

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(a).

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(b).

(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;

(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”).

(a) 2011 c.25 (N.I.)

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

(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.

(2) In a case to which this paragraph applies, and except where a contrary intention appears, the person making the application or claim is taken to have agreed—

- (a) to the use of electronic communications for all purposes relating to the application or claim (as the case may be) which are capable of being effected using such communications;
- (b) that the address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, the application or claim;
- (c) that the person’s deemed agreement under this paragraph subsists until that person gives notice in writing that he or she wishes to revoke the agreement and such withdrawal or revocation will be final and will take effect on a date specified by that person in the notice but not less than seven days after the date on which the notice is given.

(3) In regulation 3(3)(a) the requirement that an application for conservation area consent must be accompanied by a plan sufficient to identify the building is satisfied where the applicant identifies the building on an electronic map provided by the council and for this purpose a map is taken to be provided where the council has published it on its website.

Advertisement of unopposed revocation or modification order

14. Where by virtue of the provisions of section 100(2) (procedure for section 98 orders: unopposed cases) the making of an order under section 98 (revocation or modification of listed building consent by council) in respect of works to a building is required to be advertised, the council must publish the advertisement in the same manner as is prescribed in relation to an application for conservation area consent by regulation 6(1)(a) and (b).

Exceptions and modifications

15. In their application to buildings in conservation areas, the provisions referred to in section 105(6) and set out in column (1) of Schedule 2 shall have effect as they have effect in relation to listed buildings subject to—

- (a) the substitution of—
 - (i) “conservation area consent” for any reference to “listed building consent”;
 - (ii) “conservation area enforcement notice” for any reference to “listed building enforcement notice”; and
 - (iii) “building in a conservation area” for any reference to “listed building”;
- (b) the exceptions and additional modifications (if any) specified opposite such provisions in column (2) of that Schedule.

Revocation

16. The Planning (Conservation Areas) (Demolition) Regulations (Northern Ireland) 1988(a) are revoked.

Sealed with the Official Seal of the Department of the Environment on 26th February 2015.



Angus Kerr
A senior officer of the
Department of the Environment

(a) S.R. 1988 No.5

SCHEDULE 1

Regulation 5

PART 1

PLANNING ACT (NORTHERN IRELAND) 2011

Certificate under section 42 as applied by Chapter 1 of Part 4

Certificate A

I HEREBY CERTIFY that the accompanying application / appeal is made by or on behalf of (Name of applicant / appellant) who is in actual possession of every part of the land to which the said application / appeal relates and is entitled to a fee simple absolute / a fee tail / a life estate / a tenancy of which at least 40 years remain unexpired in the land.

OR

Certificate B

I HEREBY CERTIFY that the accompanying application / appeal is made by or on behalf of (Name of applicant / appellant) who is the trustee of a trust or settlement which affects every part of the land to which the accompanying application / appeal relates and that at the date of the application / appeal—

(a) a beneficiary under the trust or settlement is in the actual possession of every part of the land; and

(b) no person other than a beneficiary under the trust or settlement is entitled to enter into the actual possession of any part of the said land within a period of forty years.

OR

Certificate C

I HEREBY CERTIFY that the requisite notice of the accompanying application / appeal has been given by or on behalf of (Name of applicant / appellant) to any person who, at the beginning of the period of 21 days ending with the date of the said application / appeal was, in relation to all or any part of the land affected by the application / appeal—

(a) a person then in actual possession;

(b) the trustee of a trust or settlement where a beneficiary under the trust or settlement was in actual possession and no person other than such a beneficiary was entitled to enter into actual possession within a period of 40 years;

(c) a person (not being a person falling within (a) or (b)) entitled to enter into actual possession within a period of 40 years.

The persons upon whom a notice was served are:—

Name and Address	Interest	Date of Service of Notice
------------------	----------	---------------------------

OR

Certificate D

1. I HEREBY CERTIFY that the person making the accompanying application / appeal
(a) is unable to issue a certificate in accordance with either section 42(1) (a) or (b) of the Planning Act (Northern Ireland) 2011;

(b) has made due inquiries and is of the opinion that he is unable to issue a certificate which would satisfy the requirements of section 42 (1) (c) of the said Act for the following reasons:—

.....
.....
.....;and

(c) has given the requisite notice of the said application / appeal to the under-mentioned persons who, at the beginning of the period of 21 days ending with the date of the said application / appeal, were in the actual possession of any part of the land to which the application / appeal relates, namely:—

Name and Address	Interest	Date of Service of Notice
------------------	----------	---------------------------

2. Notice of the application / appeal has been published in the (title of newspaper) on (date of publication) and a copy of the newspaper in which the notice appeared is enclosed.

