



Isle of Man  
Government

2015



## Consultation Document

Department of Environment, Food and Agriculture

Town and Country Planning (Amendment) Bill

Town and Country Planning  
(Constitution of the Planning Committee)  
Order 2015

October 2015

## CONTENTS

Foreword by the Minister.....	3
1. Introduction.....	4
2. Proposed Content of the Bill.....	6
3. Secondary Legislation	
<i>Town and Country Planning (Constitution of the Planning Committee) Order 2015</i> .....	12
4. The Consultation Process.....	17
Annex A – List of Consultees.....	19
Annex B – The Town and Country Planning (Amendment) Bill 2015	
Annex C – The Town and Country Planning (Constitution of the Planning Committee) Order 2015	

## **Foreword by the Minister for Environment, Food and Agriculture**

I am pleased to invite comments on a proposed new Town and Country Planning (Amendment) Bill 2015 and the Town and Country Planning (Constitution of the Planning Committee) Order 2015.

These pieces of legislation seek to ensure that the Department of Environment, Food and Agriculture continues to provide a planning system which is aimed at increasing customer focus, improving efficiency and delivering better value for money.

The Bill proposes to provide a statutory footing to the role and operation of the Planning Committee in respect to its function of determining planning applications for and on behalf of the Department while the Order details the function and operation of the Planning Committee.

Thank you for taking the time to review this document and I look forward to receiving your comments.

**Richard Ronan MHK**

**Minister for Environment, Food and Agriculture**

## 1. Introduction

- 1.1 The sole purpose of the Town and Country Planning (Amendment) Bill 2015 is to facilitate an amendment to the Town and Country Planning Act 1999 ("the 1999 Act") to put the appointment of the Planning Committee on a secure statutory footing. It is a single issue, stand-alone Bill and therefore is separate to any future review of the 1999 Act.
- 1.2 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, and formerly the Department of Infrastructure<sup>1</sup> 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.
- 1.3 The advice concluded however that the true way forward to legally secure the position of the Planning Committee would be by a legislative amendment to the 1999 Act and the Minister for Infrastructure subsequently advised the May 2014 sitting of Tynwald that such an amendment would be introduced.
- 1.4 Work on the Bill has now concluded and this paper subsequently provides the opportunity for the Department to receive comments on the Bill. Sitting alongside the Bill, the Department is also intending to bring forward supporting secondary legislation titled the Town and Country Planning (Constitution of the Planning Committee) Order 2015 ("the 2015 Order") which details the function and operation of the planning committee and, as such, the Department is also inviting comments on the 2015 Order.

---

<sup>1</sup> On 1 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.

- 1.5 Finally, and for the avoidance of doubt, all decisions which have been and continue to be taken by the Planning Committee until the Bill receives Royal Assent remain lawful unless otherwise challenged in Court.

## 2. Proposed Content of the Bill

### 2.1 Clause 1 – Short title

The first clause simply confirms the title of the Act as the Town and Country Planning Act 2015.

### 2.2 Clause 2 – Commencement and Expiry

The second clause permits the Department to bring the rest of the Act into force as and when it is ready to do so, and to make consequential, incidental and saving provisions. It also provides for the revocation of the resulting Act once its provisions have taken effect and it has been promulgated.

### 2.3 Clause 3 – Amendment of the Town and Country Planning Act 1999

This clause simply introduces the amendment of the Town and Country Planning Act 1999 by sections 4 to 9.

### 2.4 Clause 4 – Determination of planning applications – section 10 amended

Clause 4 amends section 10 of the Town and Country Planning Act 1999 to prescribe the general procedure for the distribution of decision-making responsibilities for the determination of planning applications.

#### **Question 1**

*Do you agree/disagree that the planning committee (to the extent to which the function to decide the application is delegated to that committee under section 39C) or an authorised decision-maker must decide in accordance with a development order or a development procedure order an application for planning approval or an application for the variation or discharge of conditions?*

*If you disagree, why do you disagree?*

**2.5 Clause 5 – Control of works affecting registered building – section 15 amended**

Clause 5 amends section 15 of the Town and Country Planning Act 1999 to provide for the distribution of decision-making responsibilities about applications relating to works affecting registered buildings.

**Question 2**

*Do you agree/disagree that the planning committee (to the extent to which the function to decide the application is delegated to that committee under section 39C) or an authorised decision-maker must decide an application to the Department for registered building consent or an application seeking the subsequent approval by the Department for specified details of the registered building consent works?*

*If you disagree, why do you disagree?*

**2.6 Clause 6 – Control of advertisements – section 22 amended**

Clause 6 amends section 22 of the Town and Country Planning Act 1999 to provide for the distribution of decision-making responsibilities about the control of advertisements.

