



**An Roinn Tithíochta,
Pleanála agus Rialtais Áitiúil**
Department of Housing,
Planning and Local Government

Frequently Asked Questions

Resumption of Statutory Planning timelines further to the expiry, on 23rd May 2020, of Orders made under Section 251A of the Planning and Development Act 2000 (as amended)

Updated 23rd May 2020

Frequently Asked Questions on the resumption of Statutory Planning Timelines further to the expiry of Orders made under Section 251A of the Planning and Development, Act, 2000 (as amended)

Introduction

On 29 March, 2020, the Minister and the Government, taking account of the considerations under Section 251A(5) of the Planning and Development Act, 2000 as amended, made Orders¹ which result in an extension of time for a range of specified/appropriate periods and timelines under this Act, and a number of other related Planning Acts² and associated regulations.

This meant that such periods were first extended in duration from 29 March 2020 to Monday 20 April. They were subsequently extended until Saturday 9th May, and again further extended until Saturday 23rd May 2020 inclusive, comprising a total period of eight weeks (56 days).

The initial extension of statutory planning time periods followed on from the statement by An Taoiseach on 27 March 2020, which asked people generally to stay at home, other than for certain essential activities, until 12th April. This was supported by the provisions of S.I. No. 121 of 2020³, which gave effect to the ‘stay at home’ restrictions.

The stay at home restrictions were subsequently extended until Tuesday 5th May and again further extended until Monday 18th May 2020, when the first phase of the measures outlined in the Government’s *Roadmap for Reopening Society and Business*, commenced.

Further to implementation of Phase 1 of the Roadmap and the related amendment of the stay at home restrictions⁴ which, among other things, added “*construction and development work*” and “*the provision of support services relating to construction and development work*”, to the list of ‘essential services’, measures to ensure the re-opening of all 31 local authority planning office public counters and An Bord Pleanála, (subject to necessary public health requirements), and to strengthen requirements for planning documentation to be available on-line, from Monday 25 May 2020, it was decided not to extend the Order under Section 251A for a further period, after 23rd May 2020.

These and other matters are further detailed in this document.

¹ S.I. 100 of 2020 and S.I. 129 of 2020.

² Derelict Sites Act, 1990; Part 2 of the Urban Regeneration and Housing Act, 2015; Chapter 1 of Part 2 of the Planning and Development (Housing) and Residential Tenancies Act, 2016. (Similar arrangements also apply to periods referred to in Sections 4(4), 6 and 17(60) of the Building Control acts, and regulations made under those provisions).

³ Health Act 1947 (Section 31A – Temporary Restrictions) (COVID-19) Regulations, 2020.

⁴ S.I. 121 of 2020, as amended by S.I. 174 of 2020.

Resumption of Statutory Planning Timelines

1) On What Date do Statutory Planning Timelines Resume?

Statutory planning timelines resume on Sunday 24th May 2020, further to the expiry, on 23rd May 2020, of the 'disregard' period given effect by Orders previously made under Section 251A for any statutory process in the Planning and Development Act 2000 as amended (the Act) and related planning and building control legislation as per note² above.

2) When do Planning Offices open to the Public?

From Monday 25th May, all local authority planning offices and the offices of An Bord Pleanála will be open to the public during normal office hours. All will operate public planning counters to provide access to documentation in a manner that ensures public health and safe social distancing requirements can be observed by staff and customers. This will include provision for attendance by members of the public at local authority offices by appointment, for an initial period, which will be kept under review.

The operation of local authority public planning counters and interaction with the public, in the context of ongoing COVID-19 public health requirements, is governed by Standard Operating Guidance (SOG) protocols applying in the local government sector.

3) Can I Access Planning Services On-line?

Yes, all local authorities and An Bord Pleanála have a website and amended Planning Regulations made on 22nd May 2020, now require all planning application documentation to be made available on-line within five working days of receipt of the application, save for some exceptional circumstances.

4) How are these Arrangements being Communicated to the Public?

