

EXPLANATORY MEMORANDUM TO

**THE PLANNING (DEVELOPMENT MANAGEMENT) (TEMPORARY
MODIFICATIONS) (CORONAVIRUS) (AMENDMENT) REGULATIONS
(NORTHERN IRELAND) 2020**

SR 2020 No. 208

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department for Infrastructure to accompany the above Statutory Rule which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under sections 27(5) and 247(1) and (6) of the Planning Act (Northern Ireland) 2011 and is subject to the negative resolution procedure.
- 1.3 The Rule is due to come into operation on 1 October 2020.

2. Purpose

- 2.1 These Regulations amend the Planning (Development Management) Regulations (Northern Ireland) 2015 (S.R. 2015 No. 71) to extend the emergency period to 31 March 2021.
- 2.2 The Department believes that it is important that the planning system continues to function during this crisis period and, where safe to do so, major applications can be submitted, assessed and determined. This will continue to keep projects on track which will be important to supporting the future economic and societal recovery, supporting businesses and jobs and avoiding delays to necessary infrastructure, housing and other developments. There has been significant support within the wider development community and associated sectors to maintain this temporary legislative change.

3. Background

- 3.1 The Planning (Development Management) (Temporary Modifications) (Coronavirus) Regulations (Northern Ireland) 2020 amended the Planning (Development

Management) Regulations (Northern Ireland) 2015 to insert regulation 5A (temporary relaxation of pre-application community consultation requirements during Coronavirus emergency period). This temporarily removed the requirement for a public event (and its associated advertising) as part of the pre-application community consultation process associated with planning applications for major development submitted during an emergency period (or 6 months after) as it was not possible for prospective developers to comply with this statutory requirement. It applies where a proposal of application notice, which triggers the pre-application community consultation process, is given to a council / the Department before, or during, the defined emergency period (1 May 2020 to 30 September 2020).

3.2 The Department has now concluded a review of the emergency period. Under the current public health guidance it may now be possible for pre-application community consultation public events to be facilitated provided all requirements are followed and met. Nevertheless, the Department is not convinced that this is necessarily the right time to remove the temporary suspension or that potential events would fully meet community engagement expectations. This is particularly the case in light of the uncertainty surrounding the current and future incidences and spread of coronavirus disease.

3.3 Many members of the public may not have confidence attending indoor public events. In addition, potential applicants may find it difficult to find an appropriate venue and comply with the risk assessment requirements of the guidance, particularly as it may not be clear how many people may attend any particular public event. This could inadvertently lead to less community engagement.

4. Consultation

4.1 The Department undertook a short, targeted consultation with key stakeholders to seek their views on extending the end date of the emergency period to 31 March 2021.

4.2 Responses from the industry and councils supported the view that the current arrangements are working well and agreed with the proposals to extend the emergency period. Some concerns were raised by community interests who emphasised the importance of ensuring all members of the public have equal

access to the pre-application process and recommended a more limited extension. Concerns also that the emergency arrangements may become the norm or be extended unduly or unreasonably. The Department does not intend to extend the emergency period any longer than necessary and as indicated above, will keep it under review. It will also continue to encourage potential applicants to undertake alternative arrangements to engage with the community as set out in guidance which will be updated.

5. Equality Impact

- 5.1 The principle Regulations have been subject to equality impact assessment. There is no requirement to carry out such assessments on these Regulations as they simply extend the end date of the emergency period.

6. Regulatory Impact

- 6.1 A partial Regulatory Impact Assessment was carried out on the principle Regulations and did not identify any costs to business or the voluntary sector. There is no requirement to carry out a further assessments on these Regulations as they simply extend the end date of the emergency period.

7. Financial Implications

- 7.1 There will be no financial costs imposed on business as a result of these changes. Indeed, in pre-application community consultation, prospective applicants will be spared the costs of staging a public event. Those savings may be offset by any other consultation steps they undertake instead, or which a planning authority may require, under existing pre-application community consultation powers, in an individual case.

8. Section 24 of the Northern Ireland Act 1998

- 8.1 The Department considers that the legislation complies with the requirements of section 24 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1 There are no EU implications.

10. Parity or Replicatory Measure

10.1 The Scottish Government has implemented similar changes.

11. Additional Information

11.1 None.

Contact

Please direct any queries to Irene Kennedy at the Department for Infrastructure Tel: 028 90540568 or e-mail: irene.Kennedy@infrastructure-ni.gov.uk.