



Making a statement

The fire legislation landscape is ever changing with global events continuing to drive developments to ensure the safety of the built environment and its residents. Whilst this article focuses on a specific area of English fire legislation, it will no doubt impact globally as we all continue to share best practice and learn from one another. Here Aman Sharma GFireE CFPA-E Dip, who is the Managing Director of Totus Digital, Deputy Chair of the Building Regulations Advisory Committee and Chair of BSI committee FSB/1/1/-/1, shares the latest developments in English planning legislation.

Planning Gateway One (PGO) is on the horizon in 2021 and through changes to existing legislation will make a provision for the creation and submission of a new fire safety information deliverable at planning stage – the Fire Statement.

Introduction

This year marks the fourth anniversary of the UK's biggest residential life loss event since the Second World War. As we remember the seventy-two lives lost on that horrific night, we continue to advance fundamental change to building safety and regulatory processes, so to

prevent incidents of this scale from ever occurring again.

Following the Grenfell Tower tragedy, the Government commissioned the *Independent Review of Building Regulations and Fire Safety*, with Dame Judith Hackitt publishing her final report 'Building a safer future: proposals for reform of the building safety regulatory system' in May 2018. It contained fifty-three recommendations designed to overhaul the system for ensuring fire and structural safety in high-rise residential buildings.

This year, changes to English planning legislation will see the operationalisation of some of those recommendations,

which will mean, for the first time, that fire safety is considered at planning application stage for certain development types.

Policy Background

Dame Judith's review highlighted several significant weaknesses in regulatory oversight and recommended the introduction of three 'Gateway Points' to strengthen the overall process. Dame Judith proposed that the three gateways occur at:

1. Planning permission stage – Gateway One
2. Pre-construction stage – Gateway Two
3. Pre-occupation stage – Gateway Three

The diagram below shows the anticipated gateway points and their perspective positions when contrasted against the RIBA plan of work (POW). This is for indicative purposes only with the focus being on the information deliverables associated with the new regime, and how the level of detail protracts through the design, build and operation phases of an asset's lifecycle. For 'in-scope' developments there will need to be a proportionate balance of fire safety information deliverables associated with both the POW, gateway regime, and requirements set by the client.

Building a Safer Future identified that under the existing regulatory system (where fire safety is first considered at the building control application stage) opportunities are missed to incorporate thinking on fire safety into development proposals where it relates to land use planning issues, for example where it impacts on building and site layouts, vehicle access and water supplies. When issues are highlighted for the first time at building control this can lead to unnecessary delays and additional cost to developers, especially when the planning consent needs to be re-visited to incorporate changes.

If thinking on fire safety is required to be incorporated into planning proposals, and is considered when local planning authorities (LPAs) are determining

planning applications, (informed by input from those with relevant fire safety expertise) more successful schemes could be achieved, which integrate, embed and design around fire safety from the outset. This is in contrast to attempting to fit requirements into an already consented scheme with set parameters at a later date.

Planning Gateway One will utilise the existing planning system in England to ensure that fire safety is considered and integrated into developments at the earliest opportunity of a building's lifecycle.

Fire safety information relating to land use planning issues will be contained within a Fire Statement, which will be required to be submitted to LPAs as part of applications for planning consent for all developments containing 'in-scope' buildings.

Planning Gateway One Scope

Scope at planning gateway one will reflect that of the new building safety regime set out under the Building Safety Bill. This currently stands at multi-occupied residential buildings which are 18m or more in height, or more than 6 storeys- whichever is reached first.

Planning applications which are considered 'in-scope' at planning gateway one are those for development which contains at least one in-scope building.

The Governments impact analysis of the Building Safety Bill published July 2020 indicates that when requirements are introduced around 600 planning applications a year are expected to 'go through' planning gateway one, with a small year on year increase going forwards.

Fire Statement Concept

A Fire Statement will be a standalone document, detailing key information on how fire safety has been incorporated into the proposed development, relating to land use planning issues.

Some may argue that this thinking already takes place, with fire engineers readily being instructed to assist with the design and perhaps even briefing stage of a development. And whilst it is reassuring that this pattern is starting to emerge within our industry, this certainly is not the norm. Left unchecked it will always be at the behest of the developer to initiate early engagement with a fire engineer and this in turn remains a barrier to widespread reform.

