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PROPOSED PERMITTED DEVELOPMENT ORDER FOR TEMPORARY USE OR DEVELOPMENT OF LAND

**A Consultation Document
October 2014**



**Isle of Man
Government**

Reiltys Ellan Vannin



Forward

Permitted Development is development that can be undertaken without the need to apply for planning approval.

Any extension of permitted development reduces the burden of application for householders, businesses, landowners, event organisers and anyone else previously subject to the need to apply for planning approval. It also frees up resources in the Planning Department to work on more significant issues.

Thus in 2012 a number of householder developments were re-classified as permitted developments, as were developments on certain Government-owned land. The following year permitted development for telecommunications was clarified.

However there is scope to extend further permitted development rights.

Next spring the Department would like to bring in an order in respect of Use Classes, to reflect current forms of planning uses and to provide more certainty to the process. An order is also envisaged which would remove the need for a planning application for certain works within Government owned woodlands. Advertising Regulations will also be reviewed.

But now the Department is consulting about an order which would remove the need for a planning application for certain changes of use on a short term basis, subject to adherence to certain criteria.

There are many events and activities which take place on a temporary basis either to support community or sporting events or the construction of approved developments. In some cases these will be small, and after the event, the site will revert to the previous use with no lasting impact. However, other uses, may be: more substantial; have a significant economic benefit; and take place over a longer period, in connection with events such as the TT or the Southern 100, but which nonetheless might be considered un-contentious.

I am pleased to introduce this consultation on the proposed permitted development order to allow the temporary use or development of land in certain circumstances without the need to obtain planning approval.

Planning matters concern all of us. Potentially these proposals provide for increased freedom to make use of land and premises on a temporary basis, within carefully considered parameters.

I hope everyone with an interest will respond.



Chris Thomas MHK

**Political Member responsible for Planning & Building Control
Department of Infrastructure**

Introduction

The Isle of Man planning legislation presently makes no provision for permitting the temporary use of land without first having to obtain planning approval for that use. The effect of this is that the Department, often at very short notice, has to consider an application as to whether a short term use of land which is other than in accordance with its approved or authorised purpose represents a 'material change' in the use of that land.

Short term changes of use – for example a fair, car boot sale, local event or other celebration are often regulated by other forms of control for example the need to obtain a licence for the playing of amplified music or to accommodate the sale of alcohol, and consequently the impact of the development are assessed by other means. Planning regulations, which are intended to deal with land use impacts are not therefore the most appropriate form of control.

There are also uses and building works which take place in association with a development, which equally may be viewed as something which does not constitute development, for example, the erection of scaffolding, the placing of site huts on development sites, the storage of construction or demolition material on a site, the use of machinery or vehicle to process material on site where a building is being demolished or a site is being redeveloped, or both.

However, there are also temporary changes of use and development which are more significant in terms of their frequency, duration and impact which will constitute development and currently require planning approval, but which remain largely un-contentious.

The greatest incidence of temporary use or development of land on the Island arises in the TT, Southern 100 and Manx Grand Prix / Classic TT / Festival of Motorcycling practice and race periods where various types of development appear – temporary food and non-food retail outlets, camp sites, temporary grandstands, stands and shelter for marshals alongside the race circuits, for example.

Moreover, to have no provision in planning legislation for such temporary uses creates uncertainty because the public and potential users of land have no certainty as to whether there is any means of control, to whom and when they can communicate their concerns and whether there would be any potential future liability or legal action which could be instigated in respect of the permissions which should have been obtained prior to the uses being undertaken. It is also confusing and unhelpful to have more than one method of controlling such temporary uses. The current situation can lead in some instances to planning enforcement complaints having to be investigated by the Department.

These proposals do not apply to the use of land, structures or buildings for advertising.

Details of Proposed Changes

The Department is proposing to prepare a Permitted Development Order (PDO) under planning legislation, which will make it lawful, without the need to obtain planning approval, to carry out certain uses and undertake particular developments, subject to certain conditions. It is considered that this would expedite development which is not publicly harmful and which would promote some of the principles advocated in the Isle of Man Strategic Plan. The public's views are now being sought on these proposals.

The erection of temporary signage and advertising cannot be covered in a Permitted Development Order, instead the Department is planning to address these in the forthcoming review of the Control of Advertisements Regulations and associated legislation, following the consultation which took place on the topic in July 2013 (for more details see <http://www.gov.im/ConsultationDetail.gov?id=387>).

