

ONCHAN DISTRICT COMMISSIONERS

*Hawthorn Villa,
79 Main Road, Onchan.*

ORDINARY MEETING

28th September 2023

Sir/Madam

You are hereby summoned to attend an **ORDINARY Meeting of the Authority** to be held in the Boardroom at **HAWTHORN VILLA, 79 MAIN ROAD, ONCHAN** to transact the undernoted business on:

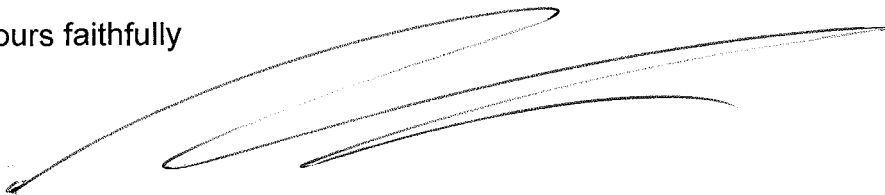
Monday 2nd October 2023

7:00 pm - Board Meeting

which will be followed by a meeting of the Board sitting **IN COMMITTEE**. Items on this agenda marked **(P)** will be considered in private, and correspondence is circulated separately.

Please note that the minutes referred to in the agenda have yet to be confirmed by the Authority as a true and correct record of proceedings at the various meetings, and will be published after ratification.

Yours faithfully



**R PHILLIPS
CHIEF EXECUTIVE/CLERK**

AGENDA

The order of business at every meeting of the authority shall be in accordance with that laid down in Standing Order No. 24 unless varied by the Chairman at his discretion (with the exception of items 1, 2, 3 or 4 which cannot be varied) or by a resolution duly moved and seconded and passed on a motion which shall be moved and put without discussion.

1. To choose a person to preside if the Chair and Vice-Chair be absent.

None.

2. To deal with any business required by statute to be done before any other business.

None.

3. To approve as a correct record and sign the Minutes of the:-

3.1 Minutes of the Ordinary Meeting held on Monday 18th September 2023 (Appendix 3.1)

3.2 (P) Staff Minutes of the Ordinary Meeting held on Monday 18th September 2023 (Appendix 3.2)

4. To dispose of any relevant business arising from such minutes if not referred to in the Minutes of any Special Committee:-

None.

5. To dispose of any relevant business adjourned from a previous meeting:-

None.

6. To deal with any business expressly required by statute to be done:-

None.

7. To consider any planning decisions/communications from the Department of Infrastructure Planning Committee:-

7.1 Plans for Consideration

(Appendix 7.1)

	PA Reference	Applicant/Address	Return Date
(a)	PA23/01071/B	Miss V Stephens - 5 Port Jack	13 th October 2023
(b)	PA23/00959/B	Mr & Mrs R Rae - Strathallan Cliff House	20 th October 2023

8. Finance and General Purposes:-

None.

9. Consideration of any Reports from the Clerk or other Officer:-

- | | | |
|------------|--|------------------------|
| 9.1 | (P) Ballachrink Stores – Commercial Tenancy | <i>(Appendix 9.1)</i> |
| 9.2 | (P) Ocean Views – Commercial Tenancy | <i>(Appendix 9.2)</i> |
| 9.3 | Onchan Community Cross Award | <i>(CEO to report)</i> |
| 9.4 | Commissioners Surgeries | <i>(CEO to report)</i> |
| 9.5 | Built Environment Reform Programme – Public Consultation | <i>(Appendix 9.5)</i> |

10. Consideration of any relevant correspondence (already circulated unless indicated):-

- | | | |
|-------------|---|------------------------|
| 10.1 | 2 nd Onchan Scout Group – AGM and Awards Evening | <i>(Appendix 10.1)</i> |
| 10.2 | Safer Drug Control Invite | <i>(Appendix 10.2)</i> |

11. To answer any questions asked under Standing Order 34:-

To be confirmed.

12. To answer any Motions in the order in which notice has been received:-

None.

13. Environmental and Technical Services:-

None.

14. Housing Matters:-

None.

15. Chair's Announcements:-

Dates for Diary

Date	Organisation	Event	Time
29 th September 2023	Rotary Club of Onchan	Coffee Morning – Onchan Pensioners Hall	10:00 am to 12 noon
30 th September 2023	Onchan Baptist Church	Harvest Supper	5:00 pm
1 st October 2023	Onchan Baptist Church	Harvest Thanksgiving Service	10:30 am
2 nd October 2023	Onchan District Commissioners	Board Meeting	7:00 pm
6 th October 2023	St Peter's Church	Ghastly Gatsby Murder – St Peter's Church	7:00 pm
16 th October 2023	Onchan District Commissioners	Board Meeting	7:00 pm

16. Any other URGENT business as authorised by the Chair for consideration:

PLANS LIST

Board Meeting to be held on 2nd October 2023

The Lead Member of Environmental and Technical Services and the District Surveyor have viewed the applications and recommend the following:-

Planning Application	Applicant/Address	Description
PA23/01071/B Return Date 13/10/23	Miss V. Stephens 5 Port Jack	Extension to roof top, create roof terrace and alterations to two existing first floor windows to form sliding doors.
	<i>For Members' consideration</i>	
PA23/00959/B Return Date 20/10/23	Mr & Mrs R. Rae Strathallan Cliff House	Proposed raised patio, new external patio doors to replace existing window.
	<i>Recommendation - Approve</i>	

MEMORANDUM

To:	Onchan District Commissioners		
From:	District Surveyor		
Ref:	Built Environment Reform Programme – Public Consultation in relation to Town & County Planning Act Amendments, Definition of Development Order & Registered Building Regulations		
Date:	28/09/23	File Ref:	RF/AW

Introduction

This briefing paper is prepared for Members in response to the consultation paper issued by the Department of Environment, Food and Agriculture and titled '*Public Consultation in relation to Town & County Planning Act Amendments, Definition of Development Order & Registered Building Regulations*'. The closing date for responses is Friday 27th October 2023.

Overview

- provide clarity around the definition of development which will mean better understanding for building owners on what can and can't be done without planning approval (these changes, together with planned secondary legislation, will provide an opportunity to ensure very minor works can be excluded from needing approval)
- remove the requirement for concurrent planning and registered building applications for the demolition of unregistered buildings in Conservation Areas which will streamline the administration of the planning process both for applicants and the Department;
- ensure routine maintenance works to roads and watercourses do not require planning approval;
- introduce enabling powers for the potential introduction of fees (through secondary legislation) in relation to discretionary services, such as the provision of pre-application advice;
- clarify the scope of Registrations for historic buildings to allow these to be amended and to allow for exclusions (having clearer and more targeted controls will remove unnecessary restrictions for owners of such buildings on making some types of changes) and make changes to the appeals process to simplify and streamline it;
- improve and future proof the provisions for Permitted Development Orders; and
- extend the current five year time limit for the implementation of Comprehensive Treatment Areas to 10 years as a pragmatic measure to allow more time for consideration of options.

Recommendation

Members will find enclosed the Consultation paper and supporting documents for their information. Members are asked to review the consultation documents and return with comments at the meeting dated 16th October 2023 for discussion.


Ryan Forgie
 District Surveyor



Built Environment Reform Programme

Public Consultation in relation to Town and Country Planning Act Amendments, Definition of Development Order & Registered Building Regulations

August 2023

CONTENTS

1. Introduction

- What is the purpose of this consultation?
- What is proposed?
- Why are these changes being made?
- How and when can I comment?
- What will happen next?

2. Proposed Changes to the Planning Act

- Background
- What needs to be achieved by way of amendment?
- How things should work after the amendments
- Transitional/Saving Provisions

3. Definition of Development Order

- Broad Approach
- Proposed Content

4. Registered Buildings Regulations

- Broad Approach
- Proposed Content

1.0 INTRODUCTION

What is the purpose of this consultation?

To seek views on proposed changes to primary and secondary legislation.

What is proposed?

