

Planning Department
The Greater London Authority
City Hall,
Kamal Chunchie Way
London
E16 1ZE

By email only: FireSafetyLPG@london.gov.uk

20 June 2022

Dear Sir/Madam,

Re: Fire Safety London Plan Guidance Consultation

I am writing on behalf of the London Property Alliance. The Alliance provides a unified voice for the leading owners, developers, investors and professional advisors of real estate across the City, the West End and their neighbouring commercial districts. A copy of our membership list is at these links ([CPA](#) / [WPA](#)).

The Alliance welcomes the opportunity to comment on the GLA's draft Fire Safety London Plan Guidance ('Fire Safety LPG') (February 2022), which once adopted would provide guidance to the application of London Plan Policies D12 (Fire safety) and D5(B5) (Inclusive design).

The Alliance considers the improvement of fire safety standards across the country to be of critical importance in the development industry. We fully support the Government's and the GLA's aspirations to better our existing systems, which includes early consideration of fire safety matters in the design process.

Notwithstanding this, we have **significant concerns** about the draft Fire Safety LPG. These relate to the details of its implementation, rather than the principle. We are concerned that as structured it would add a disproportionate burden to London's planning system that it is ill-equipped to meet. As drafted, the guidance would require the submission of information related to fire for all planning applications in London, which would amount to thousands of applications. This would include for example minor alterations to shopfronts, small changes to listed buildings etc., which would introduce a regulatory cost entirely disproportionate to what London Plan Policy D12 suggests.

Whilst we agree that fire safety should be an element which is considered in the design process from the outset, the planning system is neither designed nor capable of dealing with the level and amount of information which the Fire Safety LPG suggests.

Abridged summary

1. We have significant concerns about the scope of the draft Fire Safety LPG and the impacts that this would have on the day-to-day processing of planning applications and the knock-on effect on the delivery of development and Good Growth within the capital.
2. It is important that development deliver safe places for people to live, work and enjoy. However, it is also important that these places are delivered, and in a timely manner. We are experiencing a housing crisis and a need to update our building stock to respond to climate change. The additional burden of providing detailed fire safety information must be considered and only required where it is appropriate and where it would effectively benefit fire safety.

3. Therefore, the scope of information required and where this information is needed must be proportionate and appropriate. Suitable consideration must be given to the role of the local

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planning authority in determining the planning balance judgment, as well as the design and development process for how development is brought forward in reality. Failure to do so will result in delays and unreasonable burdens to the property industry which will affect the delivery of development and Good Growth within the capital.

4. We have suggested the following amendments:
 - a. No 1 – Remove the requirement for ‘Reasonable Exception Statements’
 - b. No 2 – Review the scope of applications which the requirement for a Planning Fire Safety Strategy would apply to, as well as the information required.
 - c. No 3 – Review the scope of the information required for Fire Statements to only consider matters that are relevant to land use planning.

We set out further detail below. Our representations are split out into two parts – the first deals with general commentary and our high-level concerns, and the second deals with specific suggested amendments in connection with the application requirements proposed in the Fire Safety LPG.

Part 1: General Observations

Scope of Policy and Fire Safety LPG

The LPG goes beyond the scope and intention of London Plan Policy D12 and the national requirements as set out within Planning Gateway One. Planning Gateway One requires fire information only for ‘relevant development’ i.e. buildings containing 2+ residential units or educational accommodation and meet the height condition of 18m+ in height or 7+ storeys¹.

Policy D12(B) of the London Plan requires a Fire Statement for all major development; with part (A) stating that all development proposals must achieve the highest standards of fire safety. Policy D5 sets out fire related requirements for developments where lifts are installed.

The Fire Safety LPG at pages 5 and 6 and in Appendix 1 sets out how this policy context has been translated into application requirements. Appendix 1 (Table A1.1) within the Fire Safety LPG suggests that fire information would have to be submitted with almost **all** planning and listed building consent applications, including:

1. Major and minor planning applications (outline and detailed);
2. Householder applications;
3. Applications for listed building consent;
4. Amendment applications including s96a and s73; and
5. Discharge of condition applications.

This goes well beyond the scope of Planning Gateway One. In the Alliance’s view, it also goes beyond the scope envisaged in Policy D12. There will be many applications for works, or for changes of use, approval of details or other matters, that do not relate in any way to the matters set out in Policy D12(A).

