STATUTORY RULES OF NORTHERN IRELAND

2015 No. 108

PLANNING

The Planning (Listed Buildings) Regulations (Northern Ireland) 2015

Made - - - - 26th February 2015

Coming into operation 1st April 2015

The Department of the Environment makes the following Regulations in exercise of the powers conferred on it by sections 42 (as applied by section 87(1) and (2)), 80(5), 86, 95(2), 100(2), 107(2), 181(1) and 247(1) and (6) of the Planning Act (Northern Ireland) 2011 [F1].

F1 2011 c.25 (N.I.)

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Planning (Listed Buildings) Regulations (Northern Ireland) 2015 and shall come into operation on 1st April 2015.

(2) In these Regulations—

"appropriate council" means the council for the district in which building is situated;

"council" means a district council;

"electronic communication" has the meaning assigned to it by section 4 of the Electronic Communication Act (Northern Ireland) 2001 [F2]; any reference to a section is a reference to a section of the Planning Act (Northern Ireland) 2011.

(3) 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, except that where these Regulations impose any obligation on any person to provide a name and address to any other person, the obligation is not fulfilled unless the person on whom it is imposed provides a postal address;

(b) references to plans, notices or other documents or to copies of such things include references to such documents or copies of them in electronic form.

(4) Paragraphs (5) to (8) 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 plan, notice or other document to any other person ("the recipient").

(5) The requirement must be taken to be fulfilled where the plan, notice or other document transmitted by means of 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.

(6) In paragraph (5), "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.

(7) Where the electronic communication is received by the recipient outside the recipient's business hours, it must be 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 or a public holiday.

(8) A requirement in these Regulations that any document should be in writing is fulfilled where that document meets the criteria in paragraph (5).

F2 2001 c.9 (N.I.) as amended by 2003 c.21

Applications for listed building consent

2.—(1) An application for listed building consent must be made in writing to the appropriate council.

(2) An application for such consent must include—

(a) a description of the works to which it relates;

(b) the postal address of the building to which the works relate, or if the building in question has no postal address, a description of the location of the building; and

(c) the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent.

(3) The application must be accompanied by—

(a) a plan—

(i) sufficient to identify the building to which it relates; and

(ii) showing the location of the building in relation to the locality; and

(b) such other plans and drawings as are necessary to describe the works which are the subject of the application.

(4) The council may give directions either generally or in relation to a particular case specifying the kinds of particulars, plans or information to be contained in an application.

Applications for approval required by a condition

3.—(1) An application for the approval of a council or, as the case may be, the Department required by a condition imposed on a grant of listed building consent must be made in accordance with this regulation.

(2) An application for such approval must be in writing and must include—

(a) sufficient information to enable the council or, as the case may be, the Department to identify the previous grant of listed building consent;

(b) a description of the works in respect of which the application is made; and

(c) the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent.

(3) The application must be accompanied by such plans and drawings as are necessary to describe the works to which it relates.

(4) The council or, as the case may be, the Department may give directions either generally or in relation to a particular case specifying the kinds of particulars, plans or information to be included in an application.

Design and access statements

4.—(1) An application under regulation 2 must be accompanied by a statement ("a design and access statement") which explains—

(a) the design principles and concepts that have been applied to the works;

(b) how the design principles and concepts that have been applied to the works take account of—

(i) the special architectural or historic importance of the building;

(ii) the particular physical features of the building that justify its designation as a listed building; and

(iii) the building's setting; and

(c) subject to paragraph (3), how issues relating to access to the building have been dealt with.

(2) Subject to paragraph (3), a design and access statement shall also—

(a) explain the policy adopted as to access, including what alternative means of access have been considered;

(b) explain how the policy as to access takes account of—

(i) the special architectural or historical importance of the building;

(ii) the particular physical features of the building that justify its designation as a listed building; and

(iii) the building's setting;

(c) state what, if any, consultation has been undertaken and what account has been taken of the outcome of any such consultation; and

(d) explain how any specific issues which might affect access to the building have been addressed.

(3) Paragraphs (1)(c) and (2) do not apply in relation to an application for listed building consent to carry out works affecting only the interior of the building.

Certificates and notices to accompany applications and appeals

5. Certificates and notices for the purposes of section 42 (notification of applications to certain persons) as applied by section 87 (notification of applications for listed building consent to certain persons), and section 87 as applied by section 96(6) (appeal against decision) and 97 (appeal against failure to take decision), must be in the form set out in Schedule 1.

Duty of council to consult on applications for listed building consent

6.—(1) Before determining an application for listed building consent the council must consult with **[**F3the Department for Communities**]** and must, in determining the application, take into account any representations made by it.