General Provisions

It is proposed that the Order will make the following general provisions.

Planning Approval for Certain Development

- (1) Planning approval is granted for development of a class specified in the proposed classes of development, on any land, subject to any condition specified.**
- (2) Paragraph (1) does not apply to a development, of any class which —**
 - (a) fall within any exception specified in relation to that class; or**
 - (b) contravene any condition lawfully imposed on the grant of planning approval for development of land.**

Direction That Approval Shall Not Apply

If the Department is satisfied that any development specified should not be carried out in any particular area without planning approval granted pursuant to an application for the purpose, the Department may by an instrument in writing direct that the Order shall not apply to such development in any such area as may be specified.

General Conditions That Will Apply To All Classes In This Order

It is proposed that a series of general conditions will apply to all classes of development or use permitted in this proposed Order:

- a) None of the developments hereby specified may be undertaken in, on, under or within an Area of Special Scientific Interest (ASSI), or other sites which are designated under the Wildlife Act 1990;**
- b) None of the developments hereby specified may be undertaken within 9m of a watercourse;**
- c) None of the developments hereby specified may result in the loss of Registered Trees or damage or potential damage thereto, such as would threaten the long term future of the Registered Tree, unless a formal licence has been granted by DEFA under the Tree Preservation Act 1993.**

Question 1

Do you agree with the proposed general conditions that will be applicable to all classes of development permitted in this proposed Order?

YES / NO

Question 2

Do you wish to make any comments on proposed wording of the general conditions?

Proposed Classes of Development

It is proposed to introduce 6 classes of permitted development under the Order. For each class the above General Conditions will apply as well as some class specific conditions as set out below.

Class A - Permitted Development – Construction Phases

The provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with and for the duration of development being or to be carried out on, in, under or over that land or on land adjoining that land.

Proposed Class A Conditions

Development is permitted by Class A subject to all of the following conditions.

A.1 Any building, structure, works, plant or machinery permitted by Class A shall:

(i) be removed on completion of the development with which it is associated or no later than 24 months after its initial installation whichever is the sooner; and

(ii) any adjoining land on which development permitted by Class A has been carried out, shall within 12 months be reinstated to its former condition before that development was carried out, or in accordance with the plans the subject of the planning approval.

A.2 The development referred to are not connected with any of the following:

(i) winning or working of minerals or aggregates; or

(ii) erection for drilling of boreholes or the making of other excavations for mineral exploration or exploitation; or

(iii) operation of waste management or waste disposal facilities.

A.3 Planning approval for the principal development on the site has been granted or is deemed to be granted.

Question 3

Do you agree with the proposed Class A permitted development?

YES / NO

Question 4

Do you wish to make any comments on proposed wording of the Class A permitted development?

Question 5

Do you agree with the proposed Class A conditions that will be applicable in this proposed Order?

YES / NO

Question 6

Do you wish to make any comments on proposed wording of the Class A conditions?

Class B - Permitted Development for Temporary Uses and Development

The use of any land for any purpose listed below and for the erection of temporary structures or buildings for not more than 12 days in total in any calendar year and for no more than three consecutive days at a time within a 28 day period excluding time for setting up and disassembling any equipment, structures or buildings and including any structures associated therewith; and the provision on the land of any moveable structure for the purposes of the permitted use.

The uses hereby approved are the holding of:

- A. a car boot sale or market for sales;**
- B. a motor car or motorcycle racing, including trials of speed, and practising for these activities;**
- C. a fete, fair, festival, agricultural show or other gathering of people for a particular purpose.**

Exceptions

This class does not apply if the use of the land or buildings is for the:

- (1) erection or placing of tents for camping; or**
- (2) storage and /or use of caravans and motorhomes.**

Proposed Class B Conditions

Development is permitted by Class B subject to the following conditions.

B.1 Prior to the commencement of any of the above uses, the organiser must inform the Department in writing of the proposed holding of the event indicating the location, date and times of the event.

B.2 Any equipment, structures or buildings associated with the event must be erected no sooner than 72 hours prior to the start of the event and must be

taken down and removed from site no later than 72 hours following the finish of the event.

