



TOWN AND COUNTRY PLANNING (DEVELOPMENT PROCEDURE) ORDER 2019

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Statutory Document No. 2019/0423

*Town and Country Planning Act 1999*

TOWN AND COUNTRY PLANNING (DEVELOPMENT PROCEDURE) ORDER 2019

Laid before Tynwald: 19 November 2019
Coming into Operation: 1 January 2020

The Department of Environment, Food and Agriculture makes the following Order under sections 8, 9(1), 10 and 11(3) of the Town and Country Planning Act 1999.

PART 1 – INTRODUCTORY

1 Title

This Order is the Town and Country Planning (Development Procedure) Order 2019.

2 Commencement

This Order comes into operation on 1 January 2020.

3 Interpretation etc.

(1) In this Order –

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

“**appellant**” means a person referred to in article 10(1);

“**applicant**” means –

- (a) a person who makes an application under Part 2 or under Part 3 in that person’s name and on that person’s own behalf; or
- (b) an agent acting for a person mentioned in paragraph (a), and where paragraph (b) applies, unless otherwise stated, references to “applicant” must be read as references to the agent;

“**application bundle**” means the bundle referred to in article 5;

“**application for approval in principle**” means an application for planning approval that reserves, for subsequent application for approval to the

Department, matters of siting, design, external appearance, internal layout of buildings, site layout, drainage, landscaping, means of access not particularised in the application and “approval in principle” is to be construed accordingly;

“**application for planning approval**” means an application for planning approval under Part 2;

“**conservation area**” means an area designated as such by order under section 18 of the Act;

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

“**minor changes application**” means an application under Part 3 for minor changes to the grant of a planning approval;

“**planning inspector**” means a person whose name appears on a list approved for the purposes of this Order by the Council of Ministers;

“**written representations**” includes supporting documents and comments, objections, responses, submissions or views expressed in writing.

(2) Any —

(a) document, plan, drawing, illustration or other thing required under this Order to be given (howsoever expressed) may be given by electronic means provided the intended recipient is able, and willing, to receive it by those means;

(b) plan, drawing or illustration given under this Order must include —

(i) a statement setting out its metric scale when printed or reproduced on a particular size of paper (for example “1:100 when printed on A4 paper”); and

(ii) except in the case of a location map referred to in paragraph 1 of Schedule 1, either or both a metric scale bar labelled with its ground length and in multiples of metric units or clearly marked and scaled metric dimensions.

4 Interested person

(1) For the purposes of this Order, an interested person is —

(a) a person who has made written representations in respect of an application for planning approval specifying how the lawful use of that person’s land would be affected by the development for which planning approval is being sought and whom the Department considers has a sufficient interest in that application in order to take part in subsequent proceedings relating to it;

(b) where an appeal is submitted under regulation 10(4), any other person who has made written representations at the date the appeal is submitted; and

- (c) a person referred to in paragraph (2).
- (2) Those persons are –
 - (a) the applicant;
 - (b) any Government Department that has made written representations that the Department considers material;
 - (c) the Highways Division of the Department of Infrastructure;
 - (d) Manx National Heritage where it has made written representations that the Department considers material;
 - (e) Manx Utilities where it has made written representations that the Department considers material;
 - (f) the local authority in whose district the land the subject of the application is situated; and
 - (g) a local authority adjoining the authority referred to in paragraph (f) where that adjoining authority has made written representations that the Department considers material.
- (3) For the purposes of paragraph (1)(a), written representations may only be made after a notice of application has been furnished under article 7 and before the application is determined under article 8.

PART 2 – APPLICATIONS FOR PLANNING APPROVAL

DIVISION 1 - GENERAL

5 Application for planning approval: Application bundle

- (1) A person applying for planning approval must give the Department four copies of an application bundle consisting of the documentation referred to in –
 - (a) paragraph (3);
 - (b) where relevant, paragraph (6); and
 - (c) where applicable, paragraph (10).
- (2) A person referred to in paragraph (1) need only give the Department one copy of an application bundle when giving it by electronic means.
- (3) The documentation referred to in this paragraph is –
 - (a) an application form supplied by the Department, completed by the applicant;
 - (b) such other documentation referred to in that form not otherwise particularised in Schedule 1; and
 - (c) the particulars specified in Schedule 1 which has effect.

- (4) An application must be accompanied by the fee payable for such an application prescribed in an order made by the Department under section 81 of the Interpretation Act 2015.
- (5) Where paragraphs (3) and (4) are not satisfied, the Department may return the application (together with the appropriate fee) to the applicant and is not required to take any further action in respect of it.
- (6) The documentation referred to in this paragraph is such further particulars as the Department may direct to be given at any time before the final determination of the application for approval or, as the case may be, the submission of an appeal in respect of a failure to determine an application in accordance with article 10.
- (7) Where paragraph (6) applies, the particulars in question must be furnished by a date specified in the direction.
- (8) The date referred to in paragraph (7) must be a date falling more than 21 days after the date of the direction.
- (9) Where an applicant fails to furnish the required particulars in accordance with paragraphs (6) to (8), the Department may treat an application for planning approval as withdrawn.
- (10) The documentation referred to in this paragraph is documentation not falling within paragraph (3) or (6) which –
 - (a) comprises such further, or amended, particulars or information (whether by way of plans or otherwise) that the applicant may, at any time before the final determination of the application for approval, give without prior request; and
 - (b) the Department considers is not so significant as to warrant the making of a new application under this Part.
- (11) Where in respect of land that is subject to an application for planning approval –
 - (a) the applicant is the owner of that land or has an interest in it; and
 - (b) that land or interest becomes vested in another person,
that other person may apply in writing to the Department to be treated as the applicant and must be so treated if the Department agrees.
- (12) The Department may, in any given case and at any time before the application is determined, require the person making an application to furnish it with additional hard copies of the application bundle.

