

Covid-19

Temporary Structures and Buildings

1. Introduction

Covid-19 has presented a wide range of challenges to the safe and ongoing operation of many businesses and organisations. One issue that has become clear is the need, in some instances, for more physical space to accommodate social distancing and safer operations. Temporary structures/buildings (for example portacabins, or shelters) may provide a solution to this issue on a temporary basis.

In most instances, temporary structures and buildings require planning permission. This may be for any time period of time or in some cases if they are to be in place for longer than 28 days of a year. Given the current COVID-19 situation, Colchester Borough Council is seeking to allow temporary structures/buildings without planning permission in certain circumstances, for up to 6 months initially (until the end of November 2020), to ensure the successful running of existing businesses and organisations in the borough, whilst adhering to the government's COVID-19 guidance. This does not apply to residential properties.

What follows, is guidance to existing businesses and organisations who wish to create more space for operational reasons arising directly from Covid-19 by utilising temporary structures/buildings. Below we have set out the information we need to assess the planning requirements for all temporary structures/buildings being considered.

The information relates only to planning. **Other matters such as risk assessments, Building Regulations licencing, highway matters and Environmental Health standards need to be adhered to.** These matters remain the responsibility of the relevant business or organisation and nothing in this documentation overrides that responsibility.

2. General Requirements

Any existing business or organisation wishing to erect (or which has already erected) a temporary structure/building for COVID-19 related reasons should email temp.structure@colchester.gov.uk with the following information:

- business name and contact details of a named individual
- a site location plan
- a plan showing the location of the structure
- a description of the structure
- a description of how you plan to make the structure safe, for example, wind loading, flame retardancy, anchorage and stability.
- when the structure was erected or when do you plan to erect it
- photos of the site including the area where the temporary structure will be located
- a brief overview of what the structure will be used for (including the hours it will be used for) and why the structure is required (related to Covid-19)
- where possible, a sketch of the proposed structure or a photo of something similar

Council Planning Officers will assess this information to determine whether the proposal is acceptable (subject to the relevant section below). We will seek to make this determination within 5 working days. We may impose controls on the way in which temporary structures are used (for example limit them to daytime 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.**

There is no charge for this initial request. If a Building Consent, Licence or Council Lease is 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.

3. Other considerations

Noise and other nuisance: The Council must balance the use of the temporary space to trade safely during the COVID-19 pandemic with the needs of others, particularly residents. The Council will consider **every case on its merits** to determine an appropriate start and finish time. As a *general* guide, however, businesses can consider operating options between 08:00 and 22:30 but each case will be looked at on a case-by-case basis. No amplified music will be permitted in temporary structures, as they offer little or no acoustic insulation.

Sale of alcohol: If the sale of alcohol forms part of your business, you must make sure any additional public realm space is adequately licensed for the sale and/or consumption of alcohol.

Risk assessments: The responsibility to carry out a COVID-19 risk assessment in line with the HSE guidance remains with individual businesses to ensure they can trade safely and comply with the Government's safe working and social distancing guidelines. A new structure creates new risks from both its form and function and these must be addressed. If the structure is large or specially designed it may be a Temporary Demountable Structure (TDS) see www.hse.gov.uk/event-safety/temporary-demountable-structures.htm

Regulation and enforcement: Through this guidance and more generally via the Council's recovery strategy, we have a clear aim to support businesses with their recovery and safe trading practices. There is also a role for businesses to play. Businesses must operate in a responsible manner, being sensitive to their environments and making sure they comply with their duties; for example, any licence conditions and other legal duties.

As a statutory regulator, the Council will be under a duty to investigate and respond to complaints and non-compliance issues. Most buildings (temporary or otherwise) generally require planning permission. Failure to seek planning permission(s) can result in enforcement action.

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 several factors including whether it is expedient to do so having regard to the development plan and any other material considerations.

We understand that businesses and organisations are experiencing difficult choices and decisions at present. Those who need more space but do not have the time to apply for and wait until planning

permission is granted for a temporary structure may face a difficult choice – either proceed and install a temporary structure and risk council enforcement action OR don't proceed and risk a negative business impact.

In recognition of this challenge and in order to exercise our statutory duty to investigate breaches of planning controls effectively, this guidance document seeks to 'front load' our enforcement investigation obligations. Businesses and organisations are being asked to report breaches to planning controls that they intend to implement or already have implemented. The Council will then investigate these breaches and determine an appropriate course of action.

We will approach this initiative in a positive and proactive manner. That said, we remain willing to enforce a breach where it is expedient and in the public interest to do so. We maintain absolute discretion over whether to relax enforcement for a set period in lieu of planning permission being sought, and this is subject to the structure being safe, suitable and appropriate.

The implementation of this initiative in no way ensures or implies that planning permission will be given to structures introduced through this initiative. These are exceptional 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 temporary structures erected as a direct result of COVID-19 through this initiative will not receive planning approval in the long run and will need to be removed at the owner's cost. It is important that anyone considering the installation of temporary structures is aware of these risks.

Fire Safety: All premises will have carried out a fire risk assessment which will need to be reviewed and amended as appropriate: www.gov.uk/workplace-fire-safety-your-responsibilities/fire-risk-assessments

Environmental Impact: Gas-fired patio heaters have a huge environmental effect and should not be used. It is recommended blankets are used instead.

4. What happens after 6 months?

The guidance above will allow for the erection of temporary structures for Covid-19 reasons for 6 months (initially) without the need for planning permission in certain circumstances and following assessment. After 6 months, the Council will review its position and the Covid-19 situation. We will communicate with you at this stage. Possible outcomes include:

- you are instructed to remove the structure you have erected,
- you are asked to apply for planning permission, or
- this initiative continues for an extended but finite period of time.

5. Examples

1. Business A needs more office space to accommodate staff and ensure social distancing. Home working is not possible. They want to locate a temporary building on a hardstanding alongside the industrial unit to accommodate staff. The temporary structure is located away from residential properties, does not compromise the car parking or operation of the site. In principle, this would be supported.
2. Business B is a pub which needs to erect a structure to provide shelter for customers. This will allow more customers to visit the pub and to sit outside whilst ensuring social distancing requirements are adhered to. The structure is on the side of the building and over an open

area already used for outdoor seating. No amplified music or television will take place in the structure and it will only be used up until 11pm. In principle, this would be supported.

Acknowledgements

This guidance note has been produced with the permission of Cheltenham Borough Council who have produced detailed guidance of their own which has been used to inform this note.