

Changes to the planning system in England related to the COVID-19 Pandemic

A chronological narrative August 2020 – March 2020

1 August 2020

The Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations 2020

22 July 2020

Business and Planning Act 2020 receives Royal Assent

15 July 2020: Written Ministerial Statement by Secretary of State

Preventing loss of theatres, concert halls and live music performance venues

With immediate effect, local planning authorities should have due regard to their current circumstances when considering whether to grant planning permission for a change of use or demolition of a theatre, concert hall or live music performance venue that has been made temporarily vacant by Covid-19 business disruption.

Where an alternative use or demolition for a long-term vacant theatre, concert hall or live music performance venue is proposed, local planning authorities should consider the application in the normal way. The Theatres Trust is a statutory consultee under the Town and Country Planning (Development Management Procedure) (England) Order 2015 (S.I 2015/595) for applications seeking to develop any land where there is a theatre and will have an opportunity to comment on any application relating to theatres.

This policy remains in place until 31 December 2022 unless superseded by a further statement.

Caravan and Holiday parks

Caravan and holiday parks in England were able to reopen from 4th July 2020. Extending their operation beyond the usual summer season will be invaluable to parks as the sector begins to recover. We are aware that current planning conditions may limit their open season. The temporary relaxation of these planning restrictions can play a vital role in helping local businesses to get up and running again.

The National Planning Policy Framework already emphasises that planning enforcement is a discretionary activity, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Given the current situation, while local planning authorities must have regard to their legal obligations, they should not seek to undertake planning

enforcement action which would unnecessarily restrict the ability of caravan and holiday parks to extend their open season.

Where local planning authorities consider it appropriate to require an application to vary relevant planning conditions (where for instance there is a risk of flooding or where parks are situated close to protected sites) they should prioritise the application and make an early decision to provide certainty to caravan and holiday park operators. In doing so, they should consider the benefits of longer opening season times to the local economy as it recovers from the impact of Covid-19.

02 July 2020:

New regulations and guidance will allow councils to defer community infrastructure levy (CIL) payments from smaller developers for up to six months.

25 June 2020:

Business and Planning Bill published.

1. The bill confirms measures to allow the automatic extensions of planning permissions that have lapsed during the Covid-19 lockdown.

Clauses 17 to 19 of the bill make provision to allow the commencement period for certain unimplemented planning permissions and listed building consents to be extended. The measures allow permissions for development which has already received the grant of planning permission or listed building consent and would lapse between 23 March and 31 December 2020 to be extended until 1 April 2021. The measures would come into force 28 days after the act is passed.

2. Planning permissions that have already lapsed before the provisions come into force will be subject to an "additional environmental approval" by the local council before the automatic extension can take effect.

The explanatory notes say the local planning authority "must issue a decision to grant or refuse additional environmental approval within 28 days, or such longer period agreed in writing between the local planning authority and applicant (such longer period not to exceed an additional 21 days). If the local planning authority does not issue a decision within the 28-day period (or as extended), it is deemed to have granted additional environmental approval".

3. The bill includes measures, to allow inspectors to simultaneously use written representations, hearings and inquiries when deciding a planning appeal.

The bill's notes say the Planning Inspectorate (PINS) will be provided "with the flexibility to use more than one procedure type when dealing with a planning appeal (local inquiry, hearing, and/or written

representations), enabling appeals to progress at a faster pace". The amendments to section 319A of the Town and Country Planning Act 1990 are permanent and "will provide ongoing efficiencies" to the work of PINS, the notes add. This measure would be implemented as soon as the legislation is passed.

4. The legislation includes temporary measures to fast-track applications from developers to request changes to planning conditions to allow building site working hours to be extended. "This is to ensure that, where appropriate, planning conditions are not a barrier to allowing developers the flexibility necessary to facilitate the safe operation of construction sites during the response to the Covid-19 pandemic and to proceed at pace with work otherwise delayed as a result of Covid-19," the bill's explanatory notes say. Under the measures, local authorities would have 14 days to determine applications for such extensions, after which time they would be deemed to be approved. The measures would come into force six days after the act is passed.

5. Draft planning guidance on the extension of site working hours says that local planning authorities "should not refuse applications to extend working hours until 9pm, Monday to Saturday without very compelling reasons". It adds that, in some cases, "such as in areas without residential properties, extending working hours beyond this, including allowing 24-hour working where appropriate, may be justified".

6. The bill temporarily removes requirements for the mayor of London to make the London Plan available for physical inspection and to provide hard copies on request. The requirement in relation to the capital's spatial development strategy (SDS) is set out in the section 43 of the Greater London Authority Act 1999. The notes state that the change set out in the bill "will help accelerate progress of the emerging SDS to ultimately unlock development and support the economy", as well as to "make it safer for planning officers and the general public inspecting documents, and reduce administrative burdens". The measure would come into effect the day the bill is passed.

7. Draft Planning Guidance on the publication of the London Plan documents says the document "must be available for electronic inspection in a reasonably convenient way". However, it adds that the Greater London Authority "are also strongly encouraged to supplement this to increase access by making use of electronic methods to their full potential".

