The Department of Environment, Food and Agriculture

Isle of Man Government

Reiltys Ellan Vannin

Consultation Summary & Department Responses

Definition of Development Order &
Registered Building Regulations

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Definition of Development Order & Registered Building Regulations - Consultation Results

We Asked - 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"). To implement these changes secondary legislation will be required including a Definitions of Development Order and updated Registered Building Regulations. Consultation was undertaken on drafts of these items of secondary legislation.

Public Consultation ran from 30.07.24 to 23.10.24. 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 List and a news release.

You Said – There were 31 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. Responses to each question and general points raised are set out in appendix 1. Appendix 2 contains some of the more detailed/technical comments and responses to these.

Appendix 1 – Overall Consultation Results

General Comments

- Add - Forestry/Woodland and Creation and hardcoring of forestry tracks by DEFA. With current climate for planting trees there needs to be more control on DEFA operations as well as private operations - 1
- Add - Installation of flood defences in rivers can have impacts - should be up to Planning to define what is development not FRMA - 1
- Add - Retaining walls (not just left to Building Regs) – 1
- Note further detail to follow and understand resource constraints but concern detail needs sufficient scrutiny – 1
- These draft Regulations/Order, and in general terms view them as making a positive contribution to the Island's built environment - 1

Question 1: Do you think the proposals are broadly appropriate in relation to the Removal and Replacement of Chimneys?

27 responses – 21 Yes and 6 No. Detailed comments included:

- Allow Removal - 3
- Protected Species Impact /Biodiversity Net Gain Requirement – 1
- Comments around definitions, "like for like" etc. – 2
- Ownership Issues – 1
- Require Officer Judgement – 1
- Wood Burners - 1

No relevant comments – 21 (out of 31)

Queston 2: Do you think the proposals are broadly appropriate in relation to Domestic Hardstandings?

29 responses – 22 Yes and 7 No. Detailed comments included:

- Impact on highways – 1
- Parking - 2
- Amenity – 1
- Loss of Habitat or Biodiversity Net Gain Requirement – 2
- Character – 2
- Electric Vehicle Charging – 1
- Calculation/Enforcement/Process comments – 3
- Flooding/Drainage Issues – 3

No relevant comments – 20 (out of 31)

Question 3: Do you think the proposals are broadly appropriate in relation to the Painting of the exterior of buildings?

28 responses – 25 Yes and 3 No. Detailed comments included:

- Also allow for Three Legs of Man and Outline of Island - 1
- Bureaucracy – 1
- Expression – 1
- General Pallete – 3
- Insulation works – 1
- Maintenance – 1
- Names/Nos should have height limit – 1
- Officer Judgement - 1

No relevant comments – 22 (out of 31)

Question 4: Do you think the proposals are broadly appropriate in relation to the Demolition of smaller buildings?

28 responses – 22 Yes and 6 No. Detailed comments included:

- Add definition of commencement as more of an issue than the things referred to in the new definitions – 1
- Split conditions into pre- and post commencement - 1
- All Demolition should require approval – 1
- Assessment of buildings for registration not complete
- Attached Neigbouring Properties – 1
- Boundary Features – 1
- Deliberate Neglect – 2
- Demo in CA already controlled under RB/CA, therefore Demolition of a free-standing structure should not require need planning approval – 1
- Depends on criteria/details – 1
- Historic Interest – 4
- Process Issues - 2
- Understand benefits for replacement houses in countryside re: commencement – 1
- What is 50 cubic metres based on – 1
- Wildlife – 1

No relevant comments – 20 (out of 31)

Question 5: Do you think the proposals are broadly appropriate in relation to the registration process?

27 responses – 22 Yes and 5 No. Detailed comments included:

- Process – 1
- Owner notifications – 1
- Older Buildings not suitable for conversion – 1
- Dilapidated Buildings – 1
- Engagement with owners prior to registration – 1
- Lack of accurate assessment of existing building stock – 1
- Lack of meanginful changes – 1
- Local vernacular architecture should be valued more – 1
- Maintenance Requirements - 1
- What is minimum period for re-applying for a building to be registered? (knowledge and registration criteria can change over time) – 1
- Purchase Notices - 1
- Resources – 1
- Support creation of a mechanism for the Department to amend an entry in the Protected Buildings Register - 1
- One Response made a number of details comments about various provisions – this input is welcomed and reflected in appendix 2

No relevant comments – 21 (out of 31)

Question 6: Do you think the proposals are broadly appropriate in relation to the process for making an application to do works to a Registered Building?

