



# **Reform of the Planning System**

## **Public Consultation in relation to proposed Secondary Legislation**

**August 2019**

# Contents Page

- 1.0 INTRODUCTION**
- 2.0 THE REFORM OF THE PLANNING SYSTEM**
- 3.0 NATIONAL POLICY DIRECTIVES**
- 4.0 DEVELOPMENT PROCEDURE ORDER**
- 5.0 PLANNING COMMITTEE CONSTITUTION ORDER**

## **1.0 INTRODUCTION**

### **1.1 Purpose of this Consultation**

A [Planning Action Plan](#) was laid before Tynwald on 15<sup>th</sup> May 2018. It included a commitment to make changes to the existing Town and Country Planning Act, 1999 'the Act'. A Planning Bill has been produced and has been supported by both branches of Tynwald. It is currently awaiting Royal Assent and it is envisaged it will be brought back to Tynwald before the end of the year.

This consultation now seeks views in relation to a number of pieces of secondary legislation which are required to implement these changes:

- National Planning Policy Directives (which set out how Directives will be produced and provides the powers for them to be implemented);
- A Development Procedure Order (which sets out how planning applications and amendments to them are dealt with) and accompanying Regulations; and
- Planning Committee Constitution Order (which provides further definition regarding the status and powers of the Committee).

Work is ongoing separately in relation to the following, and these are not included within this consultation:

- Individual National Policy Directives;
- Regulations to introduce a Community Infrastructure Levy; and
- Area Plans for the East, North and West.

The Act (and the changes which will be made by the Planning Bill), split responsibility for planning functions between:

- the Council of Ministers;
- the Department of Environment, Food and Agriculture; and
- the Cabinet Office.

This consultation is therefore part of a joint project between the Department of Environment, Food and Agriculture and the Cabinet Office to take forward the Reform of the Planning System.

## 1.2 How to Comment

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

Alternatively, comments can be made by post or e-mail to:

Mr Steve Butler  
Head of Development Management  
Planning and Building Control Directorate  
Department of Environment, Food and Agriculture  
Murray House  
Mount Havelock  
Douglas  
Isle of Man IM1 2SF  
Email: [stevebutlerdefa@gov.im](mailto:stevebutlerdefa@gov.im)

**The closing date for comments is 5pm on the 15<sup>th</sup> September 2019.**

## 1.3 Next Steps

After the consultation, the results will be reviewed and any necessary amendments made to the draft legislation. It is anticipated that this consideration by Tynwald will take place before the end of 2019, noting that:

- the National Policy Directive Regulations must be approved by Tynwald;
- the Development Procedure Order must be laid before Tynwald (meaning it stands unless Tynwald overturns it) whilst the accompanying Regulations will need to be approved by Tynwald; and
- the Planning Committee Constitution Order must be laid before Tynwald (meaning it stands unless Tynwald overturns it).

A summary of responses will be published within three months of the closing date for this consultation and will be made available on the Consultation Hub, or by contacting the named officer.

## 1.4 Background Questions

**1. What is your name\*?**

**2. What is your email address\*?**

**3. Are you responding on behalf of an organisation\*?**

**Yes/No** (*please select only one item*)

**If yes, what is the name of the organisation?**

**4. May we publish your response\*?**

***Please read our Privacy Policy for more information and your rights***

Please select one of the following options:

- Publish in full – your first name and surname, organisation name, along with full answers will be published on the hub (your email will not be published)
- Publish anonymously – only your responses will be published on the hub (your name, organisation and email will not be published)
- Do not publish – nothing will be published publically on the hub (your response will only be part of a larger summary response document)

## 1.5 Storage of Personal Data

Following the publication of the consultation summary the Department will delete all personal data.

## 2.0 THE REFORM OF THE PLANNING SYSTEM

### 2.1 Planning Bill

The [Planning Action Plan](#) undertook to make changes to the Act to introduce the following changes.