We set out below how we consider this would constrain and slow down the planning system which in turn would have significant impacts on the delivery of important development and infrastructure.

Capacity within local planning authorities and the wider property industry

Local Planning Authorities

To give an idea of scale, in 2021 there were almost 57,000 ‘non-major’ and just over 1,000 ‘major’ planning decisions made by the 33 local planning authorities across London². 13% of these non-

¹ As set out in the National Planning Guidance Paragraph: 003 Reference ID: 71-003-20210624

² Table P153: District planning authorities’ performance - speed of non-major development decisions (England, January 2020 to December 2021), ONS and Local planning authority performance Table P151

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major applications, and 9% of the major applications were not determined within the statutory target period or agreed extensions of time. This does not capture amendment applications (s96a or s73), discharge of condition applications, listed building consent applications, prior approval applications or enforcement matters which local planning authorities also have to consider.

The City of Westminster alone generally receives approximately 10,000 applications of some description over a year.

We question whether there is capacity within the industry, both for local authorities and applicants, to provide at least 60,000 fire documents³ per year (and in reality likely significantly more given the proposed scope of the guidance). This would add a significant burden to the existing planning system.

The balance between ensuring early consideration of fire safety measures and the need to deliver growth has to be carefully considered, as acknowledged in the Hackitt Review⁴ (our emphasis):

“2.27 The planning system clearly needs to focus on swift throughput of all planning applications received. This is essential if the government wishes to meet the housing supply needs of a growing population. Nonetheless, there are some minimum requirements around fire safety that will need to be addressed when local planning authorities are determining planning applications and will require input from those with the relevant expertise. In particular, there is a need for upfront consideration of fire service access to HRRBs to ensure that, in the event of a fire, the building is sufficiently accessible.”

When reviewing Policy D11(A), as it was then known, the examining inspectors concluded that it would be justified on the basis that it would be focused “on aspects of development that need to be considered at planning stage, such as site access, layout and impact on fire appliance arrangements and evacuation, along with measures to reduce fire spread.”⁵

The balance set out within the Fire Safety LPG is not correct. The vast majority of the applications listed in Appendix 1 will not engage these issues. For example, a listed building consent application to replace cornicing, or a s73 application to amend hours of operation, will in no way engage with these issues.

The local Planning Officer and the planning balance judgement

The Fire Safety LPG acknowledges that “planning officers are not experts in fire safety” and sets out that the role of the planning officer in the process would simply be to “check that information has been provided against each relevant policy criteria”, as well as to “ensure information has been provided and considered as part of the application against the relevant London Plan fire safety policy and not review it for compliance against building regulations and standards” (our emphasis added).

If the role of the planning officer is simply to undertake a tick box exercise and leave the actual assessment to building regulation colleagues at a later date, the purpose of the provision of information at planning stage is unclear.

However, more worryingly, through suggesting that officers have to “consider” the fire information against policy, the Fire Safety LPG is suggesting that planning officers need to understand and assess the information, and then weigh this up against the development plan and other material planning considerations during the process of the planning balance. This links back to national

³ RES, PFSS or Fire Statement

⁴ Hackitt Review, ‘Building a Safer Future: An Implementation Plan’ (December 2018)

⁵ Examiners’ Report, London Plan, paragraph 317

planning guidance, which is clear that Fire Statements should be proportionate and only link to fire safety matters as they relate to land use matters. So, ensuring that developments have considered sufficient space for adequate cores, and enabled access for emergency vehicles is entirely appropriate. But ensuring at planning stage that developers have selected what fire equipment would be available at construction stage, and exactly what materials the building would be constructed in are not land use matters. The Fire Safety LPG is therefore seeking to extend the role of the planning officer in respect of weighing up the planning balance.

Planning officers are not fire experts and it is likely that most would be uncomfortable making this assessment. This is likely to result in local authorities outsourcing or recruiting experts to advise on detailed fire safety matters at the planning stage, which in turn will have an impact on the speed and quality of the planning system, as a result of detailed fire issues being considered at too early a design stage when the level of information suggested is not available.

