



Isle of Man
Government

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Consultation Summary

Development Procedure and Fees Amendment Orders

May 2024

Department of Environment, Food and Agriculture

Planning and Building Control Directorate

Development Procedure and Fees Amendment Orders – Consultation Results

We Asked – As part of the Built Environment Reform Programme (“BERP”) and to facilitate the Department of Environment, Food and Agriculture’s (DEFA) core functions changes are proposed to the following secondary legislation which is made under the Town and Country Planning Act 1999 (“the Planning Act”):

- the Town and Country Planning (Development Procedure) Order 2019 (“the DPO”); and
- the Town and Country Planning (Application and Appeal Fees) Order 2021 (as amended in 2023) (“the Fees Order”).

This legislation sets out how applications are dealt with for:

- planning approval (e.g. new buildings, extensions/changes to existing buildings, changes of use etc.);
- minor changes to existing planning approval; and
- approval of information required by a condition attached to a planning approval

The proposed changes within the consultation relates to:

- reviewing the ability to trigger/participate in an appeal (Interested Person Status);
- introducing a new fast track householder appeal process;
- streamlining how DEFA applications are dealt with (so there is more resource to focus on delivering planning services to the public);
- expanding Minor Change provisions so that approvals which incorporate fossil fuel boilers can be amended to remove them;
- establishing a proportionate requirement for climate change information within applications;
- targeted amendments to planning fees; and
- a number of other minor amendments.

Public Consultation ran from 17.11.23 to 26.01.24. The consultation was via the consultation hub and Publicity included: E-mails to MHKs/MLCs, Government Departments, Local Authorities and the Planning User Group Distribution.

You Said – There were 49 responses to the survey (given Data Protection respondents were not required to provide details).

We Did – This report is a summary of the responses and the issues they raise (appendix 1 gives overall results and appendix 2 gives detailed comments). The consultations results will inform the final iteration of the Order, which will be laid before Tynwald.

Appendix 1 – Overall Results

Area	Question	Yes	No	Unsure	Number of detailed comments
1 – Appeal Triggers and Giving Evidence	1: Do you think the intended outcomes described are appropriate?	16	24	7	34
	2: Do you think the proposed amendments set out in the draft orders will achieve the intended outcomes set out above?	11	17	12	22
2 – Fast Track Householder Appeals	3: Do you think the intended outcomes described are appropriate?	24	15	2	22
	4: Do you think the proposed amendments set out in the draft orders will achieve the intended outcomes set out above?	21	12	7	14
3 – Department Applications	5: Do you think the intended outcomes described are appropriate?	16	22	5	27
	6: Do you think the proposed amendments set out in the draft orders will achieve the intended outcomes set out above?	17	16	8	19
4 - Minor Change Applications	7: Do you think the intended outcomes described are appropriate?	25	11	5	18
	8: Do you think the proposed amendments set out in the draft orders will achieve the intended outcomes set out above?	21	9	10	9
5 - Climate Change Policies	9: Do you think the intended outcomes described are appropriate?	28	13	4	23
	10: Do you think the proposed amendments set out in the draft orders will achieve the intended outcomes set out above?	23	14	4	9
6 - Planning Application Fees	11: Do you have any comments in relation to the proposed fee changes?	N/A	N/A	N/A	34
7 - Other Changes	12: Do you think the proposed other changes are appropriate?	20	13	10	22
	13: Do you have any other comments?	N/A	N/A	N/A	28

AREA 1 – APPEAL TRIGGERS AND GIVING EVIDENCE

Question 1: Do you think the intended outcomes described are appropriate?

Point Raised – Question 1	Response	Recommended Change
Overall Approach		
Lack of evidence to support changes in relation to IPS	In the 3 years 2021-23 there were 4,175 applications and 162 appeals determined ¹ , an average of 1,392 applications and 54 appeals per year. 77% of those appeals were from the applicant, of which were 52% were successful. 27% were from third parties (including Local Authorities) of which 27% were successful. Overall 46% of appeals were successful. The median average for the time taken to determine appeals for those determined in 2023 was 23 weeks.	None
Support for avoiding unnecessary delays	Noted	None
<ul style="list-style-type: none"> • 3rd party appeals are an important part of Manx system and better than where doesn't exist • Moves too in favour of applicant - should remain as is • Object to proposals to remove the right of appeal from 3rd parties • Should be increased IPS • Concern about reducing appeals due to exclusions - instead should reintroduce review stage • DEFA already limits scope of IPS and tries to avoid affording it 	<p>Noted - proposals do not remove potential for 3rd party appeals but does propose clarifying and targeting the provisions, in relation to those able to trigger an appeal whilst also widening opportunities for people to give evidence in the event that an appeal is triggered.</p> <p>The current IPS provisions stem from the 2018 Planning Action Plan which sought to, "Improved criteria regarding who is awarded 'Interested Person Status' to ensure, "The planning appeals process is available to those with a legitimate and relevant planning concern, whilst reducing scope for unreasonable delay".</p> <p>BERP builds on this with "Objective 1: Develop faster and more proportionate planning process" with the action (in part) to, "Ensure a proportionate appeals system" it is not considered that the re-introduction of an additional stage or widening of the ability to trigger appeals would deliver against this.</p>	Proposals for appeal triggers will be reviewed in light of concerns raised.
Concerns about reducing rigour of planning process and on limits to voicing of concerns	Noted. The focus of the project is on proportionality and making best use of finite resources. The ability for 3 rd party appeals will still exist and these changes are also accompanied by wider reforms, such as enhanced publicity (neighbour notifications introduced). Improvements to IT will facilitate viewing/commenting on applications. The focus is on engagement prior to the initial decision being made, but with appeals still available where necessary.	None

¹ As appeals determined to the end of one calendar year may be determined in the next year, the 162 appeals don't all relate to the 4,175 applications, but equally some of those application may have been subject to appeals that were determined after 2023.

