

ARMAGH CITY, BANBRIDGE AND CRAIGAVON BOROUGH COUNCIL RESPONSE TO COVID-19

PLANNING GUIDANCE NOTE – TEMPORARY STRUCTURES AND CHANGES OF USE

Introduction

The Covid-19 pandemic has presented a wide range of challenges to the safe and ongoing operation of many businesses and organisations. In some cases, there is an urgent need for more physical space to accommodate social distancing and safer operations. It is considered that temporary structures/buildings (for example porta cabins, portable buildings) or covered areas or change of use may provide a solution to this issue on a temporary basis.

In most instances, temporary structures/buildings or change of use require planning permission. However, there are some circumstances where Permitted Development Rights may apply under the existing planning legislation.

Armagh City, Banbridge and Craigavon Borough Council wishes to be of as much support to our local economy as possible during these difficult times and, as such, the Council is seeking to take a flexible and pragmatic approach to the provision of temporary structures/buildings and changes of use without planning permission in certain circumstances, for up to 6 months initially (until the end of January 2021), to facilitate the successful reopening and running of existing businesses and organisations, whilst adhering to the Government's Covid-19 Guidance. Please note that this flexibility does not extend to residential properties.

This Guidance Note is of particular relevance to any existing businesses and organisations who wish to create more space for operational reasons arising directly from Covid-19 through a temporary change of use or the use of temporary structures/buildings or other means including, but not limited to, on street seating for cafes, restaurants and bars, beer gardens and similar outdoor areas to accommodate physical/social distancing.

Please note that this Guidance covers planning controls only. Temporary structures/buildings may require Building Control Consent and, if your property is listed, you may require Listed Building Consent. Developers are therefore advised that all other standards, including but not limited to Environmental Health, Building Control, Fire Regulations, and Health and safety must be adhered to. These matters remain the sole responsibility of the relevant business and/or organisation.

All businesses and organisations also have obligations under the law (Disability Discrimination Act 1995) as amended to make reasonable adjustments for those with a disability to enable them to access their goods, facilities and services, to ensure their business/organisation is DDA compliant.

Please also note this Guidance represents a proactive approach to the enforcement of planning controls and not a planning permission.

Detail

Currently any existing business or organisation wishing to erect a temporary structure/building or undertake a temporary change of use solely for Covid-19 related reasons on land they own or control are likely to require planning permission.

However, it is accepted that, given current circumstances, such businesses/organisations may be required to provide additional floor space immediately to ensure compliance with social distancing requirements. In such a case, the business/organisation is advised to contact the planning office at temporarystructures@armaghbanbridgecraigavon.gov.uk and provide the following information:

1. Business name, address and contact details;
2. A Site Location Plan (scale 1:2500 or 1:1250). This should clearly identify the site and have the site outlined with a continuous red line;
3. A Block Plan including the location of the proposed structure or change of use;
4. A description of the change of use or structure, including where necessary how you plan to make the change of use or structure safe eg. anchorage/stability etc and how you will ensure that those citizens with mobility issues will not be adversely impacted upon;
5. A date on which you plan to carry out the change of use or erect the structure;
6. Photos of the site, including the area where the temporary structure or change of use will be located and the immediate surrounding area; and
7. A brief overview of what the structure or change of use will be used for (including the hours it will be used for) and why it is required (this must be related to Covid-19), and that no alternatives are available. This should include whether the provision of this change of use or structure will reduce available car parking, manoeuvring/servicing areas and, if so, how this is to be accommodated.

Council Planning Officers will make an assessment of this information to determine whether the proposal is acceptable. Please note that we may impose controls on the way in which the temporary change of use or structures are used (for example limit them to day time use to reduce noise to neighbours). We will approach this assessment in a positive and proactive manner, although a positive outcome is not necessarily guaranteed. Officers will endeavour to complete their assessment and respond within 15 working days.

There will be no charge for this initial request. However, please note, if Building Control Approval or a Licence is also required, there may be a fee.

Where controls have been imposed at the assessment stage, but these are not being implemented, the Council may instruct removal or changes to operations.

The Guidance above will allow for a temporary change of use or the erection of temporary structures/buildings (for reasons associated with Covid-19 only) for 6 months initially (up to 31 January 2021) without the need for planning permission in certain circumstances and following assessment. After 6 months, the Council will review its position having regard to the Covid-19 situation.

At this time (unless it has been agreed to extend this flexible approach), you will be either expected to:

- a) remove the structure you have erected;
- b) cease the change of use; or
- c) seek planning permission.

Regulation and Enforcement

Through the publication of this advice, the Council's Planning Department is aiming to provide support to businesses and other organisations during these unprecedented times. Notwithstanding this, there is also a role for businesses to play. The flexible and pragmatic approach being proposed by the Council is on the understanding that those businesses/organisations who avail of this temporary flexibility, will operate in a responsible and safe manner.

All Local Planning Authorities are required to investigate alleged breaches of planning controls with a view to deciding whether or not to take enforcement action to remedy the situation. The decision as to whether to enforce following an investigation is discretionary and is dependent on a number of factors, including whether it is expedient to do so having regard to the Development Plan and any other material considerations.

In recognition of these unprecedented times, this Council will approach this initiative in a positive and proactive manner. That said, the Council remains willing to enforce a breach of planning control where it is expedient and in the public interest to do so. The Council maintains discretion over whether to relax enforcement for a set period of time in lieu of planning permission being sought, and this is subject to the change of use or structure being safe, suitable and appropriate etc.

The implementation of this flexible approach in no way ensures or implies that planning permission will be given to changes of use or structures introduced through this timescale. These are unprecedented times and the Council's decision as to whether to enforce alleged planning breaches will be based on exceptional circumstances. In many instances, it is likely that any change of use or temporary structure erected, as a direct result of Covid-19 through this initiative, will not receive planning approval in the long term and will need to be removed at the owner's cost. It is important that anyone considering the installation of temporary structures or carrying out a change of use is aware of these risks.