- **New powers for the subsequent introduction of National Policy Directives which, with Tynwald approval, could override the Development Plan to better meet our needs.** This will enable changes in policy to be brought about more quickly, when necessary, to continue to meet the Island's needs. This will make the planning system much more responsive to changing circumstances and expectations.
- **A new Community Infrastructure Levy taking effect in early 2020.** This will ensure new developments help fund the accompanying wider changes which bring economic, environmental and social benefits.
- **The powers to introduce a method for faster minor amendments to existing planning approvals by the end of 2019.** This will reduce bureaucracy and ensure a proportionate approach to very minor changes.
- **Introduce a definition of 'General Importance to the Island' as set out in Section 11(1)(a) of the Act.** This will ensure applications which are key to Government priorities are better identified and considered ('called in') to Council of Ministers.
- **Discretionary powers for the Cabinet Office to appoint a planning advisory body under Section 40 of the Act.** This will allow more flexibility in how Government involves stakeholders in policy matters, to ensure we are able to fully understand their views, without extra bureaucracy.
- **Explicitly define the statutory basis for Planning Committee(s) and their decisions.** This will provide further definition regarding the legal status and powers of Planning Committees.

A [Planning Bill](#) has been produced and supported by both branches of Tynwald. It is currently awaiting Royal Assent and it is envisaged it will be brought back to Tynwald before the end of the year. This sets out the powers to produce secondary legislation in relation to:

- National Policy Directives;
- Community Infrastructure Levy;
- Amendment Applications; and
- Planning Committee Constitution.

The new Development Procedure Order will implement the provision in relation to Amendment applications.

## 2.2 Operational Changes

The Planning Action Plan also indicated a range of procedural changes to introduce the following changes:

- **Improved criteria regarding who is awarded 'Interested Person Status'.** This is to ensure the planning appeals process is available to those with a legitimate and relevant planning concern, whilst reducing scope for unreasonable delays. This was introduced in the [Operational Policy](#) (July 2018).
- **Faster processes to allow new smaller telecoms improvements.** This is to ensure our community and businesses receive the most modern and comprehensive mobile phone service and coverage, which helps make our lives easier and businesses more profitable. This is the subject of an emerging [Development Order](#) (aka Permitted Development).
- **Allow the scope for questions of clarity or fact, during the Planning Committee meetings, to avoid delays whilst information is obtained.** This is to ensure decisions are based on the most accurate information available on the day and people have confidence in the system. This was implemented in updated [Standing Orders](#) (May 2018).
- **Measures to encourage more appeals to be dealt with by written submissions, rather than awaiting hearings.** This is to ensure appeal decisions are faster and the process less bureaucratic, and to reduce tax-payer cost.
- **New and improved design guidance and new minimum standards for most new developments.** This is to ensure our properties contribute to making our Island an even better place to live and work. This was implemented in the [Residential Design Guide](#) (March 2019).

The new Development Procedure Order will implement the provision in relation to encouraging more appeals to be dealt with by written submissions. It will also facilitate the longer term commitment to **'Continue to modernise the planning system by bringing forward things like online planning application submissions** to continue to make the planning system more efficient and easier to use'.

## 2.3 Previous Public Consultation and Commitments

The Action Plan was informed by [public consultation on the planning system](#). This took place in 2017 and resulted in 171 responses. The consultation set out existing commitments and asked questions about potential additional actions. In relation to planning application processing, these included:

- Providing the ability to register on-line an interest in being notified electronically of any planning applications made in a defined area. This has now been introduced through the [Planning Notification Scheme](#).
- Increasing the amount of development or change of use that can be undertaken without the need to submit a planning application, through introduction of a new Permitted Development Order. This is the subject of an emerging [Use Classes Order and Development Order](#) (aka Permitted Development).

## **3.0 NATIONAL POLICY DIRECTIVES**

### **3.1 Background**

Planning Policy is set out in the Development Plan. This comprises the Island-Wide Strategic Plan (2016), Area Plan for the South (2013), a number of Local Plans and, for areas not covered by these, the 1982 Development Plan. Work is ongoing to produce Area Plans for the East, and then North and West, which will replace the Local Plans and 1982 Development Plan. Planning Policy Statements can also be produced, which must be in general conformity with the Development Plan.

The Public Consultation document on reform of the planning system in 2017 stated:

*"The planning system should reflect Government's policies. However, there will always be a need to amend policy to respond to changing circumstances and it is suggested that this currently takes too long. Indeed, there is an argument that the process to change planning policy as laid out in the Development Plan is so extensive that it is challenging for a Government to achieve real change during its term of administration. Views are being sought as to whether there is merit to amending the Town and Country Planning Act to allow decision-makers to use a new type of policy document when deciding on planning applications".*

It also noted that:

*"a National Policy Priority document could allow Government priorities to influence planning decisions more quickly, helping to make the planning system significantly more responsive".*

### **3.2 Content of the Planning Bill**

It is proposed to produce Regulations to further clarify how National Policy Directives will be produced and used. The Planning Bill provides the context for this (in what will be Section 2A of the amended Planning Act.).

