

and for the purposes of paragraph (b) no account is to be taken of any period during which the activity was authorised by planning permission.

(2) Subsection (1)(b), does not prevent an interim compliance notice prohibiting any activity consisting of, or incidental to, building, engineering, mining or other operations or operations constituting development under sections 1 to 5 of the Land Planning and Development (General Provisions) Ordinance, 2007^c.

Interim compliance notice: supplementary provisions.

5. (1) Where an interim compliance notice has been served, the Department may place a notice on or near the land to which the interim compliance notice relates ("**site notice**") specifying –

- (a) that an interim compliance notice has been issued requiring a specified activity to cease, and
- (b) the date when the interim compliance notice takes

^c Approved by resolution of the States on 26th September, 2007.

effect.

(2) If an interim compliance notice, in respect of which a site notice was placed on land under subsection (1), is withdrawn by the Department, the Department must place a notice of the withdrawal in place of the site notice.

(3) An interim compliance notice shall cease to have effect when-

- (a) the compliance notice to which it relates is withdrawn or quashed, or
- (b) the compliance period, in the compliance notice to which it relates, expires.

(4) Where the Department withdraws, waives or relaxes a requirement in a compliance notice that an activity shall cease, then any interim compliance notice, issued in relation to that activity or any activity carried out as part of or associated with that activity –

- (a) in the case of a withdrawal or waiver, shall cease to have effect to the extent that the interim compliance notice applies to any such activity, and
- (b) in the case of a relaxation, shall cease to have effect to the extent that the requirement is relaxed and to the extent that the notice applies to any such activity.

Register of enforcement notices.

6. (1) Such of the following details and documents as are relevant in relation to any challenge notice served or compliance notice or interim compliance

notice issued by the Department, must be contained on the register of notices maintained by the Department pursuant to section 61 of the Law –

- (a) the type of notice issued or served,
- (b) in relation to a challenge notice, the date of service and in relation to a compliance notice and an interim compliance notice, the date of issue and of service of the notice and of any copies,
- (c) brief particulars, including the address, of the land to which it relates,
- (d) brief particulars, including the date, of any withdrawal, waiving or relaxation of any requirement in the notice or of any setting aside, in whole or in part, of the notice,
- (e) whether or not the notice has been contravened, and
- (f) a copy of any decision made by –
 - (i) the Planning Tribunal, and
 - (ii) the Royal Court in relation to a decision of the Planning Tribunal,

on any appeal against the notice,

and the register may contain such other details and documents in relation to such

notices and any decisions made in relation to them as the Department considers appropriate.

(2) The register must be kept at the principal office of the Department, made available for inspection by the public free of charge at all reasonable times and the details referred to in subsection (1) must be kept on the register for 10 years.

(3) The Department must provide copies of any details on the register to any person upon written request and upon payment of a reasonable fee.

Amendment of the Law in relation to the building regulations etc.

7. (1) The Law shall be amended as follows.

(2) In the arrangement of sections, for the entry relating to section 57 substitute –

"Unlawful development and breach of the building regulations."

(3) In section 17 (building regulations) –

(a) in subsection (1) –

(i) in paragraph (a), for the words "and maintenance" substitute ", maintenance and demolition",

(ii) in paragraph (b), the word "and" is repealed,
and

(iii) at the end add –

"and,

(d) services, fittings and equipment provided in or in connection with buildings.",

(b) in subsection (3) –

(i) for paragraph (f) substitute –

"(f) appeals to an Adjudicator (including matters corresponding to provision in relation to appeals to a Tribunal made by or under Part VI or VIII of this Law) against –

(i) further requirements imposed under subsection (2)(b)(ii), and

(ii) decisions of the Department under the building regulations including, in particular, decisions –

(A) to reject plans, or approve them with modifications or subject to conditions, or

- (B) to grant a licence to execute works subject to modifications to plans for such works or subject to conditions,
- (C) to give notice that a licence is no longer valid,
- (D) in relation to work including or consisting of controlled work, to fix or refuse to extend any period on the expiration of which a building or part of a building must be removed or to impose or refuse to vary any conditions in relation to such work or building, or
- (E) to give notice requiring work to be cut into, laid open or pulled down to ascertain whether or not building regulations have been contravened,

whether or not in each case planning permission is also required for the works in question.",

(ii) after paragraph (f) add –

"(fa) the enforcement, or in relation to the enforcement, of building regulations by whatsoever means as they consider appropriate," , and

(c) at the end add –

" (4) In this section –

(a) "**building**" includes any well, cistern, cesspit, cellar or other excavation below surface level or any wall or permanent hoarding whether or not, in each case, they comprise a structure,

(b) "**controlled work**" shall have the meaning in regulation 12(8) of the Building Regulations, 1992, and

(c) **"road"** includes any path or way, not maintained at public expense, which is laid out or constructed to provide access or improved access –

(i) to two or more dwelling-houses,
or

(ii) to any building where that path or way is constructed as part of the same development project as that building."

(4) In section 48(2) (construction of breach of planning control) –

(a) at the end of paragraph (a) the word "or" is repealed,
and

(b) at the end add –

"or,

(c) any relevant requirement of the building

regulations has not been complied with."

(5) In section 48(4) (when compliance notice may be issued) for the words "the owner of" substitute "the owner, occupier or other person with an interest in" and after the words "its owner" insert the words "or occupier, or had that interest,".

(6) In section 51(1) (stay of action and proceedings under this Part), for paragraph (b) substitute the following paragraph -

"(b) before the expiry of the period within which such an appeal could be made or (if later) the expiry of the compliance period -

(i) an application is duly made to the Department for the grant or variation of such planning permission as would have rendered the alleged breach of planning control lawful if it had been granted before it occurred, or

(ii) plans are duly deposited with the Department pursuant to the building regulations the approval of which would have rendered the alleged breach of planning control lawful if such plans had been approved before it occurred."

(7) In section 53 (interim compliance notices) -

(a) in subsection (5) after the words "which must not"

insert "(subject to subsection (5A))" , and

(b) after subsection (5) insert the following subsection –

" (5A) An interim compliance notice may have immediate effect insofar as an activity which it prohibits is –

(a) an activity which the compliance notice to which it relates requires to cease for the purpose of remedying a breach of a requirement of the building regulations, or

(b) an activity carried out as part of or associated with such an activity."

(8) In section 57 (unlawful development) –

(a) for the heading substitute –

"Unlawful development and breach of the building regulations."

(b) after subsection (1) insert –

"(1A) it is an offence for any person without

reasonable excuse, to breach any requirement of the building regulations (whether he does so on his own behalf or as an agent).", and

- (c) In subsection (2), for the words, "subsection (1)" substitute "subsection (1) or (1A)".

(9) In section 68 (right of appeal against planning decisions and failure to take such decisions), in subsection (1) –

- (a) for paragraph (b) substitute –

"(b) grants such an application subject to any conditions other than a building condition,",
and

- (b) in paragraph (f) after the words "other than an approval" insert "of plans".

(10) In Schedule 2 (interpretation), for the definition of "building condition" substitute –

"**building condition**" means a condition imposed by virtue of section 17(2),".

Interpretation.

8. (1) In this Ordinance, unless the context otherwise requires -

"**breach of planning control**" shall be construed in accordance with the provisions of section 48(2) of the Law and related expressions shall be

construed accordingly,

"building regulations" means regulations made by the Department under section 17 of the Law^d,

"building work" shall have the meaning in regulation 5 of the Building Regulations 1992^e,

"challenge notice" shall be construed in accordance with the provisions of section 47(1) of the Law,

"compliance notice" shall be construed in accordance with the provisions of section 48(1) of the Law,

"compliance period" means the period within which the Department requires measures to be taken under a compliance notice,

"Department" means the States of Guernsey Environment Department,

"development" shall be construed in accordance with section 13(1) of the Law and Part I of the General Ordinance,

^d By virtue of section 93(7) of the Law, the Building Regulations, 1992, as amended (Guernsey S.I. No. 27 of 1992, as amended by G. S.I. No. 39 of 2006), has effect as if made under section 17 of the Law.

