



DÁIL ÉIREANN

**AN BILLE UM PLEANÁIL AGUS FORBAIRT (LEASÚ) (UIMH.
3), 2021**

**PLANNING AND DEVELOPMENT (AMENDMENT) (NO. 3)
BILL 2021**

**LEASUITHE COISTE
COMMITTEE AMENDMENTS**

DÁIL ÉIREANN

AN BILLE UM PLEANÁIL AGUS FORBAIRT (LEASÚ) (UIMH. 3), 2021 —AN COISTE

PLANNING AND DEVELOPMENT (AMENDMENT) (NO. 3) BILL 2021 —COMMITTEE

Leasuithe Amendments

SECTION 2

1. In page 4, lines 9 to 23, to delete all words from and including “(1) Notwithstanding” in line 9 down to and including line 23.

—Cian O’Callaghan, Eoin Ó Broin.

2. In page 4, line 23, after “area” to insert the following:

“, and any such decision will require that not less than three-quarters of the members of the planning authority approve a resolution in regard of such an extension”.

—Cian O’Callaghan, Eoin Ó Broin.

3. In page 4, line 31, to delete “simple majority” and substitute “not less than three quarters of the members of the planning authority”.

—Cian O’Callaghan, Eoin Ó Broin.

4. In page 5, line 7, after “plan” to insert the following:

“, and any such decision will require that not less than three-quarters of the members of the planning authority approve a resolution in regard of such an extension, and the cumulative effect of any extensions under this section shall not exceed one year”.

—Cian O’Callaghan, Eoin Ó Broin.

5. In page 5, line 13, after “year” to insert “, in total over all extensions to the development plan”.

—Cian O’Callaghan, Eoin Ó Broin.

6. In page 5, between lines 27 and 28, to insert the following:

“(6A) All extensions proposed to a development plan under this section shall be subject to the requirements of section 11D.”.

—Cian O’Callaghan, Eoin Ó Broin.

[SECTION 2]

7. In page 5, between lines 27 and 28, to insert the following:

“(6A) Notwithstanding anything in this section, or in section 11D, a planning authority shall not extend the duration of the development plan more than twice, and for no more than an accumulated period of one year.”.

—Eoin Ó Broin.

SECTION 3

8. In page 5, lines 34 to 36, to delete all words from and including “section 9A(1)” in line 34 down to and including “9A(2)” in line 36 and substitute “section 9A”.

—Cian O'Callaghan, Eoin Ó Broin.

9. In page 5, line 41, after “year” to insert the following:

“, subject to satisfying the provisions of this section in respect of screening for environmental assessments, the conduction of such assessments as appropriate, and public consultation and determination requirements”.

—Cian O'Callaghan, Eoin Ó Broin.

10. In page 6, to delete lines 1 to 11 and substitute the following:

- “(a) a screening determination is made to determine the requirement to carry out a strategic environmental assessment and an appropriate assessment, in relation to the development plan as extended by any period of extension proposed by the planning authority under section 9A or 11D,
- (b) such determination is published and made available as part of the consultation notified on the proposed extension under subsection (4), and
- (c) a strategic environmental assessment or an appropriate assessment or both such assessments, as necessary, has or have been carried out in respect of the development plan as extended, as is necessary and required.”.

—Eoin Ó Broin.

11. In page 6, between lines 11 and 12, to insert the following:

“(2A) (a) In deciding whether to pursue any and all extensions of the duration of the development plan, the elected members and the chief executive of the planning authority shall undertake an assessment to support the obligation to have regard to the matters specified under section 15 of the Climate Action and Low Carbon Development Act 2015, and any targets or plans which may be specified under that Act relevant for the planning authority and the effect of any and all proposed extensions of the duration of the development plan, and their obligations in relation to that Act.

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- (b) The determinations and assessments made in relation to paragraph (a) shall be published and made available as part of the public consultation on any and all proposed extensions of the duration of the development plan.”.

—Eoin Ó Broin.

12. In page 6, line 21, after “area” to insert “and on the internet including, but not limited to, on the planning authority’s website”.

—Cian O’Callaghan.

13. In page 6, line 31, to delete “4 weeks” and substitute “8 weeks”.

—Eoin Ó Broin.

14. In page 6, line 36, to delete “4 weeks” and substitute “8 weeks”.

—Eoin Ó Broin.