6 Similar applications

- (1) The Department may refuse an application without preparing and publishing a notice of application under article 7 where –
 - (a) that application is, in accordance with this Order, to be determined by the Department; and

- (b) the Department considers that application to be a similar application.
- (2) Where the Department refuses an application under paragraph (1), it must give the applicant a notice setting out the reasons for that refusal and stating that its decision is final and binding subject only to the possibility of judicial review by petition of doléance.
- (3) The Council of Ministers may refuse an application without a notice of application under article 17 being prepared or published where —
 - (a) that application is, in accordance with this Order, to be determined by the Council; and
 - (b) the Council considers that application in question to be a similar application.
- (4) Where the Council of Ministers refuses an application under paragraph (3) the Chief Secretary must give the applicant a notice setting out the reasons for that refusal stating that the decision is final and binding subject only to the possibility of judicial review by petition of doléance.
- (5) A “similar application” is an application (“application B”) made under article 5 which is not materially different to an application for planning approval (“application A”) which has been determined within the applicable 5 year period.
- (6) The applicable 5 year period—
 - (a) begins with —
 - (i) if an appeal was submitted in respect of application A, the day on which the appeal decision notice in respect of that appeal was issued; or
 - (ii) if no such appeal was submitted, the last day on which such an appeal could have been submitted; and
 - (b) ends with the day on which the application B was submitted to the Department.
- (7) For the avoidance of doubt, where this article applies articles 7 to 19 do not.

7 Notice of application for planning approval

- (1) Where, in respect of an application made under article 5, articles 6 and 16 do not apply the Department must prepare and publish a notice of application in accordance with this article.
- (2) A notice of application must —
 - (a) specify the location of, and describe, the land and the proposed development to which the application for planning approval relates;

- (b) state that any person may make written representations to the Department with respect to that application at any time before it is determined under article 8 (see in particular paragraph (2) of that article); and
 - (c) state that any person (P) who wishes to apply to be treated as an interested person must, in P's written representations specify how (by reference to accepted planning considerations) the lawful use of P's land would be affected by the development for which approval is sought.
- (3) No later than the publication date the Department must –
 - (a) give the applicant a copy of the notice of application requiring that person to –
 - (i) display a copy of the notice by fixing it firmly to a building, other structure or near the land that is subject to that application so that it can easily be read by members of the public from the public highway and is unlikely to be obscured or concealed; and
 - (ii) ensure that copy of the notice displayed in accordance with paragraph (i) remains so displayed for a period of not less than 21 days beginning with the day on which it was first displayed;
 - (b) notify the Highway Services Division of the Department of Infrastructure and the local authority for the district in which the land subject to that application is situated, of that application and the place and times at which it may be viewed (whether in hard copy form or electronic form or both forms); and
 - (c) cause the matters referred to in sub-paragraphs (a) to (c) of paragraph (2) to be published –
 - (i) in at least one newspaper circulating in the Island; or
 - (ii) by such other means as the Department considers appropriate.
- (4) Where a local authority is notified of the application under paragraph (3)(b), it may publicise the place and times at which it may be viewed (whether in hard copy form or electronic form or both forms), in any manner it sees fit.
- (5) Where documentation is given to the Department under to article 5(6) or (10), the Department may undertake such publicity as it sees fit having regard to the significance of that documentation and may, if it considers it appropriate to do so, prepare and publish –
 - (a) an amended; or
 - (b) a replacement,
notice of application.

- (6) Where an amended or replacement notice is prepared under paragraph (5), references to a notice of application (however expressed) in paragraphs (1) to (4) are to be read as references to that amended or replacement notice.

DIVISION 2 - DETERMINATION OF APPLICATIONS

8 Determination of applications

- (1) Where article 16 does not apply, the Department must consider the application bundle and any representations made under article 7 in accordance with this article.
- (2) The Department —
 - (a) cannot determine an application earlier than 21 days beginning with the date on which the applicant is given the latest notice of application under article 7;
 - (b) must, if practicable, determine that application and give a planning decision notice in accordance with article 9 within the relevant period.
- (3) Where the Department has, pursuant to article 5(6) or (10), been given further particulars the relevant period is —
 - (a) a period of 8 weeks beginning with the date on which those particulars are given to the Department;
 - (b) a period of 16 weeks beginning with that date in a case where an environmental impact assessment is required;
 - (c) such longer period as may be agreed, in writing, with the applicant.
- (4) Where paragraph (3) does not apply, the relevant period is a period of 8 weeks beginning with the date on which the Department is given the documentation referred to in article 5(3).
- (5) Where it is not reasonably practicable for the Department to determine the application for planning approval within the relevant period referred to in paragraph (3) or, as the case may be, (4), the Department must determine the application as soon as reasonably practicable after the expiry of that period.
- (6) But the determination of an application does not have effect —
 - (a) if an appeal is submitted under Division 3 of this Part, until the appeal is determined or withdrawn;
 - (b) if no appeal is submitted, until the time within which an appeal may be submitted has expired (see article 10(3)).
- (7) Unless a condition attached to a grant of planning approval provides otherwise, the approval (including one which has been changed as a

result of a minor changes application – see Part 3) applies to the land in respect of which it is granted irrespective of any change of ownership or interest in the land.

9 Notice of decision

- (1) As soon as practicable after making determination under article 8, the Department must give notice in writing of that decision (an “planning decision notice”) to –
 - (a) the applicant and where the applicant is an agent, to the agent only;
 - (b) every interested person who is not the applicant; and
 - (c) any other person who has made representations with respect to the application.
- (2) A planning decision notice must set out –
 - (a) where approval is granted, the conditions (if any) subject to which it is granted and the reasons for them;
 - (b) where approval is refused, the reasons for it;
 - (c) the effect of article 8(6); and
 - (d) where it is given to an interested person under paragraph (1), the right of such a person to appeal in accordance with Division 3.
- (3) If it appears to the Department that an approval decision notice contains a relevant error, the Department must give a correction notice to those persons mentioned in paragraph (1) setting out the text of any correction subject to which the approval decision notice is to be read.
- (4) A relevant error is –
 - (a) an error of grammar, spelling or syntax;
 - (b) an error in the citation of relevant legislation;
 - (c) an obviously incorrect cross-reference;
 - (d) a clerical error or omission; or
 - (e) an error in transcription or expression.
- (5) Once a correction notice has been given, the original notice is to be treated for all purposes as if it had been made in the corrected form and article 10(3) has effect as if the original notice had been given on the date on which the correction notice is given.

