

**Town and Country Planning (Amendment) Bill 2012**  
**Second Reading approved**

4.1. Mr Crookall to move:

*That the Town and Country Planning (Amendment) Bill 2012 be read the second time.*

**The Speaker:** Item 4, Bill for Second Reading, the Town and Country Planning (Amendment) Bill, and I call on the Hon. Member for Peel, Mr Crookall, to move, please.

**Mr Crookall:** Thank you, Mr Speaker.

The amendment that I am proposing to the Town and Country Planning Act is a very short amendment, but nonetheless a very important one. What my Bill proposes to do, Hon. Members, is to enable the Minister for the Department of Infrastructure to refer to the Council of Ministers for a decision as to whether property owned by the Department should be entered onto the List of Registered Buildings. The reasons are: (a) the decision required is that of a general importance to the Island; or (b) that for some other reason the decision ought not to be taken by the Department.

Mr Speaker, this Bill is not intended to reduce Government's income. Indeed, it may well be the case that it saves the taxpayer considerable amounts of money. This takes nothing away from the Department of Infrastructure. Indeed, I see it giving the Minister another option.

This has been drawn up with the Director of Planning, Mr Michael Gallagher, and also the Conservation Officer, Mr Steven Moore.

Mr Speaker, I beg to move.

**The Speaker:** Hon. Member for Onchan, Mr Quirk.

**Mr Quirk:** I beg to second, sir and reserve my remarks.

**The Speaker:** Hon. Member for Douglas North, Mr Houghton.

**Mr Houghton:** Thank you, Mr Speaker.

In congratulating the Hon. Member for Peel for bringing this forward and, of course, understanding that there was a delay in between the election and returning to this Hon. House for him to continue with this Bill, it still has taken a considerable amount of time to bring it forward now to Second Reading. Indeed, it was many months ago, when he got his leave, his second leave to introduce, in order to bring this Bill forward. It is vitally important that this measure is brought forward to enable the Council members to, indeed, overrule the regulations currently in force and have the power so to do, so that this building can be brought down and a vitally important brownfield site be redeveloped – more ideally for some form of housing, which will be for the Department of Social Care to decide upon in the future.

But I would ask the Hon. Member, in congratulating him on bringing this forward to now make real haste and get this Bill moving and I am surprised that it has taken so long.

**The Speaker:** Hon. Member for Douglas East, Mrs Cannell.

**Mrs Cannell:** Thank you, Mr Speaker.

There are just a number of questions I want to put to the mover of the Bill, if I might. On the face of it, it seems a fairly innocent-looking piece of legislation, but it could, in fact, have wider implications.

What I would like to ask him is, under section 2, subsections (a) and (b), but (b) in particular... This is in respect of 'that for some other reason the decision ought not to be taken by the Department.' This is the provision given to the Department to take it to the Council of Ministers. Could the Member give us an example of what other reasons there might be for the Department to actually seek the Council of Ministers overtaking it, rather than the Department itself?

Again, in subsection (4):

'If the Council of Ministers so determines, the Department must enter the building in the register.'

Is this similar to a direction? If the Council of Ministers... For example, the Department might take it to the Council of Ministers and say, 'We cannot decide on this. The Planning Division and the Planning Committee are against this particular move. I do not know what to do. I am giving it to you.' Does this legislation then give the power to the Council of Ministers to direct the Department?

Under (5), regulations *may* provide for a procedure for, and then it goes on. Of course, in law, 'regulations *may*' means that regulations may *not* provide for, so there is a degree of uncertainty there and I just wonder why they are couched in this way, that regulations *may*, rather than regulations *shall* provide for.

I also note that the regulations, which may provide for, do not mention any seeking of Tynwald approval, which is usually the normal run of things with legislation. If regulations are to be made, they usually require Tynwald approval. They are usually put into the Bill. There is no mention of that here. So it appears that the regulations which may provide, in fact just need really the Council of Ministers' approval. So perhaps the Member could clarify that for me.

Then of course, subsection (7) under (5) says... and this is the one that gives me a lot of concern, so I would like some clarity on it, please. It says:

'However, unless regulations under subsection (5) otherwise provide,'

– so that is, first of all, unless they are coming forward and they otherwise provide –

'the provisions of the Act concerning registered buildings and the register continue to have effect.'

suggests to me that the regulations, apart from providing (i) and (ii) and (b), may also provide for the deregistration of a particular building. Again, I want some clarity on that, because it does look like a fairly innocuous and innocent piece of legislation, but as I say, there can be some very questionable scenarios that might flow.

I have to say, Mr Speaker, I have never, *ever* been in support of giving the Council of Ministers any more power than they currently have. So on that alone, I probably am likely to vote against, unless the Minister can convince me otherwise.

