

# 39 from 39: Leisure, Hospitality and Holidays after the Covid Lockdowns

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Starting soon....

# Hospitality & Entertainment

- Bars & Pubs



- Restaurants

- Events – social and sporting



- Arts & Theatre



# Where are we (still) with C19 Rules?

- Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020 – came into force on 2 December 2020 amended 4 times since – pursuant to Public Health (Control of Disease) Act 1984
- Guidance re National Lockdown Restrictions and Social Distancing & Shielding [NB TAKEWAY OK!]
- Lists of Businesses & Activities which must be closed or forbidden
- Lists of Exemptions

# SUNLIT UPLANDS...?



# PM's ROADMAP

- Ease restrictions at the same time across the whole of England ie no tiers
- 4 steps for easing restrictions
- Indicative, “no earlier than” dates for the steps which are 5 weeks apart
- Outdoor activity has been prioritised

## Step 1

- 8 March – no great change
- 29 March – Rule of 6 – outdoor; **sports** – outdoor and indoor; **weddings** – rule of 6 but no excep circs

## Step 2

- 12 April – indoor leisure; **outdoor hospitality**;

**All retail; Zoos and theme parks; event pilots**

## Step 3

- 17 May – indoor entertainment/attractions; 30 people outside; remaining outdoor entertainment; events – 1000 or 50% indoor; 4000 outdoor or 50%; 10,000 seated outdoor or 25%

## Step 4

- 21 June - no legal limits on numbers; nightclubs; and larger events





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# BUSINESS & PLANNING ACT 2020

SS 1-10 Pavement Licences

S 11 Alcohol Licensing (amends LA 2003)

# BAPA GUIDANCE : July 20

- **Pavement licences :(outdoor seating proposal) Pt 7A Highways Act 1980 ‘PLs’ for removable furniture etc and LA 2003 for licensing**
- **Alcohol licensing: guidance on new temporary off-sales permissions – temp off sales extension NB cut off time 11 pm**

# BAPA 2020 - EXPIRY

**NB S 10 and S 11(13) Expiry of pavement licence and alcohol licensing provisions at the end of 30 September 2021.**

**BUT**

**S.10(2) If the Secretary of State considers it reasonable to do so to mitigate an effect of coronavirus, the Secretary of State may by regulations substitute the date for the time being specified in any of the following provisions with a later date - (a) section 4(1)(b), (2)(b) or (4); s10 (1)(b)**

# BAPA - Duration of Pavement Licences

- A local authority can decide, when it is granting a licence, how long the licence should last for, or it can leave it open ended, in which case it will expire at the end of 30 September 2021.
- However, the licence must have a minimum duration of 3 months and it cannot extend beyond 30 September 2021.
- Where a licence is deemed to have been granted, the default position is that it will last for a year.
- If there is less than a year to run from the date of the determination, or deemed grant, to 30 September 2021, the licence will be for less than a year and will end at the end of 30 September.



# LA 2003 & TEMPORARY EVENTS NOTICES

- TENs
- Non licensable activities (include dance (including Morris) ; plays; live music dependent on time; and wrestling...



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VISITOR ATTRACTIONS  
AND HOLIDAY PARKS  
AFTER THE COVID  
LOCKDOWNS

Nick Laister  
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23<sup>rd</sup> February 2021

# Fairytale Farm, Oxfordshire



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Webinar

## WHAT SUPPORT?

Financial support:

- Reduced VAT
- Business rate holiday
- Furlough

But what about planning?



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17





## Temporary uses





# Temporary uses

- Increased from 28 to 56 days
- 14 days for markets/car boots and motor racing
- No limit in scale
- No special restrictions in National Parks, AONBs
- Not in curtilage of listed buildings (normally not in curtilage of any building)
- No caravans
- Need to revert within 56 days
- No 'field hopping'
- Extended to 31 December 2021



## Seasonal limitations

### **Robert Jenrick MP Ministerial Statement:**

- Councils should not take enforcement action when caravan parks extend their open season.
- Do not request a planning application unless there is good reason.
- Prioritise applications for caravan and holiday parks.

# Planning for the upturn

- Expansion to accommodate additional visitors
- Improving quality to meet visitor expectations
- Good timing for planning applications
- Prolonged increase in UK holidays and days out



# Planning for the upturn



Up to **300%**  
increase in bookings  
February 2021

# Planning for the upturn

## Planning application

or

## Lawful development certificate?

(Don't rush in)



# Further measures

- Tourism businesses have a short window each year
- No time for planning applications
- Businesses need certainty
- Extend 56-day rule to 2022
- Increase 56 days for leisure/hospitality businesses because of Covid impact/seasonal operations
- Allow for covered outdoor café seating
- Extend enforcement relaxation to attractions





VISITOR ATTRACTIONS  
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Thank you!

# Limits

- So no more than 56 days (28 days Wales)
- Not within curtilage (*Skerritts* [2001] QB 59) except 28 days non-listed building in England
- Moveable structures ‘ A building is something that is constructed on a site. It does not include a moveable structure that is merely stationed on a site.’ *Lloyd v SoS* [2014] (on policy)
- Structures for the change of use, not existing use

# What structures need planning permission?

- Use v building, engineering operations
- Building – size, permanence, degree of attachment – *Skerritts (No2)* [2000] JPL1025 (7 bay marquee, 8 months); *Dill* [2020] UKSC 20
- Marquees treated as requiring permission: *Thornton Hall* [2019] EWCA Civ 737; *Ikram v SoS* [2021] EWCA Civ 2
- Umbrellas & panels at shisha lounge *Islam v SoS* [2012] EWHC 3482
- Heaters, moveable umbrellas, tables – not op dev

# Local authority markets

- Permitted development (Part 12, Class BA) for the holding of markets by or on behalf of a local authority, with moveable structures, until 23 March 2022



# Holiday lets

- Dwellinghouse C3 – single person, single household, or subject to HMO provisions, up to 6 living as a single household
- Holiday letting to a family/household is a dwellinghouse: *Moore v SoSE* (1999) 77 P&CR 114
- But large groups might not be C3: *Moore v SoSCLG* [2012] EWCA Civ 1202
- Rental as a party venue would not be C3: *Westminster v Davenport* [2011] EWCA Civ 458

# Holiday lets in London

- Greater London – 90 day rule
- If let out as sleeping accommodation for periods of less than 90 days, then material change of use if the total short occupation more than 90 days: Greater London (General Powers) Act 1973, ss 25, 25A

# Possible changes

- Extend 56 day use period
- Temporary moveable structures for existing uses
- Temporary structures for shelter (non-moveable)
- Permanent fixing of awnings

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# Thank you for listening!

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