^e Guernsey S. I. No. 27 of 1992 as amended by Guernsey S.I. No. 39 of 2006.

"immunity certificate" shall be construed in accordance with section 3(8),

"interim compliance notice" means a notice issued by the Department under section 53(1) of the Law prohibiting the carrying out of an activity on land to which a compliance notice relates,

"the Law" means the Land Planning and Development (Guernsey) Law, 2005,

"material change of use" shall be construed in accordance with section 13(3) of the Law,

"planning permission" means the permission which is required under section 14 of the Law for the carrying out of any development of land,

"Planning Tribunal" means the Tribunal the members of which are appointed under section 87 of the Law to hear and determine an appeal under the Law,

"register of notices" means the register of notices prepared and maintained pursuant to section 61 of the Law,

"repealed enactments" means the enactments listed in Part I of Schedule 3 to the Law which are repealed by the Law,

"site notice" shall be construed in accordance with section 5(1),

"under the Law" includes provisions made under the Law,

and other terms used in this Ordinance which are not defined in it but are defined in the Law shall have the same meaning as in the Law.

(2) Any reference in this Ordinance to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Citation.

9. This Ordinance may be cited as the Land Planning and Development (Enforcement) Ordinance, 2007.

Commencement.

10. This Ordinance shall come into force on the same date as the Law.

The Land Planning and Development (Appeals) Ordinance, 2007

ARRANGEMENT OF SECTIONS

PART I

APPEALS TO THE PLANNING TRIBUNAL

1. Period for making an appeal against compliance notices or completion notices.
2. Notice of appeal.
3. Conceding of appeal under section 68 of the Law-notice of revised decision.
4. Appointment of the Planning Panel.
5. Appointment of the Planning Tribunal.
6. Determination of appeals by a single Planning Tribunal member.
7. Technical Adviser.
8. Determination by Planning Tribunal of appeals made under the Special Controls Ordinance.

PART II

APPEALS TO AN ADJUDICATOR IN RELATION TO THE BUILDING REGULATIONS

9. Interpretation of this Part.
10. Right of appeal in relation to requirements of the building regulations.
11. Making of appeals in relation to the building regulations.
12. Determination of appeals by Adjudicators.
13. Appointment and proceedings of Adjudicators.

PART III
MATTERS APPLYING ON APPEALS TO THE PLANNING TRIBUNAL AND
TO AN ADJUDICATOR

14. Publication of notice of appeal.
15. Department's response to certain appeals.
16. Consolidation of appeals.
17. Stay of action and proceedings.
18. Appointment of Secretary.
19. Procedure of Appellate Body.
20. Offences in relation to hearings etc.

PART IV
MISCELLANEOUS

21. Interpretation.
22. Amendment of the Law.
23. Citation.
24. Commencement.

The Land Planning and Development (Appeals) Ordinance, 2007

THE STATES, in pursuance of their Resolutions of the 27th June 2002 and the 26th January 2005^a and in exercise of the powers conferred on them by sections 16(6), 17(3), 29(4), 31(2)(c), 33(6), 35(2)(c), 68(7), 70(3)(a), 81, 86(10), 87(9), and 89 of the Land Planning and Development (Guernsey) Law, 2005^b, and of all other powers enabling them in that behalf, hereby order:-

PART I

APPEALS TO THE PLANNING TRIBUNAL

Period for making an appeal against compliance notices or completion notices.

1. (1) An appeal to the Planning Tribunal against a compliance notice under section 70(1) of the Law must be made within 28 days beginning with the date on which a copy of that notice was served on the appellant under section 48(3) of the Law.

(2) An appeal to the Planning Tribunal against a completion notice under section 70(2) of the Law must be made within 6 months beginning with the date on which a copy of that notice was served on the appellant under section 19(3) of the Law.

Notice of appeal.

^a Billet d'État No. XI of 2002 and Article I of Billet d'État No. I of 2005.

^b Order in Council No. XVI of 2005.

2. (1) Any notice of appeal must be –
 - (a) made on a form obtained from the Department for the type of appeal in question, and
 - (b) accompanied by copies of the documents set out in subsection (3).
- (2) The Department must transmit to the Chairman of the Planning Panel –
 - (a) with the notice of appeal copies of the documents set out in subsection (3), and
 - (b) with the notice of appeal, or as soon as practicable thereafter, a list of the names and addresses of all the interested parties.
- (3) The documents which must accompany a notice of appeal are–
 - (a) in relation to an appeal made under section 68 of the Law, such of the following documents as are relevant to the appeal –
 - (i) the application made to the Department which has occasioned the appeal,
 - (ii) all plans, drawings and documents, including any Environmental Statement and any

Compliance Document, sent to the Department in connection with the application,

- (iii) all correspondence with the Department relating to the application,
- (iv) the notification of the decision, if any, and
- (v) if the appeal relates to –
 - (A) an application for any consent or approval required by a condition imposed on a grant of planning permission, the application for that permission, the plans submitted with that application and the planning permission granted, or
 - (B) an application for the modification or discharge of a planning covenant, the instrument by which the planning covenant was entered into,
- (b) in relation to an appeal made under section 70 of the Law –
 - (i) the notice issued by the Department which has occasioned the appeal,

- (ii) all correspondence with the Department relating to the notice,
 - (iii) in relation to a compliance notice, where that notice specifies that the terms of any planning permission have not been complied with, that planning permission, and
 - (iv) in relation to a completion notice, the planning permission to which that notice relates,
- (c) in relation to an appeal made in respect of an insertion or amendment of an entry on the protected monuments list or protected buildings list –
 - (i) the inserted or amended entry which has occasioned the appeal,
 - (ii) the notification by the Department to the appellant of the new or amended entry, and
 - (iii) all correspondence with the Department relating to the new or amended entry, and
- (d) in relation to an appeal against a preservation notice –
 - (i) the notice issued by the Department which has occasioned the appeal, and

- (ii) all correspondence with the Department relating to the notice.

Conceding of appeal under section 68 of the Law-notice of revised decision.

3. Where the Department concedes an appeal in whole or in part pursuant to section 68(7) of the Law –

- (a) it must, as soon as practicable, notify the parties and the Chairman of the Planning Panel of that decision, and
- (b) the notice of its revised decision in relation to the application which is the subject of that appeal, must be sent to the appellant within 14 days beginning with the date of the notification under paragraph (a).

Appointment of the Planning Panel.

4. The following persons may not be elected as members of the Planning Panel –

- (a) a Member of the States of Deliberation within the meaning of the Reform (Guernsey) Law 1948^c,

^c Ordres en Conseil Vol. XIII, p. 288 as amended by Vol. XIV, p. 407; Vol. XV, p. 279; Vol. XVI, p. 178; Vol. XVIII, p. 275; Vol. XIX, pp. 84 and 140; Vol. XXII, p. 122; Vol. XXIII, p. 476; Vol. XXV, p. 326; Vol. XXVI, p. 255; Vol. XXIX, p. 56; Vol. XXX, p. 16; Vol. XXXI, pp. 164 and 278; Vol. XXXII, p. 41; No. V of 1993; No. II of 1996; No. III of 1998; No. X of 1998; No. XIII of 2003; No. III of 2004; and Ordinances XXXIII of 2003 and III of 2004.

- (b) an employee of the States who is employed by the States within the Department, a member of the Department or a person who carries out work for, or provides services to the Department in relation to any functions of the Department under the Law or the repealed enactments,
- (c) a member of the Strategic Land Planning Group,
- (d) a person who holds appointment to any judicial office in Guernsey,

or any person who has been such a person at any time within the period of two years ending on the date of the proposed election.

Appointment of the Planning Tribunal.

5. A member of the Planning Panel may not be appointed to be a member of the Planning Tribunal to hear and determine a particular appeal if he has any prior involvement, including any pecuniary interest, directly or indirectly with the appeal including any matter in respect of which the appeal is made.