**The Speaker:** Hon. Member for Onchan, Mr Karran.

**Mr Karran:** Vainstyr Loayreyder, I have to say, as far as this Private Member's Bill, my focal point has always been that I support Private Members' Bills to get them debated in this Hon. House, but at Second Reading stage, my concern, as far as this Bill is concerned, is the premise that if it happens to be a Bill that is owned by a Department, my personal viewpoint is that that is *not* the right way forward, as far as planning is concerned.

I believe that we have spent the last 20 years trying to have a consistent approach, as far as the law is concerned. Many of us in the late 1980s and early 1990s were battling when there was an unwritten rule that Departments did not prosecute other Departments on these issues. Whilst this is a separate issue, as far as that is concerned, I do feel that the registered buildings should be on the same basis and where I sympathise with the Hon. Member for East Douglas, as far as her concerns on this issue, is that I believe we are going about it the wrong way.

My concern is that we have heard the Hon. Member for North Douglas telling me he wants to have the prison knocked down for sheltered accommodation. I believe where he is wrong, as far as this is concerned, because there is a tsunami that we are going to have to make sure... is affecting most of the Western world, as far as finance is concerned. If we do not address that issue, that is about the only issue in this particular time, in this administration on economic and employment opportunities, I would feel any charity towards not having that principle, that if a building belongs to Government, or it belongs to any other Hon. Member in this House or to someone in Timbuktu, it should have the same registration.

I feel, Hon. Members that we should not allow that to get mixed up, because I think the Hon. Member needs to realise, when he is talking about the prison and how he wants it knocked down for sheltered accommodation. One of the reasons we joined this Government, was the fact that we were concerned and we knew that everyone had to work together in these particularly pressing and trying times and I would rather the Hon. Member look at a more progressive way, like some of us Ministers have asked about the idea we are offering up buildings for economic and sites up for economic development, in order that we can create jobs and economic activity, and I believe that I would be happy to allow for something like a special... making certain Government buildings a special planning area, which means that they could be developed through the existing framework of Government.

The reason why I believe that Government should be allowed that exception is to make sure that we can maximise economic activity with the pressing problems we have got and the issue of the increasing unemployment, but I think the Hon. Member for North Douglas is wrong to use this piece of legislation to deal with the issue of the prison site.

I think the issue that he is also wanting and what we have to realise in these very pressing and concerning times, is he wants to build more sheltered accommodation on the site or whatever, but the fact is if we do not get

our economy sorted out, there will be plenty of property on the prom for people to move into, if we do not address that core issue.

My concern that I have with this proposal here, is the fact that I believe what we should be looking at, is maybe a Bill that allows – and maybe amendments if it gets a Second Reading – two things I think need to be addressed. One is the issue that this function should be transferred to Manx National Heritage. Our record on registered buildings as a Government has been dismal over the years. The second thing I think where the Hon. Member has a point is maybe that we should allow, in the planning process for the registration and deregistration of buildings, CoMin to be the final arbiter as far as that issue is concerned. In that case, so long as it is open and transparent and they give their recommendations for why they do not want a building to be registered or deregistered, then I would be a lot happier with this piece of legislation. I think we must ring fence certain principles in Government and in this legislature that the law stays consistent.

We are in pressing times and if the likes of me can come in from the cold and support the Hon. Member for Ramsey with his Government because of the fragile financial situation, what we must do, as Hon. Members, is allow that sort of issue to be the only criterion where you should not have a consistent approach.

If this Bill does get Second Reading, I would be very interested in moving those sorts of amendments because I think the principle of... I have no problem with the principle of dealing with it coming to the Council of Ministers, if it is as a final arbiter, like a planning appeal, but I think it should be on a consistent approach, not on the ownership being purely identified for it being owned by a Government Department. I think it is important that the Hon. Members for North Douglas need to realise that, even if we do this and they can knock down the prison, the issue is you have got all the problems of planning, you have got all the problems that we have got at the moment with finance and funding, both revenue and capital, that is going to get increasingly difficult.

So I hope that Hon. Members will consider what I am saying as maybe a more consistent and fair approach, as far as this Bill is concerned.

**The Speaker:** I call on the mover to reply, Mr Crookall.

**Mr Crookall:** Thank you, Mr Speaker.

Can I first clarify – and I said this when I got leave to introduce, sir – this is purely about before anything goes onto that list to be registered. It is not about deregistering or anything like that, and I hope and ask Members not to look too deeply into that. This is purely before anything goes onto that list.

