

T: 0131-244-0237
E: chief.planner@gov.scot

29 May 2020

Dear Colleague,

PLANNING PROCEDURES AND COVID-19

We last wrote on [3 April](#) to explain action we had taken, and further actions we were intending to take, that would enable Scotland's planning system to continue to function effectively, confidently and with fairness during these difficult times for everyone.

Since then, we have introduced a number of temporary legislative changes and published supporting guidance. Scotland's planning authorities and planning stakeholders have been adjusting their working practices accordingly, and continue to do so.

The need for a well-functioning planning system is as important now as ever. Decisions and actions being taken now, across government and wider society, are vital to the nation's health, wellbeing and economic recovery. What we do in planning is vital to all of those objectives in the short and the long-term.

We are in no doubt that Scotland's planning services are essential in supporting recovery, ensuring appropriate development proposals can be consented in good time to facilitate delivery on the ground. That is why we have taken the steps we have to enable continued operation of our planning service while maintaining the fairness, transparency and accountability that are embedded in our system.

The Scottish Government has published a [routemap](#) setting out a phased approach to lifting lockdown measures. We all want to get back to some semblance of normality, and the routemap sets out the Government's plans for doing that. This includes adopting a phased approach to re-starting construction on non-essential sites, proposals for which have been developed in partnership with Construction Scotland and the Construction Leadership Forum and are set out in the Minister for Local Government, Housing and Planning's [letter of 21 May](#) to those bodies.

In this letter, we update on actions and activity since we last wrote and point towards further actions needed to ensure planning both continues to operate fairly and plays its part in supporting societal and economic recovery over the coming months and years. We also update on the work programme for production of Scotland's fourth National Planning Framework.

Maintaining a functioning planning system

From the outset of the COVID-19 outbreak and resultant need for physical distancing, it was clear that a number of planning process requirements placed on planning authorities and other stakeholders were being impacted. This needed to be tackled through a mix of legislative change and less formal revisions to practice; all taking a pragmatic view of what needed to be done to allow planning to continue during this period. We stress again that these are vital changes, but temporary.

The following is a brief summary and update of recent actions, including where to find out more:

- The [Coronavirus \(Scotland\) Act 2020](#): (i) extended the duration of planning permissions about to expire by up to 12 months, (ii) enabled publication of planning documents online rather than at physical locations, and (iii) allowed committee meetings to happen without public attendance. The [Coronavirus \(Scotland\) \(No. 2\) Act 2020](#) has now extended the duration of listed building and conservation area consents about to expire.
- The [Town and Country Planning \(Miscellaneous Temporary Modifications\) \(Coronavirus\) \(Scotland\) Regulations 2020](#) suspended the need for (i) public events in pre-application consultation, (ii) local review bodies meeting in public and (iii) hard copies of EIA reports in physical places. We have supported the changing arrangements for public events with [guidance](#) on online alternatives.
- Interim guidance on [Consultation and Engagement on Development Plans](#) supports and encourages work to continue to progress in the development planning process where possible, enhancing use of digital engagement techniques alongside opportunities for one-to-one engagement within physical distancing requirements.
- The [Town and Country Planning \(General Permitted Development\) \(Coronavirus\) \(Scotland\) Amendment Order 2020](#) temporarily grants planning permission for any necessary emergency healthcare/mortuary facilities to deal with the current crisis, and so give certainty about their planning status.
- In addition to the recent legislation, these [frequently asked questions](#) provide our up-to-date advice on handling arrangements for a range of planning processes which have been impacted by recent events, including: neighbour notification; site notices; committee meetings; and delegation of decision-making.
- With some minor changes to our support desk operations, the [eDevelopment](#) service has remained fully operational and proven to be resilient and reliable in supporting the flow of planning applications and information through to authorities.

Beyond the matters included in the recent legislative changes and recent advice, we now want to update and highlight a few further specific points about the continued functioning of our planning system. These are set out below.

Site visits for a planning purpose

We are aware that some different approaches are being taken towards site visits across Scotland. There is no statutory requirement for planning authorities to physically attend potential development sites, but doing so can help to understand the site, location and context of any proposed development. Where site visits have ceased recently, in some cases this has been preventing live planning applications from progressing to a decision.

In many cases it will be possible to consider a proposed development without the need for physical attendance on site, by drawing on existing knowledge of an area and supporting that as appropriate with tools such as satellite imagery, photographs and video conferencing technology.

If that remote assessment is not possible, or not sufficient in the circumstances of the case, a physical site visit can be carried out if that can be done within the scope of physical distancing requirements. Travel for essential work-related purposes is permitted if it absolutely cannot be done from home, while following distancing measures as much as possible.

There are similar issues for applicants, for example when needing to access a site to carry out survey work to support and progress their application.

For the avoidance of doubt, no site visit should be carried out by any person who should be self-isolating or shielding; nor should any premises be visited where somebody at that location is self-isolating or shielding.

