

T: 0131-244-0237  
E: chief.planner@gov.scot

3 April 2020

Dear Colleague,

## Planning Procedures and COVID-19

We had been planning recently to write to you all with an update of the work of the Planning and Architecture Division through 2020. That would have included progress towards Scotland's fourth National Planning Framework, the implementation of the Planning (Scotland) Act 2019, wider planning reforms and launch of the Digital Strategy for Planning. It was already shaping up to be a crucial, busy year for planning in Scotland.

Events of the last few weeks have of course turned life upside down for everyone and have forced an urgent rethink. As with so many others, all officials in the Planning and Architecture Division are now adjusting to working at home, and finding new and different ways to keep in touch with our stakeholders and with each other.

Planning has a crucial part to play within and beyond the immediate emergency. A high performing planning system will have a critical role in supporting our future economic and societal recovery, and our future health and wellbeing. Those of us involved in planning, across sectors, must do what we can to keep plans and proposals moving through the system, throughout this period of uncertainty and in the months and years ahead. That might mean being prepared to adopt some new approaches; measuring risk and taking a pragmatic view of how we can best continue to plan and make the decisions vital to the recovery of our communities and businesses.

Some aspects of our planning system, including a number of processes and requirements, are affected by the impacts of the Coronavirus (COVID-19) outbreak and the resultant need for social distancing. We have been exploring with a number of stakeholders the obstacles and the temporary solutions needed to get us through this period and ensure the continued functioning of our planning system. Some of this requires urgent legislative change, while for other aspects we will need an innovative, pragmatic, practical and flexible approach.

## Prioritising our work

We have been reassessing our priorities so that we can focus on the most immediate pressing needs. For our team, that means prioritising our work to focus primarily on:

- Ensuring our planning system, and those who work within it, can continue to operate throughout this emergency period.
- Playing our own part by progressing the statutory casework we handle, including notified and called in planning applications and our responsibilities on development plans.
- Maintaining the operation of the eDevelopment service and helpdesk, so ensuring a continued flow of new applications and supporting information through to planning authorities.
- Engaging our digital planning team in exploring how digital tools might most effectively support planning authorities to deliver their services in the short term.
- Maintaining our work to support wider government interests in meeting statutory requirements for the strategic environmental assessment of policies and plans.

This naturally means some implications for other aspects of our work, which we will explain.

## COVID-19: maintaining a functioning planning system

This is the top priority for our team right now.

We have written in recent weeks in relation to the importance of not taking enforcement action against businesses, such as supermarkets, which may need to operate beyond the terms of their planning conditions in order to maintain key services or to continue to operate while complying with social distancing requirements. There may be other situations to come, not explicitly catered for within those letters where, in the current period, it will be equally important to take that reasonable and pragmatic view. Other examples might be where temporary developments or changes of use can contribute to the response to COVID-19, or where staged payments fall to be due under the terms of planning agreements in relation to development sites which have temporarily ceased construction work.

In recent days, we have been discussing with representatives from both public and private sectors and with the RTPI, what urgent steps we need to take to maintain operation of the planning system during the current period. Working together, we are seeking to adopt that same practical and pragmatic view of changes and different approaches which might be taken, temporarily over this period, to ensure planning can continue to operate and to contribute to the economic and social recovery. Our current thinking and actions on a range of matters arising is set out below.

These are temporary steps we are taking, to get us through this period. It does not affect our ongoing commitment to the improvements to the planning system being led through implementation of our new Planning Act. Indeed, the current situation may have highlighted procedures and methods of working that would benefit from new, digitally enabled, arrangements. We hope to learn some valuable lessons from current experiences as we take forward implementation of the Act.



## Neighbour notification, public and site notices and hard copy documents

Neighbour notification requires the printing and postage of information by planning authorities both in relation to local development plans and to planning applications. We are currently exploring this with Heads of Planning Scotland to understand the extent of any barriers to this while offices are closed. There is a related issue with regard to representations and any other information posted in hard copy to closed planning authority offices. We will consider any further action or advice in terms of handling these issues shortly.

We are exploring the position relating to the requirement for site notices relating to certain applications, and will bring forward regulations to suspend that requirement if needed.

New applications posted in hard copy to planning authority offices, will in most cases not be able to be validated and progressed until those offices reopen. The vast majority of applications (well over 90%) and supporting information are now lodged through the [eDevelopment.scot](https://www.edevelopment.scot) service; which is the method we recommend all applicants use, particularly during this period, to ensure they are received.

## Decision-making: committee meetings, local reviews and schemes of delegation

There are options available to enable decisions to continue to be made on planning matters. Local authorities already have the power to hold meetings virtually. The Coronavirus (Scotland) Bill provides that, for the duration of the coronavirus crisis, local authorities have the power to exclude the public from their meetings on health grounds, to protect the public and local authority council members. Consistent with that, we will also bring forward regulations which will suspend the requirement for local review bodies to meet in public.

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. We will liaise with Heads of Planning Scotland over the coming weeks to monitor any changes to decision-making processes using these existing powers.

## Hazardous Substances Consent: storage of hazardous substances without consent

As part of the fight against COVID-19, hazardous substances such as medical oxygen, and ethanol, may be required. There may be circumstances where for those hazardous substances:

- they are in greater quantities than consented for;
- there is no hazardous substance consent;
- they are being held at new locations on a site; or
- they are temporarily or transitorily present.

While enforcement action by planning authorities is discretionary, any breach of hazardous substances consent is an offence and is also liable to prosecution. In such cases the planning authority should immediately contact the Health and Safety Executive (HSE) at [HazSubCon.CEMHD5@hse.gov.uk](mailto:HazSubCon.CEMHD5@hse.gov.uk) or by telephone 0203 028 4812 if urgent.

## Hazardous substances consent: Health and Safety Executive input

There is a statutory time limit for HSE to reply to consultations by planning authorities on applications for hazardous substances consent. If no reply is received from HSE within the consultation period, the planning authority could decide to determine an application without HSE input. However, if HSE matters are not being given due consideration this could result in long term exposure of the surrounding populations to high levels of risk. This also has the potential to place further avoidable strain on the emergency services.

Given the current COVID 19 outbreak, unless permission has been obtained from Scottish Ministers, planning authorities should not determine applications for hazardous substances consent until a HSE response is received. Where an authority receives an application for planning permission or hazardous substances consent where an urgent decision is required to support the fight against COVID-19, the authority should immediately contact HSE at [HazSubCon.CEMHD5@hse.gov.uk](mailto:HazSubCon.CEMHD5@hse.gov.uk) or by telephone 0203 028 4812.

## Contacting us: COVID-19 related issues

To ensure we keep on top of all issues and requests in relation to the operation of the planning system during this period, please can you address any queries to this mailbox: [covid19planningenquiries@gov.scot](mailto:covid19planningenquiries@gov.scot).

## **Wider Planning and Architecture Division work programme**

Beyond those essential activities, and recognising the impacts of new urgent workstreams on the capacity of our team, we have been looking again at all other parts of our work programme. It has become increasingly clear that it will not be possible to maintain progress and deliver all aspects to the timetables previously planned. So we will say a bit more on how we intend to handle our work schedule over the coming months.

## National Planning Framework 4

It is crucial that we continue to progress work on NPF4, given its role in supporting our future economic recovery, future health and wellbeing and responding to climate change. Completion of NPF4 will influence the timing and content of planning authorities' local development plans in the longer term; but that is now likely to be to a longer timetable. We recently extended the deadline on the Call for Ideas by a month, to the end of April, and we hope that has allowed people the space and time to still contribute through this early engagement phase.

The workshop and drop-in sessions held around Scotland have been very helpful in exploring a wide range of ideas and aspirations for Scotland's development to 2050.

We have a range of resources available to draw upon, to help you get involved and feed your thoughts and ideas through to us. These are available on our new website [www.transformingplanning.scot](http://www.transformingplanning.scot). We hope you can find the time to contribute, if you have not done so already.