**Question 3**

*Do you agree/disagree that regulations restricting or regulating the display of advertisements must provide for applications to the Department for consent for the display of advertisements, or of advertisements of any prescribed class to be determined by the planning committee (to the extent to which the function to decide the application is delegated to that committee under section 39C) or an authorised decision-maker?*

*If you disagree, why do you disagree?*

2.7 **Clause 7 – The Planning Committee and authorised decision-makers – Part 4A inserted**

This clause introduces a new Part 4A into the Town and Country Planning Act 1999.

2.8 **39B – Meaning of “authorised decision maker”**

Section 39B defines an ‘authorised decision maker’ as an officer of the Department who is authorised by the Chief Executive of the Department to take some planning decisions or to perform a function or exercise a power conferred on the Department.

**Question 4**

*Do you agree/disagree with the definition of who is an ‘authorised decision maker’?*

*If you disagree, why do you disagree?*

2.9 **39C – Determination by planning committee**

Section 39C lists the types of applications for planning approval or consent which the Department may delegate, by Order, to the Planning Committee to determine subject to conditions and also lists the matters which the Planning Committee must have regard to when determining those applications.

**Question 5**

*Do you agree/disagree with the type of applications for planning approval or consent which the Planning Committee may determine?*

*If you disagree, why do you disagree?*

**Question 6**

*Do you agree/disagree with the matters which the Planning Committee must have regard to when determining applications for planning approval or consent?*

*If you disagree, why do you disagree?*



## 2.10 **39D – Planning Committee**

Section 39D provides that the Council of Ministers must, by Order, constitute and appoint a planning committee (and its members) to which functions may be delegated under Section 39C (Refer to paragraph 2.6 above) and that the 'Constitution Order' must specify the powers and functions of the planning committee in relation to those delegated functions. (Refer to Proposed Content of Secondary Legislation below).

### **Question 7**

*Do you agree/disagree that the Council of Ministers must constitute and appoint a planning committee?*

*If you disagree, why do you disagree?*

### **Question 8**

*Do you agree/disagree that a constitution order sets out the powers and functions of the planning committee?*

*If you disagree, why do you disagree?*

## 2.11 **39E – Powers to delegate not affected**

Section 39E simply provides that Section 39C does not prevent powers to delegate.

## 2.12 **39F – Definitions for sections 39G to 39I**

Section 39F simply defines the terms 'existing planning committee' and 'new planning committee'.

**Question 9**

*Do you agree/disagree with the definition of 'existing planning committee' and 'new planning committee'?*

*If you disagree, why do you disagree?*

**2.13 39G – Existing planning committee taken to be new planning committee**

Section 39G contains transitional provisions that on or after its commencement, the existing planning committee is to be taken as the new planning committee and that its members are to be taken as having been appointed to the new committee on the same terms and conditions as applied immediately before that commencement.

**Question 10**

*Do you agree/disagree that after commencement, the existing planning committee is to be taken as the new planning committee and that the existing members are taken as having been appointed to the new planning committee?*

*If you disagree, why do you disagree?*

**2.14 39H – Transitional provision about existing applications**

Section 39H contains transitional provisions that on or after its commencement, an application which was made but not yet determined may be determined by the new planning committee in the same way as it would have been determined by the existing planning committee.

**Question 11**

*Do you agree/disagree that after commencement, a current but as yet undetermined application may be determined by the new planning committee in the same way as it would have been determined by the existing planning committee?*

*If you disagree, why do you disagree?*

2.15 **39I – Transitional provision about existing consents and determinations**

Section 39I contains transitional provisions that on or after its commencement, any planning approval, consent or other determination given by the existing planning committee under the Town and Country Planning Act 1999 continues to have effect as if it had been given by the new planning committee.

**Question 12**

*Do you agree/disagree that after commencement, an existing planning approval, consent or other determination given by the existing planning committee continues to have effect as if it had been given by the new planning committee?*

*If you disagree, why do you disagree?*

2.16 **Clause 8 – Tynwald control of secondary legislation – section 44 amended**

This clause simply makes consequential amendments to section 44 of the Town and Country Planning Act 1999.

2.17 **Clause 9 – Interpretation – section 45 amended**

This clause makes consequential amendments to section 45 of the Town and Country Planning Act 1999 by defining the terms 'authorised decision maker', 'planning authority' and 'planning committee'.

**Question 13**

*Do you agree/disagree with the definition of 'authorised decision maker', 'planning authority' and 'planning committee'?*

*If you disagree, why do you disagree?*

### 3. Secondary Legislation

#### **Town and Country Planning (Constitution of the Planning Committee) Order 2015**

##### ***Introduction***

- 3.1 To sit alongside the Town and Country Planning (Amendment) Bill 2015, and as provided for by section 39D (Refer to paragraph 2.7 above), it is proposed that the Department of Environment, Food and Agriculture will also bring forward at the same time supporting secondary legislation titled the Town and Country Planning (Constitution of the Planning Committee) Order 2015.
- 3.2 This Order is intended to set out the constitution and operation of the Planning Committee.
- 3.3 A copy of the draft Order can be found in Annex B of this paper.