SECTION 7

15. In page 9, between lines 36 and 37, to insert the following:

“Amendment of section 42 of Act of 2000 to comply with the Aarhus Convention and EU Directives

7. Section 42 of the Act of 2000 is amended in subsection (1), by the insertion of the following paragraphs after paragraph (a):

“(aa) an environmental impact assessment, or an appropriate assessment, or both of those assessments, if required, was or were carried out adequately and in compliance with relevant Directives, before the permission was granted, and that an environmental impact assessment, or an appropriate assessment, or both of those assessments are not required in respect of the project, including for the extended period, at the time the extension of the appropriate period is being applied for and considered by the planning authority,

(ab) where the assessments specified in paragraph (aa) are not required, the planning authority shall ensure that there is public consultation on the decision on the proposed extension for projects where nonetheless there still may be a significant effect on the environment from the project, and shall conduct such consultation and determine the decision as if the application was being made for the first time under section 34, save for reflecting that the decision involved is one of an extension of the appropriate period, and may add to or amend conditions in accordance with section 34(4) for the protection of the environment and residential amenity as may be required, notwithstanding subsection (2) of this section.”.

—Cian O’Callaghan, Eoin Ó Broin.

[SECTION 7]

16. In page 9, between lines 36 and 37, to insert the following:

“7. The Act of 2000 is amended by the insertion of the following section after section 42A:

“42B. During the period beginning on the date on which *section 7* of the *Planning and Development (Amendment) Act 2021* comes into operation and ending on 31 December 2022, section 42 shall be construed and have effect—

(a) by the insertion of the following subsection after subsection (1A):

“(1B) Notwithstanding anything to the contrary in subsection (1), (1A) or (4) a planning authority may—

(a) as regards a particular permission in respect of a development, and

(b) upon application being duly made to the authority setting out the reasons why the development cannot be reasonably completed within the appropriate period, further extend the appropriate period, as extended or further extended, by such additional period not exceeding 2 years or until 31 December 2023, whichever first occurs, but the authority shall only so extend that period where the authority—

(i) is satisfied that an environmental impact assessment or an appropriate assessment, or both, was not or would not have been required in respect of the original permission, or any previous subsequent extension of the duration of the appropriate period,

(ii) is satisfied that an environmental impact assessment or an appropriate assessment, or both, is not required in relation to the project at the time of the instant application for an extension of the appropriate period, where such screening determination is made in respect of the project as a whole and further to an appropriate screening determination or determinations,

(iii) is satisfied that there is evidence that the construction work was significantly impacted and curtailed consequent on the effect of Covid-19,

(iv) considers that the extension is required to enable the development to which the permission relates to be completed,

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- (v) is satisfied there is sufficient evidence that the development to which the permission relates can, and will be completed within the extended period envisaged,
 - (vi) is satisfied that there have been no significant changes in the development objectives in the development plan or in regional development objectives in the regional spatial and economic strategy for the area of the planning authority since the date of the permission such that the development would no longer be consistent with the proper planning and sustainable development of the area,
 - (vii) is satisfied that the application is in accordance with such regulations under the Planning and Development Acts 2000 to 2021 as apply to the application,
 - (viii) is satisfied that any requirements of, or made under, those regulations are complied with as regards the application,
 - (ix) is satisfied that the development to which the permission relates was—
 - (I) commenced, and
 - (II) substantial works were carried out, before the expiration of the appropriate period, as extended or further extended, and does not reasonably appear to have been executed merely to secure an extension of the duration of the permission,
- and
- (x) ensures in circumstances where an environmental impact assessment or appropriate assessment was not or would not have been required for the application when originally granted, and/or when extended or further extended, and is not required if the application is potentially further extended, yet the application nonetheless, may still have a likely significant effect on the environment, that—
 - (I) the public is consulted, prior to any

determination to grant an extension to the appropriate period, where such public participation is necessitated by Article 6 of the Aarhus Convention with reference to Article 6.10 and Article 6(1) B in particular, and

- (II) such consultation should follow the consultation and notification requirements in respect of—
 - (A) other local authorities as indicated in section 34(2) (b),
 - (B) prescribed bodies as would have been required to be notified and consulted in respect of the proposed extension, in the same manner as if the application was being made in the first instance, such related requirements to all consultation obligations which would apply if the application was being made in the first instance under section 34,
- (III) such consultation with the public should follow the notification processes for the public which would apply if the application was being made in the first instance under section 34, save that no fees should apply to the making of observations in respect of the extension of the appropriate period, particularly where the observer participated in the original decision to grant permission,
- (IV) the planning authority takes due account of the outcome of the public participation in its decision on whether to grant the extension to the appropriate period or not, and
- (V) in respect of the amendment or addition to conditions for the permission, may amend or attach conditions so as to provide for greater environmental protection, and/or the protection of existing residential amenity, and/or any