As part of the [Built Environment Reform Programme](#) and to facilitate the Department of Environment, Food and Agriculture's (DEFA) core functions (Registered Buildings) changes are proposed to the Town and Country Planning Act 1999 ("The Planning Act"). The changes will:

- provide clarity around the definition of development which will mean better understanding for building owners on what can and can't be done without planning approval (these changes, together with planned secondary legislation, will provide an opportunity to ensure very minor works can be excluded from needing approval);
- remove the requirement for concurrent planning and registered building applications for the demolition of unregistered buildings in Conservation Areas, which will streamline the administration of the planning process both for applicants and the Department;
- ensure routine maintenance works to roads and watercourses do not require planning approval;
- introduce enabling powers for the potential introduction of fees (through secondary legislation) in relation to discretionary services, such as the provision of pre-application advice;
- clarify the scope of Registrations for historic buildings to allow these to be amended and to allow for exclusions (having clearer and more targeted controls will remove unnecessary restrictions for owners of such buildings on making some types of changes) and make changes to the appeals process to simplify and streamline it;
- improve and future proof the provisions for Permitted Development Orders; and
- extend the current five year time limit for the implementation of Comprehensive Treatment Areas to 10 years as a pragmatic measure to allow more time for consideration of options.

The above will be supported by DEFA secondary legislation in relation to:

- the definition of development;
- updated Registered Buildings Regulations; and
- (potentially) fees order for discretionary services.

The above changes do not require Cabinet Office (CABO) secondary legislation (Permitted Development Orders) in order to be implemented, nor do they preclude a planned review of Permitted Development as part of the BERP. However, they do 'future proof' the Permitted Development provisions for future/wider reviews.

A review of the Development Procedure Order, Fees Order and Customer Charter is being run in parallel but separately and will be subject to separate consultation in due course. The fees review will focus on what can be achieved within existing vires, but the changes to the Act proposed will enable the future consideration/introduction of fees for discretionary services.

Why are these changes being made?

The Built Environment Reform Programme (BERP) was launched in July 2022 and refreshed in May 2023. It is a package of measures including (but not limited to) improvements to the planning system to facilitate delivery of the Island Plan and Economic Strategy, including the following key objectives of the Island Plan:

- 2 key Brownfield sites developed using substantial private sector leverage (whilst the metric within the Island Plan is key sites, the programme should aim to incentivise and unlock as much development as possible); and
- an additional 1,000 additional homes occupied

The BERP is a two year programme of work set out to develop commitments in Our Island Plan to build great communities. It is overseen by the DEFA but is a joint programme also being delivered by the CABO and the Department for Enterprise (DfE). The legislative changes proposed in this consultation will contribute to the delivery of the programme.

The process for the Registration of historic buildings and dealing with proposals to undertake works to them is a core function of DEFA and although not specifically within BERP, ensuring this process is fit for purpose will contribute to the overall programme as well as the Island Plan emphasis on productivity and delivery.

How and when can I comment?

Comments can be submitted via the Consultation Hub (accessed via <https://consult.gov.im/>).

The closing date for comments is the 27th October 2023

What will happen next?

The consultation results will be considered and any necessary amendments made to the Town and County Planning Amendment Bill. It is envisaged the Bill will enter Tynwald branches in early 2024. The secondary legislation will be produced, informed by the consultation results, and drafts consulted on in 2024. It is envisaged that these could be in force before the end of 2024.

2.0 PROPOSED CHANGES TO THE PLANNING ACT

Background

The primary act is the Town and Country Planning Act 1999 ("The Planning Act") . This sets out:

- the definition of development;
- that development requires approval;
- that such approval can be granted by way of an order (by Cabinet Office, aka Permitted Development) or by a specific application, granted in accordance with a process as set out in an order (by DEFA, aka a Development Procedure Order);
- that historic assets may be designated as Registered Buildings (DEFA) or Conservation Areas (CABO) and that certain works to/within such may require approval (i.e. parallel system to planning applications) and provisions for relevant secondary legislation; and
- that Area Plans (CABO) have a link to Compulsory Purchase.

What needs to be achieved by way of amendment?

A review has been undertaken of the BERP Strategic Objectives (and actions underneath) and the heritage work of DEFA to identify which may require changes to the Planning Act.

The following have been identified as worthy of consideration in relation to the Development Management function:

- CA. Amend Section 6 of the Planning Act to ensure that the following activities fall within the definition of development: Repairs and Rebuilding Works, Hard-surfacing of a domestic garden, Exterior painting of buildings and Placement of Temporary structures (including on wheels);
- CB. Amend Section 6 of the Planning Act to add Demolition of a Building to the definition of development and revoke Section 19 of the Act (Control of Demolition in Conservation Areas);
- CC. Ensure mechanisms are provided so that CA and CB above do not take effect until DEFA has made provision under a Section 6(3)(f) to exclude minor elements of the categories added by CA and CB¹;
- CD. Review Section 6 of the Planning Act and its interaction with the Highways Act 1986 and Flood Management Act 2013 to ensure that routine maintenance works are excluded from the definition of development; and
- CE. Insert a provision in the Act in terms of Fees that provides for charging for discretionary services.

In terms of Registered Buildings the required changes to the Act are set out below.

- CF. Insert a section in the Act that legally defines the extent of registration.
- CG. Permit exclusions of elements/objects that are not of special interest.
- CH. Enable amendments to existing registrations.
- CI. Amend the Act to streamline the decision making process for registrations.

¹ Please refer to section 3 of this consultation document for details.

The following changes to the Act have been identified as worthy of consideration in relation to the Planning Policy functions:

- CJ. Review/Expand section 8(4) to ensure that the ability to require Prior Approval as part of a Permitted Development Order can potentially be used as part of any future Permitted Development Order;
- CK. Review/Expand Section 8(5) to ensure the mechanism to direct that a Permitted Development Order (in whole or in part) shall not apply to an area/type of development can potentially be used as part of any future Permitted Development Order; and
- CL. Removal of the 5 year time-limit for the commencement of Comprehensive Treatment Areas (Section 4(2)(b)).

How things should work after the amendments

Amendment CA and CC - Amend Section 6 of the Planning Act to ensure that the following activities fall within the definition of development: Repairs and Rebuilding Works, Hard-surfacing of a domestic garden, Exterior painting of buildings and Placement of Temporary structures (including on wheels).

The Planning Act defines 'development' at Section 6. If something falls within the definition of development, then it requires planning approval before it can be undertaken. There are two forms of planning approval – that granted by an order (sometimes known as 'Permitted Development') and that resulting from a planning application. The definition of development is therefore important to ensure the scope of the planning system is appropriate.

The definition of development within Section 6 is quite broad, "*Subject to the following provisions of this section, in this Act "development" means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land*" and followed by illustrative lists of things that do and do not constitute development. This means that confirming whether or not something is development requires professional judgement and reference to Case Law (normally from other jurisdictions), and can depend upon the size, nature, location and context of the site/area. As a result there are some things which are in some cases not development but, where they are held to be development, are not necessarily provided for in the Permitted Development Orders despite being quite minor.

The result of this is confusion for building owners and developers, additional work being required to establish whether or not something is development and then sometimes planning applications being required for things which might reasonably be expected to either be excluded from the definition of development or Permitted Development in at least some cases. There are a number of examples of this, such as the surfacing of front gardens to create driveways, repairs/rebuilding works, exterior paint works and temporary structures (including on wheels).

Therefore, clarifying that these things are development and then making explicit provision for them within a Section 6(3)e Order would provide clarity/certainty for homeowners/builders/developers and reduce the planning resource required to respond to queries in relation to these. The approach of having a broad approach in the Act with an order to adjust the definition gives flexibility to respond to future changing circumstances without requiring changes to primary legislation.

Amendments CB and CC - Amend Section 6 of the Planning Act to add Demolition of a Building to the definition of development (as per the UK Act s.55(1A)) and repeal Section 19 of the Act (Control of demolition in Conservation Areas).

Another issue with the definition of development is that, although it clarifies that the partial demolition of a building or the demolition of an attached building is development, it is silent on the total demolition of a detached building, which has by practice been viewed as “not development”. This creates a number of technical issues for the process (for example at what point a planning application for the demolition and replacement of a building has been implemented).

Furthermore, Section 19 of the Planning Act requires the demolition of a Building within a Conservation Area to have Registered Building Consent (even if it is not registered). Therefore proposals to redevelop sites require two applications – a planning application for the development and a Registered Building application for the demolition. It also means that someone wishing to remove for example a modern domestic shed from a back garden in a Conservation Area would technically require Registered Building Consent.