##### ***Proposed Content of the Order***

#### 3.4 **Article 1 - Title**

The first article simply confirms the title of the Order as the Town and Country Planning (Constitution of the Planning Committee) Order 2015.

#### 3.5 **Article 2 - Commencement**

The second article will simply confirm the commencement date of the Order.

#### 3.6 **Article 3 - Interpretation**

The third article defines the terms, 'Act'; 'Department'; 'election'; 'local authority representative'; 'planning application' / 'application for planning approval'; 'planning committee'; and 'planning officer'.

**Question 14**

*Do you agree/disagree with the definition of 'authorised decision maker', 'planning authority' and 'planning committee'?*

*If you disagree, why do you disagree?*

**3.7 Article 4 – Constitution**

Article 4 provides for a Planning Committee consisting of not more than 7 Members, their appointment by the Council of Ministers and that its membership must include a person who is a member of Tynwald and a person who is not a member of Tynwald but excludes the appointment of the Minister and a local authority member.

**Question 15**

*Do you agree/disagree with the composition and appointment provisions of Article 4?*

*If you disagree, why do you disagree?*

**3.8 Article 5 – Appointment of chair of the planning committee**

Article 5 provides for the appointment of the chair of the Planning Committee either by the Council of Ministers or where the appointment is not made by the Council of Ministers by the members of the Committee electing one of its number to be chair. It also provides that the chair is to preside at meetings of the Committee unless absent or if a declaration of a conflict of interest is made where in those circumstances another member must be chosen as chair by the members present and preside either for that meeting or that item of business.

**Question 16**

*Do you agree/disagree with the provisions for the appointment of a chair of the planning committee and in those circumstances as detailed in Article 5?*

*If you disagree, why do you disagree?*

### 3.9 **Article 6 – Term of Office**

Article 6 details that a member may hold office for a term up to 5 years, that they may stand for more than one term and in respect to a person who is a member of Tynwald, the circumstances defining when they go out of office.

#### **Question 17**

*Do you agree/disagree with the term of office provisions as detailed in Article 6?*

*If you disagree, why do you disagree?*

### 3.10 **Article 7 – Resignation**

Article 7 simply details when and how a Committee member may resign from office.

#### **Question 18**

*Do you agree/disagree with when and how a Committee member may resign from office as detailed in Article 7?*

*If you disagree, why do you disagree?*

### 3.11 **Article 8 – Termination of appointment**

Article 8 simply details how and the circumstances in which a member's appointment may be terminated or the office of a member is deemed to be vacant.

#### **Question 19**

*Do you agree/disagree with the circumstances in which a member's appointment may be terminated or the office of a member is deemed to be vacant as detailed in Article 8?*

*If you disagree, why do you disagree?*

### 3.12 **Article 9 – Planning committee meetings**

Article 9 simply details how frequently the planning committee must sit and that it must not sit and undertake any business unless a quorum of a minimum of 3 members is present.

#### **Question 20**

*Do you agree/disagree with the proposed frequency of planning committee meetings and the requirements to be quorate as detailed in Article 9?*

*If you disagree, why do you disagree?*

### 3.13 **Article 10 – Applications to be determined by the planning committee**

Article 10 when read with Schedule 1 of the Order provides for the types of application to be determined by the planning committee and the conditions and circumstances regulating their determination.

#### **Question 21**

*Do you agree/disagree that the planning committee must only determine those applications seeking planning approval or consent as set out in Schedule 1 of the Order?*

*If you disagree, why do you disagree?*

#### **Question 22**

*Do you agree/disagree with the types of application and the conditions and circumstances regulating their determination listed in Schedule 1 of the Order?*

*If you disagree, why do you disagree?*

### 3.14 **Article 11 – Voting**

Article 11 details how the committee must decide every application before it, what must occur in the event of an equality of votes and the exclusions which apply to a member voting on an application before the committee.

#### **Question 23**

*Do you agree/disagree with the proposals regulating voting by members on an application before the committee as detailed in Article 11?*

*If you disagree, why do you disagree?*

### 3.15 **Article 12 – Declaration of interest**

Article 12 details the required actions by members of the planning committee in relation to any item of business upon which the member has a direct or indirect conflict of interest or duty (personal or pecuniary).

