



GOVERNMENT OF BERMUDA

Ministry of Home Affairs

Department of Planning

5 February, 2020

Director of Planning
Dame Lois Browne-Evans Building
58 Court Street
Hamilton, HM 12

Dear Director,

Scheme of Delegation

Direction of the Development Applications Board to the Director of Planning Pursuant to Section 5A(2) of the Development and Planning Act 1974 (As Amended)

Subsequent to the Ministerial Brief 'Streamlining Planning Processes' as presented by the Hon. Walter Roban, JP, MP, Minister of Home Affairs on 10 May 2019, I write to set out the written directions to be used for the procedure known as the 'Delegation to Director'.

As per Section 5A(1) of the Development and Planning Act 1974 (as amended) (the "Act"), the Development Applications Board (the "Board"), with the approval of the Minister, by instrument in writing published in the Gazette and subject to such conditions, directions, reservations and restrictions as they think fit, has delegated to the Director of Planning (the "Director") its power to grant or refuse planning permission. This applies to all forms of planning applications which fall under the Act or any related secondary legislation.

As per Section 5A(2) of the Act, the Board may give written directions to the Director, in respect of such delegated powers, requiring that any application made to the Director for planning permission, or all such applications of any class specified in the directions, be referred to the Board instead of being dealt with by the Director.

In exercise of its power under Section 5A(2) of the Act, the Board hereby directs as follows:

Classes of Applications for Determination by the Board

1. Applications which are subject to one or more objection(s)¹
2. Applications which include an Environmental Impact Statement
3. Applications which, in the opinion of the Director, are of national interest

¹ An objection must meet all criteria set out by Section 18 of the Development and Planning (Application Procedure) Rules 1997 and, for the purposes of this Direction, any objection which does not raise any material planning grounds shall be excluded from being counted as an objection, at the discretion of the Director.

4. Applications where the decision of the Director would be in conflict with the advice of another Government department or non-governmental body provided in response to a consultation from the Department of Planning within the requested timescale (typically 21 days)
5. Applications for development which does not achieve the minimum setback to a lot line and does not include acknowledgement(s) from the affected neighbour(s)*
6. Applications for the creation of undersized lots where more than one building (not being a building ancillary to another) did not exist on that land before 3 August 1965 (see Section 37 of the Development and Planning Act 1974)*

**For applications falling with Class 5 or Class 6, decisions to refuse such applications will normally be made by the Director and decisions to approve such applications will normally be made by the Board.*

Individual Applications

The Director may refer any other application which, for any reason, the Director considers ought to be determined by the Board. This will typically include proposals for development which may affect a feature of conservation or historic value, development of more than one storey within a setback and development which incurs into a setback by more than 50%, having regard to site-specific circumstances including variances in grade, existing structures, boundary features and existing and proposed landscaping.

Notwithstanding the above, the Board may, under Section 5A(2) of the Act, refer any application to the Board for determination which would normally be delegated for determination by the Director. Any request for referral by the Board must be made in writing by the Chair (or Deputy Chair if the Chair is not available) to the Director within 14 days of the date advertised. All referrals must relate to material planning considerations and be detailed in the written referral. If such a request is made after the 14-day period, the decision as to whether the application shall be determined by the Board or the Director shall be at the discretion of the Director.

In addition, under this Direction, any application may be referred to the Director for determination at any time upon the mutual written agreement of the Chair (or Deputy Chair if the Chair is not available) and the Director.

Yours faithfully,



Mrs. Alice Lightbourne
Development Applications Board Chairperson