The proposed amendments would mean that only one application was required for redevelopments within Conservation Areas, thereby reducing the administrative burden. It would also result in a clearer process for all involved. As with Amendment CA, the Use of a Section 6(3)(e) Order would be appropriate to facilitate implementation of this change.

Amendment CD - Review Section 6 of the Planning Act and its interaction with the Highways Act 1986 and Flood Management Act 2013 to ensure that routine maintenance works are excluded from the definition of development.

It is noted that there are some activities undertaken by statutory undertakers which are included within the permitted development order but in other jurisdictions (for example England) are specifically excluded from the definition of development. This makes it clearer where such activities are to not be regulated by the planning system but by separate existing processes/legislation.

It is important that there are adequate limitations in terms of:

- who can do the works (e.g. relevant Department, Statutory Board or Local Authority);
- where they can do them (e.g. in relation to roads, Public Highways – given varying definitions of roads);
- for underground works (repairing pipes) that the surface is returned to previous condition (e.g. paving made good); and
- associated works (e.g. Works compounds) still constituting development - noting that the Town and Country Planning (Permitted Development) (temporary use or development) Order 2015 relates to works with planning approval.

CE - Insert a provision in the Act in terms of Fees that provides for charging for discretionary services (as per s.199 of the UK Planning Act 2008).

As part of the wider programme it is intended to review planning fees. Previous reviews have been quite targeted and looked at increases/exceptions and some targeted introductions. This review is to be more wide-ranging and initial work has indicated that in order to provide the range and quality of services our customers require, we may need to include charges for discretionary services.

An example of a discretionary service that it may be appropriate to at least consider charging for in some instances is pre-application advice (when someone asks to discuss a potential application before it is formally submitted). Although this is a well-established part of planning, it is not something DEFA currently charges for.

Many authorities in England have over the last 10-15 years started charging for this and legislation was amended to allow for this. The Island's current planning fees are made under the Interpretation Act 2015 which does not reflect the relevant wording of the English legislation which is used to charge for discretionary planning services.

The initial review of fees proposed is programmed to take place prior to the Act coming into operation, and so could not include pre-application fees in the future (although could still explore them). However to avoid ruling out the option of wider fees it is proposed to include enabling powers within the Town and Country Planning Act. The fees would be subject to the negative Tynwald procedure (as they are currently when made under the Interpretation Act).

Amendment CF - Insert a section in the Act that legally defines the extent of registration.

There has historically been an inconsistent approach to showing the extent of registrations – some use address and some use a map with a red-line boundary. This has raised a number of issues and confusion, not least given the similarity to red-line boundary maps included with planning applications and the lack of consistent approach.

It is considered that the most efficient way to address this is to provide clarification as to the legal extent of registration. The sections of the Act providing designation powers are almost identical to those from the English and Welsh 'Planning (Listed Buildings and Conservation Areas) Act 1990'. When parts of that Act were used as templates for the creation of the Island's own registration functions, the section that legally defines the extent of designation was not also incorporated.

Defining the extent of registration provides legal clarity for all parties and has been tested and established in English case law precedents which the Isle of Man would be dependent upon in the absence of on-Island case law. The definition would need to include any object or structure fixed to the building and any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before the enactment date of the relevant part of planning legislation (1983), which introduced provisions for Registered Buildings to the Isle of Man. The definition should also reference the provision for things to be specifically excluded from a given registration (see below).

The proposed approach to the definition provides clarity and protection for historic structures which should be protected such as historic boundary walls or other features, the status of which currently is unclear in many cases. Officers currently address this by including in the register entry summary boundary walls and other objects or structures; this however does not make provision for any elements that may not have been seen or are later discovered or uncovered. The nature of the proposed definition would make it clear that it did not include objects/structures that were not historic that were constructed past a specific date.

Amendment CG. - Permit exclusions of elements/objects that are not of special interest.

Under the current legislation and provisions, it is not possible to omit certain elements of a building from a registration (such as a modern extension). This would be a helpful ability to make registrations more targeted and proportionate - it is in the interests of both the heritage asset and the owner to avoid requiring Registered Building Consent for the removal/alteration of features which are not of historic interest (noting that where a 'normal' planning application is required for such works their impact on those features which are registered would be a material consideration).

Provision is therefore required within the Act that in the register compiled or approved under this section, an entry for a building may provide that a specified object or structure is not to be treated as part of the building for the purposes of this Act (either in terms of requiring Registered Building Consent or of being of special architectural or historic interest for the purposes of Section 16(3)).

Amendment CH. - Enable amendments to existing registrations.

Under the current legislation and provisions, it is not possible to make an amendment to existing register entries. This is because Schedule 2 currently refers to entering buildings onto the register or amending the register by removing them. It is considered that some of the older registrations would benefit from review firstly to provide information as to their special interest and to omit parts of buildings (see preceding change in relation to this) which might not be of special interest. The only current means to achieve this would be the de-registration of a building and to simultaneously re-register.

The ability to amend registrations would be beneficial in being able to keep all registrations up to date should they need changing and provide clarity to whether certain elements were considered part of the registration.

This matter had also arisen in England and was addressed by the introduction of powers into their Act via amendments incorporated into the Enterprise and Regulatory Reform Act 2013. The most effective way to achieve this is by making similar legislative changes to Schedule 2 of the Isle of Man Planning Act.

Amendment CI. Amend the Act to streamline the decision making process for registrations.

The process for appealing a registration decision is confusing and unclear. In addition the current process allows for two opportunities to apply to remove a building from the register (each with its own appeal) - one at time of registration and one after a period of time specified in the regulations (currently 5 years). It would be simpler and more appropriate to allow a statutory right of appeal against registration at the time the registration is made (noting that this would not preclude the Department proposing the removal of a building from the register in the event that circumstances changes in the future – for example the building was destroyed).

The current situation is:

- Step 1 - Department decides to propose registration (or amendment) and consults on this
- Step 2- Department decides to continue with registration in light of consultation and communicates resulting decision to building owner - para 2(2)
- Step 3 - Owner applies to reverse the decision by applying to have the building de-registered - para 2(2)(a), and Department determines this application (in accordance with regulations made under para 3)

- Step 4 - If the Department refuses that application, it can be appealed (the secondary legislation allows an appeal process as per final sentence of para 3) and the Department determines the appeal

So to register a building the Department has to in effect make the decision to register it 4 times in a row, which is very inefficient for everyone concerned and means the whole process takes a very long time which again is unhelpful.

What is proposed is that after a registration decision is made (Step 2) the owner can appeal that decision (i.e. goes straight to step 4). In terms of applications by the owner (or anyone) to de-register a building after a registration decision has been made, it is proposed that this need not be provided for in Schedule 2 because:

- these provisions only relate to applications to remove a building from the list – separate provisions exist to make an application at any time to demolish or do works to a registered building (which include an appeals process) and are unaffected by these changes;
- there is nothing to stop an owner seeking the review of an existing Registration at any time which the Department can then undertake in accordance with Part 3 (and noting that the other changes we are proposing will mean existing entries can be amended); and
- the current provisions mean the owner can only ask for a building to be de-registered (not amended) and can only do so after a prescribed period (currently once every 5 years) but in reality if there was a genuine change in circumstances (e.g. building was destroyed by fire) a review would be needed before that.

It is noted that for example the Welsh Government's Technical Advice Note states the following in relation to later decisions to remove a building from the list, *"Requests to de-list buildings can also be made, but will only be considered in the light of new evidence relating to the special architectural or historic interest of the building. The condition of a building, and the cost of repairing or maintaining it are not grounds for delisting: where there are development proposals, these issues are most appropriately addressed through the listed building consent process"*.

Amendment CJ - Review/Expand section 8(4) to ensure that the ability to require Prior Approval as part of a Permitted Development Order can potentially be used as part of any future Permitted Development Order.

