

## Engineers Ireland

# Submission on draft 'Bringing back Homes Manual for the reuse of existing buildings'

For the attention of the Building Standards Section, Department of Housing, Planning and Local Government

8<sup>th</sup> August 2018

### Overview

Engineers Ireland welcomes the draft 'Bringing Back Homes Manual'. In this first draft we believe there is comprehensive guidance as to how existing buildings/homes can be brought back into productive use. Engineers Ireland offers a number of suggested revisions to the draft Manual. These revisions are designed to assist the Department in ensuring that the guidance offered in the Manual promotes compliance with the Planning Laws, Building Regulations, the Technical Guidance Documents and the Building Control Regulations, including the Building Control (Amendment) Regulations (BC(A)R).

Firstly, there is a need to distinguish between the Planning Process and the Building Control processes. In a number of locations in the Manual there is reference to two-week notice periods and the temptation may be there to assume that these periods run concurrently. It should be emphasised that the Planning Process is quite distinct and needs to be closed out before the Commencement Notice Process is initiated.

While planning permission is not a requirement for this type of development, there needs to be greater clarity on the sequence of correspondence to the planning authority, their review of such correspondence, the initiation of a Commencement Notice application process, the review of the documentation by the Building Control Authority and the issuing of a Valid Commencement Notice which allows building works to commence at a minimum of 14 days later.

Secondly, appropriate emphasis needs to be placed on the attainment of a Fire Safety Certificate. This initiative examines the conversion of older buildings where the attention to fire resistance may not have been as robust. If commercial type buildings are to be converted to multi-unit accommodation, the likelihood is that they will be occupied for larger parts of the day which means the fire safety issue is much more pertinent. (A commercial building may not be occupied at night.)

Thirdly, the conspicuous need to provide alternative housing should not promote a lesser system of building regulation compliance, so the roles of Building Owner, Design Certifier, Assigned Certifier and Builder must have their proper place within the regulatory, design and building phases. There should be a review of the text to ensure that “Notice” as in a formal document is distinguished from “notice” as in a period of time. The nomenclature used in the Code of Practice for Inspecting and Certifying Building and Works should be retained in this document so that there is a consistency between the suites of documents.

Fourthly, given that the rehabilitation of older buildings to provide accommodation brings us into the domain of Historical buildings, Special Areas of Conservation, Architectural Conservation Areas etc., and the consequent requirement to look at exemptions, consideration must be given to whether two weeks is sufficient time for a Planning Authority to review an application to convert an older building into a multi-unit accommodation facility.

Fifthly, given that there is currently housing crisis, consideration should be given to whether it is appropriate to retain a five year window to act on a successful planning notification. This will require a review of legislation and the advantages/disadvantages of reducing this period. For example, it has been argued that land that is suitable for housing development is not being released to the market because owners want to see its value rise. There may be a danger of a repeat sentiment with respect to allowing owners to wait five years before converting these types of buildings to multi-unit accommodation.

Finally, we would urge the Department to make sure that the crisis situation in the provision of housing in the current climate is not used as a mechanism to reduce the requirements for robust compliance with the Building Regulations, the Technical Guidance Documents and the Building Control Regulations, including the Building Control (Amendment) Regulations (BC(A)R). We acknowledge, as discussed in the workshop hosted by DHPLG on 2<sup>nd</sup> August, that some concessions to proving compliance with the Building Regulations may be required due to the physical limitations of older buildings, but such concessions should be managed as a unique challenge on individual projects and not a ‘carte blanche’ ruling on all such refurbishment projects.

Our comments and proposed revisions to the Manual are outlined in the enclosed template.