Point Raised – Question 1	Response	Recommended Change
Current IPS Operational Policy never had Public Scrutiny and so should not be assumed to be OK as a basis for the order.	The current IPS Operational Policy and experience of using both that and the (more limited) preceding policy (from 2013) has informed the current proposals, but the current proposals are consulted on in their own right.	None
Insufficient time has lapsed since the last legislative changes to assess the outcome of the previous amendments, let alone implement further changes. The proposal is premature.	The Built Environment Reform Programme has been approved by the Council of Ministers following a CABO lead review of the built environment. The actions within that require legislative change.	None
Who makes decisions		
<ul style="list-style-type: none"> • Changes further internalise the planning process within the Department • DEFA should not decide who has IPS • Whether or not there is a "right" to appeal or give evidence should not be up to DEFA 	<p>The current process, and process before that, is that the decision maker (either officer with delegated powers or Planning Committee) not only determines the applications but decides who has IPS. The changes therefore do not change that, although it is noted that Planning Committee is now appointed by Council not the Department and so in that regard the process is less internalised than previously.</p> <p>Furthermore, those who comment on applications are currently assessed for IPS on the basis of the adopted Operational Policy and moving forward would be assessed for the ability to appeal on the basis of the provisions within the Order which will have been to Tynwald (negative procedure).</p>	None
Who assesses when and how an appeal request is valid - should be independent from case officer - it should be an automatic right to appeal.	It is important to have criteria for a valid appeal – if an appeal is based on non material issues for example then it would represent an unnecessary delay. The validation is undertaken against the clear criteria in the legislation by a senior officer with delegated powers who was not the case officer. Where an appeal cannot be validated, the Department tries to provide feedback so that issues can be corrected (often by clarifying points raised) – but this does depend on appeal submissions being made sufficiently in advance of the deadline.	None
If the applicant is a government department or government company held at arms length then there is a conflict of interest	Each Government Department is a separate legal entity. Provisions are made for extra safeguards where DEFA is the applicant/landowner. Proposals for arms length organisations.	None
Defining Objections and Criteria		
"Support" may be subject to conditions so may still wish to appeal depending on what conditions are/aren't attached	Agreed – if a response raises no objection subject to a condition and then that condition is not applied (which could be a for a variety of reasons) then the response is in effect an objection	Alter provisions so that those eligible for the ability to trigger an appeal include objectors and those who have

Point Raised – Question 1	Response	Recommended Change
		clearly asked for a condition (or S.13 issue) that relates to material planning issues and this has not been applied.
What is the difference between representation, objection and consultation. A response may not object but ask for changes and if not made then may wish to appeal. So only remove 21 days if no response?	A representation normally means written comment from a 3 rd part, consultation a written comment from a consultee (e.g. DOI Highways) and a response could be either. An objection is a written response which indicates that the writer believes the development should not take place/raises concerns about it. Some comments indicate no objection (and explain why) or are in support of a proposal, and in such cases a 21 day is not considered necessary.	See above
Support but need to carefully define whether responses are comments or objections	Noted – guidance and use of response forms will be reviewed.	None (for legislation)
Need to clarify "satisfy" and "meaningful" and make sure requirements of A10 are clear up front so people don't accidentally fail to get status due to not understanding the process	Terms are not used in legislation but in consultation summary. Current practice of highlighted potential for IPS on site notices and how to find out more will continue. Online guidance will be updated in light of legislative change. As part of wider programme updates planned to website to improve ease of use.	None
There is no explanation of the criteria within Section A10 of that Order, nor is it clear what is intended for Interested Person Status.	Interested Person Status will no longer be used and the 2 elements of it split. The ability to trigger an appeal will be afforded based on the detailed criteria set out in A10 of the order (the current Operational Policy could be updated and republished as guidance if necessary). The ability to give evidence in an appeal is widened.	None
Meaningful Engagement should be about finding solutions not just objecting	The term is used in the consultation material in terms of people fully participating in the planning process prior to determination, which includes providing detailed representations setting out their concerns. It is agreed that where solutions can be found this should be encouraged.	None
Justifications for making an appeal – Living Conditions - points raised about householder appeals, larger developments could impact through e.g. traffic generation, highway design, highway safety (quoted as justification for not enabling a minor changes application yet totally removed from being a matter under consideration as a material consideration), surface water drainage policy non-compliance?	<p>The current operation policy includes the following as relevant conditions, "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".</p> <p>The proposed legislation provides for, "the objection relates to a material planning consideration of the proposed development — (i) which will have a detrimental impact on the living conditions of the land; and (ii) which the Department considers material" and goes on, "</p>	Proposals for appeal triggers will be reviewed in light of concerns raised.

Point Raised – Question 1	Response	Recommended Change
	"living conditions" includes, but is not limited to, any of the following things — (a) outlook; (b) privacy; (c) noise; (d) light; (e) dust; (f) smell"	
Department should not be able to dictate what other Material Considerations there are	This appears to be a misunderstanding - proposal is that DEFA considers whether points made about living conditions are material so additional not alternative step	None
IPS Criteria Arbitrary - assess each case individually	Each case is assessed against the framework within the current operational policy, and that approach would not change. However having clear parameters set out in legislation, so everyone (including objectors) understand when the right to appeal is likely to be afforded adds certainty to the process.	None
Automatic IPS & Public Bodies		
<ul style="list-style-type: none"> Concerns about loss of automatic IPS for public bodies where no comment - provision for appeal where no comment in exceptional circumstances could be considered? Currently is potential for LA to appeal on behalf of others without IPS even if LA have not themselves objected Loss of auto rights for LA and Highways should be clarified why, and also impact on those who may wish for LA to appeal on their behalf (due to cost etc.) 	<p>The comment is noted, however having an exceptional circumstances clause could lead to uncertainty and confusion. As long as bodies engage with the application and provide material comments they would still be afforded the right to appeal. It is noted that in some cases LAs who have not objected have not been willing to submit an appeal on behalf of others.</p> <p>The removal of automatic IPS means that the 21 day delay to the implementation of every planning application is lifted where there are no objections.</p>	None
Proposals OK for normal applications, but public should be able to oppose any large government project (taxpayers & wider implications)	It is not the role of the planning system to allow public debate of how public money is used, but to consider land use matters. Larger projects which have EIA are not limited to 20 metres for considering the ability to appeal.	None
Some LA's do not meet regularly so 21 days for comment may need to be extended	It is not considered that extending the consultation period would deliver against the aspirations of BERP for a faster process, although it should be noted that comments are accepted up until the point an application is determined and LAs can ask for extensions on a Case by Case basis. It is a matter for LAs to organise their functions to enable them to effectively engage with the planning process if they wish to do so.	None
Ability to Give Evidence		
DOI - concerns over widening of right to give evidence beyond those who could appeal - likely result in wider challenges, outside of the current IPS being received for future Planning Applications submitted.	The current provisions give the Inspector the ability to allow those without IPS to give evidence at appeals. It is not clear how restricting the ability of people to give evidence at an appeal would result in wider challenges.	None
Extending right to give evidence supported	Noted	None

