



To: Heads of Planning

29 April 2020

Dear Colleague

I wrote to you on 27 March to provide initial advice regarding how local planning authorities may maintain services during the COVID-19 pandemic.

As we all adapt to new working practices, the main priority remains to protect the NHS and save lives. We must, however, also ensure a functioning planning service can be maintained at this time, both to respond urgently to development proposals economic recovery.

I would like to thank you for the continued commitment and flexibility you and your staff have shown during these challenging times.

This updated advice clarifies what the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020 mean for planning services, particularly in relation to site visits and publicity. I also wish to draw your attention to Local Authorities (Coronavirus) (Meetings) (Wales) Regulations 2020 which came into force on 22 April and enable local planning authorities to reconvene planning committees. While staff absence through redeployment and sickness will continue to affect some authorities, this advice is intended to assist all local planning authorities to continue to determine planning applications.

Site visits

The Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020 (“Coronavirus Regulations”) prohibit people from leaving or remaining away from the place where they live without reasonable excuse. One of the reasonable excuses is the need to travel for the purposes of work where it is not reasonably practicable for that person to work from where they are living.

The Coronavirus Regulations require that where work is being carried out at any place during the emergency period all reasonable measures must be taken to ensure that a distance of 2 metres is maintained between persons on the premises. For the purpose of the Coronavirus Regulations 'premises' includes any building, structure or land. Most staff delivering the planning service can do so from their homes, and they should continue to do so. For some authorities, certain administrative functions such as receiving the post, printing letters or certain IT functions can only be undertaken by attending the office. Authorities should consider how this can be done in a way which complies with the Coronavirus Regulations.

The issue which has, to date, prevented many authorities from processing new applications is site visits, either in relation to posting site notices or for the purpose of assessing and analysing site conditions, including enforcement. **These activities cannot be undertaken from home so are a reasonable excuse to travel for the purpose of the Coronavirus Regulations. These activities must, however, be carried out in compliance with the requirements of the Coronavirus Regulations.**

Before officers undertake a site visit they must consider:

- whether the purpose of the site visit could be achieved through other means
- whether the Coronavirus Regulations and guidelines on physical distancing issued under regulation 7A can be complied with and maintained while on site

Site notices and other publicity

While we were considering the continuing need for site notices, we have concluded they can be displayed whilst complying with the Coronavirus Regulations. They remain an important way to engage with the public in respect of development proposals. Local planning authorities may invite applicants to display notices on their own land on their behalf. Authorities remain responsible for compliance with the publicity requirements set out in the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (DMPWO) and the Developments of National Significance (Procedure) (Wales) Order 2016.

When considering the best means to bring planning applications to the attention of the public, a variety of methods are encouraged, taking into account the change to people's movements and social interaction.

Recognising that some members of the public do not have internet access, the role of direct neighbour notification remains important. Authorities are encouraged to expand the use of direct letters to neighbours as information about planning proposals may not be passed on through word of mouth as it was before the restrictions. Staff resources and office closures may be affecting whether authorities can print and post neighbour notification letters. If this is the case local planning authorities are encouraged to use the Notify service offered through The Government Digital Service. Details can be found in the annex to this letter.

As outlined in my previous letter, authorities should also look to use social media and other online services in a creative way to widen public engagement with the planning system.

While council offices remain closed to the public, they are unable to visit to view hard copies of the planning register. While most local planning authorities offer access to the register via their websites, some individuals will not be able to access the website and so authorities should deal sympathetically with requests for hard copies of applications to be posted to them.

Site visits to assess site conditions

In many cases, assessment of site conditions can be achieved remotely to avoid the need for a site visit. This can include the use of video conference applications, satellite imagery, photographs and video of the site provided by the applicant. We recommend early engagement with applicants to establish what additional information will be required and/or to schedule a remote site visit if using video conferencing technology.

If remote assessment is not possible, the person responsible for the site visit will need to ensure compliance with the duty to take all reasonable measures to maintain a 2 metre distance between people on any land or buildings where the site visit is to take place.

