



Isle of Man
Government

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Operational Policy on Interested Person Status

July 2021

Department of Environment, Food and Agriculture

Planning and Building Control Directorate Murray House

1.0 PURPOSE OF THIS DOCUMENT

- 1.1 This operational policy document sets out how the Department will identify which parties should be awarded Interested Person Status in relation to applications for planning approval, registered building consent (including demolitions in Conservation Areas) and adverts. It is issued by the Department of Environment, Food and Agriculture with the agreement of the Minister. The Minister has delegated some of his powers under the Town and Country Planning Act (1999) (hereafter 'The Planning Act') to the Planning Committee and some officers. In exercising these delegated powers, it is expected that the policies in this document will be followed. This policy was originally approved in 2018 but has been updated in light of updated planning legislation approved in 2019.

2.0 DEFA OPERATIONAL POLICY – INTERESTED PERSON STATUS

Interested Person Status will only be afforded to those persons who submit a written representation(s) which complies with ALL the criteria set out below.

- A. Representations must clearly identify the land which the person making the representation owns or occupies and which they consider would be impacted on by the proposed development.**
- B. The land referred to in (A) above must be within 20 metres of the red line boundary of the application site, unless the proposed development exceeds the criteria set out in Appendix 5 of the Strategic Plan (2016) to automatically require an Environmental Impact Assessment.**
- C. Representations must relate to the relevant issues set out below.**
- C1. For Planning Applications the relevant issues are:**
- **living conditions (including outlook, privacy, traffic, noise, light, dust and smell);**
 - **land contamination, flood risk, highway safety and/or risk of crime; and/or**
 - **prejudicing the use or development of adjoining land in accordance with the appropriate Area Plan.**
- C2. For applications for Works affecting Registered Buildings or Demolitions in Conservation Areas, the relevant issues are limited to one or more of those set out in Environment Policies 30 to 35 (inclusive) and 39 of the Strategic Plan (2016).**
- C3. For applications for the Display of Advertisements, the relevant issues are limited to those set out in Regulation 5(1) of the Town and Country Planning (Control of Advertisements) Regulations 2013.**
- D. Representations which relate to: Planning Applications; Works affecting Registered Buildings; or Demolitions in Conservation Areas, must explain how the proposed development could impact (positively or negatively) on the lawful use of the land referred to in (A) above in relation to the issues set out in (C) above.**

Note: Explanatory text to assist in the application of the above policy is provided in section 4.0

3.0 BACKGROUND

3.1 This document relates to Planning Applications, works to Registered Buildings, demolitions in Conservation Areas and Adverts. There is no appeal against the decision to issue or not issue a Certificate of Lawfulness and so this document does not apply to such applications

3.2 Planning Applications

3.2.1 As part of the assessment of a planning application, the Department must consider all written representations received and whether or not Interested Person Status should be afforded.

3.2.2 The process for determining an application for planning approval is set out in Part 2 of the Planning Act and in the Town and Country Planning (Development Procedure) Order 2019 [SD 2019/0423] (hereafter the DPO). This sets out that, following the determination of a planning application, those parties with Interested Person Status may submit/participate in an appeal.

3.2.3 Article 4 of the DPO indicates that the automatic Interested Person Status is given to those listed in the box below.

*"(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"*

3.2.4 In relation to part (b) above, it should be noted that the Department of Environment Food and Agriculture is responsible for the determination of planning applications. As a result, when officers within the Department make comments in a professional capacity they cannot be afforded Interested Person Status. Such officers may still participate in appeals as Expert Witnesses.

3.2.5 Article 4(1)(a) defines an Interested Person as, "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".

3.2.6 This operational policy sets out the criteria to be used in making the above determination. Where someone is acting on behalf of a person, group or organisation it is their client that will be considered against this policy.

3.3 Registered Buildings and Demolitions in Conservation Areas

3.3.1 Applications for Works affecting Registered Buildings and Demolitions in Conservation Areas determined in accordance with Part 3 of the Planning Act and the Town and Country

Planning (Registered Buildings) Regulations 2013¹ [SD 0432/13] (hereafter 'The Registered Building Regulations'). These Regulations give automatic Interested Person Status to various persons/organisations, as set out in the box below.

*(a) the applicant or, if there is one, the applicant's agent;
(c) Manx National Heritage; and
(d) the local authority in whose district the building is situated.*

3.3.2 Regulation 9(3) requires a judgement in relation to which persons in addition to those listed above have sufficient interest to be afforded Interested Person Status, and so this policy document should be applied accordingly.

3.4 Adverts

3.4.1 Applications for the display of advertisements are determined in accordance with Part 3 of the Planning Act and the Town and Country Planning (Control of Advertisements) Regulations 2013² [SD 0434/13] (hereafter 'The Advertisement Regulations'). Regulation 11(4) of this gives automatic Interested Person Status to various persons/organisations as summarised in the box below.

*(a) the applicant or if there is one, the applicant's agent;
(d) any Government Department that has made written submissions relating to planning considerations with respect to the application (whether pursuant to a notice under regulation 10 or otherwise) that the Department considers material;
(h) the local authority in whose district the land the subject of the application is situated;
(i) the Highways, Ports and Railway divisions of the Department of Infrastructure*

3.4.2 Regulation 11(3) requires a judgement in relation to which persons in addition to those listed above have sufficient interest to be afforded Interested Person Status, and so this policy document should be applied accordingly.

