



Ministry of Housing,
Communities &
Local Government

10 August 2020

To:

The Chief Executive:

Unitary, Metropolitan, District and London Borough Councils in England
County and County Borough Councils in Wales

The Town Clerk, City of London

The Clerk, Council of the Isles of Scilly

The Sub-Treasurer, Inner Temple

The Under Treasurer, Middle Temple

The Head of Building Control:

Unitary, Metropolitan, District and London Borough Councils in England
County and County Borough Councils in Wales

City of London

Council of the Isles of Scilly

Approved Inspectors

cc: The Chief Executive:

County Councils in England

National Park Authorities in England & Wales

Chair: National Fire Chiefs Council

Dear Sir or Madam

The application of building regulations where additional storeys are provided to existing buildings

1. I am writing to you further to new permitted development rights which are intended to encourage the provision of new homes through the construction of additional storeys on existing buildings including detached blocks of flats, certain commercial buildings and dwellinghouses. Details of the rights are set out in the Town and Country Planning (General Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations 2020 (S.I. 2020/632) and the Town and Country Planning (General Permitted Development) (England) (Amendment) (No 2) Order 2020 (S.I. 2020/755).

2. The government hopes that these new permitted development rights will help to increase housing supply in England and increase densities by making effective use of existing buildings. Ministers wish to ensure that any development of additional storeys to create new homes on existing buildings, whether granted permission through a permitted development right or on a planning application, is carried out in accordance with the relevant building regulations requirements. I am writing therefore to remind building control bodies of some key provisions and guidance.
3. The guidance in this Circular Letter applies to buildings and building work in England.

Building Regulations 2010 – as amended

4. Each case must be considered on its own merits, but it is likely that where additional storeys are added to an existing building, some work on the original part of the building will be necessary. This may not always be set out in the approved documents and building control bodies should consider carefully the application of the building regulations to these projects.
5. The regulations pose a series of questions that must be considered, the first being whether the work is deemed to be controlled and notifiable. We cannot envisage a situation where the addition of new storeys to a building would not be notifiable building work, so the following questions then arise;

- Regulation 4(1) - Does the work itself comply with the applicable requirements?

Each requirement should be considered in turn and all of them must be met. In many cases, the existing building will need to be modified to allow the additional storeys to comply. For example, where escape routes from the new accommodation pass through the existing building, the full extent of the escape route should be addressed to ensure it satisfies B1.

- Regulation 4(3) - Does the work result in the building, as a whole, being no less compliant?

Each requirement should be considered and where necessary the existing building should be modified. For instance, the increased height of the building may result in a need to address requirement A3 & B3 for the entire building.

- Regulations 5 & 6 - Are there requirements relating to material change of use?

The regulations provide that where a change of use takes place, work must be carried out so that the building complies with the applicable requirements listed in regulation 6 (this includes a change to the number of dwellings in a building). Attention is drawn to regulations 6(2)(a) and 6(3) which relate to external wall construction.

- Regulation 28 - Are there consequential requirements?

Where the existing building has a useful floor area over 1000m² consequential improvements to the energy performance may be required. This requirement applies to the entire building and will therefore capture many medium to large sized buildings.

Manual to the Building Regulations

6. Your attention is drawn to the department's publication, Manual to the Building Regulations which provides detailed advice on many of the matters set out in this circular. Paragraph A20 provides a useful summary of the provisions for material change of use.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/901517/Manual_to_building_regs_-_July_2020.pdf

Disproportionate Collapse

7. If an additional storey or storeys changes the consequence class of a building during the course of building work, it is likely to be less satisfactory in relation to A3 after the work, because the change in Consequence Class brings with it a requirement for a higher level of robustness measures for the building. The Building Control Alliance has published helpful advice on this issue in BCA Technical Guidance Note 21 "REQUIREMENT A3 – DISPROPORTIONATE COLLAPSE".

<http://buildingcontrolalliance.org/wp-content/uploads/2017/11/BCA-GN-21-Disproportionate-Collapse-0-Dec-2014.pdf>

Sprinkler Protection

8. A previous circular letter of 26 May 2020 addresses the provision of sprinklers in extensions which is equally relevant to upward extensions.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/887227/Approved_Document_B_May_2020_amendment_-_Circular_letter_2020.pdf

External wall construction

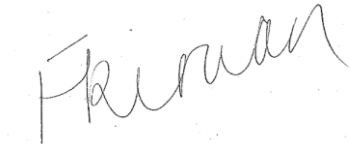
9. Answers to a number of frequently asked questions related to the application of regulation 7(2) questions on this which can be found here.

<https://www.gov.uk/government/publications/building-amendment-regulations-2018-frequently-asked-questions/building-amendment-regulations-2018-frequently-asked-questions>

Enquiries

Telephone enquiries on this Circular Letter should be addressed to Technical Policy Division on 0303 444 0000 and all e-mail enquiries to enquiries.br@communities.gov.uk.

Yours faithfully

A handwritten signature in black ink, appearing to read 'F Kirwan', written in a cursive style.**F Kirwan**

Deputy Director
Technical Policy Division
Building Safety Portfolio