

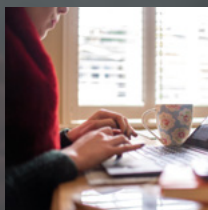
# I INFRASTRUCTURE Intelligence



Nightingale Hospital  
London

# Construction responds to Covid-19 crisis

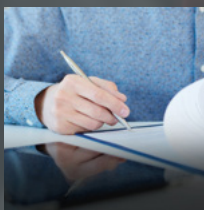
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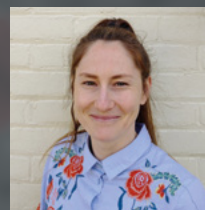
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Produced for the industry by the Association for Consultancy and Engineering

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## Message from the editor



This edition of *Infrastructure Intelligence* is published at an unprecedented time for our industry and indeed the world. The Covid-19 crisis has changed the way we work and it's highly likely that we will never return to anything approaching business as usual.

The crisis has affected every aspect of our lives, changing many people's working weeks beyond all recognition. Like much of the industry, *Infrastructure Intelligence* staff are working from home and for the first time this edition of the magazine is a digital publication only, as our readers aren't in their offices to receive print copies.

Unsurprisingly, this issue is almost completely dominated by the coronavirus pandemic and the construction industry's efforts to deal with the crisis. We highlight the crucial role being played by the Construction Leadership Council and report on how firms are making a difference on the ground, helping to provide PPE and building temporary hospitals.

We also take the opportunity to look ahead to what a post-coronavirus industry - and world - might look like. One that is pretty different from the one we had before the crisis and many see an opportunity in the current situation to make long awaited changes to the industry and society.

Whatever happens in the coming weeks, one thing we can be sure about is that things will never be the same after this crisis subsides and hopefully that will be for the better - for business and the way we all live and work.

**Andy Walker,**

Editor,

07791 997602

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# Industry unites to deliver PPE to NHS staff

**A**rcadis has coordinated an industry-wide campaign to collate a million items of PPE for NHS staff urgently needed during the Covid-19 pandemic.

Initially tasked by NHS London with finding 250,000 PPE items over four days, Arcadis collaborated with over 40 organisations across industry including Network Rail, CBRE, Kelly's, Laing O'Rourke and Mace, who all donated substantial volumes of equipment.

Together, the organisations quadrupled NHS London's request, locating over a million items ready for collection or drop off including 150,000 gowns/coveralls, 650,000 masks and 420,000 gloves. A large amount of the PPE went to North London hospitals.

Edel Christie, Arcadis managing director - buildings, said: "There has been an exceptional response from across the industry which we are proud to be part of. We're now in the process of identifying potential new industrial supply chains capable of supplying thousands more items of PPE for our NHS heroes."

John O'Connor, Laing O'Rourke group commercial director, said: "We owe an incredible amount to all those working in the NHS to keep us safe. Our project



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teams across the UK feel humbled that they have been able to support the national effort by sourcing more than 20,000 items of personal protective equipment from the stores on our sites for use by health workers across the country."

Mark Reynolds, Mace Group chief executive, said: "This critical supply of equipment and protective clothing will help to ensure that frontline health workers are able to work safely. It's a vital contribution from our sector, and a clear demonstration of what we can do when we all work together. Construction has a key role to play in our response to this crisis, from sharing equipment to delivering much-needed emergency new healthcare facilities across the UK. I'm very proud that we and our supply chain were able to contribute to this fantastic effort."

# Industry forms coronavirus task force

**T**he Construction Leadership Council (CLC) has convened a construction industry task force to provide a focal point for co-ordinating the industry response to Covid19 and to facilitate communication between the industry and government.

Its objective is to sustain the industry through the current period when restrictions are in place and to ensure that the sector is able to drive economic growth and prosperity in the UK

once the virus has been beaten.

The members are comprised of trade associations representing both large and small firms in the construction sector, including contractors, specialist contractors, home builders, product manufacturers, merchants and associated professional services, as well as government departments and major clients of the industry.

## The taskforce members are:

- Andy Mitchell, chief executive, Tideway, and chair of the CLC
- Richard Beresford, chief executive, National Federation of Builders
- Brian Berry, chief executive, Federation of Master Builders
- Steve Bratt, chief executive, Electrical Contractors Association
- Peter Caplehorn, chief executive, Construction Products Association

# Chancellor expands loan scheme for large businesses

A UK government-backed loan scheme for large businesses affected by coronavirus has been expanded to cover all viable firms, including those with annual turnovers over £500m, the chancellor Rishi Sunak announced on 21 April 2020.



Chancellor Rishi Sunak speaking at one of the government's Covid-19 briefings.

Outlining further details of the Coronavirus Large Business Interruption Loans Scheme, Sunak said all firms with a turnover of more than £45m will now be able to apply for up to £25m of finance, and up to £50m for firms with a turnover of more than £250m.

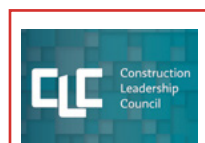
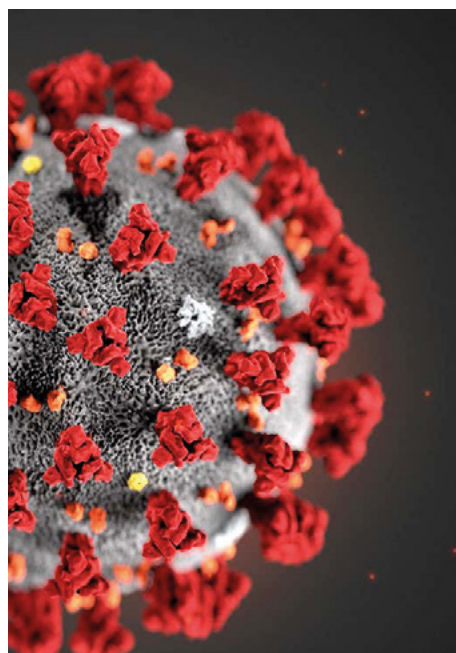
Business with turnovers of more than £500m were originally not eligible for the scheme, which is being set up to help firms who do not qualify for the existing Coronavirus Business Interruption Loan Scheme – for small and medium-sized businesses – and the Bank of England Covid Corporate Financing Facility – for investment grade companies.

In theory, the move – which comes after extensive consultation with businesses – is designed to ensure more firms are able to benefit from UK government support.

Sunak said: “I want to ensure that no viable business slips through our safety net of support as we help protect jobs and the economy. That is why we are expanding this generous scheme for larger firms. This is a national effort and we’ll continue to work with the financial services sector to ensure that our £330bn of government support, through loans and guarantees, reaches as many businesses in need as possible.”

The UK government will provide lenders with a guarantee of 80% on each loan, something that ministers expect will give lenders further confidence in continuing to provide finance.

The scheme will be available through a series of accredited lenders, which will be listed on the British Business Bank website.



Further information  
at [www.construction  
leadershipcouncil.co.uk](http://www.constructionleadershipcouncil.co.uk)

- Ian Fletcher, director of policy (real estate), British Property Federation
- John Newcomb, chief executive, Builders Merchants Federation
- Suzannah Nichol, chief executive, Build UK
- Jim O’Sullivan, chief executive, Highways England and chair, i3P
- Alasdair Reisner, chief executive, Civil Engineering Contractors Association
- Mark Reynolds, chief executive, Mace, and CLC Skills lead
- John Slaughter, director of external affairs, Home Builders Federation
- Hannah Vickers, chief executive, Association for Consultancy and Engineering
- Graham Watts, chief executive, Construction Industry Council

The Infrastructure and Projects Authority and Department for Business, Energy and Industrial Strategy are also represented on the task force, which is meeting daily to share market intelligence and providing daily updates on issues of concern to the construction sector, as well as information about the support that is available to firms in the industry.

# Construction's key role in Nightingale Hospitals

Construction firms are helping to build the temporary Nightingale Hospitals that are springing up across the UK to provide additional beds for patients suffering from coronavirus, writes *Andy Walker*.

**F**irms across the construction sector are playing a vital role as the NHS increases its resources to deal with the coronavirus outbreak. Temporary Nightingale Hospitals are being created at breakneck speed in many parts of the country to ensure that the health service has enough beds to cope during the current crisis.

Mott MacDonald and strategic healthcare consultancy Archus supported delivery of 630-bed NHS Nightingale Hospital North West in Manchester. Working on behalf of NHS England and NHS Improvement, project management,

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The new NHS Nightingale Hospital North West housed in the Manchester Central conference centre.

cost consultancy and technical advisory services were provided for the temporary facility at Manchester Central conference centre.

Interserve completed new Nightingale Hospital Birmingham at the NEC after an intense building project with more than 400 employees and contractors working on site 24 hours a day for a week. The initial phase of the development will have capacity for 800 patients and the site will eventually accommodate up to another 4,000 patient beds.

Balfour Beatty, GRAHAM, Kier Group and the Robertson Group are the main contractors involved in the Scottish NHS Louisa Jordan hospital at the at the Scottish Events Campus (SEC) in Glasgow. Over 400 contractors worked alongside nearly 150 NHS Scotland clinicians and operational staff on a facility which will provide up to 300 beds if needed.

The Scottish health secretary Jeane Freeman paid tribute to all those involved. "I want to send my sincere thanks to the many clinical, operational and construction staff who have been on site at the SEC to construct this new NHS Scotland hospital," she said. "They are working together, under exceptional circumstances, to deliver a clinically safe and fit for purpose hospital that if required, will provide extra capacity for NHS Scotland," said Freeman.