Determination of appeals by a single Planning Tribunal member.

6. (1) Subject to subsection (2), the Chairman, or if he is unavailable, the Deputy Chairman of the Planning Panel may, with the written consent of the Policy Council, appoint single professional members of the Planning Panel to constitute the Planning Tribunal to -

- (a) hear and determine specified appeals or classes of appeal, or

- (b) determine such appeals or classes of appeal without a hearing on the basis of written representations,

subject to written consent being obtained, in relation to any such appeal arising, from the appellant and the Department.

(2) The Chairman or the Deputy Chairman of the Planning Panel may not appoint a single professional member to constitute the Planning Tribunal, in relation to an appeal or class of appeal, if the appeal is made in relation to –

- (a) an application which the Chairman, or if he is unavailable, the Deputy Chairman, of the Planning Panel considers to be a planning application of island wide significance, or
- (b) an EIA application, other than one in respect of which the Department has made a determination under section 2(2) of the EIA Ordinance^d.

(2) For the avoidance of doubt, where a single member of the Planning Panel is appointed under this section, section 87(2) and (5) of the Law shall not apply.

Technical Adviser.

7. (1) If it appears to the Chairman, or if he is unavailable, the Deputy Chairman of the Planning Panel, that evidence to be given in relation to a

^d Approved by resolution of the States on the 26th September, 2007.

particular appeal is, or is likely to be, of such a specialist, technical or scientific nature that the Planning Tribunal is likely to need a technical adviser to assist it in relation to the assessment of that evidence, he may appoint an independent person as a technical adviser to the Planning Tribunal for the purpose of assisting with the assessment of that evidence.

(2) A person appointed under subsection (1) shall be a person appearing to the Chairman or Deputy Chairman of the Planning Panel who appointed him to have such qualifications and experience to enable him to carry out an expert assessment of the evidence in question.

Determination by Planning Tribunal of appeals made under the Special Controls Ordinance.

8. (1) On an appeal made in respect of an insertion or amendment of an entry on the protected monuments list or the protected buildings list, the Planning Tribunal must –

- (a) if the appellant satisfies it of a ground mentioned in section –
 - (i) 18(1)(a) or (d),
 - (ii) 18(3)(a) or (d), or
 - (iii) 18(2)(b) or 18(4)(b),

of the Special Controls Ordinance^e, delete the amendment or entry,

(b) if the appellant satisfies it of a ground mentioned in section 18(1)(b) or 18(3)(b) of the Special Controls Ordinance, amend the entry to show –

(i) in the case of a protected monument, the area of land it considers necessary for the support or preservation, or for the preservation of the setting, of that monument, or

(ii) in the case of a protected building, the extent of the land it considers necessary to be regarded as part of that building,

under section 2 of the Special Controls Ordinance,

(c) if the appellant satisfies it of a ground mentioned in section 18(1)(c) or 18(3)(c) of the Special Controls Ordinance, amend the entry so that it is in its opinion factually correct, and

(d) otherwise, dismiss the appeal.

(2) On an appeal made against a preservation notice, the Planning Tribunal must –

^e Approved by resolution of the States on the 26th September, 2007.

- (a) if the appellant satisfies it of the ground mentioned in section 19(c) of the Special Controls Ordinance or satisfies it under the ground mentioned in section 19(a) of that Ordinance that none of the specified works are urgently necessary, quash the notice,
- (b) if the appellant satisfies it under the ground mentioned in section 19(a) of the Special Controls Ordinance that not all the works specified are urgently necessary or if the appellant satisfies it of the ground mentioned in section 19(b) of the Special Controls Ordinance, modify the notice to substitute such works as it regards being urgently necessary or, as the case may be, such period as appears to it to be reasonable, and
- (c) otherwise, uphold the notice.

(3) If a preservation notice is quashed under this section it ceases to be of any effect but this is without prejudice to the Department's power to issue another notice.

(4) If a preservation notice is upheld or modified under this section, it takes effect as if it were such a notice issued by the Department (in the revised form where appropriate) and as if it and any copies were served on the persons on whom they are required to be served, pursuant to the Special Controls Ordinance, on the date of the determination of the appeal.

(5) Sections 69(5) (appellant responsible for undue delay), 72(1) to (5), 73 and 74 of the Law (review of planning tribunal's decisions by the court)

shall apply to an appeal under section 18 or 19 of the Special Controls Ordinance as they apply to an appeal under section 68 or 70 of the Law.

(6) For the avoidance of doubt, section 87(1) to (8) of the Law applies in relation to any appeal made under the Special Controls Ordinance to the Planning Tribunal.

PART II

APPEALS TO AN ADJUDICATOR IN RELATION TO THE BUILDING REGULATIONS

Interpretation of this Part.

9. In this Part, unless the context otherwise requires –

"building", building work", "full plans" and "plans" shall be construed in accordance with regulation 2 of the Building Regulations, 1992,^f and

"controlled work" and "relevant building" shall be construed in accordance with regulation 12(8) of the Building Regulations, 1992.

Right of appeal in relation to requirements of the building regulations.

10. (1) Where the Department grants an application for planning permission and under section 17(2)(b)(ii) of the Law, when approving plans, imposes any further requirement for the purpose of securing compliance with building regulations, the applicant may appeal to an Adjudicator on the ground that-

^f Guernsey S. I. No 27 of 1992, as amended by No. 39 of 2006.

- (a) the further requirement so imposed is not reasonably necessary for that purpose, or
 - (b) the requirement of the building regulations in question does not apply to the operation.
- (2) Where, pursuant to the building regulations, the Department –
 - (a) rejects full plans, the person by whom or on whose behalf the plans were deposited may appeal, other than in relation to controlled work, to an Adjudicator on the ground that the plans, as deposited, were not defective and that the proposed works would not contravene the building regulations,
 - (b) approves full plans with modifications or subject to conditions and grants a licence to execute works subject to those modifications or conditions, the person by whom or on whose behalf the plans were deposited may appeal to an Adjudicator on the ground that the modifications or conditions imposed were not reasonably necessary to ensure that –
 - (i) the plans were not defective, and
 - (ii) the proposed works or use to which the building is to be put would not contravene the building regulations,

(c) gives notice that a licence to execute proposed works is no longer valid, the person to whom the licence was granted may appeal to an Adjudicator on the ground that the building works to which the licence relates –

(i) had not ceased for a period of more than one year, or

(ii) had recommenced, before the notice was issued.

(3) Where the Department, pursuant to the building regulations and in relation to work including or consisting of controlled work –

(a) rejects plans or fixes, or refuses to extend, a period on the expiration of which a building or part of a building must be removed, then –

(i) where such decision is made in relation to the rejection or approval of plans, the person by whom or on whose behalf the plans were deposited, or

(ii) where such decision is made other than in relation to a rejection or approval of plans, the owner of the relevant building,

may appeal to an Adjudicator on the ground that the work cannot reasonably be regarded as controlled work

or that the period fixed for the removal of the building, or part of it, is unreasonably short,

(b) imposes or varies conditions with respect to the use of a building or part of a building or with respect to the controlled work –

(i) where such conditions are imposed in approving plans, the person by whom or on whose behalf the plans were deposited, or

(ii) where such conditions are imposed other than on an approval of plans, the owner of the relevant building,

may appeal to an Adjudicator on the ground that the work cannot reasonably be regarded as controlled work or that the condition imposed cannot reasonably be regarded as appropriate.

(4) Where the Department gives notice requiring a person who has carried out building work to cut into, lay open or pull down building work for the purpose of ascertaining whether or not the building regulations have been contravened, the person on whom the notice was served may appeal to an Adjudicator on the ground that such action is not reasonably necessary for that purpose or is disproportionate.

Making of appeals in relation to the building regulations.

