

Town Planning Update

Coronavirus (COVID-19) Response

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Town Planning Update – Coronavirus Response

In response to the Coronavirus Pandemic, Government and Local Planning Authorities are looking at ways to maintain Planning and Development Control activities. Below is an update of the latest information for different town planning areas relevant to NHSPS.

For further advice or support, do not hesitate to get in touch with myself (mark.adams@property.nhs.uk) or another member of the Town Planning team (details below).

<p>Permitted Development Rights</p>	<p><u>THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (CORONAVIRUS) (ENGLAND) (AMENDMENT) ORDER 2020</u></p> <p>This Order was laid before parliament on 8th April 2020 and comes into force at 10am on 9th April 2020. The instrument amends the Town and Country Planning (General Permitted Development) (England) Order 2015 to introduce a new permitted development right - Part 12A Class A - Emergency development by a local authority or health service body</p> <p>The amendment made by this instrument provides permitted development rights for development which could be used for the provision of additional <u>temporary</u> health and local authority facilities until 31 December 2020, in response to the coronavirus pandemic.</p> <p>This right recognises that the detail of any development required will not necessarily be known in advance and as such provides a broad right that recognises the emergency nature of the responses required. The right will enable development including, but not limited to, the change of use of existing premises; erection of temporary buildings, structures, plant and machinery; vehicle parking and storage space.</p> <p>Class A allows development across England, including in conservation areas, National Parks, the Broads and to a listed building. It does not remove the need for listed building consent should that be considered necessary.</p> <p>Class A1 sets out the <u>circumstances where development is not permitted</u> which are where the site is, or forms part of a site of special scientific interest (SSSI); is a military explosives storage area; or the site is a scheduled monument.</p> <p>Class A1 provides limitations of development within 5 metres of any boundary of the curtilage of a dwelling house and also provides limits on the height of any new building or any enlarged, improved or altered building, namely:</p> <ul style="list-style-type: none"> d) the height of any new building exceeds— <ul style="list-style-type: none"> i. a height of 6 metres above ground where any part of the new building is within 10 metres of any boundary of the land; or ii. the height of the highest part of the roof of the original building, or a height of 18 metres above the ground, whichever is the greater; e) the height of any building enlarged, improved or altered exceeds— <ul style="list-style-type: none"> i. the height of the highest part of the roof of the original building, or a height of 6 metres above the ground, whichever is the greater, where any part of the enlarged, improved or altered building is within 10 metres of any boundary of the curtilage of the original building; or ii. the height of the highest part of the roof of the original building, or a height of 18 metres above the ground, whichever is the greater; or f) any moveable structure, works, plant or machinery required temporarily and in connection with and for the duration of the development would be located in a position— <ul style="list-style-type: none"> i. within 10 metres of any boundary of the curtilage of a dwellinghouse, or
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<p>Permitted Development Rights (Continued)</p>	<p>ii. within 5 metres of any boundary of the land.</p> <p>The instrument provides for a time limited right that will cease to have effect after 31 December 2020. Should the facilities be required beyond 31 December 2020 a planning application will need to be submitted.</p> <p>The right is subject to the condition that any buildings, plant, machinery, structures or erections permitted by Class A are removed before the expiry of a period of 12 months beginning with the date on which the use of the land ceases for the purposes of the right. Also within the same period the land is required to be restored to its condition before the development took place, or, if the developer is not also the local planning authority to such other state as may be agreed in writing between the local planning authority and the developer</p> <p>There is no application process, and health service bodies and local authorities who are not the planning authority are required only to notify the local planning authority of the use of the development on a site as soon as practicable after commencing development. We expect this will be by e-mail or in writing.</p> <p>The Town Planning Team will shortly be circulating a draft letter template for the purpose of notifying the Local Planning Authority which references these amended permitted development rights.</p> <p>NHSPS's Legal Team have also confirmed that NHS Property Services meet the definition of a 'Health Service Body' by being a company formed under section 223 of the Health and Social Care Act 2012, and wholly owned by the Secretary of State.</p> <p>For any further information, or to discuss any projects which can benefit from permitted development under Part 12A Class A please speak to a member of the town planning team using the details below.</p>
<p>Automatic Extension of Planning Permissions</p>	<p>The Business and Planning Act 2020 temporarily modifies the Town and Country Planning Act 1990 and the Planning (Listed Buildings and Conservation Areas) Act 1990 to enable certain planning permissions and listed building consents in England which have lapsed or are due to lapse during 2020 to be extended.</p> <p>Planning permissions due to lapse between 23 March 2020 and 31 December 2020 are extended to 1 May 2021</p> <ul style="list-style-type: none"> • This occurs automatically for applications due to expire between 19th August 2020 – 31st December 2020 • Applications due to expire between 23 March 2020 and 19 August 2020 are also restored subject to Additional Environmental Approval being granted
<p>Consultation and Publicity</p>	<p>From Thursday 14 May, temporary regulations are being introduced to supplement the existing statutory publicity arrangements for planning applications, listed building consent applications and environmental statements for EIA development in response to the coronavirus.</p> <p>Local planning authorities (and applicants of EIA development under the TCPA) now have the flexibility to take other reasonable steps to publicise applications if they cannot discharge the specific requirements for site notices, neighbour notifications or newspaper publicity. These steps will notify people who are likely to have an interest in the application and indicate where further information about it can be viewed online. These steps can include the use of social media and other electronic communications and must be proportionate to the scale and nature of the proposed development.</p> <p>Guidance to accompany these regulations will also be published to highlight what alternative publicity local planning authorities could undertake. If local newspapers are not circulating in their area, authorities should seek to use local online news portals in the first instance.</p>

