

JERSEY BRIDGING ISLAND PLAN

EXAMINATION IN PUBLIC

GUIDANCE NOTE FROM THE INSPECTORS

Version 1.3

Update Issued: 4 November 2021

(Previously issued: 22 September; 11 October and 18 October 2021)

Revisions to reflect completion of the further representations consultation process; publication of the revised EiP Programme and representations received; and other various updates:

- Section 1 Introduction
- Section 2 Examination Library
- Section 3 Venue of the Hearing Sessions
- Section 4 Dates of the Hearing Sessions
- Section 5 On-line Streaming of Hearing Sessions
- Section 9 Further Representations (incl. new Annex B)
- Section 10 The Hearing Session Programme

1. Introduction

- 1.1 Jersey has by law a 'plan led' system to guide future development. The existing Revised Island Plan was adopted by the States in 2014, and the Government has now prepared a draft bridging Island Plan (the Plan) to cover the period 2022-2025. If approved by the States Assembly in due course, all previous development plans will be superseded. The Plan has been subject to formal public consultation between 19 April and 12 July 2021. A further representations consultation, conducted by Planning Inspectors, took place between 11 October to 22 October 2021.
- 1.2 The Plan is now the subject of an independent Examination by Planning Inspectors, who are considering the written comments and will be holding public hearing sessions, an Examination in Public (EiP), before making recommendations. Under the revised legal process for the consideration of the Plan, the written comments comprise both those representations made by the public and representations submitted by States Members seeking amendments. The EiP has been arranged to be held during the weeks commencing Monday 15 November and Monday 29 November 2021. There will therefore be a one week gap between the first and second weeks of sitting (see Section 4, paragraph 4.1 below).
- 1.3 This Guidance Note has been prepared to assist those individuals and organisations who have been invited to participate or wish to attend the open session, or to observe the EiP.

The Examination in Public

- 1.4 The EiP will provide opportunities for structured discussion and Examination of the Plan. The EiP hearings will consist of a series of discussions on the principal topics covered by the Plan. Where possible, participants with a mix of viewpoints have been invited on the selected topics. Topics have been chosen guided by the representations that have been made and the Inspectors reading of the Plan. Some of the hearing sessions will be considering specific proposed sites, which are either identified within the Plan for potential development or have been put forward by representors for possible inclusion within the Plan. There will also be a Plenary Session for individuals to address the Inspectors, where they have made representations on a topic which they have not been invited to debate at the thematic sessions. Bearing in mind that States Members have also made representations on the Plan, the Plenary Session will also afford States Members the opportunity to address the Inspectors if they consider that a relevant point has not been adequately dealt with in the thematic sessions.

- 1.5 The discussions at the hearings will be led by the Inspectors with an emphasis on an informal approach. Legalistic or formal procedures involving presentation of evidence and cross examination will not be permitted. The Inspectors will not allow the repetition of points or arguments already made in the written submissions. The aim of the hearing sessions is not to allow participants to restate their representation. Rather the aim is to allow the Inspectors to probe any matter in the Plan or raised in the representations that the Inspectors consider need explanation, clarification or elaboration.
- 1.6 The Inspectors will report to the Minister on all the matters which have been raised in representations and/or which the Minister has asked them to consider, whether or not they have been the subject of debate at the EiP. It is stressed that both the initial written representations received and the further representations invited and received by the Inspectors will be considered on the same basis and given the appropriate weight as oral representations. Consequently parties may be assured that it is not necessary to be present at the EiP for their views to be fully taken into account.

2. Inspectors and Programme Officer

Inspectors

- 2.1 The States of Jersey have appointed Keith Holland BA (Hons) DipTP MRTPI ARICS as Lead Inspector and Geoff Salter BA MRTPI as Assistant Principal Inspector for the Examination. Derek Stebbing BA (Hons) DipEP MRTPI has been appointed as Assistant Senior Inspector to provide support to the Lead and Assistant Principal Inspectors.