DIVISION 3 - APPEALS

10 Appeals from decisions of the Department

- (1) Any interested person may be an appellant and appeal from a decision of the Department in respect of an application under Part 2.

- (2) An appeal must be in writing and given to the Department.
- (3) An appeal may only be submitted within 21 days of the date of the planning decision notice under article 9.
This paragraph applies where paragraph (4) does not.
- (4) Where an application has not been determined within the relevant period in accordance with article 8 and is not to be determined by the Council of Ministers, an appeal may be submitted upon the expiry of the later of —
 - (a) a period of 6 months beginning with the date on which the Department was furnished with an application bundle; or
 - (b) a period of 3 months beginning with the end of the relevant period referred to in article 8(3) to (5).
- (5) An appeal must—
 - (a) include —
 - (i) the grounds of appeal;
 - (ii) an election, if that is the appellant's wish, to have the appeal determined by means of an inquiry together with the fee payable in respect of such an inquiry as prescribed by the Department in an order made under section 81 of the Interpretation Act 2015; and
 - (b) in any event, must be accompanied by the fee payable in respect of such an appeal as prescribed by the Department in an order made under section 81 of the Interpretation Act 2015.
- (6) The grounds of appeal referred to in paragraph (5)(a)(i) must—
 - (a) on the part of a person who is not listed in article 4(2) and who is objecting to the application, relate to issues which that person included in representations made prior to the determination of the application under Division 2 of this Part;
 - (b) on the part of the applicant —
 - (i) where the appeal is against a determination made under Division 2 of this Part, specify in detail and by reference to material planning considerations the reasons why the appellant disagrees with that determination;
 - (ii) where the appeal is against a refusal of the application on the grounds of deficient detail or supporting documentation, set out why the applicant considers that the information or documentation forming part of the application bundle was sufficient in the circumstances.
- (7) For the avoidance of doubt, the grounds of appeal cannot be based on a material alteration of the terms of the application given under article 5.

- (8) The Department must, as soon as reasonably practicable, forward to the Chief Secretary all documents and material it has received under this article.

11 Role of the Chief Secretary

- (1) Within 10 working days of the receipt of an appeal notice, the Chief Secretary must give a written notice to every interested person –
- (a) inviting written representations (including on whether the appeal should be determined by means of written representations or by means of an inquiry) to be given to the Chief Secretary within a period of 21 days beginning with the date of that invitation;
 - (b) stating that the appeal will be determined –
 - (i) by means of an inquiry where an appellant has so elected under article 10(5)(a)(ii);
 - (ii) where paragraph (i) does not apply, by means of written representations.
- (2) The Chief Secretary may extend the period referred to in paragraph (1)(a).
- (3) Notwithstanding paragraph (1)(b)(i), the appeal is to be determined by means of written representations where all interested parties (including the appellant) have, following the Chief Secretary's notice, unanimously agreed that it should be determined by such means.
- (4) Where paragraph (1)(b)(ii) would otherwise apply, the appeal is to be determined by means of an inquiry where an interested person has –
- (i) made representations under paragraph (1)(a) for it to be so determined; and
 - (ii) enclosed, with those representations, the fee payable in respect of such an inquiry as prescribed by the Department in an order made under section 81 of the Interpretation Act 2015.
- (5) Paragraphs (6) to (8) apply where either –
- (a) paragraph (1)(b)(ii) applies (and has not been displaced by paragraph (4)); or
 - (b) paragraph (3) applies.
- (6) The Chief Secretary must give a written notice to every interested person –
- (a) informing them that the appeal is to be determined by means of written representations unless the planning inspector subsequently determines otherwise under article 12(1)(b);

- (b) informing them where, and when, any representations received under paragraph (1)(a) may be viewed (whether in hard copy form, electronic form, or in both forms);
 - (c) inviting additional representations to be given within a period of 14 days beginning with the date of that invitation.
- (7) The Chief Secretary may extend the period referred to in paragraph (6)(c).
- (8) Upon the expiry of the period referred to in paragraph (1)(a) or, where applicable, paragraph (6)(c), the Chief Secretary –
 - (a) must refer an appeal referred to in this article to a planning inspector stating whether, in accordance with this article, it is to be determined by means of an inquiry or by means of written representations;
 - (b) where in accordance with this article, an appeal is to be determined by means of an inquiry, must make any written representations given under paragraph (1) or (5) available to all interested parties prior to the date of the inquiry; and
 - (c) may convene a pre-inquiry meeting on behalf of the planning inspector.
- (9) This article is without prejudice to article 12(1)(b).

12 Role of the planning inspector

- (1) Upon a reference from the Chief Secretary under article 11, the planning inspector –
 - (a) must consider the application bundle, the written appeal, any written representations made in connection with them and any other material or information the planning inspector considers necessary in order to discharge his functions under this article;
 - (b) may, where article 11(1)(b)(i) or (4) does not apply, determine that it should be determined by means of an inquiry where the planning inspector considers that any interested person participating in the appeal would be unduly disadvantaged if it were to be determined by means of written representations;
 - (c) may in the case of an appeal to be determined by means of an inquiry, hold a pre-inquiry meeting;
 - (d) must, in the case of an appeal to be determined by means of an inquiry, give the appellant, the Department and every interested person, an opportunity to appear at a fixed time and place, to make oral representations and to call and examine witnesses; and
 - (e) may invite any Government Department (or Division of a Department), Manx National Heritage, Manx Utilities or any other person to provide technical advice.