#### **Question 24**

*Do you agree/disagree with the required actions that all members must take in the event that they declare that they have a direct or indirect conflict of interest or duty (personal or pecuniary) in regard to any item of business before the planning committee?*

*If you disagree, why do you disagree?*



## 4. The Consultation Process

- 4.1 The purpose of this consultation exercise is to invite comments on the proposed provisions of the draft Town and Country Planning (Amendment) Bill 2015 (Refer to Appendix A) and the draft secondary legislation entitled the Town and Country Planning (Constitution of the Planning Committee) Order 2015 (Refer to Appendix B).
- 4.2 It is not a referendum but is an exercise for gathering information, views and evidence to allow the Department to take an informed decision on the final content of both the proposed Bill and the draft Order. In any consultation exercise, the responses received do not guarantee changes will be made to what has been proposed.
- 4.3 **The closing date for comments is Thursday 12th November 2015.** Comments can be either sent electronically to [planning@gov.im](mailto:planning@gov.im) or by post to:

Department of Environment, Food and Agriculture  
Planning and Building Control Directorate  
Murray House  
Mount Havelock  
Douglas  
Isle of Man  
IM1 2SF

Electronic copies of this document can be found at <http://www.gov.im/Consultations.gov>.

- 4.4 To ensure that the process is open and honest, and in line with the Government's Code of Conduct on Consultation, responses can only be accepted if you provide your name with your response.
- 4.5 Unless specifically requested otherwise, any responses received may be published either in part or in their entirety. Please mark your response clearly if you you're your response and name to be kept confidential. Confidential responses will be included in any statistical summary of the comments received.

- 4.6 When submitting your views, please indicate whether you are responding on behalf of an organisation.
- 4.7 A press release will be issued seeking the views of the general public, and emails will be sent to selected consultees as detailed at Appendix A to this document.

## Appendix A – List of Consultees

- All Tynwald Members
- All Chief Officers of Government Departments
- All Local Authorities
- Attorney General
- The Deemsters, High Bailiff and Deputy High Bailiff
- Current Independent Planning Inspectors
- Planning Committee Members
- Isle of Man Law Society
- Isle of Man Chamber of Commerce
- Manx National Heritage
- The Royal Town Planning Institute (RTPI)
- Manx Wildlife Trust
- Manx Bat Group
- The Royal Institute of British Architects (RIBA)
- The Royal Institute of Chartered Surveyors (RICS)
- Manx Gas
- Manx Telecom
- Manx Utility Authority
- Road Transport Licensing Committee
- Communications Commission
- Office of Fair Trade
- Isle of Man Arts Council
- Isle of Man Sport
- Isle of Man Post Office Authority
- Isle of Man Trades Union Council
- Isle of Man Employers' Federation
- Architects and Agents based in the Isle of Man
- Dandara/Heritage Homes
- Hartford Homes
- Haven Homes

**Appendix B**

**TOWN AND COUNTRY PLANNING  
(AMENDMENT) BILL 2015**



## TOWN AND COUNTRY PLANNING (AMENDMENT) BILL 2015

### Index

Section	Page
1 Short title .....	7
2 Commencement and expiry .....	7
3 Amendment of the Town and Country Planning Act 1999 .....	7
4 Determination of planning applications – section 10 amended .....	7
5 Control of works affecting registered building – section 15 amended .....	8
6 Control of advertisements – section 22 amended .....	8
7 The Planning Committee and authorised decision-makers – Part 4A inserted .....	9
8 Tynwald control of secondary legislation – section 44 amended .....	13
9 Interpretation – section 45 amended .....	14



## TOWN AND COUNTRY PLANNING (AMENDMENT) BILL 2015

A **BILL** to amend the Town and Country Planning Act 1999; and for connected purposes.

**BE IT ENACTED** by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

### **1 Short title**

The short title of this Act is the Town and Country Planning Act 2015.

### **2 Commencement and expiry**

- (1) This Act (apart from this section and section 1) comes into operation on such day or days as the Department, by order, appoints.
- (2) An order under subsection (1) may include such consequential, incidental and transitional provision as appears to the Department to be appropriate.
- (3) This Act expires on —
  - (a) the day after its promulgation; or, if later
  - (b) the day after that on which the last of its provisions comes into operation.
- (4) But subsection (3) does not affect the continuing effect of the amendments and transitional provision made by section 3 to 9.

### **3 Amendment of the Town and Country Planning Act 1999**

The *Town and Country Planning Act 1999* is amended in accordance with sections 4 to 9.