NOTE: this does not obviate the need to obtain any other relevant approvals under the Mechanical Contrivances Regulation Act 1923, Town & Country Planning (Control of Advertisements) Regulations 2013 or any other relevant legislation or regulations, including activities in relation to the sale or consumption of alcohol or the playing of music. It should also be noted that noise generated from the use could be subject to a Noise Abatement Notice, if levels become excessive.

Question 7

Do you agree with the proposed Class B permitted development?

YES / NO

Question 8

Do you wish to make any comments on proposed wording of the Class B permitted development?

Question 9

Do you agree with the proposed Class B conditions that will be applicable in this proposed Order?

YES / NO

Question 10

Do you wish to make any comments on proposed wording of the Class B conditions?

Class C - Permitted Development Associated with the Isle of Man TT, Manx Grand Prix, Isle of Man Classic TT, or Isle of Man Festival of Motorcycling

The use of land or erection of temporary structures or buildings associated with the operation of the Isle of Man TT, Manx Grand Prix, Isle of Man Classic TT, or Isle of Man Festival of Motorcycling events and the provision of competitor's workshop facilities, temporary grandstands, campsites, tourist accommodation, hospitality and catering facilities associated with these events.

Proposed Class C Conditions

Development is permitted by Class C subject to all of the following the conditions.

C.1 All buildings must be erected or installed no sooner than 10 days before the day of the first designated practice for the event.

C.2 The use shall not commence no sooner than 72 hours prior to the day of the first designated practice for the event.

C.3 The use must cease no later than 72 hours following the final race day of the event.

C.4 Any buildings other than those complying with Class D must be dismantled and removed from the site, no later than 10 days following the final race day of the event.

C.5 There is satisfactory provision of water, drainage and refuse disposal facilities.

C.6 There is satisfactory and safe provision of road access and parking including where appropriate the safe movement of large vehicles and towed units to and from the site and the public highway.

C.7 The use of land or erection of temporary structures or buildings does not have a detrimental effect on neighbour or visual amenity.

NOTE: this does not obviate the need to obtain any other relevant approvals under the Mechanical Contrivances Regulation Act 1923, Control of Advertisements Regulations 2013 or any other legislation or regulations, including activities in relation to the sale or consumption of alcohol or the playing of music. It should also be noted that noise generated from the use could be subject to a Noise Abatement Notice, if levels become excessive.

Question 11

Do you agree with the proposed Class C permitted development?

YES / NO

Question 12

Do you wish to make any comments on proposed wording of the Class C permitted development?

Question 13

Do you agree with the proposed Class C conditions that will be applicable in this proposed Order?

YES / NO

Question 14

Do you wish to make any comments on proposed wording of the Class C conditions?

Class D - Development Required for the Safety of the Isle of Man TT, Manx Grand Prix, and Isle of Man Classic TT races

The erection of buildings or any works for safety purposes that are required for the operation of the Isle of Man TT, Manx Grand Prix and Isle of Man Classic TT races on the TT Mountain Course.

Works included in this Class are:

i) Trackside shelters, scaffold towers and other scaffolding erected by or on behalf of the organising authority to accommodate marshals employed in association with the event;

ii) the siting /placement of bales, air cushioning and other safety related equipment installed on and around the Course.

Proposed Class D Condition

Development is permitted by Class D subject to the following condition.

D.1. All buildings or works must be erected or installed no sooner than 56 days before the day of the first designated Isle of Man TT practice and removed no later than 28 days following the day of the final race of the Manx Grand Prix / Isle of Man Classic TT.

NOTE: this does not obviate the need to obtain any other relevant approvals under the Mechanical Contrivances Regulation Act 1923, Town & Country Planning (Control of Advertisements) Regulations 2013 or any other relevant legislation or regulations.

Question 15

Do you agree with the proposed Class D permitted development?

YES / NO

Question 16

Do you wish to make any comments on proposed wording of the Class D permitted development?

Question 17

Do you agree with the proposed Class D conditions that will be applicable in this proposed Order?

YES / NO

Question 18

Do you wish to make any comments on proposed wording of the Class D conditions?

Class E - Permitted Development Associated with Motorcycle and Sidecar Racing events on the Billown Circuit

The use of land or erection of temporary structures or buildings associated with the operation of motorcycle and sidecar racing on the Billown Circuit or supporting the provision of competitors workshop facilities, temporary grandstands, campsites, tourist accommodation hospitality and catering facilities associated with these events.