Point Raised – Question 1	Response	Recommended Change
Approach to Consultation on this legislation		
Consultation is not full - other changes may be proposed in Development Plan or Registered Building process	Comment is correct. The overall BERP programme (published online) contains a range of policy and legislative measures, all of which will be subject to appropriate consultation but not all of which are being consulted on simultaneously.	None
Proposals difficult to understand	Noted, consideration will be given to how future consultations can be made clearer.	None
Response asks where new DPO and Articles are	The Amendment Orders and Keeling Documents were published on the Consultation Hub	None
Other Matters		
Concern on delay between decision notice being issued and planning officer report being available.	Noted – it is important that the report is available to explain the decision to assist those who may be considering appealing. In most cases this is uploaded within a day or so. As part of the wider project IT and process improvements are planned.	None
Concern on use of conditions for more info/changes which can change the nature of a proposal.	Noted – conditions are an important part of the process, but should not fundamentally change the nature of the proposal. The Planning Service takes this matter seriously and the approach, whilst on a case-by-case basis are informed by best practice and case law.	None
Concerns about immigration	Noted – concerns around population growth (and any resulting implications for housing/infrastructure) are outside the scope of this legislation/consultation.	None
DEFA should bring paper work from 3rd parties to appeals to be sustainable	The comment is noted but does not relate to the legislation. Separate work is ongoing as part of the wider programme to look at the processes (including IT) for the process, including appeals.	None
Everyone should be able to object to a planning application and this shouldn't be taken away	Provisions for commenting on applications, and requirements to take account of representations are not being reduced/removed.	None
Lack of link to Building Control means relevant evidence for appeal not available in time	There are a number of separate but complimentary regulatory regimes that in some way relate to planning – registration of tourist units and flats, waste management licenses, discharge to river licenses, provisions of the wildlife and tree acts etc. Planning needs to have sufficient information to understand an issue could in broad terms be resolved with the detail/enforcement through other regimes. It is not considered necessary or practical to require simultaneous approvals, or for planning applications to have all of the detail required by other regimes.	None
Lack of protection for built environment/heritage	Other parts of the programme are looking at different legislation and policy, the changes to the DPO and Fees do not in themselves alter the level of protection for the built environment or heritage. Provision is retained for MNH to have the right to appeal where material comments are made that explain how the application would impact, “on that body’s ability to carry out its functions; or (ii) on matters for which that body has responsibility”. The right to give evidence is expanded.	None
Should allow fossil fuel for cooking	Noted – outside the scope of this legislation	None

Point Raised – Question 1	Response	Recommended Change
The number of started but not completed sites is in part due to the public not being listened to.	The wider programme is looking at the variety of reasons, many of which are outside the planning process, which can result in developments either not commencing or being delayed/unfinished.	None

Question 2: Do you think the proposed amendments set out in the draft orders will achieve the intended outcomes set out above?

Point Raised – Question 2	Response	Recommended Change
Overall Approach		
<ul style="list-style-type: none"> How much time/resource does appeals use and is this really a waste? Last changes tried to reduce 3rd party appeals but they continue to be made and be successful so no further changes should be made 	<p>In the 3 years 2021-23 there were 4,175 applications and 162 appeals determined², an average of 1,392 applications and 54 appeals per year. 77% of those appeals were from the applicant, of which were 52% were successful. 27% were from third parties (including Local Authorities) of which 27% were successful. Overall 46% of appeals were successful.</p> <p>There are a limited number of third party appeals. On average appeals can take several months to determine, and less third party appeals are successful than other appeals. Furthermore, the current process and potential for 3rd party appeals means that every application is subject to a 21 day appeal window post-decision notice.</p> <p>A final point is that the potential for 3rd party appeals adds a level of uncertainty to the process which does not exist in England, Scotland or Wales and so could be seen to give a competitive disadvantage when trying to attract inward investment (although no data is available to demonstrate this one way or another).</p>	<p>Proposals for appeal triggers will be reviewed in light of concerns raised.</p>
<p>How is meaningful engagement defined and does it disadvantage those not familiar with planning?</p>	<p>Terms are not used in legislation but in consultation summary. Current practice of highlighted potential for IPS on site notices and how to find out more will continue. Online guidance will be updated in light of legislative change. As part of wider programme updates planned to website to improve ease of use.</p>	<p>None</p>
<ul style="list-style-type: none"> Lack of scrutiny Proposal will circumvent democratic process Reduced accountability / public confidence 	<p>There is a finite amount of capacity to apply scrutiny to proposals, the changes seek to make best use of this limited resource so that a proportionate amount of scrutiny is applied.</p> <p>Changes made in 2019 mean that the Planning Committee Members are appointed by Council in accordance with the relevant secondary legislation. Other powers sit with the Minister and are delegated in some cases in accordance with the 1987 GDA. Delegations are published on our website.</p> <p>Whilst 3rd party appeals are an established part of the Manx Planning System, it is noted that: whilst the Republic of Ireland and Jersey have 3rd party appeals Guernsey, England, Scotland, Wales and Northern Ireland do not; and, there are a</p>	<p>See above</p>

² As appeals determined to the end of one calendar year may be determined in the next year, the 162 appeals don't all relate to the 4,175 applications, but equally some of those application may have been subject to appeals that were determined after 2023.