26 responses – 22 Yes and 4 No. Detailed comments included:

- Complexity - 1
- High Appeal Costs – 1
- Should not be any charges - 1
- Too much control - 1

No relevant comments – 27 (out of 31)

Appendix 2: Detailed/technical comments and responses

Where a response may result in a change it is highlighted

Comment	Response
General	
These draft Regulations/Order, and in general terms view them as making a positive contribution to the Island's built environment.	Noted
Note further detail to follow and understand resource constraints but concern detail needs sufficient scrutiny	Consultation stated, "The draft order and regulations are not in final form and are intended to illustrate DEFA's proposed policy but may be subject to change as further work is carried out". It is clear what further detail is being referred to.
Arbory and Rushen Parish Commissioners provided a document stating, "Find attached the Commissioners previously submitted views which relate to the above mentioned planning consultation". Comments included: • It seems counterintuitive to bring into the definition of planning things like external painting of buildings and hard surfacing of gardens so that they can then be excluded from planning through a Permitted Development Order. The Commissioners recognise that there are occasions when confusion exists however, and so support the proposed amendments. • The Commissioners are supportive of these proposals which allow a more pragmatic approach to be taken to Registrations for historic buildings. The Commissioners seek assurance that these proposals will not weaken protections given to historic buildings and suggest that a review be undertaken in perhaps five years' time to ensure the new process is working as intended.	Noted – previous comments were considered in progressing the Bill and developing the draft secondary legislation. It is agreed that the effectiveness of the new legislation should be monitored.
Add - Forestry/Woodland and Creation and hardcoring of forestry tracks by DEFA. With current climate for planting trees there needs to be more control on DEFA operations as well as private operations.	The Act indicates development excludes, "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". Works to create tracks etc. covered by Permitted Development Order review of this was a separate workstream (CABO function).
Add - Installation of flood defences in rivers can have impacts - should be up to Planning to define what is development not FRMA.	Proposed changes to act focus on routine works/maintenance. Works to install defences covered by Permitted Development Order – review of this was a separate workstream (CABO function). Review of the FRMA is outside the scope of this project.
Add - retaining walls (not just left to Building Regs)	Construction of walls is capable of being development, but may be Permitted Development (depending on details). Review of

Comment	Response
	Permitted Development has been undertake as a separate workstream (CABO function).
Question 1. Do you think the proposals are broadly appropriate in relation to the Removal and Replacement of Chimneys?	
Repairs / like for like wording should clarify that like for like means both shape and materials, and needs to be consideration to a 1920 cut-off for what is considered development and not development.	Assumes this refers to consultation document, *"…it is proposed that provision be made to clarify that the removal and replacement of chimneys is not development 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".* Wording in the Order itself is, *"The removal and replacement of a chimney provided that the replacement chimney is externally similar in size, shape, external treatment material and colour to the chimney being replaced".* Given the above, it is not considered that a pre-1920 cut off is required. Wording in the Bill clarifies that building operations includes, *"repairs to buildings and rebuilding"* but the existing wording is retained that development excludes, *"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…".* In applying this, regard is had to case law (including from UK).
Comments included: • Chimney, flue and chimney pot need to be defined and "Similar" should be "same" (to avoid stumping of chimneys and installation of small caps/pots or removal of pots altogether). • Chimney pots should be like for like in shape and size or suit the character of the house where they previously had been removed	The comments are noted and it is considered that this wording could be reviewed and clarified.
Comments included: • Zone important areas, elsewhere doesn't matter • People should be free to remove chimneys unless the property is registered as of historical or cultural interest.	Chimneys can often make a contribution to the streetscene in many areas, including but not limited to Registered Buildings/Conservation Areas. If something is development, it may still be Permitted Development (separate review ongoing by CABO) in some instances. And if a planning application is required, 90%