Planning Committees and Local Review Bodies

Over the last few weeks, we have been pleased to see experience emerging from a number of planning authorities in conducting their planning committee and local review body business through online, virtual meetings using video conferencing technology. We encourage planning authorities to continue to hold their committee meetings in this manner while current restrictions remain in place. Some of the recent legislative changes have included the necessary and temporary removal of physical public attendance from committee meetings. To ensure maximum transparency and accountability, authorities should aim to broadcast meetings, either live or in recorded form as soon as possible afterwards, for members of the public to have access to observe proceedings.

Engaging with Community Councils

We have been taking steps to ensure community engagement in planning matters is able to continue during these times. Community councils hold a statutory role in development management within the planning system. The Scottish Government values the important work community councils have undertaken with many operating as hubs for community humanitarian responses whilst continuing to fulfil their democratic function. The Scottish Government is liaising with COSLA to consider what support or assistance might be required to enable community councils to carry out their democratic duties, including planning.

The Scottish Government provides funding to the Improvement Service to support community councils. This includes looking at new ways of working such as holding best practice webinars on hosting virtual meetings and conducting community council business online. Lessons learned will be shared on the community council website, social media and through the Community Council Liaison Officer network.

We remain fully committed to early, effective community engagement and wider inclusion in the planning system, including inclusion of young people, and we are pursuing that through our ongoing planning reform programme. We consider it vital that people have the opportunity to participate and have a positive influence in the future planning of development in their areas.

Registration of section 75 agreements

Registers of Scotland (RoS) now has a [digital submissions portal](#) in place and is accepting applications to register deeds in the Land Register, including Section 75 agreements. If a Section 75 agreement is to be recorded in the Sasine Register, you should contact RoS (customer.services@ros.gov.uk) to arrange for your application to be escalated to a Senior Advisor. For more information please visit www.ros.gov.uk.

Contacting us: COVID-19 related issues

To ensure we keep on top of all issues and requests in relation to the operation of the planning system during this period, please can you address any queries to this mailbox: covid19planningenquiries@gov.scot.

Supporting the recovery

Many planning stakeholders are now focused on the steps to be taken to get back to work and to reopen construction sites safely, in line with the routemap. Planning also has an important part to play in facilitating the re-start and supporting development delivery, while ensuring working practices are able to be adjusted to ensure safety.

Construction sites: hours of operation

Planning permissions are sometimes subject to conditions which restrict hours of operation; either directly or sometimes by requiring working hours to be separately agreed with the planning authority. We are aware that discussions are underway between some developers and planning authorities about the potential to expand the hours of operation of construction sites once they are able to re-commence work. The need for safe working and physical distancing – on-site, in the wider community through travel to and from sites, and in allowing a spread of working patterns throughout the day – will likely necessitate some different working arrangements while restrictions continue.

Planning authorities should be supportive of reasonable changes and requests to extend working hours.

The circumstances may differ between construction sites, for example due to the nature of some operations and their locations. We could not set a national standard that would apply to every construction site; rather there will normally be a need for use of judgement in relation to the positive benefits of carrying out and completing development alongside any potential public health implications. Nevertheless, in most circumstances it will be

reasonable to be able to extend working hours from 7am through to 9pm, Monday to Saturday; therefore such requests should not be refused unless there are compelling reasons to do so. Depending on the nature of the works and the surrounding area, much longer site operation times may be acceptable, including up to 24 hour working.

Not all aspects of construction activity have the same impacts, and so in some cases it might be helpful to agree appropriate parameters that can enable overall working times to be extended; for example by agreeing to limit particularly loud operations, considering any proximity to noise sensitive receptors, perhaps between 9am and 5pm or another period, or ensuring noise mitigation measures into the extended working times.

We recommend proactive, early and swift discussions between developers and planning authorities, to allow for reasonable site management that allows development to progress, recognising the current circumstances and restrictions in place.

We remain committed to avoiding additional pressures on the planning system at this time. In most cases, we expect that agreement to temporarily extend hours of operation can be reached informally, without the need for an application process. There could be some exceptions to that default, for example if the extension sought is substantial, or would have a significant impact at a sensitive location; although planning authorities and developers should still work to achieve agreement informally where possible.

Planning enforcement is a discretionary activity and Scottish Government policy and guidance sets out that planning authorities should act proportionately in responding to suspected breaches of planning control. Given the current, exceptional circumstances, the Scottish Government expects that planning authorities will take a sympathetic approach to enable reasonable temporary extensions to working hours on construction sites, without enforcement action.

Any building standards site inspections, whether conducted in person or [remote verification inspections](#), should be planned within normal working hours, unless otherwise arranged with the local authority.

We will review this guidance in due course, and we intend to withdraw it after the requirements for physical distancing have been removed.

