

Planning and Covid-19: Frequently Asked Questions (Development Management)

Updated 1 June 2020

Paper applications

How should paper applications and representations be dealt with where offices are closed?

We recognise the closure of offices restricts authorities' ability to receive and process paper copies of planning applications and representations. Planning authorities should encourage applicants to submit planning applications and related consents electronically via the [eDevelopment.scot](#) service, and enable third parties to provide comments and representations by means other than hard copy.

We will continue to work with HOPS and other stakeholders to find practical approaches to processing applications with minimal disruption at the current time.

Making documentation available for public inspection

How can planning authorities comply with legislation that requires documents (e.g. relating to CPOs) to be made available for inspection at a physical location, such as a library or office?

Temporary powers in Schedule 6 to the [Coronavirus \(Scotland\) Act 2020](#) enable public bodies to publish documents electronically that would otherwise need to be made available for inspection in a physical location.

Prior notification

How should prior notification applications be treated in light of the 28 day time limit?

There are no plans at present to alter the timescales for prior notification and approval cases, but we will continue to monitor the situation.

Pre-application consultation

How can applicants comply with the requirement to hold a public event during pre-application consultation on major developments?

The requirement for physical events was temporarily suspended by [regulations which came into force on 24 April](#).

How will communities be meaningfully consulted now the requirement for a public event has been suspended?

This provision does not reduce the Government's commitment to early engagement in relation to major development proposals; it reflects the reality that face-to-face contact must be avoided at present. We expect prospective applicants to carry out alternative online engagement so that people can still be involved and have an opportunity to influence proposals that affect them. This [guidance](#) sets out how we expect pre-application engagement to be undertaken at the present time, including alternatives to a public event.

These [digital engagement examples](#) draw on recent experiences of digital engagement, covering tools available and good practice examples.

Validation/information requirements

Should applications be validated given the challenges associated with processing them at the current time?

It should be noted that the Development Management Procedure Regulations define when a valid application has been received. However, we recognise the challenges associated with validation and will continue to work with HOPS and other stakeholders to find practical approaches to processing applications with minimal disruption at the current time.

How should applicants carry out seasonally-sensitive surveys and reporting that are required as part of the planning process, such as those relating to bats?

There is no intention to reduce the level of protection afforded to these any protected species. The use of suspensive conditions relating to European protected species is not appropriate as there is no guarantee that the proposed development would not impact adversely on the species present, or that the future licensing tests could be met satisfactorily.

We recognise that the current Covid-19 restrictions are likely to impact on those who need to undertake surveys (e.g. bat surveys), especially within a domestic setting. We recommend you approach your normal local SNH contact to discuss survey requirements and what should be done in the circumstances. The advice offered will be on a case by case basis and is likely to be dependent on the type of development, timing, location and any surveys that may have already been undertaken already. More information can be found on SNH's [development planning webpage](#).

Neighbour notification

How should neighbour notification be carried out where offices are closed, restricting authorities ability to print and issue notices?

We encourage authorities to continue issuing hard copy neighbour notifications. There are a few different options available, some involving third party operators, that can enable this activity to continue. Authorities may wish to consider allowing additional flexibility with timescales.

Site visits and site notices

Can site visits be carried out as part of the planning process?

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 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.

How should Councils approach the display of site notices at the current time?

[The Coronavirus \(Scotland\) Act 2020](#) allows public authorities, in certain circumstances, to set aside requirements to publish or publicise a document (other than by electronic means). Such requirements would include those for site notices for applications for listed building consent or conservation area consent. Paragraph 9 of schedule 6 to the 2020 Act specifies the circumstances in which this power applies and related requirements regarding alternative publication.

Commenting on planning applications

Will communities still be able to view and comment on planning applications?

Planning applications and associated documentation can be viewed on councils' online planning registers. Authorities should enable third parties to submit representations electronically.

Will the time period for representations on planning applications be extended?

We understand that at the current time it may take longer than normal for third parties (including key agencies and the local community) to view applications and make representations to planning authorities. Whether to adjust consultation timescales is a matter for planning authorities to consider and we would expect all parties involved to take a pragmatic and flexible approach.

