



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

FAQ

**Order made under Section 251A of the Planning and
Development, Act 2000, as amended, on 29 March 2020**

29 March 2020

Frequently Asked Questions on effect of an Order 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 orders 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 Acts¹ and associated regulations.

This means that such periods are extended in duration from 29 March 2020 to 20 April 2020 inclusive. This follows 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. In determining the end date of the order under Section 251A, a number of additional days have been added to this period to allow for appropriate notice of revised arrangements on expiry of the order.

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

In the context of the current civil emergency arising from the COVID-19 pandemic, the Government has decided to make an Order from Sunday **29th March 2020** to **Monday 20th April 2020 inclusive**, a total period of three weeks and two days (23 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 would be communicated to planning authorities and these FAQ will be updated in that circumstance.

2) What does an 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 note¹ below are disregarded, which means that they are, in effect, **extended** for the duration of the time period specified by the Order.

An Order with a duration of 23 days, means that a planning authority will have the normal period of eight weeks, together with an **additional period** of *up to* three weeks and two days i.e. *up to* eleven weeks and two days in total, to determine a planning application.

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.

¹ 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) Can Planning Applications still be made during the period of the Order?

Yes, planning applications may be posted to the relevant local authority principal office, even where public offices are closed. This may be more challenging in the case of more complex applications, and local authorities should consider what arrangements can be made locally in this regard. Initial processing, including validation, will be progressed.

4) Can Planning Applications be decided during the period of the 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 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. The period for deciding these applications may be extended by up to the duration of the Order i.e. up to a further three weeks and two days.

Any planning application that was submitted to a planning authority less than five weeks prior to the date of commencement of the Order, i.e. after Friday 21st February 2020, cannot be decided by the Planning Authority until after Monday 20th April 2020. This is to ensure that the five-week period for public consultation is completed after the expiry of the duration of the Order. The effect of this is that the period for deciding any such applications, must be extended by the full duration of the Order.

In the same way, any planning application submitted to a planning authority after the date of commencement of the Order, cannot be decided by the Planning Authority until the five-week period for public consultation on the application commences, and this cannot be until the expiry of the duration of the Order plus at least five weeks i.e. after Monday 25th May 2020.

The effect of this is that period for deciding any such applications must also be extended by the full duration of the Order.

5) Can 'Section 247' Pre-Planning meetings take place during the period of the 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 Order.

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

Yes, most 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, and during the period of duration of an Order should be available for electronic inspection.

7) Can I make a submission on a planning application during the period of the 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 Order, i.e. after Friday 21st February 2020 and for the duration of the Order. In addition, submissions may be made during the remainder of any five-week period that commenced prior to the commencement of the Order.

In the case of all applications made within the duration of the Order, submissions may also be made for a further five-week period, to Monday 25th May 2020.

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

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

Yes, any planning application that was determined by a local planning authority not more than four weeks prior to the commencement of an Order under Section 251A, may be appealed to An Bord Pleanála. The appeal period is extended by the duration of the Order, i.e. by a further three weeks and two days, or longer if further orders are made extending the Orders. 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 Order.

During the period of the 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 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 Order remaining on the date of the planning authority's decision.

Appeals may be submitted by post to An Bord Pleanála. Although the Boards offices will be closed to the public from Tuesday 31st March to Monday 13th April 2020 inclusive, arrangements will be put in place to enable documents (appeals, submissions, observations, applications, etc.) to be submitted on working days during that period. Details will be displayed on the An Bord Pleanála website. At present, the Board's offices are intended to re-open to the public on Tuesday 14th April 2020.

Upon re-opening the office, An Bord Pleanála acknowledge and/or validate all submissions/appeals to it and to publish an updated weekly list reflecting all submissions made during this period.

Given that the period to lodge an appeal is being extended by the dates specified in the 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.

9) Can appeals be decided by An Bord Pleanála during the period of the 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 once the Board's offices re-open.

10) Can I make a Strategic Housing Development (SHD) Application during the period of the Order?

Yes, although the Boards offices will be closed to the public from Tuesday 31st March to Monday 13th April 2020 inclusive, arrangements will be put in place to enable Strategic Housing Development (SHD) application documentation to be submitted on working days during that period. Details will be displayed on the An Bord Pleanála website. At present, the Board's offices are intended to re-open to the public on Tuesday 14th April 2020.

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

There are no SHD pre-application consultations planned during this period. If the duration of the Order is further extended, An Bord Pleanála may re-examine its ICT and digital capabilities to determine whether it is feasible to carry out some meetings remotely.

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

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

13) Can SHD applications be decided by An Bord Pleanála during the period of the 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.

14) Will Development Plan and other Plan Processes continue during the period of the Order?

No, it is recommended that all Plan public consultation and council briefing and meeting activity **ceases during the period of the Order**. This includes County/City Development Plan, Development Plan Variations and Local Area Plan processes. This is considered necessary because Plan processes require engagement with members of the public, and in particular public meetings, as well as Council briefings and meetings to allow for information, direction and decision-making.

Accordingly, the cessation of activity is required to facilitate social distancing, limit non-essential travel and protect vulnerable persons and to ensure full public participation. Local authority forward planning teams may use the period of the Order to progress necessary research, strategy, drafting, engagement with statutory consultees and process-related work, through electronic and other means of remote working.

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 period of the Order.

Accordingly, it is noted that there is already provision in the 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 Order, in situations where the effect of the 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.

15) Does a Section 251A Order apply to Local Authority planning i.e. 'Part 8' processes

Yes, an 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 Order, i.e. by a further three weeks and two days, 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 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 Order.