The powers within the Act that provide for Prior Approvals could be reviewed and expanded to ensure they are sufficient for future Permitted Development Orders, if required. However, this of course does not preclude a planned review of Permitted Development as part of the BERP progressing in the interim based on existing provisions. The majority of Permitted Development is worded so that the authorised works can simply be undertaken, as long as they comply with any limitations/conditions in the order. Therefore no interaction with planning officers is mandated. Prior Approval is where one or more of the conditions attached to the planning approval given under the Development Order requires certain elements to be approved by the planning authority. This is not the same as a planning application, because for prior approval the planning approval already exists (i.e. in the Permitted Development Order) and so the application is not for the principle of the development, but to comply with the relevant conditions. Of course failure to comply with those conditions would mean that any development carried out was not authorised by the order and so built without the benefit of planning approval.

Prior Approvals are not used in many cases within the Manx Planning System (they are within the Telecommunications Permitted Development Order), but are widely used in the England and Wales Permitted Development Order (which is also more wide ranging than the Manx Order in terms of 'normal' Permitted Development). Prior Approvals are used for things like: some forms of domestic extensions, changes of use from agricultural or commercial buildings to dwellinghouses and the demolition and rebuilding of buildings. In each of these cases there are also a significant number of conditions/limitations which may exclude something from being permitted altogether. The Prior Approval process requires applicants to pay the relevant fee, provide information (form, plans and supporting info such as a flood risk assessment), the Planning Authority to carry out consultation and to then determine the application, and the decision can then be appealed. The order limits what the authority can take into account in the determination of the application, so focuses on things like visual appearance, living standards, highway safety, impact on neighbouring properties etc. The target timescale for the determination of such applications is 8 weeks (unless longer is agreed), and some default to approval if not determined.

Prior Approvals could potentially offer benefits of allowing certain types of application to have a lighter touch approach. On the other hand they add a layer of complexity by introducing a new system (that has parallels with the planning application system) and the need to correctly determine whether or not a proposal meets the Permitted Development requirements in the first place (the onus of which appears to fall on the applicant). It may be that the focus/clarity on considerations could more easily be achieved through other policy approaches and careful thought would also be required about how these provisions interfaced with other legislation, such as the Climate Change Act 2021. However, there may be certain types of developments or areas where it is appropriate.

An amendment would also be helpful to allow the making of separate secondary legislation which set out the process for determining a prior approval application - this could be achieved by widening the scope of Development Procedure Orders at Section 10.

Amendment CK - Review/Expand Section 8(5) to ensure the mechanism to direct that a Permitted Development Order (in whole or in part) shall not apply to an area/type of development can potentially be used as part of any future Permitted Development Order.

The current orders which provide for Permitted Development have a provision that allows a direction to be made that the order (in whole or in part) does not apply to an area or type of development. Again, whilst this has not been used it is a helpful safeguard and it would be prudent to ensure the provisions in the Act remain fit for purpose (although noting that as Permitted Development is made by Cabinet Office and the directions are made by Cabinet Office, so the alternative is to simply amend or revoke an order).

Amendment CL - Removal of the 5 year time-limit for the commencement of Comprehensive Treatment Areas.

A relatively simple change has been identified that would facilitate the BERP – the removal (or at least relaxation) of the 5 year time-limit for the commencement of Comprehensive Treatment Areas (Section 4(2)(b)), to allow a more realistic time frame. It is suggested that this be increased to 10 years (for any Area Plan already in force and for any future Area Plan, unless a future plan explicitly includes a different number).

Question 1 – Do you think the policy intentions described are appropriate? (please give reasons for your answer)

Question 2 – Do you think the proposed amendments set out in the draft Bill will achieve the policy intentions set out above? (if not please give reasons)

Transitional/Saving Provisions

The revocation of the requirement of approval for the demolition of buildings within Conservation Areas must not come into force until such demolitions are classed as development (to avoid a period where historic buildings could be demolished) – both these provisions are proposed as part of this work.

Because most Planning Approvals have a condition giving 4 years to commence (and then no deadline for completion) there will be developments which involve the total demolition of an existing building but do not explicitly give consent for this as it is not currently development or count towards commencement. Some of these will be in Conservation Areas and so have Registered Building Consents for the demolition work. Transitional provisions are therefore required that do not apply the changes to the definition of development or the repeal of Section 19 to development undertaken in accordance with Planning / Registered Building applications approved prior to the date of the changes coming into force.

The requirement for planning approval for the complete demolition of free standing buildings, hard surfacing of gardens and painting of buildings must not come into force until at least some of these works have been included within a Section 6(3)(e) order to exclude them from the definition of development (to avoid a situation where a huge increase in unnecessary planning applications for very minor works occurs). Transitional provisions will be required which allows demolition works necessary to implement a development where the application was made prior to the changes but the resulting approval does not specifically include the demolition and the site is outside a Conservation Area.

In relation to Comprehensive Treatment Areas, it is noted that the Area Plan for the East does not in itself define a time period (as it simply quotes the Act) so if Area Plans are given the freedom to state a longer time period a transitional provision may be required for the Area Plan for the East (and to extend the period beyond 01.12.25 – which is 5 years after the plan came into operation).

Question 3 – Do you think the transitional provisions are adequate? (please give reasons for your answer)

3.0 DEFINITION OF DEVELOPMENT ORDER

Broad Approach

If something is excluded from the definition of development then it is outside the scope of the planning system, whereas if something is Permitted Development then it is within scope but considered to be not requiring of the scrutiny of a full planning application. Where full approval is granted (e.g. for a new building) then this can be subject to conditions that revoke permitted development rights, but such conditions cannot be used to dis-apply a Definition of Development Order (a Section 6(3)(e) Order). The Isle of Man currently has a range of Permitted Development Orders, and the review of some of these is a separate work-stream within the Built Environment Reform Programme. In most cases, where works are within the definition of development but do not warrant the full scrutiny of a planning application, the use of Permitted Development is the most appropriate tool to respond. Therefore the Definition of Development Order is intended to be very targeted and deal only with changes which result from changes to the definition of development which would not be better addressed as permitted development.

Proposed Content

Repairs and Rebuilding Works

Development (including repairs) does not include the carrying out for the maintenance, improvement or other alteration of any building of works which affect only the interior of the building, or do not materially affect the external appearance of the building. Whilst it is proposed to clarify that repairs and rebuilding works are development, this would still be subject to the caveat at S6(3) that, *"The following operations shall not be taken for the purposes of this Act to involve development — (a) the carrying out for the maintenance, improvement or other alteration of any building of works which — (i) affect only the interior of the building, or (ii) do not materially affect the external appearance of the building; and are not works for the alteration of a building by providing additional space in it underground..."*

Therefore repairs which did not alter the external appearance would still not be development. However, rebuilding works could potentially constitute development even if they do not materially alter the appearance.

Therefore, if works are undertaken to replace a roof or windows on a like-for-like basis then this would not normally be taken to be development. However, if there are material differences then such replacements could constitute development (although may be permitted development). If works are undertaken to remove and rebuild a chimney then, depending on scale, this is arguably development as it contains an element of partial demolition (that may not be permitted development) and rebuilding.

To avoid this grey area it is proposed that provision be made to clarify that the removal and replacement of chimneys as long as they are externally like for like (which would involve partial demolition and so is development) – this would allow for e.g. false chimneys.

Hard-surfacing of a domestic garden

The amendments to the definition of development clarify that hardstanding of domestic gardens constitute development, however in many cases such works will have negligible impact and so could appropriately be excluded from the definition of development. In England, permitted development allows front gardens to be paved if permeable/drained or less than 5m otherwise and there are no restrictions on rear gardens. In assessing applications for hard-standings on the Isle of Man, the [Residential Design Guide](#) suggests limiting hard surfacing to 50% of frontages (para 6.3.9). In the Isle of Man many applications also include alterations to access, and such works would still require planning approval. Safeguards would also be appropriate to ensure that significant works of embanking or terracing to support a hard surface would still be development.

It is therefore proposed to exclude from the definition of development domestic hardstandings where:

- no part of the top surface of the hardstanding is more than 0.3 metres above the ground level directly underneath as existed before the works;
- the hardstanding comprises either an area of less than 5 sq m (total area of all hard standings) of impermeable material or permeable (or porous) surfacing which allows water to drain through, such as gravel, permeable concrete block paving or porous asphalt, or if the rainwater is directed to a lawn or border to drain naturally;
- any hardstanding situated on land between a wall forming the principal elevation of the dwellinghouse and a road covers less than the greater of 51% of that land or the proportion of that land which was hardsurfaced prior to the works being carried out; and
- if the dwelling is within a Conservation Area, no hardstanding is situated on land between a wall forming the principal elevation of the dwellinghouse and a road.