11. (1) An appeal under section 10 must be made –

- (a) in the case of an appeal under –
 - (i) section 10(1) or (2)(a) or (b), or
 - (ii) section 10(3)(a) or (b), in relation to the approval or rejection of plans,

within 28 days beginning with the date on which the appellant was notified, under the building regulations, of the decision of the Department with regard to the plans,

- (b) in the case of an appeal under section 10(2)(c), within 28 days beginning with the date on which the notice that the licence is no longer valid was served on the appellant,
- (c) in the case of an appeal under section 10(3)(a) or (b), in relation to a decision made other than in relation to plans, within 28 days beginning with the date of service of the notice of such decision on the appellant, or
- (d) in the case of an appeal under section 10(4), within 28 days beginning with the date of service of the notice from the Department on the appellant.

(2) An appeal under section 10 must be made by notice served on the Minister of the Department stating the grounds and material facts on which the

appellant relies and the Department shall immediately transmit the notice to the Policy Council to enable the Policy Council to appoint an Adjudicator.

- (3) A notice of appeal under section 10 must be –
 - (a) made on a form obtained from the Department for the type of appeal in question, and
 - (b) accompanied by copies of the documents set out in subsection (5).
- (4) The Department must transmit to the Policy Council –
 - (a) with the notice of appeal copies of the documents set out in subsection (5), and
 - (b) with the notice of appeal, or as soon as practicable thereafter, a list of the names and addresses of all the interested parties.
- (5) The documents which must accompany the notice of appeal are –
 - (a) in relation to an appeal made under section 10(1) –
 - (i) the application for planning permission made to the Department,
 - (ii) the notification of the grant of planning permission,

- (iii) the notification of the decision of the Department with regard to the plans under the building regulations,
 - (iv) the requirement of the building regulations in question,
 - (v) the further requirement in question imposed by the Department, and
 - (vi) all correspondence with the Department relating to the requirement of the building regulations in question and the further requirement imposed by the Department,
- (b) in relation to an appeal under section 10(2)(a) or (b) or 10(3)(a) or (b) with regard to plans –
- (i) the plans as deposited with the Department,
 - (ii) the notification of the decision of the Department with regard to the plans under the building regulations,
 - (iii) where plans were approved, the licence issued for the execution of the works, and

- (iv) all correspondence with the Department relating to the deposit of the plans and their approval or rejection,
- (c) in relation to an appeal under section 10(3)(a) or (b) other than in relation to plans, 10(2)(c) or 10(4) –
 - (i) the notice issued by the Department of the decision in question, and
 - (ii) all correspondence with the Department relating to the notice.

Determination of appeals by Adjudicators.

12. (1) On an appeal under section 10 the Adjudicator must –

- (a) if the appellant satisfies him of a ground mentioned in section 10(1), modify the decision of the Department with regard to the plans so as to remove or amend the further requirement in question,
- (b) if the appellant satisfies him of the ground mentioned in section 10(2)(a), quash the decision of the Department with regard to the plans,
- (c) if the appellant satisfies him of a ground mentioned in section 10(2)(b) or 10(3)(b), modify the decision, and any licence issued for the execution of works, to remove or amend the modifications or conditions,

- (d) if the appellant satisfies him of a ground mentioned in section 10(2)(c), quash the notice,
- (e) if the appellant satisfies him under section 10(3)(a) or (b), that the work cannot reasonably be regarded as controlled work, quash or modify the decision of the Department insofar as it purports to relate to such work,
- (f) if the appellant satisfies him under section 10(3)(a) or (b), that a period fixed for the removal of a building, or part of it, is unreasonably short, modify the decision of the Department to substitute such period as appears to him to be reasonable,
- (g) if the appellant satisfies him of a ground mentioned in section 10(4), quash the notice or modify it to substitute such action as he considers reasonably necessary and proportionate,

and otherwise uphold the decision or notice in question.

(2) If a decision or notice of the Department is quashed under this section it ceases to be of any effect but without prejudice to the Department's powers to make another decision or issue another notice.

(3) If a decision or notice is modified under this section, it takes effect as if it were such a notice or decision issued by the Department (in the modified form where appropriate) and as if served on the person on whom it was served under the building regulations on the date of the determination of the appeal.

(4) Section 69(5) (appellant responsible for undue delay), 72(1) to (5), 73 and 74 of the Law (review of planning tribunal's decision by the court) shall apply to an appeal under this section to an Adjudicator as they apply to an appeal under section 68 or 70 of the Law to the Planning Tribunal.

Appointment and proceedings of Adjudicators.

13. (1) When an appeal is instituted under section 10, the Policy Council shall, subject to subsections (2) and (3), appoint a person as an Adjudicator to hear and determine the appeal and may appoint him to determine an appeal without a hearing on the basis of written representations.

(2) The Adjudicator shall be a person with such qualifications and experience in matters relating to the building regulations and of such independence as in the opinion of the Policy Council is appropriate for the hearing and determination of the appeal.

(3) The Policy Council must not appoint as an Adjudicator any person –

(a) specified in section 4 or who is a member of the Planning Panel, or

(b) who has any prior involvement, including any pecuniary interest, directly or indirectly, with the appeal including any matter in respect of which the appeal is made.

(4) A hearing and every part of a hearing before an Adjudicator shall be held in public unless the Adjudicator directs otherwise.

(5) The Adjudicator may at any time exclude any person from a hearing or any part thereof.

PART III
MATTERS APPLYING ON APPEALS TO PLANNING TRIBUNAL AND TO
AN ADJUDICATOR

Publication of notice of appeal.

14. As soon as practicable after its appointment in relation to the appeal in question the Appellate Body must –

- (a) notify any interested party –
 - (i) that an appeal has been made, and
 - (ii) of the address to which and of a reasonable period within which interested parties may make representations to the Appellate Body, copied to the principal parties, concerning the appeal, and
- (b) in relation to an appeal made under section 68 of the Law, include in the notification made under paragraph (a), a clear statement that representations are only invited (insofar as they relate to materials, evidence and facts) on such matters that the Appellate Body may take into account in determining the appeal in

accordance with section 69(1) of the Law and regulation 3 of the Appeals Regulations.

Department's response to certain appeals.

15. Where an appeal has been made under section 70 of the Law, section 18 or 19 of the Special Controls Ordinance or section 10 of this Ordinance, the Department shall, within 28 days beginning with the date of the Minister's receipt of the notice of appeal and accompanying documents, send a summary of the Department's response to each of the grounds on which the appeal is brought to –

- (a) in the case of an appeal to the Planning Tribunal, the Chairman of the Planning Panel,
- (b) in the case of an appeal under section 10, the Adjudicator, and
- (c) the appellant and the interested parties.

Consolidation of appeals.

16. Where two or more appeals made to the Planning Tribunal or to an Adjudicator –

- (a) have been instituted in respect of the same decision,
- (b) raise the same or similar issues, or
- (c) relate to the same site,

then, in the case of an appeal to the Planning Tribunal, the Chairman, or if he is unavailable, the Deputy Chairman, of the Planning Panel or in the case of an appeal

to an Adjudicator, the Policy Council, may, upon the request of the Department or the appellant or of his or its own motion, as the case may be, order the appeals or any particular issue or matter raised in the appeals to be consolidated or heard together.

Stay of action and proceedings.

17. (1) No proceedings may be instituted or continued –

- (a) under section 8 of the Special Controls Ordinance or action taken under section 50 of the Law, as applied by section 9 of the Special Controls Ordinance, if an appeal against a preservation notice under section 19 of that Ordinance is duly instituted, or
- (b) under chapter 3 of Part V of the Law (enforcement), in respect of a breach of the building regulations if an appeal is duly instituted under section 10 in relation to that breach of the building regulations.

(2) Subsection (1) continues to apply until the appeal is finally determined or withdrawn and it is not finally determined or withdrawn until any appeal or further appeal is determined or the time for appealing has expired without an appeal being instituted.

Appointment of Secretary.

18. (1) The Policy Council may –

- (a) appoint a secretary to –
 - (i) the Planning Panel, or

(ii) the Adjudicators,

on such terms and conditions and with such functions,
and

(b) provide such other officers and facilities to the
Planning Panel or the Adjudicators,

as the Policy Council thinks fit.