### **4 Determination of planning applications — section 10 amended**

- (1) Section 10 (determination of planning applications) is amended as follows.
- (2) After subsection (1) insert —

- 33(1A)** One of the following must, in accordance with a development order or a development procedure order, decide an application for planning approval or an application under subsection (3) —
- (a) the planning committee, to the extent to which the function to decide the application is delegated to that committee under section 39C; or
  - (b) an authorised decision maker. **32.**
- (3) After subsection (5)(a) insert —
- 33(aa)** the applications for planning approval or applications under subsection (3) (or the prescribed classes of applications) that are to be determined by the planning committee and those that are to be determined by an authorised decision maker; **32.**

## 5 Control of works affecting registered building— section 15 amended

- (1) Section 15 (control of works affecting registered building) is amended as follows.
- (2) After subsection (3) insert —
- 33(3A)** Applications to the Department for registered building consent and applications under paragraph 3 of Schedule 3 must be determined by —
- (a) the planning committee, to the extent to which the function to decide the application is delegated to that committee under section 39C; or
  - (b) an authorised decision maker. **32.**
- (3) At the end of the section add —
- 33(6)** In subsection (5), reference to providing for the determination of such applications includes (but is not limited to) making provision for the applications (or the prescribed classes of applications) that are to be determined by the planning committee and those that are to be determined by an authorised decision maker. **32.**

## 6 Control of advertisements — section 22 amended

- (1) Section 22 (regulations controlling display of advertisements) is amended as follows.
- (2) After subsection (1) insert —
- 33(1A)** Regulations under subsection (1) must provide for applications to the Department for consent for the display of advertisements, or of advertisements of any prescribed class to be determined by —

- (a) the planning committee, to the extent to which the function to decide the application is delegated to that committee under section 39C; or
  - (b) an authorised decision maker. ~~22~~
- (3) After subsection (2)(c) insert —
- ~~22~~(ca) which of such applications (or prescribed classes of such applications) are to be determined by the planning committee and which are to be determined by an authorised decision maker; ~~22~~.

## 7 The Planning Committee and authorised decision-makers — Part 4A inserted

- (1) After Part 4 (enforcement of control) insert —

### ~~22~~ PART 4A – AUTHORISED DECISION MAKERS AND THE PLANNING COMMITTEE

#### *Meaning of “authorised decision maker”*

#### 39B Meaning of “authorised decision maker”

- (1) In this Act, “authorised decision maker” means an officer of the Department authorised under subsection (2).
- (2) The Chief Executive of the Department may, in writing, authorise an officer of the Department to act in the name of the Department to do any of the following under this Act in the circumstances specified in the authorisation —
  - (a) to determine an application for planning approval;
  - (b) give a consent;
  - (c) make a determination; or
  - (d) perform a function or exercise a power conferred on the Department.

#### *Planning Committee*

#### 39C Determination by planning committee

- (1) This section applies to the following functions conferred on the Department —
  - (a) dealing with applications for planning approval under the following provisions of Part 2 (Development Control) or



the provisions of a development order or a development procedure order as it relates to that provision of Part 2 —

- (i) section 8(2);
  - (ii) section 8(2A);
  - (iii) section 8(4);
  - (iv) section 8(5);
  - (v) section 8(6A);
  - (vi) section 10(1);
  - (vii) section 10(2);
  - (viii) section 10(3);
  - (ix) section 10(6)(e);
- (b) dealing with applications for registered building consent under regulations made for the purposes of section 15 (control of works affecting registered building);
  - (c) giving consent under section 19(3) (demolition in conservation areas) for the demolition of buildings to which that section applies;
  - (d) dealing with applications for consent as mentioned in section 22(2)(b) (controlling display of advertisements) under regulations made for the purposes of section 22;
  - (e) giving consent to the use of advertisements under regulations made for the purposes of section 35(1);
  - (f) dealing with applications to change conditions under paragraph 3 of Schedule 3 (variation or discharge of conditions of registered building consent).
- (2) The Department may, by order, delegate any or all of the functions to which this section applies to the planning committee.
  - (3) The delegation under subsection (2) may set out conditions to which, and circumstances in which, the delegated functions may be performed, but subject to any provision of a development procedure order.
  - (4) In relation to a matter to which this section applies, if the context requires it, a reference to the Department in this Act, or a public document made under this Act, is to be construed as being, or including, a reference to the planning committee.
- For the sake of clarity, this subsection does not apply to section 41 (register of applications) or 43 (rights of entry).
- (5) In dealing with matters referred to it under subsection (1), the planning committee must have regard to any matter to which the Department is required to have regard under the Act, including (but not limited to) —

- (a) section 10(4) (Department must have regard to material matters);
  - (b) section 16(3) (Department must have regard to preservation of special features of buildings);
  - (c) section 18(4) (preservation or enhancement of conservation area); and
  - (d) section 22(1) (Department may regulate advertisements in the interests of amenity or public safety).
- (6) Subsection (5) does not limit the operation of subsection (4).
  - (7) The planning committee may not sub-delegate powers or functions delegated to it under this section, subject to subsection (8).
  - (8) Subsection (7) does not prevent —
    - (a) the planning committee —
      - (i) authorising an authorised decision-maker to sign a notice communicating a decision of the planning committee on a matter referred to it under section 39C(1); or
      - (ii) approving an application for planning approval, subject to the Department entering into an agreement under section 13, within such period as the planning committee may specify, with a person interested in the land;
    - (b) an authorised decision maker signing a notice referred to in paragraph (a)(i); or
    - (c) the Department from determining an application for registered building consent which is directly linked to the subject-matter of the proposed section 13 agreement.

