



HORIZON SCANNER

PREPARED FOR
HOUSEBUILDERS

JUNE 2024

WELCOME

Welcome to the latest edition of our quarterly horizon scanner. The purpose of this document is to keep you abreast of key legal and regulatory developments.

If you have any questions or require any more information, please contact us. If you would like to receive this and other similar updates direct to your inbox, please [click the link here.](#)



BUILD

Industry news

The JCT Design and Build 2024 contract has now been [released](#), marking the first major update to the JCT Design and Build standard form since 2016. See our [briefing](#).

Colliers has published its [Residential Snapshot May 2024](#).

Recent Homes England news includes the [appointment](#) of 5 new non-exec directors.

Provisional figures [indicate](#) that Homes England has exceeded 2023/24 targets for the number of new homes started and completed, and for the scale of land unlocked for new housing.

The Investment Property Forum has published a [report](#) on costing energy efficiency improvements in commercial buildings.

The British Property Federation (BPF) has [called](#) for action on Minimum Energy Efficiency

Standards (MEES). Members of the Green Property Alliance, including the BPF, are calling for the government to provide details on energy performance certificate targets, timelines, and clarify the rules around exemptions and enforcement that investors need to commit their capital to making the improvements that are necessary to reach Net Zero.

A new RICS [Rights of Light Protocol](#) provides a process to help developers resolve potential rights to light issues quickly and cost effectively.

The Supreme Court has revisited the law of nuisance in the latest Japanese Knotweed case. In this [briefing](#), we offer practical advice for landowners, occupiers and investors.

[The Income Tax \(Construction Industry Scheme\) \(Amendment\) Regulations 2024](#) came into force on 6 April 2024. They're intended to reduce the administrative burden on certain transactions and include a

new provision that certain payments made by a landlord to a tenant for construction operations in connection with a lease or agreement for lease, are not contract payments and are, therefore, outside the scope of the construction industry scheme.

New rules which reinstate an EU-legacy hedgerow cutting ban during bird breeding season (1 March – 31 August) have been laid in Parliament. If agreed, the regulations will come into force immediately, with the exception of the buffer strip requirements, which will only apply immediately where there is already a buffer strip in place. On land where there is currently no buffer strip, but which is not used for crop production, DEFRA said the rules will apply from 1 July 2024. Where land is currently in use for crop production, the rules are set to apply from the end of the first harvest after the legislation comes into force.



Biodiversity Net Gain (BNG)

The National Audit Office has published its May 2024 [report](#) on Implementing statutory biodiversity net gain.

The Institute of Environmental Management and Assessment has published new [BNG guidance for practitioners](#) from June 2024. The guidance will be a helpful reference tool for planners, developers, architects, engineers, landscape architects, local planning authorities and land managers.

Planning

Outline planning permission for up to 60 dwellings in Sussex has been [granted](#), despite the scheme being located beyond a settlement boundary and giving rise to adverse landscape effects. The inspector determined that the scheme would provide new housing in an area where there was an acknowledged shortage of land for new homes. Weight was also placed upon the shorter than standard time limit for the submission of reserved matters agreed between the parties, because this would aid early deliverable housing land.

The Planning Inspectorate (PINS) has published a [2024 Pre-application Prospectus](#), which sets out the details of the proposed new nationally significant infrastructure projects (NSIP) operational reform pre-application service. The Prospectus provides greater detail on: introduction of 3 pre-application tier options, reflecting different levels of service that applicants may receive ahead of submitting an application; introduction of pre-application fees; and, introduction of a 'Fast Track' procedure which will allow some applications to potentially receive a decision within 12 months. The Prospectus was published alongside an [FAQ paper](#), guidance on the [Fast Track](#) process, and updated guidance on the [pre-application stage](#).

Affordable/Social Housing

Recent [research](#) from Lichfields has found that developments with over 30% affordable housing have faster build-out rates than schemes with less.

As of 30 April 2024, the Levelling-up & Regeneration Act 2023 allows bodies such as Homes England and councils using Compulsory Purchase Orders and looking to build, to apply to the Secretary to [remove 'hope value'](#) if development is in the public interest and is facilitating affordable or social housing, health or educational uses.

