



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

Frequently Asked Questions

**Extension of Orders originally made on 29 March 2020
under Section 251A of the Planning and Development Act
2000 (as amended), on 16 April 2020**

Updated 17th April 2020

Frequently Asked Questions on effect of Orders under Section 251A of the Planning and Development Act, 2000 (as amended)

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 means that such periods were extended in duration from 29 March 2020 to 20 April 2020 inclusive. This followed on from the statement by An Taoiseach on 27 March 2020, which asked people generally to stay at home until Easter Sunday (12 April 2020), other than for certain essential activities, and introduced cocooning for people aged over 70 and vulnerable groups. On Friday 10th April 2020 the period of restricted activity was extended until Monday 4th May inclusive.

On 16th April 2020, prior to the expiry of the original Order under Section 251A, a new Order was made by the Government, to extend the period of the original Order, having regard to the concurrent period of restriction on non-essential activity and necessary provision for a number of additional days to be added to this period to allow for appropriate notice of revised arrangements, on expiry of the extended Order.

The Section 251A Order

1) How long will the Extended Order under Section 251A last?

In the context of the current civil emergency arising from the Covid-19 pandemic, the Government has decided to extend the Order that originally commenced on Sunday **29th March 2020, until Saturday 9th May 2020 inclusive**, a total period of six weeks (42 days).

Section 251A of the Planning and Development Act, 2000 as amended provides that this Order could be extended (before it expires), once the statutory requirements for extension are met and could be further extended as many times as is considered necessary, until 9th November 2020. Any such future decision to extend the period of the order will be communicated to planning authorities and these FAQs will be updated in that circumstance.

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(6) of the Building Control acts, and regulations made under those provisions).

2) What does an Extended Order under Section 251A mean for the Planning System?

An Order under Section 251A means that the **time periods** specified 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 are disregarded, which means that they are, in effect, **extended** for the duration of the time period specified by the Order.

An extended Order with a duration of six weeks, means that a planning authority will have the normal period of eight weeks, together with an **additional period** of *up to* six weeks i.e. *up to* fourteen weeks in total, to determine a planning application.

An extended Order with a duration of six weeks, also means that an interested person will have the normal period of five weeks, together with an **additional period** of *up to* six weeks i.e. *up to* eleven weeks in total, to participate in the planning process.

The exact calculation of the extended time period will depend on the date a planning application is submitted and the stage of the process it is at, with further details set out below.

Planning Applications

3) Can Planning Applications still be made during the period of the Extended Order?

Yes, in all cases planning applications may be posted to the relevant principal office of the local planning authority, even where public offices are closed. This may be more challenging in the case of more complex applications, and almost all local authorities have made arrangements locally in this regard. In most cases, initial processing, including validation, will be progressed.

4) Can Planning Applications be decided during the period of the Extended Order?

Yes, but only planning applications that were submitted to a planning authority at least five weeks prior to the date of commencement of the original Order, i.e. applications submitted up to and including Friday 21st February 2020. These applications have been subject to the minimum period for public consultation and can be decided. However, the period for deciding these applications may be extended by the duration of the extended Order, i.e. up to a further six weeks.

Any planning application that was submitted to a planning authority less than five weeks prior to the date of commencement of the original Order, i.e. after Friday 21st February 2020, cannot be decided by the Planning Authority until after Saturday 9th

May 2020³. This is to ensure that the unexpired portion of the five-week period for public participation is completed after the expiry of the duration of the extended Order. The effect of this is that the total period for deciding any such applications, must be extended by the full duration of the extended Order.

In a similar manner, any planning application submitted to a planning authority after the date of commencement of the original 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 until the expiry of the duration of the extended Order plus at least five weeks i.e. *after* Saturday 13th June 2020⁴.

The effect of this is that period for deciding any such applications must be extended by the applicable duration of the extended Order and may be until Saturday 4th July 2020⁵

5) Can Planning Applications be made electronically/on-line during the period of the Extended Order?

No, not unless a planning authority already has a system in place for the electronic submission of planning applications. At present, Dublin City Council has an electronic system in place for the submission of minor planning applications only, and this will continue to operate. More generally, the Irish planning system does not currently facilitate the universal submission of electronic/on-line planning applications and a multi-agency project to address this is not at a stage of development sufficient to introduce the electronic/on-line submission of planning applications at present.