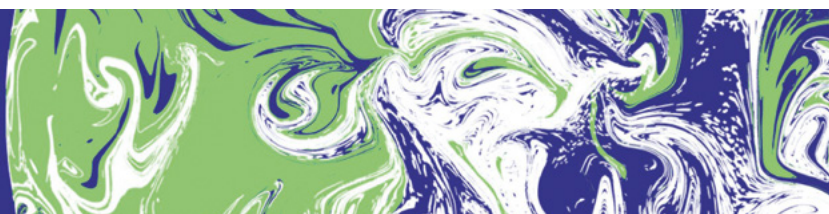
Meanwhile, Waterman are involved in the emergency construction of Nightingale, a new temporary hospital being built on Millbrook Playing Field in Jersey, Channel Islands. The £14.4m hospital will have space for 180 beds. Site preparation started on 10 April and the Waterman team, led by structures director Richard Whitehead, received the first sketches the night before and the agreed layouts on the same day at 6:50am.

They worked flat out through the Easter holidays and the following weeks to ensure that the hospital is up and running by the first week of May - less than a month after the project was given the go-ahead. The hospital will provide enough space for six wards, each with 30 beds, as well as areas for patient admissions and discharge, staff changing and rest, X-ray, equipment storage, laundry and a morgue.

As well as the above mentioned, there are also now Nightingale Hospitals in London, Bristol, Exeter, Harrogate and Washington. The hospitals are the latest in a series of temporary facilities being constructed to deal with the coronavirus crisis and follow the completion of the first Nightingale Hospital in London's Excel Centre in East London.



COP26



# postponement can help net zero aims

The postponement of COP26, November's major global climate change summit in Glasgow, is an opportunity to renew commitments a net zero economy, says *Poppy Kettle*.

So, COP26, the global climate change gathering of over 26,000 attendees in Glasgow in November, has been delayed until 2021 due to the coronavirus crisis. The UN Framework Convention on Climate Change and the government of the United Kingdom confirmed their decision to postpone the event on 1 April and while it's undoubtedly disappointing that such a major climate change summit will not be taking place this year, the delay offers us the opportunity to renew our commitments to a net zero economy.

Announcing the decision to delay the summit, COP26 president Alok Sharma said: "The world is currently facing an unprecedented global challenge and countries are rightly focusing their efforts on saving lives and fighting COVID-19. That is why we have decided to reschedule COP26. We will continue working tirelessly with our partners to deliver the ambition needed to tackle the climate crisis and I look forward to agreeing a new date for the conference."

Considering the global health threat posed by the coronavirus, the decision to postpone is sensible. We must save lives and



**Poppy Kettle**  
is a net zero policy executive at the Environmental Industries Commission.

protect the vulnerable during this crisis. Indeed, the Cop26 event was scheduled to be held in Glasgow at the SEC arena, a venue that the Scottish government has now turned into a temporary hospital to treat coronavirus victims.

It is important to note that postponing COP26 does not mean postponing climate action. The economic stimulus packages being devised to help the world recover from the effects of the coronavirus outbreak must be climate aware so that the increase in emissions that was seen following the 2008 global financial crisis is not repeated. During this unprecedented period, as the world looks to emerge from a pandemic which has affected nearly every nation, global leaders have the opportunity to revise their climate plans to accelerate the transition to a zero-carbon economy.

Before the pandemic, it was clear that countries did not have the necessary momentum to deliver emissions reductions that would reach the 2050 target. This crisis has shown that concerted international effort is possible in the face of a global threat to human life and it shows what can be done when nations work together and are unified. We need a similar concerted approach in facing the challenge of climate change as we have seen in the fight against the Covid-19 pandemic.

Delaying COP26 is clearly a disappointment, however it does allow for a renewed and remodelled commitment to achieving a zero-carbon economy which in turn increases the likelihood of a strong outcome from the summit.



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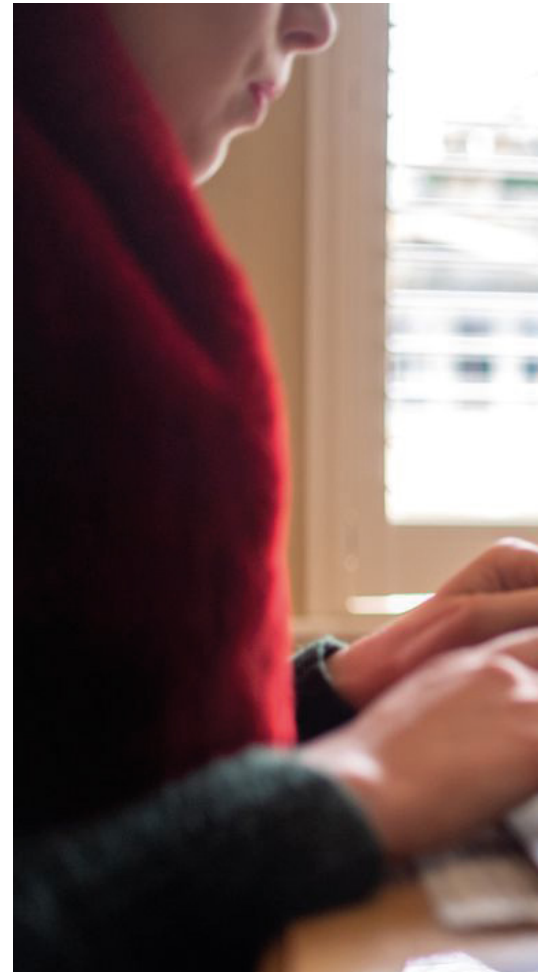
# Top tips for working from home

Millions of people are working from spare rooms, dining room tables or home offices during the Covid-19 crisis. *Teddy Chadd* and *Emily Scoones* explore how to make the most of working from home.

**I**n times like these, where a virus is taking up most of the media conversation, it can be difficult to remain calm. On top of this, you might be realising you're going to be spending an awful lot more time with that awkward housemate you met through a friend, as well as coming to terms with Netflix buffering and the possibility of actually being able to 'complete' it.



**Emily Scoones,**  
senior structural  
computational design  
engineer, Ramboll.



In the light of this, the London and South-East ACE Emerging Professionals network have collated a list of ideas and tips to ensure your “office away from the office” is a zen working palace, as well as offering some advice on mental wellbeing that may give some comfort to those who may be struggling in the current situation.

The following are not exhaustive and have been shared as potential ideas to try. Also, it must be said that everyone will have their own approaches to working from home and what might work for one will not work for another.

## Your working from home environment

- Try to keep to the hours you would do normally and don't feel pressured to work for longer because you feel like you need to be seen to be more active online.
- Try getting a short walk in before you start your working day to mimic your commute.
- Recreate your workday. It doesn't have to be business attire, but people have found that it can mentally set you up for the day in the right mindset if you are 'dressed for the day'. Or wear your best Star Wars pyjamas for video meetings – whatever suits!





- Make the most of your daily exercise allowance and make sure to get fresh air each day.
- Maintain social interaction as much as possible. Use phone calls instead of messaging people and video calls instead of phone calls where appropriate. Encourage others to use their video cameras too.
- Breaks (coffee or not) as they were in the office are still just as important. Try to organise calls with other colleagues over a hot drink at least a few days a week. Encourage each other to join in with these social coffees, share the love!
- When you've finished for the day, ensure to pack up all your work stuff. Shut down your PC and put it away, don't just close the lid. Getting rid of your workstation if in a communal area at the end of the day might take a few minutes but you'll feel much better by separating your work/life routine.
- Turn off email notifications on your phone. You're done for the day so get it out of sight and mind.
- Be careful to not book back-to-back meetings in your own or other's diaries. There are no physical breaks such as walking to meeting rooms.
- Blank out time in your diary for you to focus on your own work every day.
- Don't lose the art of a simple chat. Be strict with yourself and others - does that meeting need to be a scheduled 30-minute meeting, or could it be as simple as a five or ten-minute phone call?

### Physical health

- Try and do some exercise every day. It could be a walk, a run, a cycle or it can be in your own home.
- If you have the option, try ensuring you sit on a proper chair

at a desk or table. Your sofa or bed might look tempting, but your lower back will thank you later for avoiding those.

### Mental health and coping with anxiety

- Keep an eye on your own mental state and make sure you take time to step back and assess how you're feeling objectively. It's natural to be anxious, but if you feel yourself getting overwhelmed by it all, then perhaps try some of the tips below.
- Practise mindfulness. There are lots of affordable (and also free) apps such as Calm, Headspace or InsightTimer.
- Order some plants or flowers for your workspace and keep your home tidy to limit stress.
- Do some exercise – even if it's a YouTube class in your living room, exercise will help get the adrenaline out of your system and channel the panic elsewhere.
- Treat yourself - Anything that will give you a little boost can help. It doesn't need to involve spending money; you can also cook yourself something nice, have a hot bath, or listen to a song you love.
- Keep in contact - your colleagues, line managers and are all here for you if you are feeling overwhelmed. Reach out to someone if you need help or send someone a message to check in on them too.
- Use the time you would usually be commuting to learn a new skill or do things you usually wish you had time to do, e.g. read a book, exercise, take up Airfix, learn to knit!
- Try avoiding (health-related) rolling news coverage. We all want to keep up to date, but in periods of anxiety, the need to check and read the latest updates can become compulsive, feeding the anxiety. Try having a news detox or allocating yourself a time limit for reading or watching news.
- Create a list of things you would like to achieve. This can be daily for productivity or more long term (e.g. a bucket list of things e.g. learn how to do a handstand).
- Finally, two more important points. Firstly, don't be afraid to ask for help. Your friends and family will be there for you so please reach out to your support networks and don't isolate yourself mentally.
- Secondly, we know this sounds clichéd, but this has been helpful to a lot of people. Try remembering that "this too shall pass".



**Teddy Chadd,**  
senior strategic  
consultant, Amey.

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# Industry leaders call for cashflow not disputes

Construction leaders have issued a strong statement on payments and cautioned against a rise in contractual disputes as the best way to safeguard the sector's future.

**T**he Construction Leadership Council (CLC) has called for the whole industry to help each other by boosting the flow of cash through the sector.

The CLC is working with industry federations to provide immediate support to the sector, guiding on health and safety issues and pressing the government to provide additional support to keep construction companies afloat during the current crisis. However, it is also calling on the sector itself to step up by keeping money flowing to all parts of the industry.