8. The bill includes measures to make it "easier for premises in England serving food and drink such as bars, restaurants and pubs to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing". The notes say that obtaining consent from local councils for the placement of furniture such as tables and chairs on

the pavement outside their premises "can be costly and time-consuming". The bill includes temporary measures to "place a cap on the application fee for businesses, enforcement and revocation powers so councils can protect public safety and amenity, and introduces a new 14 day determination period, ensuring that businesses can obtain licenses in a timely and cost effective manner aiding to their financial recovery", the explanatory notes say. The measures extend to 30 September 2021 and would be introduced the day the bill becomes law.

9. Planning changes will keep the system in line with the new licensing rules. A draft guidance note on the pavement licenses measures says that once a licence is granted, "or deemed to be granted, the applicant will also benefit from deemed planning permission to use the land for anything done pursuant to the licence while the licence is valid".

10. The bill also seeks to modify provisions in the Licensing Act 2003 to provide automatic extensions to the terms of on-sales alcohol licences to allow for off-sales. "These measures will make it possible for licensed premises that have only an on-sales licence to sell alcohol for consumption off the premises", the notes say. The measure would be temporary, with provisions lasting until the end of September 2021. As with the pavement licenses, the measures are temporary and would come into effect the day the bill becomes law.

22 June 2020:

The government confirms plans to automatically extend all planning permissions that are due to lapse, or have already done so, during the coronavirus pandemic, between late March and the end of this year. It has also announced new measures to fast-track applications from developers to request changes to councils' planning restrictions that would allow building site working hours to be extended.

11 June 2020:

Ministers are "considering" whether time limits on the implementation of planning permissions should be temporarily extended due to the coronavirus pandemic, the House of Lords is told.

14 May 2020:

The government issues several updates to its planning practice guidance (PPG). Among the measures announced is one which says that planning authorities are being "encouraged to undertake an immediate review and update" of policies in their statements of community involvement (SCIs) to take account of restrictions imposed during the coronavirus pandemic.

Another update reveals that the minimum time period given by councils for to make representations on planning applications in their areas has been temporarily increased from two to three weeks.

13 May 2020:

The government has published a package of planning measures intended to re-start the housing market:

- The determination timescales for planning applications will not be relaxed.
- Government looks at relaxing local plan engagement rules and virtual examinations
- Government intends to legislate to support social media use to publicise planning applications
- Government intends to legislate to provide CIL easements for smaller developers in the wake of the pandemic
- Councils are urged by government to take 'pragmatic and proportionate' approach to s106 obligations
- Coronavirus CPO guidance advises local authority flexibility during the pandemic.

6 May 2020:

The Planning Inspectorate's director of operations says the planning system will need to become more "agile" in how it handles hearings and inquiries as it moves forward after the coronavirus crisis.

9 April 2020:

A new emergency permitted development (PD) right allowing English councils and health service bodies to create new facilities to combat the spread of coronavirus without the need for planning permission comes into effect. The measure, which expires on 31 December, amends the Town and Country Planning (General Permitted Development) (England) Order 2015 "to introduce a new permitted development right to allow local authorities and health service bodies to carry out development, both works and change of use, of facilities required in undertaking their roles to respond to the spread of coronavirus, without a requirement to submit a planning application".

3 April 2020

The new regulations to enact measures to allow planning committee meetings to be held remotely during the coronavirus pandemic - The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 - come into force on 4 April 200.

2 April 2020:

The government has published a draft statutory instrument to enact measures to allow planning committee meetings to be held remotely during the coronavirus pandemic.

27 March 2020:

An emergency law that would allow councils to hold virtual planning committee meetings in response to the coronavirus outbreak has received royal assent, but secondary legislation is required before such measures can come into force. [The Coronavirus Act](#) was fast-tracked through Parliament and became law on 25 March 2020.

25 March 2020:

An amendment has been tabled to the government's emergency Coronavirus Bill which would enable councils to hold virtual planning committee meetings.

Local authorities across the country have moved to allow all planning decisions to be taken by officers as committee meetings are cancelled amidst the ongoing coronavirus outbreak.

25 March 2020:

Individual councils will have leeway to make decisions about whether planners will be counted as key workers during the ongoing coronavirus emergency, it has been confirmed, with some authorities redeploying planners to support frontline efforts to battle the spread of Covid-19. Schools and nurseries were shut for all but these key workers from the end of the day.

17 March 2020:

The government announced that planning rules will be relaxed so pubs and restaurants can operate as hot food takeaways during the coronavirus outbreak. According to a statement issued by the Ministry of Housing, Communities and Local Government (MHCLG), the government will "as soon as possible" introduce a time limited permitted development right through secondary legislation to allow the temporary change of use of a pub (A4 - drinking establishment) and a restaurant (A3 – restaurants and cafes) to a hot-food take away for a period of up to 12 months only. Alcohol sales would still be subject to existing licensing laws.

13 March 2020:

The housing secretary instructs English planning authorities to avoid enforcing controls that "unnecessarily" restrict the time and number of lorry deliveries to retailers and distributors of food and other "essential" deliveries during the coronavirus disruption.