Proposed Class E Conditions

Development is permitted by Class E subject to all of the following conditions.

- E.1 All buildings must be erected or installed no sooner than 10 days before the day of the first designated practice for the event.**
- E.2 The use shall not commence no sooner than 72 hours prior to the day of the first designated practice for the event.**
- E.3 The use must cease no later than 72 hours following the final race day of the event.**
- E.4 Any buildings other than those complying with Class F must be dismantled and removed from the site, no later than 10 days following the final race day of the event.**
- E.5 There is satisfactory provision of water, drainage and refuse disposal facilities.**
- E.6 There is satisfactory and safe provision of road access and parking including where appropriate the safe movement of large vehicles and towed units to and from the site and the public highway.**
- E.7 The use of land or erection of temporary structures or buildings does not have a detrimental effect on neighbour or visual amenity.**

NOTE: this does not obviate the need to obtain any other relevant approvals under the Mechanical Contrivances Regulation Act 1923, Town & Country Planning (Control of Advertisements) Regulations 2013 or any other relevant legislation or regulations, including activities in relation to the sale or consumption of alcohol or the playing of music. It should also be noted that noise generated from the use could be subject to a Noise Abatement Notice, if levels become excessive.

Question 19

Do you agree with the proposed Class E permitted development?

YES / NO

Question 20

Do you wish to make any comments on proposed wording of the Class E permitted development?

Question 21

Do you agree with the proposed Class E conditions that will be applicable in this proposed Order?

YES / NO

Question 22

Do you wish to make any comments on proposed wording of the Class E conditions?

Class F - Development Required for the Safety of Motorcycle and Sidecar Racing on the Billown Circuit

The erection of buildings or any works for safety purposes that are required for the operation of any motorcycle and sidecar racing events on the Billown Circuit.

Works included in this Class are:

- i) Trackside shelters, scaffold towers and other scaffolding erected by or on behalf of the organising authority to accommodate marshals employed in association with the event;**
- ii) the siting / placement of bales, air cushioning and other safety related equipment installed on and around the Billown Circuit;**

Proposed Class F Conditions

Development is permitted by Class F subject to the following condition.

F.1. All buildings or works must be erected or installed no sooner than 56 days before the day of the first designated practice for the Isle of Man Pre TT Classic event and removed no later than 28 days following the day of the final race of the Southern 100 event.

NOTE: this does not obviate the need to obtain any other relevant approvals under the Mechanical Contrivances Regulation Act 1923, Town & Country Planning (Control of Advertisements) Regulations 2013 or any other relevant legislation or regulations.

Question 23

Do you agree with the proposed Class F permitted development?

YES / NO

Question 24

Do you wish to make any comments on proposed wording of the Class F permitted development?

Question 25

Do you agree with the proposed Class F conditions that will be applicable in this proposed Order?

YES / NO

Question 26

Do you wish to make any comments on proposed wording of the Class F conditions?

How to Respond

The Department welcomes representations by anyone who wishes to comment on this document and to assist the consultation questions are set out in Appendix 1. We would encourage the submission of clear and concise responses using the online survey at <https://www.snapsurveys.com/wh/s.asp?k=141405766668>. It is also important to take into consideration that making a representation does not necessarily mean that the Department will make a change in response.

Alternative arrangements will be put in place for those who do not have access to the internet to submit paper copies of their responses to the address given below. Submissions should be marked clearly 'Consultation on a Proposed Permitted Development Order For Temporary Use or Development of Land'.

If you are unable to use the online questionnaire, comments can be either sent electronically to planning@gov.im or by post to:

Planning and Building Control
Department of Infrastructure
Murray House
Mount Havelock
Douglas
Isle of Man
IM1 2SF

An electronic version of this consultation document can be found at <http://www.gov.im/consultations.gov>. The online questionnaire can be found at the following web address: <https://www.snapsurveys.com/wh/s.asp?k=141405766668>.

It should be noted that all comments and information will be made available for public viewing.

Any abusive or offensive responses will be discounted. Information provided in responses will be dealt with in accordance with access to information regimes – 'Guidance on the Code of Practice on Consultation' and 'Code of Practice on Access to Information'

This consultation begins on 24th October 2014, lasting for 6 weeks and will close on Friday 5th December 2014.