Part 2: Suggested Amendments

1. Reasonable Exception Statement and small-scale development

The Fire Safety LPG acknowledges that for some applications parts or all of London Plan Policy D12A are not relevant, and for these applications a Reasonable Exception Statement ('RES') should be submitted. However, the onus is put on to the applicant to assess the fire implications of a development, specifically at paragraph 4.2.2: *"Where an applicant considers the proposed development will not alter the fire safety of the building, this should be clearly stated as part of the application with a short justification"* and paragraph 4.2.3: *"...the applicant should confirm that current fire safety measures are appropriate and will not be negatively affected by the development. Where existing fire safety measures will be altered, the applicant should identify any mitigation measures."*

Requiring the production of a RES in all these cases, which will be required to include commentary on matters unrelated to the application, such as the status of the existing fire alarm system, will require specialist input to complete and will be irrelevant to the planning issues at stake in the application.

The 'appropriateness' of existing fire measures will in many cases not be relevant to the works proposed.

This means either that:

1. Applicants would be required to employ a fire safety engineer prior to submission of an application, adding another administrative and financial burden to securing planning permission and/or listed building consent; or
2. Applicants will provide a RES without the technical knowledge and background needed to provide such a statement.

We set out below two examples where this might negatively affect Good Growth in the capital:

1. A landowner wishes to install solar panels on to a listed building to help reduce the energy demand of the building and so requires planning permission and listed building consent. A RES would be required and the landowner is advised that because of this there will be an additional cost and likely increased timescales for the planning/listed building consent application to be determined. On balance, the savings from the reduced energy demand do not outweigh the costs and burdens of submitting the application, and so the landowner does not progress with the works.

2. A small restaurant occupier is looking to use the pavement outside his restaurant for tables and chairs to encourage trade in the summer months and help recover the business following the Covid pandemic. He is advised by the Council that a change of use application is required as the pavement is highway land. The occupier thinks that the works would not affect the fire safety of the building but is unsure and does not know where/how to find the expertise to make this statement. The occupier submits the application without a RES but has to withdraw and ends up missing the window for securing outside trade to help his business.

Whilst these are two small-scale examples, we have included these to demonstrate some of the potential 'unintended consequences' which the Fire Safety LPG may generate. In our experience, there is unlikely to be sufficient capacity amongst fire engineers to provide such a statement in connection with, essentially, all planning applications, listed building consent applications and condition discharge applications across London.

We are already starting to see across London examples where local authorities are requesting very detailed fire safety information unrelated to the proposals for which permission is sought and which is slowing down the planning process. The GLA should be leading local authorities and setting out clear guidance as to what is proportionate and appropriate at the planning application stage, focused on those elements suggested by the Hackitt Review and the background to Policy D12.

Suggested Amendment No. 1

We therefore suggest that the requirement to provide a RES as set out in Table A1.1 of Appendix 1 of the Fire Safety LPG is removed.

Without prejudice to that, if retained, the RES should not require confirmation on the status of the existing fire safety measures. It should also allow for a free form explanation as to why D12 is not relevant to the planning matters being considered within the explanation.

2. Planning Fire Safety Strategy and non-major development

The Fire Safety LPG sets out at pages 5 and 6 that a Planning Fire Safety Strategy ('PFSS') would be required for non-major applications for development which includes: a new residential or commercial unit; a new lift; alterations to the materials on the external walls; or alterations to the internal or external communal areas that support the evacuation strategy for the property.

Amongst other considerations, the LPG suggests that applicants would need to provide details of:

1. Internal finishes, including walls, floors, fire doors and dampers, fire alarms and smoke detectors (para 4.4.5 and 4.4.6)
2. Fire safety performance of proposed construction methods and materials, potential fire spread risks and potential impact on the fire safety of neighbouring units, sites, buildings and occupants (para 4.4.7 and 4.4.8)
3. What fire safety equipment would be provided for the development during construction and permanently (para 4.4.12)

The scope of applications which this would affect, and the work required to both provide this information and have it considered by the local planning authority, is significant. The template form included at Appendix 3 appears to consider these applications as affecting whole buildings but in reality a number of these types of applications would be submitted for parts of buildings, where these may be in multiple ownership (e.g. an application for a change of use to provide a small office unit). It is likely therefore that in a number of cases, providing this information will either be unobtainable, or very time consuming and therefore would generate significant additional cost and delay, and prejudice the ability of development to

deliver Good Growth. Again, we are not convinced of the benefits and effectiveness of requiring a PFSS for all the applications as suggested in terms of improving fire safety across the capital.

