

COVID-19 & Development Planning

Consultation & Engagement Advice - May 2020

1. The COVID-19 emergency means it is not currently possible to hold public events without unacceptably posing a significant risk to public health. This has consequences for development plans as they are progressed. This document provides advice on consultation and engagement whilst there is a ban on public gatherings and there is a need for physical distancing.
2. It is important that the planning system continues to function during this period to support future economic and societal recovery, business and jobs and avoid delays to infrastructure, housing and other development. **Plans should therefore continue to progress where possible** so they are as relevant as they can be to give confidence and certainty to stakeholders as we emerge from the emergency.

Existing Requirements

3. Consultation requirements for stages of local development plan preparation are set out in sections 17, 18 and 20B of the amended Town and Country Planning (Scotland) Act 1997 and the Town and Country Planning (Development Planning) (Scotland) Regulations 2008. The Coronavirus (Scotland) Act 2020 makes provision for documents to be made available for inspection by electronic means rather than at an office or library.
4. The requirements include Planning Authorities preparing a Participation Statement which sets out the form that consultation is to take. This will involve a range of engagement activities suited to the stage of plan preparation and often involve events that people attend in person. These activities provide opportunities to develop awareness and understanding about how a place will change into the future by asking questions and receiving responses. They also enable decisions to be reached in a fair and transparent way. However, in light of the current ban on public gatherings and advice on physical distancing, we recognise that it is not possible for events to take place in person at present.

Temporary Approach

5. It is the responsibility of the planning authority to prepare the local development plan for their area. We would expect authorities to take a cautious but pragmatic approach to doing this during this temporary period.
6. **Scottish Ministers wish to see plans make progress where possible during this time. We expect authorities to enhance their use of digital engagement approaches but any engagement period should not comprise solely of digital communication. If the whole engagement period takes place whilst there is a ban on gatherings and there is a need for physical distancing, we would expect authorities to also enhance their non-digital communication to enable opportunities to have specific questions responded to informally.**

Reasoning

7. Consultation and engagement in progressing plans has long been a significant feature of the development plan system and improving its effectiveness is a key aspect of the Scottish Government's planning reform programme. The temporary approach in no way changes our commitment to enhanced engagement in development planning. We will continue to make progress on this for future implementation taking into

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account the changed environment. Given the changes to society and the economy in recent months, it is essential that engagement opportunities for stakeholders in development planning are enhanced so that plans are progressed that are relevant to the new context.

8. Advice on temporary alternatives for engagement in development management (pre-application consultation) was published on 23 April 2020: <https://www.gov.scot/publications/coronavirus-covid-19-planning-guidance-on-pre-application-consultations-for-public-events/> Engagement in development management and development planning shares some similarities but they are not the same and have different requirements under usual circumstances. Engagement in development planning generally involves a broader range of interests across a larger spatial area because plans consider multiple potential development proposals and their collective impact. The temporary approaches are therefore tailored to these differences.
9. Digital engagement solutions may be applied to the different stages of the local development plan process. However, planning authorities should be mindful that there may be practical difficulties for intended audiences, in that employees may have been furloughed or redeployed and many people face different working contexts. Whilst many people are upskilling their digital abilities in the present situation, reliance only on digital approaches will also potentially exclude some people, in particular older people, those on lower incomes and people with long-term health conditions. A balanced approach is necessary to enable all parts of the community to contribute to a plan which will influence the area for several years to come, therefore other forms of engagement must be included in the process as a whole.

Implementation

10. Planning authorities know their communities well and in implementing the above advice, planning authorities should consider the ability of stakeholders to engage effectively: **flexibility will be essential**. It is for planning authorities to explain the approach they take to consultation and engagement. They may wish to consider extending timescales and/or allowing informal opportunities to comment outwith the statutory process; however, in the interests of clarity and fairness periods should not be open-ended. Authorities can usefully make clear any changes to consultation arrangements by amending the Participation Statement in their Development Plan Scheme. This may outline factors influencing changes in approach, such as geography of the area.

Enhanced Digital Communication

11. There are currently a range of ways to engage with stakeholders digitally. These can assist in maintaining progress with the plan. Digital communication can help in reaching new audiences and creating flexibility for when people can engage. New platforms and local groups have gained popularity during the lockdown. Planning authorities may already be intending to use a number of these methods and should continue to do so. They may also wish to increase opportunities for digital engagement.

