

# **Covid-19 Emergency Planning Guidance (PACC)**

**Updated 1<sup>st</sup> October 2021**

## **Pre-Application Community Consultation (PACC) -Temporary Removal of Public Event Requirement**



Department for

**Infrastructure**

An Roinn

**Bonneagair**

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# **COVID-19 EMERGENCY GUIDANCE: PRE-APPLICATION COMMUNITY CONSULTATION (PACC) AND TEMPORARY REMOVAL OF THE REQUIREMENT FOR A PUBLIC EVENT**

## **1. Overview**

- 1.1 The Planning (Development Management) Regulations (Northern Ireland) 2015 prescribe the minimum pre-application community consultation requirements which must be undertaken by prospective applicants in respect of applications for major development. Regulation 5(2) indicates that a prospective applicant must hold at least one public event in the locality in which the proposed development is situated where members of the public may make comments to the prospective applicant regarding the proposed development.
- 1.2 Public Health advice aimed at limiting the spread of Covid-19, may mean that it may not be possible to hold a Pre-Application Community Consultation (PACC) public event without posing a significant risk to health. The Department has therefore put in place legislation to temporarily suspend the requirement for a PACC public event in respect of applications for major development. This will ensure that the planning system continues to function during this period and that planning applications can continue to be submitted and assessed, keeping projects on track and playing a key role in our future economic recovery.
- 1.3 This practice guidance document provides:
  - an overview of The Planning (Development Management) (Temporary Modifications) (Coronavirus) Regulations (Northern Ireland) 2020 which came into effect on 1 May 2020<sup>1</sup>;

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<sup>1</sup> The Planning (Development Management) Regulations (Northern Ireland) 2015 were amended by The Planning (Development Management) (Temporary Modifications) (Coronavirus) (Amendment No.2) Regulations (Northern Ireland) 2021 on 1<sup>st</sup> October 2021 to extend the emergency period to 31 March 2022.

- details of those PACC legislative requirements which remain in place during the emergency period; and
- advice to ensure that active pre-application public engagement, in the absence of the PACC public event, remains a very important part of our planning system.<sup>2</sup>

1.4 The document is not intended to replace the need for judgement by planning officers and those making planning applications. Nor is it intended to be a source of definitive legal advice. Reference should be made to the actual legislation referred to in this document and if any discrepancy or conflict exists between the guidance note and legislation the provisions of the legislation will prevail.

## **2. Temporary Suspension of the Requirement for a Public Event**

2.1 The Planning (Development Management) (Temporary Modifications) (Coronavirus) Regulations (Northern Ireland) 2020 temporarily suspend the requirement for a PACC public event.

2.2 This suspension will apply where:

- the Proposal of Application Notice (PAN) relating to an application was, or is, submitted prior to the end of the emergency period<sup>3</sup> (including if it was submitted before the emergency period began); and
- the application for planning permission itself is made during the emergency period or within 6 months following the end of the emergency period.

2.3 Those prospective applicants who have served a PAN prior to the temporary regulations coming into force, proposing a PACC public event or other voluntary consultation steps, that are now no longer viable, do not need to serve a new

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<sup>2</sup> Development Management Practice Note 10 remains in place apart from where it refers to the requirement for 'a public event'.

<sup>3</sup> The regulations, as further amended, specifies this as 31 March 2022.

PAN specifying alternative approaches. Those applicants should instead conduct alternative means of engagement, as per the advice set out below.

- 2.4 The change to the regulations removing the requirement for a PACC public event does not in itself suspend or alter any additional step, beyond the statutory minimum, that has already been required by a council, or as the case may be, the Department, in response to a PAN.<sup>4</sup> Where however, such an additional requirement could not be complied with due to the current public health advice on public gatherings and social distancing, the council/Department may wish to consider withdrawing that requirement. This could be done without the service of a new PAN, though the prospective applicant and the planning authority are advised to keep a written record of any such change.

