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Ms Fiona Marshall
Secretary to the Aarhus Convention Compliance Committee
UN Economic Commission for Europe
Environment Division
Palais des Nations
CH-1211 Geneva 10
Switzerland
(By email only)

30 November 2017

Dear Ms Marshall

ACCC/2013/C/190

Please find attached the two documents (totalling 3 pages) in preparation for the 12 December 2017 hearing:

- A response to the communicant's letter dated 6 November which amongst other issues asks the UK to consider a 'joint proposal' (attached separately).
- A short note which summarises the legislative developments relating to the planning system in Northern Ireland since the date of the original response by the United Kingdom on 27 November 2015 at Annex A.

Yours sincerely

Ahmed Azam
United Kingdom National Focal Point to the UNECE Aarhus Convention

Legislative developments relating to the planning system in Northern Ireland

1. This short note is provided to update the Committee on legislative developments relating to the planning system in Northern Ireland since the date of the original response by the United Kingdom on 27 November 2015.
2. The relevant regulations providing for cost protection for applicants for cases within the scope of the Convention remain the Costs Protection (Aarhus Convention) Regulations (Northern Ireland) 2013¹. Those regulations have however been amended by the Costs Protection (Aarhus Convention)(Amendment) Regulations (Northern Ireland) 2017². As summarised in the explanatory note to the Regulations:

“The amendments provide that the limit (or cap) on the amount of costs that can be recovered from the applicant in a Convention case can be lowered to avoid prohibitive expense to the applicant. They allow the limit on the amount of costs that can be recovered from the respondent in these cases to be increased to prevent prohibitive expense to the applicant. The amendments introduce a limit on the costs that can be recovered in the relevant appeal cases and allow it to be varied on the same basis as applies in the first instance proceedings. They set out factors that the court must consider when deciding whether or not to vary the caps or require an undertaking in an application for an interim injunction. They also clarify the types of applicant entitled to costs protection or to avail of the safeguards afforded by the 2013 Regulations for interim injunctions.”

3. The legislative requirements underpinning the operation of the development management elements of the planning system in Northern Ireland as they stood at the time of the determination of planning application A/2008/0408/F were set out at paragraphs 100 – 106 of the response of the United Kingdom dated 27 November 2015. Particular reference was made to:
 - The Planning (Northern Ireland) Order 1991³; and
 - The Planning (General Development) Order (Northern Ireland) 1993 (relevant excerpts from the 1993 Order were attached to the response at Annex VI).
4. At paragraph 105 of the initial response attention was drawn to the fact that since the determination of planning application A/2008/0408/F the Planning (Northern Ireland) Act 2011⁴ and its subordinate (or secondary) legislation reinforced the role and involvement of third parties in the planning system and strengthens local participation through a range of initiatives leading to more effective community engagement including active participation in the development plan process and at the earliest stages of the development management process. That legislation maintains the statutory requirement for newspaper advertisement of planning applications and notification on a council’s website. In addition, the formerly

¹ <http://www.legislation.gov.uk/nisr/2013/81/contents/made>

² <http://www.legislation.gov.uk/nisr/2017/27/made>

³ <http://www.legislation.gov.uk/nisi/1991/1220/contents>

⁴ <http://www.legislation.gov.uk/niu/2011/25/contents>

administrative process of neighbour notifying identified occupiers of premises has been placed on a statutory basis under the Planning (General Development Procedure) Order (Northern Ireland) 2015⁵. The 2011 Act and 2015 Development Order remain in force.

5. Further reference was made to the Environmental Information Regulations 2004⁶ as facilitating engagement by providing for access to environmental information (which remain in force) and to the open access provided by the planning portal.

⁵ <http://www.legislation.gov.uk/nisr/2015/72/contents/made>

⁶ <http://www.legislation.gov.uk/uksi/2004/3391/contents>