



# Planning (Listed Buildings and Conservation Areas) Act 1990

## 1990 CHAPTER 9

### PART I

#### LISTED BUILDINGS

#### CHAPTER II

##### AUTHORISATION OF WORKS AFFECTING LISTED BUILDINGS

##### *Control of works in respect of listed buildings*

#### **7 Restriction on works affecting listed buildings**

Subject to the following provisions of this Act, no person shall execute or cause to be executed any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, unless the works are authorised.

#### **8 Authorisation of works: listed building consent**

- (1) Works for the alteration or extension of a listed building are authorised if—
  - (a) written consent for their execution has been granted by the local planning authority or the Secretary of State; and
  - (b) they are executed in accordance with the terms of the consent and of any conditions attached to it.
- (2) Works for the demolition of a listed building are authorised if—
  - (a) such consent has been granted for their execution;
  - (b) notice of the proposal to execute the works has been given to the Royal Commission;

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- (c) after such notice has been given either—
    - (i) for a period of at least one month following the grant of such consent, and before the commencement of the works, reasonable access to the building has been made available to members or officers of the Royal Commission for the purpose of recording it; or
    - (ii) the Secretary of the Royal Commission, or another officer of theirs with authority to act on their behalf for the purposes of this section, has stated in writing that they have completed their recording of the building or that they do not wish to record it; and
  - (d) the works are executed in accordance with the terms of the consent and of any conditions attached to it.
- (3) Where—
- (a) works for the demolition of a listed building or for its alteration or extension are executed without such consent; and
  - (b) written consent is granted by the local planning authority or the Secretary of State for the retention of the works,
- the works are authorised from the grant of that consent.
- (4) In this section “the Royal Commission” means—
- (a) in relation to England, the Royal Commission on the Historical Monuments of England; and
  - (b) in relation to Wales, the Royal Commission on Ancient and Historical Monuments in Wales.
- (5) The Secretary of State may by order provide that subsection (2) shall have effect with the substitution for the references to the Royal Commission of references to such other body as may be so specified.
- (6) Such an order—
- (a) shall apply in the case of works executed or to be executed on or after such date as may be specified in the order; and
  - (b) may apply in relation to either England or Wales, or both.
- (7) Consent under subsection (1), (2) or (3) is referred to in this Act as “listed building consent”.

## **9 Offences**

- (1) If a person contravenes section 7 he shall be guilty of an offence.
- (2) Without prejudice to subsection (1), if a person executing or causing to be executed any works in relation to a listed building under a listed building consent fails to comply with any condition attached to the consent, he shall be guilty of an offence.
- (3) In proceedings for an offence under this section it shall be a defence to prove the following matters—
  - (a) that works to the building were urgently necessary in the interests of safety or health or for the preservation of the building;
  - (b) 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;

- (c) that the works carried out were limited to the minimum measures immediately necessary; and
  - (d) that notice in writing justifying in detail the carrying out of the works was given to the local planning authority as soon as reasonably practicable.
- (4) A person who is guilty of an offence under this section shall be liable—
- (a) on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding the statutory maximum, or both; or
  - (b) on conviction on indictment to imprisonment for a term not exceeding twelve months or a fine, or both.
- (5) In determining the amount of any fine to be imposed on a person convicted on indictment of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.

#### *Applications for listed building consent*

### **10 Making of applications for listed building consent**

- (1) Except as provided in sections 12 to 15, an application for listed building consent shall be made to and dealt with by the local planning authority.
- (2) Such an application shall be made in such form as the authority may require and shall contain—
- (a) sufficient particulars to identify the building to which it relates, including a plan;
  - (b) such other plans and drawings as are necessary to describe the works which are the subject of the application; and
  - (c) such other particulars as may be required by the authority.
- (3) Provision may be made by regulations under this Act with respect to—
- (a) the manner in which such applications are to be made;
  - (b) the manner in which they are to be advertised; and
  - (c) the time within which they are to be dealt with by local planning authorities or, as the case may be, by the Secretary of State.