(2) Where **[**F3the Department for Communities**]** is consulted under paragraph (1) it must respond within—

(a) 21 days; or

(b) such other period as is agreed in writing between the council and **[**F3the Department for Communities**]**;

starting on the date on which it receives the information specified in regulation 2(2)(a) and (b) and (3).

F3 Words in reg. 6 substituted (9.5.2016) by The Planning (Listed Buildings) (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/117), regs. 1, **2(2)**

Publication of notices of applications

7.—(1) Where an application is made to a council for listed building consent, it—

(a) must publish notice of the application in at least one newspaper circulating in the locality in which the building to which the application relates is situated; and

(b) must where it maintains a website for the purpose of advertisement of applications, publish the notice on that website; and

(c) must not determine the application before the expiration of 14 days from the date on which notice of the application is first published in a newspaper in pursuance of sub-paragraph (a) or is first published on the website whichever is the later.

(2) Where an application is referred to the Department under section 88 (call in of certain applications for listed building consent to the Department) then, if the council has not published notice of the application in accordance with paragraph (1)(a) and (b) the Department shall publish notice of the application as if the reference in that paragraph to the council were a reference to the Department.

Determination of application

8.—(1) In determining any application for listed building consent the council or, as the case may be, the Department must take into account any representations relating to that application which are received by it before the expiration of the period of 14 days from the date on which notice of the application is first published in a newspaper in pursuance of regulation 7(1)(a) or is first published on the website, whichever is the later.

(2) In determining an application for listed building consent which is accompanied by a certificate as described in section 42(1)(c) or (d), the council or, as the case may be, the Department—

(a) must take into account any representations relating to the application which are made to it by any person who satisfies it that, in relation to the building to which the application relates, he or she is such a person as is described in section 42(1)(c); and

(b) must give notice of its decision on the application to every person who made representations which it was required to take into account under sub-paragraph (a).

(3) References in this regulation to section 42 are to that section as applied by section 87.

Notification of decision

9.—(1) Where a council has received an application for listed building consent, the council must give notice to the applicant of its decision on the application or of the reference of the application to the Department within a period of 8 weeks from the date of receipt of the application or (except where the applicant has already given notice of appeal to the planning appeals commission) such longer period as may be agreed upon in writing between the applicant and the council.

(2) Where a council has received an application for any approval required by a condition imposed on a grant of listed building consent the council must give notice to the applicant of its decision on the application within a period of 8 weeks from the date of receipt of the application or (except where the applicant has already given notice of appeal to the planning appeals commission) such longer period as may be agreed upon in writing between the applicant and the council.

(3) The council or, as the case may be, the Department must state in the notice of decision its reasons for—

(a) any refusal; or

(b) any decision to attach a condition to a listed building consent.

(4) Where a request has been made to the Secretary of State for a certificate in respect of section 235(1) (national security) or the Department of Justice in respect of section 235(4), the period specified in paragraphs (1) and (2) shall begin on the date that the council is notified of that decision.

Applications to councils for consent to execute works without compliance with conditions previously attached

10.—(1) An application to a council under section 95 (consent to execute works without compliance with conditions previously attached) must be made in accordance with this regulation.

(2) An application for such consent must be made in writing and must contain—

(a) a description of the works in respect of which the application is made;

(b) sufficient information to enable the council to identify the previous consent and any condition in question;

(c) a statement that the application is made under section 95; and

(d) the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent.

(3) The application must be accompanied by a further copy of such plans and drawings as are necessary to describe the works to which it relates.

(4) Regulations 4 to 9 apply in relation to an application under this regulation as they apply in relation to an application for listed building consent under regulation 2, but the reference in regulation 6(2) to "regulation 2(2)(a) and (b) and (3)" shall apply as if there were substituted a reference to "regulation 10(2)(a) to (c) and (3)".

Applications to the Department for consent to execute works without compliance with conditions previously attached

11.—(1) Where an application under section 95 is required to be made to the Department, **[**[F4]regulations 4 to 6, 7(1)**]** and 10(1), (2) and (3) shall apply to that application and references to a council shall be construed as a reference to the Department.

(2) Where an application under section 95 is made to the Department it shall consult the appropriate council.

(3) For the purpose of considering representations made in respect of an application under section 95 the Department may cause a public local inquiry to be held by—

(a) the planning appeals commission;

(b) a person appointed by the Department for the purpose.

(4) Where a public local inquiry is not held under paragraph (3) the Department must, before determining the application, serve a notice on the applicant and the appropriate council indicating the decision which it proposes to make on the application; and if within such period as may be specified in that behalf in the notice (not being less than 28 days from the date of service of the