



Town Hall,
Parliament Square,
Ramsey,
Isle of Man.

www.ramsey.gov.im

6th September, 2019.

Sir/Madam,

A Special **Meeting** of the Ramsey Town Commissioners will be held in the Boardroom of the Town Hall, Parliament Square, Ramsey, on Monday 9th September, at 7.30 p.m.

BUSINESS:

1. **Apologies for Absence:**

2. **Works & Development
Consultation on Changes to the Planning System.**

Town Clerks Report attached.

3. **Any other Business:**
(by permission of Chairman)

Town Clerk & Chief Executive.

**RAMSEY TOWN COMMISSIONERS
TOWN CLERK'S REPORT
CONSULTATION REFORM OF THE PLANNING SYSTEM
SEPTEMBER 2019 – PUBLIC**

Mr. Chairman and Members,

A public consultation, Reform of the Planning System in relation to proposed Secondary Legislation, has been launched, and can be accessed via the Government's Consultation Hub. The closing date for comments is 5 p.m. on the 15th September, 2019.

A Planning Action Plan was laid before Tynwald on 15th May, 2018. It included a commitment to make changes to the existing Town and Country Planning Act, 1999 'the Act'. A Planning Bill has been produced and has been supported by both branches of Tynwald. It is currently awaiting Royal Assent and it is envisaged it will be brought back to Tynwald before the end of the year.

This consultation now seeks views in relation to a number of pieces of secondary legislation which are required to implement some of these changes:

- National Planning Policy Directives (which set out how Directives will be produced and provides the powers for them to be implemented);
- A Development Procedure Order (which sets out how planning applications and amendments to them are dealt with) and accompanying Regulations; and
- Planning Committee Constitution Order (which provides further definition regarding the status and powers of the Committee).

The Act (and the changes which will be made by the Planning Bill), split responsibility for planning functions between the Council of Ministers, the Department of Environment, Food and Agriculture and the Cabinet Office. This consultation is therefore part of a joint project between the Department of Environment, Food and Agriculture and the Cabinet Office to take forward the Reform of the Planning System.

Consultation responses are strongly recommended to be made via the Consultation Hub, however, written submissions can be made.

The consultation document has been circulated to Members who may wish to respond individually as well as collectively on behalf of the Commission.

The Commission has agreed that a special meeting should be held to discuss the response to be made on behalf of the authority.

The proposals are outlined in detail on the consultation document which has been circulated to Members previously.

**Town Clerk's Report – Consultation Reform of Planning System
September 2019 - Public Continued**

National Planning Policy Directives (which set out how Directives will be produced and provides the powers for them to be implemented);

The background of the proposal is explained - “The planning system should reflect Government’s policies. However, there will always be a need to amend policy to respond to changing circumstances and it is suggested that this currently takes too long. Indeed, there is an argument that the process to change planning policy as laid out in the Development Plan is so extensive that it is challenging for a Government to achieve real change during its term of administration. Views are being sought as to whether there is merit to amending the Town and Country Planning Act to allow decision-makers to use a new type of policy document when deciding on planning applications”. It also noted that: “a National Policy Priority document could allow Government priorities to influence planning decisions more quickly, helping to make the planning system significantly more responsive”.

National Policy Directives:

- are optional, produced by the Council of Ministers and must be in the national interest;
- must be informed by public consultation;
- last for a maximum of 5 years; and,
- must be approved by Tynwald and then published (and the requirements for that publication).

The purpose of a National Policy Directive is clarified in that they shall:

- be for a strategic and defined purpose;
- include reasons for the policy set out in the directive;
- include a statement of the anticipated impact and consequences of the policy set out in the directive; and
- include justification for the weight of the NPD in relation to other matters such as the Development Plan.

The Bill places a requirement on the Cabinet Office to produce a report every 3 years on the National Policy Directives which have been issued or expired in that time and how successful they have been, with detailed requirements in relation to the content of that report

The Bill also clarifies that the Council of Ministers shall produce Regulations about the making of National Policy Directives under this section. The approach to regulations appears to be comprehensive including a number of stages designed to ensure that consultation is comprehensive whilst also enabling the process to be responsiveness to national need. The process includes the specific requirement to obtain Tynwald approval.

**Clerk's Report – Consultation Reform of Planning System
September 2019 - Public Continued**

The consultation seeks responses to two questions in relation to National Policy Directives and the processes for establishing such:-

Question NPD1.