Signature of Applicant or Agent.....

Date.....

PART 2

PLANNING ACT (NORTHERN IRELAND) 2011

Notice of an application for conservation area consent under section 42, as applied by section 87 and section 105(6) of the 2011 Act

[Notice for service on individuals]

(a) Insert address or location of building

Proposal to carry out works for demolishing

(a)

TAKE NOTICE that application under the Planning Act (Northern Ireland) 2011 is being made to the [(1)] [Department of the Environment]* by

(b) Insert name of applicant

(b)

for conservation area consent.

If you wish to make representations about the application you should make them in writing to the [council] [Department]* within 14 days from the date of service of this notice.

Signature of Applicant or Agent

Date

Notes

* Delete where inappropriate.

(1) Insert name of council.

PLANNING ACT (NORTHERN IRELAND) 2011

Notice of an application for conservation area consent under section 42, as applied by section 87 and section 105(6) of the 2011 Act

[Notice for publication in local newspaper]

(a) Insert address or location of building

Proposal to carry out works for demolishing

(a)

NOTICE IS HERBY GIVEN that application under the Planning Act (Northern Ireland) 2011 is being made to the

[(1) [Department of the Environment]* by

(b) Insert name of applicant

(b)

for conservation area consent.

Any person having an interest in the land or building which entitles him to make representations about the proposed works may make such representations in writing to the [council] [Department]* within 14 days from the date of publication of this notice.

Notes

* Delete where inappropriate.

(1) Insert name of council.

PART 3

PLANNING ACT (NORTHERN IRELAND) 2011

Notice of an appeal against refusal, etc., of conservation area consent, under section 42 as applied by sections 87 (as applied by sections 96(6) and 97) and section 105(6) of the 2011 Act

[Notice for service on individuals]

(a) Insert address or location of building

Proposal to carry out works for demolishing

(a)

TAKE NOTICE that an appeal under the Planning Act (Northern Ireland) 2011 is being made by

(b) Insert name of appellant

(b)

against the decision of the [.....](insert name of council)] on an application for conservation area consent.

If you wish to make representations about the appeal you should make them in writing to the Planning Appeals Commission within 14 days from the date of service of this notice.

Signature of appellant or agent

Date

PLANNING ACT (NORTHERN IRELAND) 2011

Notice of an appeal against refusal, etc., of conservation area consent, under section 42 as applied by section 87 (as applied by sections 96(6) and 97) and section 105(6) of the 2011 Act

[Notice for publication in local newspaper]

(a) Insert address or location of building

Proposal to carry out works for demolishing

(a)

NOTICE IS HERBY GIVEN that an appeal under the Planning Act (Northern Ireland) 2011 is being made by

(b) Insert name of appellant

(b)

against the decision of the [.....(insert name of council)] on an application for conservation area consent.

Any person having an interest in the land or building which entitles him to make representations about the appeal may make such representations in writing to the Planning Appeals Commission within 14 days from the date of publication of this notice.

SCHEDULE 2

Regulation 15

Exceptions and Modifications

<i>Provisions of the 2011 Act relating to listed building control</i>	<i>Exceptions and additional modifications (if any)</i>
Section 85	<p>(1) In sub-section (1), omit the words “or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest.”.</p> <p>(2) In sub-section (2), omit the words “alteration or extension”.</p> <p>(3) In sub-section (2), omit paragraph (b).</p> <p>(4) In sub-section (3), omit the words “or for its alteration or extension”.</p> <p>(5) Omit sub-section (4).</p> <p>(6) In sub-section (8), omit the words “alteration or extension”.</p>
Section 86	Omit sub-sections (2) & (3).
Section 87 to 89	None.
Section 90	In sub-section (4), for the words “Department and such other persons as may be so specified” substitute the words “the Department, or such other persons as may be so specified, or both”.
Section 91	Omit sub-section (2).
Section 92 to 101	None.
Section 102	<p>In sub-section (1), for the words “involve the alteration or extension of the building in any manner which would affect its character as a building of special architectural or historic interest” substitute the words “affect the character or appearance of the conservation area in which the building is situated”.</p> <p>In sub-section (3), for the words “does not involve the alteration or extension of a listed building in any manner which would affect its character as a building of special architectural or historic interest” substitute the words “would not affect the character or appearance of the conservation area in which the building is situated”.</p>
Section 107	<p>Omit sub-section (1).</p> <p>In sub-section (2) omit the words “alteration or extension”.</p>
Section 157	In sub-section (1), for the words “The character