All local authorities will advertise access arrangements applicable from 25th May 2020 through local media channels and on their own website. Each will also ensure the provision of a dedicated planning email address and telephone line, to ensure that service users can arrange appropriate and timely appointments.

Planning Applications

5) What does the Resumption of Statutory Timelines mean for the determination of Planning Applications?

From Sunday 24th May 2020, a planning authority will have the normal statutory planning period of eight weeks, to determine:-

- any planning application made during the period of duration of the Section 251A Order, i.e. from 29 March 2020 to 23rd May 2020 inclusive, and
- any planning application made on or after Sunday 24th May 2020.

6) When will Planning Applications submitted prior to the Order Period i.e. before 29th March, be determined?

This depends on the portion, or number of days of the eight-week statutory planning time period, that remained on the coming into effect of the Section 251A Order on 29th March 2020. For such planning applications, up to eight additional weeks (56 days) may be applied to planning due dates that were applicable prior to 29th March.

In each case, the exact calculation of the statutory time period for determination, will depend on the date the planning application was submitted. For example, a planning application submitted on Friday 27th March 2020, must now be determined by Thursday 16th July 2020.

7) What does the Resumption of Statutory Timelines mean for Public Participation periods in respect of Planning Applications?

From Sunday 24th May 2020, any interested person will have the normal statutory planning period of five weeks, to make a submission or observation on:-

- any planning application made during the period of duration of the Section 251A Order i.e. from 29 March 2020 to 23rd May 2020 inclusive, and
- any planning application made on or after Sunday 24th May 2020.

This means that any planning application submitted to a planning authority after 29th March 2020 and during the period of the Section 251A Order, cannot be decided by the Planning Authority until the five-week period for public participation on the application has been completed, and this cannot be for at least five weeks after 23rd May 2020, i.e. Saturday 27th June 2020⁵.

⁵ As the first day after 27th June 2020 is a Sunday and the offices of all planning authorities are closed, this means that in effect submissions may be made until Monday 29th June 2020 in such cases.

8) Is there a Public Participation period for Planning Applications made prior to the Order Period i.e. before 29th March?

Yes, there is a public participation period remaining for any planning application that was submitted to a planning authority less than five weeks prior to the date of commencement of the Section 251A Order on 29th March 2020, i.e. that was made after Friday 21st February 2020.

This is to ensure that any interested person will have the normal period of five weeks, to participate in the planning process.

In each case, the exact calculation of the statutory time period for public participation, will depend on the date the planning application was submitted. For example, submissions or observations may be made to a planning authority on a planning application submitted on Friday 27th March 2020, by Thursday 25th June 2020.

The public participation period remaining for any planning application that had been submitted to a planning authority *more* than five weeks prior to the date of commencement of the Section 251A Order on 29th March 2020, i.e. that was made on or before Friday 21st February 2020, had already ended prior to the coming into effect of the Section 251A Order.

9) Can ‘Section 247’ Pre-Planning Meetings Now Take Place?

Yes, planning authorities may continue to engage with applicants and their representatives, and/or consider pre-planning documentation. In view of public health considerations, such engagement should maximise the use of electronic and non face-to face-means, where possible. Where a meeting is considered necessary, the minimum number of people should attend, and local health and safety measures applied in accordance with Standard Operating Guidance applying in the local government sector.

10) Can I make a Submission or Observation on a Planning Application?

Yes, a submission or observation may be made on any planning application submitted within the duration of the Section 251A Order, for a further five-week period, to Saturday 27th June 2020⁶. Submissions may also be made during the remainder of any applicable five-week period that commenced prior to the commencement of the Order on 29th March 2020.

All planning offices accept submissions by post and almost all planning authorities facilitate on-line submissions and electronic means of payment. If a member of the public wishes to make a submission in person to the relevant planning authority, they may do so by making a prior appointment, similar to arrangements for inspecting a planning file.

⁶ As the 27th June 2020 is a Saturday and the offices of all planning authorities are closed, this means that in effect, submissions may be made until Monday 29th June 2020 in such cases.

