EXPLANATORY MEMORANDUM TO

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

SR 2020 No. 72

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 May 2020.

2. Purpose

2.1 These Regulations amend the Planning (Development Management) Regulations (Northern Ireland) 2015 (S.R. 2015 No. 71) to temporarily remove 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 the emergency period (or 6 months after). This 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). The amendments also require the applicant to provide details of how (including by what electronic means) further information may be obtained concerning the proposed development. In cases where a proposal of application notice has already been submitted, and a public event not yet taken place, the applicant will not be required to hold a public event, but should discuss with the council their alternative consultation measures. Similarly applicants submitting new proposal of application notices, should set out clearly how they propose to engage with the community in

the absence of a public event. Proposal of application notices submitted after the emergency period will be required to hold a public event.

3. Background

3.1 The Planning (Development Management) Regulations (Northern Ireland) 2015 prescribe the minimum pre-application community consultation requirements which a prospective applicant for a major planning development must undertake. This includes the holding of a public event and publication of the proposed event in a newspaper circulating in the locality.

3.2 Due to the ongoing COVID-19 crisis it will not be possible for prospective developers to comply with this statutory requirement. This would result in the pre-application community consultation process being invalid and the subsequent application for planning permission then being declined to be determined. This could lead to a backlog of major planning applications that cannot complete pre-application community consultation and cannot be submitted for consideration for some time, even after the COVID-19 crisis is over. This will hinder the economic recovery after COVID-19 restrictions are lifted.

3.3 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 keep projects on track, which will be important to supporting the future economic and societal recovery. Applicants will still need to comply with other requirements to ensure the community are aware of, and can input to, major development proposals for their areas. The Department intends to provide further guidance for applicants and councils to coincide with the Regulations coming into operation.

4. Consultation

4.1 No formal consultation has been undertaken as these changes are as a result of the public health advice in response to COVID-19. There has however been significant support within the wider development community and associated sectors for temporary legislative change.

5. Equality Impact

5.1 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 and acknowledged that some groups, e.g. older groups, may be temporarily impacted due to the suspension of the requirement for a public event and a shift to other forms of consultation and engagement, such as online tools. However, updated guidance will issue to highlight the need for measures to ensure genuine community engagement is maintained through reasonable alternatives to the holding of public events. In addition to online tools, this could include remote tools such as safe distribution of leaflets, newsletters and telephone consultations. Alternatives to the legislative amendment, such as suspending public involvement in planning, or halting the processing of major planning applications are not considered tenable options in the current circumstances.

6. Regulatory Impact

6.1 A partial Regulatory Impact Assessment was carried out and did not identify any costs to business or the voluntary sector.

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.