

Final Business and Regulatory Impact Assessment

Town and Country Planning (General Permitted Development) (Coronavirus) (Scotland) Amendment Order 2021

• **Background**

1. The amendment made by the Order does not stem from specific EU requirements, but supports the UK and Scottish Government's work to manage the impact of the COVID-19 outbreak.

• **Rationale for Government intervention**

2. In the absence of this amendment, certain developments would have to be delayed due to the statutory requirement to obtain planning permission through the planning application process, with potential effects on the ability to respond to the current situation.
3. National Performance Framework - These measures contribute to the following performance indicators:
 - We are healthy and active
 - We live in communities that are inclusive, empowered, resilient, and safe.

Consultation

• **Within Government**

4. Responsibility for these issues lies mainly with Planning and Architecture Division. We have discussed briefly with colleagues whose business areas may be affected.

• **Public Consultation**

5. Due to the urgency of these measures there has been no public consultation.

• **Business**

6. In the current emergency there has been no time to engage in detail with business on the changes.

Options

Do nothing

7. This would potentially create a situation where the existing temporary permitted development rights to facilitate responses by the Crown on Crown Land to the coronavirus emergency would cease to apply after 6 months from the date the development began with a requirement that any development or change of use created under the emergency rights would need to be removed

or ceased within that period, unless planning permission was obtained for retention of the development or change of use.

8. Similar work can also be undertaken by Local Authorities and Health Bodies on other land subject to similar restrictions regarding cessation and restoration of land to the original condition and use. The Order makes an appropriate extension to the time limits in relation to Local Authority and Health Board temporary development to address the impacts of the current coronavirus emergency.

Facilitate essential development through extending the duration of the permitted development rights

9. This provides a proportionate response, removing potential planning barriers, while remaining appropriate to the need for balance between the need for facilities and to retain some control over the impact of development.

Sectors and groups affected

10. Whilst everyone is affected by the coronavirus emergency, the removal of the need for planning applications will affect prospective applications for such development. There will be some impact on members of the public who may be affected by development and might otherwise make representations on the proposed development. The temporary nature of the Order is intended to minimise any long term negative impacts of the development once the need for it has passed.

Benefits

Do nothing

11. No benefits.

Facilitate essential development through permitted development rights

12. Significant benefits through reduced planning engagement. Whilst some members of the public may wish to comment on such development, the overall impact on holding up and potentially derailing development could have far wider consequences.

Costs

Do nothing

13. Planning applications would be required, with associated costs and fees, in addition to potentially causing delays to necessary developments and infrastructure provision. The risk of delay and potential for derailment of

projects could add significantly to the risks to public health and the public health response to COVID-19.

Facilitate essential development through permitted development rights

14. Subject to the requirements to comply with other statutory requirements such as EIA and listed building legislation, essential development to erect, extend or change the use of buildings by or on behalf of the Crown on Crown land to address the impacts of the current coronavirus emergency can be undertaken without the costs associated with submitting an application.

Scottish Firms Impact Test

15. There has been no time for such engagement in the current crisis.

Competition Assessment

16. There are no obvious impacts on competition of these procedural amendments as regards obtaining planning permission.

- Will the measure directly or indirectly limit the number or range of suppliers?

17. No

- Will the measure limit the ability of suppliers to compete?

18. No. Decisions on procurement of sites or contractors for the additional facilities are separate from planning considerations.

- Will the measure limit suppliers' incentives to compete vigorously?

19. No. As above

- Will the measure limit the choices and information available to consumers?

20. No. As above.

Consumer Assessment

21. The Order is essentially about facilitating essential development for the benefit of the public.

- Does the policy affect the quality, availability or price of any goods or services in a market?

22. No. Any such changes will be driven by the health crisis and related public health policy in relation to which these changes to the GDPO are consequential.

- Does the policy affect the essential services market, such as energy or water?

23. No. Any such changes will be driven by the health crisis and related public health policy in relation to which these changes to the GPDO are consequential.

- Does the policy involve storage or increased use of consumer data?

24. No.

- Does the policy increase opportunities for unscrupulous suppliers to target consumers?

25. No.

- Does the policy impact the information available to consumers on either goods or services, or their rights in relation to these?

26. No .

- Does the policy affect routes for consumers to seek advice or raise complaints on consumer issues?

27. No.

Test run of business forms

28. No new forms.

Digital Impact Test

29. No impact is anticipated as a result of the provisions of the Order

- Does the measure take account of changing digital technologies and markets?

30. Yes

- Will the measure be applicable in a digital/online context?

31. No.

- Is there a possibility the measures could be circumvented by digital / online transactions?

32. No

- Alternatively will the measure **only** be applicable in a digital context and therefore may have an adverse impact on traditional or offline businesses?

33.No.

- If the measure can be applied in an offline **and** online environment will this in itself have any adverse impact on incumbent operators?

34.No impact.

Legal Aid Impact Test

35.These consequential changes are to ensure the legal requirements of the planning system can be met in the current crisis and thus avoid questions of legal challenge.

Enforcement, sanctions and monitoring

36.These measures remove certain statutory requirements temporarily during the COVID 19 outbreak. We will be monitoring the planning system in general through this crisis.

Implementation and delivery plan

37.These measures will be implemented at the earliest opportunity and the legislative changes conveyed to planning authorities and the wider public sphere through planning guidance in e-mail alerts to planning authorities and stakeholders and the Scottish Government's web site.

Post-implementation review

38.Scottish Government measures will be subject to review through the course of the crisis to judge when it is appropriate to return to normal arrangements. The intention is to time limit the permitted development rights for development by or on behalf of the Crown on Crown Land to 18 months from the date the development or change of use starts, including the cessation of use and the removal of any structures to revert the land to its original condition and use.

Summary and recommendation

39.Doing nothing is simply not a realistic option. The potential health, economic and social costs of not introducing temporary permitted development rights, in terms of delaying provision of essential services and facilities, far outweigh the temporary removal of opportunities to scrutinise proposed development.

Declaration and publication

Sign-off for Final BRIA:

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of relevant representative

organisations in Scotland. Wider consultation with businesses has not been possible in the current circumstances.

Signed: Kevin Stewart

Date; 19th January 2021

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