Do you think the above approach is broadly appropriate? Yes/No

It is suggested that the Commission may wish to indicate that it feels the approach proposed is broadly appropriate.

Other Comments:

The Commission may wish to comment that it recognises the process is finalised by the obtaining of Tynwald approval, and that it is assumed this is by specific resolution and not merely by the Directive having been lid before.

Question NPD2. Would you suggest any changes? Yes/No

It is suggested that the Commission does not indicate any change at this time.

A Development Procedure Order (which sets out how planning applications and amendments to them are dealt with) and accompanying Regulations;

Amendment applications

Applications are currently allowed for alteration of conditions, but not alterations to plans. The Amendment Bill will introduce a power to have minor amendments.

The key elements of the approach are summarised below.

- Amendment applications may only be made where they: relate to minor amendments; relate to a planning approval for a building(s); do not result in a net increase in the overall footprint of a building by 10% or 15 square metres (whichever is less); do not increase the number of dwellings or number of buildings; and do not result in any change to the red line boundary.
- Applications must be on a form provided by the Department, specify which application the amendment relates to, set out what the amendments are (including amended plans where relevant) and why they are required.
- No more than one amendment application may be made in relation to any planning approval.
- The Department shall decline to consider an amendment application if it considers that it falls outside the above guidelines, and there is no appeal against such a declining.

**Clerk's Report – Consultation Reform of Planning System
September 2019 - Public Continued**

- Approval is at the Department's reasonable discretion, but the Department shall refuse amendment applications if they are: transformative (considering nature and scale); go to the heart of the approval; result in the proposal not complying with a Development Plan policies which it would comply with without the amendment; or have the potential to result in new or increased adverse impacts on neighbouring properties (irrespective of whether such adverse impacts might be outweighed by other material considerations).
- The Department shall give reasons for the decision (whether grant or refusal), but there is no appeal against the decision (although this is without prejudice to the submission of a fresh full application).
- Approval of amendment application cannot be conditional and does not result in a new approval, and so does not allow a further 4 years for the implementation of the 'parent' approval (applications to amend conditions do produce new approvals, and such applications can be used to extend the 4 years).
- The target timescale for determination being 20 working days, but there being no appeal against non-determination.
- The fee being £100.

Question DPO1. Do you think there are any amendments to applications which should be allowed and would not be allowed for under the proposed order?

It is suggested that the Commission respond no.

Question DPO2. Do you think there are any amendments to applications which should not be allowed and would be allowed for under the proposed order?

Yes/No Please specify:

The introduction of a more available mechanism to amend approvals without making a separate application might result in persons being disenfranchised where the amendment was considered to their detriment when they had no objection to the original application.

It is suggested that the Commission might comment that amendments should be to the physical appearance or layout only, and that alterations to conditions should not be permitted under this process and should continue to be processed as distinct applications.

It is suggested that any amendment should be brought to the attention of any designated interested party to the original application that would be entitled to submit comments prior to consideration. This provision would require any party to register their interest in an application whether they objected or supported it to ensure that they were then entitled to comment on amendments.

**Clerk's Report – Consultation Reform of Planning System
September 2019 - Public Continued**

Encouraging appeals to be by written representations

The Reform of the Planning System sought to encourage more appeals to be dealt with by written submissions, rather than awaiting hearings so that appeal decisions were faster, the process less bureaucratic and consequently there would be less burden on the tax-payer cost.

Appeals can be submitted by anyone who has Interested Person Status (which includes the applicant and Local Authority). Anyone with Interested Person Status is able to insist on appeals being by hearing rather than written representations. This means the person insisting on a hearing may not be the person who submitted the appeal (and who paid the appeal fee). The average cost of a planning appeal is £275 per case for written representations. For inquiries, a day rate of £340 is paid to the inspectors (including preparatory work, travel, the hearing and reporting) and this works out on average at £650 per appeal.

It is proposed to introduce an additional charge for those wishing appeals to be by hearing of £100 (to be paid by the person requesting the hearing).

Question DPO3. Do you think an additional charge of £100 for hearings is fair and would encourage more appeals to be by written representations? Yes/No

In practice there are limited parties with appellant rights, including the local authority. It is suggested that the charge is fair and reasonable as introducing the principle of cost recovery.

Target timescale for determining applications

In some cases an applicant requests a deferral, or more time to consider issues, and in such cases the 'late' determination of the application should not count against the Department. It is also considered that an 8 week target for large/complex applications (using submission of Environmental Impact Assessment to determine this) is unrealistic and so a later and more realistic timescale is proposed of 16 weeks where an application is accompanied by an Environmental Impact Assessment, and 8 weeks for 'normal' applications (In the UK, the timescale for major applications is 13 weeks and applications with EIA is 16 weeks).

