



# COVID-19– Geldards Public Sector Update

Business Emergency Advisory Team

9<sup>th</sup> April 2020



# Local authority meetings

Clare Hardy, Senior Associate, Knowledge Management

9<sup>th</sup> April 2020

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# Local Authority Meetings

- Local Government Act 1972 – Requirements relating to local authority meetings
- Local Government Act 2000 – Meetings of executives
- Other legislation relevant to particular authorities

# Coronavirus Act 2020

- Section 78 – Welsh Ministers may make regulations relating to local authority meetings
- Sections 65-68– Postponement of elections

# Regulations relating to local authority meetings

- Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 SI 2020/392
- In force from 4 April 2020
- Apply to police and crime panel meetings before 7 May 2021

# Local Government (Wales) Measure 2011

- Section 4 – Remote attendance at meetings
- Applies to meetings of a local authority and its committees and sub-committees
- Local authority meetings not limited to meetings of persons present in the same place

# Remote attendance at meetings

- Local authority member attends meeting if:
  - Member can see and hear and be seen and heard by other members in actual and remote attendance; and
  - Member can see and hear and be seen and heard by members of the public entitled to attend to exercise a right to speak; and
  - Member can be seen and heard by any other members of the public attending; and
  - Use of facilities for remote attendance is not prohibited by local authority's standing orders or other rules

# Remote attendance at meetings

- Local authority's standing orders must set quorum requiring at least 30% actual attendance
- Local authority's standing orders may set quorum requiring more than 30% actual attendance
- Local authority may make other standing orders relating to meetings
- Local authority must have regard to guidance issued by the Welsh Ministers



# Proposed amendments

- Local Government and Elections (Wales) Bill
- Will require:
  - Local authority's standing orders to specify conditions that must be satisfied for a member to attend a meeting remotely;
  - Person chairing the meeting to determine whether the conditions are satisfied;
  - Local authority to ensure that any facility necessary to satisfy any specified conditions is available.

# Practical issues to consider

- Maintaining public access
- Maintaining confidentiality
- Welsh language
- Conduct of members
- Reasonable decision making
  - Taking account of all relevant matters
  - Predetermination
- Positive impact of remote attendance

# Action to take

- Review your constitution
- Consider how you will deal with practical issues
- Monitor effects of remote attendance



# Covid-19 Crisis – Impacts on Planning

Natalie Harries, Solicitor, Planning

9<sup>th</sup> April 2020

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# Outline

- Planning Applications and Appeals
- Additional Permitted Development Rights
- Enforcement and Prosecution
- Keeping planning permissions alive and S106 obligations

# Planning applications

- **Chief Planning Officer** – *“we are under no illusion that planning services will be significantly disrupted and delayed”*
- **Pre-application Consultation** – remove the need for site notices, and making information available for inspection
- **Validation of Applications** – online applications
- **Site Visits** – no expectations for site visits
- **Planning Committees** – committees cancelled (for now!)
- **Determination Timescales** – no intention to change timescales

# Appeals

- PINs Wales Statement – *“We are keeping the situation under review daily”*
- PINs England – *“we are considering whether it might be feasible to utilise technological solutions to enable events to proceed whilst ensuring fairness to all parties, especially third parties, given that these are public events.”*

# Additional Permitted Development Rights

Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2020

Any form of development on land owned, leased, occupied or maintained by the local authority for the purposes of:

- a) Preventing an emergency;
- b) Reducing, controlling or mitigating the effects of an emergency; or
- c) Taking other action in connection with an emergency



# Enforcement

*“We anticipate a delay to the investigation of most enforcement complaints. Authorities should take a pragmatic approach and prioritise complaints. Those breaches of planning control which would merit the use of a stop notice or temporary stop notice require immediate attention from the local planning authority. Site visits in relation to such cases are essential travel and authorities should undertake appropriate risk assessment to ensure the safety of their staff when undertaking enforcement action”*

# Enforcement

- Relaxation of enforcement of conditions relating to retail distribution
- Restaurants and takeaways
- Prosecution

# Planning Permissions

- Time limits for commencement of development – s91 and s92 TCPA 1990
- How to keep the permission alive?
  - Section 73 applications
  - Commence development with a “material operation”
  - Change in legislation?

# Section 106 obligations

- Developer unable to comply with s106 obligations
- Solutions?
  - Voluntary renegotiation
  - S106A TCPA 1990
- Government Guidance?



# Property Transactions-can I pull out?

Ed Meggitt, Vice Chairman, Property Dispute Resolution

9<sup>th</sup> April 2020

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# Property Transactions-can I pull out?

- Can a party to a property transaction pull out by relying on problems caused by Covid 19?
- Equally, can a party pull out of its existing lease as a result of such problems?

# Property Transactions-can I pull out?

## Force Majeure

- Applying Force Majeure Principles to Property Transactions and Leases

## Frustration

- Applying Frustration to Property Transactions and Leases

## Concluding Comments

# Any questions





# Contact details



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