

MFL

Professional

INSURANCE BROKERS

Will relaxation of planning rules increase your Professional Negligence Exposure?

Insurance for your reputation



MFL

MFL

MFL



Will relaxation of planning rules increase your Professional Negligence Exposure?

The answer from many of you will be 'no'.

However, a few words of caution, if only to highlight the need for you and your team to ensure you remain fully apprised and updated on the many changes to planning rules seen in recent times thereby preventing any adverse impact upon you by way of even spurious allegations of professional negligence (e.g see our 'Claims Against...' bulletin Autumn 2015).

Take a look at one such change only, the relaxation of those planning rules on changes from commercial to residential use. Not a problem? Let's see.

Those temporary rules in place removing the need to make planning applications for changes of use of certain business premises (B1) to residential (C3) are now becoming permanent and open up possibilities for developers leading to increased instructions for architects and engineers.

These rules though will incorporate further changes, including a three year time limit for such conversions to be completed even for those which had already been approved. Fairly straightforward it appears, but, did you know that there is no indication at the time of writing as to what 'completed' will actually mean?

A couple of other changes will include the demolition of some industrial buildings in favour of new build residential developments, or the conversion of light industrial buildings into residential homes. Even here, there appears to be some doubt as to the possibilities post conversion for single or multi- unit development.

Whilst there are no planned changes to the existing prior approval criteria, there will be changes added with regards to exemptions likely to have an impact upon specific areas such as the City of London and its Central Activities Zone (where the London Mayor's draft Supplementary

Planning Guide has recently been open for public consultation), Manchester's City Centre Core or various other designated locations within the South-East.

Other uncertainties abound.

Therefore, as briefly highlighted above, our own advice in helping you maintain a healthy claims record against your Professional Indemnity Insurance (PII) would be to ensure you document the appropriate referral to the local planning authority and any legal advice from lawyers specialising in commercial property law alongside the measures you take in the ordinary course of this work.

As PII specialists in the Architects, Surveyors and Town Planning sectors, to complement the work we look to do with PI Insurers on our clients' behalf, we ensure consideration is given by those Insurers when negotiating PII terms having highlighted the due diligence undertaken by you as a practice using examples such as that above. Aside from any benefits in terms of premium, a positive impact may also be achieved for the longer term by way of a more robust defence against any allegations being available to your Insurers with help from our own in house claims team. Also possible in some circumstances, in the event of a decision going against you in the above example it may even be possible for Insurers to subrogate should you yourselves have received negligent specialist advice, a successful subrogation essentially helping keep some or all of a claim payment off your claims record.

Further, we would provide comment from a PII perspective on any forms of Appointment, Collateral Warranties or other Duty of Care Agreements you are required to enter into, thus having another positive effect on Insurers' consideration of risk.

There are of course many other examples of planning change that could have an impact upon you and of which you will be aware but the fundamental message

remains the same:- take appropriate legal and insurance advice and don't let an opportunity become a threat.

We would very much like to hear from you either with your feedback in connection with this subject or with regards to your PII when that may fall due. We do have a facility offering competitively priced cover to those professionals involved in this sector and able to highlight positively the methodology in place to support the services provided here.

Please therefore do not hesitate to contact us either as below or via the fax-back form.

Contact the MFL Professional team to discuss your PI arrangements:

T: 0161 236 2532
W: www.m-f-l.co.uk

Fax Back Form

To: MFL Professional

Fax No: 0161 236 2583

We would ask that you contact us in order to discuss the issues raised above. Please contact us as follows

Practice:

Contact name:

Tel. No: