

Regional Planning Directorate



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Dear Colleague,

CHIEF PLANNER'S UPDATE 5

This update relates to important information on the COVID-19 position. I would, firstly, like to wish you and your colleagues well in these very challenging times. We, like the other jurisdictions, are dealing with many questions relating to the planning implications of the current situation, and while I deal with some here, I will write further on other matters as they arise.

It must also be recognised that the situation is extremely fluid and at the time of writing the UK is in government enforced 'lockdown'. Therefore, the advice and measures set out below should be considered within the prevailing context as it develops in the coming days and weeks.

Finally, the Minister has asked me to emphasise our commitment to keeping communities across the North safe at this very concerning time and would urge everyone across the planning system to follow current health advice and maintain safe social distancing at all times. More broadly, the Department is doing everything it can to ensure essential services and connections are maintained for those using and reliant on our infrastructure network.

COVID-19 ADVICE

Dfl Planning casework

At this time the Department's Strategic Planning Directorate will continue to deal with its current range of cases, including regionally significant applications and called-in applications. However, this is at a reduced capacity as staff are following the advice aimed at limiting the spread of COVID-19 and are working from home.

The Casework Team will endeavour to work with agents, applicants and consultees as best they can using email and teleconferencing where available. However, in these difficult times we hope you will appreciate that things will move at a slower pace than we would wish.

Plan-making

All Councils are currently progressing Local Development Plans (LDPs) for their areas. Councils will, however be at various different stages of the LDP process. Public consultation is an integral part of the plan making process and the current circumstances may impact on the ability of members of the public and other stakeholders to fully engage in the process. We encourage all councils to continue as much as possible to work proactively with their community and other stakeholders to progress their plans, although some adjustments to timetables are very likely to be necessary.

Decision making

Councils are obviously concerned at this time about the impact of COVID-19 on their capacity to process planning applications within statutory timescales. It is important that councils (and Dfl) continue to provide the best service possible in these challenging times and maintain decision making, wherever possible, to ensure the planning system continues to function, especially where this will support the local economy and help deliver essential services. However, this should only be done in the context of prevailing health advice for staff and stakeholders. We are very aware of the constraints, but would ask that we all take an innovative approach, using all options available, in order to continue the planning service. It is recognised that face-to-face events and meetings are highly likely to be cancelled, but we would encourage you to explore every opportunity to use technology to ensure that discussions and consultations can go ahead. We should also be pragmatic and continue, as much as possible, to work proactively with applicants, consultees and others, where necessary agreeing extended periods for making decisions.

Statutory consultees will make every effort to support councils in the processing of planning applications during this crisis. Understandably, there may well be a reduced service and delays in responses but statutory consultees will operate as best they can, bearing in mind the safety and wellbeing of staff.

We appreciate there may be uncertainty as to whether **planning committees** will be able to meet during the current situation. To maintain service delivery councils may wish to consider amending their planning schemes of delegation to ensure they are fit for purpose. DfI will commit to responding quickly to any such amendments. Councils are advised to explore with their legal advisers what powers they may have under local government legislation to enable greater delegation of applications to officers (under the Local Government Act (NI) 2014).

Furthermore, the Coronavirus Act 2020, which received Royal Assent yesterday, provides the Department for Communities (DfC) with an enabling power to make provision, by regulations, concerning the meetings of district councils. This could allow regulations to be brought forward to enable meetings to be held remotely so that not all persons attending a meeting need to be together in the same place. We are working closely with DfC as they consider what may need to be included in regulations under the Act.

Enforcement

A letter was sent from the Minister to councils on 14 March urging them to take a positive approach to their engagement with food retailers and distributors, as well as the freight industry, to ensure planning controls are not a barrier to essential deliveries over the period of disruption caused by the coronavirus. A further letter was issued on 19 March asking that councils do not undertake planning enforcement action which would result in unnecessarily restricting pubs, restaurants and cafes providing takeaway services over this time.