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12. Digital engagement should involve information in a user friendly format on a free, publicly accessible web site. Consideration should be given to providing information that can be easily accessed, downloaded and printed. Subject to resources and capabilities, digital tools and applications could be used for video presentations or hosted slideshows to help explain the plan and provide live and interactive web based events for the public to ask questions and receive responses. It would be useful for the Scottish Government to receive any feedback as regards the use of online approaches to community engagement as part of the work in relation to implementation of the Planning (Scotland) Act 2019.

Enhanced Non-Digital Communication

13. Engagement through digital platforms will not suit everyone: this may relate to having limited internet access and in the current situation, individuals and organisations may also be facing a range of other challenges due to the restrictions imposed. Planning authorities should therefore ensure that other means of effective engagement in plans are available. This may include placing articles in newspapers circulating locally, expanding contact with community councils or letters to households in areas where there are significant proposals for change. It should be made clear if there are mechanisms for people to obtain copies of the engagement materials offline, as well as the ability for them to submit comments by post.

Development Plan Progression

14. As plans progress through the different stages of preparation, the nature of the documents and the type of consultation and engagement undertaken generally changes. However, any consultation and engagement now taking place will be the first opportunity stakeholders will have had to consider the plan within the changed context. The timescale of plan preparation is important, however Ministers expect planning authorities to balance matters relating to timeliness with the relevance of the plan to the new context, and to do this in a manner appropriate to their area and stage of plan preparation.
15. Statutory requirements remain relating to notification in a local newspaper of the publication of Main Issues Reports and Proposed Plans. These require the inclusion of the date by which representations should be made, for Proposed Plans this is to be no less than 6 weeks. Scottish Ministers would expect planning authorities to be flexible in applying extensions to the timescales indicated in the notice if necessitated by changes in how restrictions are lifted, and may wish to indicate this in the notice.
16. Supplementary Guidance is a statutory part of the development plan and has the same weight in decision making. The temporary approach outlined above therefore applies equally. Supplementary guidance provides further information or detail on the policies and proposals in the plan, generally relating to a focused topic or location. We would therefore expect planning authorities to continue to carry out their statutory duty to take such steps that will, in their opinion, ensure that stakeholders who may be expected to make representations, are aware they are entitled to do so.
17. The Participation Statement in the Development Plan Scheme will be taken into account by the appointed person prior to an examination, when they consider the extent to which the planning authority's actions with regard to consultation and the

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involvement of the public at large for the Proposed Plan have conformed with the Participation Statement. Ministers would expect the appointed person to take account of the current circumstances and the content of this advice when they carry out their consideration.

18. The [Chief Planner letter](#) of 3 April 2020 regarding Coronavirus (COVID-19) and planning procedures outlines that 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) Act 2020 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.
19. There are requirements throughout plan preparation to engage with Key Agencies and Ministers would expect this engagement to continue. Electronic copies of plans and associated documents should be sent to the relevant agency digitally and relevant information should be provided as timely as possible. Joint agency discussions could provide an efficient and co-ordinated approach to engagement.
20. There are also requirements to send copies of documents to Scottish Ministers. Where this relates to Planning and Architecture Division (PAD), including the Main Issues Report, Proposed Plan, Notification of Intention to Adopt, Supplementary Guidance, Development Plan Scheme and Action Programme, electronic copies should be sent to the Development Plan Gateway: developmentplans@gov.scot. For Notification of Intention to Adopt stages of plans and Supplementary Guidance, Ministers have a 28 day consideration period. This timescale remains and PAD will endeavour to meet the timescale where possible and will advise of extensions that will apply where it is not. For instances where the number of copies are specified in legislation, indicating a requirement for paper copies, these can be forwarded at an appropriate time in the future as and when it is practicable for authorities. Where the requirement for copies relates to an examination, advice should be sought from the Directorate for Planning and Environmental Appeals.
21. Work on National Planning Framework 4 (NPF4) has begun and under changes to be made by the Planning (Scotland) Act, 2019, it will be part of the development plan when relevant sections are commenced. Further opportunities for consultation and engagement in NPF4 will take into account the principles that underpin this advice.
22. Ministers acknowledge that decisions on the progress of plans in the current emergency will be the responsibility of the planning authority.

Review of Advice

23. This advice will be reviewed as Government guidance on physical distancing and/or public gatherings is updated.