EXPLANATORY MEMORANDUM TO

THE BUSINESS AND PLANNING ACT 2020 (LONDON SPATIAL DEVELOPMENT STRATEGY) (CORONAVIRUS) (AMENDMENT) REGULATIONS 2020

2020 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument amends section 21(2) of the Business and Planning Act 2020 ("the 2020 Act") in order to extend the duration of temporary provision in relation to the electronic inspection of the Mayor of London's current spatial development strategy.

2.2 In response to the coronavirus pandemic, section 21(1) of the 2020 Act temporarily modifies section 43 of the Greater London Authority Act 1999 ("the 1999 Act"). It temporarily disapplies requirements on the Mayor of London to keep his current spatial development strategy available for inspection at premises and to provide a hard copy on request, if the strategy is, instead, available for inspection free of charge by appropriate electronic means.

2.3 Section 21(2) of the 2020 Act provides that this temporary change expires at the end of 31 December 2020. This instrument extends the application of the provision for a further year.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 This entire instrument applies to England only. It extends the duration of section 21(1) of the 2020 Act which applies to England only, as it concerns requirements on the Mayor of London in relation to the making available of his current spatial development strategy for inspection.

3.3 The instrument does not have any minor or consequential effects outside England.

3.4 In the view of the Ministry, for the purposes of Standing Order No. 83P of the Standing Orders of the House of Commons relating to Public Business, the subject-matter of this entire instrument would be within the devolved legislative competence of the Northern Ireland Assembly if equivalent provision in relation to Northern Ireland were included in an Act of the Northern Ireland Assembly as a transferred matter; and the Scottish Parliament if equivalent provision in relation to Scotland were included in an Act of the Scottish Parliament; and the Welsh Parliament if equivalent provision in relation to Wales were included in an Act of the Welsh Parliament.

3.5 The Ministry has reached this view because it considers that the primary purpose of this instrument relates to planning which is within the devolved legislative competence of each of the three devolved legislatures. The primary purpose of the subject matter of the instrument is not within Schedule 5 to the Scotland Act 1998 and is not otherwise outside the legislative competence of the Scottish Parliament (see section 29 of that Act); the primary purpose of the subject matter of the instrument is not within Schedule 2 or 3 to the Northern Ireland Act 1998 and is not otherwise outside the legislative competence of the Northern Ireland Assembly (see section 6 of that Act); the primary purpose of the subject matter of the instrument is not within Schedule 7A to the Government of Wales Act 2006 and is not otherwise outside the legislative competence of the Welsh Parliament (see section 108A of that Act).

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is set out in Section 3 under "Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)".

5. European Convention on Human Rights

5.1 The Minister of State for Housing, Christopher Pincher, has made the following statement regarding Human Rights:

"In my view the provisions of the Business and Planning Act 2020 (London Spatial Development Strategy) (Coronavirus) (Amendment) Regulations 2020 are compatible with the Convention rights."

6. Legislative Context

6.1 The Mayor of London is required to produce a spatial development strategy setting out strategic planning policies for London (see section 334 of the 1999 Act.).

6.2 Section 43 of the 1999 Act makes provision about the public availability of certain of the Mayor of London's strategies (including his current spatial development strategy).

6.3 In response to the coronavirus pandemic, section 21(1) of the 2020 Act temporarily modifies the effect of section 43 of the 1999 Act (which is to be read as if new subsections (4A) to (4C) were inserted into it). The temporary modification disapplies the requirement on the Mayor of London to keep his current spatial development strategy available for inspection at the principal offices of the Greater London Authority ("the GLA") and at such other places as the Mayor considers appropriate, if the strategy is available for inspection free of charge by appropriate electronic means. It also temporarily disapplies the requirement on the Mayor to provide a hard copy of the strategy on request, if the strategy is available for inspection free of charge by appropriate electronic means.

6.4 Section 21(2) of the 2020 Act provides that this temporary change will expire at the end of 31 December 2020. This instrument amends section 21(2) to extend the application of section 21(1) of the 2020 Act until the end of 31 December 2021.

6.5 This instrument is the first exercise of the Secretary of State's power, in section 21(3) of the 2020 Act, to extend the duration of the temporary provision.