Name of Organisation / Respondent	Heading / Section No. / Appendix No. / Table No. or Diagram No.	Type of comment G = General E = Editorial T = Technical	Comment / Observation	Suggested revision
Engineers Ireland	Pg.5 (Non-Planning Requirement, 3 <sup>rd</sup> sentence): “The carrying out of certain works <u>may</u> also require compliance with the Building Regulations, Building Control Regulations or other regulatory codes and standards.”	T	This might promote the idea that this is an option for the owner/developer. In fact this isn't the case, what the text is suggesting is that various pieces of legislation/regulation will apply, depending on the unique circumstances of each project. Indeed, we would go further and suggest that all works shall, unless exempted, be in compliance with the Building Regulations, the Building Control Regulations and all such regulatory codes and standards. Our suggested revision promotes the idea that all such building works shall, in so far as it is possible, comply with the agreed standards for buildings in the post BC(A)R environment.	Replace with: “The carrying out of building works shall be in compliance with the relevant Building and Building Control Regulations and all such applicable regulatory codes and standards.”
Engineers Ireland	Pg.6 (last paragraph): “Some limited works to the external appearance of the structure are permitted, but they must be consistent with the character of the structure and neighbouring properties.”	T	Given that revised access to the upper storeys of existing buildings are a substantial activity in this initiative, “limited works” might be a misleading description.	Replace with: “With the exception of the provision of new accesses to the upper storeys of existing building and/or the provision of fire escapes, only limited works to the external appearance of the structure are permitted, but they must be consistent with the character of the structure and neighbouring properties.”
Engineers Ireland	Pg.7 (Restrictions on Works, 1 <sup>st</sup> bullet point): “Limitation on works between 8 <sup>th</sup> February 2018 and 31 December 2021.”	T	No explanation is provided for backdating the window of opportunity to 8 <sup>th</sup> February 2018. We understand that this date it is incorporated into the legislation by way of the publication of SI No.30 of 2018 which permits: “ <i>Where a person proposes to undertake development to which sub-paragraph (b) relates, then he or she shall accordingly notify the planning authority in whose functional area that the change of use concerned will occur in writing at least 2 weeks prior to the commencement of the proposed change of use and any related works.</i> ”	The two weeks referred to in the planning process needs to be tied in with the Commencement Notice process where, on receipt of notification of a valid Commencement Notice (building) works can only start after a 14-day period and before 28 days have expired from the date of the valid Commencement Notice.

Engineers Ireland	Pg.7 (Restrictions on Works, 3 <sup>rd</sup> bullet point): Reference to nine individual housing units.	T	While there is guidance later in the document, a reference to minimum and maximum square metres might be a useful addition to this bullet point.	
Engineers Ireland	Pg.7 (Minimum Requirements for Residential Units): Whole paragraph.	T	See comment above.	
Engineers Ireland	Pg.7 (Notification Provision): Requirement to give the Planning Authority 2 weeks' notice prior to the commencement of the proposed change of use and related works.	T	<p>Given the references elsewhere to National Monuments, Special Conservation Areas etc., it seems unrealistic to require only 2 weeks' notice. Additionally, if a Commencement Notice is required (and it should be), then works may only commence on site a minimum of 14 days after the Commencement Notice is issued by the BCA. If the Planning Authorities are to determine the merits of the project with reference to existing legislation and exemptions (for example) two weeks may not be enough time.</p> <p>In the workshop of 2<sup>nd</sup> August, the question was asked if this two week period was enough for the works notification to be processed by the Planning Authority. While the question wasn't comprehensively answered, no concerns were specifically raised either.</p> <p>It also appears that these works are exempted from the "normal" planning process in that the "candidate developer" is expected to do the assessment of the suitability of the proposed development and then advise the Planning Authority. Planning permission is not specifically given, nor is there a requirement for a "Planning Site Notice".</p>	The notice period needs to be amended – especially in the context of the meaning of the term "related works" in this paragraph.
Engineers Ireland	Pg.8 (Specific Regulations Affecting Older Buildings): Requirement for the Planning Authorities to determine what is significant or important about an older building.	T	See preceding comment.	2 week notice period should be extended.

Engineers Ireland	Pg.9-10 (Building Control Regulations)	T	<p>There is no specific reference to the requirement for a Commencement Notice or a 7-day Notice and while the paragraph references the requirement for drawings at completion stage there is no corresponding reference to the requirement for drawings at Commencement Notice stage.</p> <p>In the workshop of 2<sup>nd</sup> August, the statement was made that the complexity of the proposal to convert an existing building to accommodation (multiple floors, multiple units) will directly influence the detailed information that needs to be provided to the planning authorities and the building control authorities. This would suggest additional drawing submissions.</p>	Paragraph should be substantially enlarged to provide additional information with respect to BC(A)R and the BCMS.
Engineers Ireland	Pg.12 (Step 5)	T	<p>The first two bullet points are currently ordered:</p> <ul style="list-style-type: none"> <li>• When can I start work?</li> <li>• Is a Commencement Notice required?</li> </ul> <p>Given the importance of promoting compliance with BC(A)R, these bullet points should be in reverse order.</p> <p>See other comments on the requirement for two weeks' notice to the Planning Authority.</p>	<p>Order of bullet points should be:</p> <ul style="list-style-type: none"> <li>• Is a Commencement Notice required?</li> <li>• When can I start work?</li> </ul> <p>Greater clarity needs to be given to the sequence of notifications: Planning Authority followed by Building Control would appear to make most sense and if this were to be adopted, then the statement that works can be initiated after the two week notification to the Planning Authority needs to be amended.</p>