The National Housing Federation (NHF) has [voiced](#) concerns the Building Safety Levy could adversely impact the supply of new affordable homes. Despite proposed exemptions (including developments consisting of fewer than 10 units; some supported housing; development of affordable housing; and developments of non-affordable homes by not-for-profit registered providers and their wholly-owned subsidiaries), it believes the Levy might be borne indirectly by registered providers.

In the context of concerns regarding the level of affordable housing being provided across the capital, the UK government commissioned an expert panel to consider those aspects of the London Plan that may be preventing homes from coming forward, with a particular focus on brownfield sites. Following that [review](#), the government is [consulting](#) on whether residential on brownfield land could be the answer to the housing crisis.

The new [Transparency, Influence and Accountability Standard](#) came into force on 1 April 2024, setting out new consumer standards regulations for housing providers.

The Levelling up, Housing and Communities Select Committee has published a [report on shared](#)

[ownership](#) outlining many of the problems that shared owners face. The report makes the following recommendations:

- Government to review shared ownership leases to ensure fairer service charge payments based on ownership share.
- Investigation of Rent to Buy schemes to assess their affordability and effectiveness compared to shared ownership.
- Revise eligibility calculators to project long-term affordability.
- Older Persons Shared Ownership should be reformed, as owners with less than 75% share are unfairly burdened with rent. Legacy service charge liabilities for inheritors should also be addressed.

In [R\(Willmott\) v Eastbourne](#) the Council refused to re-house a tenant previously evicted for anti-social behaviour. The High Court concluded the Council's policy was sufficiently flexible and there was no requirement for decision makers to exercise the discretion available to them. The decision should help local authorities with problematic former tenants relying on disabilities to obtain social housing, provided there's no sufficient link between the tenant's disabilities and the behaviour.

The House of Lords Industry and Regulators Committee has sent an open [letter](#) to Michael Gove, recommending the regulation of property agents.

Climate impact/Environmental

The Department for the Environment, Food and Rural Affairs (DEFRA), has [published](#) a list of a substantial number of waste water treatment works which it is requiring the relevant local water company to upgrade to meet nutrient pollution standards by April 2030. DEFRA has also stated that local planning authorities, in considering current

and future planning applications, will be required to assume that these works will be completed on time and in full. This will avoid planning applications being refused due to questions regarding the local capacity for dealing with nutrient migration from new developments.

The Competition Appeal Tribunal is commencing legal proceedings against Thames Water, alleging it provided misleading information to regulatory bodies in relation to pollution incidents. With regulatory, legal, and media heat on Thames Water, it's accusing Redrow, in turn, of negligence. Thames alleges the housebuilder damaged a sewer and is suing for £2.5m, plus £1m in interest, which is accruing at £492 a day.

Building Safety

The UK government has updated its [guidance](#) calling for second staircases in all new residential buildings over 18 metres from 30 September 2026.

Details of registered building inspectors and registered building control approvers in England and Wales, can now be found by searching Building Safety Regulator's public registers:

- [Find a registered building inspector in England](#)
- [Find a registered building control approver in England](#)
- [Find a registered building inspector in Wales](#)
- [Find a registered building control approver in Wales](#)

The Loan Market Association (LMA) has published a guidance note on the Building Safety Act 2022 and its real estate finance facility agreements. The note includes key points for consideration for bank and non-bank lenders, and their advisors, when using the LMA's template real estate finance facility documentation in circumstances where the BSA may apply.



What's on your to-do list?

And what are you putting off?

Illuminate has guides, articles, and insights from your peers. It might just give you the knowledge or inspiration you need.

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WALKER
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GENERAL/IN-HOUSE LEGAL

Corporate/corporate reporting

On 9 April 2024, the Transition Plan Taskforce published final [sector guidance](#) for preparers and users of private sector climate transition plans. The sectors covered are asset managers, asset owners, banks, electric utilities and power generators, food and beverage, metals and mining, and oil and gas.

The Financial Conduct Authority's (FCA) anti-greenwashing rule came into force in the UK on 31 May 2024. This is the first part of the FCA's [Sustainability Disclosure Requirements](#). For more information on greenwashing, see [here](#).

The government has published a [policy paper](#) on the framework and terms of reference for the development of UK Sustainability Reporting Standards, and an [update](#) on the government's wider work programme to develop a Sustainability Disclosure Requirements regime in the UK.

The deadline for the EU Commission to publish certain reporting standards under the EU Corporate Sustainability Reporting Directive (CSRD) has been [delayed](#) from 30 June 2024 to 30 June 2026. The CSRD, which came into force in January 2023, sets out disclosures for companies to include in their annual report in relation to sustainability matters. Even though the UK is not part of the EU, the CSRD will impact some UK incorporated companies.

The Department for Business & Trade has launched a [consultation](#) on exempting medium-sized companies from preparing a strategic report as part of their annual report and accounts. The consultation also seeks views on increasing the maximum number of employees that a company can have in order to be 'medium-sized', from not more than 250 to not more than 500 employees. It also gives details of other steps planned to streamline non-financial reporting. The consultation closes on 27 June 2024.

Commercial/general

A recent [legal opinion](#), published by the Commonwealth Climate and Law Initiative, [explains](#) that board directors have legal duties to consider how their business affects and depends on nature.

The government has [announced](#) new codes of practice to enhance cyber security in AI and software. See the related [blog post](#) from the National Cyber Security Centre. The government has also published [introductory guidance](#) on AI assurance, setting out key actions for organisations.

Also on AI, we recently published our [guide on demystifying AI](#), and an [article](#) on AI policies and governance in the In-House Lawyer.

We also recently released our first [illuminate](#) publication aimed at GCs, offering insightful conversations, useful lessons and tips for in-house lawyers on developing careers, roles and relationships with external law firms.



People

Acas published its [new Code of Practice](#) on flexible working. From 6 April 2024, all employees have the right to ask their employer if they can work flexibly from their first day of employment.

The Home Office introduced significant changes to the Skilled Worker sponsorship regime from 4 April 2024, as part of the government's wider drive to reduce net migration to the UK. See our [recent briefing](#) for details.

The 4 Day Week Campaign and think tank Autonomy launched ['4August 2024'](#), a new initiative for organisations to trial a 4-day week during the month of August.

The Parker Review published an [update report](#) on improving the

ethnic diversity of UK business. It shows that 96 FTSE 100 companies met the target of having at least one minority ethnic director on their boards, consistent with last year. A 'one by 2024' target has been set for all FTSE 250 boards.

The [Paternity Leave \(Amendment\) Regulations 2024](#) came into force on 8 March 2024. They will:

- Allow fathers and partners to take their leave and pay in non-consecutive blocks.
- Allow fathers and partners to take their leave and pay at any point in the first year after the birth or adoption of their child.
- Shorten, in most cases, the notice period required for each period of leave and pay.

The amendments will apply to babies born after 6 April 2024 or

placed for adoption on or after 6 April 2024.

The [Maternity Leave, Adoption Leave and Shared Parental Leave \(Amendment\) Regulations 2024](#) extend the existing statutory protection from redundancy that currently applies to employees on maternity leave, adoption leave or shared parental leave, to pregnant women and new parents who have recently returned from any period of maternity or adoption leave, or from a period of 6 or more weeks of shared parental leave. They came into force on 6 April 2024.

The [Carer's Leave Regulations 2024](#) introduce a new statutory right to unpaid carer's leave for employees. They also came into force on 6 April 2024.

CONTACTS



CHRIS SLATER
Partner
Planning & Environment
+44 (0)113 283 2668
chris.slater@walkermorris.co.uk



CHRIS WOODTHORPE
Partner
Real Estate
+44 (0)113 283 2613
chris.woodthorpe@walkermorris.co.uk



STEVE NIXON
Partner
Real Estate
+44 (0)113 283 4566
steve.nixon@walkermorris.co.uk



www.walkermorris.co.uk
T +44 (0)113 283 2500
F +44 (0)113 245 9412

Walker Morris LLP
33 Wellington Street
Leeds
LS1 4DL

WALKER
MORRIS

