



COVID-19 and Virtual Planning Regulations

The Week three of the **COVID-19** lockdown, and the infrastructure sector is starting to see some clarity about if, when and how planning matters may be dealt with.

Community, Town and Parish councils are often asked for comments on neighbourhood planning matters within their locality, and they will, when appropriate and necessary, seek the views of the communities to form a response as a consultee.

They respond to the relevant local authority with responsibility for planning – duties in this regard include advising the applicant or their agent during pre-application dialogue, carrying out the statutory consultation, and determining the planning application or enforcement matter as the decision maker.

This of course does not remove the right of any individual, business, group or organisation forming their own response to a planning matter and submitting it to the local authority in isolation.

Planning matters fall within the remit of a range of council organisational structures, depending on where you live; district, borough and city councils deal with planning applications, as do county councils, unitary authorities in shire areas, London boroughs and metropolitan boroughs.

For the last two weeks, most of the activity around planning applications has been stalled, as local authorities get to grips with how to best protect staff and the public, how to support the NHS and other key workers in the fight against COVID-19.

Public buildings have closed to the public, and along with them any opportunity for people to view hard-copy versions of planning applications (where councils still make them available). Planning committees – along with the bulk of the democratic services programme – have been abandoned.

And yet the clock for validated planning applications is still ticking away. Applicants are keen to hear the outcome of their proposals, and communities are keen to hear how their campaign to prevent or support an application has fared.

The only thing that has not changed is the ability to comment online on a planning application already in train, lodge an application (albeit electronically only for the vast majority of councils), or liaise with the planning application case officer (remotely only, rather than in person).

Until now. **[The Local Authorities and Police and Crime Panels \(Coronavirus\) \(Flexibility of Local Authority and Police and Crime Panel Meetings\) \(England and Wales\) Regulations 2020](#)** has now made it possible for local authorities at all levels to hold meetings which do not require a face-to-face presence. It opens the door – now and potentially post COVID-19 for planning and other committee and full council meetings to move forward using technology to deal with planning matters.



The regulations set out the conditions under which local authorities can hold meetings, and a member of that local authority is regarded as 'a member in remote attendance' –

to hear, and where practicable see, and be so heard and, where practicable, be seen by, the other members in attendance,

to hear, and where practicable see, and be so heard and, where practicable, be seen by, any members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting, and

to be so heard and, where practicable, be seen by any other members of the public attending the meeting.

The regulations are helpful to councils by setting out how they should go about dealing with voting, facilitating access to documents, and providing access to the press and public. But they do fall a little short in this author's opinion, by only setting out how councils can hold meetings and provide access to those able, willing and able to use online and telephone options to participate.

There will (inevitably) be some councillors and members of the public who are simply not of a mind to use the internet or telephone or 'dial in' to a meeting – even if they have computers, tablets or phones which are capable of it. This also raises the issue of how those who are able and minded to participate in these ways can do so if they have other requirements (e.g. is there a loop system which is compatible with the many platforms available and which we are seeing being used for court hearings, board meetings and virtual networking?). This in turn raises the question of Equalities issues – and how those with protected characteristics (as well as the locality-specific characteristics) are also able to engage.

Clearly these are unprecedented times, and we are dealing with unprecedented measures. What we now also have to deal with is an increasing demand on technological infrastructure which some officers and members will be unfamiliar with, let alone those members of the public who may have only one chance to get their point of views across. Reliability of the network, particularly in rural areas which are already hampered by slow internet speeds, also threatens the ability of people to participate.

It also raises questions about how the allotted time for elected members and members of the public to speak to planning matters will be managed, and if that will be adhered to and respected by those participating.

Local authority Standing Orders should set out how

committee meetings will be managed and administered, but they will only go so far and are unlikely to include the level of detail we need to ensure that accessibility and open-ness are maintained, that people are heard and represented, and that decisions are made in a fair and democratic manner.

For those keen to see what the changes are line by line, you can see the regulations for England and Wales [here](#).

Note: Local Government is devolved; Police and Crime Commissioners are not. The detail of the Bill highlights that Sections 1 and 4 apply to England and Wales and that Sections 2 and 3 to England only. This effectively means in Wales the only bit of this Bill that applies is the section which apply to Police and Crime Commissioners.

As ever, I'll be keeping a watchful eye for updates, but let me know what you're doing to address the impact COVID-19 has had on your planning and infrastructure projects.

This piece applies only to local government regulations relevant to England and Wales. For a comparative look at how different governments are addressing planning issues see [here](#).

This piece was first used by The Consultation Institute.

Author: Ruth Shepherd, tCI Associate and Private Practice Consultation Practitioner

ruths@consultationinstitute.org