



The Planning Inspectorate

PINS NOTE 17/2013r3

To: All Inspectors (England)

Date of Issue: 15 July 2013

Currency: review at 6 months after issue

Last updated: 24 April 2014 – updated text at paragraph 7 regarding local listed building consent orders, at paragraph 9 relating to Certificates of Lawfulness of Proposed Works, and at paragraph 12 regarding Heritage Partnership Agreements.

Heritage Planning Legislation Changes

Action

1. Inspectors should note that the Enterprise and Regulatory Reform Act 2013 contains several provisions relating to heritage controls in England. Currently, six of the provisions listed below are in operation. This Note will be updated when more provisions are brought into force.
2. Inspectors should note that the separate system of Conservation Area Consent has been abolished. Inspectors should note that listed building descriptions may contain important additional information, with relevance to casework.

Background

Abolition of Conservation Area Consent

3. From 1 October 2013, the separate system of Conservation Area Consent has been abolished. Proposals to demolish certain unlisted buildings, gates, fences, walls or other means of enclosure in a conservation area now require planning permission and will be considered by the local planning authority in that regard. The level of protection given to them remains unaltered. Where, prior to 1 October 2013, an application for Conservation Area Consent has already been submitted, that application shall be dealt with under the existing statutory provisions. Links to the relevant Statutory Instruments can be found at Annex A.

This provision is in force.

4. There will be no time limit on enforcement against breach of planning control relating to demolition of certain buildings in a conservation area. Two new offences relating to unauthorized demolition of buildings in a

conservation area will be created: demolition of certain buildings without planning permission and failure to comply with conditions or limitations attached to such planning permission.

This provision is not yet in force.

5. Appeals against an enforcement notice may be brought on the grounds that the relevant demolition was urgently necessary in the interests of health or safety, that it was not practical to secure safety or health by works of repair or by affording temporary support or shelter and the relevant demolition was the minimum measure necessary.

This provision is not yet in force.

Listed Buildings

6. The Act includes powers to allow the Secretary of State to make a listed building consent order ("LBCO") by way of a national order granting listed building consent for any description of alteration or extension works to listed buildings of any description.

This provision is not yet in force.

7. The Act also includes powers allowing a local planning authority to make a local listed building consent order ("LLBCO") granting listed building consent for any description of alteration or extension works to either all listed buildings in a certain area or to all listed buildings of any description in a certain area. The Secretary of State may direct that a LLBCO is submitted to the Secretary of State for approval before it is adopted by the local planning authority.

This provision is now in force.

8. LBCOs and LLBCOs will perform similar functions to permitted development orders in respect of planning control.

9. Local planning authorities can, following receipt of an application, issue a Certificate of Lawfulness of specified proposed works of alteration or extension to a listed building, indicating that the proposed works do not require listed building consent. Proposed works will be lawful where they would not affect the character of the listed building as a building of special architectural or historic interest. Section 26K of the Planning (Listed Buildings and Conservation Areas) Act 1990 allows for an appeal to be made to the Secretary of State. Please see PINS Note 07/2014 for further information on the Inspectorate's role in this process.

This provision is now in force.

10. As from 25 June 2013, it is possible for entries in the listed buildings list to state that certain elements are not to be treated as part of the listed building or are not of special interest for the purposes of the listing.

This provision is in force.

11. As from 25 June 2013, certificates of immunity from listing are available for any building at any time (i.e. not only at the point when

planning applications are made).

This provision is in force.

Heritage Partnership Agreement

12. The Act allows a Heritage Partnership Agreement to be made between a local planning authority and the owner or tenant (with at least 7 years of the tenancy remaining) of a listed building (or a part of such a building). The Agreement could grant Listed Building Consent for certain works (except demolition) and otherwise provide for management of the building. Planning permission would still be required as usual for any works constituting 'development'. In addition to the owner and the local planning authority, other statutory and interested persons may also be parties to the Agreement.

This provision is now in force.

13. Please contact XXXX if you have any queries on this Note.

PINS Note 13/2012 is cancelled.

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Acting Chief Planning Inspector

Annex A

Relevant Statutory Instruments relating to the Abolition of Conservation Area Consent

The Town and Country Planning (General Permitted Development) Order 1995

The Town and Country Planning General Regulations 1992

The Enterprise and Regulatory Reform Act 2013 (Abolition of Conservation Area Consent) (Consequential and Saving Provisions) (England) Order 2013