



Ein cyf/Our ref qA1423040

Chief Executives and Heads of Planning
Local Authorities and National Park Authorities

20 July 2020

Dear colleague

**CORONAVIRUS COVID-19 GUIDANCE –
RELAXATION IN ENFORCEMENT OF CONDITIONS
CONSTRUCTION WORKING HOURS
CARAVAN PARKS AND SELF CATERING ACCOMODATION
HOSPITALITY USES IN TOWN CENTRES**

As the restrictions associated with the coronavirus pandemic begin to ease, there a number of areas where the land use planning system, highways controls and caravan site licencing can support recovery.

I have previously written to encourage a supportive approach of businesses when considering the enforcement of conditions relating to food delivery times and store opening hours. My letter of 13 March refers. I consider this pragmatic approach to enforcement needs to be extended to enable certain businesses to make immediate adjustments to their operations allowing them to open now, providing valuable reassurance to help secure our recovery, while further consideration is given to their longer term requirements.

Construction working hours

One issue that the construction industry has asked the Welsh Government to consider is the extension of working hours at construction sites across Wales. I am aware some planning permissions are granted subject to a condition specifying restricted working hours during the construction phase, or a condition requiring a construction management plan with similar restrictions.

Extending working hours may affect residential amenity, especially where people are confined to their homes due to lockdown. With people able to leave their homes, other than those still shielding, it may be appropriate for local planning authorities support construction firms by relaxing their enforcement of relevant conditions where developers submit reasonable requests.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Gohebiaeth.Julie.James@llyw.cymru
Correspondence.Julie.James@gov.Wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Local planning authorities should not refuse informal requests to extend working hours until 9pm, Monday to Saturday without very compelling reasons for rejection. In some cases, such as in areas without residential properties, extending working hours beyond this, including allowing 24 hour working where appropriate, may be justified. In all cases, sympathetic site management should be demonstrated to mitigate local impacts and local authorities should show best endeavours to facilitate such requests.

Not all aspects of construction activity have the same impacts, and so in some cases it might be helpful to agree appropriate parameters that can enable overall working times to be extended; for example by agreeing to limit particularly loud operations, considering any proximity to noise sensitive receptors, perhaps between 9am and 5pm or another period, or ensuring noise mitigation measures into the extended working times.

I remain committed to avoiding additional pressures on the planning system at this time. In most cases, I expect agreement to temporarily extend hours of operation can be reached informally, without the need for an application process. There could be some exceptions to that default, for example if the extension sought is substantial, or would have a significant impact at a sensitive location; although local planning authorities and developers should still work to achieve agreement informally where possible.

Caravan parks and self-catering accommodation

Caravan parks and self-catering accommodation are important to the Welsh economy but it has a pronounced seasonal peak in July and August, particularly for caravan parks. While there is a risk this spending may be lost to the industry, the latest consumer survey (29 June -3 July) shows that 25% of UK adults intend to go on a UK short break or holiday by September, while 35% plan on taking their next trip in October or later. The industry has identified a need to boost income and encourage recovery by supporting an extension of the season for caravan parks and self-catering accommodation which are prevented from opening all year.

Caravan sites may require two permissions: planning permission under the Town and Country Planning Act 1990; and a site licence issued under the Caravan Sites and Control of Development Act 1960. Both systems can restrict when sites can open and authorities should ensure a co-ordinated approach when dealing with enquiries from site operators.

In respect of planning permission, Technical Advice Note 13 and the Planning Conditions Circular¹ explain a holiday occupancy condition would be more appropriate than a seasonal occupancy condition, in areas within which the provision of permanent housing would be contrary to national and/or local policies.

In some cases a seasonal occupancy condition may be more appropriate, for example, to prevent the permanent residential use of accommodation which by virtue of its construction or design is unsuitable for continuous occupation, particularly in the winter months. Also seasonal conditions may be necessary to protect local features, for example where the site is near a fragile habitat which requires protection at particular times of year to allow seasonal breeding or winter feeding to take place.

