
STATUTORY INSTRUMENTS

1991 No. 1220

The Planning (Northern Ireland) Order 1991

PART VI

ENFORCEMENT

Listed buildings

Listed building enforcement notices

77.—(1) Where it appears to the Department that any works have been or are being executed to a listed building and are such as to involve a contravention of Article 44(1) or (5), then, subject to paragraph (3), the Department may, if it considers it expedient to do so having regard to the effect of the works on the character of the building as one of special architectural or historic interest, issue a notice—

- (a) specifying the alleged contravention; and
- (b) requiring such steps as may be specified in the notice to be taken^{F1} . . .
 - (i) for restoring the building to its former state; or
 - (ii) where the Department considers that such restoration would not be reasonably practicable, or would be undesirable, for executing such further works specified in the notice as it considers necessary to alleviate the effect of the works which were carried out without listed building consent; or
 - (iii) for bringing the building to the state in which it would have been if the terms and conditions of any listed building consent which has been granted for the works had been complied with.

(2) A notice under this Article is referred to in this Order as a “listed building enforcement notice”.

(3) A listed building enforcement notice shall not be served in relation to a contravention of Article 44(1) or (5) which occurred before 9th December 1978.

[^{F1}(4) A listed building enforcement notice—

- (a) shall specify the date on which it is to take effect and, subject to Article 78, shall take effect on that date; and
- (b) shall specify the period within which any steps are required to be taken and may specify different periods for different steps,

and where different periods apply to different steps, references in this Part to the period for compliance with a listed building enforcement notice, in relation to any steps, are to the period within which the step is required to be taken.]

(5) Where a listed building enforcement notice imposes any such requirement as is mentioned in paragraph (1)(b)(ii), listed building consent shall be deemed to be granted for any works of demolition, alteration or extension of the building executed as a result of compliance with the notice.

Status: Point in time view as at 13/02/2015.

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(6) Articles^{F1} 68(2) and (3), 68B,] and 72 and 74 shall, with any necessary modifications, apply to a listed building enforcement notice as they apply to an enforcement notice.

F1 2003 NI 8

Appeal against listed building enforcement notice

78.—(1) A person having an estate in the building to which a listed building enforcement notice relates or a person to whom paragraph (2) applies may, at any time before the date specified in the notice as the date on which it is to take effect, appeal to the planning appeals commission against the notice on any of the following grounds—

- [^{F2}(a) that the matters alleged to constitute a contravention of Article 44 have not occurred;
- (b) that those matters (if they occurred) do not constitute such a contravention;]
- (c) that the contravention of that Article alleged in the notice occurred before 9th December 1978;
- (d) that works to the building were urgently necessary in the interests of safety or health or for the preservation of the building, that it was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording temporary support or shelter, and that the works carried out were limited to the minimum measures immediately necessary;
- (e) that listed building consent ought to be granted for the works, or that any relevant condition of such consent which has been granted ought to be discharged or different conditions substituted;
- (f) that copies of the notice were not served as required by Article^{F2} 68(2) and (3)] as applied by Article 77(6);
- (g) that the period specified in the notice as the period within which any step required thereby is to be taken falls short of what should reasonably be allowed;
- (h) except in relation to such a requirement as is mentioned in Article 77(1)(b)(ii) or (iii), the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out;
- (i) that the steps required by the notice for the purpose of restoring the character of the building to its former state would not serve that purpose;
- (j) that steps required to be taken by virtue of Article 77(1)(b)(ii) exceed what is necessary to alleviate the effect of the works executed to the building;
- (k) that steps required to be taken by virtue of Article 77(1)(b)(iii) exceed what is necessary to bring the building to the state in which it would have been if the terms and conditions of the listed building consent had been complied with.

(2) This paragraph applies to a person who—

- (a) on the date on which the listed building enforcement notice is issued occupies the building to which it relates by virtue of a licence^{F2}. . . ; and
- (b) continues to occupy the building as aforesaid when the appeal is brought.

(3) Paragraphs (4) to (8) of Article 69 and Article 70 shall, with any necessary modifications, apply to an appeal under this Article against a listed building enforcement notice as they apply to an appeal under Article 69 against an enforcement notice.

(4) On the determination of an appeal under this Article, the planning appeals commission may—

- (a) grant listed building consent for the works to which the listed building enforcement notice relates or for part only of those works;
 - (b) discharge any condition or limitation subject to which listed building consent was granted and substitute any other condition, whether more or less onerous.
- (5) Any listed building consent granted by the planning appeals commission under paragraph (4) shall, subject to paragraph (6), have the like effect as a listed building consent granted under Part V.
- (6) The decision of the commission in relation to the grant of listed building consent under paragraph (4) shall be final.
- (7) The validity of a listed building enforcement notice shall not, except by way of an appeal under this Article, be questioned in any proceedings whatsoever on any of the grounds on which such an appeal may be brought.

F2 2003 NI 8

Effect of listed building consent on listed building enforcement notice

79.—(1) If, after the issue of a listed building enforcement notice, consent is granted under Article 44(3) for the retention of any work to which the listed building enforcement notice relates, the listed building enforcement notice shall cease to have effect in so far as it requires steps to be taken which would involve the works not being retained in accordance with the consent.

(2) If the consent is granted so as to permit the retention of works without complying with some condition subject to which a previous listed building consent was granted, the listed building enforcement notice shall cease to have effect in so far as it requires steps to be taken for complying with that condition.

(3) The preceding provisions of this Article shall be without prejudice to the liability of any person for an offence in respect of a failure to comply with the listed building enforcement notice before the relevant provisions of that notice ceased to have effect.

Urgent works to preserve building

80.—(1) Where it appears to the Department that works are urgently necessary for the preservation of—

- (a) a listed building, or
- (b) a building in respect of which a direction has been given by the Department that this Article shall apply,

the Department may, subject to the following provisions of this Article, execute the works, which may consist of or include works for affording temporary support or shelter for the building.

(2) The ground on which the Department may give a direction that this Article shall apply to a building is that the building is in a conservation area and it appears to the Department that its preservation is important for maintaining the character or appearance of the conservation area.

(3) If the building is occupied works may be carried out only to those parts which are not in use.

(4) The owner of the building shall be given not less than seven days' notice in writing of the intention to carry out the works and the notice shall describe the works proposed to be carried out.

(5) Paragraphs (6) to (10) have effect for enabling the expenses of works executed under this Article to be recovered by the Department.

(6) The Department may give notice to the owner of the building requiring him to pay the expenses of the works.

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(7) Where the works consist of or include works for affording temporary support or shelter for the building—

- (a) the expenses which may be recovered include any continuing expenses involved in making available the apparatus or materials used; and
- (b) notices under paragraph (6) in respect of any such continuing expenses may be given from time to time.

(8) The owner may within 28 days of the service of the notice appeal to the planning appeals commission against the notice on any of the following grounds—

- (a) that some or all of the works were unnecessary for the preservation of the building;
- (b) in the case of works for affording temporary support or shelter, that the temporary arrangements have continued for an unreasonable length of time;
- (c) that the amount specified in the notice is unreasonable or that the recovery of it would cause him hardship.

(9) The planning appeals commission shall give notice of its determination, the reasons for it and the amount recoverable to the owner of the building and to the Department and the determination of the appeals commission shall be final.

(10) Any expenses recoverable by the Department under this Article shall be a civil debt recoverable summarily.

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