Planning gateway one will for the first time, make fire safety information a requirement to be submitted with all planning applications which contain an 'in-scope' building, and local planning authorities will for the first time be taking into account specialist advice on fire safety when determining planning applications.

With the robust connotations that come with regulatory requirements, submitting a Fire Statement at PGO will necessitate the need for the right people to be engaged at the right time. Behavioural change in this field ahead of legislation is encouraging, but the strong support afforded by regulation will mandate all relevant stakeholders to begin considering fire safety at the earliest opportunity.

When considering the role of the fire statement at planning gateway one; we see the beginnings of the iterative process of key fire safety information being developed, communicated and maintained throughout the building's lifecycle.

It is crucial to recognise the value which information and data has to the overall safety of a building. Information evolves continuously throughout the

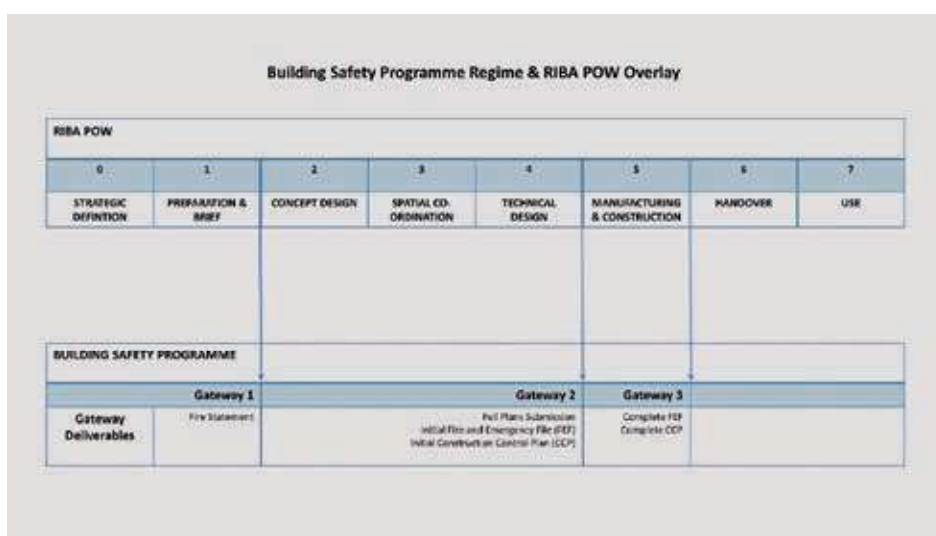


Diagram 1. RIBA POW overlaid against the proposed building safety gateway regime showing relevant fire safety information deliverables.

Image courtesy of Totus Digital LTD.



development process and with a focus on fire safety, there are few opportunities within the existing regulatory process to 'tell the story' of how these decisions were made and why. As all eyes remain on Paddington throughout the Grenfell Tower phase two inquiry, this is more important now than it ever has been.

Whatever the final form a digital golden thread of fire safety information takes, we can be assured that (for in-scope developments) the Fire Statement will serve to capture thinking on fire safety at planning application stage, and could then inform subsequent key information deliverables, such as the fire strategy and fire risk assessments.

At the BSI Global Built Environment Summit held in December 2020, insight was given by officials into the anticipated content of a Fire Statement and how this distinctly differs from the concept of a Fire Strategy. From this it is anticipated that the Fire Statement will contain evidence on how fire safety has been integrated into the planning proposals by detailing:

- Technical design standards utilised
- Site plans
- Emergency vehicle access and siting points for fire-fighting appliances

- Water supplies for firefighting purposes
- Competence of the author

The concept is simple. Encourage the developer to utilise the expertise of a suitably qualified, competent fire engineer to inform the initial concept design of the development.

This early engagement should produce overall cost saving measures to developers by preventing errors in design and or having to revisit the planning consent and proposals. This should be welcome news to an industry that traditionally operates within narrow margins constantly in pursuit of cost efficiencies – all too often to a fault.

The information provided within a Fire Statement should be specific and relevant to the development proposal in question. This may sound obvious, but consider that recent practices have seen applicants arbitrarily lifting excerpts of guidance (statutory and otherwise) as evidence that they have met requirements, and it becomes clear why this distinction has to be made.