In an open note to construction businesses, the CLC has said that the



Andy Mitchell,  
co-chair, Construction  
Leadership Council.

***“All firms should think hard about how their reputation could be damaged by not doing the right thing during these difficult times.”***

sector faces extraordinary difficulties as a result of the Covid-19 crisis. These difficulties will only be worsened if disputes and penalties are invoked throughout the sector and if firms sit on cash meant for their suppliers, the CLC say.

The letter states: “There are number of businesses

that have chosen to unilaterally delay payment or extend credit terms. We do not believe this is acceptable or appropriate – particularly at this time of great stress”. The CLC draw attention to the fact that many organisations have taken steps to support their supply chains through their collaborative administration of contracts. They highlight that government has led the way through the implementation of PN 02/20, under which public-sector clients will continue to pay suppliers at risk due to Covid19 until at least the end of June 2020. “We should all follow the example set by our largest client,” say the CLC.

The letter also notes that where the industry is asking for substantial support from the government, it is less likely that this support will be forthcoming if the sector has not demonstrated that any benefit will be fairly distributed to all parts of the industry. It also warns of the reputational damage to individual businesses that seek to withhold cash or punish contractual partners.

Andy Mitchell, co-chair of the CLC said: “We are increasingly concerned about the management of payment in the supply chain. All construction businesses should continue to pay in accordance with agreed contractual terms and firms should not be threatening to invoke penalty or other contractual clauses. Our joint priority must be to sustain the industry. All firms should think hard about how their reputation could be damaged by not doing the right thing during these difficult times.”

Mitchell said that the industry's common enemy was Covid-19 and it needed to unite and work collaboratively to resolve shared problems. “We owe it to our sector and the country to take all steps necessary to ensure that the industry is in good health to support the recovery, when it comes. It is everyone's responsibility to keep money moving in the sector and vital that all businesses play their part by maintaining payment and by managing contracts responsibly,” said Mitchell.





# London most expensive city to build in

London is the most expensive city in the world in which to build, according to the latest *International Construction Costs* report, published by Arcadis. Rob O'Connor reports.

According to the latest study of comparative construction costs across 100 global cities, London ranked first ahead of New York and Hong Kong. In contrast, the ten least expensive cities for construction are in Asia with the majority of those found in China and India.

Outside of London, UK cities are well represented in the top 25. Edinburgh ranked in tenth place, cementing its position as a regional hub for attracting international trade and investment. Manchester and Birmingham, in 16th and 24th place respectively for construction costs globally, are both examples of thriving regional economies where increased activity across sectors including offices, hotels, retail, education and student housing are all indications of a booming local construction market.

The research for the Arcadis *International Construction Costs* report was carried out before the global impact of Covid-19 was fully understood, but the comparative data represents a valuable snapshot into the state of construction markets on the eve of the crisis.

Over the past three weeks, the UK has faced unprecedented challenges, with society locked-down and direct government intervention to support the economy, business and families.



London cityscape by Raquel Moss on Unsplash.

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Construction has been badly affected, with work suspended on around 2,000 sites and prospects for future work severely affected. The report says that actions taken by clients, project teams and the wider supply chain over the weeks and months to come will have a significant bearing on the future health, capacity and capability of the UK construction sector.

A substantial Conservative win in the general election and their plans for record high spending on infrastructure and public services initially boosted industry confidence, but these high hopes have been overtaken by events. The return of long-term private investment will depend on the outcome of the Covid-19 outbreak as well as Brexit negotiations with the EU.

The government's interventions to help save the jobs and keep the economy running are an example of short to mid-term measures to support resilience, responding to the sudden shock caused by the pandemic. It is important, says the report, that this momentum is maintained even as the UK looks to recover from the effects of COVID-19.

Edel Christie, UK managing director for buildings at Arcadis, said: "Globally, we now face the challenges that COVID-19 will bring. With the global disruption of the pandemic, there is a real risk that the momentum towards climate action will be lost. It is crucial that we overcome the crisis, while still enhancing resilience and sustainability, and plotting a course towards a carbon neutral future. The success of our industry's future depends on our ability to respond to these challenges effectively."



# Using digital to improve community engagement



Rebecca McLean is an EIA technical director at Sweco.

Digital environmental impact assessments are increasingly important in helping developers to bring forward developments that respond directly to the needs of communities.

Since 2017, Sweco has been working to deliver the £118m Cross Tay Link Road project, which will connect the existing A9 route north of the city of Perth to A93 and A94, located north of Scone. The project was the first of its kind in Scotland to utilise a digital environmental impact assessment (EIA). The contribution that this innovation made in setting the new benchmark for best practice in planning cannot be underestimated.

EIAs play a crucial role in helping to inform key decision-makers and members of the public about potential physical, social, cultural and health consequences of any proposed development. Historically, EIAs have taken the form of text-heavy, physical documents that are time-consuming for project teams to compile – but crucially, they are even more time consuming for local communities to read.

In the case of Cross Tay Link, however, by digitalising the assessment on a live, interactive document that is accessible

to all, as well as producing the standard hard copies, it has been possible to reach a far wider audience.

EIAs should be one of the simplest means for members of the public to fully understand the impact of a proposed development and should clearly demonstrate how the design has been informed through consultation. The birth of digital reporting, in particular the critical non-technical summary, means information can reach a far wider audience, who are then enabled to read and comment on plans from their smart phones. This in turn can help planners to ensure planning applications and developments are tailored to suit the needs of the community they will eventually serve.

Contrary to the widely held belief that digital EIAs are identical to traditional EIA reports and simply hosted online, these digital assessments can be made fully interactive. With the capacity to host maps and videos, as well as photographs and CGIs, their immersive format makes them far easier to digest and understand.

This style of reporting is crucial for engaging the widest possible audience with planning applications. Trends show that older generations are much more likely to attend a traditional exhibition, but this risks the voices of younger generations

remaining unheard. However, the option to access EIAs digitally allows people to leave comments and share their views online, capturing the opinions and feedback of a much more diverse range of citizens.

With digital EIAs citizens and key stakeholders are empowered to access planning applications quickly and easily, creating the conditions for developers to bring forward projects that truly serve the needs of end users.

*This style of reporting is crucial for engaging the widest possible audience with planning applications. Trends show that older generations are much more likely to attend a traditional exhibition, but this risks the voices of younger generations remaining unheard.*





**Ged Mason**  
is the CEO of the  
Morson Group.

# More great news for HS2

**T**he government's formal approval to begin the detailed design and construction phase of HS2 comes at a momentous time for both the infrastructure sector and the UK economy.

Whilst the obvious priority of the UK and other countries around the globe is to tackle the Covid-19 outbreak, we agree with HS2 minister, Andrew Stephenson, that the project cannot grind to a halt when it will be crucial in adding billions of pounds to the economy and creating thousands, if not millions, of new jobs.

With so much uncertainty currently facing UK labour markets, this announcement provides a much-needed confidence boost to the construction workers and supply chain businesses, like ourselves, which will work together to make HS2 a reality.

The economic development and prosperity that follows a major infrastructure project like this is significant, and as the UK works over the weeks and months ahead to repair and rebuild a somewhat fractured economy, it's positive to see the government remain committed to its investment promises and infrastructure priorities and press forward during the country's time of need.

The project plays a vital role, not just in providing employment opportunities to those already in construction and engineering, but by nurturing the next generation of talent and supporting those looking to transition into new employment opportunities with transferable skillsets. Some 2,000 apprenticeships will be created during the lifetime of the project, with HS2 proving a catalyst to inspire and attract new talent, plug skills gaps and slow down the sector's rising age profile.



**Kath Moore**  
is the managing  
director of Women into  
Construction.

# Celebrating the success of Women into Construction

**W**omen into Construction began as an initiative to encourage more women to work on the Olympic Park project in London, in 2008. The initial programme was a huge success. We doubled the numbers of women working on the project, and changed the culture, ensuring that women were represented at all levels.

We found that many women were interested in building a career in construction but didn't know where to start. We identified a need for support, training and work-placements, as well as engagement with contractors, to assist women at the start of their career journeys.

We then began to work on various programmes across London with different funders and industry partners, supporting women with bespoke advice, guidance, training and work placements before moving into employment. It's a proven model that has worked again and again over the years – with the right training and work experience women have gained the knowledge and experience they need to break into the industry.

I'm delighted to say that we now run programmes across London, the West Midlands, Essex and Cambridge and have to-date trained over 1,600 women with over half of those going on to gain sustainable employment in construction roles.

It's fair to say we have grown a lot in the past 11 years. It's with

great thanks to our increasing membership of industry partners and funders who are all actively working to support gender balance in the industry that has got us to where we are today. It's encouraging to work with so many organisations who have identified the need and benefit of a gender-balanced workforce, but we all still have a long way to go, together.

Currently, women only represent 14% of the entire UK construction workforce, with just 1.2% of those in trade roles being women. We are working towards a world where our industry has a balanced workforce – looking forward, we want to see that 14% figure rise.

I'm extremely proud of my team and the hard work they deliver to support each individual woman who engages with Women into Construction. Their work transforms lives – they give hope and encouragement to women of whom many have arrived at closed doors.

# Coronavirus and



The coronavirus crisis is raising the concept of force majeure in construction contracts. White & Case partners *Mark Clarke, Dr Markus Burianski and Christian Theissen* consider the issues.

**T**he coronavirus outbreak has quickly developed into a global threat with tragic human losses that overshadow contemplations of its economic impact. However, the disease is likely to have a profound impact on business and underlying contractual relationships.

It has been highlighted frequently that scenarios like the one we are currently witnessing bring the concept of 'force majeure' into play. As a vital mechanism to excuse a party's non-performance, the question is: does the coronavirus constitute force majeure?

## What is force majeure?

Force majeure can be defined as unforeseeable circumstances that prevent, and justify, a party from fulfilling its contractual obligations.