### **11 Certificates as to applicant's status etc**

- (1) Regulations under this Act may provide that an application for listed building consent shall not be entertained unless it is accompanied by one of the following certificates in the prescribed form and signed by or on behalf of the applicant—
- (a) a certificate stating that, at the beginning of the period of 21 days ending with the date of the application, no person (other than the applicant) was the owner of any of the building to which the application relates;
  - (b) a certificate stating that the applicant has given the requisite notice of the application to all the persons (other than himself) who at the beginning of that period were owners of any of the building to which the application relates;
  - (c) a certificate stating—
    - (i) that the applicant is unable to issue a certificate in accordance with paragraph (a) or (b);

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- (ii) that he has given the requisite notice of the application to such one or more of the persons mentioned in paragraph (b) as are specified in the certificate; and
    - (iii) that he has taken such steps as are reasonably open to him (specifying them) to ascertain the names and addresses of the remainder of those persons but has been unable to do so;
  - (d) a certificate stating—
    - (i) that the applicant is unable to issue a certificate in accordance with paragraph (a); and
    - (ii) that he has taken such steps as are reasonably open to him (specifying them) to ascertain the names and addresses of the persons mentioned in paragraph (b) but has been unable to do so.
- (2) Where such provision is made any such certificate as is mentioned in subsection (1) (b) or (c) must set out—
- (a) the names of the persons to whom the applicant has given the requisite notice of the application;
  - (b) the addresses at which notice was given to them; and
  - (c) the date of service of each such notice.
- (3) Such regulations may require that any such certificate as is mentioned in subsection (1) (c) or (d) shall also contain a statement that the requisite notice of the application, as set out in the certificate, has on a date specified in the certificate (which must not be earlier than the beginning of the period mentioned in subsection (1)(a)) been published in a local newspaper circulating in the locality in which the building is situated.
- (4) Such regulations may also require that where an application is accompanied by such a certificate as is mentioned in subsection (1)(b),(c) or (d), the local planning authority—
- (a) shall not determine the application before the end of the period of 21 days beginning with the date appearing from the certificate to be the latest of the dates of service of notices as mentioned in the certificate, or, if later, the date of publication of a notice as so mentioned;
  - (b) shall in determining the application take into account any representations relating to it which are made to them before the end of that period by any person who satisfies them that he is an owner of any of the building to which the application relates; and
  - (c) shall give notice of their decision to every person who has made representations which they were required to take into account in accordance with paragraph (b).
- (5) Such regulations may also make provision as to who, in the case of any building, is to be treated as the owner for the purposes of any provision made by virtue of this section.
- (6) If any person—
- (a) issues a certificate which purports to comply with the requirements of regulations made by virtue of this section and contains a statement which he knows to be false or misleading in a material particular; or
  - (b) recklessly issues a certificate which purports to comply with those requirements and contains a statement which is false or misleading in a material particular,
- he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

- (7) Subject to subsection (5), in this section “owner” means a person who is for the time being the estate owner in respect of the fee simple or is entitled to a tenancy granted or extended for a term of years certain of which not less than seven years remain unexpired.

## **12 Reference of certain applications to Secretary of State**

- (1) The Secretary of State may give directions requiring applications for listed building consent to be referred to him instead of being dealt with by the local planning authority.
- (2) A direction under this section may relate either to a particular application, or to applications in respect of such buildings as may be specified in the direction.
- (3) An application in respect of which a direction under this section has effect shall be referred to the Secretary of State accordingly.
- (4) Before determining an application referred to him under this section, the Secretary of State shall, if either the applicant or the authority so wish, give each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State.
- (5) The decision of the Secretary of State on any application referred to him under this section shall be final.

## **13 Duty to notify Secretary of State of applications**

- (1) If a local planning authority (other than a London borough council) to whom application is made for listed building consent, or a London borough council to whom such an application is made by the Commission, intend to grant listed building consent they shall first notify the Secretary of State of the application, giving particulars of the works for which the consent is required.
- (2) The Secretary of State may within the period of 28 days beginning with the date of such a notification—
- (a) direct the reference of the application to him under section 12; or
  - (b) give notice to the authority that he requires further time in which to consider whether to require such a reference.
- (3) The local planning authority shall not grant listed building consent until—
- (a) the period mentioned in subsection (2) has expired without the Secretary of State directing the reference of the application to him or giving them notice under paragraph (b) of that subsection; or
  - (b) the Secretary of State has notified them that he does not intend to require the reference of the application.

