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STATUTORY INSTRUMENTS

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**2014 No. 551**

**TOWN AND COUNTRY PLANNING, ENGLAND**

**The Planning (Local Listed Building Consent Orders) (Procedure) Regulations 2014**

<i>Made</i>	- - - -	<i>10th March 2014</i>
<i>Laid before Parliament</i>		<i>13th March 2014</i>
<i>Coming into force</i>	- -	<i>6th April 2014</i>

The Secretary of State, in exercise of the powers conferred by sections 28A and 93 of, and Schedule 2A to, the Planning (Listed Buildings and Conservation Areas) Act 1990(1) makes the following Regulations:

**Citation, commencement, application and interpretation**

1. (1) These Regulations may be cited as the Planning (Local Listed Building Consent Orders) (Procedure) Regulations 2014 and come into force on 6th April 2014.

(2) These Regulations apply in relation to England only.

(3) In these Regulations—

“the Act” means the Planning (Listed Buildings and Conservation Areas) Act 1990;

“owner”, in relation to a listed building, means a person who is for the time being—

- (a) the estate owner in respect of the fee simple in the building, or
- (b) entitled to a tenancy of the building granted or extended for a term of years certain of which not less than seven years remain unexpired.

(4) In these Regulations and in relation to the use of electronic communications for any purpose of these Regulations which is capable of being carried out electronically—

- (a) the expression “address” includes any number or address used for the purpose of such communications; and
- (b) a reference to a document or a copy of a document includes a version of that document or copy in electronic form; and

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(1) 1990 c. 9. Section 28A was inserted into the Act by section 60(4) of the Enterprise and Regulatory Reform Act 2013 (c. 24) (“the 2013 Act”). Subsection 6A of section 93 was inserted by section 118(1) of, and paragraph 26 of Schedule 6 to, the Planning and Compulsory Purchase Act 2004 (c. 5). Schedule 2A to the Act was inserted by section 60(5) of, and Schedule 16 to, the 2013 Act.

(c) “electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000 (general interpretation)(2).

(5) Paragraphs (6) to (9) apply where an electronic communication is used by a person for the purpose of fulfilling any requirement in these Regulations to give or send any notice or other document to any other person (“the recipient”).

(6) The requirement is not taken to be fulfilled unless the notice or document transmitted by the electronic communication is—

- (a) capable of being accessed by the recipient;
- (b) legible in all material respects; and
- (c) sufficiently permanent to be used for subsequent reference.

(7) In paragraph (6), “legible in all material respects” means that the information contained in the notice or document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form.

(8) Where the electronic communication is received by the recipient outside the recipient’s business hours, it is taken to have been received on the next working day, and for this purpose “working day” means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday.

(9) A requirement in these Regulations that any notice or other document should be in writing is fulfilled where the notice or document meets the criteria in paragraph (6), and “written” and cognate expressions are to be construed accordingly.

### **Preparation of a local listed building consent order**

2. (1) Where a local planning authority propose to make a local listed building consent order they must first prepare—

- (a) a draft of the order which must include—
  - (i) a plan or statement clearly identifying the land and the listed building or buildings to which the order would relate; and
  - (ii) a description of the works for which the order would grant consent, including any plans or drawings or other information necessary to describe the works which are the subject of the order; and
- (b) a statement of their reasons for making the order.

(2) The statement of reasons must contain—

- (a) an assessment of the likely effect of the proposed works on the special architectural or historic interest of the listed building or buildings to which the order would relate; and
- (b) a reasoned justification for making the order.

(3) Where a plan is provided under paragraph (1)(a)(i) that plan must be drawn to an identified scale and show the direction of North.

### **Consultation**

3. (1) Where a local planning authority have prepared a draft local listed building consent order which would grant listed building consent in respect of—

- (a) any building of special architectural or historic interest which, when last notified to the authority, was classified as a grade I or II\* listed building, or
- (b) any listed building owned by the local planning authority,

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(2) 2000 c. 7; section 15(1) was amended by paragraph 158 of Schedule 17 to the Communications Act 2003 (c. 21).

they must consult the Commission.

- (2) In consulting in accordance with paragraph (1) the local planning authority must—
  - (a) send a copy of the draft order and the statement of reasons (prepared in accordance with regulation 2) to the Commission;
  - (b) specify a consultation period of not less than 28 days; and
  - (c) take into account any representations received from the Commission during the period specified in considering what modifications (if any) should be made to the draft local listed building consent order or whether such an order should be adopted.

### **Publicity**

4. (1) Where a local planning authority have prepared a draft local listed building consent order they must—

- (a) make a copy of the draft local listed building consent order and statement of reasons (prepared in accordance with regulation 2) available for inspection by the public at such place within their area as they consider appropriate and at all reasonable hours for a period of not less than 28 days;
- (b) publish on their website for not less than 28 days—
  - (i) the draft local listed building consent order and the statement of reasons;
  - (ii) a statement that those documents are available for inspection and the place where and times when they can be inspected;
  - (iii) the date by which representations on the draft local listed building consent order must be received, which must be not less than 28 days after the date of first publication on the website; and
  - (iv) details of how representations may be made about the draft local listed building consent order;
- (c) display a notice in the appropriate form set out in the Schedule (or in a form substantially to the like effect) on or near to the site to which the order would relate or (where display on or near to the site is not practicable) in at least one place within the area to which the order would relate for, (subject to paragraph (4)), not less than 28 days; and
- (d) serve a copy of that notice on every person whom the authority knows to be the owner of a listed building in the area to which the order would relate and whose name and address is known to the authority.

