EXPLANATORY MEMORANDUM TO

THE PLANNING (DEVELOPMENT MANAGEMENT) (TEMPORARY MODIFICATIONS) (CORONAVIRUS) (AMENDMENT No.2) REGULATIONS (NORTHERN IRELAND) 2021

SR 2021 No. 270

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 2021.

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 2022.

2.2 The Department believes that it is important that the planning system continues to function effectively as we move into Covid-19 recovery and that major applications can be submitted, assessed and determined. Extending the emergency period will continue to keep such 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 for maintaining this temporary legislative change and the Department is content that the existing procedures appear to be working well and is not aware of any issues being raised.

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 applied where a proposal of application notice, which triggers the pre-application community consultation process, was given to a council / the Department before, or during, the defined emergency period (1 May 2020 to 30 September 2020).

3.2 Following a further review of the emergency period and a short targeted consultation the Department amended regulation 5A to extend the emergency period to 31 March 2021. This was further amended to extend the emergency period to 30 September 2021.

3.3 Under the current public health guidance it is now 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 would be the right time to remove the temporary suspension or that potential events would fully meet community engagement expectations. There also continues to be some uncertainty surrounding the current and future incidences and spread of coronavirus disease in Northern Ireland.

3.4 Many members of the public may not have confidence attending indoor public events. In addition, applicants may find it difficult to find an appropriate venue that would comply with the risk assessment requirements of the guidance. This could lead to less pre application community engagement.

3.5 The Department therefore proposes to amend regulation 5A of the Planning (Development Management) Regulations (Northern Ireland) 2015 to extend the end

date of the temporary relaxation of pre-application community consultation requirements during Coronavirus emergency period to 31 March 2022.

3.6 The Department will keep this date under review, taking account of any changes to the public health advice, to consider if an extension or reduction to the emergency period would be appropriate. 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. It should also be noted that this does not prohibit developers, if they considered it appropriate and beneficial, to voluntarily hold a public event as part of the pre-application community consultation, provided they comply with the health regulations.

4. Equality Impact

4.1 The proposed Statutory Rule does not have any significant impact on equality of opportunity in any of the groups specified in section 75 of the Northern Ireland Act 1998. A screening exercise has been conducted on the proposals.

5. Regulatory Impact

5.1 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.

6. Financial Implications

6.1 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.

7. Section 24 of the Northern Ireland Act 1998

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

8. EU Implications

8.1 There are no EU implications.

9. Parity or Replicatory Measure

9.1 The Scottish Government has extended its emergency period to 31 March 2022.

10. 21 Day Rule

10.1 The Department is aware that at least 21 calendar days should ordinarily elapse between the date on which a rule is laid before the Assembly and its commencement. However in this case due to the ongoing COVID-19 situation the Department considers it necessary to implement the proposed legislation as soon as possible in order to ensure that major applications can continue to be submitted, assessed and determined at this time.

11 Additional Information

11.1 None.

Contact

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