## **14 Duty of London borough councils to notify Commission**

- (1) Where an application for listed building consent is made to a local planning authority which is a London borough council—
- (a) unless the authority have determined to refuse it, they shall notify the Commission of the application, giving particulars of the works for which the consent is required; and

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- (b) the authority shall not grant the consent unless they are authorised or directed to do so under subsection (2)(a).
- (2) On receipt of such a notification the Commission may—
    - (a) subject to subsection (6), give the local planning authority directions as to the granting of the application or authorise them to determine the application as they think fit; or
    - (b) direct them to refuse the application.
  - (3) If the Commission intend to exercise either of their powers under subsection (2)(a), they shall notify the Secretary of State of the application giving particulars of the works for which the consent is required.
  - (4) Where the Commission direct the local planning authority under subsection (2)(b) to refuse listed building consent, the authority may, within 28 days from the date of the direction, notify the Secretary of State of the application giving particulars of the works for which the consent is required.
  - (5) The Secretary of State may within the period of 28 days beginning with the date of a notification under subsection (3) or (4)—
    - (a) direct the reference of the application to him; or
    - (b) give notice to the authority who notified him or, as the case may be, the Commission that he requires further time in which to consider whether to require such a reference.
  - (6) The Commission shall not direct the local planning authority under subsection (2)(a) to grant the application or authorise them to determine it as they think fit unless—
    - (a) the period mentioned in subsection (5) has expired without the Secretary of State directing the reference of the application to him or giving them notice under paragraph (b) of that subsection; or
    - (b) he has notified them that he does not intend to require the reference of the application.
  - (7) Where the local planning authority notify the Secretary of State as mentioned in subsection (4), they shall not refuse the application unless—
    - (a) a period of 28 days beginning with the date of the notification has expired without the Secretary of State directing the reference of the application to him or giving them notice under subsection (5)(b); or
    - (b) he has notified the authority that he does not intend to require the reference of the application.
  - (8) Where, after receiving notification under subsection (4), the Secretary of State directs the reference of the application to him, before determining the application he shall, if either the applicant or the authority or, as the case may be, the Commission so desire, give each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State.
  - (9) Subsection (1) shall not apply where the application for listed building consent is made by the Commission.

## **15 Directions concerning notification of applications etc**

- (1) The Secretary of State may direct that, in the case of such descriptions of applications for listed building consent as he may specify, sections 13 and 14 shall not apply.

- (2) Where a direction is in force under subsection (1) in respect of any description of application, local planning authorities may determine applications of that description in any manner they think fit, without notifying the Secretary of State or, as the case may be, the Commission.
- (3) Before giving a direction under subsection (1) in respect of any description of application for consent to the demolition of a building in England, the Secretary of State shall consult the Commission.
- (4) Where a direction is in force under subsection (1), the Secretary of State may direct a local planning authority that section 13 or, as the case may be, section 14 shall nevertheless apply—
  - (a) to a particular application for listed building consent; or
  - (b) to such descriptions of application for listed building consent as are specified in the direction;and such a direction has effect in relation to any such application which has not been disposed of by the authority by their granting or refusing consent.
- (5) Without prejudice to sections 10 to 14, the Secretary of State may give directions to local planning authorities requiring them, in such cases or classes of case as may be specified in the directions, to notify him and such other persons as may be so specified—
  - (a) of any applications made to the authorities for listed building consent; and
  - (b) of the decisions taken by the authorities on those applications.
- (6) Directions under subsection (1) or (5) may be given to authorities generally or to particular authorities or descriptions of authority.

## **16 Decision on application**

- (1) Subject to the previous provisions of this Part, the local planning authority or, as the case may be, the Secretary of State may grant or refuse an application for listed building consent and, if they grant consent, may grant it subject to conditions.
- (2) In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- (3) Any listed building consent shall (except in so far as it otherwise provides) enure for the benefit of the building and of all persons for the time being interested in it.

*Grant of consent subject to conditions*

## **17 Power to impose conditions on grant of listed building consent**

- (1) Without prejudice to the generality of section 16(1), the conditions subject to which listed building consent may be granted may include conditions with respect to—
  - (a) the preservation of particular features of the building, either as part of it or after severance from it;
  - (b) the making good, after the works are completed, of any damage caused to the building by the works;

- (c) the reconstruction of the building or any part of it following the execution of any works, with the use of original materials so far as practicable and with such alterations of the interior of the building as may be specified in the conditions.
- (2) A condition may also be imposed requiring specified details of the works (whether or not set out in the application) to be approved subsequently by the local planning authority or, in the case of consent granted by the Secretary of State, specifying whether such details are to be approved by the local planning authority or by him.
- (3) Listed building consent for the demolition of a listed building may be granted subject to a condition that the building shall not be demolished before—
- (a) a contract for the carrying out of works of redevelopment of the site has been made; and
  - (b) planning permission has been granted for the redevelopment for which the contract provides.

