

**EXTENSION TO RELAXATION OF PLANNING ENFORCEMENT IN TOWN  
CENTRES IN RESPONSE TO COVID-19**

---

**1.0 EXECUTIVE SUMMARY**

- 1.1 This report seeks approval for the extension of existing planning relaxations relating to recovery of town centre business activity previously approved in July 2020.
- 1.2 It is recommended that
- i) The guidance provided by the Scottish Government's Chief Planner on relaxation of planning enforcement in response to Covid-19 be noted.
  - ii) Extension to existing measures for relaxation of planning enforcement in relation to recovery of town centre business activity be extended until 31<sup>st</sup> March 2021, subject to periodic review in the event of updated guidance being provided by the Scottish Government.

**EXTENSION TO RELAXATION OF PLANNING ENFORCEMENT IN TOWN CENTRES IN RESPONSE TO COVID-19**

---

**2.0 INTRODUCTION**

- 2.1 It is recognised that the extraordinary circumstances arising from Covid-19 and resultant restrictions have given rise to a situation where businesses may require to take rapid action in order to respond to restrictions upon their ability to operate. This can in some cases give rise to unintentional or deliberate breaches of planning control where development requires to be undertaken immediately in response to rapidly changing circumstances.
- 2.2 The Scottish Government has previously provided guidance on relaxation planning enforcement in relation to specific activities that were expected to be undertaken in response to the evolving Covid-19 pandemic and restrictions imposed upon 'normal' business operations.
- 2.3 The Council has also sought to support businesses through this challenging period and recognises that the inherent time periods built into the planning process to facilitate engagement and transparency are not always capable of being aligned with the rapid pace of change seen over recent months. In order to address this shortcoming, the Council previously adopted a Planning Position statement setting out a formal relaxation to planning enforcement and the requirement to apply for planning permission, in relation to temporary changes of use and structures within town centres where these were required to facilitate resumption of business activity following 'lockdown'. The Planning Position statement expired on 30<sup>th</sup> September 2020.

**3.0 RECOMMENDATIONS**

- 3.1.1 It is recommended that
- i) The guidance provided by the Scottish Government's Chief Planner on relaxation of planning enforcement in response to Covid-19 be noted.
  - ii) The Planning Position statement providing an extension to existing measures for relaxation of planning enforcement in relation to recovery of town centre business activity be extended until 31<sup>st</sup> March 2021, subject to periodic review in the event of updated guidance being provided by the Scottish Government.

**4.0 DETAIL**

- 4.1 The Scottish Government has issued advice that planning authorities should take a “common sense approach to enforcement, with actions proportionate to the severity of suspected breaches of planning control”. The Scottish Government’s Chief Planner has issued further instruction setting out guidance for relaxation of planning enforcement on identified activities that may give rise to a breach of planning control as businesses responded initially to ‘lockdown’ restrictions arising from Covid, and then subsequently as they adapted to a new operating environment as restrictions were initially eased.

<b>Summary of Scottish Government Chief Planner’s Guidance on Planning Enforcement Relaxations:</b>		
Date Issued	Scope/Activity Covered	Expires:
11 <sup>th</sup> March 2020 (updated 16 <sup>th</sup> June 2020)	<a href="#"><u>Relaxation of enforcement of conditions relating to retail distribution</u></a>	To be reviewed September 2020
18 <sup>th</sup> March 2020 (updated 16 <sup>th</sup> June 2020)	<a href="#"><u>Relaxation of enforcement where public houses and restaurants offer a takeaway service during the current outbreak</u></a>	To be reviewed September 2020
29 <sup>th</sup> May 2020	<a href="#"><u>Relaxation of enforcement in relation to hours of operation on construction sites; and in relation to changing business practices during physical distancing restrictions</u></a>	Remove when physical distancing restrictions no longer apply.
2 <sup>nd</sup> July 2020	<a href="#"><u>Relaxation of enforcement in relation to 28 day rule on temporary uses</u></a>	To be reviewed September 2020, to be withdrawn when physical distancing is no longer required.