Site Visits/Inspections

11) Can Site Visits for Planning Assessment purposes be undertaken?

Yes, site visits for planning assessment purposes may be undertaken, as part of Phase 1 of the *Roadmap for Reopening Society and Business*. Local Authorities and An Bord Pleanála are putting in place procedures for the resumption of site visits/inspections for all appropriate planning and development functions. These will include controls and protocols regarding the entering of dwellings in circumstances where it is strictly necessary for the assessment of a planning proposal. In such cases, prior appointments will be made and all appropriate public health guidance will be followed to protect planning officials and members of the public.

Local authority site visit procedure, in the context of ongoing COVID-19 public health requirements, is governed by Standard Operating Guidance (SOG) protocols, applying in the local government sector.

12) When should Site Visits be undertaken to inspect Site Notices?

Site inspections for the purpose of specifically confirming the presence or otherwise of a planning site notice must be undertaken during the relevant five-week period for public participation, i.e. site notice inspections should have either been undertaken prior to 29th March 2020, or must be undertaken after 23rd May 2020. In some cases it may be necessary to revisit sites in respect of which applications were submitted prior to 29th March 2020 in order to re-inspect site notices, after 23rd May 2020.

Site and Newspaper Notices

13) Should Site Notices be Maintained on Site?

Yes, for planning applications submitted *prior to 29th March 2020*, site notices *must* be maintained on site for the unexpired period of the initial five-week consultation period that remains after 23rd May 2020.

For planning applications submitted *after 29th March 2020* during the period covered by the Section 251A Order, i.e. to 23rd May 2020, site notices *must* be maintained on site for five-weeks after 23rd May 2020 i.e. until 27th June 2020.

14) What Arrangements Apply to Newspaper Notices?

The two-week period in which to lodge a planning application, following publication of a valid newspaper notice, was extended for the period of the Section 251A Order.

Newspaper notices published less than 14 days prior to 29th March 2020, i.e. from 16th March 2020, remain valid until *at least* one day after 23rd May 2020. This is because the unexpired part of the relevant two-week period remaining on 29th March 2020, i.e. a minimum of 1 day up to a maximum of 13 days, subject to when the newspaper notice was published, will still remain after 23rd May.

Newspaper notices published anytime during the period of the Section 251A Order, i.e. from 29th March 2020 to 23rd May 2020 inclusive, will remain valid for two weeks after the expiry of the Order i.e. until Saturday 6th June 2020.

15) Are Newspaper Notices published on-line, Valid for Planning Application Purposes?

No. In accordance with Article 18(2) of the Planning and Development Regulations 2001 (as amended), newspaper notices submitted with a planning application purposes must be published in a newspaper that has been agreed with the planning authority to have a sufficiently large circulation in the relevant area.

Appeals to An Bord Pleanála

16) Can I make an appeal to An Bord Pleanála?

Yes, any planning application that was determined by a planning authority not more than four weeks prior to the commencement of the Order under Section 251A on 29th March 2020, may be appealed to An Bord Pleanála. The appeal period is extended by the full duration of the Order, i.e. by eight weeks. The calculation of the final appeal date in each case will depend on the period of duration of the normal four-week appeal period remaining on the date of cessation of the Section 251A Order, i.e. 23rd May 2020.

Where a planning application was determined by a local planning authority during the period of the S251A Order, i.e. where it was submitted to the planning authority at least five weeks prior to the date of commencement of the original Order, an appeal may be made to An Bord Pleanála. The four-week period in which the appeal may be made, is extended by up to the period of the Order remaining on the date of the planning authority's decision.

Appeals may be delivered or submitted by post to An Bord Pleanála, which is operating under normal public opening hours (9.15am to 5.30pm daily), and the Board is also dealing with any planning queries or information requests via phone and email so as to minimise the need for the public to travel to its offices.

Further information about timelines, last dates to make a planning appeal, postal deliveries, social distancing measures in place in the Board's offices and other matters are displayed on the An Bord Pleanála website www.pleanala.ie.