### 39D Planning committee

- (1) Subject to this section, the Council of Ministers must, by order (“the constitution order”), constitute a committee (the “**planning committee**”) to which functions may be delegated under section 39C.
- (2) The constitution order must specify the powers and functions of the planning committee in relation to those delegated functions.
- (3) The constitution order may in particular provide for—
  - (a) the constitution of the committee;
  - (b) the terms of office of members of the committee;
  - (c) termination of membership of the committee; and

- (d) committee proceedings and procedure.
- (4) The Council of Ministers may appoint a person (who may, but need not, be an existing member of the planning committee) to be the chair of the committee.
- (5) If the Council of Ministers does not appoint a person under subsection (4), at the first meeting following the appointment of new members to the committee, the committee must elect one of its number to be the chair of the committee.
- (6) A person elected under subsection (5) holds office at the pleasure of the planning committee.
- (7) The Council of Ministers must appoint the members of the planning committee.

### 39E Powers to delegate not affected

Section 39C does not prevent —

- (a) the delegation of functions under section 21 of the *Interpretation Act 1976* to a person other than the planning committee; or
- (b) the authorisation of the exercise of functions under section 3 of the *Government Departments Act 1987* by a person other than the planning committee. <sup>22</sup>.

#### *Transitional provisions for this Part*

### 39F Definitions for sections 39G to 39I

In sections 39G to 39I —

“**existing planning committee**” means the body of persons known as the ‘Planning Committee’ to which the functions of the Department in determining applications for planning approval under the *Town and Country Planning Act 1999* and any orders or regulations made under that Act were delegated immediately before the enactment of the *Town and Country Planning (Amendment) Act 2016*; and

“**new planning committee**” means the planning committee established under section 39D.

### 39G Existing planning committee taken to be new planning committee

- (1) On and after the commencement of this Part, the existing planning committee is taken to be the new planning committee.

- (2) A person who immediately before the commencement of this Part was appointed to the existing planning committee is to be treated as having been appointed to the new planning committee on the same terms and conditions as applied immediately before that commencement.
- (3) This section does not prevent the terms and conditions being varied after that commencement.
- (4) A reference in any enactment or document in force or created before the commencement of this Part to the existing planning committee is to be taken to be a reference to the new planning committee.

### 39H Transitional provision about existing applications

- (1) This section applies if —
  - (a) an application under the *Town and Country Planning Act 1999* was made before the commencement of this Part; and
  - (b) the application is to be determined by the existing planning committee.
- (2) The application may, on or after commencement of this Part, be determined by the new planning committee in the same way as it would have been determined by the existing planning committee.

### 39I Transitional provision about existing consents and determinations

- On and after the commencement of this Part, planning approval, consent or other determination under the *Town and Country Planning Act 1999* given by the existing planning committee continues to have effect as if it had been given by the new planning committee. ~~22~~.
- (2) On the coming into operation of section 80 of the *Interpretation Act 2015* for paragraph (a) of section 39E (inserted by subsection (1) above) substitute—
    - ~~23~~(a) the appointment of a deputy, in accordance with section 80 of the *Interpretation Act 2015*, to perform any planning functions of the Minister instead of the planning committee; ~~22~~.

## 8 Tynwald control of secondary legislation — section 44 amended

In section 44(1) (Tynwald control of orders and regulations) —

- (a) for the words preceding “regulations” substitute ~~23~~Orders and ~~22~~; and
- (b) at the end add—

☒ This is subject to subsections (2) and (3). ☒.

## 9 Interpretation — section 45 amended

- (1) Section 45 (interpretation) is amended as follows.
- (2) At the appropriate points in the alphabetical list insert —
  - ☒ “**authorised decision maker**” has the meaning given by section 39B; ☒.
  - ☒ “**planning authority**” has the meaning given by subsection (3); ☒
  - ☒ “**planning committee**” means the committee established under section 39D; ☒.
- (3) At the end of section 45 add —
  - ☒ (3) A reference in a public document to a “**planning authority**” is a reference to any person responsible for determining an application for planning approval, giving a consent or otherwise making a determination in relation to a matter under this Act or an enactment that relates to town and country planning.