Planning Committees, local review bodies and schemes of delegation

Can planning committees continue to convene – can meetings be held virtually instead?

Yes. Local authorities already have the power to hold meetings virtually. Temporary powers in [Schedule 6 to the Coronavirus \(Scotland\) Act 2020](#) provide that, for the duration of the coronavirus crisis, local authorities may exclude the public from their meetings on health grounds, to protect the public and local authority council members.

Can local review bodies still meet?

To enable meetings to take place virtually, [regulations coming into force on 24 April](#) temporarily suspended the requirement for local review body meetings to be held in public.

How can people follow discussion at planning committees and local review bodies?

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.

Can planning decisions be delegated to officers rather than being determined at committee?

Yes. Planning authorities already have extensive powers to delegate decisions under the Local Government (Scotland) Act 1973. Where authorities require to amend their schemes of delegation under the Planning Act, those will require approval by the Scottish Government; we will process those to approval very quickly.

Planning Obligations

Can planning obligations be registered while Registers of Scotland's offices are closed?

Yes. Powers in [Schedule 7 to the Coronavirus \(Scotland\) Act 2020](#) enable the registration or recording of deeds to proceed by electronic means. This includes applications for the registration of section 75 planning obligations.

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.

Planning Timescales and Performance

Are you going to extend the statutory period for determining planning applications?

It is vital that proposals can continue to move through the system during this uncertain period, and that authorities endeavour to determine applications timeously. While we are not intending to extend the statutory timescales for determining planning applications, we understand that at the current time it may take longer than normal to process, seek comments on and determine applications. We expect all parties to take a pragmatic approach.

Can applicants appeal against non-determination as normal?

Yes. However, applicants should recognise the challenges associated with determining applications at the current time and that decisions may take longer than normal.

Will the current circumstances be taken into account for the purposes of planning performance ratings?

Yes. We will take a sympathetic approach, recognising the challenges associated with planning authorities carrying out their planning functions at the current time.

When do this year's planning performance framework (PPF) reports need to be submitted by?

The date for submission of PPF reports is 31 July.

Appeals

Will the time period for submitting an appeal be extended?

The timescales within which appeals must be lodged are unchanged. [DPEA has published guidance](#) on how planning appeals, local development plan examinations and other casework will be handled during the current coronavirus outbreak.

Duration of planning permission

Will more time be allowed to implement planning permissions to avoid them lapsing as a result of the current restrictions?

Provisions in [Schedule 7 to the Coronavirus \(Scotland\) Act 2020](#) extend the duration of all planning permissions which are due to expire during an 'emergency period' of 6 months from the day the Act came into force (7 April 2020), so that the relevant permission or time limit shall not lapse for a period of 12 months from when the provisions come into force.

Published guidance on the implementation of the Act is available at:

<https://www.gov.scot/publications/coronavirus-covid-19-guidance-for-stakeholders-on-the-coronavirus-scotland-act-2020/>

The [Coronavirus \(Scotland\) \(No. 2\) Act 2020](#) has now extended the duration of listed building and conservation area consents about to expire.

Planning enforcement

How should planning authorities approach planning enforcement at the current time?

Authorities should take a common sense approach to enforcement, with actions proportionate to the severity of suspected breaches of planning control.

Emergency permitted development rights

How can planning facilitate urgent developments that are needed to tackle the Covid-19 emergency?

The Town and Country Planning (General Permitted Development) (Coronavirus) (Scotland) Amendment Order 2020 ([SSI 2020/129](#)) was laid before the Scottish Parliament on 23 April and came into effect on 24 April 2020. The Order amends the GPDO to grant planning permission for certain development carried out by, or on behalf of local authorities or health service bodies for the purposes of preventing, reducing, mitigating or controlling the effects of the current emergency caused by the spread of the Covid-19 virus and its impacts on public health. This supports timeous reaction to the current public health emergency caused by the spread of the virus. The amendment is time limited and will cease to have effect on or before 31 December 2020, further requiring that any development permitted under the provisions of the Amendment Order be removed or ceased, and the land returned to its previous use and condition within a further 6 month period from that date.

<p>If you have queries about the impact of Covid-19 on the planning system, please send them to covid19planningenquiries@gov.scot</p>
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