

OFFICE OF THE CLERK OF TYNWALD

The Hon. Member for Douglas Central, Mr Thomas, to ask the Chair of the Standing Orders Committee of Tynwald, Mr Speaker –

If the Standing Orders Committee of Tynwald will publish any evidence, analysis, requests and recommendations regarding the extension of the sub judice principle to planning applications submitted to it by a) the Department of Environment, Food and Agriculture, b) the Planning Committee and c) the Chair of the Planning Committee.

Question W-202501-1793 published on 4 September 2025; Answer published on 17 September 2025.

The Speaker of the House of Keys:

Parliamentary Questions about the work of a parliamentary Committee are rare, but I acknowledge that this one is in order because it concerns a matter on which the Committee has already reported. Such Questions are permitted under Tynwald Standing Order 3.4(8) and Keys Standing Order 3.4.3(6).

In answer to part a) an email was submitted to the Standing Orders Committee on 10 July 2024 by Ms Christian, a Member of the Department of Environment, Food and Agriculture, asking the Committee to consider the matter of parliamentary Questions on planning applications.

No specific application was mentioned in the email but a Question had been asked in the House of Keys on 7 May 2024 about the planning application for a cannabis cultivation campus and solar energy park (22/00678/B). In response, the Chief Minister had said:

The current status is that the application is not finalised and therefore is not at this stage ready for submission to the Council of Ministers for consideration. It would not be appropriate, Mr Speaker, to comment on a specific planning application.

There have been other examples before and since that date.

Having decided to propose an amendment to Standing Orders to extend the *sub judice* principle to live planning matters, the Committee consulted the Planning and Building Control Directorate about the proposed text. This consultation took place by way of an exchange of emails in March 2025.

In answer to part b) the Committee has received nothing on this subject from the Planning Committee, as distinct from the Chair of the Planning Committee.

In answer to part c) the Clerk of Tynwald submitted to the Committee on 7 May 2025 an email on this matter which the Chair of the Planning Committee had sent to the Clerk on 6 May 2025. At this time the Committee's report was at an advanced stage of preparation but had not yet been published. The Committee authorised the Clerk to refer to the Committee's unpublished proposal when responding to the email from Chair of the Planning Committee.

In the event the Clerk circulated his response to all Members of Tynwald. This was done on 8 May 2025 at 16:45. Later that same evening, at 17:18, Mr Callister circulated to all Members his original email to the Clerk of 6 May 2025.

The Committee's Report on Unreached Questions and Other Matters (PP 2025/0080) was published on 17 June 2025 and debated on 16 July 2025. At paragraphs 18 to 20 the Report recommended the extension of the *sub judice* principle to live planning applications, explaining that the Planning and Building Control Directorate had been consulted in developing the proposed text.

With the consent of the Committee the internal emails referred to above are annexed to this Answer. For completeness Mr Callister's email to the Clerk of Tynwald and the Clerk's response are also included.

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ANNEX

10 July 2024	Email from a Member of DEFA to the Chair of the Committee
12 March 2025	Email from the Committee to DEFA's Planning and Building Control Directorate
20 March 2025	Email from the Director of Planning and Building Control to the Committee
6 May 2025	Email from the Chair of the Planning Committee to the Clerk of Tynwald
8 May 2025	Email from the Clerk of Tynwald to all Members of Tynwald

From: Christian, Claire Sent: 10 July 2024 12:21 To: Watterson, Juan Cc: King, Jonathan Subject: Fwd: Standing orders

Dear Chair

Please can the below be put on the agenda for the next standing order meeting in two weeks.

Thank you

Claire

The matters we wished to raise were as follows;

Parliamentary questions and their supplementary questions on planning applications in the House of Keys, or Tynwald, either before, during or after a decision are difficult to provide an answer to.

Politicians answering are incredibly limited on what information they are able to provide. That information which is provided is already in the public domain on the planning website.

Noting also that discussions within a Parliamentary sitting, **may** have the potential to impact on the lawful governance, processing, consideration and / or determination of particular planning applications. As would any debate regarding specific decisions that are either made or yet to be made.

Certainly such debates can prejudice the ability for Minister(s) or members to make a decision at a later date, either on an individual or a collective basis.

We had drafted a letter but have received some feedback that we might be better to meet with Jonathan King, as clerk of standing orders committee to understand how best to approach this.

There is nothing in standing orders (I believe) that says you can't do any of the above, we would like to work to a way where it is discouraged though if possible.

If you could get a sense from the committee about what might be best to do, that would be very helpful.

Thanks so much

jen

From: Carlos August-Phillips
Sent: 12 March 2025 17:12
To: Chance, Jennifer; Butler, Steve (DEFA)
Cc: Barber, Clare; Gallacher, Scott
Subject: For DEFA Comment | Proposed Standing Order | Questions and Planning Applications

To: Director of Planning and Building Control & Head of Development Management
cc. DEFA Minister and Chief Officer

The Standing Orders Committee of Tynwald has agreed to insert a proposed addition into the Standing Orders of Tynwald (and House of Keys) providing that a parliamentary question should not refer to any planning application between such time as it having been published, and the time for the conclusion of any appeal.

A proposed form of words is set out below:

In between 3.4(10) and 3.4(11) insert new 3.4(10A):

TYNWALD:

(10A) A Question shall not refer to any planning application between such time as it having been published, and the time for the conclusion of any appeal has elapsed.

HOUSE OF KEYS:

In between 3.4.3 (2) and 3.4.3 (3) insert new 3.4.3 (2A) – and the preceding words “A Questions shall not” –

(2A) refer to any planning application between such time as it having been published, and the time for the conclusion of any appeal has elapsed.

The Committee has requested that this draft text be shared with the Planning & Building Control Directorate (DEFA) for comment.

