

Insights

NEW RESIDENTIAL PLANNING APPLICATION REQUIREMENTS FOR FIRE SAFETY

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SUMMARY

A new requirement for Fire Statements to be submitted with certain planning applications for high rise residential buildings and for the HSE to be consulted on such applications is intended to take effect from 1 August 2021.

The Building Safety Bill (“the Bill”) that was published last year and introduced to parliament in this week’s Queen’s speech will make substantial reforms to the UK’s building and fire safety regime.

Amongst other aspects, it will create a new ‘Gateway’ regime to ensure that fire safety risks are considered at each stage of a building’s design and construction.

The first ‘Gateway’ applies at the planning stage and will affect certain planning applications by imposing new mandatory requirements to ensure that fire safety is considered early on in the development process.

Although the new building safety regime in the Bill is not expected to come into force until 2023, the first planning Gateway will apply before this, intended **from 1 August 2021**, and is being introduced through amendments to the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) (“DMPO”), and an associated instrument.

The draft amendments to the DMPO and Government guidance on the new requirements were published this week to help applicants and local planning authorities prepare for the implementation of the new regime. The amendments to the DMPO will be subject to parliamentary scrutiny before coming into force.

New planning application requirements

Fire statements that include information on the entire development must be submitted with planning applications for the provision or redevelopment of, or development within the curtilage of

'relevant buildings'. These are buildings of two or more dwellings or educational accommodation that are 18m or more in height, or 7 or more storeys.

Fire Statements must be submitted on a standard form published by the Secretary of State which requires information that includes the applicant's approach to fire safety, site layout and access for emergency vehicles and water supplies for firefighting. The information required is intended to be focused and concise and proportionate to the type of development and is not intended to duplicate the requirements of the building regulations.

Certain applications will be exempt from this new requirement, for example certain change of use applications that result in the building no longer being a 'relevant building', outline planning applications and s73 applications.

The Government also intends to introduce a fire safety prior approval for residential accommodation that is delivered under the permitted development regime, but this legislation has not yet been published.

The Health and Safety Executive (HSE) will also become a statutory consultee on planning applications for 'relevant buildings' to provide specialist fire safety advice to planning authorities. As a statutory consultee, the HSE can make representations to the planning authority on the application, which the authority must then consider before reaching a decision.

Implications

Developers who are preparing to submit planning applications for 'relevant buildings' after 1 August 2021 must ensure a robust approach to fire safety can be demonstrated through the Fire Statement, particularly in terms of layout and access. A failure to comply with the new information requirements for Fire Statements will render applications invalid, and any subsequent grant of planning permission could be at risk of judicial challenge.

As the planning authority will be required to consult with the HSE before granting planning permission for 'relevant buildings', there will be an extra layer of scrutiny applied to such applications. It is therefore important developers engage with the HSE at the pre-application stage to identify potential fire safety issues early on to avoid delays after submission.

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