It clarifies that National Policy Directives:

- are optional, produced by the Council of Ministers and must be in the national interest;
- must be informed by public consultation;
- last for a maximum of 5 years; and,
- must be approved by Tynwald and then published (and the requirements for that publication).

The purpose of a National Policy Directive is clarified in that they shall:

- be for a strategic and defined purpose;
- include reasons for the policy set out in the directive;
- include a statement of the anticipated impact and consequences of the policy set out in the directive; and
- include justification for the weight of the NPD in relation to other matters such as the Development Plan.



For the purposes of determining planning applications, in the event of inconsistency between a National Policy Directive and the Development Plan, any relevant Planning Policy Statement or other matters as set out in a Development Order or Development Procedure Order, greater weight should be placed on the National Policy Directive. This means that a National Policy Directive only outweighs the specified parts of the Development Plan, and also does not automatically outweigh any 'other material considerations'.

In the production of Development Plans, any relevant National Policy Directive is to be taken into account (but the requirement for Area Plans to be in general conformity with the Strategic Plan is unchanged) and may result in it being revoked (if no longer required) or remaining in operation.

The Bill places a requirement on the Cabinet Office to produce a report every 3 years on the National Policy Directives which have been issued or expired in that time and how successful they have been, with detailed requirements in relation to the content of that report

The Bill also clarifies that the Council of Ministers shall produce Regulations about the making of National Policy Directives under this section.

### **3.3 Proposed Approach for the Regulations**

The Regulations relate to how a National Policy Directive is produced. A helpful starting point is to consider how Development Plan documents are produced, which is set out in Schedule 1 of the Act and includes:

- a scoping stage (including public consultation);
- public consultation on a draft plan (within 12 months of the scoping stage);
- a public inquiry (and publication of the resulting report);
- the potential to make changes after the inquiry (subject to further public consultation); and
- final approval (by Tynwald).

There is no prescribed process for the production of Planning Policy Statements (beyond them being laid before Tynwald and published). However, National Policy Directives are intended to be responsive, targeted and time-limited and it is considered appropriate for their production process to be more streamlined than that for a Development Plan document. It is therefore proposed that Regulations be produced which provide for the following:

- Any Government Department (including the Cabinet Office) or Statutory Board may propose a National Policy Directive.
- Such proposals must set out the broad issue, whether (and which) Development Plan policies, allocations or designations are considered problematic, any identified options for alternative approaches (which may include a preferred approach) and the relevant evidence base.
- A proposal for a National Policy Directive shall be reviewed by the Cabinet Office which shall determine whether all the Development Plan policies, allocations or designations identified are relevant (and any not referenced which may be), any further evidence which is required, whether any of the identified proposed approaches may be appropriate (and whether there are other alternatives which should be considered).

Reform of the Planning System – Proposed Secondary Legislation Public Consultation

- If the Cabinet Office is satisfied that the production of the National Policy Directive is in the public interest and the broad issue identified could not more appropriately be resolved through other means (such as a Planning Policy Statement), it may determine that it should be progressed to public consultation. If the Cabinet Office decides not to progress the proposed National Policy Directive, it shall notify the proposing Department in writing, setting out reasons for its decision.
- If the Cabinet Office decides to progress a National Policy Directive, it shall first ensure it has sufficient evidence base and then produce a draft of the Directive (the content of the Directive being specified in the Bill) and an explanatory document.
- The explanatory document shall set out the Department which instigated the National Policy Directive, a summary of the information it supplied and a summary of the Cabinet Office’s analysis, which has led to the production of the National Policy Directive (including why the issue needs to be addressed in the public interest, why it could not be appropriately resolved by other means and any discounted options).
- The draft National Policy Directive and the explanatory document shall be subject to at least 6 weeks’ public consultation, which shall include: advising all Government Departments and Local Authorities of the consultation, how to view the documentation and how to comment; and such other measures as the Cabinet Office feels is appropriate.
- The Cabinet Office shall produce and publish a Consultation Report which summarises what consultation undertaken was (and how), the main issues raised by the consultation, its responses to those issues and any proposed changes to the draft National Policy Directive.
- The Cabinet Office shall take such steps as it considers necessary to make the explanatory document, the consultation draft of the National Policy Directive and the Consultation Report available to Tynwald Members, prior to the final draft of the National Policy Directive being presented to Tynwald for its approval.

