

Town and Country Planning (Amendment) Bill 2012
First Reading approved

4. Mr Turner to move:

That the Town and Country Planning (Amendment) Bill 2012 be now read a first time.

The President: We move on to the next Item on our Order Paper, Item 4, the Town and Country Planning (Amendment) Bill 2012. Mr Turner to move the First Reading please.

Mr Turner: Thank you, Madam President.

This Bill is a Private Member's Bill, which was promoted in the other place by the Hon. Member for Peel, Mr Crookall. The amendments that this Bill proposes are to the Town and Country Planning Act. It is a very short amendment, but nonetheless a very important one. What the Bill proposes to do is to enable the Minister for Infrastructure to refer to the Council of Ministers for decisions as to whether a property in ownership by the Department should be entered onto the list of registered buildings. The reasons may be that the decision required is that of a matter of general importance to the Island or that, for some other reason, the decision ought not to be taken by the Department itself.

The Bill is not expected to reduce Government income; indeed, it may be the case that it saves the taxpayer considerable sums of money. It takes nothing away from the powers of the Department of Infrastructure; indeed, it was seen by the mover in another place as giving the Minister another option. It is a short Bill containing two clauses and I beg to move the First Reading.

The President: Do we have a seconder?

Mr Downie: I beg to second, Madam President and in doing so, I do have a couple of issues I would like to raise with the mover.

I take the understanding from the Bill that now all of property in Government ownership has been transferred to the Department of Infrastructure. The reason why I ask that is why should, therefore, Infrastructure be given some sort of special status in all this? The Department already has status – for example, they are exempt from planning issues in the territorial seas, in the harbours, at the Airport and so on.

What would concern me is that I would take it that all of the Government's portfolio would eventually be pooled and I am just trying to think of an example I can give, because under the old situation an inspector determined whether a building was going to be registered, but here we are now we are taking property, which is in the ownership of Infrastructure and now we are placing it in the hands of the Council of Ministers, who will determine whether the property is going to be registered or not. I can understand the desire to do that, but in the past we have always had involvement with the Planning Committee and of course, now in the new set-up, the Planning Committee, although protected by a Chinese wall, is still within that Department, so there will be some sort of a dichotomy for the Minister.

The other question I would like to ask, is the same process going to be used to remove a property from the register? We are not quite clear. It is the first time I have ever seen a Bill where we determine something by the Council of Ministers and there is a space left here at the bottom to put the reasons in. We are in new territory here and I think, before we embark and embrace the principles in this Bill, we really need to know one or two examples of why it needs to be brought in and how it is going to be implemented.

The President: The Hon. Member, Mr Callister.

Mr Callister: Thank you, Madam President.

As for the Government properties all coming under one Department, as far as I can make out – and I do not know where this actually originated from – I think it is part of the general Government policy for centralisation of its facilities and so on. That seems to make sense to me that some body of Government should control the properties that are owned by Government – it seems reasonable.

As far as this, this has been sparked by the future of the old prison in Victoria Road. The problem there, as to whether that should be registered or not registered, has now been battled between two Departments of Government and as a result, this Private Member's Bill was brought forward. The Bill tells us that the decision as to whether to register the building – it could be any building, of course – ought to be taken by the Council of Ministers. Certainly, there must be items and items do crop up which really should be decided by the Council of Ministers, in my opinion, and not necessarily with having to take Tynwald approval, but that would be arguable. Whether this is something that should be dealt with by the Council of Ministers, I do not know, but when you come to an impasse in these areas, someone has got to make a decision and that probably is the right place to go.

I am a bit bothered about the way the Bill was set out on its second page because it tells us that the Council of Ministers may determine that a building should be entered on the register. Then they can make the determination and then carry out a consultation with the public. Surely that is the wrong way round. The consultation would normally be taken before a decision is made. What would happen then, the Council of Ministers make a determination. They would say yes, this building should be registered, whatever it is, then have a consultation and a huge outcry against that, so they would then have to go back and reverse their decision. If I am wrong, maybe it is not going to work that way round, but if it is that way round, it sounds to me to be quite wrong.

But I do support the Bill, because I think somebody has got to make final decisions in areas that are almost impossible to make when there are two or three Departments at loggerheads.

The President: The Hon. Member, Mr Butt.

Mr Butt: Thank you, Madam President.

Some of the points have been covered by the previous two speakers. I just wonder if the mover could explain to us why this is being brought in. What has actually happened to cause this to be needed? It may be, as Mr Callister said, this is about the Isle of Man Prison, but I do not know. I would like some explanation as to why it is being brought in.

Secondly, the point Mr Downie made about whether things could be put on the list, or maybe taken off – I do have a worry this might be a bit of a Trojan horse, where we might have a southern-centric Council of Ministers or a Douglas-centric Council of Ministers who might say, ‘Well, we don’t need the Queen’s Pier at Ramsey any more,’ and they could make the decision –

Mr Downie: I agree with that!