Suggested Amendment No. 2

We therefore suggest that the requirement to provide a PFSS is reviewed and tightened to ensure that fire information is only being requested for proportionate applications which could affect the fire safety of existing buildings. The scope of the information required should also be reviewed.

3. Fire Statement and the scope of land use planning matters

For relevant development⁶, in particular taller buildings, we recognise that fire safety should be considered at the outset. Elements such as ensuring that cores have enough space for evacuation lifts, considering what materials could be used, and ensuring that emergency vehicles would be able to access the building are all sensible steps which we support.

Policy D12(B) of the London Plan states that Fire Statements will be required for all major applications. National planning guidance is clear in respect of the scope of Fire Statements, and we set out below relevant extracts from the guidance (we have added our emphasis):

“What is the purpose of a fire statement?”

Fire statements will support the consideration of information on fire safety matters as they relate to land use planning matters (e.g. site layout, water supplies for firefighting purposes and access for fire appliances). It is the intention that the information provided within a fire statement is focussed and concise, specific and relevant to the development, and proportionate to the scale, type and complexity of the proposal. A fire statement will evidence that thinking on fire safety matters, as they relate to planning, has been incorporated into the planning application.

Paragraph: 005 Reference ID: 71-005-20210624”

“How are fire statements different from the requirements of building regulations or the Fire Safety Order?”

The fire safety matters contained in a fire statement are relevant only to the extent they are relevant to land use planning. The level of detail and focus of information should not contain the breadth and depth of information on fire safety which will be submitted at building control application stage. Requirements of the fire statement at planning stage will not duplicate or require compliance with the building regulations or the Fire Safety Order, and local planning authorities will not be responsible for any building regulation matters or the enforcement of building control requirements.

Paragraph: 008 Reference ID: 71-008-20210624”

The Fire Safety LPG goes beyond the spirit and content of this scope. Amongst other considerations, the LPG suggests that applicants would need to provide details of:

1. Internal finishes, including walls, floors, fire doors and dampers, fire alarms and smoke detectors (para 4.4.5, 4.4.6 and 5.3.11)
2. What fire safety equipment would be provided for the development during construction and permanently (para 4.4.12 and 5.3.14)

⁶ As defined in the National Planning Guidance Paragraph: 003 Reference ID: 71-003-20210624

3. Detailed considerations of the proposed occupants and appropriate evacuation requirements (para 5.3.6)
4. Outline management plan for ongoing maintenance of fire provisions (para 5.3.16)

A lot of this information is not available at the planning stage as planning applications are generally submitted at either RIBA Stage 2 or during Stage 3. Depending on the scale of the application, developers will incur significant costs in developing robust and workable plans to submit for planning, but these are limited in their scope. Post planning there is a process where developers will often secure funding and work on the detailed design. This includes stages such as tendering of the construction contracts, and selection of final building materials and equipment (such as lifts and machinery).

These stages can often take years, and it is unreasonable and unnecessary to require such detailed information at planning application stage, when the principle of the development is for consideration rather than full details of its technical design. Whilst applicants would seek to provide all the required information, there would inevitably be gaps which would result in lengthy discussions between the developers and the local authorities. Ultimately, this would lead to a delay in securing planning permission which would delay the delivery of Good Growth, i.e. houses, jobs, places for people to live, work and enjoy.

Linking back to the national planning guidance, it is also clear that the intention of the Government is not for the planning system to consider all elements of fire safety – indeed, the planning system should only be considering matters as the are “*relevant to land use planning*” (National Planning Practice Guidance, para 008). We would argue that a number of the elements required in the Fire Safety LPG go well beyond this benchmark.

Suggested Amendment No. 3

We therefore suggest that the scope of the Fire Statement as set out within the Fire Safety LPG at section 5.3 is reviewed and scoped back to only consider matters that are relevant to land use planning

In summary, we believe that implementing such onerous requirements on all development will inevitably cause significant delays to the planning system which will in turn have an impact on the ability of development to deliver Good Growth across the capital, including the delivery of housing (including affordable housing), commercial and community uses and measures to retrofit energy saving measures to existing buildings and address the Climate Emergency.

We are aware that this is a complex matter and one which we would be pleased to discuss with you further, so please do not hesitate to contact either me or James Wickham from Gerald Eve.

Yours faithfully



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