

DEVELOPMENT OUTSIDE BUILT-UP AREAS

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1. INTRODUCTION

1.1 The purpose of this guidance note is to consider the planning policy framework towards development applications outside the boundaries of the Temporary Provisions Schemes. This requires consideration of the Schemes themselves and, more importantly, the Structure Plan which has incorporated the zoning designations from the Schemes and provides a much more comprehensive planning policy basis for considering all forms of development applications.

1.2 It is a well established planning principle that new development should be confined as much as possible to existing built-up areas. One of the three major goals of the Structure Plan is stated as follows:

“To use land buildings efficiently and consequently to channel urban development activity into existing and planned development areas, particularly through rehabilitation and upgrading of the existing fabric and infrastructure thus constraining further inroads into undeveloped land, and generally resulting in higher density development than at present”.

This overall goal contains within it the following more specific objectives:

- (i) To make efficient use of buildings and infrastructure in the existing developed areas- e.g. roads, sewers, water supplies etc;
- (ii) To channel pressures for development into existing developed areas and to encourage rehabilitation of historic areas;
- (iii) To maintain the distinction between urban and rural areas by limiting the spread of sporadic development;
- (iv) To protect land resources for their intrinsic importance - e.g. areas of ecological, landscape, archaeological, agricultural or hydrological importance;
- (v) To minimise demands for travel by encouraging a concentration of development.

1.3 This note describes the planning framework which is to be adopted for developments outside built-up areas and then considers in turn each of the various classes of development which may be considered outside developed areas, provided certain criteria are satisfied.

2. THE BUILDING PERMITS (TEMPORARY PROVISIONS) ACT, 1988

2.1 The zoning designations in the Temporary Provisions Schemes were generally confined to peripheral extensions to existing developed areas. Applications for most forms of new development outside the limits of development was considered to be “Outside Development Zones” and therefore contrary to policy. Certain exceptions to this policy were set out in Government Notice 733 of 1988. The Temporary Provisions Schemes defined zonings for the following categories of development:

- Terraced Houses
- Semi/Detached Villas

- ❑ Bungalows
- ❑ Industrial Areas
- ❑ Projected Home Ownership Schemes
- ❑ Shopping Centres
- ❑ Places of Worship/Schools
- ❑ Green Areas
- ❑ Unopened Streets
- ❑ Proposed Flats with conditions
- ❑ Areas for Replanning, including Public Open Space and Residential and Community facilities.

There are many forms of development for which no explicit provision is made in the zoning - e.g. Tourism development and offices. In this and many other respects the Structure Plan is a much more comprehensive and up to date planning framework. The Building Permits (Temporary Provisions) Act, 1988 was repealed by the Development Planning Act, 1992, although the zoning designations are confirmed in the Structure Plan.

3. THE STRUCTURE PLAN

3.1 The channelling of urban development activity into existing and planned development areas is one of the three basic Structure Plan goals. Policy SET 1 seeks to give effect to this objective. Policies SET 11 and SET 12 deal specifically with the question of development in non-urban areas. The Structure Plan strategy comprises a blanket prohibition of any form of urbanisation outside areas specifically designated for urban uses in the Plan - i.e. existing and committed built-up areas and primary development areas. Any form of urbanisation outside these designated areas is prohibited. "Existing built-up areas" refers to land within the limits of development of the Temporary Provisions Schemes. "Committed built-up areas" refers to unbuilt land within the Temporary Provisions Schemes and land within the primary development areas designated in the Structure Plan.

3.2 References to existing and committed built-up areas in the Structure Plan do not refer to land outside the limits of development which contains sporadic development or to sites where a previous development has fallen into disuse. The existence of a previously issued development permit does not create an "Existing or Committed built-up area". Development on sites of this nature is prohibited by the Structure Plan. Under the Building Permits (Temporary Provisions) Act, 1988 "infill" development was allowed in the countryside on land having a street frontage or on redevelopment sites, provided certain criteria were met in terms of distance from adjacent properties. This policy did not sufficiently restrain sporadic development in the countryside. However, it is no longer relevant since the Building Permits (Temporary Provisions) Act, 1988 was repealed by the Development Planning Act, 1992.