17) Will An Bord Pleanála resume the holding of Oral Hearings following the cessation of the Further Extended Order?

The Board is examining how it can facilitate the re-scheduling and resumption of Oral Hearings which were suspended or deferred, taking into account the continued requirement for limiting the numbers of people gathered in one place and ensuring that social distancing and health and safety of Board staff and attendees can be

maintained. The Board is also exploring the scope to conduct some smaller Oral Hearings by video conference, where appropriate.

Strategic Housing Development (SHD)

18) Can SHD Tripartite Meetings now take place?

An Bord Pleanála is currently facilitating, in consultation with the relevant planning authorities and applicants, tripartite meetings by remote means (e.g. via video-conferencing), where feasible. As the Covid-19 movement restrictions are eased over the coming weeks and months, the Board will consider the appropriateness of resuming face-to-face meetings, subject to limiting numbers, applying suitable social distancing arrangements and maximising the use of electronic means for the carrying out of meetings.

19) Can SHD Applications be decided by An Bord Pleanála?

Where the public consultation period has ended in respect of planning appeals and/or strategic housing or infrastructure applications, the Board has continued to process and assess cases and to make decisions on some of those cases, where Board members are able to convene meetings, subject to fully meeting all Covid-19 requirements.

Duration of Planning Permission

20) Does the Section 251A Order period affect the affect the duration of existing Planning Permissions?

Yes, in some cases. The Section 251A Order operates to extend the life span of existing planning permissions by the period of duration of the Order, but only where the life span is one stipulated in statute. This means that all current planning permissions which benefit from the default lifespan of 5 years under section 40 of the Planning and Development Act, will have their duration automatically additionally extended to include the period of the Section 251A Order, i.e. eight weeks (56 days). Where a different duration is specified in the permission itself, as this is not a period specified in the Act, the additional period covered by the Order would not to apply.

Development Plans

21) Does the Period of the Section 251A Order period affect the timing of Development Plan preparation processes?

Yes, the Section 251A Order inserted an additional eight weeks into all statutory periods and timelines applicable to the plan-making process, including publication of notice of the intention to review a plan and public consultation periods for the display and receipt of submissions on the various stages of the plan-making process. This includes consultation, draft plan and any amended draft plan documents.

22) Are Submissions made on a draft plan or variation during the period of the Section 251A Order, valid?

Yes, while formal public consultation processes, such as public meetings and council meetings, ceased during the period of the Section 251A Order, local authorities received submissions throughout the period of the further extended Order by email and post and these must be acknowledged and considered as part of the applicable plan preparation process.

23) Does the Period of the Section 251A Order affect the overall, 99-105 week timeline for a County Development Plan?

Yes. The effect of the Section 251A Order is to insert an additional eight weeks into the plan-making timeline, where a given live plan review process is subject to a statutory timeframe.

Given the nature of plan review processes, there is a need for advance notification and organisation of public consultation events and council briefings/meetings and as a consequence, the effect of the Order on such processes, may extend beyond the total eight-week period of the Order.

It is noted that statutory development plan time periods already include some flexibility and there is also further provision in the Planning and Development Act, whereby once statutory notice has been given, the validity of a Development Plan cannot be challenged by failure to meet the specified timelines within the process, under Section 12(16).

In current circumstances, this flexibility with regard to the extension of statutory time periods, in order to ensure public participation, and/or the relevant Section of the Act referred to above, may be relied upon *in addition* to the eight week period of the Section 251A Order.

This is especially applicable in situations where the effect of the Section 251A Order has a knock-on impact on the overall Development Plan process beyond the duration of the Order, in the context of a phased return to full operation of the Development Plan process in accordance with statutory timescales thereafter. There are similar provisions for Development Plan Variation processes.

‘Part 8’ Processes

24) Does the Resumption of Statutory Planning timelines apply to Local Authority planning, i.e. ‘Part 8’ Processes

Yes, the Order under Section 251A, had the effect of extending the public display, reporting or decision making periods of the local authority ‘Part 8’ process, as applicable, by a further eight weeks. The appropriate statutory period now applies from Sunday 24th May 2020 in all cases.