The Fire Statement should be considered in a more holistic manner than a Fire Strategy would normally be.

The two are not the same. Particularly as industry is devoid of suitable national guidance on the concept and formulation of fire strategies (with PAS 911 anticipated to be revised into a full British Standard) it is expected that Government will be issuing planning guidance to accompany the inaugural regulatory requirements at planning gateway one.

It is vital that the distinction between these two documents are made. Where fire strategies will focus on the asset specifics and associated management procedures to safely and effectively maintain the building, the Fire Statement is expected to be broader and consider fire safety across the entire development. This should be done within a high level, strategic context evidencing thinking and consideration of fire safety where there are impacts on land use planning issues. Again, some practitioners are diligent enough to be incorporating this working principle into their fire strategies already, but there will soon be a pressing requirement for this to be a widespread practice.

There is of course a fine balance to be struck with the provision of information to LPAs. Too much information risks overload and a lack of specificity, possibly demonstrating that not enough time has

been considered in the formulation of the Fire Statement to apply relevance and context. Insufficient levels of information could imply that there has been oversight of fundamental fire safety design criteria.

Balance and proportion will be essential when formulating the Fire Statement. A concise, succinct statement of intent that is clear and understandable to the LPAs should be the objective. The opportunity for additional detail not captured within the Fire Statement will come through the formulation of the Fire Strategy, this document should pave the way for the level of detail to be sufficiently developed. It should be remembered that the Fire Statement will be a requirement of the planning system, so its contents should relate to and be focussed on land use planning issues and considerations, a key aspect that sets the Fire Statement apart from Fire Strategies.

Statutory Consultee

Planning Gateway One will establish a new statutory consultee who, for applications which contain at least one in-scope building and are submitted with a fire statement, will provide LPAs with a review of the proposals which they will take into account in determining the application.

This function will be provided by the Health and Safety Executive initially, but will be fulfilled by the new national Building Safety Regulator (BSR) once fully established through the Building Safety Bill.

The BSR will assume regulatory responsibility for the performance of all buildings as well as the management of fire and structural safety risks in new and existing buildings in scope. It is fundamental for industry to understand that this regulatory reform applies across the built environment with a nuanced focus on higher risk buildings with the development of the new regime. The BSR will be the regulator for all buildings whilst applying the new, more stringent gateway system to those that are 'in-scope'.

Conclusion

The subject of fire safety must now, more than ever, be at the forefront



of the minds of developers. Recent events implore that there is not only a moral responsibility to do so, but the introduction of planning gateway one will now introduce a legislative requirement too. Observers point to the perpetual 'race to the bottom' in many sectors of the built environment, propagated by legacy issues including minimal operating margins and role-based competencies. However, this is not justification for the culture enabled by these issues that we are now attempting to reform.

Practices are changing – of that there is no doubt. Perhaps industry is finally heeding the instruction from Dame Judith and others – to reform ahead of legislation. There is after all nothing to lose and everything to gain from industry practitioners adopting these processes today.

A new culture or modus operandi is desperately needed for our industry, one that puts resident safety front and centre of the decision-making process. A culture that sets a new standard for behavioural practice and refuses to shirk responsibility. A culture that encourages an industry that chooses to be accountable, and aims to be a global exemplar for building safety.

Accountability, openness and transparency. Values glaringly absent as events continue to unfold in Paddington. The new regime is

described as strict and tough. And so it should be. The livelihoods and safety of residents within high-rise residential buildings remains the absolute priority, and a disciplined regime will certainly enable greater levels of safety and begin to re-establish trust in a broken system.

Dame Judith rightly suggests that industry begin to consider buildings as a holistic system. Information, data and protocols will form the axis for delivering on this concept. To do this we need to ensure that relevant and accurate building safety information is communicated throughout the lifecycle of the building, including if and when fire and rescue service intervention is necessary. Information and data should be one of many tools utilised to enable greater levels of safety within a building, and not simply a by-product of historical actions taken or decisions made. For fire safety in the new regime the journey this information starts from, I hope is clear.

Be under no illusion that the impact felt from the overhaul of the broken system will be seismic. But, with step change practices, clear guidance and most importantly the collective will of all within industry, we can create and nurture a generation defining standard for building and fire safety.

And in 2021 we can start with Fire Statements.