Mr Butt: – and take it off the register without any discussion or debate and we could lose... A thing that is unpopular and expensive to maintain could be taken off the list because of their desire, rather than a proper debate about the issue. So I do worry is this a Trojan horse for taking things off the register, as well as putting them on.

The President: The Hon. Member, the Lord Bishop.

The Lord Bishop: Thank you, Madam President.

Just two things, really. Under I think it is subsection (5) on the second page, I think there is not a particular problem with the order there, simply because that is talking about what may be provided in the regulations. I think there is another big issue underlying this, and that is that the Protected Buildings Register, as we have it on the Island, is an enormously broad instrument to cover a range of buildings which are very different from one another and which are registered for completely different reasons, and does not, at the moment, respect the particular value in whichever direction it is, either architectural or historical or whatever, that it needs to. The churches, at the moment, for instance, are discussing with the Department of Infrastructure and Manx National Heritage about making the Protected Buildings Register a more usable instrument, so that it can actually reflect the significance of the buildings as well as the fact that they are worth registering. I have no objection to this, but I wonder whether a rather more root-and-branch look at the Protected Buildings Register is what we need at the moment.

The President: The Hon. Member, Mr Crowe.

Mr Crowe: Thank you, Madam President.

A few years ago, I was Chairman of the Planning Committee. I think Mr Downie is also a previous Chairman of the Planning Committee. You, Madam President, were Chairman of the Planning Committee. There was a process of registering registered buildings to protect the built heritage of the Isle of Man, there are conservation areas which are deemed to be worthy of protection. So, there is a problem I can see, that you have an in-house operation to deem certain properties worthy of conservation and registered building status. I think it comes down to it, when a Department of Government owns these buildings, it does lead to a slight conflict, because you have an inner conflict of officers and politicians determining what is deemed to be worthy of registration or not.

I think this question of having an outside or a more compact body like the Council of Ministers having it referred to them, it is a similar way, in effect, to having planning applications called in by the Council of Ministers. So I think it adds a further dimension.

I will be supporting this Bill, but it does give an extra leg to the proceedings, so that there is a Council of 10 can look at this and make a reasonable discretion on it. I would imagine certain Members would have to absent themselves from it, if they had a particular interest – I know one building was mentioned, the old prison. Presumably the Home Affairs Minister would have to absent himself, if there was a conflict.

As I say, I am supportive of this. We will see how it works in practice. I will be interested in your reply as to the consultation mechanism, whether it is chicken or egg, so, I am supportive.

The President: The Hon. Member, Mr Wild.

Mr Wild: Thank you, Madam President.

Likewise, I will support the First Reading of the Bill on the basis that I see this introducing a sense check to sensitive listing issues, but a couple of points to the mover.

I do agree, in terms of the Hon. Member, Mr Downie, I would quite like to understand the process for delisting a building, if it has been listed by the Council of Ministers and there is legislation. I agree entirely with the Lord Bishop in that I think the whole subject of listed buildings across the Isle of Man as a jurisdiction, probably needs to be looked into as the existing listing instrument is, as the Lord Bishop says, very broad and perhaps lacks clarity and definition, but it has my support.

Thank you.

The President: The Hon. Member, Mr Lowey.

Mr Lowey: I couldn't have got out of the right side of bed this morning because I am finding it very difficult to come to terms with this particular Bill. One thing I have learnt over the years is that poison comes in little phials – it doesn't come in gallon flagons does it? – and although it may be a small Bill, I genuinely believe that this particular Bill, while well meaning, may very well have the seeds of a cause-and-effect which I would not like and I am sure people would not like.

Let me get the first thing off my chest. I do not believe it is the role of a cabinet of the national Government to be dealing in planning matters. Can you imagine? I have already around this table complained that the Government, the cabinet has been dealing with arranging six public seats around the harbour at Douglas as a national issue. (*Laughter*) How *mad* is that? Here we have a proposal that planning decisions should be heaped on the Government and I think it has got more important jobs to do than that. That is number one.

Number two, if this is so important, then I believe it should have been a Government Bill (**A Member:** Hear, hear.) and not a Private Member's Bill. I do believe that planning policy is a matter for the Government. The policy is the implementation of it, I think, should be at arm's length.

So while I still cannot get my head around why we are getting a national importance, and if this is brought in because of the Prison, my view on the Prison is it should be pulled down. It has done its Victorian penance by locking people up. I do not think it is a particular beautiful building, in my view, but that is personal. My view is it should be pulled down and, if you like, old lamps for new... or new lamps for old rather. It should be pulled down and redeveloped.