Engineers Ireland	<p>Pg.26 (Step 5 Commence Building Works)</p> <p>Planning: “they must notify the planning authority two weeks prior to commencing development”</p> <p>Building Control: “a Commencement Notice, which is a notification to a Building Control Authority that a person intends to carry out works or a material change of use to a building to which the Building Regulations apply. This notice must be given to the authority not more than 28 days and not less than 14 days before the commencement of works or the change of use.”</p>	T	<p>It needs to be explained that the two-week period referenced in these separate pieces of advice are unlikely to be the same two weeks in ‘real time’. We have already indicated that the requirement for two weeks’ notice to the Planning Authority may be prescriptive and in any case the expiry of these two weeks (in the planning process) would not trigger the commencement of works.</p> <p>Strictly speaking, the guidance on the Commencement Notice is also misleading. A “Commencement Notice process” should be initiated to allow the BCA to assess the documentation that is uploaded to the BCMS in order that the BCA can issue a Commencement Notice after which, between 14 and 28 days, works can commence on site. The submission of documentation to the BCMS does not, of itself, trigger the countdown to the start of building works.</p> <p>The text should also distinguish between “Notice” as in a statutory document and “notice” as in a set period of time. And most importantly, the two weeks for the planners (which we feel should be changed) is <u>NOT</u> the same two weeks of the BCA/BCMS process.</p>	<p>Clarify</p> <ul style="list-style-type: none"> <li>• That documentation is required to be uploaded to the BCMS in order that a Commencement Notice can be issued by the BCA.</li> <li>• That building works may only commence within 14 and 28 days of the <u>issuing</u> of a Commencement Notice by the BCA.</li> <li>• Sequencing of notification to statutory authorities – Planning &amp; Building Control and confirmation that it is only on receipt of a <u>Valid Commencement Notice</u> that works can start on site, between 14 and 28 days of the issuing of the <u>Valid Commencement Notice</u>.</li> </ul>
Engineers Ireland	<p>Pg.27 (Type 4 a., Conversion of a multi-storey building (non-dwelling) into a single dwelling): “A Commencement Notice without accompanying documentation is required.”</p>	T	<p>Given that this details the conversion of a non-dwelling building into a single dwelling, surely this constitutes a change of use that would necessitate the uploading of drawings to the BCMS.</p>	
Engineers Ireland	<p>Pg.44 (Other limitations on the Buildings which benefit from the Exemption)</p>	E	<p>The third bullet point is a repeat of the second bullet point.</p>	<p>Delete one of them.</p>
Engineers Ireland	<p>Pg.45 (top left-hand column)</p>	E	<p>Minor text mistake: “systemis”</p>	<p>Should read “system is”</p>
Engineers Ireland	<p>Pg.47 (Notification Process Provision): “This notification process has a threefold purpose...”</p>	T	<p>There is no reference to the requirement for compliance with the planning process in the threefold purpose of the notification process. The Planning Authorities need to be sure that works proposals are in compliance with existing legislation and regulations.</p>	<p>Add a bullet point.</p>