Programme Officer

- 2.2 The Programme Officer is Mrs Helen Wilson BA (Hons). She is responsible for the administrative arrangements up to and during the EiP. Her duties include drafting the Examination programme, maintaining the Library and ensuring that documents are distributed as necessary. Any queries regarding the programme, as well as all other general queries should be directed to the Programme Officer. In order to maintain their impartiality, the Inspectors will have no direct contact with any of the participants or with the Minister or his representatives outside of the Examination sessions, unless specifically arranged and publicised (e.g. during accompanied site visits).

2.3 The Programme Officer has been appointed for the duration of the Examination process and is independent of all participants involved; she works under the direction of the Inspectors.

2.4 Contact details for the Programme Officer are as follows:

Helen Wilson, IP Programme Officer
c/o Government of Jersey
Strategic Policy, Planning and Performance
19-21 Broad Street
St Helier
Jersey
JE2 3RR

Telephone: 0151 352 3863

Mobile: 07879 443035

E-mail: progofficer@aol.com

Examination Website

2.5 The Programme Officer administers the Examination Website which is:

Website – www.gov.je/IslandPlanEiP

Examination Library

2.6 During the Examination the Programme Officer will maintain an on-line Examination Library as part of the Examination website, which will include:

- A link to copies of all representations submitted to the Plan;
- Examination Core Documents, including the Plan and all of its supporting evidence base documents;
- Any briefing or other information requested by the Inspectors;
- The further representations invited and submitted to the Inspectors;
- Documents other than those listed above and referred to in Written Submissions; and
- Any correspondence between the States and the Inspectors during the Examination.

2.7 Participants at the public hearing sessions (i.e. those selected to attend the thematic sessions or are appearing at the open Plenary

Session) should check whether any documents that they intend to refer to at the EiP are included in the list of Core Documents. Participants do not need to submit copies or extracts from Core Documents, since these will already be available to the Inspectors. If the document does not appear in the list, they should contact the Programme Officer to arrange for it to be included in the Library.

3. Venue for the Hearing Sessions

- 3.1 The hearing sessions will be held at The Members' Room, Société Jersiaise, 7. Pier Road, St. Helier, Jersey. JE2 4XW.
- 3.2 The lift at the venue is not presently operational. Persons with limited mobility or in need of special assistance/particular facilities at the Examination should contact the Programme Officer in advance, to discuss what alternative arrangements might be available.
- 3.3 The Inspectors recognise that the situation regarding COVID-19 will need to be monitored and the format of the hearings reviewed if necessary. If there are COVID-19 related reasons which mean you cannot attend in person, please speak to the Programme Officer as soon as possible, in order to allow alternative arrangements to be explored. If there are lockdown restrictions then the hearings may be held virtually. However, at present the Inspectors are preparing to hold physical hearings.

4. Dates for Hearing Sessions

- 4.1 Following the further representations consultation, the Inspectors have published an updated EiP Programme (4 November 2021) setting out the timetable for the hearing sessions (which are part of the overall Examination) to be held over following periods:

Week 1 – Monday, 15 November to Thursday 18 November 2021 (with Friday, 19 November 2021 in reserve for overruns)

Week 2 – Monday, 29 November to Thursday, 2 December 2021

Note: Week 2 of the EiP was previously scheduled to take place from Monday, 22 November to Thursday, 25 November 2021. Following a request from the Minister of the Environment, to take into account the sitting of the States Assembly during that week, the Inspectors have agreed that the proposed Week 2 of the EiP hearing sessions

will now be held from Monday, 29 November to Thursday, 2 December 2021.

- 4.2 It should be noted that the EiP Programme is unlikely to be subject to further substantive change at this stage. In the interests of fairness to all, the EiP Programme will not be changed to suit the attendance preferences of individuals. Where an individual cannot attend, they may nominate a substitute to appear for them, failing which the Inspectors will rely on the written representation made.
- 4.3 The Inspectors have also published a separate, comprehensive Briefing Note entitled 'Participation at the Hearing Sessions' to advise participants how the round table (thematic) hearing sessions and open Plenary Session will be run. It will also be of interest to those who wish to observe proceedings. The Briefing Note has been added as Annex A to this Guidance Note for ease of reference.