4.0 POLICY EXPLANATION

4.1 Type of Representations (Criteria A)

4.1.1 Interested Person Status is automatically afforded to certain parties as set out previously. The Department has the discretion to identify such other persons who should be afforded such status as a means of redress where they could be impacted on by a development.

4.1.2 For the purposes of this document this assessment is made in relation to land/property that the person(s) own or occupy. In built-up areas an address may be sufficient to identify the property owned or occupied by the person making the representation. However, in rural areas (and/or where the property is land rather than a building) it may be necessary for a map to be provided for the person to comply with this policy.

¹ As amended by the Town and Country Planning (Miscellaneous Amendments) Regulations 2019 (SD 2019/0422)

² As amended by the Town and Country Planning (Miscellaneous Amendments) Regulations 2019 (SD 2019/0422)

- 4.1.3 'Person' can therefore include groups or organisations only where they are the relevant owner/occupier of a given piece of land or property. Where comments are made on behalf of someone, for example by an agent, it is the client who will be assessed against these policies (and potentially afforded Interested Person Status).
- 4.1.4 It is not intended to allow voluntary organisations to duplicate the role of statutory consultees (such as Manx National Heritage). As such, where their interest in an application relates only to their purpose (rather than land/building ownership/occupation), they will not be deemed to have sufficient interest to be afforded Interested Person Status. However, comments from voluntary organisations are welcomed as part of the process to inform the initial determination of application.
- 4.1.5 Occasionally the Department receives petitions. Given the nature of these it is impractical to assess the individual signatories of a petition against the policies set out in this document or to be able to make an informed judgement as to how individual signatories could be affected by a development.

4.2 Proximity to the Proposed Development (Criteria B)

- 4.2.1 Applications for planning consent must include a site plan which shows the site edged in red (the red line boundary). It is accepted that a smaller development on a larger site may mean the actual works are some distance from neighbouring properties even if the red line boundary is not, and such issues should be considered in the application of Criteria D.
- 4.2.2 It is accepted that sometimes properties are only separated from the application site by a narrow strip of land, footpath or road. Although not set out in policy, 20 metres is often used as a general guide when assessing the potential for overlooking. The 20 metres referred to in the policy is intended to respond to these two issues. Further away than this it is anticipated that persons, groups or organisations will be deemed to have insufficient interest to be afforded Interested Person Status in relation to most applications.
- 4.2.3 The Isle of Man Strategic Plan (2016) sets out the circumstances in which an Environmental Impact Assessment is required as part of a planning application (Environment Policy 24 and Appendix 5).

4.3 Relevant Issues (Criteria C)

- 4.3.1 It is important that in applying this policy, consideration is given to not only whether a representation sets out on material planning issues which are reasonably relevant to the nature, scale and location of the proposed development, but also whether it sets out such issues which could reasonably result in an impact on land which is owned/occupied by the person, group or organisation making a representation.
- 4.3.2 The points listed in Criteria C1 relate to some (but not all) of the issues set out under General Policy 2 of the Isle of Man Strategic Plan (2016). Criteria C2 refers back to the relevant policies within the Strategic Plan.
- 4.3.3 In relation to Criteria C3 the issues are explicitly set out within the regulations, namely amenity (the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest, disregarding, if they think fit, any advertisement being displayed there) and public safety (the safety of any person who may use any road, railway, tramway, harbour or aerodrome; and whether any display of advertisements is likely to obscure or hinder the ready interpretation of, any traffic sign, railway or tramway signal or aid to navigation by water or air).

4.3.4 This policy means that comments in relation to the following will not be considered when determining whether there is sufficient interested to be afforded Interested Person Status:

- procedural matters;
- the impact of the development on the value of their property;
- commercial competition;
- land ownership;
- private property rights;
- covenants; and/or
- other non-material issues.

4.4 Impact on the Land Owned/Occupied by the person making the Representation (Criteria D)

4.4.1 Article 7 of the DPO sets out the process in relation to notices of applications and requires that notices must, "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".

4.4.2 Representations must therefore be in writing and explain how land which is owned or occupied by the person making the representation relates to the proposed development. Persons, groups or organisations which do not provide this information will be deemed to have insufficient interest to be afforded Interested Person Status (see paragraph 4.3.1).

4.4.3 The 'lawful use' of land which is owned/occupied by objectors will not be scrutinised unless information is brought to the Department's attention which suggests comments made in representations are inaccurate.

4.4.4 The level of positive/negative impact is not relevant when considering whether or not someone has sufficient interest to be afforded Interested Person Status (although is relevant in deciding whether or not to grant planning approval), merely that there could be a more than negligible level of impact. Given Interested Person Status could be afforded in relation to refused applications which have received 3rd party support, it is necessary to consider whether those who may be positively impacted on have sufficient interest to be afforded Interested Person Status.

4.4.5 Wording in relation to notices advising that 3rd parties should explain the relationship between their land and the application site is Regulation 8(2)(e) of the Registered Building Regulations. However, equivalent wording is not included in the Advertisement Regulations, therefore this policy should not be applied to such applications.