

POLICY NOTE

THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (CORONAVIRUS) (SCOTLAND) AMENDMENT ORDER 2021

SSI 2021/29

The Scottish Ministers make the above Order in exercise of the powers conferred by sections 30, 31 and 275 of the Town and Country Planning (Scotland) Act 1997, sections 98 and 122(3) of the Planning and Compulsory Purchase Act 2004 and all other powers enabling them to do so. Town and Country Planning is a devolved matter. Article 2 of the Order amends the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (“the GPDO”). The GPDO is a general development order granting planning permission for certain classes of development. The Order amends the GPDO to introduce a new class of permitted development for development by or on behalf of the Crown on Crown land for the purposes of preventing, reducing, controlling or mitigating, or taking other action in connection with, a pandemic. Article 2 of the Order also amends class 72C of the GPDO to extend the period during which planning permission is granted for certain development carried out by, or on behalf of local authorities or health service bodies for the purposes of preventing, reducing, mitigating or controlling the effects of the current emergency caused by the spread of the COVID 19 virus (the virus) and its impacts on public health.

Purpose of the instrument.

Planning permission granted by the Order is temporary. The purpose of this Amendment Order is to permit development by or on behalf of the Crown on Crown land required to address the impacts of a pandemic for a period of 18 months from the date development is started. The development must cease and any buildings and structures removed, with the land restored to its condition before the development, before the expiry of this period unless planning permission has been granted following a planning application under Part 3 of the Town and Country Planning (Scotland) Act 1997.

The Order will also extend the period by which development or change of use under Class 72C of the GPDO must cease from 01 July 2021 to 31 December 2021.

The Order also extends the duration of planning permission under class 91 from 6 to 18 months where temporary development relates to the prevention, control or mitigation of a pandemic.

This supports timeous reaction to the current public health emergency caused by the spread of the virus.

Policy Objectives

Planning permission is ordinarily required for new development in order to ensure that the development is appropriate, in terms of Development Plan policy and the protection of amenity, and sustainable. Permitted development rights, as set out by the GPDO, are intended to allow developments which have minimal impact on amenity and Development Plan policy to proceed without the delay which is involved in submitting a planning application. Planning authorities

have a target of two months to determine a planning application; once an application is submitted the applicant has to wait until the application is determined before starting work. The removal of this period from the development process will enable the health authorities and local authorities to react to the virus more quickly.

As the developments which are required specifically to deal with the effects of the virus on public health will be in place for a temporary period only extending permitted development rights to cover such developments will not have a lasting impact on amenity.

Consultation

As this is an emergency measure, and intended to be temporary, no formal public consultation has been undertaken.

Assessments

We have carried out a Business and Regulatory Impact Assessment. The Equalities Impact Assessment (EQIA) in relation to The Town and Country Planning (General Permitted Development) (Coronavirus) (Scotland) Amendment Order 2020 remains relevant and identified no negative impacts and minor benefits for some sectors of the community, We also screened out at stage one of Children's Rights and Welfare Impact Assessment (CRWIA), as the changes are technical and temporary changes driven by the public health policy. Similarly, we have screened out of the Fairer Scotland Duty Assessment, as the changes are temporary and technical rather than strategic.

These Regulations fall out with the scope of Strategic Environmental Assessment as per Section 4(3)(a) as their sole purpose is to serve a civil emergency. A Data Protection Impact Assessment is not considered relevant to the changes. In the circumstances, we have not done an Islands Impact Assessment, though we acknowledge that more remote areas with more limited online capabilities may be at something of a disadvantage for this temporary period.

Financial Effects

There will be no financial costs imposed on the Crown, health authorities or local authorities as a result of the amendment. Indeed, there will be a cost saving as they will be spared the costs of preparing and submitting a planning application. The planning authority will not receive a fee for a planning application as they otherwise would, but will not incur the staff time and other costs of determining an application. A Business and Regulatory Impact Assessment (BRIA) has been completed and is attached.

Scottish Government
Planning and Architecture Directorate

January 2021