Procedure of Appellate Body.

19. (1) The Department may by Regulations under this section make such provision as they think fit in relation to the determination of appeals including, without limitation, provision as to –

(a) procedure, including –

(i) that which applies where the Appellate Body declines to determine an appeal,

(ii) the determination of appeals on the basis of written representations or by the holding of hearings,

(iii) the method of pleading,

(iv) the practice to be followed,

- (v) the means by which particular facts may be proved,
 - (vi) the taking of evidence on oath,
 - (vii) the method by which evidence may be given,
 - (viii) the hearing or determination by written representations of specified classes or descriptions of appeals by the Planning Tribunal constituted by a single professional member,
 - (ix) that which applies where Environmental Impact Assessment is required to be carried out pursuant to section 10 of the EIA Ordinance as applied by section 12 of that Ordinance (appeal to the Planning Tribunal without an Environmental Statement), and
 - (x) the summoning of witnesses to give testimony or to produce documents,
- (b) the basis on which appeals are to be determined,
- (c) costs (including the costs of a hearing), fees, expenses and allowances (including the expenses and allowances of the members of the Appellate Body) and the payment and recovery thereof, and

(d) ancillary matters.

(2) Regulations under subsection (1) may, without limitation -

(a) regulate procedure in connection with matters preparatory to hearings (including the publication of notice of hearings) and subsequent to hearings, as well as in connection with the conduct of hearings, and

(b) make provision as to the representation, and joining, of parties.

(3) The expression "**costs of a hearing**" shall (without prejudice to the generality of the expression) include -

(a) any costs, fees and expenses reasonably incurred by any party in the preparation or presentation of his case, including witness costs,

(b) any costs, fees and expenses of, or incidental or preliminary to, the holding or conduct of the hearing and the determination of the appeal, and

(c) the costs, fees, expenses and allowances of the Appellate Body and the members thereof,

and, for the avoidance of doubt, includes any such costs arising where the appeal is determined on the basis of written representations.

Offences in relation to hearings etc.

20. A person who –

- (a) does anything before the Appellate Body which, if done before the Royal Court, would constitute a contempt of court, or
- (b) without reasonable excuse, obstructs or hinders the Appellate Body or, where relevant, any member of it in the exercise or purported exercise of their functions,

is guilty of an offence and is liable on conviction to a fine not exceeding level 5 on the uniform scale, imprisonment for a term not exceeding 3 months or both.

PART IV MISCELLANEOUS

Interpretation.

21. (1) In this Ordinance, unless the context requires otherwise-

"Adjudicator" means a person appointed by the Policy Council under section 13 to hear and determine an appeal under section 10,

"appeal" means -

- (a) in Part I, an appeal made to the Planning Tribunal under section 68 or 70 of the Law or section 18 or 19 of the Special Controls Ordinance,
- (b) in Part II, an appeal made to an Adjudicator under section 10, and

- (c) in Part III, an appeal falling within paragraph (a) or (b),

"Appeals Regulations" means the Land Planning and Development (Appeals) Regulations, 2007^g,

"Appellate Body" means in relation to an appeal made under –

- (a) section 68 or 70 of the Law or section 18 or 19 of the Special Controls Ordinance, the Planning Tribunal, and
- (b) section 10, an Adjudicator,

"building regulations" means regulations made by the Department under section 17 of the Law^h,

"Chairman of the Planning Panel" means the person who is designated, from time to time, as the Chairman of the Planning Panel pursuant to section 86(3)(c) of the Law and related expressions shall be construed accordingly,

^g made under section 19 of this Ordinance.

^h By virtue of section 93(7) of the Law, the Building Regulations, 1992, as amended (Guernsey S.I. No. 27 of 1992, as amended by Guernsey S.I No. 39 of 2006), has effect as if made under section 17 of the Law.

"completion notice" means a notice issued by the Department under section 19(1) of the Law stating that a planning permission will cease to have effect at the expiry of the period specified in the notice,

"compliance document" shall be construed in accordance with section 10(2) of the EIA Ordinance,

"compliance notice" shall be construed in accordance with the provisions of section 48(1) of the Law,

"Department" means the States of Guernsey Environment Department,

"Deputy Chairman of the Planning Panel" means the person who is designated, from time to time, as the Deputy Chairman of the Planning Panel pursuant to section 86(3)(d) of the Law and related expressions shall be construed accordingly,

"EIA application" shall have the meaning in section 13(1) of the EIA Ordinance,

"EIA Ordinance" means the Land Planning and Development (Environmental Impact Assessment) Ordinance, 2007,

"enactment" includes a Law, an Ordinance and any subordinate legislation and any provision or portion of a Law, an Ordinance or any subordinate legislation,

"Environmental Impact Assessment" shall have the meaning in section 13(1) of the EIA Ordinance,

"Environmental Statement" shall have the meaning in section 13(1) of the EIA Ordinance,

"interested party" means –

- (a) in relation to an appeal made under section 68 of the Law, any person, other than the appellant, who is the owner or occupier of the land,
- (b) in relation to an appeal made under section 70 of the Law, any person, other than the appellant, on whom a copy of the relevant completion notice or compliance notice, as the case may be, was required to be served in accordance with the Law,
- (c) in relation to an appeal made in respect of the insertion or amendment of an entry on the protected monuments list or the protected buildings list –
 - (i) any person, other than the appellant, who the Department are required to notify of the inserted or amended entry under section 4 or 5 of the Special Controls Ordinance, and
 - (ii) any person or body who the Department consulted in relation to the inserted or amended entry under section 6 of the Special Controls Ordinance,

- (d) in relation to an appeal against a preservation notice –
 - (i) any person other than the appellant on whom a copy of the notice is required to be served under section 7(1) of the Special Controls Ordinance, and
 - (ii) any person or body who the Department has consulted under section 6 of the Special Controls Ordinance, and
- (e) in relation to an appeal under section 10, any person, other than the appellant, who is –
 - (i) the owner of the building concerned or, in the case of a proposed building, the owner of the land concerned,
 - (ii) the occupier of that building or land, and
 - (iii) any other person appearing to the Department to have an interest in that building or land which is materially affected by the decision or notice of the Department to which the appeal relates,

"the Law" means the Land Planning and Development (Guernsey) Law, 2005,

"notice" means notice in writing,

"notice of appeal" means –

- (a) in Part I, a notice of appeal made under –
 - (i) section 68(5) or 70(3)(b) of the Law, or
 - (ii) section 21 of the Special Controls Ordinance,
- (b) in Part II, a notice of appeal made under section 11, and
- (c) in Part III, a notice of appeal falling within paragraph (a) or (b),

"notify" means notify in writing,

"parties" means the Department, the appellant and any interested party,

"planning covenant" has the meaning given by section 23(1) of the Law,

"Planning Panel" means the Panel established under section 86 of the Law,

"planning permission" means the permission which is required under section 14 of the Law for the carrying out of any development of land,

"Planning Tribunal" means the Tribunal the members of which are appointed under section 87 of the Law to hear and determine an appeal under the Law,

"Policy Council" means the States of Guernsey Policy Council,

"preservation notice" shall be construed in accordance with section 7(1) of the Special Controls Ordinance,

"principal parties" means the Department and the appellant,

"professional members" means the members of the Planning Panel designated as "professional members" in accordance with section 86(3)(b) of the Law,

"protected building" means a building, or any part of a building, which is of special historic, architectural, traditional or other interest and which is listed on the protected buildings list,

"protected buildings list" means the list of protected buildings prepared, maintained, and kept under review by the Department under section 33(1) of the Law,

"protected monument" means a monument, structure, artefact, cave, ruin or remains which are of archaeological, historic, traditional, artistic or other special interest and which is listed on the protected monuments list,

"protected monuments list" means the list of protected monuments prepared, maintained and kept under review by the Department under section 29(1) of the Law,

"repealed enactments" means the enactments listed in Part I of Schedule 3 to the Law which are repealed by the Law,

"Special Controls Ordinance" means the Land Planning and Development (Special Controls) Ordinance, 2007,

"Strategic Land Planning Group" means the Group appointed under section 3(1) of the Law,

"subordinate legislation" means any regulation, rule, order, notice, rule of court, resolution, scheme, warrant, byelaw or other instrument made under any enactment and having legislative effect,

"under the Law or the repealed enactments" includes provisions made under the Law or the repealed enactments and related expressions shall be construed accordingly,

and other terms used in this Ordinance which are not defined in it but are defined in the Law shall have the same meaning as in the Law.