- (2) Where, pursuant to paragraph (1)(b), the planning inspector determines that the appeal should be determined by means of an inquiry, the Chief Secretary must make any written representations available to all interested parties prior to the date of the inquiry.
- (3) Having considered the application, the written appeal, any representations made or any evidence or advice presented or submitted in respect of them, the planning inspector must give the Chief Secretary a written report which must include the planning inspector's recommendations as to the determination of the application.

13 Determination by the Department

- (1) The Department must consider the report of the planning inspector and may consider any material provided under articles 5 and 7 to 11 and —
 - (a) must either allow or dismiss the appeal;
 - (b) may in any case reverse or vary any part of its original decision in relation to such an application, whether or not the appeal relates to that part of its original decision.
- (2) As soon as practicable after its determination of the appeal, the Department must give the appellant and every other interested person an appeal decision notice.
- (3) An appeal decision notice must —
 - (a) set out the Department's determination and the reasons for it;
 - (b) include details of the times and place where the report of the planning inspector may be viewed whether in hard copy form or electronic form or both forms;
 - (c) if and to the extent that the Department's determination does not follow the recommendations of the planning inspector, state the reasons for not doing so;
 - (d) advise that the Department's decision is final and binding subject only to the possibility of judicial review by petition of dolence.
- (4) If it appears to the Department that the appeal decision notice contains a relevant error, the Department must give those persons mentioned paragraph (2) a correction notice setting out the text of any correction subject to which the appeal decision notice is to be read.
- (5) A relevant error is —
 - (a) an error of grammar, spelling or syntax;
 - (b) an error in the citation of relevant legislation;
 - (c) an obviously incorrect cross-reference;
 - (d) a clerical error or omission; or
 - (e) an error in transcription or expression.

- (6) Once a correction notice has been given, the original decision notice is to be treated for all purposes as if it had been made in the corrected form and, for the purposes of computation of time for judicial review by a petition of dolence, has effect as if the original decision notice had been made on the date on which the correction notice is given.

14 Withdrawal of appeal

The appellant may withdraw an appeal by giving notice in writing to the Chief Secretary –

- (a) in the case of an appeal to be determined by means of an inquiry, no later than 7 days before the scheduled date for the inquiry;
- (b) in the case of an appeal to be determined by means of written representations, at any time before the expiry of the period referred to in article 11(6)(c) or that period as extended under article 11(7).

15 Payment of costs

If the appellant or, as the case may be, the appellant's representative fails without reasonable cause to appear at the time and place appointed under article 12(1)(d), the Department may, within 14 days of the date of the notice under article 13, require the appellant to pay the whole, or a specified part of the costs and expenses incurred by the Department or any other interested person in connection with the appeal.

DIVISION 4 – COUNCIL OF MINISTERS DETERMINATIONS

16 Applications to be determined by the Council of Ministers

- (1) The following applications must be determined by the Council of Ministers –
- (a) an application for planning approval –
 - (i) referred to the Council by the Department under subsection (1)(a) of section 11 of the Act which the Council has directed will be determined by it;
 - (ii) in respect of which the Council of Ministers has issued a direction under subsection (1)(b) of that section, (“a section 11(1) application”);
 - (b) an application for planning approval –
 - (i) in which the Department is the applicant; or
 - (ii) which is for the development of land any interest in which is vested in, or which is occupied by or controlled by, the Department,

- (a “Departmental application”).
- (2) This paragraph applies where, in respect of an application referred to in article 5 —
- (a) a notice of application has been published under article 7; and
 - (b) the Council, under section 11(1)(b) of the Act, has directed that the application be referred to it.
- (3) Where paragraph (2) applies, a notice of application must nevertheless be published under article 17.

17 Publication of notices and reports by the Department.

- (1) Where, in respect of an application made under article 5, article 6 does not apply but 16 does, the Department must prepare and publish a notice of application in accordance with this article.
- (2) A notice of application must—
- (a) specify the location of, and describe, the land and the proposed development to which the application for planning approval relates;
 - (b) state that any person (“S”) may make written representations to the Department with respect to that application at any time before it is sent to the Chief Secretary under paragraph (7)(b); and
 - (c) state —
 - (i) whether the application is a section 11(1) or, as the case may be, a Departmental application;
 - (ii) that the application is to be determined by the Council of Ministers; and
 - (iii) that any written representations made by S must explain the nature of S’s interest in the application and detail S’s reasons for supporting or objecting to the application.
- (3) No later than the publication date the Department must —
- (a) give the applicant a copy of the notice of application requiring that person to —
 - (i) display a copy of the notice by fixing it firmly to a building, other structure or near the land that is subject to that application so that it can easily be read by members of the public from the public highway and is unlikely to be obscured or concealed; and
 - (ii) ensure that copy of the notice displayed in accordance with sub-paragraph (i) remains so displayed for a period of not less than 21 days beginning with the day on which it was first displayed;