However, in English law contracts, force majeure will only be available where it is provided for expressly in the

contract. For that reason, when considering whether to invoke force majeure, the first step is to review the contract in question. Generally, force majeure clauses will specify:

1. the events which enable either party to declare force majeure;
2. how a party should notify its counterparty about the occurrence of a force majeure event; and
3. the consequences which flow from declaring force majeure.

The clause might include a list of specific events which entitle a party to declare force majeure. Alternatively, or in addition to a list, the clause might provide that a force majeure event includes anything that is beyond the parties' control.

## Force majeure and the coronavirus

When assessing whether there is a qualifying force majeure event in the context of coronavirus, two questions must be asked:

1. What is the specific event relied upon: is it the outbreak itself or something related to the outbreak (such as governmental restrictions imposed to contain it)?
2. Does the relevant event meet the relevant contractual test? For example, whether it falls into a category of defined events, was beyond the parties' control, and/or has prevented or hindered performance.

It is equally important that any notification procedure is complied with fully. The contract may require that the party declaring force majeure must notify the other party within a certain timeframe, or that the notice must be delivered in a specific way or to a particular address.

Read more online at  
[www.infrastructure-intelligence.com](http://www.infrastructure-intelligence.com)





# Force majeure



Christian Theissen.



Dr Markus Burianski.



Mark Clarke.

The consequences of invoking force majeure should also be considered. Typically, the clause will specify that neither party is liable for a failure to perform its contractual obligations where that failure is caused by the force majeure event. Importantly, it is common for clauses to require the parties to take steps to mitigate the effect of the force majeure event. This requirement should not be overlooked: a failure to take steps in mitigation may undermine a party's ability to rely on the force majeure clause.

#### **Frustration, where there is no force majeure clause**

Even where a contract does not include a force majeure clause, it may be possible to argue that coronavirus has frustrated the contract. However, there are two critical differences between force majeure and frustration:

1. The test for frustration is generally stricter than that included in a force majeure clause. A contract is frustrated where an event results in it being physically or commercially impossible to fulfil.
2. The consequences of frustration are more radical than force majeure. Rather than suspending performance, frustration results in the contract being automatically discharged.

#### **Understanding the consequences**

Companies considering asserting force majeure or frustration must be cognisant of the serious consequences which result from a mistaken assertion of either of these legal rights. An incorrect assertion of force majeure or frustration may amount to a breach (or anticipatory breach) of the contract. Depending upon the severity of that breach, the aggrieved counterparty could be entitled to claim damages or even to terminate the contract.

With major transportation companies and infrastructure firms starting to claim force majeure, it is critical that parties review their contracts and fully understand their legal position in order to take the right steps to seek resolution.



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# Ensuring the wellbeing

With the furloughing of staff now widespread, it's essential that the mental wellbeing of those employees remains a top priority, says *Tahirih McLaren-Brown*.

**M**any of us hadn't ever heard of the term 'furlough' three months ago, but now with the government's Coronavirus Job Retention Scheme, furloughing staff has become an essential reality.

While most eyes are on the financial bottom line, it is essential that the mental wellbeing of furloughed employees remains a top priority. Uncertainty, fears of job security, financial worries and loss of purpose are all issues they'll be facing.

Here are some of the ways you can prioritise the wellbeing of your furloughed employees, from the initial conversation to maintaining ongoing support.

## **Ensure open communication with all employees at all times**

When people aren't informed, it's much easier to create blame, resentment and for false scenarios to spread. If possible, be open with all your employees about the financial situation of the company and why you need to use the government scheme. Let them know that furloughing staff is an essential move for the future of your business. Show respect by including them in your thinking and they'll be more likely to respect your decisions.

## **Reassure furloughed staff with a written plan**

Don't inform a colleague that they're being furloughed and then leave them to calculate what 80% of their salary will look like. If you're reducing their salary, then tell them. It is uncertainty and the unknown that causes the most worry. It's your job to remove as much of that uncertainty as possible and you can do this by being prepared with a plan. Have a written document ready which states the confirmation of the furlough, the salary the employee will receive, a date when this will be reassessed and what practical support is available.

## **Provide individual support**

Have an open chat with each employee about how they're feeling and what their plan for furlough is. Depending on the size of your company and number of furloughed employees, this may be a big job but use all of your managers and team leaders. Some employees are going to take to this like a duck to water. They're going to be grateful for their salary, may have children to spend time with, or a list of things they'd like to achieve.

For others it's going to be much harder. This could heighten their anxiety, affect their mental health and make them feel more isolated. Ideally managers or directors should have an ongoing record of how their furloughed staff feel, how they're adapting and base their levels of contact and support around this.

## **Emphasise their value and highlight their contributions**

Although it may seem clear that it's the pandemic that's causing your company to temporarily stand down staff, don't assume that



**Tahirih McLaren-Brown** is the founder of Flourish and provides wellbeing workshops for managers and staff.





# ing of furloughed staff



employees won't take it a little personally. This is especially true if some of their team is staying on full-time. I can't emphasise enough how much value people place on their career. Without their work, some will question their self-worth, not only to your company, but also to society.

Tell your staff why you value them, highlight to them things in the past they've done really well and tell them what projects you're looking forward to in the future. You need to ensure that after you've finished talking, they have no doubts about how important they are to you.

## **Help them to budget**

Financial worries cause massive stress and anxiety and if you're planning a 20% reduction in salaries, it will be a big hit for some. Yes, it's an uncomfortable conversation, but show empathy and have a resource ready to share with them. They might be able to get budget advice from your employee assistance programme, or you could recommend a free online tool.

## **Schedule check-ins**

Every employee's needs are different and you will need to schedule check-ins based on these. For some (the duck to water people), a weekly call and a couple of messages is perfect. For others, it might be a daily text and twice weekly calls. Don't just rely on the employee to communicate what they need. You should also make a judgement based on your conversations with them.

Ask yourself whether you're the right person for the job. Your employee might not feel as comfortable talking to you. Have a chat to someone in your team or who they're friends with at work and ask them to check in regularly as well.

## **They're not a hot potato - so don't drop them!**

Every company should be emphasising to their furloughed staff that they are still employed, this is a temporary measure and they will be back in their role as soon as they can be.

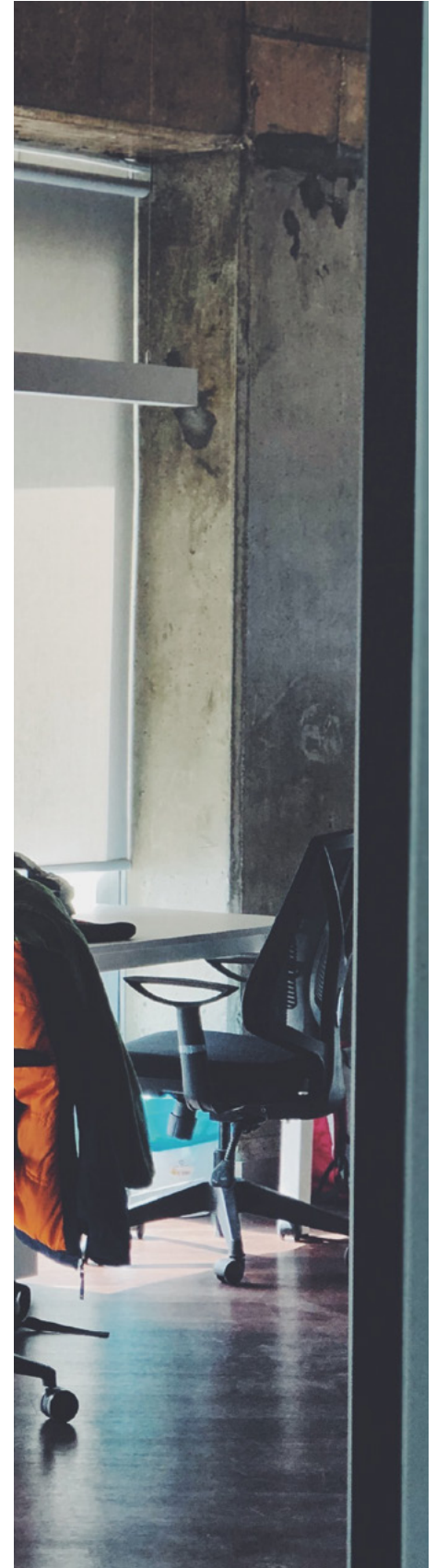
## **Make sure you follow that up with your actions**

These staff are still part of your team and although they can't do any work nine to five, cutting all ties is going to make them feel isolated and excluded. Don't forget that for a lot of us, our colleagues are the people we see and talk to the most. Taking that contact away, especially in lockdown, is another factor that will affect their mental wellbeing. Make the effort to include them in company updates, team catch-ups, virtual drinks, challenges and activities.

## **If you've got their back, they'll have yours**

Throughout this process, don't forget that your employees are on your company's team. If they feel valued, included and informed, they'll do their best to support your decisions and you. When you're back in action, they'll be ready to jump in with more loyalty and a renewed motivation.

Remember, this is new for everyone and we're all figuring it out together. Show openness, compassion and inclusion, and be proactive in asking employees about their wellbeing. In a couple of years, people won't recall the stress of furlough or what they even did during it, but they will remember how you, and your company, made them feel.



# Transport Planning Day campaign goes virtual



The Transport Planning Society is to deliver a virtual campaign to support their annual transport planning showcase event this year.

**T**he Transport Planning Society (TPS) launched its 2020 Transport Planning Day Campaign in April focusing on the role of transport planners in tackling climate change and creating a sustainable, healthy future.

In contrast to previous years, given the Covid-19 situation, the campaign will be run completely online as a 'virtual campaign' from now until the autumn, when TPS hopes to hold its usual parliamentary reception in October and its Transport Planning Day itself on 16 November 2020. If this is not possible TPS will look to hold these events virtually as well.

The campaign content will be informed by stakeholder feedback gained from research that TPS will be launching soon. It is likely to include blogs, podcasts and webinars showcasing successful transport planning projects and policy initiatives within the campaign theme.