### **3 Remaining Requirements**

- 3.1 Apart from the public event, the other pre-application community consultation legislative requirements still apply during the current emergency period. That is, prior to submitting an application for major development, prospective applicants will still be required to fulfil the statutory requirements in respect of the following:

#### *Proposal of Application Notice (PAN)*

- 3.2 Prior to submitting a major application, prospective applicants must give notice to the appropriate council, or as the case may be, the Department that an application for planning permission for the development is to be submitted. There must be at least 12 weeks between the applicant giving the notice and submitting any such application.
- 3.3 The PAN must be in writing and contain:
- a description in general terms of the development to be carried out;

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<sup>4</sup> Section 27(6) of the Planning Act (Northern Ireland) 2011 allows the council/Department to respond to a PAN within 21 days of receipt requiring additional pre-application community consultation steps.

- the postal address of the site, if it has one;
- a plan showing the outline of the site at which the development is to be carried out and sufficient to identify that site;
- details of how the prospective applicant may be contacted and corresponded with;
- a copy (where applicable) of any determination made under regulation 7(1)(a) of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015 in relation to the development to which the proposal of application notice relates;
- a copy of any notice served by the Department under section 26(4) or (6) of the 2011 Planning Act; and
- an account of what consultation the prospective applicant proposes to undertake, when such consultation is to take place, with whom and what form it will take.

3.4 During the current emergency period the Department expects that specific detail will be included in the PAN indicating what consultation methods the prospective applicant is proposing to ensure that the local community is able to access, and comment on, information about a proposed development, in the absence of a PACC public event.

#### *Newspaper Advertisement*

3.5 The requirement for a prospective applicant to publish a notice in a local newspaper circulating in the locality in which the proposed development is situated also remains, though the required content during the emergency will be as follows:-

3.6 The newspaper notice must contain:

- a description of, and the location of, the proposed development;

- details as to how (including by what electronic means)<sup>5</sup> information may be obtained concerning the proposed development;
- a statement explaining how, and by when, persons wishing to make comments to the prospective applicant relating to the proposal may do so; and
- a statement that comments made to the prospective applicant are not representations to the council, or as the case may be, the Department, and if the prospective applicant submits an application there will be an opportunity to make representations on that application to the council or as the case may be the Department at a later stage.

3.7 In addition to the previously stipulated notice requirements, prospective applicants should indicate in this advert the alternative consultation arrangements which have been put in place, how and when they will operate and how to find out more information in that regard, including online. Consideration should also be given to the use of appropriate, alternative forms of advertising given that a number of local newspapers have temporarily ceased circulation.

*Pre-application Community Consultation Report*

3.8 The requirement for a prospective applicant to prepare a pre-application community consultation report to accompany the planning application remains. The report should confirm that pre-application consultation has taken place in line with the statutory requirements. During the emergency period, the report should also set out the steps that have been taken to facilitate community consultation in the temporary absence of the PACC public event.

3.9 In order to secure satisfactory alternatives to the public event, a council or the Department, as the case may be, can, provided that it does so within the period of 21 days after receiving the PAN, notify the prospective applicant that it requires it to carry out additional notification and/or consultation as deemed

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<sup>5</sup> Added by the Planning (Development Management) (Temporary Modifications) (Coronavirus) Regulations (Northern Ireland) 2020

appropriate. In the case of PANs which were submitted prior to the temporary Regulations taking effect, and which fall outside the 21 day period, prospective applicants will be expected to conduct alternative means of engagement, as per the advice set out in this practice guidance document.

- 3.10 Prospective applicants should check with the relevant planning authority what advice they could provide in relation to other forms of consultation measures that might be effective under the current circumstances. Responsibility, however, for conducting the PACC remains with the prospective applicant.

#### **4 Alternatives to a Pre-Application Community Consultation Public Event**

- 4.1 The temporary removal of the requirement to hold a PACC public event does not reduce the Department's commitment to ensuring that public participation in the planning process continues during this emergency period. There is an expectation that prospective applicants will replace the PACC public event with alternative consultation measures.<sup>6</sup>

- 4.2 Although there is no statutorily specified alternative, during the period of the COVID-19 outbreak, the Department expects prospective applicants to propose reasonable and appropriate alternatives based on the information outlined in this guidance document. The intention should be to find alternative ways to enable the exchange of views that would otherwise be achieved by face to face interaction. Local councils also retain the ability to require additional consultation steps to those specified in legislation, however, when using these powers, councils should take into account the prevailing public health advice