- (b) notify the Highway Services Division of the Department of Infrastructure and the local authority for the district in which the land subject to that application is situated, of that application and the place and times at which it may be viewed (whether in hard copy form or electronic form or both forms); and
 - (c) cause the matters referred to in sub-paragraphs (a) to (c) of paragraph (2) to be published —
 - (i) in at least one newspaper circulating in the Island; or
 - (ii) by such other means as the Department considers appropriate.
- (4) Where a local authority is notified of the application under paragraph (3)(b), it may publicise the place and times at which it may be viewed (whether in hard copy form or electronic form or both forms), in any manner it sees fit.
- (5) Where documentation is given to the Department under to article 5(6) or (10), the Department may undertake such publicity as it sees fit having regard to the significance of that documentation and may, if it considers it appropriate to do so, prepare and publish —
 - (a) an amended; or
 - (b) a replacement,notice of application.
- (6) Where an amended or replacement notice is prepared under paragraph (5), references to a notice of application (however expressed) in paragraphs (1) to (4) are to be read as references to that amended or replacement notice.
- (7) As soon as practicable, but not before the expiry of a period of 21 days beginning with the publication date, the Department must —
 - (a) publish a report —
 - (i) in the case of a section 11(1) application, setting out—
 - (aa) what the Department considers to be the main issues raised by the application;
 - (bb) a recommendation as to whether the application should be approved or refused and the reasons for that recommendation;
 - (cc) any conditions it considers should be attached to an approval of it (if approved) and the reasons for such conditions;
 - (ii) in the case of a Departmental application setting out—
 - (aa) what the Department considers to be the main issues raised by the application;

- (bb) any conditions it considers should be attached to an approval of it (if approved) and the reasons for such conditions; and
 - (b) give that report, the application bundle and any representations received by the Department, to the Chief Secretary.
- (8) The representations referred to in paragraph (2)(b) are –
- (a) where article 16(2) applies, representations made in response to the notice of application published under article 7 and –
 - (i) before the Council of Ministers directed the application to be referred to it; or
 - (ii) before the application is referred by the Department to the Chief Secretary (notwithstanding the fact that a notice of application under this article has also been published; and
 - (b) representations made in response to the notice of application published under this article.

18 Referrals to the Chief Secretary

- (1) Where an application is referred to the Chief Secretary pursuant to article 17, the Chief Secretary must write to the persons referred to in paragraph (2) and –
- (a) invite written representations to be sent to the Chief Secretary with respect to that application within a period of 21 days beginning with the date of the invitation, which period may be extended on request at the Chief Secretary's discretion;
 - (b) in the case of a section 11(1) application, state that the application will be determined by means of an inquiry;
 - (c) in the case of a Departmental application, state that unless a written representation is made for the application be determined by means of an inquiry, it will be determined by means of written representations.
- (2) The persons referred to in paragraph (1) are –
- (a) the Department;
 - (b) the applicant (if not the Department);
 - (c) the local authority in whose district the land is situated;
 - (d) any person who has made written representations with respect to the application.
- (3) The Chief Secretary –
- (a) must refer an application (whether a section 11(1) or a Departmental application) to a planning inspector; and

- (b) may, if the application is to be determined by way of inquiry, convene a pre-inquiry meeting on behalf of the planning inspector.

19 References to the planning inspector

- (1) Upon a reference from the Chief Secretary under article 18, the planning inspector—
 - (a) must consider the application bundle and any written representations made in respect of it;
 - (b) may, in the case of an application to be determined by means of an inquiry, hold a pre-inquiry meeting;
 - (c) must, in the case of a section 11(1) application or Departmental application in respect of which written representations were made requesting that it be determined by means of an inquiry, hold such an inquiry and give the person's listed in paragraph (3) an opportunity to appear, to make oral representations and to call and examine witnesses; and
 - (d) may invite any Government Department (including any Division of the Department), Manx National Heritage, Manx Utilities and any other person to provide technical advice.
- (2) Having considered the application, any representations made or any evidence or advice presented or submitted in respect of it, the planning inspector must give the Council of Ministers a written report which must include the planning inspector's recommendations as to the determination of the application.
- (3) The persons referred to in paragraph (1)(c) are —
 - (a) the Department;
 - (b) the applicant (if not the Department);
 - (c) the local authority in whose district the land is situated;
 - (d) any person who is requested by the planning inspector to provide technical advice; and
 - (e) any person who has made written representations with respect to the application.

20 Determination by Council of Ministers

- (1) The Council of Ministers must consider the report of the planning inspector and may consider any information provided under articles 5, 7 and 17 to 19.
- (2) Where, having considered the planning inspector's report given under article 19(2), the Council of Ministers refuse a planning approval in respect of a section 11(1) application, a decision notice ("a CS decision

notice”) must be issued by the Chief Secretary as soon as practicable to every person mentioned in paragraph (11).

- (3) Where, having considered the planning inspector’s report given under article 19(2), the Council of Ministers approve a section 11(1) application, that application (together with any relevant independent inspector’s report) must be laid before Tynwald.
- (4) Where Tynwald resolve to annul¹ the decision of the Council of Ministers to approve a section 11(1) application, the Chief Secretary must give notice in writing of Tynwald’s decision as soon as practicable to every person mentioned in paragraph (11).
- (5) Where Tynwald do not resolve to annul the decision of the Council of Ministers to approve a section 11(1) application, the Chief Secretary must notify every person mentioned in paragraph (11) of that fact.
- (6) In the case of a Departmental application, as soon as practicable after the Council of Ministers has considered the recommendations of the planning inspector and determined the application, a decision notice (“a CS decision notice”) must be given by the Chief Secretary to every person mentioned in paragraph (11).

For the avoidance of doubt, if the Departmental application is approved by the Council it does not need to be laid before Tynwald.

- (7) A CS decision notice must —
 - (a) in the case of an application that has been approved, state the reasons for that approval and, if approved subject to conditions, what the conditions are and the reasons for their imposition;
 - (b) in the case of an application that has been refused, state the reasons for that refusal;
 - (c) if, and to the extent that, the decision of the Council of Ministers does not follow the recommendation of the planning inspector, state the reasons for not doing so;
 - (d) include details of the times and place where the report of the planning inspector may be viewed whether in hard copy form or electronic form or both forms; and
 - (e) state that the decision is final and binding subject to the possibility of judicial review by petition of doléance.
- (8) If it appears to the Chief Secretary that a CS decision notice contains a relevant error, the Chief Secretary must give a new notice (“a correction notice”) to every person mentioned in paragraph (11) setting out the text of any correction subject to which the decision notice is to be read.