**Question NPD1.** Do you think the above approach is broadly appropriate?

*Yes/No*

*Other Comments:*

**Question NPD2.** Would you suggest any changes?

*Yes/No*

*Please specify:*

## 4.0 DEVELOPMENT PROCEDURE ORDER

### 4.1 Background

As part of the ongoing reform of the planning system it is necessary to review the secondary legislation which sets out how planning applications are dealt with. This 'Development Procedure Order' is produced by the Department of Environment, Food and Agriculture under its powers as set out in the Act.

### 4.2 Scope of Changes

The Act includes powers to produce Development Procedure Orders setting out the detail for processing planning applications. There is the [Development Procedure Order 2013](#) (with some minor changes in [2015](#) and [further amendment](#) the same year). It is proposed to replace this with a new Development Procedure Order in order to make a number of improvements, including the changes summarised below.

Separate secondary legislation covers Adverts, Registered Buildings, Demolitions in Conservation Areas and Certificates of Lawfulness. However, these are processed with broadly the same system and often a proposal will include related applications. Whilst a full review of this wider secondary legislation is outside the scope of the current project, some targeted changes are proposed alongside the new Development Procedure Order to align the requirements for submission and consultation to allow electronic processing.

Because these are all Regulations, a single Amendment Regulation is proposed to amend the Town and Country Planning (Registered Building) Regulations 2013, Town and Country Planning (Control of Advertisements) Regulations 2013 and Town and Country Planning (Certificates of Lawful Use or Development) Regulations 2005.

The planning fees are set out in the Town and Country Planning (Application and Appeal Fees) (No. 2) Order 2016, and so this is proposed to be amended in light of the above (in relation to fees for amendment applications and fees for appeals by hearings).

The above existing legislation can be viewed in our [library](#).

In addition to changes to the legislation, it is proposed to:

- Update the Application Forms, in particular in relation to the [planning application form](#)
- Update the website and documents on it, in particular the [Guidance on Making an Application](#) (including the recently produced [Highways Addendum](#) (December 2018) and [Trees Addendum](#)) and review (to either update or revoke) the [application checklist](#)
- Amend the [delegated powers](#) for officers (a separate Constitution Order is to be produced for Planning Committee)
- Work with Cabinet Office to ensure that, as far as possible, they are processed electronically

## 4.3 Proposed Changes

### 4.3.1 Amendment applications

Applications are currently allowed for alteration of conditions, but not alterations to plans. The Amendment Bill will introduce a power to have minor amendments. The proposed approach is to have clear parameters setting out when an amendment application can be submitted, to be applied as part of the administrative validation process, and elements to be applied as part of the professional judgement of the proposal, once an application has been submitted and validated. Given these restrictions on what can be applied for and then what must be refused, it is not considered that requirements for either publicity or an appeal process are appropriate (and indeed would undermine the intention in the Action Plan to “Reduce bureaucracy and ensure a proportionate approach to very minor changes”), also noting that applicants would not be prevented from submitting a fresh full application (which then has an appeal process).

The key elements of the approach are summarised below.

- Amendment applications may only be made where they: relate to minor amendments; relate to a planning approval for a building(s); do not result in a net increase in the overall footprint of a building by 10% or 15 square metres (whichever is less); do not increase the number of dwellings or number of buildings; and do not result in any change to the red line boundary.
- Applications must be on a form provided by the Department, specify which application the amendment relates to, set out what the amendments are (including amended plans where relevant) and why they are required.
- No more than one amendment application may be made in relation to any planning approval.
- The Department shall decline to consider an amendment application if it considers that it falls outside the above guidelines, and there is no appeal against such a declining.
- Approval is at the Department’s reasonable discretion, but the Department shall refuse amendment applications if they are: transformative (considering nature and scale); go to the heart of the approval; result in the proposal not complying with a Development Plan policies which it would comply with without the amendment; or have the potential to result in new or increased adverse impacts on neighbouring properties (irrespective of whether such adverse impacts might be outweighed by other material considerations).
- The Department shall give reasons for the decision (whether grant or refusal), but there is no appeal against the decision (although this is without prejudice to the submission of a fresh full application).
- Approval of amendment application cannot be conditional and does not result in a new approval, and so does not allow a further 4 years for the implementation of the ‘parent’ approval (applications to amend conditions do produce new approvals, and such applications can be used to extend the 4 years).
- The target timescale for determination being 20 working days, but there being no appeal against non-determination.
- The fee being £100.