Point Raised – Question 2	Response	Recommended Change
	<p>number of consenting regimes operating on the Isle of Man which do not provide for 3rd party appeals.</p> <p>The potential for 3rd parties to engage in the planning system is not solely reliant on appeals – engagement prior to determination through providing comments is the key step and is facilitated by wider changes in BERP which have been made (Neighbour Notifications) or are planned (website and online services improvements).</p> <p>Irrespective of IPS, the ability to challenge decisions in the courts is separate/unaffected/additional.</p>	
Concerned about loopholes (e.g. developers drawing site boundaries to avoid potential for anyone having the ability to appeal)	Redline boundaries need to go round the development site and this is checked at the planning application stage. The 20 metres comes from established guidance that overlooking is less likely to be an issue at that distance (measured window to window) and so measuring it from site boundary builds in some flexibility on this. Where there is an EIA the 20 metres doesn't apply.	None
Process favours large developers with more resources	Noted, although to some extent this is not an issue about legislation. Information has been published online to assist those wishing to engage in the planning process, and Commissioners may also be able to assist. Wider process changes have been made/are being made to facilitate engagement. Appeals on-island tend to be informal/round table and so allow people to participate without professional representation.	None
Defining Objections and Criteria		
<ul style="list-style-type: none"> Wrong for DEFA to decide based on defined criteria - should retain existing situation. Planning Committee should be able to review and change who is given right to appeal, and there should be a right to request a review if right withheld (by officer or committee). 	<p>The existing situation is that the decision maker (officer with delegated powers or Planning Committee) determine who has IPS based on a Case Officer recommendation made in accordance with the criteria set out in an Operational Policy. The proposal is to instead have those criteria updated and set out in the order.</p> <p>Planning Committee can and do give IPS to those not recommended for it by the Officer, although still within the context of the Policy.</p> <p>In terms of a review process, as noted previously the outcome of the review is in part to speed up and make more proportionate the planning process and the introduction of an extra stage to appeal not being given the right to appeal is not considered to deliver on that outcome.</p>	None
Proposed A10(1)c and (3)c factors - need widening to allow non-immediate-neighbouring land-owning	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	None

Point Raised – Question 2	Response	Recommended Change
bodies which have specialist knowledge to appeal as a last resort. This may be on grounds which have a significant impact on the Island, be it heritage or damage to the biosphere etc.	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 and the right to give evidence in the event of an appeal is widened.	
Where is the definition of how and at what stage determines who is eligible to 'trigger' an appeal, and how this will be recorded/communicated. Should be before an application is determined.	The process will be as at present, immediately after determining an application those who have made comment will be assessed for the ability to appeal (the case officer's report will continue to have a recommendation in relation to this). Whether or not someone has the ability will be communicated at the same time (potentially same letter/email) as the Decision Notice. That nobody has status prior to the decision is considered helpful in applying the requirement that every representation, irrespective of whether from someone recommended for the ability to appeal, must be considered.	None
Automatic IPS & Public Bodies		
If no auto LA appeal then what if final decision has error and cannot be rescinded or corrected? Should deliver intended consequences, but concerns over unintended re: no auto appeal for LA/DOI	There is provision within the order to correct errors in decision notices. The fall-back position of seeking judicial review remains. In any case, it is noted that there have been cases where LAs have declined to appeal on behalf of others and where they have made comment then (as long as meets the criteria) they would still have the ability to appeal.	None
Other Matters		
Concerns about staff attitudes	This is outside the scope of the legislation.	None
More robust advertisement is required as site notice not always correctly displayed	This is in wider project – for example introduction of Neighbour Notifications	None
Points Raised Previously (In Question 1)		
<ul style="list-style-type: none"> • Should be increased IPS • Some LA's do not meet regularly so 21 days for comment may need to be extended • Support but need to carefully define whether responses are comments or objections • Proposals difficult to understand • Concerns about immigration • Lack of link to Building Control means relevant evidence for appeal not available in time 	See previous responses	None

AREA 2 – FAST TRACK HOUSEHOLDER APPEALS

Question 3: Do you think the intended outcomes described are appropriate?

Point Raised – Question 3	Response	Recommended Change
Overall Approach		
The Inspector should have the right to call for an inquiry if the submissions require that	For normal appeals the inspector can insist on an inquiry even if everyone has asked for written reps, there is no mechanism proposed here for the Inspector to change the method of appeal. Given the other restrictions on these (must relate to householder and be nobody with the ability to appeal other than the applicant) it is not considered this is required, as would undermine the emphasis on simplified process	None
Allows poor development	As part of an overall approach of speeding up and making more proportionate the planning process some areas will require a lighter touch. The proposals would only apply to householder applications (not new dwellings) where there are no objections to the application from anyone eligible for the right to appeal and it is not an appeal against non-determination. The policies being applied would be as set out in the development plan (noting the wider reviews of this and opportunities this provides to update requirements) and Building Regulations would still apply.	None
Doesn't support because if applicant is Government or arms length then democracy not served	Given the scope of the proposals (domestic extensions) it seems unlikely such applications would be made by such bodies. Separate safeguards exist where DEFA is the applicant.	None
Lack of neighbour involvement	If neighbours who live within 20m have objected on material planning issues and explained how they would be impacted on, then they would have the right to appeal and as such the option for the fast track appeal would not be available.	None
<ul style="list-style-type: none"> Support - less burden for both homeowners and the Department Support increase speed Support as long as there is still appropriate consideration and doesn't become tick box exercise 	Noted	None
Scope		
Depends on how right of appeal is determined	Noted	None