¹ Tynwald may annul the decision of the Council of Ministers at the sitting in which that decision is laid or in the subsequent sitting – see section 11(2) of the Town and Country Planning Act 1999.

- (9) A relevant error is—
- (a) an error of grammar, spelling or syntax;
 - (b) an incorrect citation of applicable legislation;
 - (c) an obviously incorrect cross-reference;
 - (d) a clerical error or omission; or
 - (e) an error made in transcription or expression.
- (10) Once a correction notice has been given, the original decision notice is to be treated for all purposes as if it had been made in the corrected form and, for the purposes of computation of time for judicial review by a petition of dolence, has effect as if the original decision notice had been made on the date on which the correction notice is given.
- (11) The persons referred to in paragraph (2), (4), (5), (6) and (8) are —
- (a) the Department;
 - (b) the applicant (if not the Department);
 - (c) the local authority in whose district the land is situated;
 - (d) any person who is requested by the planning inspector to provide technical advice; and
 - (e) any person who has made written representations with respect to the application.

PART 3 – MINOR CHANGES APPLICATIONS

DIVISION 1 - GENERAL

21 Minor changes applications: General

- (1) Only one minor changes application may be made in respect of any particular grant of planning approval.
- (2) A minor changes application —
- (a) must relate to a grant of planning approval in respect of a building;
 - (b) must specify what minor changes are being sought and why the applicant considers them to be of a minor nature;
 - (c) cannot include an application to change the terms of a grant of planning approval so as to do any of the following—
 - (i) to increase the number of dwellings or buildings for which planning approval has been granted;
 - (ii) to increase the net external footprint of a building for which planning approval has been granted;

- (iii) to alter the site for which planning approval has been granted and which was defined by a red line on the site location map (see Schedule 1), by changing that line;
- (iv) make material changes to the vehicular access arrangements for which planning approval has been granted;
- (v) to alter the conditions (if any) which have been imposed;
- (d) cannot be made —
 - (i) earlier than 21 days beginning with the date the applicant is given the planning decision notice issued under article 9;
 - (ii) where an appeal has been lodged under Division 3 of this Part 2, until that appeal has been determined; or
 - (iii) if the duration of the planning approval, determined under article 26, has expired.

22 Minor changes applications: Application bundle

- (1) A person applying for a minor change to a grant of a planning approval must give the Department two copies of an application bundle consisting of the documentation referred to in paragraph (3) and, where relevant, paragraph (6).
- (2) A person referred to in paragraph (1) need only give the Department one copy of an application bundle when giving it by electronic means.
- (3) The application documentation referred to in this paragraph is —
 - (a) an application form supplied by the Department, completed by the applicant;
 - (b) such other documentation referred to in that form not also particularised in Schedule 1; and
 - (c) the particulars specified in Schedule 1.
- (4) An application must be accompanied by the fee payable for such an application as prescribed in an order made by the Department under section 81 of the Interpretation Act 2015.
- (5) Where paragraphs (3) and (4) are not satisfied, the Department may return the application (together with the appropriate fee) to the applicant and is not required to take any further action in respect of it.
- (6) The application documentation referred to in this paragraph is such further particulars as the Department may, at any time before the final determination of the minor changes application, direct to be given in any particular case.
- (7) Where paragraph (6) applies, the particulars in question must be given by a date specified in the direction.

- (8) The date referred to in paragraph (7) must be a date falling later than 21 days after the date of the direction.
- (9) Where an applicant fails to give the required particulars in accordance with paragraphs (6) to (8), the Department may treat the application as withdrawn.
- (10) Where in respect of land that is subject to an application for planning approval –
 - (a) the applicant is the owner of that land or has an interest in it; and
 - (b) that land or interest becomes vested in another person,
that other person may apply in writing to the Department to be treated as the applicant and must be so treated if the Department agrees.
- (11) The Department may, in any given case and at any time before the application is determined, require the person making a minor changes application to give it additional hard copies of the application bundle.

DIVISION 2 - DETERMINATION OF MINOR CHANGES APPLICATIONS ETC

23 Determination of minor changes applications

- (1) The Department must refuse a minor changes application where it considers that the changes sought would (if approved) –
 - (a) significantly increase the size or scale of the development in question;
 - (b) significantly change the nature of the development in question;
 - (c) result in an approval which, at the time of approval, complied with a Development Plan, National Policy Directive or a Planning Policy Statement, ceasing to do so;
 - (d) result in new or increased adverse impacts on adjoining or neighbouring properties having a significant or disproportionate impact on the environment (irrespective of whether such impacts might be outweighed by other considerations);
 - (e) be more than minor and to be of a magnitude to warrant a new application; or
 - (f) otherwise fundamentally change the basis on which the grant was originally made.
- (2) Where paragraph (1) does not apply, the Department must –
 - (a) consider the application bundle referred to in article 22 in accordance with this Part; and
 - (b) if practicable, determine the application within a period of 20 working days beginning with the date on which it was made.
- (3) The refusal of minor changes application does not prevent the applicant from submitting a new application under article 5.

24 Notice of decision

- (1) As soon as practicable after making determination under article 23, the Department must give notice in writing of that decision (a “minor changes decision notice”) to the applicant.
- (2) A minor changes decision notice must set out –
 - (a) where all or some of the changes are accepted, the changes that are so accepted;
 - (b) where acceptance of some or all of the changes is refused, the reasons for that refusal, and
 - (c) the effect of article 23(3).
- (3) If it appears to the Department that a minor changes decision notice contains a relevant error, the Department must give a correction notice to the applicant setting out the text of any correction subject to which the minor changes decision notice is to be read.
- (4) A relevant error is –
 - (a) an error of grammar, spelling or syntax;
 - (b) an error in the citation of relevant legislation;
 - (c) an obviously incorrect cross-reference;
 - (d) a clerical error or omission; or
 - (e) an error in transcription or expression.
- (5) Once a correction notice has been given, the original notice is to be treated for all purposes as if it had been made in the corrected form.