## **18 Limit of duration of listed building consent**

- (1) Subject to the provisions of this section, every listed building consent shall be granted subject to the condition that the works to which it relates must be begun not later than the expiration of—
- (a) five years beginning with the date on which the consent is granted; or
  - (b) such other period (whether longer or shorter) beginning with that date as the authority granting the consent may direct, being a period which the authority considers appropriate having regard to any material considerations.
- (2) If listed building consent is granted without the condition required by subsection (1), it shall be deemed to have been granted subject to the condition that the works to which it relates must be begun not later than the expiration of five years beginning with the date of the grant.
- (3) Nothing in this section applies to any consent to the retention of works granted under section 8(3).

## **19 Application for variation or discharge of conditions**

- (1) Any person interested in a listed building with respect to which listed building consent has been granted subject to conditions may apply to the local planning authority for the variation or discharge of the conditions.
- (2) The application shall indicate what variation or discharge of conditions is applied for.
- (3) Sections 10 to 15 apply to such an application as they apply to an application for listed building consent.
- (4) On such an application the local planning authority or, as the case may be, the Secretary of State may vary or discharge the conditions attached to the consent, and may add new conditions consequential upon the variation or discharge, as they or he thinks fit.



## *Appeals*

### **20 Right to appeal against decision or failure to take decision**

- (1) Where a local planning authority—
- (a) refuse an application for listed building consent or grant it subject to conditions;
  - (b) refuse an application for the variation or discharge of conditions subject to which such consent has been granted or grant it and add new conditions; or
  - (c) refuse an application for approval required by a condition imposed on the granting of listed building consent with respect to details of works or grant it subject to conditions,

the applicant, if aggrieved by the decision, may appeal to the Secretary of State.

- (2) A person who has made such an application may also appeal to the Secretary of State if the local planning authority have neither—

- (a) given notice to the applicant of their decision on the application; nor
- (b) in the case of such an application as is mentioned in paragraph (a) or (b) of subsection (1), given notice to the applicant that the application has been referred to the Secretary of State in accordance with directions given under section 12,

within the relevant period from the date of the receipt of the application, or within such extended period as may at any time be agreed upon in writing between the applicant and the authority.

- (3) In this section “the relevant period” means—

- (a) in the case of such an application as is mentioned in paragraph (a) or (b) of subsection (1), such period as may be prescribed; and
- (b) in the case of such an application for approval as is mentioned in paragraph (c) of subsection (1), the period of eight weeks from the date of the receipt of the application.

- (4) For the purposes of the application of sections 22(1) and 63(7)(b) in relation to an appeal under subsection (2) it shall be assumed that the authority decided to refuse the application in question.

### **21 Appeals: supplementary provisions**

- (1) An appeal under section 20 must be made by notice served in the prescribed manner within such period as may be prescribed.

- (2) The period which may be prescribed under subsection (1) must not be less than—

- (a) in the case of an appeal under subsection (1) of section 20, 28 days from the receipt by the applicant of notification of the decision; or
- (b) in the case of an appeal under subsection (2) of that section, 28 days from the end of the relevant period (within the meaning of that section) or, as the case may be, the extended period there mentioned.

- (3) The notice of appeal may include as the ground or one of the grounds of the appeal a claim that the building is not of special architectural or historic interest and ought to be removed from any list compiled or approved by the Secretary of State under section 1.

- (4) In the case of a building with respect to which a listed building preservation notice is in force, the notice may include a claim that the building should not be included in such a list.
- (5) Regulations under this Act may provide that an appeal in respect of an application for listed building consent or for the variation or discharge of conditions subject to which such consent has been granted shall not be entertained unless it is accompanied by a certificate in the prescribed form and corresponding to one of those described in subsection (1) of section 11.
- (6) Any such regulations may also include provisions corresponding to those which may be included in the regulations which may be made by virtue of section 11.
- (7) If any person—
  - (a) issues a certificate which purports to comply with the requirements of regulations made by virtue of subsection (5) or (6) and contains a statement which he knows to be false or misleading in a material particular; or
  - (b) recklessly issues a certificate which purports to comply with those requirements and contains a statement which is false or misleading in a material particular,
 he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

## **22 Determination of appeals**

- (1) The Secretary of State may allow or dismiss an appeal under section 20 or may reverse or vary any part of the authority's decision (whether or not the appeal relates to that part), and—
  - (a) may deal with the application as if it had been made to him in the first instance; and
  - (b) may exercise his power under section 1 to amend any list compiled or approved under that section by removing from it the building to which the appeal relates.
- (2) Before determining the appeal, the Secretary of State shall, if either the applicant or the local planning authority so wish, give each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (3) The decision of the Secretary of State on the appeal shall be final.
- (4) Schedule 3 applies to appeals under section 20.