6) Can 'Section 247' Pre-Planning meetings take place during the period of the Extended Order?

Yes, planning authority staff may continue to engage with applicants and their representatives, and/or consider pre-planning documentation by electronic means, even where public offices are closed. It is noted however, that the requirement for pre-planning meetings requested under Section 247 of the Act to be held within four weeks of a request for such a meeting, is extended by the full duration of the extended Order.

³ As the first day after 9th May 2020 is a Sunday and the offices of all planning authorities are closed, this means that in effect, a decision must be made on or after Monday 11th May 2020 in such cases, further to Section 141 of the Planning and Development Act 2000 (as amended).

⁴ As the first day after 13th 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 15th June 2020 in such cases, further to the Section 141 of the Planning and Development Act 2000 (as amended).

⁵ As the 4th July 2020 is a Saturday and the offices of all planning authorities are closed, this means that in effect a decision must be made by Monday 6th July 2020 in such cases, further to the Section 141 of the Planning and Development Act 2000 (as amended).

7) Can I inspect planning documentation during the period of the Extended Order?

Yes, almost all planning authorities facilitate the on-line display of planning application documentation within a short period of receipt and validation of an application. Where such on-line systems are in place, all planning applications submitted to a planning authority prior to the period of duration of an Order should be available for electronic inspection.

In most cases, planning application documentation submitted during the period of the extended Order will also be available on-line, but in some cases this will not be possible, at least until restrictions on non-essential activity currently in place until after 4th May 2020, are lifted. Limitations that might arise in the availability of planning documentation during the period of the extended Order are one of the principal reasons for extending the five-week public participation process beyond the period of the extended Order.

8) Can I make a submission on a planning application during the period of the Extended Order?

Yes, a submission may be made on any planning application lodged with a planning authority less than five weeks prior to the date of commencement of the original Order, i.e. after Friday 21st February 2020 and for the duration of the extended Order. In addition, after the expiry of the extended Order on 9th May 2020, submissions may be made during the remainder of any applicable five-week period that commenced prior to the commencement of the original Order.

In the case of all applications made within the duration of the extended Order, submissions may also be made for a further five-week period, to Saturday 13th June 2020⁶.

All planning offices accept submissions by post and almost all planning authorities facilitate on-line submissions and electronic means of payment.

Site Visits/Inspections

9) Should site visits for planning assessment be undertaken during the period of the Extended Order?

No, site visits for planning assessment purposes should not be undertaken during current Covid-19 public health emergency restrictions on non-essential activity, i.e. until 4th May 2020 inclusive.

However, the period covered by the extended Order under Section 251A includes a further five days after that date, i.e. to 9th May inclusive, to facilitate an orderly resumption of activity in the planning system. Subject to Covid-19 public health

⁶ As the 13th 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 15th June 2020 in such cases, further to the Section 141 of the Planning and Development Act 2000 (as amended).

emergency restrictions on non-essential activity *not* being extended, site visits may be undertaken after 4th May 2020. These dates are subject to review and change to take account of public health recommendations.

10) 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, which period is extended by the extended Order made under Section 251A, i.e. site notice inspections should have either been undertaken prior to 29th March 2020, or must be undertaken after 4th 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 4th May 2020.

11) Should Site Notices be maintained on site during the period of the Extended Order?

Yes, site notices for all planning applications submitted after 21st February 2020, should be maintained on site during the period covered by the extended Order under Section 251A.

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 9th May 2020.

For planning applications submitted *after* 29th March 2020 during the period covered by the extended Order, site notices *must* be maintained on site for five-weeks after 9th May 2020 i.e. until 13th June 2020.

The additional five-day period between the cessation of Covid-19 public health emergency restrictions on non-essential activity on 4th May 2020 and the cessation of the extended Order under Section 251A on 9th May 2020 is to facilitate an orderly resumption of activity in the planning system.

Subject to Covid-19 public health emergency restrictions on non-essential activity not being extended, new site notices may be erected after 4th May 2020. These dates are subject to review and change/to take account of public health recommendations.

12) Does the Order apply to Newspaper Notices?

Yes, the two-week period in which to lodge a planning application, following publication of a valid newspaper notice, is extended for the period covered by the extended Order.

Newspaper notices published less than 14 days prior to 29th March 2020, i.e. from 16th March 2020, will remain valid until *at least* one day after the cessation of period of the extended order. 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 the end of the period of the extended Order.