DIVISION 3 – APPEALS**25 Appeals from decisions of the Department**

No appeal lies against the Department’s –

- (a) determination in respect of a minor changes application; or
- (b) failure to make a determination within the period specified in article 23, or at all.

PART 4 – MISCELLANEOUS, TRANSITIONAL AND REVOCATIONS**26 Duration of planning approval**

- (1) This article applies to a planning approval that was not subject to a minor changes application under Part 3 and an approval that was subject to a successful application under that Part.

- (2) Planning approval referred to in this article is taken to be granted subject to the condition that the development must be begun —
 - (a) no later than the end of the period as may be specified in the decision notice relating to such grant; or
 - (b) if no such period is specified, the period of 4 years beginning with the date of the decision notice.
- (3) The period specified under paragraph (2)(a) must not exceed 4 years unless there are special circumstances justifying a longer period.

27 Other applications

The provisions of this Order apply with any necessary modifications to —

- (a) applications under section 10(3) of the Act (variation or discharge of conditions); and
- (b) applications for such approval as is mentioned in section 10(6)(d) of the Act (reserved matters),

as they apply to applications for planning approval.

28 Inquiry and written representation procedure

Schedule 2 applies to proceedings conducted by a planning inspector under this Order.

29 Transitional provision

Where, before this Order comes into operation, an application for planning approval (“an existing application”) —

- (a) has been made under article 4 of the Town and Country Planning (Development Procedure) (No.2) Order 2013 (“the 2013 Order”); and
- (b) has not finally determined, or disposed of, in accordance with that Order,

that existing application is to be dealt with in accordance with the provisions of the 2013 Order and as if this Order had not been made.

30 Revocations

The following are revoked —

- (a) the Town and Country Planning (Development Procedure) (No. 2) Order 2013²;
- (b) the Town and Country Planning (Development Procedure) (No.2) (Amendment) Order 2015³;

² SD 0238/2013.

³ SD 2015/0134.

- (c) the Town and Country (Development Procedure) (No.2) (Amendment) (No. 2) Order 2015⁴.

MADE 22 OCTOBER 2019

GEOFFREY BOOT

Minister for Environment, Food and Agriculture

⁴ SD 2015/0228.



SCHEDULE 1*Article 5***PARTICULARS TO BE INCLUDED WITH APPLICATIONS UNDER PART 2 AND PART 3****1 All applications**

- (1) This paragraph applies to —
 - (a) applications for planning approval;
 - (b) applications for such approval as is mentioned in section 10(6)(d) of the Act (reserved matters); and
 - (c) minor changes applications.
- (2) Every application to which this paragraph applies must include an accurate and up-to-date site location plan to a standard scale on which —
 - (a) there is a clearly marked North point;
 - (b) the site that is the subject of the application is clearly defined with a red line;
 - (c) the boundary of the entire land owned or occupied by the applicant (and where an agent is the applicant, the land owned or occupied by the agent's principal) adjoining the site which is the subject of the application is clearly defined with a blue line (irrespective of how much of this land relates to the application);
 - (d) there is illustrated the relationship of the site to adjoining land and buildings, to any highway serving the site, and to the nearest settlement or other familiar point of reference;
 - (e) in cases where the site is identified as being at risk of flooding on the most recent flood maps published by Manx Utilities and the application includes the construction of a new building or a change of use to an existing building, a flood risk assessment.
- (3) The illustration referred to in sub-paragraph (2)(d) may consist of a separate plan not exceeding a metric scale of 1:10,000.
- (4) A plan referred to in sub-paragraphs (2) and (3) must be presented at a scale to make its contents clear to the Department without the need for clarification or explanation.

2 All applications except those for approval in principle or change of use

- (1) This paragraph applies to —
 - (a) applications for planning approval except those referred to in sub-paragraph (2);

- (b) applications for such approval as is mentioned in section 10(6)(d) of the Act.
- (2) This paragraph does not apply to —
- (a) an application for approval in principle;
 - (b) applications for approval of development consisting of a change in the use of a building and not involving building or engineering operations;
 - (c) minor changes applications; and
 - (d) applications to replace a window or a door of a building in a conservation area.
- (3) Every application to which this paragraph applies must include —
- (a) a site plan to a metric scale of not less than 1:500 on which are indicated accurately —
 - (i) the position of all buildings, both existing and proposed;
 - (ii) the position of any driveways and vehicular access, both existing and proposed;
 - (iii) the position of all proposed engineering operations and any proposed fences or walls;
 - (iv) the position, and extent, of any proposed visibility splay where the proposed development includes any works to create or materially alter a vehicular access;
 - (v) the position and extent of any area for the parking and or storage of vehicles (motor cars, motor cycles or goods or passenger vehicles) and pedal cycles;
 - (vi) the position and extent of all existing trees where the proposed development includes any works within the vicinity of such trees;
 - (vii) where changes are proposed to site levels, existing and proposed levels;
 - (viii) the position and nature of all proposed landscaping;
 - (b) plans, elevations and sections of all proposed buildings and structures both existing and proposed to a metric scale of not less than 1:100, fully dimensional using metric units and annotated so as to specify —
 - (i) the material and nature of all external finishes; and
 - (ii) floor or base levels relative to a fixed datum outside the site plan required by (a);
 - (c) details of any anticipated incidental removal of minerals or importation to or removal of waste from the site.

- (4) A plan referred to in this paragraph must be presented on paper of such a size to make its contents clear to the Department without the need for clarification or explanation.

3 Applications for change of use only

An application for planning approval consisting only of a change in the use of a building and not involving external building or engineering operations must include dimensioned floor lay-out plans of the existing and proposed use that clearly show both the existing and proposed –

- (a) arrangement of the rooms in the building; and
- (b) means of access and egress from the building.

