

**Consultation on Town and Country
Planning (Amendment) Bill 2015
&
Town and Country Planning
(Constitution of the Planning
Committee) Order 2015**



**Isle of Man
Government**

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Planning and Building Control Directorate

**Summary of Responses
November 2015**

Introduction

1. The sole purpose of the Bill is to facilitate an amendment to the Town and Country Planning Act 1999 (“the 1999 Act”) so as to put the appointment of the Planning Committee on a secure statutory footing. It is a stand-alone Bill in so far as it is separate to the other Town and Country Planning Bill (the review of the 1999 Act) which is listed in the Government’s legislative programme.
2. Currently there exists uncertainty that the existing legislative provisions provide the vires for, and therefore adequate certainty to, the appointment of the Planning Committee. Consequently, and following legal advice, the appointment of a Planning Committee is currently provided for by means of delegations made by the Minister of the Department under the Government Departments Act 1987. However, both the Department of Environment, Food and Agriculture (“DEFA”), and formerly the Department of Infrastructure¹, accepted that this was to be an interim measure until such time as appropriate primary legislation was in place to place the statutory footing of the Planning Committee beyond reasonable doubt.
3. As such, therefore, the advice concluded that the true way forward to legally secure the position of the Planning Committee would be by a legislative amendment to the 1999 Act which could properly provide for the appointing power of the Council of Ministers (“CoMin”) regarding the appointment of the Planning Committee and satisfactorily integrate CoMin’s role with that of the Minister for Environment, Food and Agriculture. This process would ultimately ensure that the Planning Committee was on an appropriate statutory footing.
4. To sit alongside the Town and Country Planning (Amendment) Bill 2015, DEFA will also bring forward at the same time supporting secondary legislation titled the Town and Country Planning (Constitution of the Planning Committee) Order 2015, which is intended to set out the constitution and operation of the Planning Committee. By publishing the Order at the same time as the Bill, which reflects the advice to do so received from the Attorney General’s Chambers and also accords with what the former DOI Member for Planning and Building Control – Mr Thomas MHK – was seeking, it will assist Members to understand how the Bill’s provisions will operate and hopefully therefore minimise the risk of any subsequent amendments being proposed to the Bill which are procedural in nature and better suited for inclusion in secondary legislation.

¹ On 1st June 2015, planning was transferred to the Department of Environment, Food and Agriculture by the Transfer of Planning and Building Control Functions Order 2015 from the Department of Infrastructure.

5. This summary of responses document, therefore, provides a brief overview of the consultation process and analysis of all responses received during the consultation exercise. In line with the Isle of Man Government Code of Practice on Consultation (June 2008; “the Code”), this summary has been produced within three months of the closing date of the consultation (consultation closed 12th November 2015).

The Consultation Exercise

6. This consultation began on 15th October 2015 and ran until 12th November 2015, allowing in total, 4 weeks for public consultation.

The Responses

7. The analysis of all the responses received has been undertaken in line with the Consultation Criterion 4 of the Code “Give feedback regarding the responses received and how the consultation process influenced the policy. Responses should be carefully and open-mindedly analysed”. Whilst all responses have been carefully analysed, not all their contents will be included within this report.
8. As stated within the Code, “The purpose of the consultation is not a referendum, but an information, views and evidence gathering exercise from which an informed decision on the content of the final version of Regulations can be made” - this is relevant to note in the context of the more detailed breakdown of responses below.
9. There were a total of 12 responses received in respect of this consultation exercise. These are detailed in Appendix 1.

(N.B. One person submitted 3 individual responses. However, for the purposes of the total calculation of responses received, these have been treated as one response).

10. Eight responses agreed or stated they had no objection to the proposed Bill and Order.
11. Three responses either made no comment or did not state if they were 'for' or 'against' the Bill and/or Order.
12. One response raised concerns that the consultation was flawed and also disagreed with the proposal that the Council of Ministers make appointments to the Planning Committee. The respondent was of the opinion that such appointments should be made by the Appointments Commission.
13. The Appointments Commission confirmed it is content that the Council of Ministers makes appointments to the Planning Committee.

14. No response was received from any Member of Tynwald or from any other Government Department.
15. One response was received outside of the consultation period.

Next steps

16. The Department is committed to presenting the Bill to Tynwald as soon as possible so as to place the Planning Committee on a secure statutory footing.
17. Following consideration of the responses received, the Department will prepare a final draft Bill and seek approval for the final draft Bill and to be introduced into the Branches in January 2016.

Conclusion

18. This summary in Appendix 1 provides an overview of the responses received in respect of this consultation.

Appendix 1 List of Respondents to the Consultation

Responses					
		Agree/No Objection	Disagree	No Comment/Did not state 'for' or 'against'	Comment
	<u>Isle of Man Government</u>				
1	Manx Utilities			X	The proposals will have no significant impact on the operations of Manx Utilities
	Total 1				
	<u>Local Authorities</u>				
2	Douglas Borough Council	X First stage planning should be a Local Authority function			Appointments to the Planning Committee should require Tynwald approval; The Chair should be a Tynwald member; Members should be eligible for appointment for no more than two consecutive terms of five years; Termination of appointment should require Tynwald approval.
3	Malew Parish Commissioners	X			
4	Marown Parish Commissioners	X			
	Total 3				
	<u>Members of Tynwald</u>				
	Total 0				
	<u>Organisations</u>				
5	Isle of Man Chamber of Commerce	X			The questions should have been on the principles rather than the technicality of the Bill and Order

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Responses					
		Agree/No Objection	Disagree	No Comment/Did not state 'for' or 'against'	Comment
6	Appointments Commission			X	The Appointments Commission is relaxed about the proposals to appoint members to the Planning Committee by the Council of Ministers; The Appointments Commission does not have the resources to take on any additional duties
	Total 2				
	Individuals/Other				
7	Mr R H Costain			X	Farmers/Landowners Organisations should be on the list of consultees; As the Planning Committee is not publicly elected, notification of potential members should be advertised to allow for objections/comments to be submitted; No reason why a Local Authority member should not be able to be appointed to the Planning Committee
8	Dr B Redfearn	X			
9	Mr W A Gilbey	X			
10	Mr I Cottier	X			
11	Mr P Young	X			
12	Mr H Killip		X Agrees with questions 1-6; 8- 14 & 16-18ed		The consultation is flawed in that no reasoning is provided for limiting the consultation period to four weeks rather than the six weeks specified in the Code; Appointments to the Planning Committee should be made by the Appointments Commission and not by the Council of Ministers
	Total 6				

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	Late Submission				
1	Ms P Newton			X	The meaning of 'authorised decision maker' should not include senior planning officers; Registered Building applications should only be determined by the Planning Committee; The maximum number of members appointed to the Planning Committee should be five; The List of Consultees (Appendix A) should amended to include the Isle of Man Natural History and Antiquarian Society and the Isle of Man Victorian Society
	Total 1				