

EXPLANATORY MEMORANDUM TO THE

The Planning (Listed Buildings and Conservation Areas) (Amendment) (England) Regulations 2004 No.2210

1. This explanatory memorandum has been prepared by Office of the Deputy Prime Minister and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This Instrument amends the Planning (Listed buildings and Conservation Areas) Regulations 1990 (SI 1990/1519).

2.2 It requires the local planning authority, where it considers that an application for the development of land may affect the setting of a listed building, to publicise such applications by [publishing a] notice in a newspaper circulating in the locality in which the land is situated and by the display of a notice on or near the land. Where a local planning authority maintains a website for the purpose of advertisement of applications, the authority must also state, in the notice of application published in the newspaper and displayed on the land, details of the website.

2.2 It requires that where an application is made to the London Borough of Camden for listed building consent or conservation area consent under the Planning (Listed Buildings and Conservation Areas) Act 1990 or for development that the authority consider may affect the setting of a listed building, the authority must display a notice of the application on the land and, if the authority maintains a website for the purpose of advertisement of applications, publish a copy of the notice on the website.

3. Matters of special interest to the Select Committee on Statutory Instruments

3.1 These regulations bring planning applications affecting the setting of a listed building or the character of a conservation area, and applications for listed building or conservation area consent into line with Town and Country Planning (London Borough of Camden) Special Development Order 2004. The Special Development Order was initially prayed against and an adjournment debate took place in the House of Lords on 23 June 2004.

3.3 An independent review report by Arup commissioned by the Office of the Deputy Prime Minister and published on the same day, looked at publicity arrangements for all types of applications to establish whether they are cost effective and provide value for money.

The report also made recommendations for how the statutory requirements could be changed and evaluated ways of maintaining and improving public awareness of planning applications.

3.4 One of the findings of the report was that "local newspaper advertisements are considered to be the least effective form of publicity for any type of application by local planning authorities, advisors and non-statutory consultees."

3.5 During the debate it was also pointed out that the provisions of the Special Development Order are intended as a 3-year pilot scheme to establish whether the findings of the Arup report and Camden's own findings were true in practice.

3.6 The policy reasons behind the Special Development Order were accepted and the prayer against it was withdrawn. Details of the debate can be found at the following web address:

http://www.publications.parliament.uk/pa/ld199900/ldhansrd/pdvn/lds04/text/40623-08.htm#40623-08_d10

4. Legislative Background

4.1 This Instrument is made to in exercise of powers contained in section 10, 67, 73 and 93 of the Town and Country Planning Act 1990. These provisions were amended by paragraphs 20, 23, 24 and 26 of Schedule 6 to the Planning and Compulsory Purchase Act 2004 (c.5). Sections 67 and 73 were also amended by paragraphs 59 and 60 of the Planning and Compulsory Purchase Act 1991 (c.34).

5. Extent

This instrument applies to England.

6. European Convention on Human Rights

This instrument is subject to negative procedure and does not amend primary legislation. Therefore no statement as to compatibility has been given.

7. Policy background

Publicity requirements

7.1 Section 67 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the Listed Buildings Act") enables the Secretary of State to prescribe requirements as to publicity for applications for planning permission in cases where the local authority think that the development of land would affect the setting of a listed building.

Section 73 grants the same power in respect of applications affecting the character or appearance of a conservation area.

7.2 The purpose of this amendment to the Listed Buildings Act was to transfer the publicity requirements from primary legislation to regulations, in order to allow more flexibility should a need arise for those requirements to change. The regulations mirror what was previously in sections 67 and 73 of the Listed Buildings Act.

London Borough of Camden

7.3 The Government is committed to supporting the London Borough of Camden in piloting the removal of the statutory requirement to publicise individual press notices for planning applications, with the exception of applications involving Environmental Impact Assessments. This will facilitate Camden's delivery of aspects of their planning service which form part of their Local Public Service Agreement (LPSA).

7.4 The Town and Country Planning (London Borough of Camden) Special Development Order 2004 (Statutory Instrument 2004 No: 1231) ("the Order") exempted Camden from the requirement to publicise in a local newspaper planning applications except Environmental Impact Assessment cases. The Order did not cover applications affecting the setting of a listed building and conservation areas, or applications for listed building or conservation area consents.

7.5 Under the Listed Building regulations as amended by this Instrument, the London Borough of Camden will be required to advertise applications on their website, where they maintain a website for such purposes, and by site notice.

7.6 Freeing the London Borough of Camden from the requirement to publicise in a local paper is consistent with the Order, ensuring consistency within the piloting of this scheme. It is considered by Camden that removing the requirement to publicise applications in the local newspaper would allow them to fund a wider, more effective package of publicity arrangements. Examples include funding a community engagement officer whose job is to make the community more aware of the planning system and planning applications. Independent research commissioned by the Office of the Deputy Prime Minister also supports Camden's view that newspaper advertisements are the least effective form of publicity. The effectiveness of the pilot will be reviewed after 3 years to assess the overall effect of the new arrangements.

7.7 All other provisions relating to publicity for applications affecting listed buildings or conservation areas will continue to apply to the London Borough of Camden.

Financial Implications

7.8 The regulations release financial resources for other publicity arrangements within the London Borough of Camden, thus fulfilling the commitments set out in Camden's LPSA. It will add no additional burdens to other authorities.

8. Impact

A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

Andrew Tucker at the Office of the Deputy Prime Minister, telephone number 020 7944 3985 or e-mail: andrew.tucker@odpm.gsi.gov.uk, can answer any queries regarding the instrument.