Comment	Response
• Given the move away from fossil fuels and to improve the thermal performance of buildings it would seem sensible to support the removal of redundant chimneys and indeed encourage this where they lead to heat loss and further expense. Insisting on a "mock" chimney or the reconstruction of unnecessary chimneys is against the government's waste reduction aims and is unnecessary cost. I would therefore suggest that the removal of unnecessary chimneys be allowed on all buildings other than those specifically requiring preservation orders etc.	are approved. Therefore the DDO, together with other mechanisms, forms part of a balanced approach to protecting streetscene/amenity whilst not unduly restricting building owners from carrying out works.
Concerns about wood burners being installed without neighbour involvement.	Planning focuses to a large extent on the outside of buildings, so what type of apparatus is connected to the chimney is to some extent out of scope. In terms of new flues/chimneys that would be development (although may be Permitted Development in some cases).
Chimneys often support protected nesting birds and bats, especially where the chimney joins with the main building. Proposal would likely result in uncontrolled Biodiversity Net Loss without adequate safeguards. Such safeguards could include the proposed permitted development only if Biodiversity Net Gain measures are included (in accordance with the Climate Change Act 2021) such as the provision of Universal Nest Bricks in all new replacement and false chimneys.	Given the scale/nature of the proposal is not considered reasonable or proportionate to add the Biodiversity Net Gain provisions suggested. Impacts on protected species are also controlled under the Wildlife Act.
2. Do you think the proposals are broadly appropriate in relation to Domestic Hardstandings?	
Drainage concerns/comments: • Concerns on cumulative impact of hardstandings on flooding issues • Should meet SuDS requirements and be installed by competent contractor • Proposals would increased surface water flooding and increased construction-related carbon emissions. • Should be permeable in all cases	Currently, like painting, hardstanding it is not explicitly referenced but "engineering operations" are – so if it's large enough then it can be development and this require case-by-case judgement. On the IOM there is desire in some areas for removal of boundary walls and surfacing of front gardens for parking, which can sometimes create issues in terms of drainage, streetscene, amenity etc. (and in some cases end up simply replacing on-street parking so has no net-increase in parking provision) and can create enforcement complaints. There are policies around when this is and isn't acceptable but to implement those policies the works have to require planning approval. So the approach is to make "hardstanding" development and then through the definition of development order to exclude it unless it exceed various parameters, which were set out in the draft Definitions of Development Order (DDO) we consulted on. The approach tries to strike a balance between unnecessary restrictions and ensuring sufficient control. Given restrictions on
Parking comments on encouraging off road parking and creation of suitable spaces to charge electric vehicles (without cables across pavements that are already becoming an increasing harzard) needs consideration. Concerns on parking of large vehicles near to neighbouring windows	
Character concerns on: - loss of character (demolition of walls and gateways for parking) - Needs aesthetically consideration in each case though - Proposals could result in the uncontrolled paving of large areas of both front and back gardens of whole streets	
Wildlife concerns on: - potential loss of small green areas - as a biosphere should not be making it easier to remove gardens and planted areas	

Comment	Response
- proposals could lead to uncontrolled Biodiversity Net Loss without any adequate safeguards, when the Island is aiming for Biodiversity Net Gain (in accordance with the Climate Change Act 2021)	size/amount of garden it is not anticipated impacts on would be problematic (and in any case works which do cause these issues may be possible presently in some cases without planning control, so the situation is not made worse). In developing the approach, regard has been given to the approach in England (which as itself informed by the Pitt Review). Demolition of walls would be a separate matter (see separate proposal within DDO and note is being considered in CABO PDO review also). In light of the consultation results and discussion since the consultation it is felt appropriate to amend Definition of Domestic Hardstanding to clarify that the measures relate to "hardstanding" (i.e. for vehicles), noting this may be more focused than "hardsurfacing". The focus on hardstanding (rather than hard surfacing) means some issues (such as rear patios) are outside the scope of this workstream.
DOI (Highways Services) raised concerns around increases to ground levels and unintended impacts on visibility, and also whether it would result in new hard-standings with no access an requests/pressure for new accesses once work is done. Further to discussion on 18.09.24, suggested wording was provided: 4 Definition of development – (3) (a) 'where the domestic hardstanding meets the highway, no part of the top surface is more than 0.1 metres above the existing ground level at any point within the development land before the operations and must meet the highway at the existing ground level;' 4 Definition of development – (3) (c) 'if the domestic hardstanding is situated on land between a wall forming any elevation of a building and a highway, the domestic hardstanding is – (i) no bigger than 5 square metres or 51% of that land; or'	It is considered that the potential height increase for hardstanding provided for in Article 4(3)(a) should be re-considered in light of these comments. In relation to Article 4(3)(b) the 5 square metre threshold does not limit the size of the hardstanding, just controls how it is to be drained or constructed if over that size (to avoid drainage issues). In relation to Article 4(3)(c) the restriction on hardstandings at the front being 51% of the garden or no bigger than existing ties back to the Residential Design Guide and wider policies around streetscene/residential amenity. 51% of the land between the principal elevation and the highway is considered to be clear and calculable (and is similar to provisions in the recently approved IOM PDO and also existing PDOs in other jurisdictions). From a resource/enforcement perspective, the Department already receives a number of queries and requests to investigate in relation
Concerns over unnecessary bureaucracy and practicality – • 5sqm seems very small • Calculation of 51% of front garden open to interpretation • Enforcement concerns?	