The TPS is looking to work with organisations to promote the virtual campaign and awards. To get involved, email [TPday@tps.org.uk](mailto:TPday@tps.org.uk)

Commenting on the campaign theme, Transport Planning Society chair, Stephen Bennett said: "We are all aware we need to move people and goods in a far cleaner and greener way to achieve a net zero future. Cities have seen air pollution drop during the health emergency of the coronavirus crisis, due to reduced traffic. It shouldn't take these extraordinary circumstances to improve our air quality.

"In order to address the climate emergency, we need the UK government to pick up the pace with supporting the integration of spatial planning and transport planning and reducing the need to travel, with a clear focus on decarbonising the transport system whilst improving accessibility.

Commenting on the decision to go virtual, Bennett said: "Despite the unusual circumstances we find ourselves in, we believe it is important to continue highlighting fantastic transport planning projects, share some positive news within the industry and the communities that benefit from these projects, and look to the future on how we can improve transport further.

"With the coronavirus outbreak creating a period of uncertainty for us all, we have taken the difficult decision not to run the People's Award this year, given the pressures on the transport industry and recognising our industry partners may not be able to offer as much of their time or input to the campaign as in previous years."

"However, we will be providing lots of opportunities for our industry partners to offer support in-kind and we would welcome feedback from our stakeholders on the most beneficial way to give you a virtual celebration of transport planning."



# New service links up firms and senior advisors

A new service has been launched that bridges the gap between work and retirement for construction professionals. *Andy Walker* reports.

A new network tapping into experienced construction professionals who might otherwise be lost to the industry has just been launched. ProTem.online aims to bridge the gap between work and retirement by capitalising on the experience of professionals approaching retirement, enabling organisations to hire some of the best brains in the country.

The network is the brainchild of two construction and property veterans, John Rushton and Alex Tosetti, who have recognised the future need for flexible working in a gig economy.

Designer and business leader Rushton has been aware for some time that there is a brain drain at the point of retirement in many organisations. Professionals facing the prospect of leaving an organisation to retire find it very difficult to adjust. Tosetti, who has worked for 30 years as a leading consultant in

major corporate organisations and is a former board member of ACE, realised the need for client organisations to be able to hire experts for specific tasks or projects. “ProTem.online does what it says on the tin by providing ‘professional, temporary’ experts for short-term tasks, without committing to full-time employment,” said Tosetti.

A ‘virtual collective’, ProTem was established to fill a vast space, allowing up-cycling of industry experts, the new ‘interims’. It is not a recruitment agency, it is simply preventing the brain drain from the industry, while allowing flexibility to both experts and hiring organisations. The industry is also going through massive transformational change, driven by rapid technology and digital intervention and now the aftermath of the Covid-19 crisis.

The ProTem portal is artificial intelligence driven, self-policed and can grow virally within the marketplace as demand requires. The generation of the learned expert may be being overtaken by the generation of AI, but companies need to bottle the wisdom from the older cohort. “One week of an expert can save months in time and cost to an organisation,” say ProTem’s founders.

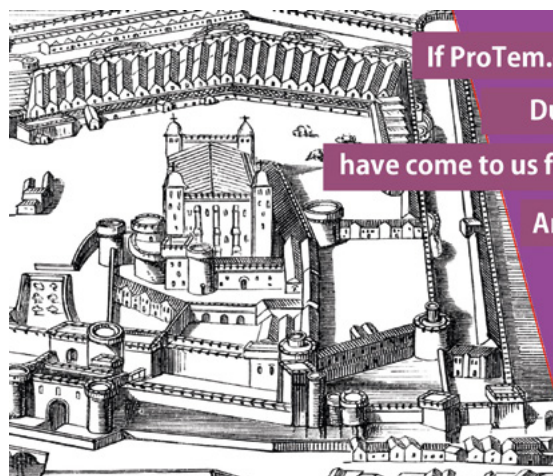
Roger Mumby-Croft, professor emeritus of entrepreneurship at Oxford Brookes University, comments: “The transition from full employment to retirement is a critical time for people and for the businesses and professions they are leaving. For businesses and the professions, retirement of a key person can drain important information and experience. We are notoriously bad at knowledge management, particularly around retirement, failing to pass on vital assets to the next generations of leaders.”

“Because ProTem seeks to slow the transition between full time work and full time play I can only see it as a good idea. It connects professional people who are seeking short-term contracts with organisations who want to draw upon their expertise and experience.”

ProTem is currently building its database of advisors and organisations. Registration is free, and no fees are payable until short-term contracts are completed. Initially ProTem is targeting engineering, real estate, media, management and professional services.

**ProTem.**

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# HS2 brings more good news for construction

Industry leaders warmly welcome the green light given to the next major phase of HS2, seeing it as a huge boost for the construction industry, the wider supply chain and the recovery of the economy post-coronavirus. *Rob O'Connor reports.*

Some good news for the infrastructure sector in the midst of the Covid-19 crisis came with the Department for Transport's approval for HS2 Ltd to issue Notice to Proceed (NtP) to the four main works civils contractors working on the project – SCS Railways, Align JV, EKFB JV, and BBV JV – to commence full detailed design and construction of phase one of HS2, the route from London to the West Midlands.

To date, the contracts between HS2 Ltd and the main works civils contractors (MWCC) for phase one have focused on undertaking scheme design and site preparation (including pricing and scoping) for the civils work. The issuing of NtP marks the point in the MWCC contracts where the work transitions from scheme design and preparatory work, to full detailed design and construction.

Preparatory works are due to start imminently with main construction to commence in earnest in the second quarter of 2021. All sites will be fully compliant with UK government guidance for safe working practices in relation to social distancing.

HS2 minister Andrew Stephenson said: "While the government's top priority is rightly to combat the spread of coronavirus, protect the NHS and save lives, we cannot delay work on our long-term

*"While the government's top priority is rightly to combat the spread of coronavirus, protect the NHS and save lives, we cannot delay work on our long-term plan to level up the country."*



Andrew Stephenson, minister, HS2.



Hannah Vickers, chief executive, Association for Consultancy and Engineering.

plan to level up the country. HS2 will be the spine of the country's transport network, boosting capacity and connectivity while also rebalancing opportunity fairly across our towns and cities.

"Following the decision earlier this year to proceed with the project, this next step provides thousands of construction workers and businesses across the country with certainty at a time when they need it and means that work can truly begin on delivering this transformational project."

Hannah Vickers, chief executive of the Association for Consultancy and Engineering (ACE), said: "Given the uncertain times we live in, the scale and scope of the major project means that this decision by the government will bring clarity and relief to thousands of companies while allowing work to begin in earnest. We have not had much to celebrate recently as an industry, but the renewed support for HS2 is proof that construction projects will be vital to kickstarting the economy post-coronavirus."

The four work packages are for full detailed design and construction of phase one of the HS2 railway. Through these contracts, small and medium businesses have the guarantee of a pipeline of activity for the future, helping to protect jobs and boost certainty for them in the current climate.

**The joint ventures, originally awarded contracts by HS2 Ltd in July 2017, are:**

- SCS Railways (Skanska Construction UK Ltd, Costain Ltd, STRABAG AG);
- Align JV (Bouygues Travaux Publics SAS, a subsidiary of Bouygues Construction, Sir Robert McAlpine and VolkerFitzpatrick, a subsidiary of VolkerWessels UK);
- EKFB JV (Eiffage Genie Civil SA, Kier Infrastructure and Overseas Ltd, BAM Nuttall, Ferrovial Agroman);
- BBV JV (Balfour Beatty Group Ltd, VINCI Construction Grands Projets, VINCI Construction UK Ltd, VINCI Construction Terrassement).

*"Given the uncertain times we live in, the scale and scope of the major project means that this decision by the government will bring clarity and relief to thousands of companies."*





HS2



A virtual look at how some of the new HS2 stations will look when completed.

Mark Thurston, CEO of HS2 Ltd, said: "In these difficult times, today's announcement represents both an immediate boost to the construction industry - and the many millions of UK jobs that the industry supports - and an important investment in Britain's future: levelling up the country, improving our transport network and changing the way we travel to help bring down carbon emissions and improve air quality for the next generation."

Leo Quinn, Balfour Beatty Group chief executive, said: "HS2 is a transformational infrastructure scheme, underpinning both the economic resilience and future growth of the nation, during these unprecedented and challenging times. Notice to Proceed provides certainty for many businesses up and down the UK and will drive investment in skills and capability for current and future generations."

Civil engineering contractors welcomed the news and CECA director of external affairs, Marie-Claude Hemming, said: "The scheme will act as the backbone of our recovery and will not only deliver

*"In these difficult times, today's announcement represents both an immediate boost to the construction industry."*



Mark Thurston, CEO, HS2 Ltd.

*"We will encourage millions more people to make environmentally friendly travel choices, stimulate huge regeneration plans and create tens of thousands of new jobs."*



Maria Machancoses, director, Midlands Connect.

transformational improvements to capacity and connectivity across the UK, but will support many thousands of jobs. HS2 is vital to this country's future and will act as a springboard for the infrastructure revolution the government has promised.

Maria Machancoses, director of Midlands Connect, said: "The confirmation that detailed design and construction of phase one of HS2 will begin as soon as this summer offers certainty to the construction industry when it needs it the most. By integrating the network, we will encourage millions more people to make environmentally friendly travel choices, stimulate huge regeneration plans and create tens of thousands of new jobs."

An estimated 400,000 supply chain contract opportunities for UK businesses will be created during phase one of HS2, supporting thousands of jobs on site and many more around the country. It is estimated that around 95% of those contract opportunities will be won by UK based businesses and around two thirds of those will be small and medium sized businesses.

All good news for the construction sector and further proof, if proof were needed, of the absolutely crucial role that infrastructure investment will play in kickstarting the UK's economy post-coronavirus.



# A glimpse of a decarbonised transport future

Coronavirus has provided us with an unusual opportunity to preview what the results of a decarbonised transport system might look like, writes *Poppy Kettle*.