(2) Any reference in this Ordinance to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Amendment of the Law.

22. (1) The Law shall be amended as follows.

(2) In section 19 (completion notices), after subsection (2) insert the following subsection –

" (2A) If an appeal is instituted under section 70 against a completion notice and the period specified in the notice (at the expiry of which the planning permission is to become invalid) expires before the date on which the appeal is finally determined or withdrawn, then, without prejudice to the provisions of section 71(5), that period shall be extended until that date."

(3) In section 86 (establishment of Planning Panel), after subsection (5) add the following subsections-

"(5A) The States may, on the recommendation of the Policy Council, at any time after the first members of the Planning Panel have been elected pursuant to this section, resolve to -

- (a) increase the number of Panel members so it consists of a maximum of 9 persons in total, and
- (b) elect new members accordingly.

(5B) Where the States make a resolution pursuant to subsection (5A) -

- (a) subsection (1) shall have effect as if it referred to the Panel consisting of such number of persons as the States have so resolved,

- (b) subsection (2) shall apply to a recommendation under subsection (5A) as it applies to a recommendation under subsection (1), and
- (c) subsection (3)(a) and (b) shall have effect so that they require the proportion of members resident in the Channel Islands and of professional members to remain the same as is required in relation to a Panel of 6 insofar as is possible having regard to the new total number of Panel members."

(2) In section 87(9) (Ordinance making powers in relation to appeals) for the words "under sections 68 and 70" substitute "made to the Planning Tribunal under this Law".

(3) In Schedule 2 in the definition of "Planning Tribunal" for the words "under section 68 or 70" substitute "under this Law".

Citation.

23. This Ordinance may be cited as the Land Planning and Development (Appeals) Ordinance, 2007.

Commencement.

24. This Ordinance shall come into force on the same date as the Law.

The Land Planning and Development (Application to Herm and Jethou) Ordinance, 2007

THE STATES, in pursuance of their Resolutions of the 27th June 2002 and of the 26th January, 2005^a, after consultation by the Environment Department with her Majesty's Receiver-General, and in exercise of the powers conferred on the States by section 94(2) of the Land Planning and Development (Guernsey) Law, 2005^b and of all other powers enabling them in that behalf, hereby order:-

PART I APPLICATION TO HERM AND JETHOU

Application of Law to Herm and Jethou.

1. The provisions of the Land Planning and Development (Guernsey) Law, 2005 ("**the Law**") specified in –

- (a) Part II of this Ordinance shall apply to the island of Jethou, and
- (b) Part III of this Ordinance shall apply to the island of Herm.

PART II BUILDING REGULATIONS: APPLICATION TO JETHOU

Provisions as to building regulations.

2. The following provisions of the Law apply to Jethou subject to the

^a Billet d'État No. XI of 2002 and Article 1 of Billet d'État No. I of 2005.

^b Order in Council No. XVI of 2005.

exceptions, adaptations and modifications specified in this Part of this Ordinance -

- (a) section 17(1), (3) and (4) (building regulations),
- (b) Part V (enforcement),
- (c) Part VI (appeals and reviews),
- (d) Part VIII (administrative, general and miscellaneous provisions), and
- (e) Schedules 2 (interpretation) and 3 (repeals etc.).

3. Sections 17(3)(f)(i), 68, 69, 70(2) and 71(2) of the Law are omitted.

PART III

BUILDING REGULATIONS AND PROTECTED MONUMENTS AND PROTECTED BUILDINGS: APPLICATION TO HERM

Provisions as to building regulations and protected monuments and protected buildings.

4. The following provisions of the Law apply to Herm subject to the exceptions, adaptations and modifications specified in this Part of this Ordinance -

- (a) Part III (control over development),
- (b) Chapters 1 (monuments and archaeological sites) and 2 (buildings of special interest) of Part IV,
- (c) Part V (enforcement),

- (d) Part VI (appeals and reviews),
- (e) Part VIII (administrative, general and miscellaneous provisions), and
- (f) Schedules 2 (interpretation) and 3 (repeals etc.).

5. Part III of the Law, except for section 17 of the Law (building regulations), shall only apply in Herm in relation to development which falls within section 1 (operations in relation to protected monuments) or 2 (operations in relation to protected buildings) of the Land Planning and Development (General Provisions) Ordinance, 2007^c.

PART IV GENERAL PROVISIONS

Interpretation.

6. (1) In this Ordinance "**the Law**" means the Land Planning and Development (Guernsey) Law, 2005.

(2) References to an enactment -

- (a) in the provisions of this Ordinance, and
- (b) in the provisions of the Law applied by this Ordinance to Herm or Jethou,

are references to that enactment as from time to time amended, re-enacted (with or without modification), extended or applied.

^c Approved by resolution of the States on 26th September, 2007.

Citation.

7. This Ordinance may be cited as the Land Planning and Development (Application to Herm and Jethou) Ordinance, 2007.

Commencement.

8. This Ordinance shall come into force on the same date as the Law.

The Land Planning and Development (Guernsey) Law, 2005 (Savings and Transitional Provisions) Ordinance, 2007

THE STATES, in pursuance of their resolutions of the 27th June 2002 and the 26th January 2005^a and in exercise of the powers conferred on them by sections 89 and 96 of the Land Planning and Development (Guernsey) Law, 2005^b, and of all other powers enabling them in that behalf, hereby order:-

Application of this Ordinance.

1. The following provisions of this Ordinance shall apply notwithstanding section 93 of the Planning Law.

Savings-applications made under the repealed enactments.

2. An application under any of the provisions of the repealed enactments set out in the Schedule, which was –

(a) made before the commencement date, and

(b) not determined as at that date,

shall be determined as if the repealed enactments had not been repealed and as if the Planning Law were not in force.

Savings-appeals etc. made under the repealed enactments.

^a Billet d'État No. XI of 2002 and Article I of Billet d'État No. I of 2005.

^b Order in Council No. XVI of 2005.

3. (1) An appeal under section 26 of the Island Development Law^c, section 4(1) of the Ancient Monuments Law^d or an application to have an order set aside under section 4(4) of the Building Law^e which is instituted or made, as the case may be, before the commencement date, shall be determined as if those Laws had not been repealed and as if the Planning Law were not in force.

(2) Where, at the commencement date, a period for instituting an appeal in respect of a decision made under any of the repealed enactments or for applying for an order under section 4(4) of the Building Law has not expired –

- (a) that period shall continue to run, and
- (b) any such appeal or application made during that period must be made and determined,

as if the repealed enactments had not been repealed and as if the Planning Law were not in force.

Savings-appeals in respect of decisions on certain applications falling within the Schedule.

4. An appeal against any decision made by the Department on an application which falls within the Schedule and to which section 2 applies shall be instituted and determined as if the repealed enactments had not been repealed and as if the Planning Law were not in force.

^c Ordres en Conseil Vol. XX, p. 276 as amended by Vol. XXII, p. 573, Vol. XXIII, p. 231, Vol. XXXI, p. 61, Vol. XXXII, p.33.

^d Ordres en Conseil Vol. XXI, p. 219.

^e Ordres en Conseil Vol. XVII, p. 56.

Savings-redetermination of decisions quashed on appeal.