Comment	Response
	to domestic hardstandings and the changes are proposed to help deal with/avoid these.
Many houses front away from roads or at angles so to control surface water drainage wording should relate to frontage or adjacent to a public highway rather than front garden.	Consider amending wording in DDO to include "side" as well as principal.
3. Do you think the proposals are broadly appropriate in relation to the Painting of the exterior of buildings?	
Concerns around bureaucracy, fees and paperwork	The proposals do not seek to increase the number of times when an application would be required. Currently painting does constitute development in some instances, but it is not clear and so time/resources are spent considering this. If an application is needed. The proposed changes would make it clear when an application was needed and hence streamline the current process.
Comments included: • Only works in Conservation Areas should be controlled • Should be a general pallete of colours in some areas (e.g. Conservation Areas) • Should be pragmatic • Should allow for expressions (superb and brave examples in Ramsey) • Should allow for traditional Manx motifs such as the Three Legs of Man and the geographic outline of the Isle of Man • Minimal levels of upkeep worth considering	Controls are reduced outside of Conservation Areas, but in the absence of complete Conservation Area Appraisal Coverage, having area specific provisions is not practical in all cases. Consideration was given to an approach whereby there is less flexibility in Conservation Areas in terms of the Definition of Development, noting that this would not preclude the Conservation Area Management Plan process (Section 18(5) of the Act) to include things like colour palletes and be implemented via geographically specific Permitted Development Orders. However, given the overall drive behind the BERP to increase efficiency and the amount of time/resource such an approach would take, the likely impact, at least in the short-medium term, would be a significant increase in planning applications. However, to 'future-proof' the provisions reference could be added that where proposals have been published by the Cabinet Office under Section 18(5) of the TCPA and those proposals make specific reference to the Definition of Development Order and include a palette of colours that only painting that matches that palette is excluded from development. The proposals set out a clear position, but if proposals are made which do require an application then these may still be approved