6.6 The Secretary of State considers it reasonable to substitute the date specified in section 21(2) of the 2020 Act with a later date in order to mitigate an effect of coronavirus (as explained in section 7 below).

6.7 Section 21(1) of the 2020 Act makes clear that before making arrangements to make the spatial development strategy available by electronic means, the Mayor of London must have regard to any guidance issued by the Secretary of State as to (a) how a copy of the current strategy should be made available by electronic means and (b) any arrangements that may be appropriate to mitigate the effects on a person of not being able to inspect a copy, or finding it difficult to do so, by electronic means. There is further information on this guidance in section 11 below.

7. Policy background

What is being done and why?

7.1 These Regulations are part of the Government's emergency response to the Coronavirus pandemic. They extend the current temporary disapplication of requirements on the Mayor of London to keep his current spatial development strategy ("The London Plan") available for inspection at the GLA's principal offices (and at such other places as the Mayor considers appropriate) and to provide a hard copy on request, if the strategy is, instead, available for inspection free of charge by appropriate electronic means.

7.2 There is uncertainty about the future spread of Coronavirus and the extent of associated restrictions. The GLA have confirmed that because of the Coronavirus pandemic, London's City Hall is currently closed to the public and, in line with the latest Government advice, staff are predominantly working from home. This means that members of the public cannot visit the building to view the current London Plan.

7.3 A new London Plan is due to come into force (be published) soon. This may result in requests for hard copies and it may be difficult for the GLA to satisfy all requests while staff are predominantly working from home.

7.4 Government is extending these temporary measures for 12 months until 31 December 2021. This period is deemed to be appropriate given the current level of uncertainty about the future spread of Coronavirus and the extent of associated restrictions. It is also considered appropriate given the policy mitigation provided (see guidance section below in respect of appropriate mitigation measures where a person finds it difficult to inspect the strategy by electronic means) and in the context of the findings of our sector engagement on the current temporary measures (see consultation details in section 10 below), which suggests that any negative impacts from the measures will continue to be limited.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 Not applicable.

10. Consultation outcome

10.1 No formal consultation has taken place on this measure. The GLA have been informally consulted and have confirmed that City Hall remains closed to the public and, in line with Government advice, staff are predominantly working from home. Therefore they support the principle of extending the temporary measure in section 21 of the 2020 Act through these Regulations, as a proportionate temporary response to the epidemic.

10.2 The GLA confirmed that they have not had any recent requests for hard copies to be provided or any complaints about the current temporary measures. They stated a preference for any extension set out in these Regulations to align with the parallel measures for Local Plans, to provide a consistent message for local people on Local Plans and Spatial Development Strategies. The Local Plan measures are set out in The Town and Country Planning (Local Planning) (England) (Coronavirus) (Amendment) Regulations 2020 (SI 2020/731) and, having considered feedback from two national planning bodies: The Local Government Association's Planning Advisory Service (PAS) and the Planning Officers' Society (POS) it is Government's intention to extend the temporary measures for Local Plans for the same 12 month period. PAS confirmed that they have not heard of any issues or concerns about the current measures. POS have also not heard of any issues or concerns and were supportive of a 12 month extension because of the certainty it would provide for local planning authorities.

11. Guidance

11.1 Government guidance has been provided on how the GLA could make arrangements to access published spatial development strategies where they cannot provide physical documentation.

11.2 Government guidance has also been provided on how the GLA could make arrangements for appropriate mitigation where persons are not able to access the spatial development strategy by electronic means or are finding it difficult to do so.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 This temporary measure impacts on the public sector. It forms part of the Government's emergency response to the Coronavirus pandemic. This should make it safer for planning officers and the public as well as providing a small reduction in administrative burdens.

12.3 An Impact Assessment has not been prepared for this instrument because no, or no significant, impact on the private or voluntary sector is foreseen.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The impact of the instrument will be kept under review.

15. Contact

15.1 Christopher Mountain at the Ministry of Housing Communities and Local Government be contacted on christopher.mountain@communities.gov.uk with any queries regarding the instrument.

15.2 Benjamin Clayton, Deputy Director for Planning – Development Plans, at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.

15.3 Christopher Pincher, Minister of State at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.