Point Raised – Question 3	Response	Recommended Change
Fast track should apply to 3rd party appeals also	If it is a 3 rd party appeal then there are more parties involved (at least 3 – applicant, LPA and 3 rd party) and as such the appeal would be more complicated and as such the existing processes are considered more appropriate.	
Where there are 3rd party objections they should be allowed to take part in the appeal	If there are 3 rd party objections that meet the tests for rights to appeal then application would not be eligible for this process and would need to go through normal process – which allows for 3 rd parties to give evidence.	None
Support - but householder should be able to submit statement of case to rebut reasons for refusal	Article 10(5) requires appeals to include grounds and 10(6) requires (where the appellant is the applicant) those grounds to include to, “specify in detail and by reference to material planning considerations the reasons why the appellant disagrees with that determination” and, “where the appeal is against a refusal of the application on the grounds of deficient detail or supporting documentation, set out why the applicant considers that the information or documentation forming part of the application bundle was sufficient in the circumstances”. 10(7) clarifies, “For the avoidance of doubt, the grounds of appeal cannot be based on a material alteration of the terms of the application given under article 5”.	None
Decision Making		
Concern with decision resting with one person Inspector's Decisions should not be relied upon	Appeal decisions are currently made by the DEFA Minister (unless delegated) in light of the Inspector’s recommendation (the Inspector does not make the decision). This is not proposed to change.	None
General Points Raised Previously (In Question 1&2)		
<ul style="list-style-type: none"> • Lack of scrutiny • Concerns about immigration • Concerns about staff attitudes • Should be linked to Building Control 	See previous responses	None

Question 4: Do you think the proposed amendments set out in the draft orders will achieve the intended outcomes set out above?

Point Raised – Question 4	Response	Recommended Change
Overall Approach		
Lack of neighbour involvement	See response in Question 2	None

Point Raised – Question 4	Response	Recommended Change
Scope		
Without statements of case etc. the Inspector could not properly determine the appeal as they would not have the full picture.	Applications are encouraged to be accompanied by cover letters (or in some cases design statements), including to explain/justify any deviations from the adopted Residential Design Guide. Applicants would have the ability to address points raised in their appeal reasons (see responses to points in question 3). Objectors (which would only be relevant if there were objections who did not have the ability to appeal) are encouraged to be clear in the ground of their concerns in the published guidance. The Case Officer will always produce a report for an application. The Inspector would therefore have the same level of detail as the original decision maker, which should be sufficient.	None
Decision Making		
<ul style="list-style-type: none"> • Concern about lack of impartiality • Concern about scrutiny of government projects • Inspector's Decisions should not be relied upon 	See response in Question 3	None
General Points Raised Previously (In Question 1&2)		
Concerns about immigration More professional staff required Should be linked to Building Control	See previous responses	None

AREA 3 – DEPARTMENT APPLICATIONS

Question 5: Do you think the intended outcomes described are appropriate?

Point Raised – Question 5	Response	Recommended Change
Overall Approach		
<ul style="list-style-type: none"> Support - reduce Government Costs Proposal would make things consistent If process is as per normal appeal then support Maintains independence but avoids delays as currently 	Noted	None
Lack of public involvement	Applications would be publicised as any other application which allows for comment. Planning Committee has provisions for public speaking. If there was an appeal, then this would follow the usual process (which given the other changes proposed in the order would make more provision for people to give evidence).	None
Lack of fairness	Proposal would put DEFA applications in line with other applications whilst having extra safeguards.	None
Allows continued poor government buildings	DEFA's remit means that it submits very limited applications for government buildings, and in any case all applications are considered against the same planning policies irrespective of applicant.	None
Conflicts of Interest		
<ul style="list-style-type: none"> Conflicts of Interest - committee of laypeople from Local Authorities should determine PC judging their employers proposals - pressure to approve? Council conflicted - appoints PC Members and then deals with DEFA appeals 	<p>Planning Committee is appointed by the Council of Ministers (rather than by DEFA) to determine planning applications but not appeals. Decisions are informed by the recommendations of an independent inspector (appointed by Council).</p> <p>Given the limited number of DEFA applications forming new committee would be an inefficient use of resources. If a proposal was in a Local Authority Area (or near to one) then that LA could be considered conflicted, so the issue may actually be increased rather than resolved.</p>	None
Scope		
<ul style="list-style-type: none"> Lack of evidence/examples of minor applications Should define "minor" and only use new system for those applications Allow inspector to decide if can be determined by PC or needs to go to Council? 	The consultation document stated, <i>"Currently all applications made by DEFA or where DEFA has an interest (e.g. is the landowner) must be determined by the Council of Ministers, following a review by an Inspector (using either written representations of an inquiry meeting). Whilst it is appropriate that there are safeguards in place where DEFA is the applicant, this process has resulted in very minor proposals receiving a high level of scrutiny with the accompanying cost implications"</i> .	None

Point Raised – Question 5	Response	Recommended Change
	<p><i>Example of recent application - 22/00626/B - Installation of replacement windows, balcony and roof with associated works - The Swiss House Glen Helen (no objections)</i></p> <p>Referring all items to the inspector for them to screen some out is an additional and unnecessary step.</p> <p>The proposal is that all DEFA applications (unless called in under General Importance Provisions – see below) are determined by Planning Committee and all appeals determined by Council. Thus the occurrence of an appeal is the differentiating factor that involves Council rather than the size of the application. However, this also means that (as is the case for any applications) DEFA applications which met the relevant thresholds would need to be referred to Council under the General Importance provisions for Council to determine whether they should determine (Call In) the application. This would therefore mean a consistent mechanism that allowed DEFA applications of sufficient significant to still be determined by the Council of Ministers.</p>	
Other Matters		
Appeal minutes can be inaccurate	The Inspector does not take minutes, nor are they required to. They take notes and produce a report. Any concerns with individual reports is outside the scope of this consultation.	None
Concerns non-DEFA Council Members lack of planning knowledge	Ministers are not required to be technical experts - that is the role of Officers and the Inspectors who provide support (and in the case of the Inspector's a report and recommendations).	None
General Points Raised Previously (In Question 1&2)		
<ul style="list-style-type: none"> • Insufficient Scrutiny • Concerns about immigration 	See previous responses	None

Question 6: Do you think the proposed amendments set out in the draft orders will achieve the intended outcomes set out above?