Site visits must not be carried out by an officer who has coronavirus symptoms, however mild.

Site visits must not be undertaken to homes where anyone has coronavirus symptoms or is self-isolating.

All site visits should be subject to a risk assessment prior to travel to ensure compliance with the Coronavirus Regulations can be maintained. Site visits which do not require entry to the application site will be the preferred way to maintain compliance with the Coronavirus Regulations and achieve adequate site assessment. All site visits where physical interaction is necessary should be by appointment only. Planning Officers should agree arrangements with applicants to ensure suitable protection measures can be put in place before the site visit takes place, including maintaining at least 2 metres between individuals at all times both indoors and outdoors.

Where it would not be practicable to implement 2 metre distancing during a site visit, authorities will need to consider whether the information gained through remote means is sufficient to determine the application. This consideration should be in consultation with the applicant to ensure all reasonable steps have been taken to obtain the required information.

Pre-application consultation and hard copies

The Coronavirus Regulations apply to planning consultants, architects and other agents in the same way as planning officers. Where pre application community consultation is required in advance of a planning application for major development, it is necessary for a site notice to be displayed. This aspect of the pre application process cannot be undertaken from home and is therefore a reasonable excuse to travel to the site.

Due to the closure of public buildings, temporary amendments to the DMPWO are being considered to remove the need for making information available for inspection at a location in the vicinity of the proposed development and whether alternative arrangements would be required. Further advice on these amendments will be provided in due course.

While no such provision to deposit a hard copy applies to the Developments of National Significance pre-application process, we are considering whether temporary changes are needed to the requirement for applicants to deposit hard copies of an application with both the Welsh Ministers and the local planning authority, set out in the Developments of National Significance (Procedure) (Wales) Order 2016.

Planning Committees

The Local Authorities (Coronavirus) (Meetings) (Wales) Regulations 2020 (“the Committee Regulations”) came into force on 22 April. The Regulations make temporary provision for the conduct of local authority meetings and for public and press access to these meetings during the COVID-19 pandemic.

The Committee Regulations enable local authorities to conduct meetings on the basis of remote attendance, modifying existing requirements to hold annual meetings at specified times in 2020, makes provision about the timing of other meetings required to be held before 1 May 2021 and removes the requirement that meetings must be held in public. The Committee Regulations also make provision for various documents to be published electronically, including public notices of meetings and agendas, summons to be sent to members electronically, and provision relating to the inspection of minutes following meetings.

Provision is also made for local authorities to allow the substitution of members of the local planning authority committee. As changes to standing orders may need approval of full council, authorities should consider in advance whether substitutions are likely to be necessary, to avoid significant disruption to the business of the planning committee due to the absence of member.

Authorities should clearly communicate the temporary arrangements for the format of meetings.

The Committee Regulations and the explanatory memorandum are available to view on the following link:

<http://www.senedd.assembly.wales/mglIssueHistoryHome.aspx?Id=28257&EVT=113>

Determination timescales

As set out in my previous letter, we do not intend to change the determination timescales set out in the DMPWO. The Welsh Government acknowledges that statutory timescales will not be met in many cases due to these unprecedented times.

We continue to consider whether the provision in legislation to refund planning application fees remains appropriate. We are mindful that undertaking site visits and holding planning committees will enable planning applications to be determined, which lessens the need for this temporary measure but will keep the issue under review.

If an authority is unable to determine an application within the prescribed timeframe, a request for an extension of time should be made to the applicant, setting out the reasons for doing so. Authorities should be reasonable in the length of extension requested.

Hearings and Inquiries

No hearings or inquiries are being held in person for the time being. However, where circumstances permit, the Inspectorate has converted procedures to written representations, wherever possible.

We are continuing to review whether there is a need to make changes to legislation to enable such events to be held through electronic attendance. This work is being informed by the need to maintain fairness for all parties involved, and taking into account the ways of working set out in the Well-Being of Future Generations (Wales) Act 2015 and the Welsh language standards.