3.3 The Structure Plan adopts a much more restrictive approach to developments in the countryside than the provisions relating to infill development in the Building Permits (Temporary Provisions) Act, 1988. Policy SET 11 and paragraph 7.6 of the Draft Final Written Statement specify those categories of non-urban development which will be permitted outside existing and committed built-up areas. The Structure Plan provides that only the following categories of built-structures are considered normal and legitimate inclusions in the non-urban scene:

- ❑ Farmhouses and other genuine agricultural buildings
- ❑ Reservoirs, picnic area toilets and car parks
- ❑ Control buildings and walls/fences at archaeological and ecological sites.

- 3.4** Policy SET 11 and paragraph 7.6 deal with those forms of development which are quite normal and legitimate uses in the countryside. In addition to these uses there are certain other uses which can be allowed in exceptional circumstances. There are also certain forms of development which it is neither feasible nor desirable to confine to built-up areas. The relevant Structure Plan policies dealing with these forms of development are summarised in the following sections.

4. EXCEPTIONS TO POLICY

- 4.1** The Structure Plan is not likely to have anticipated every form of development likely to arise during the plan period (20 years), either because a particular form of use was not foreseen at the time the plan was prepared or because further studies have revealed a need for a specific form of development. Policy SET 12 therefore provides that applications may be considered outside the built up areas provided the applicant can justify, on sound planning grounds, why the proposed use cannot be located in areas designated for development. Applications contemplated under Policy SET 12 must also be acceptable on environmental grounds and a satisfactory Environmental Impact Assessment will be required if the principle of the development is found to be acceptable. The requirement for justification on planning grounds is to ensure that a development application is not permitted simply because of land ownership considerations or because it is convenient or less costly for the applicant to breach normal planning policies.

5. PRIMARY DEVELOPMENT AREAS

- 5.1** Paragraph 6.8 of the Structure Plan states that the Temporary Provisions Schemes are not enough to contain all the housing and other facilities required up to the year 2010 and therefore additional land outside these areas and existing built-up areas is required. Policy SET 10 therefore defines areas for major development, as follows:

Pembroke - mixed uses as defined in paragraph 8.4 and Policy HOU 5;
Luqa airport vicinity and Marsa Park - offices, shops, business and commercial uses as defined in Policy COM 3;
Manoel Island - tourism related uses as defined in TOU 7 and the Manoel;
Island/Tigne Point Development Brief;
Hal Far and San Gwann industrial uses as defined in Policy IND 1;
Kirkop - airport related uses as defined in AVN 1;
Marsaxlokk Bay - industrial activities related to the Freeport as defined in Policy IND 15.

Uses and development in these areas will be considered by the normal planning process - development brief, application or plan.

6. LOCAL PLANS AND DEVELOPMENT BRIEFS

- 6.1** Major land releases outside built-up areas can only be considered after a thorough Local Plan or area planning study has examined all the relevant issues including the need for the development concerned, both at present and in the future, the range of alternative sites considered and the reason why existing zoning allocations are not suitable. The need for further planning studies to justify land releases outside development zones is recognised explicitly in several Structure Plan policies - e.g. Policies TOU 6, 12 and 13. It is not possible to consider this wide range of issues in response to a single application for development permission, even in the light of the requirements of Policy SET 12.

7. AGRICULTURAL, HORTICULTURAL & FISHERIES DEVELOPMENT

- 7.1** Policies AHF 5 and 9 state that buildings and structures essential to the needs of agriculture will be permitted in the countryside and include criteria on siting and design etc. Policies AHF 5, RCO 2 and UCO 11 deal with the conversion and rehabilitation of farmhouses, rural buildings and other buildings of architectural and historical importance. The policies state that sensitive conversions of such buildings will be allowed, particularly for recreational uses or new uses which provide public access, provided environmental impacts are acceptable. Paragraph 8 below gives further guidance on changes of use and extensions to buildings in rural areas.
- 7.2** Policy AHF 16 deals with land based aquaculture units. Large units are considered acceptable within industrial estates and former quarries. Small units are considered acceptable on farms. Policy AHF 16 also contains other criteria on siting. The Planning Authority has approved further detailed policy guidance on Fish Farms to which reference should be made for further information.
- 7.3** Policy AHF deals with the location of livestock units in the countryside and recognises that such uses may be undesirable uses within built-up areas. The Planning Authority has approved policy guidelines on Farmhouses and Agricultural Buildings. Reference should be made to this document for further guidance on these forms of development.