I take on board Mr Houghton, the Hon. Member's comments about the time this has taken. There have been one or two reasons for that and some of that has been in discussions with the Department and with the Attorney General's office, but we will – if I am fortunate enough to get the support again today – make haste to push this through, but obviously all in good time, as in with everybody on board, hopefully.

This is not an overruling power. This does not take anything away from the Minister at the end of the day. This is down to the Minister for Infrastructure. If he decides, for any reason... and I know the old prison has been mentioned today, but that is not the only case and you could go back to last year or whenever, before the pier was registered. It could have been before that and we could have been talking about that instead.

So, although the prison is the one that has been mentioned again, this is not just about that; it is about any other cases in the future. As I said, this does not take anything away from the Minister for Infrastructure. If he decides, for whatever reason, that it would be better being dealt with by the Council of Ministers for the Island's benefit or for whatever reason, then that is up to him to put to the Council of Ministers. If he decides he wants to make the decision, then that should be up to him and it takes nothing away from the Department or the Minister.

I believe that picks up on something that the Hon. Member for Douglas East, Mrs Cannell, said about section 2 and the Minister's decision. I hope that clarifies that for you too. It is up to the Minister. If, for some reason, he sees, or she sees in the future... they think it ought to go to the Council of Ministers, then that is up to them. I cannot give you an example at the moment because we thought about it when I talked to the Attorney General's about it, but it is up to the Minister. That is all it leaves up to the Minister.

Section 4, you mentioned:

‘If the Council of Ministers so determines, the Department must enter the building in the register.’

That will probably just reiterate what the Minister said in the first place, that it just means he has come to the Council of Ministers for that clarity. So again, it is working with the Minister of the Department.

The regulations may provide for, or may not. This is ‘*may provide for*’, but there are no regulations set down there, so the regulations would follow at a later date. So, again, clarity would come at a later date. May or may not, if you like – may or shall – that would come at a later date. If I am picking this up wrong, please come back to me later and I will clarify it for you again later.

Again, Tynwald approval is sought at the moment, but clarifying what Minister Karran just said, from what I

believe, if this were to go through and it went through the Council of Ministers, that would be it. That would be a final decision, as in planning at the moment. It is done so for a reason. I will use the example... I did not really want to, but I will use the example of the prison. If, for any reason, the Council of Ministers decided it was going to cost too much to leave that building as it is and there was a much better use for it, that was the end of it, the decision was made to drop it, then there was –

**A Member:** It comes down.

**Mr Crookall:** It comes down, yes.

**Mr Henderson:** Sheltered housing.

**Mr Crookall:** Again, I have made a note here. Deregistration – you mentioned that. There is absolutely no way I am trying to hide deregistration here at all. That is not part and parcel of what I am trying to do here to amend this. I am not trying to allow for anybody to deregister anything. If somebody wanted to do that, then that is up to them to come forward with an amendment to this, but that is not part of what I am looking to do here.

Minister Karran mentioned a consistent approach and I believe he was talking, if I picked him up right, Mr Speaker, as to whether we were talking about publicly owned buildings or privately owned buildings. I am quite willing to take that on board. I did specifically look at publicly owned buildings and I think we might open a bit of a hornet's nest if we start talking about privately owned ones, but if he wants me to consider that, I am willing to meet with him and with the Attorney General's and see what we say, and of course the Department of Infrastructure, the planning, and discuss that with him.

As I say, when we considered dropping, if that is what we are talking about, not registering a building so it could be demolished for economic development for the betterment of... Again, it depends. It is not the reason for doing this. Again, I use the analysis of the Queen's Pier. That certainly would not be used for economic development. It would just be a case of clearing it up, whereas the prison obviously is.

The transfer to Manx National Heritage – I am certainly not in favour of that. It is where it is and it is probably in the best place at the moment, within the Department of Infrastructure, and I am more than happy to leave that there.

With that, Mr Speaker, I beg to move, sir.

**The Speaker:** Hon. Members, I put the question that the Town and Country Planning (Amendment) Bill be read for the second time. Those in favour, please say aye; against, no. The ayes have it.

*A division was called for and electronic voting resulted as follows:*

**FOR**

Mr Quirk  
Mr Hall  
Mr Ronan  
Mr Crookall  
Mr Anderson  
Mr Singer  
Mr Quayle  
Mr Teare  
Mr Cannan  
Mr Cregeen  
Mr Houghton  
Mr Henderson  
Mrs Beecroft  
Mr Robertshaw  
Mr Shimmin  
Mr Corkish  
Mr Skelly  
Mr Gawne  
The Speaker

**AGAINST**

Mr Karran  
Mrs Cannell

**The Speaker:** With 19 votes for, 2 votes against, the motion therefore carries.