5. On-line Streaming of the Hearing Sessions

- 5.1 Arrangements will be made for the on-line live streaming and recording of the hearing sessions for people wishing to watch the proceedings, and who are not participating in the hearing sessions. Details will be published on the Examination website prior to commencement of the opening hearing session on 15 November 2021.

6. The Inspectors' Role in the Examination

- 6.1 The Inspectors' task is to undertake the independent Examination of the Plan. The Examination will consider whether the draft Island Plan furthers the purpose and intent of the Planning and Building (Jersey) Law 2002 (Article 4 (3)), and will provide for the orderly, comprehensive and sustainable development of land in a manner that best serves the interests of the community and is otherwise considered adequate. This will be undertaken in accordance with the requirements of the 2002 Law, as amended by the Covid-19 (Island Plan) (Jersey) Regulations 2021, and the Planning and Building (Covid-19 Bridging Island Plan) (Jersey) Order 2021. The Inspectors' terms of reference may be viewed on the Examination website.
- 6.2 To provide a framework for the Examination of the Plan, the Minister for the Environment has described a number of adequacy considerations, against which the Plan and its supporting evidence base shall be assessed by the Inspectors:

- The bridging Island Plan, overall, meets the purposes contained within the Planning and Building (Jersey) Law 2002, and that in particular that it provides for the orderly, comprehensive and sustainable development of the land which best meets the needs of the community, without undue harm to the natural environment.
- The bridging Island Plan, overall, is based on proportionate evidence and assessment of development needs.
- The bridging Island Plan, overall, adopts an appropriate strategy for sustainable development, having regard to a range of plausible scenarios.
- The bridging Island Plan, overall, is capable of delivery.
- The bridging Island Plan, overall, is otherwise consistent with the Government of Jersey's wider strategic objectives and decisions of the State Assembly.

6.3 Following the close of the hearings the Inspectors will prepare a report to the Minister for the Environment with their conclusions. The report will deal with broad issues arising from the Examination, and not with each individual representation. However the Inspectors' terms of reference do require the Inspectors to comment on the relative merits and/or challenges of each States Member Amendment, as proposed prior to the Examination taking place (which may include a recommendation for the Amendment to be accepted or rejected).

6.4 The report will include any recommendations for amendments to the Plan that the Inspectors consider necessary in order for the Plan to meet the adequacy considerations listed above.

7. Site Visits

7.1 The Inspectors will be carrying out unaccompanied site visits prior to the hearing sessions. Following the hearing sessions, the Inspectors will decide whether or not further site visits, some of which may be accompanied, will be needed.

8. The Plenary Session

8.1 Guidance on the open Plenary Session is provided at Annex A.

8.2 The Plenary Session will be as informal as possible. Each person will be invited to address the Inspectors in turn, for a period of up to five minutes. The Inspectors may ask questions, and the Minister for the Environment or his representatives will be invited to respond to the points made.

9. Further Representations

- 9.1 Following consideration of the comments received on the Draft List, the Inspectors invited formal further representations (in relation to certain matters) to be made during the period 11 October – 22 October 2021. The terms of the consultation on further representations (the consultation is now closed) is reproduced in Annex B to this note for information.
- 9.2 The further representations that were duly made have now been published so that they are available to all participants and anyone else who wishes to read them. Because they have been made available in this way, they will not be circulated directly to participants. However, anyone who is unable to access them via the EiP website may request copies from the Programme Officer.

10. The Hearing Sessions Programme

- 10.1 As noted in Section 4 above, the EiP Programme has been updated and republished on 4 November 2021.

Background: Draft List

- 10.2 The production of the EiP Programme has been preceded by the publication of the Draft List on 22 September 2021, which identified the matters initially selected to be discussed at each hearing session and the proposed participants. Comments were invited on the Draft List by Tuesday 5 October 2021.
- 10.3 This provided an opportunity for those with an interest in the EiP to comment on the scope of the matters that the Inspectors initially identified for discussion. It also set out the provisional list of participants and afforded an opportunity to express a wish to participate at a thematic hearing session (if selected by the Inspectors) or the open Plenary Session.
- 10.4 Initial versions of the EiP Programme were published on 11 October and 18 October 2021.