**Question DPO1.** Do you think there are any amendments to applications which **should** be allowed and **would not** be allowed for under the proposed order?

*Yes/No*

*Please specify:*

**Question DPO2.** Do you think there are any amendments to applications which **should not** be allowed and **would** be allowed for under the proposed order?

*Yes/No*

*Please specify:*

#### ***4.3.2 Encouraging appeals to be by written representations***

The Reform of the Planning System sought to encourage more appeals to be dealt with by written submissions, rather than awaiting hearings so that appeal decisions were faster, the process less bureaucratic and consequently there would be less burden on the tax-payer cost.

Appeals can be submitted by anyone who has Interested Person Status (which includes the applicant and Local Authority). Anyone with Interested Person Status is able to insist on appeals being by hearing rather than written representations. This means the person insisting on a hearing may not be the person who submitted the appeal (and who paid the appeal fee). The average cost of a planning appeal is £275 per case for written representations. For inquiries, a day rate of £340 is paid to the inspectors (including preparatory work, travel, the hearing and reporting) and this works out on average at £650 per appeal.

It is proposed to introduce an additional charge for those wishing appeals to be by hearing of £100 (to be paid by the person requesting the hearing).

**Question DPO3.** Do you think an additional charge of £100 for hearings is fair and would encourage more appeals to be by written representations?

*Yes/No*

*Please provide reasons and suggested changes:*

#### **4.3.3 Target timescale for determining applications**

In some cases an applicant requests a deferral, or more time to consider issues, and in such cases the 'late' determination of the application should not count against the Department. It is also considered that an 8 week target for large/complex applications (using submission of Environmental Impact Assessment to determine this) is unrealistic and so a later and more realistic timescale is proposed of 16 weeks where an application is accompanied by an Environmental Impact Assessment, and 8 weeks for 'normal' applications (In the UK, the timescale for major applications is 13 weeks and applications with EIA is 16 weeks).

There is currently no recourse for applicants in circumstances where an application is not determined. It is therefore proposed that after a given time, the applicant could submit an appeal against non-determination if no decision has been made. Such an appeal would follow the same process as an appeal made after an application has been determined, but where the appellant disagrees with the decision.

**Question DPO4.** Do you think the proposed target timescales for large/complex applications are reasonable?

*Yes/No*

*Please provide reasons and suggested changes:*

**Question DPO5.** Do you agree that applicants should have the right to appeal against non-determination of applications?

*Yes/No*

*Please provide reasons:*

#### ***4.3.4 Change the requirements in relation to submission and consultation to allow for electronic processing of application, including on-line submissions of applications***

Each week, a list is published on the website of applications received, how to comment and the deadline. The applications themselves can be viewed and commented on on-line. However, the Directorate is also required to send hard copies to the Local Authorities (so they can use them to comment and also so they can allow their constituents to view them) and also to DOI Highways. This is a barrier to moving towards electronic submissions.

It is therefore proposed to:

- review the requirement to submit hard copies;
- require all plans to be to a suitable and recognised metric scale and to include a statement on each on what sized paper print-out this is based on;
- remove the need to submit ownership certificates (and the model certificate itself set out in the order), so that these matters can be dealt with as part of an on-line submission;
- remove the requirement to send hard copies of the plans and the site notice to Local Authorities and DOI Highways and instead, set a requirement that we notify them of applications submitted and how they can view the details; and
- review the appeal procedure to ensure that it can be carried out electronically.

**Question DPO6.** Do you think the changes identified would allow for electronic submissions and processing and that this is desirable?

*Yes/No*

*Please provide reasons and any suggested changes:*

#### ***4.3.5 Reviewing the validation requirements, to ensure applications contain sufficient information from the outset to be determined without unnecessary delay***

The current list of information which must be submitted with an application could usefully be expanded in light of current policies and experience. For example, information on visibility splays and parking is required by DOI Highways to comment on applications and the submission of applications without it leads to delays. Other information is required by Strategic Plan policies and/or is already included in the checklist/application form, but is not a legal requirement to be provided. The submission of applications without sufficient information can lead to delays in determining them, due to the need to request additional information and re-publicise the application.