Here “person” includes a body whether corporate or not (and in particular includes the planning committee constituted by section 39D). ☒.

## **Appendix C**

# **TOWN AND COUNTRY PLANNING (CONSTITUTION OF THE PLANNING COMMITTEE) ORDER 2015**



## TOWN AND COUNTRY PLANNING (CONSTITUTION OF THE PLANNING COMMITTEE) ORDER 2015

### Index

Article	Page
1 Title .....	3
2 Commencement .....	3
3 Interpretation .....	3
4 Constitution .....	4
5 Appointment of chair of the planning committee .....	4
6 Term of office .....	4
7 Resignation .....	5
8 Termination of appointment .....	5
9 Planning committee meetings .....	5
10 Applications to be determined by the planning committee .....	5
11 Voting .....	5
12 Declaration of interest .....	6
13 Transitional provisions .....	<b>Error! Bookmark not defined.</b>
<b>SCHEDULE 1</b>	<b>7</b>
<b>THE TYPES OF APPLICATION TO BE DETERMINED BY THE PLANNING COMMITTEE AND THE CONDITIONS AND CIRCUMSTANCES REGULATING THEIR DETERMINATION BY THE PLANNING COMMITTEE</b>	
	<b>7</b>

Statutory Document No. 20XX/XX



*Town and Country Planning Act 1999*

## TOWN AND COUNTRY PLANNING (CONSTITUTION OF THE PLANNING COMMITTEE) ORDER 2015

*Approved by Tynwald:*

*Coming into Operation:*

*x Month Year*

---

The Council of Ministers makes the following Order under section 39D of the Town and Country Planning Act 1999.

### 1 Title

This Order is the Town and Country Planning (Constitution of the Planning Committee) Order 2015.

### 2 Commencement

If approved by Tynwald, this Order comes into operation on x Month Year<sup>1</sup>.

### 3 Interpretation

In this Order –

“**Act**” means the Town and Country Planning Act 1999;

“**Department**” means the Department of Environment, Food and Agriculture;

“**election**” includes appointment, and “**elect**” shall be read accordingly;

“**local authority representative**” may include an officer or political member;

“**member**” in relation to the planning committee includes the chair of the Committee;

“**planning application**” or “**application for planning approval**” includes all planning applications specified in section 39C(1) of the Act;

“**planning committee**” means the committee constituted under article 4;

---

<sup>1</sup> Tynwald approval is required by section 44(1) of the Act



“**planning officer**” includes the Director of Planning and Building Control, the Head of Development Management, Senior Planning Officer, Planning Officer, Assistant Planning Officer and Conservation Officer.

#### **4 Constitution**

- (1) The planning committee (in this Order known as ‘the Committee’) is to consist of not more than 7 members, appointed by the Council of Ministers.
- (2) Before appointing a member of the Committee, the Council of Ministers must consult the Department.
- (3) The Minister may not be appointed as a member of the Committee but a political member may.
- (4) The Committee’s membership must include —
  - (a) A person who is a member of Tynwald; and
  - (b) A person who is not a member of Tynwald.
- (5) All appointments must be confirmed in writing to the member by the Chief Secretary in the name of the Council of Ministers.
- (6) A local authority member is not eligible to be appointed as a member of the Committee.

#### **5 Appointment of chair of the planning committee**

- (1) The Council of Ministers may appoint a person to be Chair of the Committee.
- (2) Unless the Council of Ministers has made an appointment under paragraph (1), then following the appointment of the Committee and also any change to its membership, the Committee must elect one of its number to be Chair who shall hold office during the pleasure of the Committee.
- (3) The Chair of the Committee, if present, is to preside at meetings of the Committee, and in his or her absence a member of the Committee chosen by the members present is to preside for that meeting.
- (4) If the Chair of the Committee has declared a conflict of interest in respect to any planning application in accordance with article 16, another member of the Committee must be chosen by the members present as Chair and preside for that item of business.

#### **6 Term of office**

- (1) A member of the Committee is to hold office for a term of up to 5 years beginning with the date on which he or she is appointed.
- (2) A member of the Committee may stand for more than one term of office.

- (3) A Tynwald member of the Committee goes out of office –
  - (a) on the dissolution of the Keys; or
  - (b) if he or she ceases to be a member of Tynwald or of the Branch of which he or she was a member at the time of their appointment.

## **7 Resignation**

A member of the Committee may, at any time, resign from office by giving 3 months notice in writing to the Chief Secretary or a shorter time as may be agreed with the Chief Secretary.

## **8 Termination of appointment**

- (1) A member of the Committee may, at any time, be removed from office by a direction of the Council of Ministers.
- (2) The Council of Ministers may direct that the office of a member of the Committee is vacant if it is satisfied that the member –
  - (a) has been absent from meetings of the Committee for a period longer than 6 consecutive months;
  - (b) is otherwise unable or unfit to discharge their functions as a member of the Committee; or
  - (c) is elected as a member of a Local Authority on the Island.