5. Where, on an appeal referred to in section 3 or 4, a court quashes a decision of the Department to refuse or to grant an application subject to any conditions, that application shall be redetermined by the Department as if the repealed enactments had not been repealed and as if the Planning Law were not in force.

Transitional provisions-plans.

6. Section 7 (transition from current plans to Development Plans, Subject Plans and Local Planning Briefs) of the Planning Law shall apply to any -

- (a) adopted Detailed Development Plan prepared under section 6 of the Island Development Law, and
- (b) outline planning brief adopted by the States,

which was in effect immediately before the commencement of Part II of the Planning Law and which is not listed in Schedule 1 to the Planning Law as it applies to those listed in that Schedule.

Transitional provisions-in principle grants and preliminary declarations.

- 7. (1) Any permission granted subject to conditions -
 - (a) under section 16(1)(c) of the Island Development Law, and
 - (b) requiring further approval from the Department in relation to specified matters before the development may be carried out,

(known as a "Permission in Principle"), shall, for the avoidance of doubt, within its period of validity, be treated as an outline permission for the purposes of the Planning Law and any provisions made under it.

(2) Any preliminary declaration granted under section 27 of the Island Development Law shall, during its period of validity, be taken into account in the determination of any subsequent application for planning permission which is made -

- (a) under the Planning Law, and
- (b) in respect of the same, or substantially the same, land and development in respect of which the preliminary declaration was granted,

in the same way as it would have been taken into account in the determination of a subsequent application for permission in respect of such land and development under the Island Development Law.

Interpretation.

8. (1) In this Ordinance, unless the context otherwise requires –

"Ancient Monuments Law" means the Ancient Monuments and Protected Buildings (Guernsey) Law, 1967,

"Building Law" means the Building (Guernsey) Law, 1956,

"the commencement date" means the date on which the Planning Law is commenced by Ordinance under section 96 of that Law,

"Department" means the States of Guernsey Environment Department,

"Island Development Law" means the Island Development (Guernsey) Law, 1966,

"outline permission" means planning permission subject to the reservation of particular matters for subsequent approval,

"the Planning Law" means the Land Planning and Development (Guernsey) Law, 2005,

"repealed enactments" means the Building Law, the Ancient Monuments Law and the Island Development Law and the –

- (a) Island Development (Amendment) (Guernsey) Law, 1970^f,
- (b) Island Development (Amendment) (Guernsey) Law, 1972^g,
- (c) the Island Development (Special Provisions) (Guernsey) Law, 1974^h,
- (d) Island Development (Amendment) (Guernsey) Law,

^f Ordres en Conseil Vol. XXII, p. 573.

^g Ordres en Conseil Vol. XXIII, p. 231.

^h Ordres en Conseil Vol. XXIV, p.277.

1988ⁱ, and

(e) Island Development (Amendment) (Guernsey) Law, 1990^j, and

"States" means the States of Guernsey.

(2) Any reference in this Ordinance to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Citation and commencement.

9. This Ordinance may be cited as the Land Planning and Development (Guernsey) Law, 2005 (Savings and Transitional Provisions) Ordinance, 2007 and shall come into force on the same date as the Planning Law.

ⁱ Ordres en Conseil Vol. XXXI, p. 61.

^j Ordres en Conseil Vol. XXXII, p. 33.

SCHEDULE

Section 2

APPLICATIONS TO BE DETERMINED UNDER PROVISIONS OF REPEALED
ENACTMENTS

The provisions referred to in section 2 are –

- (a) section 3(2) (application to demolish, efface, alter or add to or change the appearance of any registered building, structure or object) of the Ancient Monuments Law, and
- (b) the following sections of the Island Development Law–
 - (i) section 15(1) (application for permission to develop or to carry out certain operations and works),
 - (ii) section 16(2) (application to revoke or vary any condition attached to a section 16 permission),
 - (iii) section 19(2) (application to obtain permission to remove material forming surface or subsoil of land),
 - (iv) section 19(5) (application to revoke or vary any condition attached to a section 19(4) permission), and

- (v) section 27(1) (application for a preliminary declaration).

**The Limited Partnerships
(Guernsey) (Amendment) Law, 2006
(Commencement) Ordinance, 2007**

THE STATES LEGISLATION SELECT COMMITTEE, in exercise of the powers conferred on the States by section 9 of the Limited Partnerships (Guernsey) (Amendment) Law, 2006^a and on the Committee by Article 66(3) of the Reform (Guernsey) Law, 1948^b, and all other powers enabling the States in that behalf hereby orders:-

Commencement of Law.

1. The Limited Partnerships (Guernsey) (Amendment) Law, 2006 shall come into force on the 2nd July, 2007.

Citation.

2. This Ordinance may be cited as the Limited Partnerships (Guernsey) (Amendment) Law, 2006 (Commencement) Ordinance, 2007.

^a Order in Council No. VIII of 2007.

^b Ordres en Conseil Vol. XIII, p. 288; there are amendments not material to this Ordinance.

The Iran (Restrictive Measures) (Guernsey) Ordinance, 2007

THE STATES LEGISLATION SELECT COMMITTEE, in exercise of the powers conferred on the States by sections 1 and 4 of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994^a and on the Committee by Article 66(3) of the Reform (Guernsey) Law, 1948^b, and all other powers enabling the States in that behalf, hereby orders:

Application of EC Regulation.

1. Council Regulation (EC) No. 423/2007 of the 19th April, 2007^c, as amended^d, concerning restrictive measures against Iran, in view of the situation in Iran ("**the EC Regulation**") is applicable in Guernsey in all respects as if Guernsey, subject to the modifications in section 7, were a Member State.

Prohibition of certain transactions etc.

2. Any person who, except under the authority of a licence granted by the Policy Council under this Ordinance, directly or indirectly infringes any of the following prohibitions in the EC Regulation -

- (a) Article 2(a), prohibiting the sale, supply, transfer or export, directly or indirectly, of the following goods and technology, whether or not originating in the Community, to any natural or legal person, entity or body in, or for use in Iran -

^a Order in Council No. III of 1994.

^b Ordres en Conseil Vol. XIII, p. 288 (there are amendments not material to this Ordinance).

^c OJ L 103, 20.04.2007, p.1.

^d Commission Regulation (EC) No. 441/2007 of the 20th April, 2007, OJ L 104, 21.04.2007.

- (i) all goods and technology contained in the Nuclear Suppliers Group and Missile Technology Control Regime lists and which are listed in Annex 1 to the EC Regulation, and
 - (ii) other goods and technology determined by the Sanctions Committee or the United Nations Security Council as goods and technology which could contribute to Iran's enrichment-related, reprocessing, or heavy water-related activities, or to the development of nuclear weapon delivery systems. These goods and technology are also listed in Annex I to the EC Regulation,
- (b) Article 2(b), prohibiting the participation, knowingly and intentionally in activities the object or effect of which is to circumvent the prohibition in Article 2(a),
 - (c) Article 4, prohibiting the purchase, import or transport of goods and technology listed in Annex 1 to the EC Regulation, from Iran, whether the item concerned originates or not in Iran,
 - (d) Article 5(a), prohibiting the provision, directly or indirectly, of technical assistance or brokering services related to the goods and technology listed in Annex I to the EC Regulation, and to the provision, manufacture, maintenance and use of any goods so listed, to any natural or legal person, entity or body in, or for use in Iran,

- (e) Article 5(b), prohibiting the provision of investment to enterprises in Iran engaged in the manufacture of goods and technology as listed in Annex I to the EC Regulation,
- (f) Article 5(c), prohibiting the provision, directly or indirectly, of financing or financial assistance related to goods and technology listed in Annex I to the EC Regulation, including in particular grants, loans and export credit insurance, for any sale, supply, transfer or export of such items or for any provision of related technical assistance to any natural or legal person, entity or body in, or for use in, Iran,
- (g) Article 5(1)(d), prohibiting the participation, knowingly and intentionally, in activities, the object or effect of which is to circumvent the prohibitions of Article 5(a), (b) or (c),
- (h) Article 7(3), prohibiting the provision, directly or indirectly, of funds or economic resources to or for the benefit of any natural or legal person, entity or body listed in Annexes IV and V to the EC Regulation,
- (i) Article 7(4), prohibiting the participation, knowingly and intentionally in activities the object or effect of which is, directly or indirectly, to circumvent the measures referred to in paragraphs prohibition in paragraphs 1, 2 and 3 of Article 7,

is guilty of an offence.