Engineers Ireland	Pg.65 (Question 11, 3 <sup>rd</sup> bullet point)	E	Minor text mistake: "Is in inadequate in any other respect"	Delete "in"
Engineers Ireland	Pg.65 (Question 14): "You must not commence work until you receive this notification."	T	Depending on the interpretation of "work" this might be misleading. If work means the development of the detailed design/drawing then the statement is correct. If work is interpreted as "building works" then it is ambiguous.	Suggest that the guidance distinguishes between the planning process and the Commencement Notice process. It is successful completion of the latter which dictates when (building) work can commence on site.
Engineers Ireland	Pg.66 (Question 16): The standard duration for planning permission (permission or outline permission) is generally five years..."	T	Given that this initiative is to 'fast-track' the provision of alternative forms of accommodation, it should be considered whether a five year window of planning validity is appropriate.	Consider reducing the five year window
Engineers Ireland	Pg.71 (Question 48)	T	In principle, the answer is correct. In reality, we should be stating that on <u>receipt of a Valid Commencement Notice from the BCA</u> the works or building can commence on site not less than 14 days later and no later than 28 days later. We should not be promoting the idea that the submission of the documentation for a Commencement Notice starts the countdown to commencing work on site.	Revise the answer.
Engineers Ireland	Pg.71 (Question 50): "Failure to submit a Commencement Notice [...] you will be unable to submit a Certificate of Compliance on Completion and your building will not be recorded on the public register. <u>This may affect your ability to lease or sell the building...</u> "	T	Failure to submit a Commencement Notice: a) Will also preclude you from occupying the building. b) Doesn't just "affect your ability" to lease or sell, it precludes you from doing either.	Amend the text and include the reference to non-occupancy.

Engineers Ireland	Pg.71 (Question 51)	T	The categories listed make no reference to the fact that works which require a Fire Safety Certificate (or a revised Fire safety Certificate) are subject to the requirement for a Commencement Notice. Given that the provision of multi-unit accommodation is likely to be the greater activity, the emphasis on the provision of a FSC should be highlighted.	Reference requirement for a Fire Safety Certificate
Engineers Ireland	Pg.74 (Question 53, 2 <sup>nd</sup> paragraph): Use of the word “allows” in the 6 <sup>th</sup> line and “allow” in the 8 <sup>th</sup> line.	T	There is the possibility that the paragraph suggests that the BCMS “facilitates” the upload of this information whereas it is a mandatory requirement. Indeed, it could be argued that it doesn’t allow the Building Owner to nominate an Assigned Certifier, but serves to record who the statutory appointees to the project are. Note also that there is no reference to a Design Certifier who is also a statutory appointee under the BC(A)R system.	
Engineers Ireland	Pg.74 (Question 55): “Who is responsible for compliance with the Building Control Regulations? The owner of the building, the designer who designs the works and the builder are responsible...”	T	This does not reference the Assigned Certifier and the Ancillary Certifiers. Also, given that the question will be asked in the context of a specific project, the terms/roles should be designated with capitals as in: Building Owner, Assigned Certifier, Design Certifier, Builder and Ancillary Certifiers (i.e. consistent with the Code of Practice that goes with BC(A)R).	Use all the roles described in BC(A)R legislation and spell the roles in the same style as in that suite of documents.
Engineers Ireland	Pg.74 (Question 56, paragraph 2): “a Fire Safety Certificate is required for all new buildings (including apartments and flats), as well as material changes of use and certain alterations and extensions to buildings.”	T	See the commentary on Pg.71, Question 51.	
Engineers Ireland	Pg.75 (Question 67)	T	Since the first FAQ on the Building Control System (Q43), this is the first reference to the Design Certifier and thus it introduces a role that has not previously been described – there are references to a “designer” which could be either the Design Certifier or an Ancillary Certifier.	All the statutory roles and ‘quasi-statutory roles’ (Ancillary Certifiers) should be detailed and described.



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### **Background to Engineers Ireland**

With over 25,000 members from every discipline of engineering, Engineers Ireland is the voice of the engineering profession in Ireland. Engineers Ireland was established in 1835 making us one of the oldest and largest professional bodies in the country. Members come from every discipline of engineering, and range from engineering students to fellows of the profession.

### **Our responsibility is to**

- Promote knowledge of engineering
- Establish and maintain standards of professional engineering and engineering education
- Provide opportunities for Continuing Professional Development (CPD)
- Maintain standards of professional ethics and conduct
- Ensure that professional titles are granted to qualified candidates
- Act as the authoritative voice of the engineering profession in Ireland

### **Our Vision Statement**

Engineers Ireland: a community of creative professionals delivering solutions for society.

### **Our Mission Statement**

Engineers Ireland is an organisation that enables the engineering community to progress their professional development, make an impact on society and encourage and educate the future generations of engineers.