

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

24th April, 2024

Proposition No. 2024/11

Requête

AFFORDABLE HOUSING – GP 11

AMENDMENT

Proposed by: Deputy L S Trott

Seconded by: Deputy V Oliver

For Propositions 3, 4 and 5, substitute the following Propositions:-

- “3. To agree that with immediate effect the percentage requirement of the affordable housing policy in section 19.12 and Policy GP11 of the Island Development Plan is set at 0% for all proposals subject to the policy until 31st May, 2029, and for the avoidance of doubt will apply from the date of the Resolution to any planning application already filed and is yet to be determined.
4. To direct the Development & Planning Authority to apply that requirement when Policy GP11 is engaged and to publish amended Supplementary Planning Guidance to this effect.”

Rule 4(1) Information

- a) The Proposition contributes to the States’ objectives and policy plans by removing what has been described by the Guernsey Construction Forum as a barrier to building homes.
- b) In preparing the Propositions, the views were sought from the Development & Planning Authority; the Committee *for the* Environment & Infrastructure, and the Committee *for* Employment & Social Security. The Committee *for* Economic Development was not quorate on the matter of the Requête.
- c) The Proposition has been submitted to His Majesty’s Procureur for advice on any legal or constitutional implications.
- d) There may be an increase in the funding requirement from the States to deliver affordable housing if it is not provided by the private market for five years but these are unquantifiable at this time.

Explanatory note

Summary

The Policy & Resources Committee is of the view that the States must focus on facilitating and incentivising housing development and removing barriers to its delivery in the fastest possible way whilst not creating uncertainty and instability. The Requête does not deliver on this objective in terms of speed and the Committee offers an alternative approach, supported unanimously by the Development & Planning Authority (DPA) sitting without its Members who are Requérents. These Propositions if carried would direct the DPA, when determining planning applications, to apply Policy GP 11 (GP 11) of the Island Development Plan (IDP) on the basis that in relation to relevant developments it provides for the provision of 0% affordable housing. The Committee believes that this should result in the requirements of the affordable housing policy changed sooner and only for the duration of the next political term or further Resolution of the States.

This Amendment has immediate effect and, if the DPA in relevant cases takes the view that it should have regard to the direction of the States above or instead of other planning considerations, it will negate time, cost and resources otherwise required to bring forward supporting legislation as required to discharge the Requête as lodged.

Effectively by supporting the Amendment the States are recognising the unique set of circumstances that means the contribution requirements of the policy should not be applied for the next five years and are directing the DPA, when GP11 is engaged, to not require any affordable housing contribution as currently required under that policy.

Whilst the DPA is obliged to have regard to the policies set out in the IDP (including GP 11), paragraph 1.6.2 of the IDP provides that in applying the policies of the IDP the DPA will take into account any relevant direction of the States. In addition, for the purposes of the affordable housing policy as set out in the IDP, it is provided that the mix of unit types and tenure would be informed via various means including by any relevant direction of the States of Guernsey. Further the policy allows for viability to be a consideration. In the context set out herein it can be demonstrated that the viability assessments that are a requirement of GP11 when engaged, if undertaken, would demonstrate that 0% requirement of affordable housing contribution would be an appropriate determination by the DPA.

A further advantage of the Amendment, if successful, is that the direction may be reversed or further adapted by States' Resolution if change is required before 31st May 2029 (end of the next political term).

States of Guernsey objectives and policy plans

The Assembly as recently as January 2024 re-affirmed the urgency to progress house building to ease the pressure on both supply and affordability which is impacting the delivery and sustainability of public services, and the Island's economy.

The prayer of the Requête sets out the Requérents' concerns that the affordable housing policy in section 19.12, and GP11, of the IDP is an impediment to the development of private residential housing of twenty or more units. Four reasons are provided. On this basis they seek to enable the States, by Resolution, to amend, suspend, delete, replace or add to any policy, direction or other provision in the Strategic Land Use Plan and any Development Plan, which will encourage the provision of housing in the private sector, including the current GP11.

The Policy & Resources Committee understands that the Construction Sector Forum has consistently identified concerns centred on the implementation of GP 11, most notably the costs and delays that are incurred. However the Committee is also aware that with land a finite resource and the very significant pressure to provide social housing, the States must carefully exercise land planning policies to the benefit of the wider community.

The Committee agrees that accelerating a change is necessary but is of the view that this change should be narrowed and timebound to protect the integrity of the legislation underpinning the Island's strategic land use planning. On this basis it is concerned at the scope of change envisaged by the Requérents' Proposition 3 and seeks to offer the States another choice to address the single issue of affordable housing given its strategic importance, but with less risk of disruption to the whole planning service and wider unintended consequences.

Proposition 3

This Proposition has wide application with significant, far reaching, and potentially unintended, consequences. It seeks to establish a legal pathway which will allow the States by Resolution, to:

1. adopt any policies they think fit which will encourage the provision of housing in the private sector without the need to go through current statutory procedures including public consultation, certificate of consistency with the Strategic Land Use Plan and the holding of a public planning inquiry: and
2. amend, delete, replace or add any policy, direction or other provision in the Strategic Land Use Plan or a Development Plan which relates to encouraging provision of private market housing also without the need to go through current statutory procedures.

These changes will require the drafting of legislation with continued uncertainty for developers whilst legislation is amended and returned to the States for enactment.

There could also be long term uncertainty centred on policies relating to private market housing provision, both at the Development Plan and Strategic Plan level, as it will mean that the States will be able to change policy, without the requirement for evidence, statutory process or public consultation, as often as they wish. The resulting lack of certainty regarding land-use matters could have the effect of disincentivising developers for whom certainty is recognised as vitally important when making investment decisions.