It is therefore proposed to require the inclusion of the following additional information with planning applications:

- visibility splays (for applications with new or amended access);
- any Proposed Car or Motorbike Parking Areas and/or Cycle Storage Areas (Manual for Manx Roads, Active Travel Strategy) (for new buildings or changes of use);
- a Flood Risk Assessment (if for a new building or a change of use within an area identified on the latest Manx Utility maps as being at medium or high risk of flooding) (as per Strategic Plan Environment Policy 10);
- existing and proposed site levels (where changes are proposed) (currently on application form);
- details of any incidental removal of minerals from the site (currently on the validation checklist);
- details of any incidental removal or importation of waste from or to the site;
- an EIA (if meets thresholds in Appendix 5 of the Strategic Plan); and
- confirmation that the applicant own the land or, if not, confirmation of who does own the land and that they have made them aware that the applicant is making an application.

It is also proposed to:

- have specific (and reduced) requirements for replacement windows in Conservation Areas rather than requiring full site plans etc.
- clarify that for applications for approval in principle, the matters which can be reserved include drainage and that the reference to “internal layout” should be replaced with “internal layout of buildings” and “site layout”.

**Question DPO7.** Do you think planning application validation requirements, as set out above are sufficient?

*Yes/No*

*Please provide reasons and suggested changes:*

#### ***4.3.6 Updating the requirements for site notices, to ensure they are as clear as possible***

Site Notices are currently required to give a 21 day deadline by which comments must be received, however we must take into account all comments, even if received after the deadline. It would therefore be helpful to clarify that comments made before the 21 day deadline will definitely be taken into account and, if a decision has not yet been taken, any comments received after the deadline will also be taken into account.



**Question DPO8.** Do you think the proposed requirements for site notices will make them sufficiently clear?

*Yes/No*

*Please provide reasons and suggested changes:*

#### **4.3.7 Other changes**

It is also proposed to generally review the structure and language of the Order in the context of current drafting best practice, and review the list of definitions (Article 3). This is to ensure that the legislation is as clear and accessible as possible.

It is also proposed to:

- add clarification that material submitted as part of the appeal process by the applicant or objectors may only clarify and further explain points made as part of the application process, not introduce new issues (and give the Inspector the responsibility of determining what is a 'new issue').
- clarify that when considering an appeal, the Minister may consider the whole file/application and not just the Inspector's Report.
- make explicit provision for the submission of amended/additional information, the Department to have discretion to refuse to accept such information if it so significantly alters the proposal that a fresh application should be made and discretion for additional publicity.
- amend the wording in relation to the planning notice so that instead of saying that representations where they wish to be considered for Interested Person Status must state the relationship between their land/property (and identify this land/property) and the land that is the subject of the application, it says that they must indicate how the lawful use of land which they own or occupy would be impacted by the proposed development in relation to relevant planning issues. This wording is considered to be clearer and also, given the potential for amendment applications, it is important to understand people's concerns about the proposal not just their relationship to the application site.
- clarify that Manx National Heritage and the Manx Utilities Authority should be treated as Government Departments in considering them for Interested Person Status in relation to planning applications.
- make it explicit that site notices can be sent to the applicant, or (if they are using one) their agent.

**Question DPO9.** Do you have any other comments on the proposed order?

*Yes/No*

*Please provide details:*

## **5.0 PLANNING COMMITTEE CONSTITUTION ORDER**

### **5.1 Background**

There is/are currently:

- Individual letters of appointment to the Lay Members
- A delegation ([2018/07](#)) under the GDA to the Planning Committee Members
- A delegation ([25/16](#)) under the GDA to the Planning Committee Chair
- A delegation ([30/16](#)) under the GDA from the Minister to the Political Member
- Planning Committee Standing Orders ([2018/01](#))
- A [Public Speaking Scheme](#) - this is referenced in the Standing Orders – see 6(1)(a)
- A Planning Committee [Code of Conduct](#)

### **5.2 Content of the Planning Bill**

The Planning Bill provides the context for this (in what will be Section 39C of the amended Act.).

It clarifies that:

- the existing Planning Committee remains in force until the Constitution Order is produced;
- the Council of Ministers shall produce a Planning Committee Constitution Order to form the basis of the 'new' Planning Committee;
- that such a Committee can carry out the functions as carried out by the existing Planning Committee or such new functions which are delegated or transferred to it; and
- that the members shall be appointed by the Council of Ministers.