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<sup>6</sup> Community Places have produced a useful guide "Online Engagement Tools in response to Covid-19" which can be accessed via:

[https://www.communityplaces.info/sites/default/files/Engagement%20Tools%20in%20Response%20to%20COVID-19%20%28Community%20Places%202020%29\\_0.pdf](https://www.communityplaces.info/sites/default/files/Engagement%20Tools%20in%20Response%20to%20COVID-19%20%28Community%20Places%202020%29_0.pdf)

and the constraints this may put on a prospective applicant's ability to comply with any additional requirements.

4.3 There are many ways in which communities can continue to be effectively involved in proposals which may affect them. Prospective applicants should continue to ensure that their pre-application community consultation process will enable people to:

- have access to information;
- put forward their own ideas and feel confident that there is a process which enables those ideas to be considered; and
- have an active role in developing proposals and options to ensure local knowledge and perspectives continue to be taken into account.

4.4 The alternative community consultation process should also take account of the specific spatial and demographic characteristics of the local population in the area in which the development is to be located and should acknowledge the additional restrictions placed on movement and service availability as a result of the current pandemic.

4.5 Prospective applicants may wish to consider some of the following means of digital or remote consultation while being unable to hold a PACC public event.

#### *Web-based Engagement*

4.6 Web based engagement offers the opportunity to consult local communities in an efficient and effective way and can be used to replicate, as closely as possible, the level of public information and engagement normally available via a public event. Options might include a website tailored to the specific application; online discussion forums; webinars; online surveys; an interactive chat facility; an online video presentation or hosted slideshow to help explain the proposals and support basic online content. Consideration could also be given to live and interactive web based consultation, either single or multiple

events, sufficiently timed to allow live question and answer sessions. Navigation tools should be simple to use with easy to interpret information about the proposed development which includes details of the design proposals (location and site plans, elevations and floor plans, contextual drawings etc.); other visual information as necessary to describe the proposal; contact details for the project team including both telephone and electronic options; a feedback facility such as a comment box or online survey and accessibility features to enable broad participation and functionality across both mobile and desktop devices. All options should be hosted via a central, free and accessible web location.

### *Social Media*

- 4.7 Social Media and other forms of paid online advertising provide a useful means of distributing information on-line to a large number of people and can be used to specifically target people in the vicinity of a proposed development. There are many different platforms available for use such as Twitter, Facebook, You Tube, Pinterest, LinkedIn and Instagram. Consultation and opportunities for feedback must not however, be limited to social media platforms that require members of the public to join in order to engage.

### *Community Surveys*

- 4.8 Community Surveys can be undertaken to engage a large number of people in a standard format. In addition to digital surveys, remote options, including telephone access, should also be developed to facilitate participation from those with limited online access. In the current circumstances, consideration should be given to the safe distribution of project leaflets; the inclusion of Freepost return comment cards; details of consultation phone line services and the availability of printed material by post, upon request.

### *Information Sheets and Newsletters*

4.9 Targeted distribution of information sheets and newsletters remains one of the simplest ways of ensuring local awareness of development proposals. They are a good way of regularly sharing information with the public or for targeting particular interest groups. In the current circumstances, consideration should be given to how an information sheet or newsletter can be safely distributed and/or displayed to achieve maximum reach while ensuring public safety. Options such as distribution via Royal Mail or other delivery companies employing effective social distancing and hygiene methods should be considered.

4.10 When considering which alternatives to a PACC public event are appropriate for a proposed development, prospective applicants should ensure that, as a minimum, their chosen means of consultation:

- includes details of the pre-application consultation steps being taken; the location of information; how to engage and the time limits placed on the engagement process;
- provides an opportunity for engagement for those who are unable to avail of online or digital platforms;
- identifies the location of the development site;
- presents the proposal for the site; and
- is as user friendly as possible.

4.11 The Department would also expect that a member of the public is able to access the information set out above through a single route; that the information is readable at a pace to suit the person reading it; can be downloaded and printed if so desired and that a reasonable period is provided for the submission of questions or views electronically.



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