<i>Provisions of the 2011 Act relating to listed building control</i>	<i>Exceptions and additional modifications (if any)</i>
Section 158	of the building as one of special architectural or historic interest”, substitute the words “the character or appearance of the conservation area in which the building is situated”. In sub-section (5) omit the words “alteration or extension”. None.
Section 159	In sub-section (1) substitute the following paragraph for paragraph (i) “(i) that retention of the building is not necessary in the interests of preserving or enhancing the character or appearance of the conservation area in which it is situated;”.
Section 160	None.
Section 181	None.
Section 191	None.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations made under the Planning (Northern Ireland) Act 2011 (the 2011 Act) up-date and replace the Planning (Conservation Areas) (Demolition) Regulations (Northern Ireland) 1988 (“the 1988 Regulations”) to take account of that Act. They provide the necessary procedures for the obtaining of conservation area consent for the demolition in a conservation area of a building which is neither a listed building nor an ecclesiastical building nor a building guarded, protected or scheduled under the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995.

Regulation 3 sets out how an application for conservation area consent must be made and the information which an applicant must provide.

Regulation 4 sets out how an application for approval of the council [or, as the case may be, the Department] required by a condition imposed on the grant of conservation area consent must be made and the information which an applicant must provide.

Regulation 5 provides for notification to owners under section 42 of the 2011 Act and also for related certificates that such notification has or cannot be carried out.

Regulation 6(1)(a) and (b) requires councils to publish notice of an application for conservation area consent in a local newspaper and, where the council maintain one, on their website.

Regulation 6(1)(c) prevents councils from determining an application for conservation area consent before the end of 14 days beginning with the date notice of the application was first published in a local newspaper, or 14 days from the date of publication on the council website (where the council maintain one), whichever is the later date.

Regulation 7(1) requires councils, in determining an application for conservation area consent, to take account of responses received within 14 days from the date on which the notice is first published in a newspaper, or 14 days from the date of publication on the council website (where the council maintain one), whichever is the later date.

Regulation 7(2) requires councils, in determining an application for conservation area consent, to take account of any representation made by the owner of the building (where the applicant is not the owner) and (where the owner makes a representation) to notify them of their decision.

Regulation 8(1) specifies the period of time within which the council should determine applications for conservation area consent.

Regulation 8(2) specifies the period of time within which councils should determine applications for approval required by a condition imposed on the grant of conservation area consent.

Regulation 8(3) requires councils [or, as the case may be, the Department] to give reasons where they refuse an application for conservation area consent, or grant consent subject to conditions.

Regulation 9 deals with applications to councils under section 95 (consent to execute works without compliance with conditions previously attached) of the 2011 Act.

Regulation 10 deals with applications to the Department under section 95 of the 2011 Act.

Regulation 11 deals with applications by interested councils (defined in section 107(6) of the 2011 Act).

Regulation 12 sets out the procedure for claims for compensation for revocation or modification of a consent.

Regulation 13 provides for the use of electronic communication in relation to submission of applications and claims for compensation.

Regulation 14 deals with advertisement of unopposed orders revoking or modifying a consent.

Regulation 15 and Schedule 2 set out the expectations and modifications which are made to the listed building provisions of the 2011 Act which section 105(6) of that Act applies to buildings to which these Regulations apply.

Regulation 16 revokes the 1988 Regulations.

A regulatory impact assessment has been prepared in relation to these Regulations. A copy may be obtained from the Department of the Environment, Causeway Exchange, 1-7 Bedford Street, Belfast, BT2 7EG or accessed at www.doeni.gov.uk

The Explanatory Memorandum is available alongside these Regulations on the government's website www.legislation.gov.uk

© Crown copyright 2015

Printed in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office being the Government Printer for Northern Ireland and the Officer appointed to print Acts of the Northern Ireland Assembly.

£6.00

N6482 03/2015 456482T 19585

ISBN 978-0-337-99650-4



9 780337 996504