However, having said all of that, this is a Bill that has got this far. I am waiting to hear the mover of the Bill convince me that this particular piece of legislation will assist meaningfully in the planning process. I have not been persuaded up to now. Really and truly I do not believe putting more planning decisions on to the Council of Ministers is the right route, especially in the economic situation we are in. They should have their eyes focused on other things, and adding more of this, what I would call 'fringe activities' to their role is not good. It is not good policy or planning at this particular stage. I will leave it at that, and perhaps I may be getting out of bed on the right side when it comes to the Second Reading.

The President: Before the mover replies, I just wonder if he could assist Members by clarifying whether the existing criteria for the assessment of worthiness for registration continue to apply and would it be considered in balance with these additional criteria which is to be applied by the Council of Ministers?

Mover to reply, please.

Sorry, yes, Mr Braidwood, you wanted –

Mr Braidwood: Madam President, I have not really any comments, but I would agree with Mr Lowey that the hardest Bill I ever put through was, I think, about three clauses. It caused more problems and anything else against another Bill I put through of 170-odd clauses, which went through quite easily.

Again, on this, I do not know if this is appertaining to the prison or not, but I am under the impression that, in actual fact, the prison in Victoria Road is *not* registered at the present time.

I will give my support to the First Reading and then I hope that the mover will come back, particularly on the Second Reading, with some of the answers to the questions which have been raised.

The President: Mr Turner to reply, please.

Mr Turner: Thank you, Madam President.

Convincing Mr Lowey – I always enjoy that challenge which he has thrown across our Chamber numerous times!

Thank you to all the Members who have spoken this morning. Nothing gets past colleagues here in Council. The old prison site is one of the catalysts that have started this process, and there are a number of issues as to why this is felt important. I will try and answer them all.

First of all, this is to do with buildings and the structures etc that are in the ownership of the Government. This does not affect private buildings, but what it does is it gives the Minister an option.

To go to Mr Lowey's point, I fully agree with him and have said numerous times that I also think it is rather nonsensical when you have the Council of Ministers sitting round and discussing... He used the example of benches on the harbour, and indeed I believe they have been looking at that recently. The reason for that, of course, is that the application has been made by the Government Department and the process means that any applications by a Department – the Department of Infrastructure – have to go to the Council of Ministers. So it could be a multi-million-pound development of a car park or town centre or whatever, or it could be a garden shed for the works department, for example.

Mr Downie: They can delegate.

Mr Turner: So it is, unfortunately, a rather wide issue, and whilst they are dealing, the current system does need looking at and there are things underway to deal with some of those minor issues, such as the permitted development. So I hope that will explain why this will come to the Council of Ministers.

The old prison is very important site. There are two ways of looking at it. I agree with Mr Lowey, in that it served its purpose. What really is the purpose of preserving it? It is subjective. Some people would say, it needs preserving because of its visual character, its history, etc, but if we were to preserve everything, there would be no progress and we would have all sorts of old things lying around that we cannot do anything with, that we then have a duty to maintain for no purpose whatsoever.

My view is that some of these things should be properly recorded, documented and preserved in that way. If you take the old prison, it is a site which is crying out for development of some sort, whether that be first-time buyer houses, whether it be commercial, whether it be an old people's complex, that is an argument for another day, but if you ended up with a building such as this, you will sterilise the whole site and there is a need for these other facilities. This gives the Minister the ability to use the existing procedures or refer the matter for determination by the Council of Ministers.

I think Mr Callister mentioned the regulations. The regulations are a permissive clause: the regulations 'may' provide for etc, but ultimately it is again permitted that the Council of Ministers *may* determine that the building is to be entered onto the register. The reading of this particular proposal is for buildings that are not yet on the register, that are being considered for registration.

The deregistration process, the delisting or deregistration process, there is already a process in place for that, so, if an existing building needs to be deregistered, then this Bill has no effect on those existing provisions. Mr Lowey is right, it is always the smaller Bills that create the most debate. I think you have said, lots of things come in small bottles, I think was a phrase Mr Lowey has used. I think it is quite important that if we are to see ongoing development for the benefit of the people and value for money, we see that the Council of Ministers, who are the executive body of the Government are given the tools to be able to make decisions for the benefit of the people. A lot of those decisions may be controversial, but again, when it comes to planning, it is everybody's favourite subject. We are all huge experts in planning because we all have our own opinions and beauty is in the eye of the beholder. One person may look at a structure and think it is ugly and should be torn down; another person may like the style, so it is a very interesting area.

I hope that Members will support this Bill for the right reasons and I would hope that, when determining any such application that comes before them, the full process will be carried out to ensure that whatever the site is, it ends up with the best possible use for the public and the best value for the taxpayer. That is the spirit in which this Bill is designed.

I beg to move.

The President: The motion is that the Bill be read the first time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.