Newspaper notices published anytime during the period of the extended Order, i.e. from 29th March 2020 to 9th May 2020 inclusive, will remain valid for two weeks after the cessation of the period of the extended Order i.e. until Saturday 23rd May 2020.

Appeals to An Bord Pleanála

13) Can I make an appeal to An Bord Pleanála during the period of the Extended Order?

Yes, any planning application that was determined by a local planning authority not more than four weeks prior to the commencement of the original Order under Section 251A, may be appealed to An Bord Pleanála. The appeal period is extended by the duration of the Order as extended, i.e. by six 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 extended Order.

During the period of the extended Order, where a planning application is determined by a local planning authority, i.e. in accordance with 4) above, 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, shall be extended by *up to* the period of duration of the extended Order remaining on the date of the planning authority's decision.

Appeals may be submitted by post to An Bord Pleanála, which is operating under restricted opening hours (9am to 12 noon weekdays) to enable documents (appeals, submissions and applications only) to be submitted. Further details are displayed on the An Bord Pleanála website www.pleanala.ie. At present, the Board's offices are intended to re-open fully to the public on Monday 11th May 2020.

Given that the period to lodge an appeal is being extended by the dates specified in the extended Order, individuals can also opt to await the resumption of the Board's normal business to lodge their appeals in person or by post at that point within the extended time period.

14) Can appeals be decided by An Bord Pleanála during the period of the Extended Order?

Yes, where the public consultation period has ended in respect of planning appeals and/or strategic housing or infrastructure applications, the Board will continue to process and assess cases and, in some instances, to make decisions on those cases, where Board members are able to convene meetings, subject to Covid-19 requirements. Notifications of application and appeal decisions and the posting out of Orders to participants will be progressed as capacity allows during the current restriction the Board's offices fully re-open.

15) Will An Bord Pleanála Oral Hearings take place during the period of the Extended Order?

No, all oral hearings scheduled to take place during the period specified in the Extended Order will be suspended and will be re-scheduled for a later date.

Strategic Housing Development (SHD)

16) Can I make a Strategic Housing Development (SHD) Application to An Bord Pleanála during the period of the Extended Order?

Yes, arrangements are in place to enable Strategic Housing Development (SHD) application documentation to be submitted from 9am to 12 noon on working days during the period of the extended Order. Details are displayed on the An Bord Pleanála website, www.pleanala.ie. At present, the Board's offices are intended to fully re-open to the public on Monday 11th May 2020.

17) Can SHD tripartite meetings take place during the period of the Extended Order?

While there are currently no SHD pre-application consultations taking place during this period, An Bord Pleanála is exploring, in consultation with the relevant planning authorities, whether some tripartite meetings can be facilitated by remote means (e.g. via video-conferencing).

18) Can SHD applications be decided by An Bord Pleanála during the period of the Extended Order?

Where the public consultation period has ended in respect of planning appeals and/or strategic housing or infrastructure applications, the Board will continue to process and assess cases and, in some instances, to make decisions on those cases, where Board members are able to convene meetings, subject to Covid-19 requirements. Notifications of application and appeal decisions and the posting out of Orders to participants will be progressed once the Board's offices are re-opened.

Duration of Planning Permission

19) Does the Extended Order 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 extended 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 extended Section 251A Order. 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 extended Order would not to apply.

Development Plans

20) Does the Extended Order affect the timing of Development Plan preparation processes?

Yes. County/City Development Plan, Development Plan Variations and Local Area Plan processes involving meetings with the public and of the Planning Authority must cease in order to comply with Government social distancing requirements and movement restrictions.

The Section 251A Order as extended, inserts an additional six weeks into all statutory periods and deadlines 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, including consultation, draft plan and any amended draft plan documents.

Forward planning will be key to recovery after the Covid 19 pandemic, and planning authorities should make as much progress as practicable in advancing background research, strategy formulation and drafting work required for the various plan-making stages. The should also continue to facilitate receipt of observations on the plan-making process by interested parties. Acknowledgement of observations may issue at the end of the extension period.

Local authority forward planning teams should therefore use the period of the extended Order to continue to progress necessary work in relation to their forward planning functions, including research, strategy, review of submissions, drafting, engagement with statutory consultees and process-related work, through electronic and other means of remote working.

21) Is it still possible to make a submission on a draft plan or variation for which the public consultation process commenced prior to the issuing of the Original Order and throughout the period of the Extended Order?