8. CHANGES OF USE AND EXTENSIONS IN RURAL AREAS

- 8.1** Notwithstanding the blanket prohibition against development outside areas designated for urban uses in the Structure Plan, certain changes of use and minor extensions to existing buildings in the countryside may be acceptable, provided planning and environmental criteria are met. This form of development will require very careful consideration to ensure that the basic Structure Plan strategy is not compromised. Such proposals will only be acceptable if the following criteria are met:

Conversion of Buildings in Rural Areas

Eligibility

- (i) The building to be converted must be of architectural or historic interest and worthy of retention; or it must comprise part of a group of traditional buildings which are worthy of preservation as a whole. Normally such buildings will be Listed Buildings or buildings which would warrant Listing. This criteria may be relaxed if the proposal involves the rehabilitation and suitable change of use of existing buildings and farmhouses and as a whole would lead to the overall improvement of the rural environment, perhaps through the removal of other buildings and structures which adversely affect the rural character of the area.
- (ii) The building must be genuinely redundant and no longer required for its former use. The applicant must furnish sufficient information to establish this fact to the satisfaction of the Planning Authority and, in the case of an agricultural building, give a clear indication of the effect of the proposal on the farm unit as a whole.
- (iii) The building must be in a sound structural condition and be capable of conversion without substantial rebuilding. The rebuilding of large sections of walls will not be acceptable unless the remainder of the building is of outstanding importance. In each case the Planning Authority will require a structural survey of the building with a clear indication of any section of the buildings which require demolition and rebuilding.

Acceptable Uses

- (iv) Preference will be given to recreational uses or new uses which provide for public access, in accordance with Structure Plan policies AHF 5, RCO 2 and UCO 11.
- (v) The new use of the building must not adversely affect the amenities of neighbouring properties or cause interference with the management of surrounding land, by reason of noise, vibration, pollution or traffic generation. Development will not be permitted where adjacent development could adversely affect the amenities of the new occupants.

Design and Visual Impact.

- (vi) The details of the conversion scheme must reflect the character of the building and its setting and must retain any features of architectural or historic interest. New openings (doors and windows) must be kept to a minimum and existing openings should be fully utilised.
- (vii) The new use of the building must not adversely affect the visual character of the site and its surroundings or the wider landscape setting of the area in which it is situated. The Planning Authority may require the suspension of permitted developments under Schedule 1 of the General Development Order, 1993 to protect the character of the building and area.

Traffic and Infrastructure

- (viii) The local road network must be capable of accommodating the traffic generated by any new uses (particularly commercial) without harm to the safety of road users and pedestrians or detriment to the amenity of the area.

Any road widening or junction improvements required to provide improved access to the site must be funded by the developer and be acceptable in environmental terms. Adequate parking must be provided on site.

- (ix) Adequate provision must be made for services, including the disposal of sewage, to the satisfaction of the Planning Authority. The provision of services must not have unacceptable environmental implications, for example damage caused by trenching or overhead cables.

8.2 Minor extensions to buildings and uses in rural areas may be acceptable provided the following criteria are met:

Extensions to buildings in rural areas

In addition to satisfying the requirements in paragraph 8.1, points (iii) to (ix) above, proposals for extensions to buildings or uses outside the limits of development will only be acceptable if the following criteria are met:

Need and Eligibility

- (i) The need for the new development must be clearly explained and justified, to the satisfaction of the Planning Authority, and in particular why the proposal cannot be accommodated on a site within the limits of development.
- (ii) The applicant must be able to demonstrate that the original building or use is implemented in accordance with a valid development permit, or that the development dates from a period before such permits were necessary.

Site Area

- (iii) Extensions to existing buildings must not create a total floorspace which exceeds 150 sq. m. (ground floor area of existing building plus extension).
- (iv) Extensions should be confined to the area already included within the curtilage of the property. Proposals which affect fresh land outside the existing site boundary will require strong justification and the loss of areas of agricultural, ecological or landscape importance will not be permitted.
- (v) The proposed extension area will be carefully considered in relation to the size and proportions of the original site. The scale and design of extensions to existing buildings must respect the character of the original building and must not visually dominate it or detract from its architectural integrity. Extensions to building of architectural or historical importance will be refused if they detract from the character of the original composition.