It also clarifies that Constitution Order may in particular provide for:

- the constitution of the Committee;
- the terms of office of members of the Committee;
- termination of membership of the Committee;
- Committee proceedings and procedure (e.g. the appointment of a chairperson, voting procedures and the quorum of the Committee); and
- transitional arrangements.

### **5.3 Proposed Approach**

Given that the Constitution Order must be approved by the Council of Ministers and laid before Tynwald, it is considered that it should be a relatively high-level and streamlined document, with the day-to-day detail retained in Standing Orders. It is noted that the Standing Orders and Code of Conduct were updated in 2018 (in part to allow the Committee to ask questions of speakers – as per the Action Plan). Consequential amendments were made to the public speaking leaflet.

It is therefore considered that the broad content should be retained as is. Therefore, although the Constitution Order may contain things not explicitly listed within the Bill, the broad approach is to have an

Order which does focus on addressing the items listed in the Bill. This involves moving some things out of the Standing Orders and therefore the Standing Orders will need to be updated accordingly. The Speaking Scheme and Core of Conduct will be unaffected.

**Table 1: Proposed Approach to Constitution Order**

<b>Planning Bill</b>	<b>Proposed Approach</b>
Constitution of the Committee	<ul style="list-style-type: none"> <li>• There shall be 1 Department Member (MHK/MLC) and 6 Lay Members (as at present)</li> <li>• The Committee shall be able to determine applications, of the types currently listed in Article 2 of the existing Standing Orders</li> <li>• Applications should only be referred to the Planning Committee if they meet one or more tests, as set out in Article 3(1) of the existing Standing Orders</li> </ul>
The terms of office of members of the Committee	The current process should be retained, which is that Members are appointed for terms of up to 5 years and they can be reappointed for further terms if they successfully re-apply
Termination of membership of the Committee	Membership can be terminated by either the Council of Ministers or the Member themselves (the former with 4 weeks' notice and giving reasons and the latter not requiring notice or reasons)
The appointment of a chairperson	The current process should be retained, which is that the Chair shall be the DEFA Member for Planning, or such other MHK or MLC as by the Minister for DEFA, unless that person is unable to attend a meeting or is unable to take part in an item due to declaring an interest
Voting procedures	<ul style="list-style-type: none"> <li>• The current approach to voting, as set out in Article 7 of the existing Standing Orders, should be retained</li> <li>• The current approach to declarations of interest, as set out in Article 8 of the existing Standing Orders, should be retained. However, Planning Committee Members to speak on applications they have registered an interest in if they are doing so as an applicant or objector and in accordance with the Standing Orders (and must leave straight after they have spoken and no stay for the discussion)</li> </ul>
The quorum of the Committee	<ul style="list-style-type: none"> <li>• The quorum shall be 3 members (as set out in Article 3A of the existing Standing Orders)</li> </ul>
Committee proceedings and procedure	<ul style="list-style-type: none"> <li>• DEFA must hold regular meetings of the committee</li> <li>• Meetings must be open to the public (to view, unless speaking in accordance with a process provided by in the Standing Orders)</li> <li>• Agendas and reports must be made available in advance of the meeting</li> <li>• Minutes must be taken and available to the public</li> <li>• DEFA must publish Standing Orders (approved by the Minister) which set out inter alia: <ul style="list-style-type: none"> <li>○ The process by which Planning Committee Members can request an application is brought to the Committee (Currently Article 3.2)</li> <li>○ The process for considering applications (Currently Article 4)</li> <li>○ The role of Officers (Currently Article 5A)</li> <li>○ Provision for Public Speaking (Currently Article 6)</li> <li>○ Procedure for Site Visits (Currently Article 8)</li> <li>○ Procedure for electing an Acting Chair in the event the Chair (as set out above) is not able to attend the meeting or cannot take part in the</li> </ul> </li> </ul>

Reform of the Planning System – Proposed Secondary Legislation Public Consultation

<b>Planning Bill</b>	<b>Proposed Approach</b>
	discussion on an item because they have declared an interest (Currently Article 5)
Transitional Provisions	The existing Members of the Planning Committee should be appointed onto the new committee for the rest of their remaining term

**Question PCCO1.** Do you think the above approach is broadly appropriate?

*Yes/No*

**Question PCCO2.** Would you suggest any changes?

*Yes/No*

*Please specify:*