There is currently no recourse for applicants in circumstances where an application is not determined. It is therefore proposed that after a given time, the applicant could submit an appeal against non-determination if no decision has been made. Such an appeal would follow the same process as an appeal made after an application has been determined, but where the appellant disagrees with the decision.

**Clerk's Report – Consultation Reform of Planning System
September 2019 - Public Continued**

Question DPO4. Do you think the proposed target timescales for large/complex applications are reasonable? Yes/No Please provide reasons and suggested changes:

Question DPO5. Do you agree that applicants should have the right to appeal against non-determination of applications? Yes/No Please provide reasons:

It is suggested that the introduction of target timescales, and a process to enable application to be determined where that target is not met is reasonable.

Change the requirements in relation to submission and consultation to allow for electronic processing of application, including on-line submissions of applications

Each week, a list is published on the website of applications received, how to comment and the deadline. The applications themselves can be viewed and commented on on-line. However, the Directorate is also required to send hard copies to the Local Authorities (so they can use them to comment and also so they can allow their constituents to view them) and also to DOI Highways. This is a barrier to moving towards electronic submissions.

It is therefore proposed to:

- review the requirement to submit hard copies;
- require all plans to be to a suitable and recognised metric scale and to include a statement on each on what sized paper print-out this is based on;
- remove the need to submit ownership certificates (and the model certificate itself set out in the order), so that these matters can be dealt with as part of an on-line submission;
- remove the requirement to send hard copies of the plans and the site notice to Local Authorities and DOI Highways and instead, set a requirement that we notify them of applications submitted and how they can view the details; and
- review the appeal procedure to ensure that it can be carried out electronically.

Question DPO6. Do you think the changes identified would allow for electronic submissions and processing and that this is desirable? Yes/No Please provide reasons and any suggested changes:

The proposal will cease the provision of paper copies to local authorities. From a practical point of view this will mean that persons wishing to view application will do so online, or by visiting the office of the planning authority in Douglas. The Commission provide free internet access at the library, it may be beneficial however to provide a large screen PC for members of the public to view plans. It is likely that staff time may be engaged in providing assistance to the public in accessing electronic plans. Members can view plans online, as can the public, and arrangements to display plans at meeting will be needed, either by printing (we are limited to A3 printing) or using a projector.

**Clerk's Report – Consultation Reform of Planning System
September 2019 - Public Continued**

It is evident from the online planning portal that large applications can involve a considerable number of plans and documents, often these can include numerous versions of the same plan. Removing the physical files may result in confusion.

It is suggested that the planning authority introduce a clear naming convention for all documents available online so that enquirers may easily and confidently obtain relevant application information.

Whilst the inclusion of metric scale data is noted not all enquirers will have access to large format printing.

It is suggested that a measured linear scale be included on all plans (as with maps) and that layout and elevation plans include external measurements.

Reviewing the validation requirements, to ensure applications contain sufficient information from the outset to be determined without unnecessary delay

The current list of information which must be submitted with an application could usefully be expanded in light of current policies and experience. For example, information on visibility splays and parking is required by DOI Highways to comment on applications and the submission of applications without it leads to delays. Other information is required by Strategic Plan policies and/or is already included in the checklist/application form, but is not a legal requirement to be provided. The submission of applications without sufficient information can lead to delays in determining them, due to the need to request additional information and re-publicise the application.

It is therefore proposed to require the inclusion of the following additional information with planning applications:

- visibility splays (for applications with new or amended access);
- any Proposed Car or Motorbike Parking Areas and/or Cycle Storage Areas (Manual for Manx Roads, Active Travel Strategy) (for new buildings or changes of use);
- a Flood Risk Assessment (if for a new building or a change of use within an area identified on the latest Manx Utility maps as being at medium or high risk of flooding) (as per Strategic Plan Environment Policy 10);
- existing and proposed site levels (where changes are proposed) (currently on application form);
- details of any incidental removal of minerals from the site (currently on the validation checklist);
- details of any incidental removal or importation of waste from or to the site;
- an EIA (if meets thresholds in Appendix 5 of the Strategic Plan); and
- confirmation that the applicant own the land or, if not, confirmation of who does own the land and that they have made them aware that the applicant is making an application.