This paragraph does not limit paragraph (1).

- (3) Any direction issued under paragraph (1) or (2) to terminate a member's appointment must be confirmed in writing to the member and the Department by the Chief Secretary and must include the reasons for the termination.

## **9 Planning committee meetings**

- (1) The Committee must, wherever possible, sit a minimum of once every month during a calendar year.
- (2) The Committee must not sit unless a quorum of members is present.
- (3) The quorum necessary for the transaction of business by the Committee must be a minimum of 3 members.

## **10 Applications to be determined by the planning committee**

The Committee must only determine those applications seeking planning approval or consent as set out at Schedule 1 of this Order.

## **11 Voting**

- (1) The Committee must decide every application before it by a majority of the votes of the members present and voting on that application.

- (2) In the case of an equality of votes, the person presiding at the meeting or for that planning application shall have a second or casting vote.
- (3) A member of the Committee must not vote on a planning application if the member has made a declaration of interest under article 12.
- (4) If a member of the Committee is not disqualified from voting under article 12, he or she may abstain from voting on a planning application only where he or she has not visited the site and considers that as a result he or she does not have sufficient knowledge of the site or the proposal to vote.

## **12 Declaration of interest**

- (1) A member of the committee must not act or vote in relation to any item of business upon which the member has a direct or indirect conflict of interest or duty (personal or pecuniary).
- (2) A member, having declared a conflict of interest, must immediately remove themselves from the meeting for the consideration and determination of that item of business only.

**MADE**

**R A RONAN**

*Minister for Environment, Food and Agriculture*

SCHEDULE 1

[Article 10]

**THE TYPES OF APPLICATION TO BE DETERMINED BY THE PLANNING COMMITTEE AND THE CONDITIONS AND CIRCUMSTANCES REGULATING THEIR DETERMINATION BY THE PLANNING COMMITTEE**

(1) The Committee may consider any planning applications listed under the relevant following provisions of Part 2 (Development Control) and Part 3 (Special Controls) of the Act or the provisions of a development order or a development procedure order as it relates to that provision of Part 2 or Part 3 —

- (a) sections 8(2), 8(2A), 8(4), 8(5) and 8(6A) (development orders and development procedure orders);
- (b) sections 10(1), 10(2) and 10(3) (application for planning approval);
- (b) section 10(6)(d) (reserved matters);
- (c) section 15 (control of works affecting registered building);
- (d) section 19(3) (demolition in conservation areas);
- (e) section 22(2)(b) (controlling display of advertisements); and
- (f) paragraph 3 of Schedule 3 of the Act (variation or discharge of conditions of registered building consent).

(2) The committee may consider an application listed under paragraph (1) only under the following conditions and circumstances —

- (a) where the planning officer's recommendation is contrary to written submissions of members of the public that have been received by the planning officer where the level of such views is substantial\*;
- (b) where the planning officer is recommending approval and the Local Authority has made written representations objecting to the application on valid planning grounds, save for householder applications\*\*;
- (c) where it is recommended that an agreement under section 13 of the Act should be entered into;
- (d) where an application recommended for approval is contrary to the provisions of the Development Plan;
- (e) where an application for an extension to a dwelling or for a replacement dwelling in the countryside is over the 50% threshold as set out in the Development Plan and which is recommended for approval;
- (f) where an application would result in a development of 8 or more residential units;
- (g) where an application for development would create additional new floorspace of 500sqm or more, unless it lies within an area allocated for that purpose;

- (h) where an application relates to property owned by the Minister, Departmental member or the Chief Executive of the Department or an employee of the Planning and Building Control Directorate or the Planning Policy section of the Department of Infrastructure (or any successor in title) or by a close relative of those persons;
- (i) where an application which is subject to an objection from the Minister, Departmental member or the Chief Executive of the Department or an employee of the Planning and Building Control Directorate or the Planning Policy section of the Department of Infrastructure (or any successor in title) or by a close relative of those persons;
- (j) if an application is required to be accompanied by a formal Environmental Statement;
- (k) if a member of the Committee (including the Chair) has requested the application be referred to the Committee for a decision; or
- (l) where the Director of Planning and Building Control, the Head of Development Management or the Senior Planning Officer considers that the proposal ought to be determined by Committee.

**NOTE:**

\* Either 5 or more objections, or 3 or more objectors who are afforded interested party status. Objections need to be individually written correspondence from different households and not multiple copies of one letter; or a single petition.

\*\* Householder applications are defined within the fee order and are those which relate to the extension or improvement to a single dwelling house.