Consideration of Further Representations

- 10.5 Following their assessment of the further representations, the Inspectors have made revisions to the EiP Programme to take into account substantive points raised and to invite additional participants, where appropriate.

- 10.6 The Inspectors have therefore taken into full consideration both the comments that were received on the Draft List and further representations in producing the published EiP Programme. The Inspectors have had to take a difficult but pragmatic and proportionate approach to the number of participants to be selected for the thematic hearing sessions, since large numbers will make debate very difficult. Too much duplication i.e. many participants making very similar points will not progress the debate. Therefore, the Inspectors have sought to strike a balance in keeping the number of participants in the proposed sessions to numbers that will both allow for a manageable debate and ensure that there will be a sufficient range of different points of view for each matter to be discussed.
- 10.7 This has meant that not all requests to be invited to the thematic session could be accommodated. However, for those that have made a request to be invited to a particular thematic session, but have not been selected, the opportunity is provided for to them to appear and be heard at the Plenary Session, should they indicate their intention to do so via the Programme Officer. Therefore, anyone that has made a representation who wishes to appear and be heard will receive that opportunity at either the thematic sessions or Plenary Session.

Site Allocations

- 10.8 Please note the Inspectors are examining the Plan as prepared by the Government of Jersey. Therefore, they will in the first instance, be considering the merits for the development of sites included in the Plan ("allocated sites"). However, should they determine that there is a need for additional or different sites to be allocated, they will take account of the alternatives suggested by the Minister, the sites proposed in public representations to the Plan and the States Members' suggested amendments.

COVID-19

- 10.9 Should any restrictions caused by the COVID-19 pandemic necessitate any changes to the EiP Programme, they will be notified on the Examination website. It will be for individual participants to check the progress of the sessions, either on the Examination website or with the Programme Officer, and to ensure that they are present at the right time.

Annex A Briefing Note: Participation at the Hearing Sessions

Briefing Note: Participation at the Hearing Sessions

The Examination in Public (EiP) of the Bridging Island Plan involves a full and demanding programme of matters to consider. Unlike previous Island EiPs, the Inspectors are considering both public representations and States Members amendments at the same time, alongside the responses to these from the Minister.

The Inspectors are issuing this briefing note to advise participants how the hearing sessions will be run and it will also be of interest to those who wish to observe proceedings. This briefing note is intended to supplement the Guidance Note from the Inspectors, which has been further updated and republished on 4 November 2021 (previously published 22 September; 11 and 18 October 2021).

1. Practical Matters on the Day

- On arrival at the EiP venue, participants will be asked to sign the attendance register. For the thematic hearing sessions, participants will be handed a nameplate.
- There will normally be short breaks during the morning and afternoon sessions; the length and timing of breaks will be flexible depending on the progress of the debate.
- All mobile phones etc must be switched off while the EiP is in session.
- All sessions will be open to the public to observe. Participants may also attend, as observers, any session to which they have not been invited, but they will not be able to take part in the discussion. Please note a seat at the venue to observe the proceedings cannot be guaranteed or reserved and will be on a first come first served basis. However, all proceedings will be live streamed and recorded. An event risk assessment is being undertaken to review COVID-19 safety at the venue and any mitigation actions necessary will be implemented as appropriate.
- Other than the official recordings and photography, no video and sound recording or photography is permitted during the EiP.
- Participants should not engage with the Inspectors except during the sessions, when invited to do so.

2. Round Table (Thematic) Hearing Sessions

- The thematic hearing sessions have been split into an **AM session starting at 10.00** and a **PM session starting at 2:00**. The times will be the same for each day. There will be a lunch break of around 60 minutes between the morning and afternoon sessions. The Inspectors will make every effort to keep to the programme; however, last minute changes may be unavoidable (see also Section 4 below).
- On the first day, the Inspectors will make a brief opening introduction, setting out the purpose and format of the hearing sessions as well as any other relevant procedural and administrative matters. Following the introduction, on the first day the Minister for the Environment (represented by the Island Plan Review Team) will make a statement. Thereafter, each hearing session will follow the programme and list of matters and issues/questions set by the Inspectors.