Yes, while formal public consultation processes, such as public meetings and council meetings, have ceased during the period of the extended Order, local authorities may accept submissions throughout the period of the extended Order by email and post.

The effect of the extended Order is such that consultation processes that are currently ongoing are extended by the six-week period of duration of the Order as extended. For example, if a public consultation process was initiated on the 24th March 2020 with an end date of 21st April, this consultation process is now extended by six weeks. Therefore, the revised closing date for submissions will be 2nd June 2020.

22) Does the Extended Order affect the overall, 99-105 week timeline for a County Development Plan?

Yes. The effect of the extended Order is to insert an additional six weeks into the plan-making timetable 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 extended Order on such processes, may extend beyond the total period of the Order.

It is noted that there is already provision in the Planning and Development Act whereby the validity of a Development Plan cannot be challenged by failure to meet the specified timelines within the process, under Section 12(16). This can be relied upon *in addition* to the specified period of the extended Order, in situations where the effect of the extended Order has a knock-on impact on the overall Development Plan process beyond the duration of the Order. There are similar provisions for Development Plan Variation processes.

23) Does the Extended Order affect procedural deadlines after public consultation on plans?

Yes - the effect of the extended Order is to add a corresponding number of the days to the overall plan-making timeline.

‘Part 8’ Processes

24) Does the Extended Order apply to Local Authority planning i.e. ‘Part 8’ processes

Yes, the extended Order under Section 251A, has the effect of extending the public display, reporting or decision making periods of the local authority ‘Part 8’ process, as

applicable, for the duration of the period of the extended Order, i.e. by a further six weeks, or longer if further orders are made extending the Orders.

However, where the initial six-week consultation period has been completed on the date of commencement of the original Order, a Chief Executive may submit a Report to, and engage with, the members of the local authority and a quorum of that local authority may determine whether to proceed with the project or otherwise. It is noted that the period for reporting by the Chief Executive and determination by the elected members of such a project may be extended by up to the full duration of the extended Order.

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 period covered by the Section 251A Order as extended applies. Time limits for Judicial Review are therefore extended by the period of duration of the order i.e. six weeks.

Environmental Assessments

26) Is the period of time for assessments required under EIA, SEA and the Habitats Directive extended?

Yes, the period of time for assessments required under EIA, SEA and Habitats Directive are extended by the period covered by the Section 251A Order, as extended, as specific time limits are set in national (planning) legislation. It should be noted that Transboundary provisions are required by the EIA and SEA Directives, but not the Habitats Directive. However, any assessment of a planning application is subject to the requirements of the extended Section 251A Order.

Applications for Consent under the Foreshore Act 1933, as Amended

On foot of 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 does not alter the statutory time frame for Foreshore participation periods, in the interest of providing for fair and equitable public consultation, the period has been extended in line with the terrestrial planning system to the 9th May 2020. The key measure is in relation to the extension of time for making public submissions on foreshore consent applications to reflect the Order of 29th March 2020, details of which are outlined below.

1. What are the new arrangements for public consultation on foreshore consent applications?

The public consultation period for certain Foreshore applications will be extended by adding six weeks to the statutory time periods for the public consultation for foreshore applications. This is to reflect the period of 29th March to 9th May 2020 inclusive, during which time people have been asked to stay at home, other than leaving for essential purposes and includes a short period thereafter to ensure that there is adequate notice of revised arrangements.

2 (a). What do the new arrangements mean for timelines?

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

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 is extended by the duration of the Order. In addition, submissions may be made during the remainder of the 30-day consultation period that commenced prior to the commencement of the Order.
- In the case of public consultations that commence within the duration of the Order, submissions may be made during the period of the Order and for a further 30-day period up to 8th June 2020. Where the application is accompanied by an Environmental Impact Assessment Report (EIAR), the period for making public submissions will cease on 4th July.
- If an application is accompanied by an EIAR and had commenced public consultation prior to 29th March 2020 the consultation period will be extended for the duration of the Order. In addition, submissions may be made during 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, and that section will engage with applicants by electronic means.

4. Can pre-application meetings still take place?

The Department must also advise that meetings with the public on Foreshore applications are currently deferred in the interest of public health and safety.

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 does the extended public consultation period effect Newspaper Public Notices?

Newspaper notices will be valid for the duration of the amended public consultation periods which will be 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.