Comment	Response
	(90% of applications are approved). Maintenance would be a matter for the homeowner.
Insulation works of walls and roofs also be included	Insulation works are outside the scope of this (but see separate review of Permitted Development).
Should be a limit that house names numbers must be not more than 2 metres above ground level	This seems unnecessary control, given other safeguards.
4. Do you think the proposals are broadly appropriate in relation to the Demolition of smaller buildings?	
Concerns re: potential damage to attached neighbouring properties	This would be a civil matter (potentially Building Control in some instances).
Concerns re: • Wildlife impacts for older structures • Potential for damage to boundary hedges etc.	Matters covered under the Wildlife Act in relation to protected species.
All demolition on the Island should be subject to planning permission- especially demolition which results from neglect. Some small old buildings are valuable for example agricultural buildings and in vernacular architecture. Modern small additions (post Victorian) can be accepted	Currently the complete demolition of a stand-alone building does not require planning approval, although any demolitions in Conservation Areas do require consent as if they were a Registered Building. The Built Environment Reform Programme, Objective 1: "Develop faster and more proportionate planning process" has an action to, "Carry out targeted amendments to Planning Legislation to increase the small scale/ routine activity that can be undertaken without a planning application". The proposals are intended to extend protection to stand-alone buildings outside of CAs whilst at the same time reducing unnecessary protection within CAs as part of a wider approach to ensure a proportionate planning system.
Proposals would be broadly appropriate if the Island had a completed Protected Buildings Register, however at present many smaller buildings exists which are of historic and/or architectural note which are not registered, and could be threatened by this proposal … These should all be registered before these regulations come into play, as although they are no currently protected, there would be a renewed focus on the ability to demolish small buildings.	
Heritage concerns/comments in relation to size threshold: • Size of building should depend on historic/cultural interest not size about a given threshold • Concern 50sqm exception opens the way for loss of smaller historic structures - should be lower and have age cut off (e.g. post 1920 only) • Concern that 50 cu metres may include many valuable buildings in terms of their architecture, rarity • If 50 cubic metres is used it should only apply to post 1920 buildings • Size should be equivalent to what is allowed for by Permitted Development for construction of domestic buildings in the curtilage of a house i.e. 42 cubic metres (but 20 cubic metres would be preferable)	The proposals allow for removal of additional applications for demolition in CAs. Comments around conditions and definition of commencement noted but outside scope of this consultation. The use of a size threshold is a way of screening out buildings, in particular outbuildings etc. and reflects the approach taken in England https://www.gov.uk/government/publications/the-town-and-country-planning-demolition-description-of-buildings-direction-2021 In terms of threshold, it is noted that:

Comment	Response
Concerns over unnecessary bureaucracy and practicality – • Demo in CA already controlled under RB/CA • Demolition of a free-standing structure should not require need planning approval • Examples of where this is a problem? • Split conditions into pre- and post commencement • Understand benefits for replacement houses in countryside re: commencement • What is 50 cubic metres based on Add definition of commencement as more of an issue than the things referred to in the new definitions	• The demolition of a building requires a demolition notice (island wide goes to DEFA), excluding various things including a building with an external volume of less than 1,750 cubic feet (50 cubic metres) or a building used solely for agricultural operations and on agricultural land. In recent years there were an average of 30.6 per year (2019 – 2023, and with some of these relating to works which had planning approval. • The DDO as consulted on used the same size threshold (50 cubic metres), which aligns with the English threshold in terms of the definition of development, but did not include the other exceptions provided for by Building Control. • It is noted that in England the PD allows for demolition in many situations, although with some restrictions and also a requirement for Prior Approval of the condition the site is to be left in. Also excluded is buildings previously used for various things (such as certain community uses), where PD has been removed (site specific or with Article 4 direction e.g. Conservation Areas) or where EIA required. Demolition of gates, fences, walls etc. is PD only outside Conservation Areas. • It is noted that Jersey is more restrictive than England but does have provisions for domestic outbuildings. Scotland is similar to England, more permissive for non-resi uses but does have a deliberate neglect clause. • The potential for separate/future PDO is not ruled out but is outside the scope of the DDO. In the meantime the existing PDO (2025) does allow for some partial demolitions where not visible from public view and also now allow for replacement/alteration (as well as erection) of things and so in effect allows for demolition or partial demolition in some cases. • Therefore to strike a balance additional provision could be made within the DDO to more closely align with Building Control - exclude sheds, greenhouses and prefabricated garages as well as at least some agricultural buildings (although may only want to exclude prefabricated agricultural buildings). • The above change would however require additional safeguards for outbuildings within the front gardens in Conservation Areas or anywhere within the Meayll Peninsula.