**I**t's somewhat poignant that the Department for Transport's *Decarbonising Transport: Setting the Challenge* report was launched at a time when the public is debating the necessity of all journeys that they are making. Over



**Poppy Kettle** is a net zero policy executive at the Environmental Industries Commission.

a very short period huge shifts in behaviour and movement have been imposed on an international level and the environmental benefits have been both surprising and widely publicised.

Though the lockdown is only for the short term, the positive environmental results of these behavioural changes will be sure to resonate with at least some when making travel decisions after restrictions have been lifted.

The report says that the UK is on track to supporting 100% zero-emission vehicles by 2050. In February, the government announced that it is bringing forward the ban on diesel and petrol cars from 2040 to 2035, which has led to increased focus on how the UK is going to have the needed electric vehicle (EV) infrastructure in place in time. The EV market is now well placed to deliver the bulk of decarbonisation for road vehicles and the focus is now on promoting mass uptake. Some of the challenges to this include increasing the necessary infrastructure whilst improving consumer experience when using it.

The government is supporting EV infrastructure through the provision of public and private chargepoint grants. The Committee on Climate Change has reported that in order to meet the 2050 target, 3,500 rapid and ultra-rapid chargers are needed along motorways to enable long journeys and 210,000 chargers are required in cities. This is a massive increase on the 21,000 public chargers available as of 2019.

The coronavirus pandemic has provided us with an unusual opportunity to preview what the result of a decarbonised transport system will look like. Through experiencing proven results, it is possible this period may trigger wider public interest in decarbonising the transport sector, ahead of the final Transport Decarbonisation Plan, due in autumn 2020.

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# Virtual public consultation tool launched

A new web-based tool launched by AECOM will help clients to engage with a wider audience and communicate the impact of proposed schemes to communities, reports *Andy Walker*.

A new globally available tool is allowing clients to continue driving public engagement with their projects during the coronavirus pandemic. AECOM has launched the interactive web-based tool that is allowing clients to engage and consult stakeholders from their computer or mobile device. By providing a more resilient approach to community engagement, the new tool will enable clients to engage with a wider audience who cannot attend in-person meetings during consultation periods.

"In the face of unprecedented challenges, it was critical that we create a seamless digital environment to visualise projects, meet virtually and bring communities together in partnership with our clients around the world," says Kevin Carlson, AECOM's global lead for digital transformation. "Over the next few months, we will continue to focus on bringing new collaborative experiences, driven

by our global expertise in digital delivery, to the marketplace," he says.

Through the new platform, a virtual event can be personalised to show consultation materials including virtual reality and sound demonstrations, videos, maps, plans and pop up banners. The tool allows for instant feedback so public reaction can be captured and saved for analysis and accurate reporting. There is also a chat function so on-hand experts can remotely answer questions as visitors look around the materials, similar to what would take place during an in-person event.

"We already use a number of digital tools during our community engagement sessions such as visualisations, sound demonstrations and interactive apps, so it makes complete sense to bring them together on a digital platform," said Andy Thomas, AECOM's head of visualisation and VR in EMEA. "The use of digital engagement tools enables stakeholders and communities to understand proposals, allowing them to provide an informed

response and participate in the consultation process. This tool will allow that process to reach a wider audience, allowing more widespread buy-in for major infrastructure projects," he said.

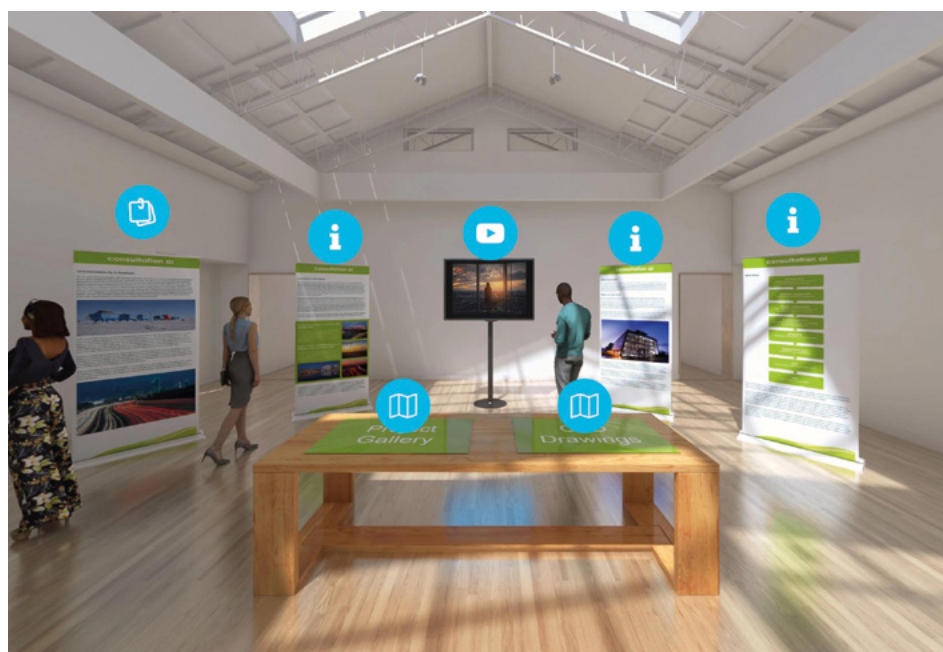
AECOM clients, East Lothian Council, Oxfordshire County Council, Public Health England and the U.S. Army Corps of Engineers, Savannah District, have already signed up to use the new tool.

"Using this web-based tool, clients can engage with a wider audience and communicate the impact and benefits of proposed schemes to communities without people leaving their own homes," said James Sachon, AECOM's technical director of the stakeholder engagement team. "This remote approach to stakeholder engagement during the coronavirus pandemic provides our clients and partners with a resilient solution to any consultation process," Sachon said.

Given the near impossibility of face-to-face public engagement during the coronavirus crisis, AECOM's new tool is likely to be in great demand across the industry.

*"This tool will allow that process to reach a wider audience, allowing more widespread buy-in for major infrastructure projects."*

Andy Thomas, AECOM's head of visualisation and VR in EMEA.



Using AECOM's web-based tool, clients can engage with a much wider audience.



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# Contracts and the

Disruption to the delivery of construction services caused by Covid-19 is likely to escalate and that means potential contract problems ahead. *Rosemary Beales* reports on what the disruption means for legal agreements.



**Rosemary Beales**  
is contract advisor  
at the Association  
for Consultancy and  
Engineering.

**T**he disruption to the delivery of construction services caused by Covid-19 is likely to escalate at an increasing rate during the coming weeks. Office-based workers are now working from home and those who are on site are able to work whilst social distancing, but some firms have taken the decision to close sites.

It is therefore important to give some thought to the impact that restrictions on the delivery of services might have. These could range from minor to more fundamental disruption to the suspension of part or the whole of the services. In all such cases it is imperative to consider the contractual implications in any given circumstance in what is an unprecedented situation.

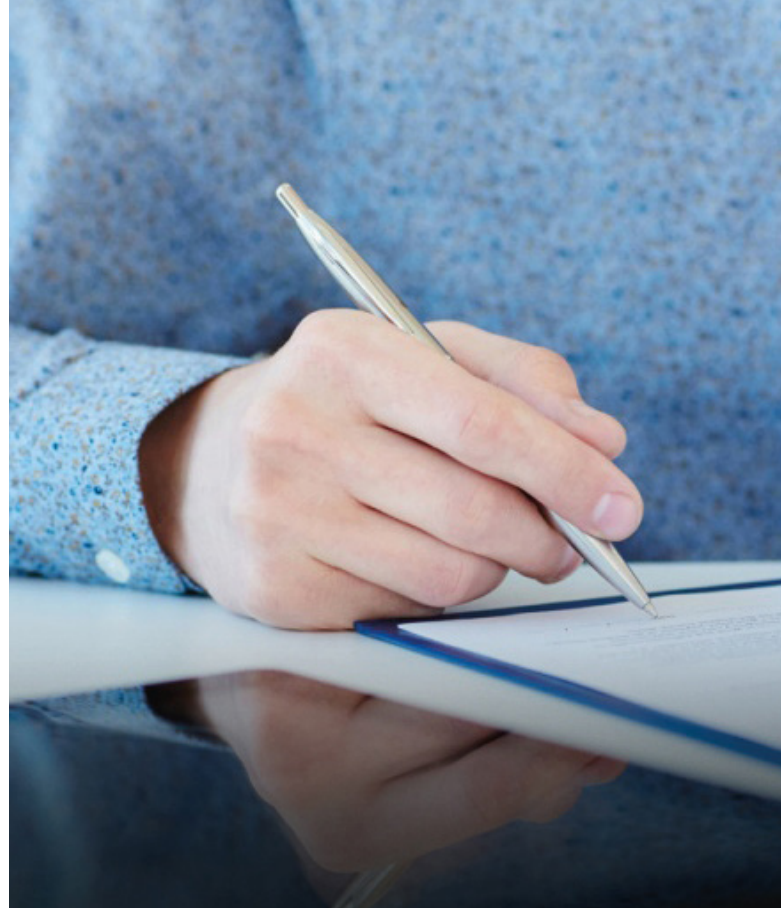
ACE is conscious that many forms of agreement exist, often bespoke, and that even where standard forms are used bespoke amendments are included which may alter or affect the operation of the agreement.

I want to focus on two standard forms, namely the *ACE Professional Services Agreement 2017* and the *Infrastructure Conditions of Contract (ICC) With Quantities Version*.

Naturally, it is vital that construction professionals make themselves aware of the terms and conditions of their specific agreements and contracts.



**ACE Professional  
Services Agreement  
(2017)**



## **ACE Professional Services Agreement (2017)**

This standard agreement has been increasingly used since its publication three years ago. It clearly sets out the rights and obligations of the client and the consultant (including joint obligations). It is important to be mindful of these but equally important, should the performance of the services appear likely to be affected by restrictions arising from government guidance on Covid-19, to discuss this with the client as early as possible.