Visual Impact

- (vi) The visual impact of the new development, particularly its scale and massing, must be acceptable in the wider landscape setting of the site. If new development would be prominent in attractive or important views and cannot be adequately screened by landscaping it will not be acceptable.
- (vii) A high level of design quality, detailing and construction finish must be achieved in all new development. The choice of materials should be sympathetic to those of any existing buildings.

Residential Development

- (viii) Extensions to a residential property which create a new unit of accommodation will not be acceptable.

In addition, applicants for extensions to agricultural buildings should refer to Policy and Design Guidance: Farmhouses and Agricultural Buildings (February 1994). Section 2 of that document contains Design Guidelines for Agricultural Buildings. Paragraph 1.4.4 dealing with conversions or extensions of residential farmhouses, should be read in conjunction with paragraphs 8.1 and 8.2 of this policy document.

9. OBNOXIOUS INDUSTRIES

- 9.1** Paragraph 10.16 of the Structure Plan and Policies IND 9 and MIN 13 deal with certain forms of obnoxious industries which have unwelcome environmental impacts on neighbouring uses. Lime kilns, concrete batching plants, fireworks factories and scrapyards are cited as examples of such uses. These policies suggest that abandoned quarries would be suitable sites for these forms of development (see also para 10.2 below).

10. QUARRY DEVELOPMENT

- 10.1** Minerals have to be worked in the countryside where they are found and on environmental grounds it would be undesirable to confine quarrying to built-up areas. This is recognised in Policies MIN 5, 6, 8 and 9. These policies seek to ensure that, although quarrying must of necessity take place in the countryside, sites must, inter alia, be acceptable on environmental grounds and must be restored when quarrying has ceased.
- 10.2** There is an extensive backlog of disused quarries requiring reclamation. Policy MIN 13 recognises that disused quarries provide opportunities for future uses, particularly for uses which are difficult to locate elsewhere because of their visual or other undesirable impacts, including obnoxious industry, storage, aquaculture and recreational facilities. In addition, temporary mineral related uses may be acceptable in quarries such as garages, generator rooms etc. Policy PUT 17 deals with sites for the disposal of waste and suggests that former quarries may be suitable locations. In all cases uses within quarries must have acceptable environmental impacts, including protection of groundwater resources and must not conflict with restoration proposals for the site.

11. SOCIAL AND COMMUNITY FACILITIES

- 11.1** Paragraph 9.6 of the Structure Plan states that new private hospitals and nursing homes have extensive land requirements and may therefore need to be located outside or adjacent to new or existing built-up areas. Policies SOC 2-9 deal in more detail with the locational criteria on siting.

12. TOURISM AND RECREATION

- 12.1** Policy TOU 4 states that tourist accommodation will be favourably considered within built up areas and Temporary Provisions areas in certain identified locations. However, the Structure Plan also recognises that certain forms of tourism development may not be accommodated in developed areas. Policy TOU 5 states that favourable consideration will be given to tourist accommodation replacing shanty and illegal development on the northern coastline of the Marfa peninsula between Vendome Battery and White Tower. Paragraph 13.9 of the Structure Plan states that it may not be practicable to accommodate all long term tourism accommodation demands within the boundaries of existing, committed and planned built-up areas.

In this event it is suggested that the Planning Authority will look at the feasibility and advisability of siting such development in the areas identified in the Tourism Development Plan as requiring Best Use Studies. Within these Best Use Studies areas, priority should be given to the upgrading and improvement of existing facilities containing tourism accommodation, including the careful blending of these developments with their surroundings. The timescale implied in this statement is not made explicit but given that the Plan has 20 year horizon and that there is a considerable supply of tourism accommodation existing, planned and under construction, there can be no justification for looking outside built-up areas in the short to medium term. The mechanism for the Planning Authority to identify sites outside built-up areas would be through a Local Plan or Development Brief. The Planning Authority will not favourably consider ad hoc development applications for tourism development outside existing and committed built-up areas.

- 12.2** Policies TOU 12 and 13 deal with Golf Courses and Marinas. In both cases it is recognised that neither form of development can be accommodated within the boundaries of existing built-up areas. Both forms of development could only be considered after a Local Plan/Subject Plan has thoroughly assessed the need for and suitability of the proposals and the alternatives available.

- 12.3** Policy REC 8 provides that, through Local Plans, provisions will be made for sports and recreational uses in the countryside with particular attention to minimising adverse environmental impacts. Locations should only be chosen after full environmental impact assessments, in conjunction with sieving techniques to narrow areas of search.