Comment	Response
	• It is also considered that the restriction as consulted on of having a cumulative total of buildings which can be demolished within a single curtilage could be difficult to enforce (as what if it happened over several years) and so should be reviewed. • It is however noted that there may be very narrow and yet tall/prominent buildings (such as detached chimneys) which may fall below the 50m3 threshold, hence a height restriction may also be appropriate – noting emerging PDO Review proposals, 4 metres may be appropriate to allow for things erected under PD to be demolished under PD), although with exceptions for lamp-posts, telegraph poles and telecommunications structures. • There are also a number of technical improvements that could be made, including reviewing the definitions to add 'domestic' (as per hardstandings). It is envisaged that the overall result of the above changes will be a negligible increase in applications which would be offset by the reduction in Conservation Area Demolition applications.
Concern re: definition of curtilage and splitting sites such as farms which are divided by roads	There are limited numbers where this would be an issue, the double figure is 100m3, this only relates to the demolition of multiple small buildings (as separate safeguards apply to attached building) and on balance it is not considered that it is practicable to address this without the legislation becoming unwieldy and difficult to enforce.
Consideration should be given to a mechanism to deter 'demolition by constructive neglect' and penalties for unauthorised demolitions	Outside the scope of this consultation
Concerns over potential loss of older buildings which have been extended through provisions of PD (which allows for partial demolition).	The situation in relation to partial demolitions is no less controlled than currently (other than in situations where RB and PA is required currently, will only PA will be required) in terms of whether consent is required. Permitted Development Review and the potential provision of such consent is a separate project, so outside scope of this consultation.
Planning involving demolition should have a specific suffix	Operational Matter – outside the scope of this consultation
5. Do you think the proposals are broadly appropriate in relation to the registration process?	
No real changes going on here, just a bit of tinkering for the sake of it.	Key deliverables/material improvements are summarised in consultation document.

Comment	Response
Should be discussions with owners prior to proceeding with registration process.	The proposal to register notice is a consultation prior to a registration decision.
Registration should not be used to stop development once a site is dilapidated - should be done earlier and with upkeep requirements.	Comment is noted, as are the various comments raising concerns about deliberate neglect being used to try to justify development. A balanced approach is therefore required.
Old buildings are not suitable to convert to new regulations. If the old building needs to be demolished as no longer fit for purpose it should be demolished without permission.	There are many examples of older buildings being converted to meet modern standards (both for original and new uses).
Provisions should be made under the changes to the act to allow for Purchase Notices to be issued to the Department by property owners at the point of registration.	In England Purchase Notices relate to the purchase of properties after the refusal of a planning or Listed Building Consent application, not following a listing decision. Registration of a Building does not preclude its continued use or future development, and the majority of (free) RB consents are approved.
The Department requires more resources to complete the Register of Protected Buildings.	Noted - Outside scope of consultation
Should be more emphasis on vernacular architecture and complete assessment of existing building stock.	The proposed definition in the Act of "registered building" is, "all or part of a building of architectural or historical interest for the time being entered in the register". It is not considered that this interest needs to be further defined in the Act however the Department does recognise that vernacular architecture can be of such interest, as reflected in the principles for selection Operational Policy. Comments on assessment are noted and outside scope of consultation.
Applications for unregistered parts of a building should still be identified as an RB application or with different suffix so they can be easily identified	Outside scope of consultation – operational matter
Enforcement Powers should be stronger – including higher fines and powers in relation to deliberately neglected buildings	Outside scope of consultation
Practical issues - Ownership of a building is not material and so the decision maker should not be compromised by having that knowledge revealed to them in consideration of Registration recommendations.	It is agreed that ownership is not material to such an assessment. Arguably this is outside the scope of consultation and an operational matter, although it is also noted that in a small jurisdiction such as the Isle of Man it may be impractical (especially for more prominent buildings) and in any case property ownership is public knowledge.
Definition of Curtilage (PDO 2012) – definition excludes land severed by a service lane, should add, "or a farm lane or track separating a farmhouse from farm buildings".	See response re: similar points on question 4.