Clause 4.1 of the PSA 2017 imposes an obligation on the parties to “collaborate in a spirit of mutual trust and mutual support in the interests or the timely, economic and successful completion of the Project”.

Clause 4.2 requires the parties to give notice as soon as they become aware of any matter which is likely to affect the provision of the services. This includes delay and additional costs “irrespective of whether the matter is contended to give rise to any relief under the agreement”. The parties then have seven days to discuss or meet to consider actions or measures to deal with the matter in order to avoid or mitigate any delay or extra cost. Any agreement should be put in writing and, when signed, is binding.



# coronavirus crisis



Given the current situation in relation to Covid-19 is so uncertain it may well be prudent to ensure that any agreement retains the potential to revisit actions going forward. Clause 4.2(iv) states that where no agreement is reached under clause 4.2(i) the client should issue such instructions as appropriate. It is important to consider what impact these may have on the consultant's rights and obligations under the agreement.

In relation to risk, clause 5 requires the consultant and the client to work together to analyse and manage any risks which may arise during the delivery of the services and the potential outcomes of these risks including any associated costs.

There is, additionally, under clause 13.3, the ability for the consultant to suspend the services upon the occurrence of any circumstances beyond the control of the consultant which prevents or significantly impedes the performance of the services. This can be up to 26 weeks although not less than four weeks' notice should be given for this.

The agreement provides for appropriate reimbursement in such circumstances. In the current situation government instructions, health and safety concerns or the closing of a construction site could all

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be events which could be considered as warranting suspension. So far as the four-week notice period is concerned, given the unusual circumstances, this may well be a matter of discussion with the client under clause 4.

## ICC with Quantities Version

This contract also, under clause 6, encourages collaboration and early warning in terms similar to clause 4 of the *Professional Services Agreement 2017*. It may well be that, in the circumstances, the key issue will be managing the situation both on and off site on an ongoing basis. Any agreed actions or measures should be put in writing and signed by the contractor and the engineer on behalf of the employer. If there is no agreement, the engineer should issue "appropriate instructions".

Under clause 5.7 the engineer may potentially order the suspension of part or all of the works if "necessary for the proper construction of the works".

Clause 14 of the contract deals with "Force Majeure" meaning in this context "any circumstance outside the control of either party... which renders it impossible or illegal for either party to fulfil his contractual obligations".

If performance of the contract is prevented for such a reason for a continuous period of not less than 42 days, either party may, by giving not less than 28 days' notice, terminate the contractor's employment under the contract.

The clause then sets out the contractor's entitlement on termination. It is arguable as to what constitutes "Force Majeure" but the current situation may, if it develops further, be considered as such. It is to be noted however that this is a very drastic step with potentially significant cost implications.

The above summary highlights some of the actions that might be considered in the context of the current situation. However, if this can be managed without resorting to 'fine print' recognising that the key is to deliver the services in a professional manner, it would result in the best outcome for all parties.



ICC with Quantities  
Version

# Focusing on the

ACE's engagement work is plotting a path to industry recovery, says *Julian Francis*.

It seems crazy to think that a few weeks ago we were welcoming government investment in the budget while looking forward to the infrastructure strategy. The coronavirus crisis has thrown our long-term plans for engagement up into the air and forced us to focus on the here and now on behalf of our members.



**Julian Francis**  
is director of external affairs at ACE.

Despite being in different parts of the country, we're in daily video contact with government officials at Department for Business, Energy and Industrial Strategy and weekly video contact with both Treasury and Number 10. Through the Construction Leadership Council, ACE chief executive Hannah Vickers has been playing a leading role in bringing our diverse industry together to form a co-ordinated response to the crisis.

The rapidly shifting situation has meant a focus on sharing details of the government's support package, and through formal and informal engagement with members we



# Supporting its mem

Access a range of advice, support and guidance on ACE's website

ACE has recently launched a dedicated Covid-19 support hub on its website. Bringing together all the related coronavirus content produced by ACE over the last few weeks, it ensures visitors have everything they might need at their fingertips.

Visitors can replay previous episodes of ACE's Navigating Covid-19 webinar series, sign-up to upcoming webinars, download the in-depth guidance on employment schemes, or browse the advice on the support available to business. They can also read blogs on issues such as ensuring the ongoing wellbeing of furloughed staff, making the most of working from home, or what coronavirus means for contracts. Presentation slides on webinar topics like SMEs, procurement, HR and communications are available for download.

It is also the only place to find out more about how ACE is engaging with the wider industry and government officials. Discover how ACE has been working through the Construction Leadership Council (CLC) and has been speaking directly with ministers themselves. Read

Visit  
[www.acenet.co.uk/COVID-19](http://www.acenet.co.uk/COVID-19) for all of our coronavirus resources, webinars and updates.



Download a copy today at  
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more on pledges made by the sector to support the wider supply chain, and the joint letter to the prime minister making the case for the industry.

Find details of upcoming online SME forums, which take place regularly through the pandemic, giving business leaders the space to meet with peers and discuss the issues being faced via video call.

## Understanding employment support schemes

ACE has produced detailed guidance on the marquee support schemes announced by chancellor Rishi Sunak. Covering both the Coronavirus Job Retention Scheme and the Coronavirus Self-employment Income Support Scheme, as well as including a lengthy FAQ and decision tree, this guidance will be invaluable to any business considering furloughing staff or making substantive changes to see through the weeks and months ahead.

The guidance has been regularly updated over the last few weeks as and when new information has been made available. With the scheme now open, it is vital that all businesses understand how to access this major element of government support.

Chair of the Construction Leadership Council Andy Mitchell said: "This resource will be invaluable to any company operating along the construction supply chain. These schemes are fundamental to protecting jobs and the future of the construction sector. Therefore we hope that this guidance will inform and encourage more to take up these unprecedented offers of support from the government."

Commenting on its release, Hannah Vickers, ACE chief executive, said: "We will all have to work together if we are to emerge unscathed from this crisis. Sharing this guidance is just one way we are helping the whole industry rise to the challenges we're currently facing."

# e here and now



are feeding back perceptions and experiences of both the emergency loans, grants and finance, as well as the employment schemes.

Looking at the medium to long-term we have been engaging with major clients like Network Rail and Highways England to encourage them to continue to commission work from our members. Furthermore, we worked with Number 10 to push for approval for the formal go-ahead for HS2 which was announced on 15 April bringing much needed certainty for many in our industry.

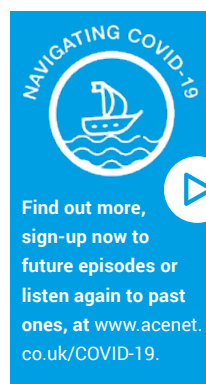
Our discussions with government and other stakeholders have naturally started to turn to recovery and, as highlighted by Hannah in her column overleaf, there is plenty for our industry to be thinking about. We are working alongside CECA to plot a construction industry recovery plan which will provide all of our members with a clear path out of lockdown. All that remains is for us to continue to keep our heads down as we weather the storm.

# members through crisis

## Navigating Covid-19

ACE has also launched a webinar series to help its members and the wider industry through the current crisis. Hosted by chief executive Hannah Vickers, Navigating Covid-19 brings together experts and leaders to discuss the major issues facing businesses and has already welcomed guests from AECOM, BEIS, CECA, Costain, FMB, HM Treasury and Tony Gee. All webinars feature questions from the audience and are available to replay online and in full now.

- **Emergency Response.** Hannah Vickers and Julian Francis of ACE discussed the immediate steps for businesses to take and options available to them. Summarising government announcements on business loans, grants and employment schemes, the webinar also covered how ACE has engaged on behalf of its members and the repercussions on our engagement work.
- **SMEs and Coronavirus Job Retention Scheme.** Brian Berry of the Federation of Master Builders and Joanne Watkins, partner at Beale & Co were on hand to cover how SMEs are dealing with the crisis and the marquee support scheme for businesses.
- **Procurement.** John Welch of Crown Commercial Service, part of the Cabinet Office, explored the recent procurement policy notices and what they mean for the construction sector. Alasdair Reisner of CECA joined to discuss how contractors are supporting the supply chain during the crisis.
- **People in a Pandemic.** Chris Young, executive managing director at Tony Gee shared how they dealt with remote working and moving 400 people to homeworking, while mental wellbeing coach Tahirih McLaren-Brown of Flourish explored how to reduce stress, increase happiness and grow resilience whilst working from home.



- **Communicating in a Crisis.** Special guest Andy Walker, editor of *Infrastructure Intelligence* and Harriett Hindmarsh of AECOM explored the steps needed for effective communication internally, and with clients and stakeholders externally. Sara Lipscombe of Costain was also on hand to help answer questions.

Season two has just been announced and features episodes on business loans and finance, R&D tax credits, productivity when working from home and economic recovery. They'll also feature guests from ACE Emerging Professionals, Arcadis, CECA the Construction Leadership Council, Tideway and WSP.



**Visit ACE's dedicated crisis hub now.** Register for upcoming webinars, replay previous episodes or download employment scheme guidance: [www.acenet.co.uk/COVID19](http://www.acenet.co.uk/COVID19)



# No return to business as usual for construction

A return to business as usual for the construction sector isn't a realistic proposition and the new normal is likely to look different from before, argues *Hannah Vickers*.

**I**'m sure that many will be feeling a guttural-instinct for "business as usual" to resume after the current crisis. While I can sympathise with the urge, we need to be wary of "returning to normal" and balance this thinking with an understanding of what the new normal might be.

The impact of Covid-19 felt in just a few weeks of lockdown can already be seen if you look closely enough and this should guide any proposals we put forward to the government for driving prosperity and a return to growth. Of course, we will also need to keep in mind overarching ambitions of the current administration in meeting net zero targets by 2050 while levelling up economic growth across the UK.