Judicial Review

25) Are time limits for Judicial Review extended?

Yes, as the period of time for making an application for leave to seek judicial review a planning decision is set out in the Planning and Development Act 2000 (as amended), the relevant period covered by the Section 251A Order applies. Time limits for Judicial Review are therefore extended by the applicable period of duration of the order.

Event Licensing

26) What is the Procedure for Re-scheduling Events that were planned to take place in the period to August 31st 2020?

Further to Planning Circular PL 04/2020 of 22 April 2020 advising planning authorities of the Government Decision that event licence applications in respect of events scheduled to take place in the period up to the end of August should not be considered in light of the current Covid-19 pandemic, the following administrative arrangements are intended to address the circumstances faced, maintaining the integrity of the planning system while also meeting necessary public participation requirements:-

1. The planning authority shall notify the event promoter of the contents of Circular PL 04/2020 relating to the Government Decision that event licence applications in respect of events scheduled in the period up to end August should not be considered.
2. (a) In the case where a public consultation on a proposed event is still ongoing, the event promoter can make a submission under Article 190 of the Regulations advising that in light of the changed circumstances, s/he now proposes to re-schedule the proposed event to a later date/ next year.

(b) In the case where the public consultation has concluded but no decision has been made on the application, the event promoter can notify the planning authority that, in light of the changed circumstances, s/he now proposes to re-schedule the proposed event to a later date/ next year.

(c) In both scenarios (a) and (b) above, the pre-planning consultation meeting held in respect of the original proposed event under Article 184 of the Regulations shall still stand and any further consultation meeting in respect of

a proposed re-scheduled event should occur under Article 191 of the Regulations. Such latter meeting shall, as always, be without prejudice to any decision on the proposed re-scheduled event.

3. Further to the receipt of such submission/ notification from the event promoter, and unless the below further information has already been submitted as part of the submission/ notification under 2. above, the planning authority may request the following further information from the event promoter in accordance with Article 191 of the Regulations:-
 - (a) confirmation of the specific date(s) it is proposed to re-schedule the proposed event;
 - (b) confirmation of the scope of the event i.e. whether it is the same or reduced/larger, venue, names of acts, proposed attendance capacity etc;
 - (c) the provision of an updated consent letter from the venue owner/ management in respect of the proposed new date(s);
 - (d) any further information that may be relevant.

Such further information request should be made prior to the date of the event which was the subject of the original event licence application.

When making such further information request, the planning authority should also advise the event promoter that where s/he proposes to re-schedule the event, it shall be subject to the following conditions to which s/he should indicate agreement:

- (i) a further consultation meeting shall take place between the planning authority, the prescribed bodies and the event promoter not earlier than 12 months prior to the proposed re-scheduled date(s). Such consultation meeting shall take place in accordance with the public health advice prevailing at the time of the meeting (see also section 6 under “The 251A Order” of this FAQ);
- (ii) the event promoter shall submit an updated event management plan, with updated risk assessments, to the planning authority at least 1 week in advance of the proposed consultation meeting;
- (iii) the event promoter shall place newspaper notices after such consultation meeting informing the public of the proposed revised date(s) for the event, the venue and the acts involved, and any further information required by the planning authority;
- (iv) further to such consultation meeting, the planning authority shall undertake a public consultation on the proposed re-scheduled event consistent with that required under Article 188 of the Regulations;
- (v) the planning authority shall notify all parties who made submissions under the original public consultation on the proposed event of the proposed re-scheduling of the event offering them the opportunity to participate in the public consultation on the proposed re-scheduled event;

(vi) the planning authority shall take account of all submissions received under the original public consultation and the subsequent public consultation in its final assessment of the licence application.

