

SOUTH THAMES GATEWAY BUILDING CONTROL JOINT COMMITTEE

13 June 2013

CHANGES TO THE BUILDING REGULATIONS

Report from: Tony Van Veghel, Director, South Thames Gateway Building Control Partnership

Summary

This report advises Members of the proposed changes to the Building Regulations announced by Government and to be introduced during 2013.

1. Budget and Policy Framework

- 1.1 Members are required to be advised of changes to legislation which may affect the Partnership and its operation.

2 Background

- 2.1 On the 31st January 2012 the Government released for public consultation, proposed changes to the Building Regulations, associated legislation and the Building Control system. On the 18th December 2012 a ministerial statement was published by The Right Honourable Don Foster MP indicating changes to the building regulation regime in England and following the consultation responses, set out decisions on deregulatory changes.
- 2.2 In the statement he stated that he was setting out changes that would be made to the building regulation regime to deliver an even better and more costs effective way of ensuring buildings remained safe and sustainable. He added the changes will deliver savings of around £50 million per year to business. In addition further legislation will also be laid before Parliament to amend the Energy Performance of Building Regulations and to repeal unnecessary fire provisions of Local Acts which overlap national provisions.

3 Directors' Comments

- 3.1 There are various amendments, to many of the Approved Documents and these are addressed by amendment slips covering technical requirements in Approved Documents; A, B1, B2, C, D, E, F, G, H, J and M. These came into force on the 6th April 2013 and are included in The Building Regulations etc (Amendment) Regulations 2012 at Appendix 1.

- 3.2 More significant changes have been made to two Approved Documents, K and P. Approved Document (AD) K has been revised and now covers Protection from Falling, Collision and Impact. It now incorporates the old Part N (Glazing) which has been withdrawn.
- 3.3 ADP (Electrical Safety) has been amended by removing the requirements to notify smaller scale, lower risk electrical work to a building control body. The requirements for notification will focus on higher risk work such as the installation of new circuits, or work within the vicinity of special location such as showers or baths. It is still important that non-notifiable work should still comply with safety provisions required by electrical regulations and it is felt this can be achieved through third party certification through qualified electrician who may or may not be part of the competent person scheme but are capable of ensuring compliance through the electrical regulations via a BS7671 certificate.
- 3.4 In addition, to the technical changes to the regulations there are some changes to the building control system which are aimed at improving the local authority building control process, improving private sector Approved Inspector arrangements and extending the competent person self-certification scheme.
- 3.5 Most significant to the Partnership is the removal of statutory notifications required at specific stages of building work. The only two statutory notifications are commencement and completion. Other than that regulation 16 now enables a Local Authority to set out at what stages it requires those undertaking the building work to notify them. The number and frequency of these inspections should be based on an intention to inspect and the assessed risk of non-compliance with the building regulations.
- 3.6 Each application now has in place a service plan which indicates to the owner or developer at what stages the Partnership needs to be informed and dependent on the number of visits required in conjunction with the Charges Legislation 2010 a resultant charge will be determined.
- 3.7 An amendment has also been made to the regulations removing the need to request a completion certificate from Local Authorities as it is now mandatory to provide a completion certificate where the Local Authority is satisfied that the work meets the building regulations. The Partnership has always provided completion certificates and therefore this requirement will not place any further burden on the administration of an application. In order to clarify the legal status of these certificates, the wording on completion certificates will be amended to reflect that completion certificates and their equivalents are evidence of compliance but not conclusive proof of compliance with the Building Regulations.
- 3.8 There are also minor changes to the Approved Inspector Regulations designed to make the process flow more smoothly. The Warranty Link Rule is being removed. This was introduced in 2005 when the new homes building control market was opened up to Approved Inspectors other than NHBC to alleviate concerns that did not have experience of supervising such work. The designated warranty had to be approved by the DCLG, but as the process has

now been established for a number of years it is felt this additional requirement over and above a 'standard' new home warranty can be removed. Other changes to be incorporated are the removal of the need for Approved Inspectors to send a copy of their approved certificate and insurance with each Initial Notice deposited. Combining the two classes of A1 (individual and corporate) and clarifying a number of definitions for ease of interpretation.

- 3.9 The changes to the regulation also extend the scope for existing competent person scheme operators. This will allow for more work to be self certified, reducing the need to notify a building control body or pay a building control charge.
- 3.10 Two other areas were also addressed at this time. The first relates to Energy Performance Certificates and the details necessary to be displayed on property advertisements and various public buildings. The second related to the repeal of a number of unnecessary fire provisions in 23 Local Acts. No evidence was found to justify maintaining requirements which go beyond the necessary protection already offered nationally through the Building Regulations. The previous implementation of these acts was carried out by Local Authorities in liaison with the local Fire Authority. This meant that even though an Initial Notice had been served by an Approved Inspector they still had to consult with the Local Authority on these Local Acts.
- 3.11 Two areas within the consultation which will not be taken forward are consequential improvements and increasing enforcement powers. The consultation sought views on whether to require consequential improvements to the energy efficiency of a dwelling when other defined building work was undertaken such as extensions, loft conversions, replacement boilers or windows. The proposals were coined in the press as a 'conservatory tax' (although most conservatories would not have been affected).
- 3.12 There were fears within the construction industry, from suppliers to service delivery that households would be put off going ahead with building work if this proposal was taken forward. There were also concerns that if this became law there will be concerns about non-compliance, with homeowners facing prosecution and £5,000 fines leading to widespread problems with enforcement.
- 3.13 Having considered all the representations and evidence, including public reaction the government decided not to go ahead with the regulatory proposal at this time.
- 3.14 Similarly it was felt after considering the responses to the consultation that there were sufficient sanctions in place at this time to enforce the regulations. Given the governments deregulation policy and local authorities reduction in resources, there would be a status quo in respect of the enforcement powers available in Local Authorities in respect of Building Control legislation.

4 Financial Implications

- 4.1 Under the 2010 Charges Legislation the resultant charge per application is determined by the expected officer time spent on that application. The Partnership's charges have been determined via a comprehensive inspection service for two years and its charges are unlikely to change as a result of the legislation alterations to the notification process.

5 Legal Implications

- 5.1 The Partnership will implement the changes in line with the dates shown in schedule 1 to the document attached at Appendix 1.

6 Risk Management

- 6.1 There are no additional risks as a result of these changes in legislation.

7 Recommendations

- 7.1 Members are asked to note the content of the report.

8 Suggested Reasons for Decision

- 8.1 Members need to be aware of changes to the Building Control System and Building Regulations which affect the Partnership's operation.

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Background papers

None

Appendix 1 - The Building Regulations etc (Amendment) Regulation 2012