**Hannah Vickers**  
is chief executive  
of the Association  
for Consultancy and  
Engineering.

For example, housing will be one area which many will push as a panacea for both our industry and society. Following both world wars there was a renewed focus on building homes and a similar approach could work today. However, we need to ensure that the lessons of the lockdown are applied in terms of design. Society has experienced extended working from home and will now be demanding that all our houses are drenched in natural light, have access to outdoor spaces and that through energy efficiency they are affordable to run and comfortable.

To nurture the sense of community that has recently been reignited we'll need investment in social infrastructure, such as schools, nurseries, GP surgeries and libraries to create a true sense of community. Having become used to living without traffic over these last few weeks, we'll need to do everything possible to ensure that we don't return to congestion and air pollution, especially in our big cities. The answer, of course, is more integrated transport planning – investing in cycling networks, buses and rail as a system. And, with people now used to working remotely and businesses embracing digital transformation, we will need substantial investment in digital infrastructure too.

Helping to realise an overarching vision of a better society should also include looking at how we deliver our own services. Government will have a renewed interest in producing productivity gains, and as an industry we have yet to fully embrace the benefits of digital technology.

We will need to explore with government how we can better deliver for society, perhaps through platform approaches and offsite construction methods, perhaps through the better use of data in shaping policy and decision making, or through new business models, or a combination of them all. We must be prepared to do things differently and help make the case that this modernisation will deliver benefits in terms of the sustainability and productivity of industry – and deliver increased value to society and the tax-payer.

Our response to this crisis needs to propose solutions to some of the biggest short-term challenges we face, while meeting the needs of a society whose demands are changing, as well as creating a platform to improve how we work. Finally, and perhaps most importantly, this all needs to be wrapped up in an easy to digest and compelling vision which speaks to our elected leaders and the voters they are accountable to.



# Politicians must commit to a green recovery

A 'green recovery' from the Covid-19 crisis is possible but politicians and government will need to take positive action to make it happen, says *Matthew Farrow*.

**T**he environmental community has become adept at advancing its cause by attaching 'green' as a prefix to pretty much any word or phrase which might get more attention than environmentalism itself. This tactic has been used on historical initiatives like 'Green New Deal', topical issues seen as inevitable, e.g. Green Brexit, or economic sectors that need cleaning up, witness 'green tourism'.

The latest example of this phenomenon is the 'green recovery'. Ministers' absolute priority will soon be jumpstarting the economy. Environmentalists fear the government will approve and possibly subsidise any economic activity, however many tonnes of CO<sub>2</sub> it pumps into the atmosphere or acres of ancient woodland it trashes.

Is this fear justified? In 2008, in the hurry to get the economic

wheels turning again, the environment did take a hit. The CBI promised to 'focus like a laser beam on growth' and schemes like the Carbon Reduction Commitment and the Zero Carbon Homes commitment were quietly shelved. GHG emissions fell 1.4% in 2009 only to grow by 6% in 2010.

There are more encouraging signs this time. A delayed COP26 will still make it hard for the PM to be reneging on his green commitments. BEIS are also keen to ensure that recovery policies do not prejudice Net Zero but even so, agreeing that a 'green recovery' is a good thing doesn't help work out what it means in detail and how to do it. So here are some initial thoughts.

First, resources. One of the achievements of recent years has been to get the government to focus on more than one green topic at the same time, so Net Zero has been paralleled by ambitious Defra plans to mandate biodiversity net gain and then its big brother, full 'environmental net gain'. Quite right too, but we have to recognise that properly assessing environmental impacts of projects and devising innovative, thorough ways of ensuring a net benefit takes time and could delay planning approvals, which ministers will hate. The solution is to properly resource local authorities, so they have the ecological and carbon expertise to work with developers and consultants in a timely manner.

Second, attach green conditions to bailouts. Many of the hardest hit sectors are high carbon – aviation, oil and gas, so let's have some hard thinking about Net Zero-compatible business models and structures from them as the price for taxpayer support. Third, conserve environmental expertise. Many specialised environmental consultancies have been hard hit by the crisis, but we will need their skills in the years ahead. Defra and BEIS could support them by ensuring that contracts for work they let to such firms are disbursed speedily.

Fourth, we are seeing a political urge to build in medical/economic resilience to the recovery and a home-grown ventilator and PPE production sector is now seen as vital insurance against future pandemics. That means more planning of industrial capacity and structure. Fine, but let's integrate this with current thinking around coalescing our manufacturing base around carbon capture and storage industrial clusters.

A green recovery is possible but will take political will. Let's hope it's there.



**Matthew Farrow** is director of the Environmental Industries Commission, the leading trade body for environmental firms.



**I** To subscribe to the magazine visit [www.infrastructure-intelligence.com](http://www.infrastructure-intelligence.com)

# Going digital in a lockdown world

Can the infrastructure industry change the way it communicates with its customers as a result of the coronavirus pandemic? *Annabel John* investigates.

It was only a matter of weeks ago that the world of infrastructure was awaiting Rishi Sunak's first budget, which promised to deliver an infrastructure revolution that would level up the country and reward leave voters for putting their trust in Boris Johnson and his team.

That feels like a distant memory as we live through an unprecedented crisis, the likes of which hasn't been seen in living memory. While we will probably only begin to understand the potential health, economic and social impact once the immediate crisis has passed, the construction and infrastructure sectors have already experienced adverse effects.

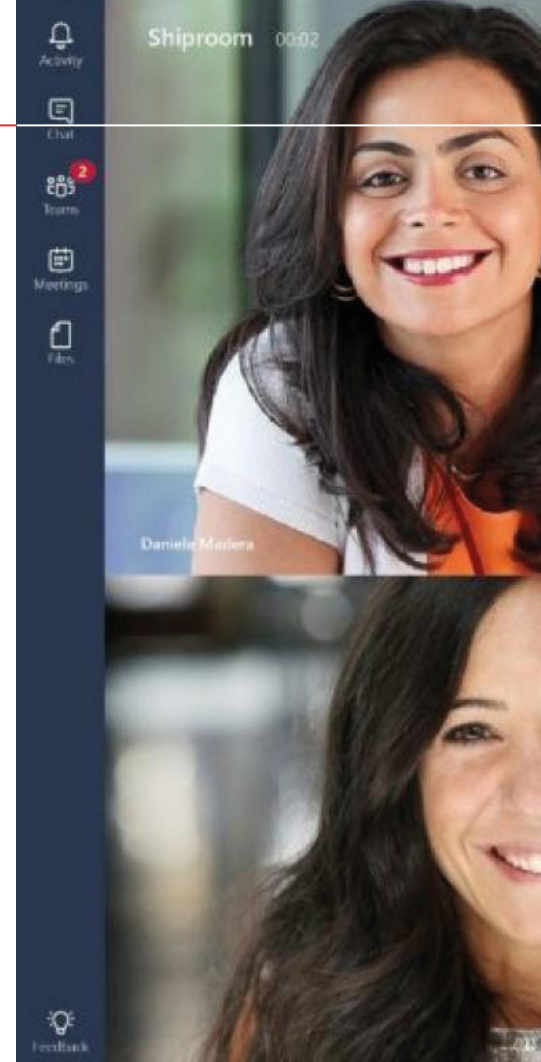
Several Development Consent Order decisions have been delayed and recent PMI figures have highlighted the largest downturn in construction in 11 years. However, infrastructure has always been regarded as an economic stimulus and, if society and the economy are to rebound as quickly as possible after this crisis, we will need to have kept projects in the planning and construction phases progressing as best we can.

But how can we do this when the traditional methods of communication, consultation and engagement, that place an emphasis on face to face engagement, are no longer possible?

Consultation events and briefings can still be undertaken through webinars and other online events, the public can still have their voices heard and the infrastructure sector can continue to make progress. These methods should not just be seen as alternatives for our current circumstances, but they can offer unique benefits that the traditional methods of communication cannot match.



**Annabel John** is a director at infrastructure communications specialists, Copper Consultancy.



Technology and innovation can enhance the way we communicate about major infrastructure, development and construction projects, and bring schemes to life in new ways for brand new audiences, including young people and people from more diverse backgrounds.

It's a standard complaint by almost anyone in the infrastructure industry that consultations about projects only attract negative voices from a limited demographic of people. That's not exactly surprising. In the past, project teams did little to go out and actively engage people. Rather, events were organised at a time and place that's convenient to the project and overly-complex information has been made available to people in an inaccessible format. As a result, the people attracted to participate are the ones with the most to lose, who generally wish to vocally object.

But it doesn't have to be like this. The current global situation is bringing that into





sharp focus. To get a different outcome, and a more balanced response from the public, active engagement has to take place, which reaches out to individuals or groups within the community directly. It's not sufficient to say: "organise an exhibition and they will come," because most people in a local area will not.

Digital communication makes engagement more accessible, efficient and targeted.

The public are no longer required to take time out of their day to attend events to have their voices heard, instead they can engage with projects from their own homes, meaning we're taking the world of infrastructure to people, not hoping they will come to us. A digital first approach also enables project teams to focus this effort where it is needed most, for example by using time that might normally

be spent attending public exhibitions to visit specific hard to reach groups to ensure their views are genuinely incorporated. Likewise, for construction projects. In

these times of uncertainty, the need for clear and regular communications is as important as ever, especially if projects are continuing to operate.

The construction sector remains a vital industry, ensuring that the UK can maintain all its critical functions. But it is vital that work is carried out as safely as possible and that local communities are kept informed. If work continues, communicating with stakeholders and the public to ensure that they feel safe when everything else around them is stopping and that they understand the underlying need for this essential work, is paramount. This can be through email newsletters, social media activity, WhatsApp notifications and regular blog updates as well as regular mail-outs.

While our current circumstances have presented a number of challenges and obstacles to how the infrastructure and construction industry communicates, it has also provided the industry with an opportunity to expand its methods of communication for the better.

Not only can the accelerated adoption of digital communications provide vital means for communication in the short term, but these methods can be adopted in the long term to establish a more holistic way of communicating to ensure that there is a meaningful dialogue with all stakeholders.

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