

Independent Section's Common Parts and Demises

Building Standards Guidance Note 22

Introduction

Introduction

This guidance note outlines Sweco policy on what Building Regulation body should be used for Building Works in association with the common parts of an Independent Section.

There is no definition of common parts in the Building Regulations or Building Act. Building Safety Regulator (BSR) Guidance refers to the definition in Section 72(6)¹ of the Building Safety Act 2022 (See below). For this reason, Sweco believe that currently this definition is the appropriate one to be used, despite it strictly only applying to Section 72.

A question Sweco are often asked is, “If the building work proposed to a non HRB Independent Section could have a structural impact on the HRB who controls that work?” Sweco believe that structural work within a non HRB Independent Section comes under the control of RBCA/LABC and not the BSR (Gateway Process). This includes where the HRB is structurally dependent on the proposed structural alteration within the non HRB Independent Section. In these cases, the consideration of the design and compliance of the proposal would have to take into account the needs of the whole structure not just the structure within the Independent Section. This is also applicable if the proposal is Building Work to the external wall serving the non HRB Independent Section.

Also, Sweco’s view is that for the purposes of the Building Regulations, “demise” includes all elements within the demise, including structural columns that may be transferring load from the HRB above.

This policy is in part supported by the fact that new build single structures can ultimately be divided into Independent Sections. If it had been intended to not allow independence where a structural dependency existed, this would not be the case.

Guidance

A second question we have been asked to consider is “if fit out works within an independent section require alterations/additions to plant in a shared plant room, within an HRB, who controls the work and how many applications does it require?”

The building work in the Independent Section can not be controlled by the BSR and Duty Holders would need to seek the services of an RBCA/LABC. It is likely that in most cases the alterations/additions to the plant in the plantroom would not constitute work under Building Regulation 3 (2) & (3)². But if the plant alterations/additions required additional structural support, impacted on the means of escape from the plant room, and/or required work that would result in penetrations to fire resistant structure associated with the HRB then a separate application would need to be made to the BSR for this work.

It is critical to note this guidance helps to inform the process by which approval for Building Works would be gained. It does not change the design considerations needing to be made or outcome in terms of compliance.

In advising Duty Holders on this matter, it is important that they consider the works holistically and also are aware of any conditions on building work within a demise that are imposed by the Free Holder/Principal Accountable Person (PAP).

¹Section 72(6) of the Building Safety Act 2022

For the purposes of this section “common parts”, in relation to a building, means—

(a) the structure and exterior of the building, except so far as included in a demise of a single dwelling or of premises to be occupied for the purposes of a business, or

(b) any part of the building provided for the use, benefit and enjoyment of the residents of more than one residential unit (whether alone or with other persons);

² Building regulation 3

(2) An alteration is material for the purposes of these Regulations if the work, or any part of it, would at any stage result—

(a) In a building or controlled service or fitting not complying with a relevant requirement where previously it did; or

not complying with a relevant requirement where previously it did; or

(b) In a building or controlled service or fitting which before the work commenced did not comply with a relevant requirement, being more unsatisfactory in relation to such a requirement.

(3) In paragraph (2) “relevant requirement” means any of the following applicable requirements of Schedule 1, namely—

Part A (structure)

paragraph B1 (means of warning and escape)

paragraph B3 (internal fire spread—structure)

paragraph B4 (external fire spread)

paragraph B5 (access and facilities for the fire service)

Part M (access to and use of buildings)

Part T (Toilet Accommodation)

Guidance

Other guidance on Independent Sections can be found in:

[Independent Sections Building Regulations - Sweco UK](#)

[The control of works to a ceiling serving an Independent Section that is also part of the compartmentation to the HRB above – Sweco UK](#)

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Neil Badley

Head of Technical Standards

neil.badley@sweco.co.uk