COVID-19 applications

Since the last update on planning services, two amendments have been made to the Town and Country Planning (General Permitted Development) Order 1995, creating new permitted development rights for local authorities and NHS bodies.

Guidance on permitted development rights for emergency development by local authorities can be found on our website at:

<https://gov.wales/emergency-permitted-development-rights-coronavirus>

Guidance on permitted development rights for emergency development by NHS bodies can be found on our website at:

<https://gov.wales/coronavirus-new-permitted-development-rights-health-service-bodies>

The permitted development rights grant permission for most of the temporary hospitals, testing stations and mortuary facilities in use or proposed across Wales. Local Resilience Forums may be considering the need for extensions to cemeteries, however, these should be considered through a planning application because the change of use will be permanent, rather than the 12 months allowed by the permitted development right. Local planning authorities are encouraged to have early discussions with Local Resilience Forums about their requirements, in conjunction with relevant statutory consultees, particularly Natural Resources Wales and water companies so appropriate site selection mitigates any likely environmental impacts.

Authorities should continue to validate applications promptly so priority applications can be identified. Priority should be given to applications directly responding to COVID-19 such as applications to maintain food supplies, telecommunications and energy networks.

Hazardous substances advice

It is possible situations may arise due to COVID-19 development proposals which have implications for hazardous substances consent or development within safety hazard areas. While most advice from the Health and Safety Executive is normally dealt with through their Planning Advice Web App, their land use planning team is available should you need help to deal with priority applications.

For issues relating to hazardous substances consent they can be contact at:

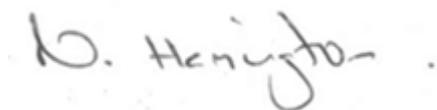
HazSubCon.CEMHD5@hse.gov.uk

For planning application issues you can contact:

lupenquiries@hsl.gsi.gov.uk

Once again I wish to convey my gratitude to you all for keeping planning services going at this difficult time. If there are any urgent enquiries please do not hesitate to contact me.

Yours faithfully,



Neil Hemington
Prif Gynllunydd, Y Gyfarwyddiaeth Gynllunio
Chief Planner, Planning Directorate

ANNEX

Use of Notify.gov to produce and distribute neighbour notification letters

Local planning authorities (LPAs) can use neighbour notification letters to inform local residents about development proposed in their local area. Staff in planning departments at LPAs may not have access to printing and mailing equipment when working from home which makes it difficult to send letters.

The UK Government has an online platform called Notify.gov which is currently used by Welsh Government and 16 local authorities across Wales to send information by text message, email and letter to residents on issues which may affect them. All activity is managed online with 24/7 support and users can easily set up an account.

16 local authorities across Wales are already using Notify.gov in other service areas so there is already a level of expertise and knowledge, although the system is very easy to use and does not require specific technical skills.

Where LPAs do not have access to their usual facilities to send out letters they should use Notify.gov to ensure that the planning system can continue to operate, continuing to provide communities with an opportunity to input into local planning decisions.

Neath Port Talbot County Borough Council who have been using Notify.gov extensively to communicate with residents across a number of service delivery areas have started to use Notify to support their planning services.

The UK Government Digital Service (GDS) requires each authority service area to enter in to a Memorandum of Understanding to control the use of the service. A copy of the MOU is attached for information.

Further instructions on how to set up an account and use the service can be found on the following website: <https://www.notifications.service.gov.uk/>
Further support can also be obtained from Development Management Branch at Welsh Government. Contact Amy Ravitz-Williams (amy.ravitz-williams@gov.wales)

The use of the Notify.gov service by LPAs has several long term benefits in addition to addressing immediate needs. Beyond the letter sending function, the system could be used to notify residents via text message or email of development proposed in their areas and also of strategic and policy based planning consultations. Exploring how LPAs could be supported to do this is a future project being discussed with the help of the new Centre for Digital Public Service.