We had previously expected to produce a draft of NPF4 for consultation in September 2020. However slippage in the programme is now inevitable, given the reduced capacity of stakeholders to collaborate as well as the need for our own staff to support the ongoing emergency response, and the continuing need for alignment with wider plans and strategies.

We will provide a revised timetable for NPF4 as soon as we can, but it now looks likely that we will lay a draft in the Scottish Parliament and consult publicly during 2021.

In the meantime we will continue to work closely with our stakeholders. We are working with Heads of Planning Scotland to provide support to authorities who are preparing indicative Regional Spatial Strategies and will continue to collaborate with others to build our approach to setting out targets for the use of land for housing in NPF4.

Contacting us about NPF4: please address any queries to the mailbox [scotplan@gov.scot](mailto:scotplan@gov.scot).

### Digital Planning

Over this period, we are refocusing the work of the Digital Planning team on COVID-19 related activities, whilst maintaining essential support for operational priorities such as the eDevelopment.scot service and NPF4. We will prioritise and fast track the investigation and implementation of digital tools to help support local authorities and other partners with the current challenges being faced across the planning system. We are also working across Scottish Government on the use of digital mapping tools and additional support the team can provide.

Accordingly, we will delay publication of the Digital Strategy for Planning until later in the year when we will publish a scaled-down version in a digital format. An official launch of the programme will be held subsequently and we will provide more detail on revised timelines in due course. Scaled back work will continue on preparation of the Strategy in the meantime. However, this approach will allow us to focus on immediate priorities, and we will work closely with local authority stakeholders to understand how best to provide any relevant digital solutions to support continuing smooth operation of the planning system, including consideration of any immediate changes to the eDevelopment.scot service.

Contacting us about the digital planning programme: please address any queries to the mailbox [DigitalPlanning@gov.scot](mailto:DigitalPlanning@gov.scot).

### Planning Act implementation and planning reform programme

Last autumn we set out our work programme for implementation of the Planning (Scotland) Act 2019 and wider planning reforms. That work is already underway, with some of the Act's provisions having been commenced, working groups convened to collaborate over future regulations and guidance, and public consultations on some elements having been completed.

Our progress towards delivery of some of the work packages will, out of necessity, be less rapid than previously intended. We remain committed both to completion of the full package of planning reforms, and to doing so in close collaboration with planning stakeholders and following thorough public consultation. The pressure on everybody's time and the logistical difficulties around engagement right now mean that this work programme and timetable also needs to be revisited.

Within this rescheduling, it is important to have the new development planning regulations in place alongside NPF4, so that new local development plans can proceed as soon as possible afterwards; so we will maintain a focus on this.



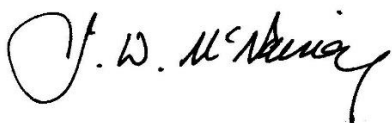
We are also determined to move forward with the community engagement work package as best we can. By its nature, this needs close collaboration with community interests, which is more difficult just now but we are seeking ways to keep this going. We have also committed to consult on regulations in relation to the arrangements for designating Short-Term Let Control Areas, and had been preparing to publish that consultation this spring. This has been paused out of necessity while we focus on the steps to keep the planning system operating, however we will move this forward again at the earliest opportunity, after the immediate pressures ease. We have already consulted on changes to the planning fees and performance management arrangements, as a high priority within the work programme. We are also pausing this for now and will pick up again when the timing is more appropriate.

We will provide an updated schedule for the Transforming Planning in Practice work programme when we are able to do so. You can also keep up-to-date with progress on [www.transformingplanning.scot](http://www.transformingplanning.scot).

Contacting us about the planning reform programme: please address any queries to the mailbox [Planning.Reform@gov.scot](mailto:Planning.Reform@gov.scot).

### Staying in touch

We recognise there is a lot to take in from this letter, in what has been – and will likely remain – a fast-paced evolving situation for all of us. We will write again whenever we have more to update on. Meantime, please also make sure you follow us on Twitter [@ScotGovPlanning](https://twitter.com/ScotGovPlanning), and register for our [Planning and Building update](#) emails.



**John McNairney**  
Chief Planner



**Kevin Stewart**  
Minister for Local Government, Housing and Planning