Licences.

3. (1) Authorisation for the transactions or other activities set out in section 2, as provided for in Article 3, 5(2) or 6 of the EC Regulation, shall in Guernsey be by way of a licence in writing granted by the Policy Council.

(2) If, for the purpose of obtaining a licence, any person -

- (a) makes any statement or furnishes any document or information which to his knowledge is false in a material particular, or
- (b) recklessly makes any statement or furnishes a document or information which is false in a material particular,

he is guilty of an offence; and any licence granted in connection with the application for which the false statement was made or the false document or information furnished is void as from the time it was granted.

(3) Any person who, having acted under the authority of a licence granted under this section, fails to comply with any of the requirements or conditions to which the licence is subject is guilty of an offence, unless -

- (a) the licence had been previously modified by the Policy Council without that person's knowledge, and
- (b) the alleged failure to comply would not have been a failure had the licence not been so modified.

Furnishing of false information etc.

4. A person who in purported compliance with Article 3(3) and 13 of

the EC Regulation intentionally furnishes any false information, document or explanation, or recklessly furnishes any information, document or explanation which is false, is guilty of an offence.

Penalties and proceedings.

5. (1) A person guilty of an offence under section 2, 3, 4 or paragraph 2(b) or (c) of the Schedule,

is liable -

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both, or
- (b) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding level 5 on the uniform scale or to both.

(2) A person guilty of an offence under paragraph 2(a) or 3(2) of the Schedule is liable on summary conviction to imprisonment for a term not exceeding three months, to a fine not exceeding level 5 on the uniform scale, or to both.

(3) Where a body corporate is guilty of an offence under this Ordinance, and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate is guilty of the offence and may be proceeded against and punished accordingly.

(4) Where the affairs of a body corporate are managed by its members, subsection (3) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body

corporate.

Certain provisions of customs and excise Law applicable.

6. (1) Section 55 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972^e applies to the detention of a person for an offence under section 2 or 3 as it applies to the detention of a person for an offence under the customs Laws or excise Laws.

(2) Sections 61 to 65 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972 apply in relation to offences, penalties and proceedings for offences under this Ordinance as they apply to offences, penalties and proceedings for offences under the customs Laws or excise Laws.

Information.

7. The Schedule has effect in order to facilitate the obtaining, by or on behalf of the Policy Council, of information for the purpose of ensuring compliance with the EC Regulation.

Modification of Regulation.

8. The EC Regulation in its application to Guernsey shall be modified as follows -

- (a) in Articles 2(a), 3(1) and 11(1) for the words "the Community" substitute "Guernsey",
- (b) in Article 3(4), 3(5), 5(3), 6, 8, 9, 10(1), 10(2), 13(1)(a) and 13(1)(b), for the words "the competent authorities of the Member States, as indicated in the websites listed in Annex III" substitute "the Policy

^e Ordres en Conseil Vol. XXIII, p. 573; Vol. XXIV, p. 87; Vol. XXXI, p. 278; No. XIII of 1991; No. X of 2004 and Ordinance No. XXXII of 2005.

Council",

- (c) in Article 3(3), 9(a), 10(1)(a) and 10(2)(b), for the words "competent authority" substitute "Policy Council",
- (d) in Article 5(2), for the words "the competent authority of the Member State concerned" substitute "the Policy Council",
- (e) in Article 8(d) and 9(c), for the words "the Member State concerned" substitute "Guernsey",
- (f) in Article 8(e), for the words "the Member State" substitute "the Policy Council",
- (g) in Article 9(b), 10(b), 10(2)(a) and 13(2) for the words "the Member States concerned" substitute "the Policy Council",
- (h) in Article 10(3), for the words "The relevant Member State" substitute "The Policy Council", and
- (i) in Article 13(1)(a) and 14, for the words "Member States" where it appears in the last line substitute "The Policy Council".

Interpretation.

9. (1) In this Ordinance, unless the context otherwise requires -

"**contravention**" includes failure to comply, and cognate expressions shall be construed accordingly,

"customs Laws" and **"excise Laws"** mean those provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law 1972 and any other enactment for the time being in force relating to customs or, as the case may be, excise,

"EU Common List of Military Equipment" means the EU Common List of Military Equipment as amended from time to time^f.

"EC Regulation" has the meaning given by section 1,

"Guernsey" means the Bailiwick of Guernsey apart from Alderney and Sark,

"Policy Council" means the States of Guernsey Policy Council,

"Sanctions Committee" means the Committee of the United Nations Security Council which was established pursuant to paragraph 18 Resolution 1737 of 2006,

"Schedule" means the schedule to this Ordinance, and

"uniform scale" means the uniform scale of fines for the time being in force under the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989^g, as amended,

and other terms used in this Ordinance and the EC Regulation shall have the same meaning as in the EC Regulation.

^f The current version of the list is set out in O.J. L88, 29.03.2007, p.58

^g Ordres en Conseil Vol. XXXI, p. 278.

(2) Any reference in this Ordinance to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

(3) References in this Ordinance to the EC Regulation are references to the EC Regulation as may be further amended from time to time.

Citation and commencement.

10. (1) This Ordinance may be cited as the Iran (Restrictive Measures) (Guernsey) Ordinance, 2007.

(2) This Ordinance shall come into force on 8th August 2007.

SCHEDULE

Section 6

INFORMATION

1. (1) The Policy Council (or any person authorised by it for that purpose either generally or in a particular case) may request any person in or resident in Guernsey to furnish or produce to it (or, as the case may be, to that authorised person) any information or document in his possession or control which the Policy Council (or, as the case may be, that authorised person) may require for the purpose of ensuring compliance with the EC Regulation; and a person to whom such a request is made shall comply with it within such time and in such manner as may be specified in the request.

(2) No obligation of secrecy or confidence or other restriction on the disclosure of information to which any person may be subject, whether arising by statute, contract or otherwise, is contravened by reason of the disclosure by that person or by any of his officers, servants or agents of any information or document in compliance with this Schedule.

(3) Nothing in this Schedule compels the production by an advocate or other legal adviser of a communication subject to legal professional privilege; but an advocate or other legal adviser may be required to give the name and address of any client.

(4) Where a person is convicted of an offence under this Schedule of failing to furnish any information or produce any document, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(5) The power conferred by this paragraph to request any person to produce documents shall include power to take copies of or extracts from any document so produced and to request that person or, where that person is a body

corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any such document.

2. A person who -

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with a request made under this Schedule,
- (b) intentionally furnishes any false information, document or explanation, or recklessly furnishes any information, document or explanation which is false, to any person exercising his powers under this Schedule, or
- (c) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

is guilty of an offence.

3. (1) No information furnished or document produced (including any copy or extract made of any document produced) by any person in pursuance of a request made under this Schedule shall be disclosed except -

- (a) with the consent of the person by whom the information was furnished or the document was produced: provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this subparagraph

but such consent may instead be given by any person who is entitled to that information or to possession of that document in his own right,

- (b) to any person who would have been empowered under this Schedule to request that it be furnished or produced or any person holding or acting in any office under or in the service of the Crown in respect of Guernsey,
- (c) on the authority of the Policy Council, to the European Commission or to any of the competent authorities listed in Annex II to the EC Regulation, for the purpose of assisting the Commission or that competent authority to ensure compliance with the EC Regulation, or
- (d) for the purposes of the investigation, prevention or detection of crime or with a view to the instigation of, or otherwise for the purposes of, any criminal proceedings.

(2) A person who without reasonable excuse discloses any information or document in contravention of subparagraph (1) is guilty of an offence.