Exterior painting of buildings

The amended definition of development would include, "painting of the exterior of buildings", but it is proposed that this be excluded from the definition of development where:

- it is for the purpose of advertisement, announcement or direction; and
- it does not include the application of paint or colour to a Building within a Conservation Area to which paint has not previously been applied.

Placement of Temporary structures (including on wheels)

It is not proposed to include any exemptions to this within the Definition of Development Order, and it is noted that several of the existing provisions for Permitted Development - for example the Town and Country Planning (Permitted Development) (Temporary Use or Development) Order 2015 – may allow such structures.

Demolitions

The current definition of development relates to partial demolitions and demolitions where attached to another building which is not to be demolished, and then the Permitted Development makes provision for, *"The demolition of part of a building where the rest of the building is not also demolished. Exceptions: Operations within this Class are not permitted if the part of the building in question is visible on an elevation of the building as seen from any highway which bounds the curtilage of the building"*. Demolition works within Conservation Areas require consent under a separate part of the Act (irrespective of whether they are development).

The amendments to the Act would mean the definition of development included all demolitions of buildings but remove the requirement for separate consents for demolitions in Conservation Areas (and maintain the pre-amendment situation for proposals with planning applications made before the amendments came into effect). This means that where a proposal for a new building involves the demolition of an existing one, both elements can be included in a single planning application. The result should be very few applications which are solely for demolition, although it is likely that people may wish to demolish and not replace: part of a building, smaller ancillary buildings (e.g. sheds) and/or walls/gates/fences.

It is noted that in England demolitions are development which in many cases require planning approval, although, fences/walls/gates/means of enclosure which are outside Conservation Areas and although buildings under 50 cubic metres are excluded from the definition of development. Jersey takes a similar approach and includes within the Permitted Development the demolition of various minor buildings.

Therefore it is proposed to exclude the following from the definition of development:

- the demolition of a building the volume of which is under 50 cubic metres; and
- the demolition of fences/walls/gates/means of enclosure which are not located within a Conservation Area.

Question 4 – do you think the proposed approach and scope of the Definitions of Development Order is appropriate? Please give reasons for your answer

Question 5 – do you have any detailed suggestions for matters to be included/addressed?

4.0 REGISTERED BUILDINGS REGULATIONS

Broad Approach

The process for registering buildings and determining applications for works to them is set out in the [Town and Country Planning \(Registered Buildings\) Regulations 2013 \(as amended\)](#). A number of issues have been identified with this process and the response to these will require amendments to the Act (as set out in section 2) and subsequent updates to the regulations, as set out below.

Proposed Content

It is proposed that the Regulations will be amended to remove any redundant elements created by previous changes to primary and secondary legislation and facilitate the currently proposed amendments to the Act in the ways set out below.

Notification and consultation process for adding, updating or removing a building from the Register

The regulations will be updated to include notification of amendments to entries. It is proposed that the notice period for consultation responses will be increased from 21 days to 28 days.

Applications for Registered Building Consent

Provisions for consent applications will be located in their own section for clarity.

Appeals from decisions of the Department

The regulations will be updated to provide the process of appealing a registration decision. The process shall as per the existing final decision process involve an independent planning inspector. It is considered that the time frame for requesting such an appeal shall be extended from 21 days to a period of 3 months, this is in line with other jurisdictions and make provision that appellants have sufficient time to compile their case.

Demolition of buildings in conservation areas

The changes proposed to the Act would mean that the existing section which makes the provision of registered building consent applications for demolition of non-registered building within conservation areas would be removed as such demolitions would require planning approval.

Other matters

The overall process for the determination of an application to undertake works to a Registered Building (including demolition) will be reviewed alongside wider work to review and update the Development Procedure Order (which governs how planning applications are dealt with). As part of this, consideration will be given to the role of Interested Person Status (the ability to trigger and take part in an appeal).

Question 6 – do you think the proposed approach and scope of the updated Registered Buildings Regulations is appropriate? Please give reasons for your answer.

Question 7 – do you have any detailed suggestions for matters to be included/addressed?

TOWN AND COUNTRY PLANNING (AMENDMENT) BILL 2023

Explanatory Memorandum

1. This Bill is promoted by.
2. In the opinion of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the *Human Rights Act 2001*.
3. *Clause 1* provides the short title of the Bill.
4. *Clause 2* deals with commencement.
5. *Clause 3* is introductory and provides that the *Town and Country Planning Act 1999* is amended in accordance with the following sections.
6. *Clause 4* amends section 4 of the Act. Section 4 provides that where an area of land is specified for treatment by development that treatment must take place within a period which must be specified.
7. *Clause 5* amends section 6 of the Act to widen the meaning of “development” and to expand the list of matters which do not qualify as “development”.
8. *Clause 6* amends section 8 of the Act to introduce a concept of prior approvals as part of the planning process and to specify the types of conditions and limitations to which approval may be made subject.
9. *Clause 7* amends section 10 of the Act to make consequential amends following the provisions on “prior approval”.
10. *Clause 8* amends section 14 of the Act to provide that object fixed or not fixed to a building may or may not be included in the entry in the register of protected buildings in respect of that building.
11. *Clause 9* inserts new section 43B which provides an order making power in respect of fees and charges.
12. *Clause 10* makes a consequential amendment to section 44 of the Act to make an order under new section 43B subject to Tynwald approval.
13. *Clause 11* amends section 45 of the Act to introduce a definition of “prior approval” and amends the definition of “registered building”.
14. *Clause 12* amends section 45 of the Act to insert definitions of “prior approval” and “registered building”.
15. *Clause 13* amends Schedule 2 to the Act to provide that entries on the protected buildings register may be amended.
16. *Clause 14* makes saving and transitional provisions as a result of clause 9.
17. *Clause 15* makes consequential provision following clause 4 so that the current Area East Plan is to be read in the light of that clause.
18. The resulting Act will be cost neutral.



TOWN AND COUNTRY PLANNING (AMENDMENT) BILL 2023

Index

Section	Page
PART 1 – INTRODUCTORY	5
1 Short title	5
2 Commencement	5
PART 2 – TOWN AND COUNTRY PLANNING ACT 1999 AMENDED	5
3 Town and Country Planning Act 1999 amended	5
4 Amendment of section 4	5
5 Amendment of section 6	6
6 Amendment of section 8	6
7 Amendment of section 10	7
8 Amendment of section 14	7
9 Omission of section 19	7
10 New section 43B	7
11 Amendment of section 44	9
12 Amendment of section 45	9
13 Amendment of Schedule 2	9
14 Savings and transitionals	10
15 Consequential	10



TOWN AND COUNTRY PLANNING (AMENDMENT) BILL 2023

A **BILL** to amend the Town and Country Planning Act 1999 by expanding the definition of “development” for the purposes of that Act, to provide for a system of prior approvals following the grant of planning approval and to provide for the imposition of fees and charges; and for connected purposes.

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

PART 1 – INTRODUCTORY

1 Short title

The short title of this Act is the Town and Country Planning (Amendment) Act 2023.

2 Commencement

- (1) This Act (other than section 1 and this section) comes into operation on such day or days as the Council of Ministers may by order appoint.
Tynwald procedure — laying only.
- (2) An order under subsection (1) may include such consequential, incidental, supplementary, savings, transitional and transitory provision as the Council of Ministers consider necessary or expedient.

PART 2 – TOWN AND COUNTRY PLANNING ACT 1999 AMENDED

3 Town and Country Planning Act 1999 amended

The *Town and Country Planning Act 1999* is amended as follows.

4 Amendment of section 4

- (1) Section 4 (acquisition of land) is amended as follows.
- (2) For subsection (2)(b), substitute —
 - «(b) specify —
 - (i) the period within which that treatment is to begin; or

- (ii) that the period in subsection (2A) applies.».
- (3) After subsection (2), insert —
 - «(2A) The period referred to in subsection (2)(b)(ii) is a period of 10 years beginning with the date on which the plan is adopted.».