I look forward to hearing from you.

Kind regards,
Carlos

Carlos August-Phillips
Head of Legislative Services
Ard-Offishear Shirveishtyn Slattyssagh

From: Chance, Jennifer
Sent: 20 March 2025 17:28
To: Carlos August-Phillips; Butler, Steve (DEFA)
Cc: Clare Barber; Gallacher, Scott
Subject: RE: For DEFA Comment | Proposed Standing Order | Questions and Planning Applications

Dear Carlos,

Thank you for sharing the suggested wording for the proposed addition into the Standing Orders of Tynwald (and House of Keys), and thank you for turning your attention to this important matter. Your approach to this is much appreciated.

We have reviewed the wording and have suggested the amended wording below:

TYNWALD:

(10A) A Question (including a supplementary question) shall not refer directly or indirectly to any planning application between such time as it having been submitted, and a final decision being made; the final decision being the conclusion of any appeal (if there is one), or if determined by Council after the time period in which Tynwald can annul the decision has elapsed.

HOUSE OF KEYS:

In between 3.4.3 (2) and 3.4.3 (3) insert new 3.4.3 (2A) – and the preceding words “A Questions shall not” –

(2A) refer directly or indirectly to any planning application between such time as it having been submitted, and a final decision being made; the final decision being the conclusion of any appeal (if there is one), or if determined by Council after the time period in which Tynwald can annul the decision has elapsed.

I acknowledge that the Presiding Officer would need to determine if a question is 'indirectly' referring to a planning application, and I leave it to your committee to determine whether this element is something that might better be referred to in a footnote?

Please get in touch if you require anything further.

Kind regards
Jennifer

From: Callister, Rob Sent: 06 May 2025 18:33 To: Jonathan King Cc: Laurence Skelly; Clare Barber; John Wannenburg Subject: Planning Application - June Tynwald Sitting
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Good Evening Jonathan,

As the Chair of Planning, I am contacting you to obtain some procedural advice regarding a motion that appeared on the register of business today, as I have some concerns.

I have included my colleague from Douglas North, John Wannenburg, as he is the Hon. Member moving the motion for consideration in June. The motion pertains to a planning application for the new visitor center next to the Laxey Wheel, which has already been submitted - I know that because John has referenced the relevant application number.

However, this planning application has yet to be presented to the Planning Committee for consideration. It could potentially come before the board at any time before the June sitting of Tynwald.

It is also reasonable to assert that the application is currently in the system and thus should be considered a live planning application.

My primary concern lies with the potential precedent this motion could set regarding future planning applications. If constituents are dissatisfied with a particular application, it is likely they will reach out to their local MHK to request its removal via Tynwald.

As you may know, John is currently the Chair of Manx Utilities, which will submit at least two significant planning applications in the near future.

I genuinely believe that, despite John's good intentions, this motion could inadvertently complicate matters for him in relation to the Garff Sewage Works or even the Onshore Wind Farm project in the southern part of the island in the future.

If John has concerns regarding this application, he has the option to formally address them with the planning committee prior to the hearing via a written submission.

While I understand that the Council of Ministers has the authority to call in a planning application in the public interest, I would appreciate your perspective on whether this Tynwald motion regarding a live planning application could genuinely set a concerning precedent.

Thank you for your attention to this matter. I look forward to your insights as the Clerk.

Kind regards

Rob Callister CMgr, FCMI, FICA, Dip.(ITM), MHK

House of Keys Member for Onchan

From: Jonathan King
Sent: 08 May 2025 16:45
To: Members DL
Subject: Motion about a live planning application: procedural issues arising

To: All Members of Tynwald

A Member has asked for my advice on any procedural issues arising from the following motion which appears on the Register of Business for the June sitting of Tynwald. I have decided to make my advice known to all Members.

The Hon. Member for Douglas North, Mr Wannenburgh, to move -

That Tynwald calls on Manx National Heritage to withdraw its planning application in respect of a proposed visitor kiosk at The Great Laxey Wheel (25/00103/CON), and instead consider a replacement sympathetic design, appropriate for the largest working water wheel in the world.

The first thing to say is that as far as the Standing Orders of Tynwald are concerned, the motion is in order.

Planning legislation lays down specific decision-making roles for DEFA, the Council of Ministers and Tynwald. As far as specific applications are concerned, the Tynwald's only statutory role is that it can annul a decision made by the Council of Ministers. That power is not relevant to the motion quoted above.

Outside the statutory process Tynwald is free to express an opinion on anything, but it cannot legislate by resolution. It follows that if the motion quoted above is carried, the result will be a declaratory resolution with no legal effect.

The matters which decision-makers in the planning system may take into consideration are laid down by statute and caselaw. Those matters do not include declaratory resolutions of Tynwald. Nor indeed do they include declarations made by anyone else, unless these have been submitted as representations according to the proper process.

A Tynwald resolution cannot be submitted as a representation within the planning process. This is because any subsequent discussion of that resolution within that process would conflict with section 6B of the Tynwald Proceedings Act 1876, which provides that the proceedings of Tynwald may not be questioned in any other place.

Although in constitutional terms planning decisions are made by the executive branch of government as opposed to the judicial branch, the functions of the DEFA and CoMin in relation to the planning process are closely supervised by the courts and are often described as “quasi-judicial”. With that in mind, Tynwald could decide to treat planning applications in the same way as it treats court proceedings, which would mean choosing not to discuss them while they are “live” subject to the discretion of the President.

A self-denying ordinance to that effect, modelled on the familiar *sub judice* principle, has been under active consideration by the Tynwald Standing Orders Committee since July 2024 and the Committee intends to report with recommendations on this in due course.

Jonathan