The Policy & Resources Committee cannot support Proposition 3 of the Requête, notwithstanding its sympathies with the immediate aim to remove impediments to house building.

Affordable housing policy

GP11 is based on the principle that larger housing schemes can remain viable when required to provide a proportion of affordable housing, meeting the reasonable expectations of all stakeholders involved in the residential development sector. Whilst this may have been the case in 2016 when the IDP was approved, there has since been a significant economic shift which has affected the construction development industry, together with a deficiency in housing supply and growing housing demand through social change and population growth. There are now concerns regarding viability in the context of current market conditions.

Viability assessments consider development finance and site constraints which can affect viability, such as topography, irregular shape, water bodies, infrastructure, contamination, etc. There are now additional and significant local and global economic pressures which have increased the cost of labour and materials for the development industry in Guernsey. As demand builds, the finite amount of appropriate land for housing increases the cost of land. There is also a much greater emphasis on the cost and availability of development finance and any conditions imposed by lending organisations is now a significant factor in viability calculations alongside the cost of labour, materials, supply chain issues and professional fees.

External factors currently driving costs must now be recognised in the States' land planning policies. Given changes since GP11 was adopted and the context of current market conditions, it is reasonable to assume that sites of twenty or more units coming forward now would be borderline unviable if there was a requirement for any affordable housing contribution.

The IDP states that the percentage requirement of GP11 may be reduced (i.e. could be set at zero) where it can be demonstrated that the application of the policy would make the development otherwise unviable. It also states that in applying the policies of the IDP and determining the mix of unit types and tenure, the DPA will consider any relevant direction of the States of Guernsey. It also acknowledges that in some circumstances there may be important economic or social reasons to provide a particular type of dwelling.

Island Development Plan review

The States have agreed funding and work is progressing steadily on the IDP review which includes a Strategic Housing Land Availability Assessment. The Policy & Resources Committee recognises that this is the route established by statute to review land planning policies and has been actively engaged in this work thus far.

The DPA currently proposes publishing in May this year the draft IDP amendments relating to housing land supply, including the delivery of affordable housing, employment land supply, Areas of Biodiversity Importance etc. The Committee *for the* Environment & Infrastructure will then commence the planning inquiry with the inspector appointed and calling for the first

round of representations shortly after. It is understood recommendations will be considered by the Assembly in 2025 before the next General Election.

The Committee looks forward to the DPA concluding its evidence-based review as planned, being cognisant of the discussions and debate this Requête will stimulate and the attendant Resolutions of the States. However where the Committee agrees with the Requérents is that it is imperative that measures need to be implemented in the meantime to incentivise and facilitate development opportunities on larger sites and to provide more certainty. The DPA is supporting this view.

Alternative approach – recognise current market pressures on viability for private market contributions to affordable housing

Given the changes in viability of developing housing sites, directions in the Strategic Land Use Plan to remove barriers to delivery of housing, and that the IDP will take into account States' direction in applying policies, this Amendment proposes that the States agree, at this point in time, and for a temporary period until 31st May 2029, that circumstances have changed so dramatically in the construction and development sectors since GP11 was adopted that it can be assumed that all sites coming forward for planning permission, of twenty or more units, would be unviable if an affordable housing contribution is required. The States are directing that a zero contribution should be applied. If the States agree and direct accordingly, this will negate the need for individual site viability assessments, reducing costs for developers, and no affordable housing contribution will be required. If approved, it:

1. will direct the DPA to apply the zero rating when Policy GP11 is engaged;
2. will not enable any other policies to be amended;
3. has no requirement for legislation, and it can therefore take immediate effect to incentivise the delivery of larger sites accommodating twenty or more units without the uncertainty of bringing the amended legislation to the Assembly. It also has the advantage of not re-prioritising States' legislative drafting programme or impacting the on-going review of the IDP which does engage legal support; and
4. would ensure compliance with the Strategic Land Use Plan as housing policies in the IDP remain in place and would continue to make provision to meet the requirement for new homes, albeit those policies are applied in a certain way for a defined period as directed.

Impact of an alternative to Proposition 3

This Amendment removes for a defined period of time the potential to require the delivery of affordable housing units through private development by consequence of planning policies. This could add pressure onto the States' Affordable Housing Development Programme and may risk units of affordable housing previously approved under the policy and not yet built.

There are potential options for addressing the affordable housing shortfall through increasing densities on housing sites, considering the use of other parcels of States' land and the potential for allocation of sites for affordable housing through the IDP review process.

There is also the potential for an adverse impact on States finances to consider as a result of greater demand. The current political term's agreed funding for the Affordable Housing Programme is £39m and a significant portion of this is either committed or funding in principle has been agreed. The future funding requirement for the States of Guernsey's Affordable Housing Development Programme will be considered early in the next political term.

The States have provided long-term loans from the States of Guernsey Bond to enable social housing development. Additionally the States' agreed in the recent Funding & Investment Plan debate to authorise the Policy & Resources Committee to take out new external borrowing up to a maximum of £150million, for a period of up to 40 years, on such terms and conditions as the Committee deems appropriate, specifically to lend on to the Guernsey Housing Association, or another provider of affordable housing, to fund the Affordable Housing Development Programme.¹ The loans are intended to enable social housing development, with the resulting rental income stream allowing full repayment without further pressure on the States' underlying financial performance.

¹ [20th October 2023: Resolutions concerning Billet d'État No XVII](#)