Changing business practices during physical distancing restrictions

As we progress through a phased approach to easing physical distancing measures, we recognise that life within our communities is likely to remain unusual for a further period, in terms of the impacts on businesses and how many aspects of daily life will function. To enable re-opening of businesses, the Scottish Government is working collaboratively with industry, unions and stakeholders to build trust and cooperation on a phased approach.

Planning can play an important part in enabling business operations to get back up and running within the terms of the ongoing restrictions, and also support them to regain some lost ground and revenue as a direct result of the lockdown. It is important that we recognise these impacts of recent months, and the need to get people back to work, which might mean those businesses diversifying or needing to adjust the ways they operate to suit current circumstances. In planning, we can support well-measured temporary solutions.

We cannot produce an exhaustive list of what that might mean in practice, as there will be many circumstances in which reasonable, temporary relaxation of planning controls will help businesses to re-start and return some normality to life within our communities. Examples might include taking a reasonable, positive and supportive approach to allow temporary use for on-street seating for cafes and bars, beer gardens and similar to accommodate physical distancing; and also to enable seasonal businesses such as holiday parks to continue to operate beyond any conditioned limits to their seasons. This may be another example where agreement not to take enforcement action is all that is needed for a temporary period. Beyond any relaxation in planning to support temporary changes, there may of course be some matters to consider through other consenting and licensing regimes.

Safer Public Places

The phased approach to easing restrictions will see more people out and moving in public places while there remains a need to follow physical distancing. It is therefore important to manage public places in a way that will ensure people's safety. This has been the subject of the guidance [Safer Public Places – Urban Centres and Green Spaces](#) issued by the UK Government on 14 May. We are in the process of producing Scottish guidance covering similar matters; meantime you may be interested to see this document produced by UK Government colleagues.

Digital Planning

The impact of the current restrictions has further highlighted the need to strengthen digital solutions across planning and built environment services.

Engaging with the public is a vital element throughout our planning system, and current restrictions make traditional ways of doing this more difficult. Our Digital Planning team has explored approaches towards digital engagement with local authority colleagues and others, drawing on their experiences, and have published some [digital engagement examples](#). Our team has also been in discussion with several companies about the feasibility of taking a national approach to licencing their products through central contracts, which will save money and make them easier to administer.

What we have learnt, collectively, over the past weeks reinforces digital priorities identified in research findings from before the crisis; for example an online payment system, for all types of applications to be able to be submitted online, and for a more secure and reliable way to store and share information. We are looking at these immediate concerns to see how we can address them through our digital transformation programme, we will explore and expedite work on these and other issues over the coming months. This will enable short term benefits and relief to the current situation while we start to build the foundation for transformation

The importance of having the right data available at the right time has been clearly evident. In support of immediate needs, using our existing digital mapping technology, our Digital Planning team is supporting COVID-19 analysis work across the Scottish Government and with our partners; for example in monitoring and tracking the allocation of the £350m community funding package. Displaying data as a map, is giving decision-makers a more informed picture.

National Planning Framework 4

We had anticipated laying a draft NPF4 in the Scottish Parliament in September 2020, but given the impact of the current emergency on many people's and organisations' capacity at the moment, delay has been inevitable. We are disappointed to postpone the NPF4 timetable, but we must be realistic with ourselves and also give a clearer understanding of the timings for our stakeholders.

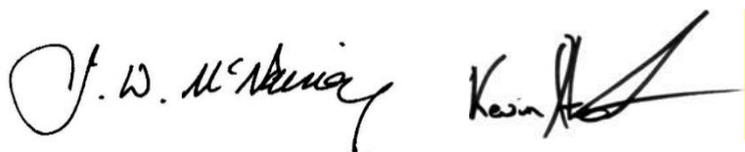
We now anticipate laying a draft in the Scottish Parliament in autumn 2021, with a final version being adopted in spring/summer 2022. Taking into account stakeholders' ability to get involved in preparing the draft, the period required for consultation, the timing of the 2021 Scottish Parliament election, and also the revised timescales of other government policies with which the NPF4 must align, we consider that autumn 2021 is the earliest that we could now lay a draft NPF4 in Parliament.

This change in timetable does not affect our commitment or momentum. We are now exploring additional engagement opportunities that this new timescale brings us. We are continuing to support planning authorities in their work to prepare indicative regional spatial strategies and analysis of the responses to our early engagement is ongoing. We intend to publish an interim position statement in autumn 2020. That will: provide an update on the Call for Ideas evidence gathered in early 2020; explain how we will align with other Scottish Government strategies; set out an overview of the key challenges, opportunities and potential policy changes for NPF4; and reflect on the impacts of COVID-19 and what NPF4 can do to help societal and economic recovery.

Staying in touch

We hope you find this information helpful. We will write again whenever we have more to update on. Meantime, please also make sure you follow us on Twitter [@ScotGovPlanning](https://twitter.com/ScotGovPlanning), and register for our [Planning and Building update](#) emails.

Yours faithfully



John McNairney
Chief Planner

Kevin Stewart
Minister for Local Government, Housing and Planning