Comment	Response
Article 4 Definition of Architectural should read "Architectural (including Vernacular) and/or Historical" with the interpretation of vernacular included in that clause at the end of the Act being "Vernacular - Buildings of i.e. Manx traditional design, build and materials".	The proposed definition in the Act of "registered building" is, "all or part of a building of architectural or historical interest for the time being entered in the register". It is not considered that this interest needs to be further defined in the Act however the Department does recognise that vernacular architecture can be of such interest, as reflected in the principles for selection Operational Policy. Comments on assessment are noted and outside scope of consultation.
Article 5 - Initial decision by Director is welcomed but what safeguards prevent future Minister taking this power back?	Current delegations under the GDA are at the discretion of the Minister. It is within each Minister's gift to alter/revoke such delegations as they see fit, in accordance with the GDA and any other relevant legislation.
Article 5 - Proposal to reduce the length of Registration process is welcomed.	Noted
Article 6 - If Registration not progressed post consultation, how are owner/commenters notified?	As a matter of custom and practice the Department would write to parties and notify them of the outcome (including if the decision is made not to take forward a registration). But it is accepted that there could theoretically be an open ended period of uncertainty. It is also noted that changes to the Bill will mean that BPNs last until decision made, what is to stop proposal for registration never being determined – essentially giving permanent registration without allowing for an appeal. Regulation 18 provides for appeal against non-determination of a Registered Building applications. Similar provisions could be made within Regulation 13 (appeals against a registration decision) so that the owner could appeal if a registration decision is not made within 6 months of a notice of proposed registration decision being issued under Regulation 5 if no decision notice has been issued under Regulation 6.
Article 6 - What is minimum period for re-applying for a building to be registered? (knowledge and registration criteria can change over time)	The Department can consider the registration of a building at any time, but there is no formal process to apply to have a building registered (although input from/provision of information by interest groups is welcomed).
Article 13 - Time to appeal registration is too long, and in the meantime allows for demolition or application to alter/demolish	This issue has been addressed by changes to the Town and Country Planning Bill, so that any BPN remains in force until any appeal is determined.

Comment	Response
Article 26 – Approval of Information Required by Condition (AIRC) should include consultation with those that made comment and be recorded on the original file online.	Public consultation is not undertaken on AIRC, although input from relevant technical consultees can be sought. Recording of files is an operational matter and so outside the scope of this consultation.
6. Do you think the proposals are broadly appropriate in relation to the process for making an application to do works to a Registered Building?	
Still too complex and too reliant on long winded red tape.	Noted – proposals try to strike a balance.
Too much power in the hands of planning officers when only the rich can afford to appeal their draconian decision	Noted – to some extent outside the scope of the current consultation. However, current fees include free RB consent applications with appeal fees applying as normal, which is considered to be a balanced approach. Only officers with delegated powers can determine applications, and only when they do not hit the triggers to be referred to Planning Committee. Appeals are determined by the Minister.
Where works would not require approval and only do so because a building is registered there should be no charges imposed.	Noted – an RB application is free, there is an appeal fee but this is refunded if successful.
7. Do you think the proposals are broadly appropriate in relation to the appeals process?	
Appeal process should obtain opinions from both sides. Concerns re: development in flood plans/greenfield sites.	Appeal process allows everyone who has commented on the application to take part. For Registered Building applications, greenfield development and flooding are unlikely to be relevant.
You are judge and jury, so you are going to get your own way	Measures are in place to ensure robust decision making, including referral of some RB applications to Planning Committee and appeals being determined by Minister. To some extent this is outside the scope of the current consultation.
Planning permission has long been the super control tool of Government over the lives of people. Planning must be used over green belts but is not required as much for brown site or extensions to private property. It's the prime example of the Nanny state interfering in the trivia of human life. Especially when it's at the whim (opinion) of an over zealot official.	Noted. Registered Building consent is a targeted control where the built fabric is of particular historic importance (and so of public interest). The decision making is informed by a robust process and does not involve the personal opinions of officers. In 2024 there were 85 applications for Registered Building Consent of which 81 (95%) were approved.
More bodies should be allowed to object and give evidence at appeal	Noted – everyone is able to comment on applications (currently and not proposed to change), and proposals would allow all those who have commented to take part.
Generally support the content of the proposed Registered Building Regulations. Specifically, Appeal contributor definition and associated procedures and the focus on Inspector's qualifications or credentials.	Noted