If you require any further information please contact:

Michael Gallagher
Director of Planning & Building Control
Planning and Building Control
Department of Infrastructure
Murray House,
Mount Havelock,
Douglas,
IM1 2SF

Email: planning@gov.im

 01624 685950

Next Steps

After the close of the consultation on this paper we will:

- Publish on the Department of Infrastructure (DOI) website a summary of matters raised in the consultation with responses – we will aim to do this within 3 months of the closing date of the consultation;
- Make amendments as a result of the consultation where appropriate;
- If appropriate, arrange for the final version of the Permitted Development Order For Temporary Use or Development of Land to be approved by the Department, and Tynwald

Appendix 1 – Consultation Questions

Question 1

Do you agree with the proposed general conditions that will be applicable to all classes of development permitted in this proposed Order? YES / NO

Question 2

Do you wish to make any comments on proposed wording of the general conditions?

Question 3

Do you agree with the proposed Class A permitted development? YES / NO

Question 4

Do you wish to make any comments on proposed wording of the Class A permitted development?

Question 5

Do you agree with the proposed Class A conditions that will be applicable in this proposed Order? YES / NO

Question 6

Do you wish to make any comments on proposed wording of the Class A conditions?

Question 7

Do you agree with the proposed Class B permitted development? YES / NO

Question 8

Do you wish to make any comments on proposed wording of the Class B permitted development?

Question 9

Do you agree with the proposed Class B conditions that will be applicable in this proposed Order? YES / NO

Question 10

Do you wish to make any comments on proposed wording of the Class B conditions?

Question 11

Do you agree with the proposed Class C permitted development? YES / NO

Consultation on Proposed Permitted Development Order For Temporary Use or
Development of Land

Question 12

Do you wish to make any comments on proposed wording of the Class C permitted development?

Question 13

Do you agree with the proposed Class C conditions that will be applicable in this proposed Order? YES / NO

Question 14

Do you wish to make any comments on proposed wording of the Class C conditions?

Question 15

Do you agree with the proposed Class D permitted development? YES / NO

Question 16

Do you wish to make any comments on proposed wording of the Class D permitted development?

Question 17

Do you agree with the proposed Class D conditions that will be applicable in this proposed Order? YES / NO

Question 18

Do you wish to make any comments on proposed wording of the Class D conditions?

Question 19

Do you agree with the proposed Class E permitted development? YES / NO

Question 20

Do you wish to make any comments on proposed wording of the Class E permitted development?

Question 21

Do you agree with the proposed Class E conditions that will be applicable in this proposed Order? YES / NO

Question 22

Do you wish to make any comments on proposed wording of the Class E conditions?

Consultation on Proposed Permitted Development Order For Temporary Use or
Development of Land

Question 23

Do you agree with the proposed Class F permitted development? YES / NO

Question 24

Do you wish to make any comments on proposed wording of the Class F permitted development?

Question 25

Do you agree with the proposed Class F conditions that will be applicable in this proposed Order? YES / NO

Question 26

Do you wish to make any comments on proposed wording of the Class F conditions?

Annex – List of Consultees

- All Tynwald Members
- All Chief Officers of Government Departments
- Local Authorities
- Planning Committee Members
- Isle of Man Law Society
- Isle of Man Chamber of Commerce
- Manx National Heritage
- The Royal Town Planning Institute (RTPI)
- Attorney Generals Chambers
- Manx Wildlife Trust
- Manx Bat Group
- The Royal Institute of British Architects (RIBA)
- Isle of Man Society of Architects
- The Royal Institute of Chartered Surveyors (RICS)
- Manx Gas
- Manx Telecom
- Manx Utility Authority
- Road Transport Licensing Committee
- Communications Commission
- Office of Fair Trade
- Arts Council
- Isle of Man Sport
- Isle of Man Post Office Authority
- Isle of Man Chamber of Commerce
- Construction Industry Forum
- Isle of Man Trades Union Council
- Isle of Man Employers' Federation
- Southern 100 Club
- Auto Cycle Union (ACU)
- Manx Motorcycle Club
- Isle of Man TT Marshals Association Ltd
- Manx NFU
- Royal Manx Agricultural Society
- Southern District Agricultural Society

If you are aware of any other persons or organisations who should be consulted, please can you contact us at

Planning and Building Control
Department of Infrastructure
Murray House,
Mount Havelock,
Douglas,
IM1 2SF