Point Raised – Question 6	Response	Recommended Change
Overall Approach		
Determination by Council should always follow review by Inspector	Noted	None

Point Raised – Question 6	Response	Recommended Change
None of the options are appropriate	Noted	None
Use of inspector is important	Noted	None
Will interested parties be able to appeal the decision?	Yes – appeal triggers etc. will function as for applications by anyone else.	None
Conflicts of Interest		
Council should not determine applications (concerns with Council meeting process e.g. not public/minutes not published) - support more use of Planning Committee, but DEFA members should abstain from such applications (e.g. if the chair).	DEFA Minister would need to abstain from Council determination of DEFA application. There are existing mechanisms for Council members to abstain. The process for Council meetings are outside the scope of this consultation.	None
Conflicts of Interest - committee of laypeople from Local Authorities should determine	See response in question 5	None
Scope		
Objects - other than for "very minor" should be no change	See response in question 5	None
Other Matters		
Appeal minutes can be inaccurate	See response in question 5	
Planning Committee Members and Inspectors should be appointed by Isle of Man Appointments Commission not Council	Planning Committee is appointed under the Planning Committee Constitution Order which is made by Council and outside the scope of this consultation. The DPO defines "planning inspector" as, "a person whose name appears on a list approved for the purposes of this Order by the Council of Ministers", however the scope of the current review does not include Planning Inspector appointment and so no change is proposed.	None
General Points Raised Previously (In Question 1&2)		
<ul style="list-style-type: none"> Concerns about immigration Concerns about staff attitudes Insufficient Scrutiny 	See previous responses	None

AREA 4 - MINOR CHANGE APPLICATIONS

Question 7: Do you think the intended outcomes described are appropriate?

Point Raised – Question 7	Response	Recommended Change
Overall Approach		
<ul style="list-style-type: none"> Costs for householders trying to implement environmental projects should be free Supported - in particular for low carbon technologies needing MCH Support - reduced administrative burden 	Noted	None
Lack of examples	There are a number of alternatives to fossil fuels boilers, including solar panels and heat pumps, although what is appropriate for any given property and what might be acceptable as a Minor Change Application will depend on the individual circumstances.	None
Scope		
<ul style="list-style-type: none"> Potential for abuse Should allow multiple minor change applications Support as long as "minor" is clearly defined and stuck to 	These three comments although two seek for more control and one for less are about the same issue – the balance between having sufficient flexibility in the system for the proposals to allow changes in some circumstances whilst also having sufficient safeguards. Allowing one 'normal' Minor Change and an extra one for removing Fossil Fuel Boilers form plans is considered to strike that balance (together with the other provisions).	None
Other Matters		
Objects to changes re: fossil fuel boilers	Changes from the Climate Change Act are outside the scope of this consultation	None
General Points Raised Previously (In Question 1&2)		
<ul style="list-style-type: none"> Concerns about immigration Insufficient Scrutiny 	See previous responses	None

Question 8: Do you think the proposed amendments set out in the draft orders will achieve the intended outcomes set out above?

Point Raised – Question 8	Response	Recommended Change
Overall Approach		
Lack of examples	See response to question 7	None

Point Raised – Question 8	Response	Recommended Change
Scope		
Potential for abuse Support as long as "minor" is clearly defined and stuck to	See response to question 7	None
Concerns about allowing small increases to floor area - could it be abused?	<p>Proposal is to add the underlined words to the condition that Minor Change Applications cannot, "...increase the net external footprint of a building for which planning approval has been granted, <u>where this would — (aa) increase the total floor plan by more than 5%; or (bb) result in any part of the development being located closer to the curtilage of an adjacent dwelling</u>".</p> <p>It is considered that the % and the closeness test together provide sufficient safeguard.</p>	None
Other Matters		
Requirements for low carbon technology about money not the environment	Changes from the Climate Change Act are outside the scope of this consultation	None
General Points Raised Previously (In Question 1&2)		
Concerns about immigration Insufficient Scrutiny	See previous responses	None

AREA 5 - CLIMATE CHANGE POLICIES

Question 9: Do you think the intended outcomes described are appropriate?

Point Raised – Question 9	Response	Recommended Change
Overall Approach		
<ul style="list-style-type: none"> • Agree need to reduce bureaucracy • Sensible as long as corner are not cut • Support - less burden for both homeowners and the Department 	Noted	None
Scope		
Why does climate change give latitude to increasing exemptions such as demolition of buildings?	Separate work is ongoing to review the definition of development (as part of the Act) which includes making demolitions require planning approval in most instances. The provisions in the Climate Change Act that are relevant for this consultation are those that set out information requirement for planning applications.	None
Climate Change policies should apply to changes of use	It is not clear the basis of the comment, but as a Change of Use application cannot include material physical works (and nor can these be conditioned) it is considered that there is limited scope for applying the climate change policies in many instances. Not having changes of use listed in the Order does not preclude the Case Officer asking for more information on a case by case basis however.	None
Concerned this is about allowing windfarms	Proposal does not relate to the acceptability or otherwise of windfarms which is outside the scope of this consultation	None
Concerns around complexity/costs of climate change policies and questions level of benefit vs cost	Noted – the proposed approach is to make the existing provisions within the Act more targeted and so to reduce unnecessary complexity and cost and focus it where there is most benefit.	None
<ul style="list-style-type: none"> • Not fair to require statements until there are clear Strategic Plan policies and guidance • The 6 climate change provisions in the Act need better explanation • New technology on existing buildings should be embraced but only with owner agreement (not forced on them) • Use of energy saving to justify demolitions is a concern 	Schedule 1 Article 8 sets out that the requirements for information to only apply if an when there adopted policies. It is for those policies (it the Strategic Plan or a National Policy Directive) to set out the detail of the 6 climate change policy areas and what the requirements will be.	None
Other Matters		
<ul style="list-style-type: none"> • Changes within IOM won't have global impact 	Overall approach to Climate Change, including the Act and Action Plan are outside the scope of this consultation, which focuses only on the element of the Climate	None

Point Raised – Question 9	Response	Recommended Change
<ul style="list-style-type: none"> Disagrees with focus given to the "climate scam" Lack of scientific data on climate change 	Change Act that amends the DPO and sets out alternative provisions that would supersede that element.	
<ul style="list-style-type: none"> Lack of staff resources Reliance on other professions and legislation - how assessed/enforced? Building Control should be involved and more rigorous Drainage should be better considered with BC involvement and consideration of impact on adjacent landowners Should be joined up thinking with BC and Highways 	Noted - A separate element of the Built Environment Reform Programme is to map out the processes and resources (including staffing) that will be needed to map out the climate change policies.	None
General Points Raised Previously (In Question 1&2)		
<ul style="list-style-type: none"> Concerns about immigration Insufficient Scrutiny 	See previous responses	None

Question 10: Do you think the proposed amendments set out in the draft orders will achieve the intended outcomes set out above?