- The examination will take the form of a discussion led by one of the Inspectors and based on the selected matters. The Inspectors will control the proceedings, adopting an inquisitorial approach and explore matters and issues/questions by questioning participants.
- Participants will sit at tables arranged in a U-shape. Each organisation, group or individual participating in a particular session will have one speaking point at the table, occupied by one spokesperson at a time. Any additional representatives will need to seek to sit in public seating in as close proximity as practicable to the table (subject to seating availability) and “hot-seat” at an appropriate time if necessary.
- The EiP Programme sets out the specific participants that will be required at the table for each session. For certain sessions, all participants will not sit at the table for the entire duration of the session. However, all participants should be present at the start time of the session. There may be a changeover of participants before moving onto the next issue/question (as set out in the EiP Programme). Where there is a changeover during the hearing session, there will be a short pause to proceedings to enable the relevant participants to leave or join the table. If participants are not scheduled to participate in any further discussion on the issues/questions, they may leave the venue, providing disruption is kept to a minimum.
- The Inspector will draw participants into the discussion in a logical order, reflecting their likely contributions. The representative of the Minister for the Environment will be invited to respond at appropriate points.
- Participants wishing to speak should signal their desire to the Inspectors by standing their nameplate on end. Participants will be asked to introduce themselves every time they speak, unless the Inspectors have called upon them by name.
- Contributions to the debates should be kept brief and be relevant to the matter under discussion. The Inspectors will curtail any contributions that are excessively long, or go into irrelevant matters or inappropriate detail.
- There may be no need for every participant to speak during a discussion. For example, there will be no need to take time repeating or agreeing with matters that have already been covered by others, or in the written material already submitted.
- The Inspectors will be eliciting information that may add to, not repeat, what has already been clearly set out in the initial and further representations (which will be taken as read). Participants will not be permitted to submit and/or circulate additional material at the examination, unless this results from a request by the Inspectors.
- The Inspectors will expect participants to have read the documents relevant to a particular session. The reading out of prepared statements, or the formal presentation of evidence already submitted will not be permitted.
- The informal nature of the sessions means that it will not be necessary for participants to have legal representation. There will be no formal cross-examination of participants. Any questions concerning statements made by other participants should be raised through the Inspectors.
- When discussion on an issue has reached the point at which no more is likely to be said to assist the Inspector’s conclusions, the Inspector will move on to explore the next issue.

Therefore, given the volume of matters to get through, specific timings within each morning and afternoon session have not been given.

- There is an expectation that all participants will respect the parameters set by the Inspectors in order to ensure the effective running of the EiP.

3. Plenary Session

- The Inspectors recognise the Plenary Session provides an important and open opportunity to address the Inspectors.
- Separately from the round table (thematic) sessions, anyone who has made a representation on the Plan, but has not been invited to contribute on a particular matter at the thematic sessions, has been given the opportunity to express their intention to appear and be heard at the Plenary Session.
- The session will be as informal as possible. The Plenary Session will not take the form of a debate, rather each person will be invited to address the Inspectors in turn, for a period of up to five minutes.
- The Inspectors may ask questions and the Minister for Environment or his representatives will be invited to respond to the points made.
- Participants should bear in mind that the Inspectors will have already read the representations in full. There is likely to be no practical value in simply repeating verbally what has already been submitted in writing, since written representations and verbal representations will be afforded equal weight.

4. Programme and Participant Changes

- It is anticipated that the published 4 November 2021 EiP Programme will not be subject to further substantive changes. Should any revisions become necessary, participants will be informed by the Programme Officer. However, it remains the ultimate responsibility of participants to ensure that they keep themselves up to date.
- Participants who have been invited and have agreed to attend are expected to attend all sessions concerning the matter(s) for which they have been selected. Should a participant become unable to attend a session, they are asked to notify the Programme Officer as soon as possible beforehand. Organisations may substitute a named individual with another named person at any stage before the EiP, and should notify the Programme Officer if they intend to do so. Similarly where an individual has been invited but find they are unable to attend, a representative on their behalf may be put forward for consideration by the Inspectors by notifying the Programme Officer.

