STATUTORY RULES OF NORTHERN IRELAND

2015 No. 107

PLANNING

The Planning (Conservation Areas) (Demolition) 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(7) (as applied by sections 87(1) and (2)), 86(1), (4) and (5), 95(2), 100(2), 107(2), 181(1) (as applied by section 105(6)) and 247(1) and (6) of the Planning Act (Northern Ireland) 2011(**1**).

Citation and commencement

1. These Regulations may be cited as the Planning (Conservation Areas) (Demolition) Regulations (Northern Ireland) 2015 and shall come into operation on 1 April 2015.

Interpretation

2.—(1) In these Regulations—

"the 2011 Act" means the Planning Act (Northern Ireland) 2011 and any reference to a section is a reference to a section of that Act;

"appropriate council" means the council for the district in which a conservation area is located;

"council" means a district council;

"electronic communication" has the meaning assigned to it by section 4 of the Electronic Communications Act (Northern Ireland) 2001(**2**).

(2) 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;

(**1**) 2011 c.25 (N.I.)
(**2**) 2001 c.9 (N.I.) as amended by 2003 c.21

(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.

(3) Paragraphs (4) to (7) 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").

(4) 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.

(5) In paragraph (4), "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.

(6) 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.

(7) A requirement in these Regulations that any document should be in writing is fulfilled where that document meets the criteria in paragraph (4).

Applications for conservation area consent

3.—(1) An application for conservation area consent must be made in writing to the appropriate council.

(2) An application for such consent must include—

(a) a description of the proposed demolition to which it relates;

(b) the postal address of the building to which it relates, 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 effect of the proposed demolition.

(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

4.—(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 conservation area 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 conservation area 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.

Certificates and notices to accompany applications and appeals

5. Certificates and notices issued 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) as applied by section 105(6), must be in the form set out in Schedule 1.

Publication of notices of applications

6.—(1) Where an application is made to a council for conservation area 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

7.—(1) In determining any application for conservation area 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 6(1)(a) or is first published on the website, whichever is the later.

(2) In determining an application for conservation area 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 and section 105(6).

Notification of decision

8.—(1) Where a council has received an application for conservation area 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 conservation area 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 conservation area 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

9.—(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 proposed demolition 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 may be necessary to describe the effect of the proposed demolition.

(4) Regulations 5 to 8 apply in relation to an application under this regulation as they apply in relation to an application for conservation area consent under regulation 3.

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

10.—(1) Where an application under section 95 is required to be made to the Department, regulations 5, 6(1) and 9(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 notice), the applicant or the council so requests in writing, the Department shall afford to each of them an opportunity of appearing before and being heard by—

(a) the planning appeals commission; or

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

(5) In determining an application under section 95 the Department must, where any inquiry or hearing is held, take into account any report of the planning appeals commission or a person appointed by the Department for the purposes of the inquiry or hearing, as the case may be.

(6) The decision of the Department on an application under section 95 shall be final.

Applications by interested councils

11.—(1) In relation to applications by interested councils relating to the execution of works for demolition of unlisted buildings in conservation areas, the provisions specified in section 107(3) (application of Chapter 1, etc, to land and works of councils) have effect subject to the exceptions and modifications prescribed in this regulation.

(2) Where an interested council requires conservation area consent they must make an application to the Department for that consent.

(3) Any such application is deemed to have been referred to the Department under section 88 and the provisions of that section apply to the determination of the application by the Department.

(4) Where a council is making an application for consent under paragraph (2) it must, before sending it to the Department, publish notice of the application in accordance with regulation 6(1) (a) and (b).

(5) An application by a council to the Department under paragraph (2) must be accompanied by a copy of all representations duly made in relation to the application.

(6) In this regulation "interested council" has the same meaning as in section 107(6) (application of Chapter 1, etc., to land and works of councils).

Claims for compensation

12. A claim for compensation made under section 181 (compensation where listed building consent revoked or modified), must be made in writing and must be received by the council within 6 months from the date of the order in respect of which the claim is made or within such extended period as the council may allow.

Use of electronic communications

13.—(1) Paragraphs (2) and (3) apply where a person uses electronic communications for any of the following purposes—

(a) making an application under regulation 3, for conservation area consent;

(b) making an application under regulation 4, for approval required by a condition imposed on a grant of conservation area consent;

(c) making an application under regulation 9 or 10, for consent to execute works without compliance with conditions previously attached;

(d) making a claim for compensation under regulation 12.