Point Raised – Question 10	Response	Recommended Change
Overall Approach		
Concerns about bureaucracy	Noted – proposals are to reduce this.	None
Scope		
<ul style="list-style-type: none"> Any 'minor' exemptions should NOT include proposed, "(d) extensions or alterations of existing buildings" or "(e) erection or demolition of outbuildings within a domestic curtilage" Major home redevelopment/re-construction should have info from suppliers on carbon footprint so they can work out how to mitigate it Place limit on size of buildings for exemptions given potential to impact on biodiversity 	Inclusion within the order would mean that such proposals required the information in all cases, but there exemption from the order does not preclude the requesting of this information on a case by case basis, for example unusually large proposals.	None

Point Raised – Question 10	Response	Recommended Change
<ul style="list-style-type: none"> Seeks reassurance that developers can't leave a corner of an old building to claim it's an extension and get around the requirements 		
Climate Change policies should apply to changes of use	See Responses to Question 9	None
Other Matters		
<ul style="list-style-type: none"> Unenforceable 	Wider elements of the planning process – for example use of conditions, S.13 agreements and the enforcement process are outside the scope of this process. See response to question 9 on other work on implementation of climate change policies.	None
<ul style="list-style-type: none"> Disagrees with focus given to the "climate scam" Building Control should be involved and more rigorous Drainage should be better considered with BC involvement and consideration of impact on adjacent landowners Should be joined up thinking with BC and Highways 	See Responses to Question 9	None
General Points Raised Previously (In Question 1&2)		
<ul style="list-style-type: none"> Concerns about immigration Insufficient Scrutiny 	See previous responses	None

AREA 6 - PLANNING APPLICATION FEES

Question 11: Do you have any comments in relation to the proposed fee changes?

Point Raised – Question 11	Response	Recommended Change
Overall Approach		
<ul style="list-style-type: none"> Seem fair Makes sense Free MCH as a result of Fossil Fuel ban supported 	Noted	None
<ul style="list-style-type: none"> Fees increase only justified if service efficient - but non eco friendly buildings approved, drainage issues ignore and waived through by Building Control 	The consideration of drainage and role of building control are outside the scope of this consultation.	None
<ul style="list-style-type: none"> Fees should not increase Will increasing fees undermine attempts to encourage development? Reduced fee for householders to encourage works Increases should be in line with inflation Only inflation for relevant costs to determining applications (i.e. wages) should be factored into fee increases Concerns of impacts of fees on those with lower incomes 	Planning fees are only one of the costs involved in submitting a planning application, with architect fees, technical studies etc. also being relevant. Of course a wider project also has wider costs (land acquisition, materials, labour, finance etc.). The existing planning fees are relatively modest (especially when compared with the UK) and as such it is not considered that a reduction in fees would materially boost the economy, conversely having more resource to provide a faster planning service and quicker decisions appears to be something which the industry feels is important.	None
Detailed Comments		
Fees should be commensurate with the application	Noted – this is the approach being proposed.	None
Case officer amendments should always be free	Noted – this is the approach being proposed.	None
If you are doing away with separate Registered Building Consents, you should probably be amending Clause 8 (b)	Noted, but the timing of the changes to the DPO/Fees is likely to be in force several months before changes to the Act.	None (at this stage)
There should be a refund of inquiry cost (not just appeal fee) if successful.	The separate inquiry fee reflects the additional resource and work required for an inquiry – which is incurred irrespective of the outcome.	None
Other Matters		
DOI Highways considering cost recovery options. Estimate spends approximately £150,000-250,000 per year providing the highway development control	There are a number of Departments and organisations that are afforded the opportunity to engage in the planning process. This enables them to influence development in light of their relative goals/functions and also to avoid issues which	None.

Point Raised – Question 11	Response	Recommended Change
function Would like the planning application fees increased, or a proportion for each planning application fee proposed, to cover the highway development control function each year (for example charge an extra £10 on every application).	may create more work later on. As DOI has responsibility for highways, influencing where, what and how built development takes place is an important opportunity for DOI to meet their own areas of responsibility/focus. Therefore commenting on planning applications should not be regarded as a cost paid to assist DEFA but an opportunity provided by DEFA for DOI to more effectively deliver their responsibilities and areas of focus.	
Disagrees with changes re: boilers	Noted – outside the scope of this consultation	None
Government is not fit for purpose	Noted – not clear what change to the fees is being suggested by this comment.	None
RB is planning's only control on internal layout/building use so how can it regulate fossil fuel use - matter for Building Regs?	Yes this is an element for Building Regs, but where the heating/energy system used has an impact on external appearance (for example solar panels, flues etc.) then that is a planning matter as it could constitute development/material alterations to a building.	None

AREA 7 - OTHER CHANGES

Question 12: Do you think the proposed other changes are appropriate?

Point Raised – Question 11	Response	Recommended Change
Overall Approach		
<ul style="list-style-type: none"> Streamlining must not reduce effectiveness Transparency and accountability should be given more important 	Noted	None
<ul style="list-style-type: none"> Concerns in impacts of removing timescales - will smaller applications be quicker and larger take much longer? Could applications be delayed indefinitely? Customer Charter should be independently controlled Proposals on timescales unclear Should be statutory time-limits Will appeal against non-determination still be allowed? 	Timescales will still be set out – in the Published and reported on Customer Care Charter, which can then be updated more responsively than legislation. However the fall-back position afforded by the ability to appeal against non-determination will remain within the order. The current Charter has been approved by the DEFA Minister who has responsibility for the running of the department, as is the case for Government Departments.	None
Decisions are rushed and then overturned on appeal	Noted – appears to be an operational concern rather than to do with the legislation.	None
Clarity is important for approvals in principle	Noted	None
<ul style="list-style-type: none"> Proposals re: identifying and notifying landowners should be strengthened Supports changes, especially bullet point (ii) (notice to landowners) which is certainly pertinent – but only if the planning application is correct; not misleading & complete & honest 	Noted. Proposals do increase requirements in terms of notifying owners, the Statement of Ownership caused issues where there was a dispute as it is not the role of planning to mediate boundary disputes and, as planning runs with the land, ownership is not a material consideration.	None
<ul style="list-style-type: none"> Should have been individual questions 	Noted – will be considered for future consultations	None
Points Raised Outside Scope of consultation and/or raised in response to previous questions		
<ul style="list-style-type: none"> Concern on material changes by approval of detail by conditions Appeals should be determined by inspectors not DEFA Concerns about immigration Concerns over bureaucracy 	Noted	None

Point Raised – Question 11	Response	Recommended Change
<ul style="list-style-type: none"> No experience or examples provided in relation to proposals Should not be able to apply for planning on land you don't own Should not rely on site notice for neighbours 		

Question 13: Do you have any other comments?