(2) A draft local listed building consent order must not be made by the local planning authority before the expiry of the latest period referred to in paragraph (1), and if applicable, regulation 3(2)(b).

(3) A local planning authority must, in considering what modifications (if any) should be made to the draft local listed building consent order or whether such an order should be adopted, take into account any representations received during any period specified in this regulation.

(4) Where the notice referred to in paragraph (1)(c) is, without any fault or intention of the authority, removed, obscured or defaced before the period referred to in that paragraph has elapsed, the authority is treated as having complied with the requirements of that paragraph if they have taken reasonable steps for the protection of the notice, and, if necessary, its replacement.

### **Requirement to notify the Commission of local listed building consent orders made**

5. Where a local listed building consent order is made by a local planning authority, that authority must send a copy of the order to the Commission as soon after the order is made as is reasonably practicable.

### **Revocation of a local listed building consent order**

6. Where a local planning authority revoke, or on receipt of notice from the Secretary of State of revocation of, a local listed building consent order the authority to which the order relates must—

- (a) publish on their website a statement that the local listed building consent order has been revoked;
- (b) display, in the manner described in regulation 4(1)(c) a notice containing a statement that the listed building consent order has been revoked; and
- (c) give written notice of the revocation to—
  - (i) the Commission; and
  - (ii) every person on whom a notice was served in accordance with regulation 4(1)(d).

### **Compensation in respect of local listed building consent orders**

7. (1) For the purposes of section 28A of the Act as it applies to local listed building consent orders, the following matters are prescribed<sup>(3)</sup>.

- (2) For the purposes of section 28A(1)(b) the prescribed period is 6 months.
- (3) For the purposes of section 28A(3)(a)—
  - (a) notice of withdrawal is published in the prescribed manner if it is published by the local planning authority—
    - (i) in the manner described in regulation 4(1)(b), (c) and (d) and 6(c)(i); or
    - (ii) where a local listed building consent order grants listed building consent for a limited period, or provides that listed building consent is withdrawn after a date specified in that order, by publishing in the manner described in regulation 4(1)(b); and
  - (b) the prescribed period is 6 months.

Signed by authority of the Secretary of State for Communities and Local Government

*Nick Boles*  
Parliamentary Under Secretary of State  
Department for Communities and Local  
Government

10th March 2014

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(3) See section 91 of the Act for the definition of “prescribed”.

SCHEDULE

Regulation 4(1)(c)

Planning (Local Listed Building Consent Orders)  
(Procedure) Regulations 2014: Regulation 4(1)(c)

# NOTICE UNDER REGULATION 4 LOCAL LISTED BUILDING

*(to be displayed on or near the site, or in at least one place where the order relates and to be seen by all who pass)*

Proposed works at (a) .....

**Notice is given that (b)**

.....

local listed building consent order granting listed building consent

(c) .....

A copy of the draft order and a statement of the Council's reasons for making the order available for inspection at.....

Council's website at .....

Any person who wishes to make representations about the proposed works at (f) .....

by .....(g)

\* "owner" means a person having a freehold interest in the land to which the order relates which is not less than 7 years.

Signed.....(Council)

On behalf of .....Council

Date .....

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Section 26D of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Act”) provides that a local planning authority may make a local listed building consent order which grants listed building consent for works of any description for the alteration or extension (but not demolition) of listed buildings of a specified description or in a specified part of the authority’s area. Section 26F provides that, in considering whether to make a local listed building consent order, the local planning authority must have special regard to the desirability of preserving listed buildings of a description to which the order applies, their setting or any features of special architectural or historic interest which they possess.

Schedule 2A to the Act sets out the procedures for local listed building consent order which, to a large extent, replicate those in Schedule 4A to the Town and Country Planning Act 1990 for local development orders.

The Regulations provide for the procedures connected to local listed building consent orders and, in particular, make provision as to their preparation and revocation. They also cover the notice, publicity and public inspection requirements that apply to local listed building consent orders and make provision as to consultation.

The Regulations also make compensation provision in respect of local listed building consent orders: section 28A of the Act provides that compensation be paid, as set out in section 28 of that Act, where listed building consent granted by a local listed building consent order, is withdrawn. Section 28 has effect where an application for listed building consent is made, within a prescribed period after the withdrawal of the order, and consent for works formerly authorised by the order is refused or is granted subject to conditions not included in the order. Regulation 7(2) prescribes this period as 6 months.

Regulation 7(3) provides that compensation will not be payable where the local planning authority publish the notice of withdrawal in the manner specified and provided that they publish the notice within 6 months before the withdrawal.

A full impact assessment has not been prepared for this instrument, as impacts of the measures to which the Regulations relate were considered as part of the impact assessments prepared for the *Consultation on Improvements to the system of Listed Building Consents* (published in August 2012). The consultation impact assessments are available at: <https://www.gov.uk/government/consultations/consultation-on-improvements-to-the-system-of-listed-building-consents>.