5 Amendment of section 6

- (1) Section 6 (meaning of “development”) is amended as follows.
- (2) In subsection (2) —
 - (a) after paragraph (a), insert —
 - «(aa) the temporary siting of a moveable structure on land involves a material change in its use;»;
 - (b) in paragraph (d) —
 - (i) for “the following are engineering operations constituting development” substitute «engineering operations include»;
 - (ii) at the end of sub-paragraph (ii), omit “and”;
 - (iii) after sub-paragraph (iii), insert —
 - «(iv) hardstanding of domestic gardens;»;
 - (c) for paragraph (e) substitute —
 - «(e) building operations include—
 - (i) repairs to buildings;
 - (ii) rebuilding;
 - (iii) painting of the exterior of buildings;
 - (iv) the demolition of all or part of a building including cases where that building is attached to another building and no part of that other building is also demolished.».
- (3) After subsection (3)(a), insert —
 - «(aa) the carrying out on land within the boundaries of a highway of any works exclusively required for its maintenance: “highway” means a highway maintainable at public expense for the purposes of the *Highways Act 1986*;
 - (ab) the carrying out of any works for sole the purpose of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose but only where such a street or other land is reinstated to substantially the same condition it was in prior to those works taking place;
 - (ac) the carrying out on land within the boundaries of a watercourse of any works exclusively required for its maintenance: “watercourse” means a watercourse within the meaning of the *Flood Risk Management Act 2013*».

6 Amendment of section 8

- (1) Section 8 (development orders) is amended as follows.

- (2) After subsection (3), insert —
- «(3A) Without limiting subsection (3), where planning approval is given by a development order for development of a specified class, the order may enable the Cabinet Office to direct that the approval shall not apply either —
- (a) in relation to development in a particular area; or
- (b) in relation to any particular development.».
- (3) In subsection (4), after “conditions” insert «(including prior approval)».
- (4) After subsection (4), insert —
- «(4A) Without limiting subsection (4), conditions or limitations that may be imposed include those in respect of —
- (a) the character and appearance of an area;
- (b) historical, architectural, traditional artistic or archaeological features of any building within the development;
- (c) the local environment or local amenity;
- (d) road safety and the flow of traffic on public highways;
- (e) public safety or convenience.
- (4B) The conditions referred to in subsection (4) may include a condition requiring the approval, before the development commences (“prior approval”), of the Department to be obtained in respect of —
- (a) specified parts of the development;
- (b) specified uses of any part of the land which is the subject of the development; or
- (c) both.».

7 Amendment of section 10

In section 10(6)(e) (determination of planning applications), after “condition” insert «(including prior approval)».

8 Amendment of section 14

- (1) Section 14 (the protected buildings register) is amended as follows.
- (2) After subsection (2) insert —
- «(2A) An entry for a building may provide that an object or structure (whether fixed to a building or not) or any part or feature of a building, is not of special architectural or historical interest.».
- (3) In subsection (3), at the end insert «and entries in it».

9 Omission of section 19

Section 19 (control of demolition in conservation areas) is omitted.

10 New section 43B

After section 43 (rights of entry), insert —

«43B Fees for planning applications etc.

- (1) This section applies in respect of fees or charges not otherwise provided for in this Act.
- (2) The Department may by order make provision for the payment of a fee or charge to it in respect of—
 - (a) the performance by it of any of its functions under this Act;
 - (b) anything done by it which is calculated to facilitate or is conducive or incidental to the performance of any such function;
 - (c) any application for planning approval deemed to be made under Schedule 4;
 - (d) any application for planning approval which is deemed to be made to it under—
 - (i) any provision of this Act other than Schedule 4; or
 - (ii) any order or regulations made under this Act.
- (3) An Order under this section may in particular—
 - (a) make provision as to when a fee or charge payable under the order is to be paid;
 - (b) make provision as to who is to pay a fee or charge payable under the order;
 - (c) make provision as to how a fee or charge payable under the order is to be calculated including by reference to the percentage change in any relevant index;
 - (d) make provision as to who is to make the calculation;
 - (e) prescribe circumstances in which a fee or charge payable under the order is to be remitted or refunded (wholly or in part);
 - (f) prescribe circumstances in which no fee or charge is to be paid;
 - (g) make provision as to the effect of paying or failing to pay a fee or charge in accordance with the order.
- (4) An order under this section may —
 - (a) contain incidental, supplementary, consequential, transitional and transitory provision and savings;
 - (b) in the case of an order made by virtue of paragraph (a), amend, repeal or revoke any provision made by or under this Act or by or under any other Act.
- (5) A financial year is the period of 12 months beginning with 1 April.
- (6) “Relevant index” means any of the following —
 - (a) the retail prices index;
 - (b) the consumer prices index;
 - (c) any similar general index of prices published by the Board of the UK Statistics Authority.».

11 Amendment of section 44

In section 44(2) (Tynwald control of orders and regulations), after “39C(1)” insert «or 43B».

12 Amendment of section 45

(1) Section 45 (interpretation) is amended as follows.

(2) In subsection (1)—

(a) at the appropriate place in the order, insert —

«**“prior approval”** means the approval of the Department which must be obtained under a condition of a development order before development under the order commences in respect of —

(a) specified parts of the development;

(b) specified uses of any part of the land which is the subject of the development; or

(c) both (a) and (b);»;

(b) for the definition of “registered building”, substitute —

«**“registered building”** means all or part of a building of architectural or historical interest for the time being entered in the register;».

(3) After subsection (3), insert —

«(4) For the purposes of this Act, a registered building shall be treated as including any object or structure —

(a) fixed to the building;

(b) not fixed to the building but within its curtilage, and which forms part of the land and has done so since before 1 January 1983.».

13 Amendment of Schedule 2

(1) Schedule 2 (the Protected Buildings Register) is amended as follows.

(2) In paragraph 1, after “from it” insert «or otherwise amending an entry in respect of a building».

(3) In paragraph 2 —

(a) for sub-paragraph (1) substitute —

«(1) Where —

(a) a building has been entered in the register;

(b) an entry in the register in respect of a building has been removed; or

(c) such an entry has otherwise been amended,

the Department must, as soon as reasonably practicable, serve a notice on the owner and the occupier of the building of that fact.»;

(b) omit sub-paragraph (2).

(4) In paragraph 3, omit sub-paragraph (b).

14 Savings and transitionals

- (1) In this section “the 1999 Act” means the Town and Country Planning Act 1999.
- (2) Subsection (3) applies to an application made before this Act comes into operation for which approval under Part 2 of the 1999 Act and consent under section 19 of that Act were both required.
- (3) If in respect of an application referred to in subsection (2) —
 - (a) the Department has given consent under section 19 of the 1999 Act, that consent shall remain valid;
 - (b) that application has not been disposed of before section 9 of this Act comes into operation, section 19 of 1999 Act as it applied immediately before the coming into operation of section 9 of this Act continues to apply to such an application; and
 - (c) that application has not been disposed of under Part 2 of the 1999 Act before this Act comes into operation —
 - (i) Part 2 of the 1999 Act shall continue to apply to such an application as it applied immediately before the coming into operation of this Act; and
 - (ii) section 5(2)(e) of this Act shall not affect such an application.
- (4) Subsection (5) applies to an application made before this Act comes into operation for which approval under Part 2 of the 1999 Act was not required but consent under section 19 of that Act was.
- (5) If in respect of an application referred to in subsection (4) —
 - (a) the Department has given consent under section 19 of the 1999 Act prior to section 9 of this Act coming into operation, that consent shall remain valid;
 - (b) the application has not been disposed of before section 9 of this Act comes into operation, section 19 of 1999 Act as it applied immediately before the coming into operation of section 9 of this Act continues to apply to such an application; and
 - (c) sections 5(2)(e) and 9 of this Act shall not otherwise affect such an application.
- (6) Subsection (7) applies where an application for planning approval —
 - (a) was made before section 5(2)(e) of this Act comes into operation; was made in respect of an area which is not a conservation area; and
 - (b) involves the demolition in that area of all of a building which is not attached to any other building.
- (7) Where this subsection applies —
 - (a) section 5(2)(e) of this Act shall not affect that application; and
 - (b) section 6(2)(e) of the 1999 Act as it applied immediately before the coming into operation of section 5(2)(e) of this Act shall continue to apply to the approval of that application.
- (8) Where an application under paragraph 2(2) of Schedule 2 to the 1999 Act has been made, but not disposed of, before section 13(3) of this Act comes into operation —

- (a) that application shall be dealt with under that paragraph as it was in operation immediately before section 13(3) of this Act comes into operation; and
 - (b) section 13(3) of this Act shall not affect that application.
- (9) It is irrelevant for the purposes of this section whether or not an application is approved on appeal under the 1999 Act.

