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Dear Jackie,

Thank you for your letters of 21 October 2020 and 3 November 2020 in relation to the position on the Meath County Development Plan 2021-2027. Obviously the current circumstances have presented challenges, which have required us to examine how essential work in the planning domain can advance in a safe manner. We are particularly mindful in this regard of the important role that the planning and development system plays in supporting the economic development of the country, and the vital role which it will play in supporting social and economic recovery from the Covid-19 pandemic.

Consequently, the Department continues to be deeply appreciative of the efforts of the staff of planning authorities to keep planning services open for business. The Department has been working closely with the City and County Management Association and the Local Government Management Agency, An Bord Pleanála and the Office of the Planning Regulator, in seeking to ensure that the planning system continues to operate effectively at this time. A number of specific measures have been taken which, in the context of the most up-to-date Covid-19 public health advice and the introduction of National Level 5 Restrictions from 21 October 2020, support the effective operation of the planning system. Specifically in relation to the making of development plans, the following are of relevance:

- (1) The classification of activities in relation to the statutory planning system as essential services under the recent Regulations made by the Minister for Health entitled the Health Act 1947 (Section 31A – Temporary Restrictions) (Covid-19) (No. 8) Regulations 2020 (S.I. No. 448 of 2020) regulations. These regulations remain in place until 1 December 2020 and further detail in this regard is set out in Circular PI 09/20 of 23 October 2020 and a FAQ document available on our website;



- (2) It is also the case that, while the Health Act 1947 (Section 31A – Temporary Restrictions) (Covid-19) (No. 8) Regulations 2020 (S.I. No. 448 of 2020) prohibit certain indoor and outdoor gatherings, they do not prohibit the use of premises for the convening of meetings of a local authority or regional assembly; and
- (3) The signing of Orders by the Minister for Housing, Local Government and Heritage under Section 29 of the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020, which enables certain designated bodies, that include local authorities and regional assemblies, to hold remote meetings. In accordance with Section 29 of the 2020 Act, any decision made, vote taken or other act done by members of a designated body shall be as good and effectual as a decision made, vote taken or other act done by the members concerned in a meeting held in person.

Separately, we are aware of standard operating guidance agreed jointly on 23 September 2020 by the County and City Management Association (CCMA), the Association of Irish Local Government (AILG) and the Local Authority Members' Association (LAMA) regarding attendance at Council meetings by Elected Members & Council Officials / Others (Media & Public) and attendance at other meetings or Council Buildings. Our understanding is that these were agreed in order to protect the health of both elected members and local authority staff in attendance. This guidance recommends that the time of attendance at a physical Council meeting should be "kept to a minimum and within a recommended maximum of 1 hour 55 minutes".

There are restrictions in relation to the holding of public meetings, as the Health Regulations (SI 448 of 2020) stipulate, that no events that involve indoor gatherings of members of the public are permitted, save for specified exceptions. As such meetings are a requirement at the outset of the plan making process under Section 11(3)(b) of the Planning and Development Act 2000 as amended, and so it will not be possible for City/County Development Plan public meetings scheduled for the period to 1 December 2020 to take place. The Minister is considering legislative provision to change this particular requirement in line with the broader move to online public participation. For the authorities concerned, where the deferral of such meetings would impact on the statutory timelines then the provisions of Section 12(16) of the Planning and Development Act 2000 would apply. These provisions state that no person may question the validity of a Development Plan by reason only that procedures under the Act as regards timeframes for progression of the development plan, were not completed within the time required.

However, it is understood that the Meath County Development Plan has passed the public participation stage and the law agent has advised that taking into account both Section 12(16)



of the Planning and Development Act, 2000 as amended and the signing of Orders by the Minister further to Section 29 of the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020 then the Council can proceed to commence the processes as set out in Section 12(6). Based on the current legislative framework, there would not appear to be any impediment to the Development Plan work progressing at the rate considered appropriate taking account of the public health advice and the capacity to undertake work through virtual meetings. It is understood that you have proposed to the Council a schedule of meetings with a mix of physical and virtual meetings in this regard. Further to Section 12(6), it is noted that should it be determined that any consequent material amendment to the draft development plan must be subject to Strategic Environmental Assessment (SEA), provision is made for this in Section 12(7). Should such a requirement for SEA arise under Section 12(7), the Planning and Development Act makes further consequential provision with regard to extension of the overall timing of the development plan process, in Section 12(14)(b)(ii).

There are currently no powers available to the Minister to provide a derogation on the basis suggested in the letter, and to extend the time period by Statute. Earlier in the year, a new provision Section 251A was inserted into the Planning and Development Acts, 2000 as amended, which facilitated the making of an order, and the extending of same, which extended the time periods applicable for processes under the Act. As a consequence, a temporary period of suspension was in operation, applied for an eight-week period from 29th March to 23rd May 2020, under Section 251A of the Planning and Development Act 2000 (as amended). This Section 251A order mechanism was a 'once-off' legislative provision, introduced during the country's previous lockdown period. It has since expired and may no longer be applied. The Minister is considering proposals for new legislative provisions in a similar vein which may be required in the future, but it is not envisaged that these would apply broadly in the way that Section 251A was applied, nor would they be generally applied in the current circumstances of Level 5 where planning is classified as an essential service. Rather, we are seeking to provide some protections, in the event, for example, that planning staffing resources in a particular authority were substantially compromised by sick absences due to Covid 19 and this would impact on the integrity of the planning decision process.

Therefore, the position remains that it is a matter for Meath County Council to determine the appropriate schedule of meetings to facilitate the further progression of the County Development Plan 2021 -2027, taking account of public health advice, the new capacity to hold council meetings virtually and the provisions of Section 12(16) of the Planning and Development Acts. I understand that you have proposed to the Council a schedule of meetings on this basis.

I wish the elected Council all the best in its deliberations and decisions in this regard.



Yours sincerely,

Maria Graham

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Assistant Secretary

Planning Division