Applications for Consent under the Foreshore Act 1933, as Amended

Further to the Order made under Section 251A of the Planning and Development, Act 2000, as amended, on 29 March 2020, several measures were put in place in relation to the lodging and processing of applications for consent under the Foreshore Act 1933, as amended. Although the Order did not alter the statutory time frame for Foreshore participation periods, in the interest of providing for fair and equitable public consultation, the period was extended in line with the terrestrial planning system to the 23rd May 2020. As noted above, the implementation of Phase 1 of the *Roadmap for Reopening Society and Business* has proceeded as planned, taking account of national and sectoral return to work protocols. This has resulted in the expiry of the Order under Section 251A and the resumption of statutory planning timelines.

Therefore, public participation periods will re-commence from **Sunday May 24th 2020**.

1. What does this mean for foreshore public consultation processes?

The **time periods** for public consultations are restarted from the 24th of May, meaning that the standard public consultation periods apply for new foreshore consent applications lodged on or after that date. In relation to public consultation periods that commenced during the period of the Order (March 29th - May 23rd inclusive), submissions were accepted from the date of commencement of the consultation process and an interested party will have the normal periods, to participate in the public consultation from May 24th 2020. For those applications lodged prior to the Order coming into effect the remaining statutory period for public participation now applies.

2 (a) What is the impact on processing timelines?

Applications continue to be processed in accordance with a scheme of prioritisation, however, given the complexities associated with processing applications through remote working and stakeholder consultations, decisions on applications are taking longer than normal.

2 (b) What specifically are the implications for recent applications?

- If the public consultation had commenced on or before 27 February 2020, the public participation phase is completed, and so the extended deadline does not apply.

- If the public consultation commenced on or after 28 February 2020, the public participation element was extended by the duration of the Order. In addition, submissions may be made from May 24th 2020 for the remainder of the 30-day consultation period that commenced prior to the commencement of the Order.
- In the case of public consultations that commenced within the duration of the Order, submissions were accepted during the period of the Order and can be made for a further 30-day period up to 22nd June 2020. Where the application is accompanied by an Environmental Impact Assessment Report (EIAR), the period for making public submissions will cease on 18th July 2020.
- If an application is accompanied by an EIAR and had commenced public consultation prior to 29th March 2020 the consultation period was extended for the duration of the Order. In addition, submissions may be made from May 24th 2020 for the remainder of the 8-week consultation period that commenced prior to the commencement of the Order.

3. Can foreshore applications be made during this period?

Foreshore applications can continue to be made by electronic means to foreshore@housing.gov.ie or by post to: Marine Planning Policy and Development Section, Department of Housing, Planning & Local Government, Newtown Road, Wexford, Y35 AP90, and that section will engage with applicants by electronic means.

4. Can pre-application meetings still take place?

Yes, marine planning staff in DHPLG, will engage with applicants and their representatives, and/or consider pre-planning documentation. In view of the public health advice such engagement will maximise the use of electronic and non-face-to-face means. Where a meeting is considered necessary the minimum number of people should attend and health and safety measures will be applied as considered necessary by the Department.

5. Where can I inspect foreshore consent applications during the period?

Relevant public consultation/participation documents will be available on-line only and will be published on our website at:

<https://www.housing.gov.ie/planning/foreshore/applications/overview>.

In addition, the main details of applications commencing public consultation will be added to <https://www.gov.ie/en/consultations/> for reference.

6. Can I make a submission on a foreshore application during this period?

Public submissions can be accepted by electronic means to foreshore@housing.gov.ie or by post to: Marine Planning Policy and Development

Section, Department of Housing, Planning & Local Government, Newtown Road,
Wexford, Y35 AP90.

7. How can I challenge a decision?

The Department will continue to publish notice of decisions on its website including details of how those decisions can be challenged.

8. How are Newspaper Public Notices Impacted?

Newspaper notices will be valid for the duration of the public consultation periods, which are calculated using the criteria outlined at 2(b) above.

Disclaimer:

These FAQs are published for the purpose of providing general assistance and guidance only and are not legal interpretations of the legislation. Readers must apply the relevant statutory provision to their own particular circumstances and, in doing so, should if necessary obtain their own expert planning and/or legal advice as appropriate.