**Clerk's Report – Consultation Reform of Planning System
September 2019 - Public Continued**

It is also proposed to:

- have specific (and reduced) requirements for replacement windows in Conservation Areas rather than requiring full site plans etc.
- clarify that for applications for approval in principle, the matters which can be reserved include drainage and that the reference to “internal layout” should be replaced with “internal layout of buildings” and “site layout”.

Question DPO7. Do you think planning application validation requirements, as set out above are sufficient? Yes/No Please provide reasons and suggested changes:

It is suggested that the requirements as set out be increase to include that elevation drawings must show the height relationship of the development with adjacent properties. This is suggested as it will then be easier for persons viewing applications electronically to establish view the proposals in the context of the existing streetscape.

Updating the requirements for site notices, to ensure they are as clear as possible

Site Notices are currently required to give a 21 day deadline by which comments must be received, however we must take into account all comments, even if received after the deadline. It would therefore be helpful to clarify that comments made before the 21 day deadline will definitely be taken into account and, if a decision has not yet been taken, any comments received after the deadline will also be taken into account.

Question DPO8. Do you think the proposed requirements for site notices will make them sufficiently clear?

It is suggested that this clarifies to actual position and should be supported.

Other changes

It is also proposed to generally review the structure and language of the Order in the context of current drafting best practice, and review the list of definitions (Article 3). This is to ensure that the legislation is as clear and accessible as possible.

It is also proposed to:

- add clarification that material submitted as part of the appeal process by the applicant or objectors may only clarify and further explain points made as part of the application process, not introduce new issues (and give the Inspector the responsibility of determining what is a ‘new issue’).
- clarify that when considering an appeal, the Minister may consider the whole file/application and not just the Inspector’s Report.
- make explicit provision for the submission of amended/additional information, the Department to have discretion to refuse to accept such information if it so significantly alters the proposal that a fresh application should be made and discretion for additional publicity.

**Clerk's Report – Consultation Reform of Planning System
September 2019 - Public Continued**

- amend the wording in relation to the planning notice so that instead of saying that representations where they wish to be considered for Interested Person Status must state the relationship between their land/property (and identify this land/property) and the land that is the subject of the application, it says that they must indicate how the lawful use of land which they own or occupy would be impacted by the proposed development in relation to relevant planning issues. This wording is considered to be clearer and also, given the potential for amendment applications, it is important to understand people's concerns about the proposal not just their relationship to the application site.
- clarify that Manx National Heritage and the Manx Utilities Authority should be treated as Government Departments in considering them for Interested Person Status in relation to planning applications.
- make it explicit that site notices can be sent to the applicant, or (if they are using one) their agent.

**Question DPO9. Do you have any other comments on the proposed order?
Yes/No. Please provide details:**

The Commission may wish to take this opportunity to raise the question of local authority interested party status for applications abutting on the authority boundary where they have a visual or environmental impact on the area within the authorities jurisdiction.

Otherwise it is suggested that the amendments seem reasonable.

Planning Committee Constitution Order (which provides further definition regarding the status and powers of the Committee).

There is/are currently:

- Individual letters of appointment to the Lay Members
- A delegation (2018/07) under the GDA to the Planning Committee Members
- A delegation (25/16) under the GDA to the Planning Committee Chair
- A delegation (30/16) under the GDA from the Minister to the Political Member
- Planning Committee Standing Orders (2018/01)
- A Public Speaking Scheme -this is referenced in the Standing Orders – see 6(1)(a)
- A Planning Committee Code of Conduct

**Clerk's Report – Consultation Reform of Planning System
September 2019 - Public Continued**

The Planning Bill provides the context for this (in what will be Section 39C of the amended Act.). It clarifies that:

- the existing Planning Committee remains in force until the Constitution Order is produced;
- the Council of Ministers shall produce a Planning Committee Constitution Order to form the basis of
- the 'new' Planning Committee;
- that such a Committee can carry out the functions as carried out by the existing Planning Committee or such new functions which are delegated or transferred to it; and
- that the members shall be appointed by the Council of Ministers.

It also clarifies that Constitution Order may in particular provide for:

- the constitution of the Committee;
- the terms of office of members of the Committee;
- termination of membership of the Committee;
- Committee proceedings and procedure (e.g. the appointment of a chairperson, voting procedures and the quorum of the Committee); and
- transitional arrangements.

In general the provisions clarify and regularise the existing practice. It is suggested that they be supported

Recommendation: for discussion.

6th September 2019

T. P. Whiteway
Town Clerk and Chief Executive.