15 Consequential

- (1) The reference to the period not exceeding 5 years in section 4(2) of the Town and Country Planning Act 1999 in the Area Plan for the East shall be read as a reference to a period not exceeding 10 years and —
 - (a) the Cabinet Office shall, in the Town and Country Planning (Area Plan for the East) Order 2020 (SD 2020/0430), be deemed to have adopted that Plan as if it referred to a period not exceeding 10 years; and
 - (b) Tynwald shall be deemed to have approved that Order on that basis.
- (2) The Area Plan for the East means the area plan adopted by the Cabinet Office by order on 21 September 2020 and which Tynwald approved on 18 November 2020.

4 Acquisition of land

- (1) An area plan may designate any land specified therein as an area selected for comprehensive treatment by development, redevelopment or improvement, or partly by one and partly by another method.
- (2) If an area is designated under this section by an area plan, the plan shall —
 - (a) describe the treatment which is proposed by the Cabinet Office; and
 - ~~(b) specify the period, which shall not exceed 5 years beginning with the date on which the plan is adopted, within which that treatment is to begin.~~
 - (b) specify –**
 - (i) the period within which that treatment is to begin; or**
 - (ii) that the period in subsection (2A) applies.**
- (2A) The period referred to in subsection (2)(b)(ii) is a period of 10 years beginning with the date on which the plan is adopted.**
- (3) Where any land is for the time being designated by an area plan under this section, the Cabinet Office may acquire that land or any part thereof by agreement or compulsorily; and —
 - (a) for the purposes of the Acquisition of Land Act 1984 the area plan, this section and the resolution of Tynwald authorising the acquisition shall be deemed to be the special Act; but
 - (b) no resolution of Tynwald under section 2(1) of that Act authorising the acquisition may be passed after the expiration of the period specified under subsection (2)(b).

6 Meaning of “development”

- (1) Subject to the following provisions of this section, in this Act “development” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.
- (2) For the purposes of this section —
 - (a) the use as 2 or more separate dwellinghouses of any building previously used as a single dwellinghouse involves a material change in the use of the building and of each part of it which is so used;
 - (aa) the temporary siting of a moveable structure on land involves a material change in its use;**
 - (b) the deposit of refuse or waste materials on land involves a material change in its use, notwithstanding that the land is comprised in a site already used for that purpose, if —
 - (i) the superficial area of the deposit is extended, or
 - (ii) the height of the deposit is extended and exceeds the level of the land adjoining the site;
 - (c) subject to subsection (3)(d), the afforestation of land involves a material change in its use;

- (d) ~~the following are engineering operations constituting development~~ **engineering operations include —**
- (i) the material alteration of any existing means of access to land from a road;
 - (ii) the provision of a new means of access, **and**
 - (iii) the execution of any road works preliminary or incidental to the erection of a building;
 - (iv) **hardstanding of domestic gardens;**
- (e) ~~the following are building operations constituting development —~~
- (i) ~~the demolition of a building which is attached to another building, where the other building is not also demolished; and~~
 - (ii) ~~the demolition of part of a building, where the rest of the building is not also demolished.~~
- (e) **building operations include—**
- (i) **repairs to buildings;**
 - (ii) **rebuilding;**
 - (iii) **painting of the exterior of buildings;**
 - (iv) **the demolition of all or part of a building including cases where that building is attached to another building and no part of that other building is also demolished.**
- (3) The following operations shall not be taken for the purposes of this Act to involve development —
- (a) the carrying out for the maintenance, improvement or other alteration of any building or works which —
 - (i) affect only the interior of the building, or
 - (ii) do not materially affect the external appearance of the building;
 and are not works for the alteration of a building by providing additional space in it underground;
 - (aa) **the carrying out on land within the boundaries of a highway of any works exclusively required for its maintenance: “highway” means a highway maintainable at public expense for the purposes of the *Highways Act 1986*;**
 - (ab) **the carrying out of any works for sole the purpose of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose but only where such a street or other land is reinstated to substantially the same condition it was in prior to those works taking place;**
 - (ac) **the carrying out on land within the boundaries of a watercourse of any works exclusively required for its maintenance: “watercourse” means a watercourse within the meaning of the *Flood Risk Management Act 2013*;**

- (b) the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such;
- (c) the use of any land for purposes of agriculture and the use for any of those purposes of any building occupied together with land so used;
- (d) the use by the Department of any land for the purpose of forestry (including afforestation) and the use for that purpose of any building occupied together with land so used;
- (e) in the case of buildings or other land which are used for a purpose of a class specified for the purpose of this paragraph in an order made by the Department, the use of the buildings or land or, subject to the provisions of the order, any part of the buildings or land, for any other purpose of the same class; and
- (f) operations of a description specified for the purpose of this paragraph in an order made by the Department.

8 Development orders

- (1) The Cabinet Office must by order (in this Act called a “development order”) provide for the grant of planning approval.
- (2) A development order may itself grant planning approval —
 - (a) for development specified in the order, or
 - (b) for development of a class specified in the order.²⁶
- (2A) In relation to cases for which a development order does not itself grant planning approval, the Department may make an order (“a development procedure order”) specifying the procedure to be followed on an application to the Department for the grant of planning approval.
- (3) A development order may be made either —
 - (a) as a general order applicable, except so far as the order otherwise provides, to all land, or
 - (b) as a special order applicable only to such land or descriptions of land as may be specified in the order.
- (3A) Without prejudice to the generality of subsection (3), where planning approval is given by a development order for development of a specified class, the order may enable the Department to direct that the approval shall not apply either—
 - (a) in relation to development in a particular area, or
 - (b) in relation to any particular development.
- (4) Planning approval granted by a development order may be granted either unconditionally or subject to such conditions (including prior approval) or limitations as may be specified in the order; and in particular may require the approval of the Department to the design or external appearance of buildings.
- (4A) Without limiting subsection (4), conditions or limitations that may be imposed include those in respect of —

- (a) the character and appearance of an area;
 - (b) historical, architectural, traditional artistic or archaeological features of any building within the development;
 - (c) the local environment or local amenity;
 - (d) road safety and the flow of traffic on public highways;
 - (e) public safety or convenience.
- (4B) The conditions referred to in subsection (4) may include a condition requiring the approval, before the development commences ("prior approval"), of the Department to be obtained in respect of —
- (a) specified parts of the development;
 - (b) specified uses of any part of the land which is the subject of the development; or
 - (c) both.
- (5) If a development order grants planning approval under subsection (2)(b), the order may enable the Cabinet Office to direct that the order is not to apply —
- (a) in relation to development in a particular area, or
 - (b) in relation to any particular development.
- (6) Planning approval may be granted —
- (a) in respect of buildings or works constructed or carried out, or a use instituted, without planning approval or in accordance with planning approval granted for a limited period, and so as to take effect from the date on which the buildings or works were constructed or carried out or the use was instituted, or from the end of that period, as the case may be; or
 - (b) for the retention of buildings or works, or the continuance of the use of land, without complying with some condition subject to which a previous planning approval was granted.
- (6A) A development order may make provision for the procedure for the determination of applications required by a condition imposed on the grant of planning approval by or under the order.
- (7) The Department may by order provide for the granting of planning approval, in such cases as are specified in the order, by a local authority on behalf of the Department; and (subject to any provision to the contrary made by the order) in relation to any application for planning approval which falls to be determined by a local authority in accordance with the order, references in this Act to the Department shall, where the context so requires, be construed as references to the local authority.