4 Applications for approval of reserved matters

Every application for such approval as is mentioned in section 10(6)(d) of the Act must include details –

- (a) of the approval in principle to which the application relates; and
- (b) as required by the condition of that approval with which the that application seeks to comply.

5 Applications to replace windows or doors– conservation area

An application for planning approval consisting only of a replacement of a window or door of a building in a conservation area must include details, both existing and proposed, of the size, shape and construction of the window or door which is the subject of the application and –

- (a) a clear photographic representation of that window; or
- (b) a scale drawing of it.

6 Minor changes applications

A minor changes application must –

- (a) specify the planning approval that is the subject of the application;
- (b) specify the changes to that approval which are being applied for;
- (c) include an explanation as to why those changes are being applied for;
- (d) if relevant, include the site plan, and the plans, elevations and sections of the proposed buildings and structures referred to in paragraph 2(3) amended to indicate those changes.

SCHEDULE 2*Article 28***INQUIRY AND WRITTEN REPRESENTATION PROCEDURE****1 Interpretation**

In this Schedule —

“inquiry” means proceedings conducted by a planning inspector under articles 12 or 19;

“written representation procedure” means proceedings conducted by a planning inspector under article 12 or article 19 by consideration of written representations only.

2 Procedure at inquiry

- (1) Except as otherwise provided in this Schedule, the planning inspector is to determine the procedure at an inquiry.
- (2) At the start of the inquiry, the planning inspector must identify what are, in the planning inspector’s opinion, the main issues to be considered and any matters on which the inspector requires further explanation from persons entitled or permitted to appear.
- (3) Nothing in sub-paragraph (2) precludes any person entitled or permitted to appear at any inquiry from referring to issues that the inspector considers relevant to the consideration of the application or the appeal but which were not issues identified by that inspector under that sub-paragraph.
- (4) At an inquiry —
 - (a) the Department opens proceedings and the applicant has the right of final reply unless, in any particular case, the planning inspector otherwise determines; and
 - (b) any other persons entitled or permitted to appear are to be heard in such order as the planning inspector may determine.
- (5) The planning inspector may, in respect of any person the planning inspector considers to be behaving in a disruptive manner require that person to leave and may also —
 - (a) refuse to permit that person to re-join the inquiry on that person’s return; or

- (b) permit that person to return to the inquiry on such conditions as the planning inspector may specify.
- (6) But a person referred to in sub-paragraph (5) may, in writing and before the close of the inquiry, submit to the planning inspector any evidence or other material.
- (7) A planning inspector may proceed with an inquiry in the absence of any person entitled to appear at it.
- (8) The planning inspector may take account of any written representations or evidence or any document received from any person before an inquiry opens or during the inquiry provided that the planning inspector discloses those representations or that evidence or document at the inquiry.
- (9) The planning inspector may from time to time adjourn an inquiry and, if the date and time of, and place where it is to be reconvened are announced at the inquiry before its adjournment, no further notice of those matters is required.
- (10) The planning inspector may, in respect of land which is the subject of the application in question —
 - (a) before the inquiry, make an unaccompanied inspection of it without prior notice being given to the persons entitled to appear at the inquiry;
 - (b) during an inquiry, —
 - (i) make an unaccompanied inspection of it without prior notice being given to the persons entitled to appear at the inquiry;
 - (ii) make an inspection of it in the company of the applicant, the Department or both;
 - (c) after the close of the inquiry, —
 - (i) make an unaccompanied inspection of it without prior notice being given to the persons entitled to appear at the inquiry;
 - (ii) make an inspection of it in the company of the applicant, the Department or both.
- (11) The planning inspector must inspect the land in accordance with paragraph (10) if requested, before or during the inquiry, to do so by the applicant or the Department.
- (12) In all cases where the planning inspector intends to make an accompanied inspection of the land, the planning inspector must, during the inquiry, announce the date and time at which that inspection is to take place.

- (13) The planning inspector is not bound to defer an inspection of the land which is due to take place in the company of the applicant, the Department or both, if they not present at the appointed time.

3 Evidence

- (1) A person entitled to appear at an inquiry is entitled to call evidence and to cross-examine other persons at the discretion of the planning inspector.
- (2) The planning inspector may, where the inspector considers it would be irrelevant or repetitious, refuse to permit —
- (a) the giving or production of evidence;
 - (b) the cross-examination of persons giving evidence; or
 - (c) the presentation of any other matter.
- (3) Where the planning inspector refuses to permit the giving of oral evidence, the person wishing to give that evidence may submit it or any other evidence in writing before the close of the inquiry.
- (4) The planning inspector may direct that facilities are afforded to any person appearing at an inquiry to take, or obtain, copies of documentary evidence open to public inspection.

4 Written representations procedure

- (1) Under the written representations procedure, the planning inspector must take into account all written representations from the Department, the appellant and any other interested person.
- (2) The planning inspector may make an unaccompanied inspection of the land which is the subject of the application at any time during consideration of the written representations without giving prior notice to —
- (a) the Department;
 - (b) the appellant;
 - (c) the owner of land if not the appellant;
 - (d) any other interested person who has made written representations.
- (3) In the case of proceedings under Division 3 of Part 2, references to in this paragraph to —
- (a) “appellant” are to be read as references to “applicant”; and
 - (b) “interested person” are to be read as references to “any person”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order prescribes the procedure for applications for planning approval and related approvals under Part 2 of the Town and Country Planning Act 1999 and replaces the Town and Country Planning (Development Procedure) Order 2013.

The significant changes from the 2013 Order are —

- (a) a new procedure for dealing with applications for minor changes to a grant of planning approval;
- (b) a new procedure for dealing with applications that are similar to an application that has been dealt with in the preceding 5 years (such applications may be refused without the need to prepare and publish notices of application);
- (c) provision for the Council of Ministers to determine applications which raise considerations of general importance for the Island;
- (d) provision for documents and materials to be given by electronic means in certain cases.