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necessary additional conditions
consistent with section 34(4).’,

- (b) as if in this section, ‘Covid-19’ means a disease caused by infection with the virus SARS-CoV-2 and specified as an infectious disease in accordance with Regulation 6 of, and the Schedule to, the Infectious Diseases Regulations 1981 (S.I. No. 390 of 1981) or any variant of the disease so specified as an infectious disease in those Regulations,
- (c) as if in subsection (2) by the substitution of ‘subsection (1), (1A) or (1B)’ for ‘subsection (1) or (1A)’, and
- (d) as if in subsection (4) by the substitution of ‘Except where subsection (1A) or (1B) applies, a decision’ for ‘Except where subsection (1A) applies, a decision’.”.

—Eoin Ó Broin.

[Acceptance of this amendment involves the deletion of section 7 of the Bill.]

17. In page 10, line 14, to delete “such additional period” and substitute “as short a period as is required to complete the development”.

—Cian O’Callaghan.

18. In page 10, to delete lines 28 to 33.

—Verona Murphy, Seán Canney, Denis Naughten, Matt Shanahan, Noel Grealish, Peter Fitzpatrick, Cathal Berry.

19. In page 11, between lines 7 and 8, to insert the following:

“(vii) is satisfied where previous planning extensions have already been granted that a further extension will not hinder the timely delivery of infrastructure or the completion of the development or delay planning enforcement action with respect to the planning permission granted.”.

—Cian O’Callaghan.

SECTION 11

20. In page 13, between lines 28 and 29, to insert the following:

“11. (1) Notwithstanding *section 12*(2)*, the Minister shall not commence *section 2, 3, 6 or 8* prior to completing an assessment in order to have proper regard to the matters and obligations specified under *section 15* of the Climate Action and Low Carbon Development Act 2015, in respect of the effect of commencing the provisions under those sections, including seeking the necessary information to make the necessary assessment and determination.

- (2) The Minister shall lay his determination and associated reasons and considerations made under *subsection (1)* before both Houses of the Oireachtas for a period of 21 days, and shall facilitate a debate in either or both Houses, where one third of the

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members of either such House request such a debate, prior to the commencement of any of the sections referred to in *subsection (1)*.

- (3) The Minister shall lay a report on a quarterly basis before each House of the Oireachtas on the extent to which the provisions under *sections 2, 3 and 6* have been invoked, including details on—
- (a) which planning authorities have made extensions to the operation of their development plan,
 - (b) the most recent period the development plan has been extended to, including details of the time frames of any earlier extensions,
 - (c) the nature and effect of the impact of the Covid-19 pandemic on the progress of the review of a development plan and preparation of the new development, which necessitated the extension in the view of the members of the planning authority, when they made a resolution under section 9A(2) of the Act of 2000 (as inserted by *section 2*),
 - (d) whether a strategic environmental assessment or an appropriate assessment or both such assessments, as necessary, has or have been carried out, in respect of any extension applied to the development plan,
 - (e) whether changes to the development plan were necessitated consequent on the outcome from the strategic environmental assessment or an appropriate assessment or both such assessments,
 - (f) how many extensions that public authority has applied to the operation of the development plan.
- (4) This section shall cease to have effect 6 months after the date on which *sections 2, 3 and 6* cease to have effect, or where the dates in those sections differ, after the latest of such dates.”.

—Eoin Ó Broin.

*[*This is the correct reference if this amendment is accepted.]*

21. In page 13, between lines 28 and 29, to insert the following:

“11. Notwithstanding *section 12*(2)*, the Minister shall not commence *section 3*, prior to making regulations setting out the prescribed authorities and public to be affected or likely to be affected, or having an interest in, the decision-making subject to the Directive, including relevant non-governmental organisations, such as those promoting environmental protection and other organisations concerned, for the purposes of strategic environmental assessment, where such is required by Articles 6(3) and 6(4) of Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment.”.

—Eoin Ó Broin.

*[*This is the correct reference if this amendment is accepted.]*