

Improving fire safety in development management in England¹

Grenfell has made it clear to everyone involved in the built environment that improving fire safety must be a priority. This paper discusses best practice in development management for minimising fire risk, and considers where changes to policy and/or practice might be desirable. This is being published alongside our briefing on responsibilities for fire safety during the application process.²

Some of these issues and strategies are largely outside of the specific remit of planning and the RTPI. However, the RTPI's membership and networks are closely linked to and concerned about these issues so we think it is right to raise them. We invite thoughts from members on this discussion – contact@rtpi.org.uk.

The relationship between planning and building control

To maximise the value of both planning and building control it is important to both clarify the distinction between their remits and think about how they can operate most effectively together. While most experts and stakeholders support them being kept separate, there remain many similarities between them which emphasise the desirability of strong partnerships.

Planning and building control are both essential for development. They have the same client base. They both have complex codes. Both experience significant pressure to reform those codes, especially in the face of drives towards deregulation. In local authorities, planning and local authority building control teams have often shared management and/or offices, which provides opportunities for ad hoc communications.

Even where these close links exist, there are also ways the relationship could be improved. Several guidance documents and policy papers have emphasised the need to clarify the respective responsibilities of each and to improve the connection between them.³ This might mean:

- Involving building control (and possibly also the fire service) early on in the development application process, especially for large or high risk projects. This must include approved inspectors where they are dealing with Building Regulation issues on a development. Having everyone involved at pre-application stage could help avoid surprises and conflicts down the line.
- Joint training and seminars
- Identifying areas where overlap is likely, to ensure that there is close communication around these areas and also potentially providing guidance to clarify which regime is responsible for what.

In a time of severe resource constraints, it is however important to note much of the above will likely have resource implications that may be difficult for local authorities to meet. Additionally, local authority building control may not be involved where the developer has chosen to use an approved inspector.

Analysis of other issues in fire safety during development management

¹ This document was published in October 2017.

² RTPI (2017), 'Responsibility for fire safety during the development application process in England,' available at www.bit.ly/RTPI-fire-safety-England

³ See in particular, National Planning Forum (2010), 'Improving the Connection', available at <http://bit.ly/NPF-ITC>, and, CLG (2009), 'Future of Building Control Implementation Plan', available at <http://bit.ly/CLG-Future-BC>

This section introduces some of the key issues that have come up around management of fire safety in the application process.

Resourcing in local authority planning and building control, and the fire service

Government austerity has fallen particularly hard on local authorities, and even in the context of other local authority departments, development management has been hit hard. RTPI's 2015 research, *Investing in Delivery*, looked at resourcing in the North-West of England and found a third fewer planning staff overall since 2010.⁴ Cuts like these have made it hard for local authorities, and have also led to the loss of key staff and expertise.

This is only exacerbated by the pressure Government is putting on local authorities to deliver housing numbers. Any further demands put on local authorities must be understood in this context. For example if the involvement of building control and the fire service in pre-application discussions is considered essential, the developer might need to fund it.

The ability of fire services to respond to consultation on applications is also challenged by their limited ability to resource this work.

Issues with current operation of building control:

Several recurring issues come up in discussions about how building control deals with fire safety:

- Regulations around fire safety are in dire need of updating. The 2013 Lakanal Inquiry recommended that Approved Document B of the Building Regulations should be updated, but successive housing ministers have not actioned this.
- Some of those in local authorities feel the part-privatisation of building control (the use of approved inspectors) has led to perverse incentives that influence the quality of decision making and monitoring. For example there is an incentive for both local authority building control and approved inspectors to recommend a smaller amount of inspections to be price competitive.
- Approved inspectors are also less likely to be involved at pre-application stage since they are not part of local authorities. This could mean poorer communication with planning.
- The remit of building control is wide and individual areas may lack particular skills. This is a particular problem for local authority building control since they are not allowed to turn down applications due to lack of expertise. However as discussed below it can be solved to some degree by joint working between authorities.
- The 8 week limit for local authority building control decisions puts further pressure on them to make quick decisions.
- Regulation 38 of the Building Regulations specifies that information on fire safety features should be handed to the 'responsible person' at completion. This would normally be the building owner or manager. However, there are concerns that this regulation is not being adhered to. There is no regulatory requirement or provision for building control to validate this information transfer.

Focus on cutting red tape and costs

For years the vast majority of policy focus on building control has been directed towards deregulation. This has led to concerns that safety and quality have suffered.

What might improve management of fire safety during development management?

A number of potential strategies for addressing fire safety emerge from these issues. This section outlines some of them along with our thoughts on their value and feasibility

⁴ RTPI (2015), 'Investing in Delivery,' available at <http://www.rtpi.org.uk/investingindelivery>

Changes to the process or order of permissions

In *Improving the Connection*⁵, the National Planning Forum recommended creating a more stepped approach for each consenting regime. This might involve general building regulation advice being issued at the same time as outline planning permission. The expected benefit of this would be better and earlier integration, and increased awareness of the potential impact of design changes. More specific processes could be introduced in this, for example requiring a fire safety plan as part of this early stage permission.

One major weakness of such changes would be that plans are likely to change significantly after outline permission. This might limit the effectiveness of early involvement of building control, making the worth of investing resources at this stage questionable.

More revenue generating powers for local authority planning and building control

Resource constraints may be the single biggest barrier preventing local authority planning and building control from further collaboration and improvements. Any additional responsibilities for local planning authorities or building control must come with increased public funding or revenue raising powers. The Government's recent announcement that Local Planning Authorities can raise fees 20% is a good step in this direction.

Develop data on skills capacity and promote skill sharing

Whilst local authorities already share skills to some degree, given the wide range of expertise needed to properly consider applications it would help if local authorities had a clearer idea of the skills they could access. For example, the skills of approved inspectors are audited in a register organised BPSAG. If local authorities had an equivalent register they might be able to better identify gaps, and possibly bring in support from neighbouring authorities where needed.

Reconsider focus on deregulation and promote quality

Policy needs to move away from simplistic approaches to deregulation, for example the "one in, three out" approach to introducing new regulations. In public commissioning, quality could play a bigger role in decision making.

Introduce clearer lines of responsibility

A common concern in industry discussions post-Grenfell has been the lack of clear lines of responsibility. It is all very well talking about the progress of an application through planning and building control, but in reality much of the risk occurs in advanced stages of the development or even after completion. In their early submission to the public inquiry on Grenfell, the Fire Sector Federation described the system in the following way:

The system is inherently fragmented, meaning decisions about design strategies, products, techniques, certification, competency, and auditing, amongst others, are made in a disjointed and often ineffective and inconsistent manner, with less regard to fire safety than should be the case.

Post-Grenfell reforms should include methods of ensuring this fragmentation of responsibility is addressed.

RTPI also produced a briefing aimed at providing clarity on responsibility for fire safety during the development application process in England. Read it here: www.bit.ly/RTPI-fire-safety-England

⁵ National Planning Forum (2010), 'Improving the Connection'. Available at: <http://bit.ly/NPF-ITC>