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Community Infrastructure Levy	The government is to legislate to enable councils to temporarily relax some Community Infrastructure Levy (CIL) rules for developers with an annual turnover of less than £45 million, including allowing authorities to defer payments, to disapply interest on late payments and to return interest already charged.
Determination Timescales	The government does not intend to change the determination timescales for planning applications set out in the Development Management Procedure Order 2015, although it is acknowledged that timescales may not be met in all cases. Developers should be encouraged to agree extensions of time where necessary but retaining the timescales means there is still the option to appeal to the Secretary of State on the grounds of non-determination.
Council Decision Making	<p>Local authorities in England have been handed new powers under the Coronavirus Act 2020 to hold public meetings virtually by using video or telephone conferencing technology from Saturday (4th April 2020). The government has temporarily removed the legal requirement for local authorities to hold public meetings in person during the coronavirus pandemic. The requirement for public meetings to be made accessible to the public remains, but it will be up to each local authority to decide how they conduct meetings, how voting procedures work and how to ensure that the public has access.</p> <p>In addition to the above, several Councils are also looking at increasing the number of applications that can be decided by planning officers under delegated authority. The approach being adopted varies by individual local authority. Please speak to a member of the Town Planning team for further information as required.</p>
Planning Applications	<p>Most Local Authorities are now set up for remote working, allowing officers to continue to consider planning applications. Some authorities have warned of reduced capacity and extended timescales for validation and determination. A small number of planning authorities have put a hiatus on new planning applications until their new procedures are up and running. All application material (including public comments) must be submitted electronically to be considered.</p> <p>A major hurdle for submitting applications during this time, is the impact of lockdown measures on effective public consultation. Alternative means of consultation are available (letter drops / webinars etc), however careful consideration needs to be given to their appropriateness in support of any application, particularly complex or contentious schemes, to meet basic consultation requirements. Updated regulations were introduced on 14th May 2020 (see Publicity and Consultation Section above). Please speak to a member of the Town Planning team for further advice/guidance.</p>
Pre-Application Enquiries	<p>Most local planning authorities are continuing to offer pre-application services, although this is restricted to written representations and/or meetings held by conference call, or video conferencing whilst restrictions remain in place.</p> <p>The approach to pre-application discussions varies by local planning authority area. Published pre-application timescales are likely to be affected.</p>
Planning Policy Consultations & Call for Sites	<p>The Planning Advisory Service has encouraged Councils to continue consultation on their Local Plans and avoid withdrawing them as a result of the disruption caused by the coronavirus pandemic. Instead, Councils should extend the consultation period, initially to July 2020, while reviewing their statements of community involvement (SCI).</p> <p>The Town Planning team continue to track policy consultations and will continue to make representations to emerging policy and submit sites for alternative uses as appropriate during this time.</p>
Emergency Temporary / Modular Buildings	<p>See updated permitted development rights section above.</p> <p>Should necessary Modular/Temporary buildings be necessary that fall outside of the scope/conditions of Part 12A Class A please do not hesitate to get in touch with a member of the Town Planning team who can provide further advice/support.</p>

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<p>Appeals</p>	<p>In response to the spread of COVID-19, the Planning Inspectorate (PINS) has published guidance (see here) on how it will continue to carry out its duties. The Planning Inspectorate is still processing Written Representation Appeals and is considering alternative measures with respect to the processing of Hearings and Public Inquiries, for example the use of online or video conferences.</p> <p>There may also be an opportunity to convert some cases to the Written Representation procedure. At present, no staff are operating in PINS' Bristol or Cardiff offices, and therefore all material must be submitted electronically.</p> <p>On 13th May 2020, the planning Inspectorate provided updated guidance, confirming that site visits can now recommence where necessary, subject to maintaining social distancing. The use of digital events has also been accelerated. The first fully digital hearing took place on 11th May, and they are planning a further 20 digital examinations, hearings and inquiries throughout May and June.</p>
<p>Enforcement</p>	<p>A Written Ministerial Statement was published on Friday 13 March urges local planning authorities to apply pragmatism to the enforcement of restrictions on food and other essential deliveries, and to use their discretion on the enforcement of other planning conditions which could hinder the effective response to COVID-19.</p>
<p>Neighbourhood Planning</p>	<p>The Coronavirus Act 2020 contains provisions to enable the postponement of electoral events, including Neighbourhood Plan referendums, over the course of the year. As with Local Plans, public consultations and evidence gathering can continue, provided this adheres to the governments social distancing guidance.</p> <p>No elections or referendums can take place until 6 May 2021. This includes neighbourhood planning referendums. These provisions will be kept under review and may be amended or revoked in response to changing circumstances.</p> <p>On 7 April 2020, updated guidance was published to set out that neighbourhood plans awaiting referendums can be given significant weight in decision-making. The guidance, which was further updated on 13 May 2020, also provides further advice on the implications for conducting publicity and consultation, and examinations</p>
<p>Elections</p>	<p>The May 2020 United Kingdom local elections (including for councils, mayors and police and crime commissioners) have been postponed until 2021.</p>

For further advice or support please get in contact with a member of the Town Planning team using the details below.

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Disclaimer: although the main purpose of this note is for reference by NHSPS colleagues it is acknowledged that the information contained herein will be of use to other health service organisations. Readers outside of NHSPS are encouraged to contact the NHSPS Town Planning team for tailored advice and support in relation to their specific requirements.