A streamlined approach to applications made under section 73 of the 1990 Act and for site licences was proposed during discussions with the industry, Welsh Local Government Association (WLGA) and the Planning Officers Society Wales (POSW). I would encourage Authorities through POSW and the WLGA to work with the industry to develop application

¹ Welsh Government Circular 016/2014 The Use of Planning Conditions for Development Management

procedures which minimise inconvenience and cost for applicants while providing authorities the information they need to make a decision within an efficient timescale.

I am clear that local planning authorities should support caravan sites and other self-catering accommodation through this crisis by amending conditions to refer to holiday occupancy restrictions rather than using a season occupancy basis, where a policy need is set out in the development plan. Pursuing a seasonal occupancy restriction to protect local features should be the exception, especially between the 2020 and 2021 seasons, and any time restriction should be kept to the minimum necessary to avoid significant harm.

The imposition of site licence conditions in respect of seasonal opening restrictions should follow the same approach set out above for planning permission.

Hospitality uses in town centres

As of Monday 13 July, pubs, bars and restaurants have been able to open outdoors. This latest step towards recovery is putting extra demands on our streets and public spaces. The Safer Public Spaces Guidance (<https://gov.wales/creating-safer-public-places-coronavirus>) offers guidance on the design principles for safer urban centres and green spaces in the context of the coronavirus pandemic.

Only being able to operate outdoors means many hospitality businesses will rely on highway space to support their business making their operations viable. The Business and Planning Bill currently progressing through Parliament will partly apply in Wales. The alcohol licensing provisions of Part 1 will apply in Wales as it is an issue reserved to the UK Government. If Royal Assent is granted, the bill in its current form, would allow the modification of premises licences to authorise off-sales for limited period.

Pavement licences will not apply in Wales. In discussion with the WLGA we intend to pursue an initial non-legislative approach to achieve a similar outcome while keeping the need for secondary legislation under review.

Placing tables and chairs on the highway requires permission under section 115E, Part VIIA of the Highways Act 1980 from the local highway authority, ensuring the needs of highway users are not significantly affected. Businesses should be provided with a single source of guidance from their respective local authorities which sets out the local highways, environmental health and land use planning requirements of using streets and public spaces. I would encourage local authorities to be supportive of businesses seeking to operate outside their usual premises, and help them to understand the regulatory requirements.

Planning is a particular complex issue as the placing of a small number of chairs and tables on the highway which are removed each night are unlikely to constitute 'development' and therefore would not require planning permission. There will be a point where a mixed use is created of highway and business use which requires planning permission. Where items are more permanently fixed to the ground, the more likely it is a building operation has taken place which would also require planning permission.

Temporary planning permission exists through Class B, Part 4 of the Town and Country Planning (General Permitted Development) Order 1995 for 28 days total in any calendar year. Authorities should work with businesses during this time to secure any necessary permissions including identifying any planning impacts which require mitigation, such as unreasonable disturbance of local residents which may require earlier closing times.

Business may need to use more of the curtilage for outside service, including the erection of temporary structures. While there is unlikely to be a material change of use, there may be conditions preventing this, such as requiring parking spaces to remain available for use. Authorities should be supportive of such temporary arrangements if they are needed immediately to support reopening, agreeing not to take enforcement action unless there is a significant planning or other impact.

We are considering whether permitted development rights should be extended so temporary uses last longer and temporary structures benefit from planning permission where required.

Charges for pre-application advice should not become a barrier to business at this time. Basic advice should be provided for free to help businesses navigate the planning and licencing systems, and only where more formal requests for advice are made for proposals of a significant scale should proportionate charges apply. Authorities should be mindful that businesses ability to pay fees may currently be limited.

I expect any temporary arrangements outlined above to be reviewed before the end of January 2021.

Yours sincerely

A handwritten signature in blue ink that reads "Julie James". The signature is written in a cursive, flowing style.

Julie James AS/MS
Y Gweinidog Tai a Llywodraeth Leol
Minister for Housing and Local Government