Annex B: Scope of Further Representations

Note: This consultation is now closed

Article 10 of the Planning and Building (Covid-19 Bridging Island Plan) (Jersey) Order 2021, limits these representations to be made only by:

- (a) A States Member, or member of the public, who has submitted an initial representation; and
- (b) Any other person invited by the Inspector to do so.

The Inspectors are now inviting further representations as follows:

1. **Anyone who has submitted an initial representation may submit a further representation in relation to matters which have previously been raised by any representation to the draft Bridging Island Plan (both public representations and States Members' Amendments); matters raised by the Minister for the Environment's Post-Consultation Report; matters to be addressed as set out in the EiP Programme; or matters to be raised at the Plenary session (where material to the Plan).**

Where referring to an initial representation made by another party during the formal public consultation period on the draft Bridging Island Plan, please ensure the relevant response reference is provided.

A further representation can be made whether or not you have been invited and agreed to participate at the thematic hearing sessions or have elected to appear and be heard at the Plenary session. Where you are to be a participant at a thematic or Plenary hearing session, you must identify any substantive points which you wish to expand on at the hearing session. There will be no opportunity to submit separate statements.

Please note, there is no need or value in repeating any initial representation you may have made, which will have been read and considered by the Inspectors. However, if necessary, you may supplement or replace any points previously made in your initial representation.

2. **Where an initial representation has not otherwise been made, the Inspectors are inviting new representations (which may be made by any person who has a legitimate interest) on the following matters of significance that have emerged, with particular reference to:**
 - i. **The alternative sites for affordable housing suggested by SR 26 (page 79) of Part 3 of the Minister for the Environment's Post-Consultation Report, listed in Appendix 2 to the EiP Programme.**
 - ii. **The alternative policy options posed by the Minister for the Environment for further consideration, including those further changes which the Minister is minded to make, as set out in Part 3: Statement Responses of his Post-Consultation Report.**
 - iii. **The sites suggested for allocation in the initial representations received to the draft Bridging Island Plan consultation (non-allocated sites), set out in the list at Appendix 3 of the EiP Programme.**
 - iv. **The modifications described as substantive in Part 6 of the Minister for the Environment's Post-Consultation Report.**

v. The changes suggested by States Members amendments that the Minister for the Environment is minded to accept in Part 5 of his Post-Consultation Report.

The initial representations made can be viewed here:

https://haveyoursay.gov.je/consult/islandplan/consultation/published_select_respondent

The Minister's for the Environment's Post-Consultation Report (which includes the States' Members Amendments – see Part 5) can be viewed here:

<https://www.gov.je/Government/Pages/StatesReports.aspx?ReportID=5448>

A further representation must be limited to a maximum of 1,500 words in length. The word limit does not include any concise supplementary documents that are submitted to accompany the further representation. It must include your name and postal address. Where making a new representation in relation to 2. above, you must also indicate in your response whether you wish to receive circulated information as to documents published in the EiP (see also paragraphs 9.7 and 9.8 below).

Further representations must be submitted in writing to **the Programme Officer by 5.00 pm on Friday 22nd October**. Unless there are exceptional circumstances, late submissions will not be accepted. These should be emailed to progofficer@aol.com or posted to the address provided at paragraph 2.4 above.

Following the closing date for receipt of further representations, all responses will be posted on the Examination website, so that they are available to all participants and anyone else who wishes to read them. Because they will be available in this way, they will not be circulated directly to participants. However, anyone who is unable to access them on the website may request copies from the Programme Officer.

Further changes may be necessary to the EiP Programme (as published 18 October 2021) following consideration of the further representations. Participants will be informed by the Programme Officer of any changes. However, it remains the ultimate responsibility of participants to ensure that they keep themselves up to date

If you made a representation during the draft Bridging Island Plan consultation, you should previously have been contacted by the Programme Officer inviting you to comment on the Draft List and/or request to be heard during the EiP hearings. If you have not been contacted but believe you should have been, please email the Programme Officer.

If you did not submit comments during the draft Bridging Island Plan consultation but an issue or site of particular interest to you has since arisen as a result of the consultation, you may contact the planning inspectors via the Programme Officer to request to be included at this late stage. You must provide a clear reason in your request, and any late inclusion into the process will be at the Inspectors' discretion.