Point Raised – Question 11	Response	Recommended Change
General Points		
Given BERP Aims P.3/O.1 the proposals made do meet what was intended in several respects but further consideration is required.	Noted	None
Creating more work not less	Noted	None
<ul style="list-style-type: none"> Concern about amount of regulations Concern on presentation of Keeling Documents 	The planning legislation is quite complex in that there is the act and then a number of regulations and orders made under different parts of it (regulations and orders have to be separate) and some of these are made by DEFA and some by CABO (so again have to be separate). Much of the legislation has been made and subsequently amended, and although keeling documents are provided it is acknowledged that legislation can be difficult to read. Work will be undertaken as part of the wider project to ensure there is accessible information/guidance on the website. However, the effect of the regulation in terms of requirements is being reviewed and where possible streamlined through the BERP project, for example the proposals within the DPO to take a more targeted approach to climate change.	None
Issues should not be dealt with in bulk in consultations	Noted – will be considered for future consultations	None
Changes most likely to affect those who have no recourse to the courts due to costs.	Noted – access to the courts is outside the scope of the consultation. Steps have been taken to facilitate engagement in the planning process, in particular prior to the decision being made.	None
Changes not needed - treat each case on its merits	Noted	None

Point Raised – Question 11	Response	Recommended Change
Speed up decisions	This is one of the aims of the programme and has informed the proposed changes to the DPO.	None
Detailed Points		
Object to appeal right being reserved solely for applicant	Appeals by other parties are provided for – see Questions 1 and 2.	None
Strengthen proposed section 7(3)a(iii) (ownership) if cannot prove they have notified the owner application should not be allowed to progress. Statement of Ownership should be reinstated.	Proposals do increase requirements in terms of notifying owners, the Statement of Ownership caused issues where there was a dispute as it is not the role of planning to mediate boundary disputes and, as planning runs with the land, ownership is not a material consideration.	None
There should not be any short cuts on assessments on the impact on the environment, wildlife and trees and traffic.	Noted – it is important that the planning process is proportionate, makes best use of finite resources and interfaces but does not duplicate other processes/legislation. The proposed order tries to strike this balance in relation to the Climate Change elements.	None
We would support the proposed change to 9(2)(b) - inclusion of reasons for approval (as well as for refusal).	Noted	None
Any planning application which is inaccurate, misleading or incomplete should/must be re-submitted with an extra fee.	If an application is incomplete an Article 5 Direction can be submitted requiring the information within a set time and if not received the application can be treated as withdrawn. If amendments/additional are provided to correct mistakes/omissions then a fee is applicable – the lesser of £210 or 50% the application fee. The fee is currently £90. The fee will not apply if amendments are made following negotiations with the case officer to improve a scheme.	None
Wider Points Raised		
Increase enforcement (inc. fines) especially re: plan deviations and demolitions	Noted – outside scope	
Increase Permitted Development	Noted – outside scope (although review of PD forms separate workstream in BERP)	None
Planning should have regard to easements and covenants - applications not determined until appeal and civil case heard	These are not material considerations, and the approval of a planning application does not overrule property rights etc.	None

Point Raised – Question 11	Response	Recommended Change
Planning should take into account the Strategic Plan and not narrow planning considerations	Planning must take into account all material considerations – which can include the Island Plan, Economic Strategy etc.	None
<ul style="list-style-type: none"> • Should be a presumption in favour of development of brownfield sites • Support the development of Brownfield sites and notes challenges of these - requirements therefore need to be considered and innovation support and more work is required on this. 	Noted – outside scope – matter for Strategic Plan review.	None
Seeks information of when there will be public consultation on the other elements of BERP, for example Town Centre First.	Noted. The DEFA lead actions of the project include various items of legislation which have and will be consulted on. The CABO and DfE lead actions (which include the Town Centre First Work) and so if, how and when consultation takes place is a matter for those Department.	None
Support for increase in housing provision and streamlining of process, as long as there is planning control in relation to the quality of the homes being built.	Noted – design policies etc. a matter for policy not this consultation.	None
The 3 minute speaking should be longer.	Noted - The Planning Committee public speaking provisions are made in the Standing Orders, made in accordance with the PC Constitution Order. Therefore this is outside the scope of the current consultation.	None
Appeal Committee needs training	There is not an appeal committee. The Planning Committee receives training and also officers are there to not only present applications but provide procedural advice. Appeals are heard by a suitably qualified and experienced inspector who makes a recommendation to the decision maker (either a Minister or Council).	None
Brownfield/Greenfield decisions should be transparent	Whether not a site is previously developed land is a material consideration, but the way in which an application is determined does not change.	None
Points Raised Previously		
<ul style="list-style-type: none"> • Concerns around windfarms • Data suggests limited number of 3rd party appeals, but they are a democratic right and should be kept • DEFA shouldn't decide who has right to appeal and objects to this change 	Noted – outside scope	

Point Raised – Question 11	Response	Recommended Change
<ul style="list-style-type: none"> • Changes within IOM won't have global impact in terms of climate change • Link planning and building control • Retrospective planning applications should be carefully scrutinised before being simply waived through by building control • More professional staff required • Neighbours should have more opportunity to raise objections • Set time frame for applications • Should be support for Interested Persons where applicant is major developer 		