10 Determination of planning applications

- (1) Where an application is made to the D...
- (6) A development procedure order may make provision for —
- (a) the conduct of proceedings relating to such applications;....
 - (e) the procedure for the determination of applications for such approval as is mentioned in paragraph (d) or any other approval required by a condition (including

prior approval) imposed on the grant of planning approval by or under a development order or a development procedure order; and

14 The Protected Buildings Register

- (1) The Protected Buildings Register, a register of buildings of special architectural or historic interest, previously maintained by the Department of Infrastructure, is to be maintained, after the coming into operation of the Transfer of Planning and Building Control Functions Order 2015, by the Department.
- (2) In considering whether to enter a building in the register the Department may take into account not only the building itself but also —
 - (a) any respect in which its exterior contributes to the architectural or historic interest of any group of buildings of which it forms part; and
 - (b) the desirability of preserving, on the ground of its architectural or historic interest, any feature of the building consisting of a manmade object or structure fixed to the building or forming part of the land and comprised within the curtilage of the building.
- (2A) An entry for a building may provide that an object or structure (whether fixed to a building or not) or any part or feature of a building, is not of special architectural or historical interest.**
- (3) Schedule 2 shall have effect with respect to the compilation and amendment of the register **and entries in it.**
- (4) The Department shall make the register available for inspection by any person at its office free of charge at all reasonable times, and shall supply a copy of any entry in the register to any person on payment of such reasonable charge (if any) as the Department may determine.

19 Control of demolition in conservation areas

43 Rights of entry

- (1) Any person d....

43B Fees for planning applications etc.

- (1) This section applies in respect of fees or charges not otherwise provided for in this Act.
- (2) The Department may by order make provision for the payment of a fee or charge to it in respect of—
 - (a) the performance by it of any of its functions under this Act;
 - (b) anything done by it which is calculated to facilitate or is conducive or incidental to the performance of any such function;
 - (c) any application for planning approval deemed to be made under Schedule 4;
 - (d) any application for planning approval which is deemed to be made to it under—
 - (i) any provision of this Act other than Schedule 4; or
 - (ii) any order or regulations made under this Act.

- (3) An Order under this section may in particular—
- (a) make provision as to when a fee or charge payable under the order is to be paid;
 - (b) make provision as to who is to pay a fee or charge payable under the order;
 - (c) make provision as to how a fee or charge payable under the order is to be calculated including by reference to the percentage change in any relevant index;
 - (d) make provision as to who is to make the calculation;
 - (e) prescribe circumstances in which a fee or charge payable under the order is to be remitted or refunded (wholly or in part);
 - (f) prescribe circumstances in which no fee or charge is to be paid;
 - (g) make provision as to the effect of paying or failing to pay a fee or charge in accordance with the order.
- (4) An order under this section may —
- (a) contain incidental, supplementary, consequential, transitional and transitory provision and savings;
 - (b) in the case of an order made by virtue of paragraph (a), amend, repeal or revoke any provision made by or under this Act or by or under any other Act.
- (5) If the Department calculate the amount of fees or charges in pursuance of provision made by an order under subsection (2) it must secure that, taking one financial year with another, the income from the fees or charges does not exceed the cost of performing the function or doing the thing (as the case may be).
- (6) A financial year is the period of 12 months beginning with [X] April.
- (7) “Relevant index” means any of the following –
- (a) the retail prices index;
 - (b) the consumer prices index;
 - (c) any similar general index of prices published by the Board of the UK Statistics Authority.

44 Tynwald control of orders and regulations

- (1) Development orders, orders under sections 2A(10), 6(3)(e) or (f), **43B**, 45A(7) and regulations under this Act may not come into operation unless they are approved by Tynwald.

45 Interpretation

- (1) In this Act —

...

“prescribed” means prescribed by regulations;

“prior approval” means the approval of the [Department] which must be obtained under a condition of a development order before development under the order commences in respect of —

- (a) specified parts of the development;
- (b) specified uses of any part of the land which is the subject of the development; or
- (c) both (a) and (b);

"the register" means the Protected Buildings Register maintained under section 14(1);

"registered building" means a building for the time being entered in the register;

"registered building" means all or part of a building of architectural or historical interest for the time being entered in the register;

- (3) A reference in a public document...
- (4) For the purposes of this Act, a building shall be treated as including any object or structure —
 - (a) fixed to the building;
 - (b) not fixed to the building but within its curtilage, and which forms part of the land and has done so since before 1 January 1983.».

SCHEDULE 2

THE PROTECTED BUILDINGS REGISTER

1. Before entering any building in the register, or amending the register by removing a building from it **or otherwise amending an entry in respect of a building**, the Department shall consult such persons or bodies of persons as appear to it appropriate as having special knowledge of, or interest in, buildings of architectural or historic interest.
2. (1) **As soon as may be after a building has been entered in the register, or the register has been amended by the removal of a building from it, the Department shall serve a notice on the owner and the occupier of the building stating that it has been entered in or removed from the register.**

Where –

- (a) a building has been entered in the register;
- (b) an entry in the register in respect of a building has been removed; or
- (c) such an entry has otherwise been amended,

the Department must, as soon as reasonably practicable, serve a notice on the owner and the occupier of the building of that fact

(2) The owner or the occupier of, and any other person having an interest in, a building which has been entered in the register may apply to the Department to remove the building from the register—

- (a) within the prescribed period after service on him of a notice under sub-paragraph (1);
- (b) after the expiration of the prescribed period after the decision on a previous request under this subsection in relation to the building.

Regulations

3. Regulations shall make provision with respect to —
 - (a) entries in and amendments of the register, and
 - (b) applications under paragraph 2 and the determination of such

applications;

and may make provision for the exercise of functions with respect to those matters, and appeals against decisions in relation thereto.



Scouts

2nd Onchan Scout Group

R.P.
Date: 26/09/23

ONCHAN DISTRICT	COMMISSIONERS
REC'D	
26 SEP 2023	
FAO	
ACKNOWLEDGED	
REPLIED	

Ms Zara Lewin
Chair, Onchan District Commissioners
Hawthorn Villa
79 Main Road
Onchan
Isle of Man
IM3 1RD

Dear Madam,

Re:- 2nd Onchan Scout Group AGM and Awards Evening – 19 October 2023

I write to invite you to 2nd Onchan Scout Group's Awards Night and Annual General Meeting on **Thursday 19 October 2023** at Scout Headquarters, School Road, Onchan.

The evening starts at **6.30pm** and should finish for 8:30pm/9pm. Uniform and Awards to be worn if appropriate.

The evening will be an opportunity for you to join us to see how 2nd Onchan have performed over the past 12 months and to see our young people receive their well-earned trophies and awards. The evening will conclude with a slide show covering events that have taken place during this past year.

We hope you will be able to join us and if you could let me know if you are able to attend, it would be appreciated.

Yours in Scouting,

Charlie Williams
Secretary – 2nd Onchan Scout Group



Alyson Crellin

From: Admin
To: Admin
Subject: FW: Save the Date: Isle of Man Take Drugs Seriously

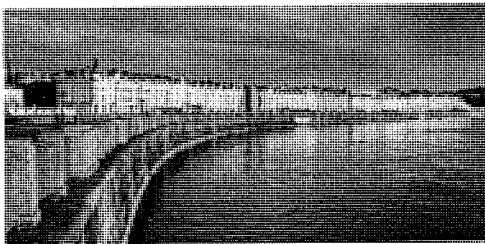
From: [REDACTED]
Sent: 28 September 2023 13:07
To: [REDACTED]
Subject: Save the Date: Isle of Man Take Drugs Seriously

You don't often get email from [REDACTED] [Learn why this is important](#)

We are hosting an event on Tuesday October the 10th in Douglas and inviting local councillors, organisations, charities, community groups, NHS and other groups who directly help and support those and their families with problematic substance use - all are welcome. If you could forward to any relevant persons within your organisation it would be appreciated.
Anyone's Child: Families for Safer Drug Control invite you to join us for a conversation around the impact of drugs on the Isle of Man and how we can better protect our community.
Join the discussion about what a new approach to drugs could mean for the Isle of Man, your family and your community.

Here's the link for the event and to book your ticket

<https://www.eventbrite.com/e/isle-of-man-take-drugs-seriously-tickets-725980636627?aff=oddtcreator>



Isle of Man: Take Drugs Seriously

Drugs can be dangerous: but does banning them cause more harm than good?

www.eventbrite.com

For more details about the Anyone's Child campaign please go to www.anyoneschild.org

If you have any questions, please do get in touch with [REDACTED] [REDACTED]