Supporting Town Centre Economic Recovery in Argyll and Bute

- 4.2 During Summer 2020. Development Management have participated in the Council’s Easing of Lockdown working group which has had a focus on providing support to the recovery of town centre business activity as the initial ‘lockdown’ measures were eased, and includes a variety of internal and external stakeholders. It was identified at an early stage that proposals to utilise town centre spaces to provide outdoor eating/drinking facilities would give rise to breaches of planning control in many cases, and as such had potential to be problematic to licencing activity necessary to regulate this function. In response to this concern officers prepared an update for the Council’s Strategic Group (paper attached as Appendix A) setting out a formal relaxation of planning enforcement activity which was approved in 29<sup>th</sup> July 2020. The position statement (set out below for reference) has provided certainty that has allowed temporary outdoor eating/drinking areas to be created without the requirement for planning permission and has facilitated engagement between the Council’s statutory role as planning authority and other regulatory activity, including Licencing.

*“For a temporary period up until **30<sup>th</sup> September 2020** Argyll and Bute Council as planning authority will not invite applications for planning permission or pursue planning enforcement action for development providing for the temporary change of use of outdoor areas and/or erection of temporary structures within the designated Town Centre areas of the Main Towns and Key Settlements (as defined in the adopted LDP) which are intended to provide on-street seating for existing cafes, bars, beer gardens and similar to accommodate physical distancing in relation to the resumption of operations in town centre businesses subject to the appropriate authorisations being obtained from Environmental Health, Licencing and Roads Authorities.*

*Following the expiry of the defined temporary period, or any subsequently prescribed extension of this period, all temporary uses shall require to be discontinued, temporary structures removed, and the land restored to its former condition unless express planning permission has been sought and obtained in the intervening period.*

*The installation of any permanent or semi-permanent structures or alterations to the public realm are not supported by these temporary measures and shall require the benefit of express planning permission in advance of works commencing.”*

- 4.3 The Planning Position statement was initially aligned to the time period provided in the Scottish Government Chief Planner’s letter of 2<sup>nd</sup> July 2020 which indicated that a review of the requirement for this planning enforcement relaxation would be undertaken in September 2020. No formal update has yet been provided on this matter by the Scottish Government although, when enquiries were made, it has been indicated that the advice remains in force.
- 4.4 Whilst the expiry of the Planning Position statement does not prevent the Council as planning authority from continuing to deliver planning enforcement in a pragmatic and proportionate manner which gives due consideration to the requirement of businesses to react to Covid-19 restrictions, the absence of a formally agreed exemption (as noted in the Planning Position statement) would prevent/impede positive engagement with other regulatory processes, Licencing in particular, where any breach of planning control, or requirement for permission would require to be flagged up. Whilst the Planning Position statement was in force such matters were identified but accompanied by commentary advising that new uses/erection of temporary structures could proceed temporarily without the benefit of express planning permission. Whilst it is expected that the demand for outdoor eating/drinking facilities will reduce over the winter months it is identified that, if demand for these facilities does arise, the requirement for planning permission would remain a significant barrier in a circumstance where businesses are continuing to react to a fast changing situation impacting upon their ability to operate with restrictions on opening hours/use of indoor facilities/social distancing

etc. It is therefore considered that it would be prudent to make appropriate provision to extend the Planning Position statement for the duration of the 'emergency period' until 31<sup>st</sup> March 2021 (as it is currently defined by the Coronavirus (Scotland) Act 2020) to reduce regulatory requirements for temporary changes to operating arrangements by town centre businesses during this challenging period.

## **5.0 CONCLUSION**

- 5.1 The recommendations set out proposals that will provide sufficient certainty to ensure that the Development Management Service can remain fully engaged in support for other regulatory activity of the Council which supports town centre recovery.

## **6.0 IMPLICATIONS**

- 6.1 Policy - None  
6.2 Financial - None  
6.3 Legal - None  
6.4 HR - None  
6.5 Fairer Scotland Duty: - None  
6.5.1 Equalities - protected characteristics - None  
6.5.2 Socio-economic Duty – Positive impact through support for business activity as it responds to Covid-19  
6.5.3 Islands - None  
6.6 Risk - None  
6.7 Customer Service – Positive impact through management of customer expectations.

**Executive Director of Development & Economic Growth - Kirsty Flanagan**

**Policy Lead David Kinniburgh**

25<sup>th</sup> October 2020

**For further information contact:** Peter Bain – 01546 604204

## **APPENDICES**

Appendix A – Previous report to Strategic Group July 2020