### *Revocation and modification of consent*

## **23 Revocation and modification of listed building consent by local planning authority**

- (1) If it appears to the local planning authority that it is expedient to revoke or modify any listed building consent granted on an application under this Act, the authority may by order revoke or modify the consent to such extent as they consider expedient.
- (2) In performing their functions under subsection (1) the local planning authority shall have regard to the development plan and to any other material considerations.

- (3) The power conferred by this section to revoke or modify listed building consent in respect of any works may be exercised at any time before those works have been completed, but the revocation or modification shall not affect so much of those works as has been previously carried out.

#### **24 Procedure for s. 23 orders: opposed cases**

- (1) Except as provided in section 25, an order made by a local planning authority under section 23 shall not take effect unless it is confirmed by the Secretary of State.
- (2) Where a local planning authority submit such an order to the Secretary of State for confirmation they shall serve notice on—
- (a) the owner of the building affected;
  - (b) the occupier of that building; and
  - (c) any other person who in their opinion will be affected by the order.
- (3) The notice shall specify the period (which must not be less than 28 days after its service) within which any person on whom it is served may require an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (4) If within that period a person on whom the notice is served so requires, the Secretary of State shall give such an opportunity both to that person and to the local planning authority before he confirms the order.
- (5) The Secretary of State may confirm an order submitted to him under this section either without modification or subject to such modifications as he considers expedient.

#### **25 Procedure for s. 23 orders: unopposed cases**

- (1) This section shall have effect where—
- (a) the local planning authority have made an order under section 23 revoking or modifying a listed building consent granted by them; and
  - (b) the owner and occupier of the land and all persons who in the authority's opinion will be affected by the order have notified the authority in writing that they do not object to the order.
- (2) Where this section applies, instead of submitting the order to the Secretary of State for confirmation the authority shall—
- (a) advertise in the prescribed manner the fact that the order has been made, specifying in the advertisement—
    - (i) the period within which persons affected by the order may give notice to the Secretary of State that they wish for an opportunity of appearing before and being heard by a person appointed by him for the purpose; and
    - (ii) the period at the end of which, if no such notice is given to the Secretary of State, the order may take effect by virtue of this section without being confirmed by him;
  - (b) serve notice to the same effect on the persons mentioned in subsection (1)(b);
  - (c) send a copy of any such advertisement to the Secretary of State not more than three days after its publication.

- (3) If—
- (a) no person claiming to be affected by the order has given notice to the Secretary of State as mentioned in subsection (2)(a)(i) within the period referred to in that subsection; and
  - (b) the Secretary of State has not directed within that period that the order be submitted to him for confirmation,
- the order shall take effect at the end of the period referred to in subsection (2)(a)(ii) without being confirmed by the Secretary of State as required by section 24(1).
- (4) The period referred to in subsection (2)(a)(i) must not be less than 28 days from the date on which the advertisement first appears.
- (5) The period referred to in subsection (2)(a)(ii) must not be less than 14 days from the end of the period referred to in subsection (2)(a)(i).

## **26 Revocation and modification of listed building consent by the Secretary of State**

- (1) If it appears to the Secretary of State that it is expedient that an order should be made under section 23 revoking or modifying any listed building consent granted on an application under this Act, he may himself make such an order revoking or modifying the consent to such extent as he considers expedient.
- (2) In performing his functions under subsection (1) the Secretary of State shall have regard to the development plan and to any other material considerations.
- (3) The Secretary of State shall not make an order under that subsection without consulting the local planning authority.
- (4) Where the Secretary of State proposes to make such an order he shall serve notice on—
- (a) the owner of the building affected;
  - (b) the occupier of that building; and
  - (c) any other person who in his opinion will be affected by the order.
- (5) The notice shall specify the period (which must not be less than 28 days after its service) within which any person on whom it is served may require an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (6) If within that period a person on whom it is served so requires, before the Secretary of State makes the order he shall give such an opportunity both to him and to the local planning authority.
- (7) The power conferred by this section to revoke or modify listed building consent in respect of any works may be exercised at any time before those works have been completed, but the revocation or modification shall not affect so much of those works as has been previously carried out.
- (8) An order under this section shall have the same effect as if it had been made by the local planning authority under section 23 and confirmed by the Secretary of State under section 24.