Councils should also use their discretion on the enforcement of other planning control which could hinder the effective response to COVID-19.

Pre-application Community Consultation

I have received a number of queries about the holding of pre-application community consultation (PACC) events during the COVID-19 emergency. If developers cannot hold an event then their PACC process is invalid and their subsequent application for planning permission must be declined to be determined. This could lead to a backlog of major applications that cannot complete PACC and cannot be submitted for consideration for some time, even after the COVID-19 crisis is over.

The Department, therefore proposes to amend The Planning (Development Management) Regulations (NI) 2015 by accelerated process to temporarily remove the requirement for a public event. In doing so, we are mindful that active pre-application public engagement is a very important part of our planning system. Therefore, councils are strongly advised and will be expected to exercise their existing powers to specify additional steps for developers to consult the public as part of PACC (e.g. advertising online and seeking written feedback) to ensure the benefits to communities continue to be realised during the current crisis.

Advertising and neighbour notification requirements

Some concerns have been raised about the potential problems in ensuring planning application neighbour notifications and newspaper advertisements are issued timeously, or at all, if there are reductions in postal and newspaper services.

Until we have a clearer picture of the continued ability of these services to function in the short to medium term, we do not intend to bring forward any proposals to amend the current statutory requirements. However, we will keep the situation under review.

Hazardous Substances Consent (HSC)

It is recognised that developments subject to the HSC process have potentially serious health and safety risks associated with them. There is generally a low number of these applications in the region and given the statutory timeframes for determining such applications it is not anticipated that consultations with the Health and Safety Executive Northern Ireland (HSE(NI)) will be significantly affected during this period. However, at this time, we would emphasise that, where the HSE(NI) has been consulted and has not yet responded, you should contact John Ahern directly at john.ahern@hse.ni.gov.uk for a response.

Duration of Planning Permissions

Some concern has been expressed that a number of planning applications may expire during the current emergency situation as developers may not be able to field sufficient workers to start on site. There is no facility, for example by application to vary conditions, to extend the duration of an extant planning permission in Northern Ireland. Therefore, with regard to planning applications nearing the end of the period for commencement of development, many applicants are likely to submit applications for the renewal of planning permission and I would ask that planning authorities use their best efforts to validate, process and determine these as expeditiously as possible. We are continuing to look at other options to address this issue, in conjunction with the other jurisdictions, including the potential for legislative change.

Notifications

Councils should continue to submit notifications to the Department as required under the Planning Act (Northern Ireland) 2011 and certain Legislative Directions in relation to applications for conservation area consent and certain applications for listed building consent, major development and councils' own applications. The Department will continue to aim to respond to councils within the requisite statutory timeframe of 28 days, subject to having all the requested information and consultees being able to respond to us in time. The Department may use Directions to extend the statutory time period for notifications in relation to some applications where it is considered appropriate to do so in the circumstances. We would ask councils to continue to forward all notifications to planning@infrastructure-ni.gov.uk and not to submit hard copies to this office. Most staff considering the notifications will be working from home for the foreseeable future.

Planning Portal

The Northern Ireland Planning Portal remains operational to the public and to planning staff working from home, provided they are given secure remote access by their own councils.

Whilst the system is operational, our ability to respond to faults and service requests may be impaired by the pandemic and I would ask for everyone's patience with this.

Planning Appeals Commission (PAC)

Given the current circumstances the PAC closed their offices on 24 March 2020. It has suspended all arrangements for both the submission of evidence and proceedings. Once their office reopens they will contact the relevant parties to make alternative arrangements.

Appellants are reminded of the statutory time limits for the submission of appeals. The PAC has no power to extend the time limits for the submission of an appeal, but all new appeal submissions can continue to be made electronically through their website www.pacni.gov.uk.

This Chief Planner's Update will be made available on the planning portal and DfI website.

Yours sincerely



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Chief Planner &
Director of Regional Planning