Comment	Response
Any appeal (not just registration) relating to a Registered Building should be heard by a suitably qualified Inspector	The proposals ensure that registration decisions are heard by inspectors with specific qualifications. Where an appeal relates to an application for works to a Registered Building (noting such proposals sometimes relate to proposals which also require planning approval) it is not considered necessary to add this specific requirement given the limited number of inspectors available.
Manx legislation should follow the principles in England that the statutory consultees are not just limited to the local authority and MNH, should include statutory consultees in the same way as Circular 09/05 in England, specifies: the Ancient Monuments Society, the Council for British Archaeology, the Society for the Protection of Ancient Buildings, the Victorian Society, the Georgian Group, and the Twentieth Century Society.	Statutory consultees must be consulted on applications, but irrespective of this applications are publicised, can be commented on and comments received must be considered. The new appeal process will (aligning with the DPO) allow all those who comment to give evidence in the event of an appeal. It is also noted that Section 40(3) provides powers for CABO to designate voluntary organisations concerned with the environment and require the relevant Department to consult them in given circumstances. Therefore on balance it is not considered necessary or appropriate for the RBR to specific any voluntary groups as statutory consultees.
A suitable list of statutory consultees for the Manx situation should be included in S17(1).	
A number of other points have been raised from discussions since the consultation	
Definitions of Development Order - Concerns on unintended impacts for the curtilages of Registered Buildings (rather than the building itself) – although noting other changes within the Act to define the extent of registration, and within the Meayll Peninsula	• Add general provision that none of the DDO applies within the Meayll Peninsula (And then use same map as Schedule 3 of PDO 2025) • Amend Hardstanding and to clarify doesn't apply in the curtilage of a registered building[1].
Definitions of Development Order - Definition of Highway within Definition of Development Order and confusion about verge, footpath and public rights of way - uses the term "public right of way" in context of section 3 of the Highways Act but is not defined in the order or the Highways Act. Is this intended to catch things such as cycle-paths, footpaths and bride-paths? - The term footpath is also used – is this intended to cover footways which are different to footpaths? The Highways Act 1986 defines a "footpath" and	It is intended that public right of way includes cycle-paths, footpaths and bride-paths which are not within roads, and similarly would argue that a footway within a road is part of the highway and so covered in "highway". The definition used aligns with that in the recent PDO (2025) therefore it is not considered that an amendment is required.

[1] Similar provision not required for demolitions given Bill changes definition of a RB to include, "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" and so such demolitions would still require RB consent.

Comment	Response
"footway" is below. You would normally expect footpaths to be in the countryside; where as a "footway" is a pavement next to a carriageway. - The definition include verges. Not all verges are maintainable at the public expense under the Highways Act. A person looking at verge may not know this and therefore assume that it is part of the highway that is maintainable at the public expense under the Highways Act. The consequence is that person may then mis-interpret the application of the Order. - If this is intended to cover all the different type of highways that are treated as highway maintainable at the public expense, as listed in section 3(2) of the Highways Act the definition could be simplified to — "highway" means any highway maintainable at the public expense within the meaning of section 3 of the Highways Act 1986. "**footpath**" means a highway over which the public have a right of way on foot only; "**footway**" means a way comprised in a highway which also comprises a carriageway, being a way constructed or adapted for the use of pedestrians;	
Registered Building Regulations - 6(1)(a) deals with giving notice to owners of registration decisions, but does not deal with a situation where the Department cannot identify the owner. 5(2)(a) contains wording to address this which could be repeated in 6(1)(a).	17(5) of the Act provides a mechanism for BPNs to be served without notifying the owner (if necessary) and require the Department to, *"affix the notice conspicuously to some object on the building; and — (a) the affixing of a notice under this subsection shall be treated for all the purposes of this section as service of the notice; and (b) a notice so affixed must explain that by virtue of being so affixed it is treated as being served for those purposes".* Regulation 5(2) of the draft RB Regs pertains to Notice of proposal to register or de-register a building or amend the register and states, *"(2) The Department must give a copy of the notice referred to in paragraph (1), together with a statement that written submissions with respect to the proposal may be made to the Department as directed under paragraph (1)(b), to — (a) every owner or occupier of the building, unless the land is not registered with the land registry and the Department does not know who owns the land"*

Comment	Response
	But Reg 6(1) does not replicate this provision for Notices of registration decision. It is therefore proposed that Reg 5(2) be amended to add a requirement that if the Department does not notify the owner they must affix a notice to the site (as per s.17(5) of the Act), and to replicate this for Regulation 6(1). Regulation 10 Notice of application for registered building consent requires site notices and for the applicant, if not the owner, to give a copy to the owner unless they do not know who the owner is and the building is not registered with the land registry. There is no requirement to notify the owner per se of the decision, but if they make comment then they must be notified as must everyone who makes comments. No changes are proposed to this.