

Institute of Historic Building Conservation

Enterprise and Regulatory Reform Act: Secondary Legislation (Heritage) Consultation

Questions

- 1. Do you agree that the duration of a Listed Building Heritage Partnership Agreement should be left to the discretion of individual local planning authorities?**

- Yes

If no, should the maximum duration of the Agreement be set at three, five or ten years? Can you briefly summarise the reasons for your answer.

We think that the LPA concerned will be best placed to make the necessary judgements on this. We would be happy with the 10-year upper time limit so long as any Guidance makes it clear that the LPA must provide a reasoned justification for the time limit it sets on each case.

- 2. Do you agree that local planning authorities should only consult English Heritage on the proposed grant of listed building consent included in draft Listed Building Heritage Partnership Agreements where they cover Grade I and II* listed buildings?**

- Yes – it makes no sense to us to have a more restrictive regime in relation to HPAs than Listed Building Consents. However, consultation should be required whenever the LPA is the building owner, so that conflicts of interest are minimized and seen to be minimized.

- 3. Do you agree that local planning authorities should only be required to specifically notify known owners of the listed building who are not party to the draft Agreement of the proposed listed building consent, with any further notification being left at the local authority's discretion?**

Note: owners also include any tenants with not less than seven years of a term certain remaining unexpired.

- Yes – but we think notification should be a requirement for applicants to undertake under the same certification procedures as for Listed Building Consents.

- 4. Do you have any other comments on the draft regulations for Listed Building Heritage Partnership Agreements?**

- Yes – we **strongly disagree** with the proposal to amend Section 16(1) of the Act in relation to the proposals. The requirement for decision makers to have "special regard" must remain in all circumstances.

- 5. Do you agree that local planning authorities should only consult English**

Heritage on draft Local Listed Building Consent Orders where they cover Grade I and II* listed buildings?

- Yes – it makes no sense to us to have a more restrictive regime in relation to HPAs than Listed Building Consents. However, consultation should be required whenever the LPA is the building owner, so that conflicts of interest are minimized.

6. Should local planning authorities only be required to notify known owners of listed buildings of the draft Local Listed Building Consent Order? The need for any further notification would be at the local authority's discretion.

Note: owners also include any tenants with not less than seven years of a term certain remaining unexpired.

- Yes – but we think notification should be a requirement for applicants to undertake under the same certification procedures as for Listed Building Consents.

7. Do you agree that the duration of a Local Listed Building Consent Order should be left to the discretion of individual local planning authorities?

- Yes - We think that the LPA concerned will be best placed to make the necessary judgements on this. We would be happy with the 10-year upper time limit so long as any Guidance makes it clear that the LPA must provide a reasoned justification for the time limit it sets on each case.

8. Do you have any other comments on the draft regulations for Local Listed Building Consent Orders?

- Yes – we **strongly disagree** with the proposal to amend Section 16(1) of the Act in relation to the proposals. The requirement for decision makers to have "special regard" must remain in all circumstances.

9. It is proposed that Certificates of Lawfulness of Proposed Works should be determined by the local planning authority within six weeks. Do you agree?

- Yes

10. The procedures that are being proposed for Certificates of Lawfulness of Proposed Works are intended to be 'light touch' to avoid creating any unnecessary burdens while still ensuring an appropriate level of protection for listed buildings. Do you agree that the draft regulations are sufficiently 'light touch'?

- Yes - But the process could be 'lighter' still by not requiring the LA to send an acknowledgement letter and if required a separate letter informing the

applicant that the application is invalid. These two could be combined if the application is invalid.

11. Do you have any other comments on the draft regulations for Certificates of Lawfulness of Proposed Works?

- Yes - LPAs should be required to have access to, and take regard of specialist advice when considering whether the work does or doesn't affect the character of the building.

12. Do you consider that this new system of Certificates of Lawfulness of Proposed Works will encourage applications from people who would otherwise have, correctly, not applied for listed building consent and gone ahead with the proposed works?

- Yes

If yes, what steps might be taken to address this point and how might they be helpful?

We think this will happen; after all these Certificates are intended for use in cases where LBC is not required. People may apply for the certificate of lawfulness when the proposed works do not require LBC – especially if there is limited (or no) professional conservation advice available. Normally a conservation officer would be able to confirm in writing that a LBC was not required – but due to staffing cuts applicants may be asked to apply for the certificate or feel the need to apply for one. It needs to be emphasized that applications for Certificates may also be refused where LBC is judged to be required. This additional process that will delay the applicant's project in these cases would be avoided if LPA pre-application advice had been provided at the appropriate stage.

13. Are there any other steps that could be taken to provide greater certainty about when listed building consent is or is not required. For example, improved guidance?

The best practice being prepared by EH which is to be linked to the NPPG should help. However such guidance will inevitably be generic and cannot, in itself, be definitive. There will continue to be cases that require a site visit by the LPA to establish if LBC is required.

14. Do you have any comments on the proposed approach for making National Listed Building Consent Orders?

The best practice being prepared by EH which is to be linked to the NPPG should help. However such guidance is generic and there will be specific cases that require a site visit to establish if LBC is required

15. Do you agree that the compensation procedures which there are powers to prescribe through regulations for National Listed Building Consent Orders should mirror those put in place for Local Listed Building Consent Orders?

- Yes – but the national orders are for sites that span two or more LA boundaries. The Canal and Rivers Trust are in discussion about a draft national order. We think that these are likely to be few and far between.

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