

**EXPLANATORY MEMORANDUM TO**  
**THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (AMENDMENT) (ENGLAND) (No. 3) ORDER 2013**

**2013 No. 2147**

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
  - 2.1 The Town and Country Planning (General Permitted Development) (Amendment) (England) (No. 3) Order 2013 (“the Order”) amends the Town and Country Planning (General Permitted Development) Order 1995 (“the Principal Order”) to provide that “relevant demolition” (demolition of certain unlisted buildings in conservation areas in England) is not “permitted development”, and to disapply the requirement for prior approval of the demolition of a listed building or scheduled monument.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 None.
4. **Legislative Context**
  - 4.1 Section 55 of the Town and Country Planning Act 1990 (“the 1990 Act”) defines “development” for the purposes of the Act. Section 57 provides that planning permission is normally required for any development of land and under section 58, planning permission may be granted on application to a local planning authority or by way of a development order under the 1990 Act.
  - 4.2 Paragraphs 12 and 13 of Schedule 17 to the Enterprise and Regulatory Reform Act 2013 (“the 2013 Act”) amended sections 74 and 75 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Listed Buildings Act”) to provide that the requirement for conservation area consent in respect of the demolition of certain unlisted buildings in a conservation area (“relevant demolition”) no longer applies to England. Instead, an application for full planning permission must be made, and paragraph 6 of Schedule 17 to the 2013 Act amended the Town and Country Planning Act 1990 to insert a new section 196D into that Act which makes it an offence to fail to obtain the required planning permission for relevant demolition.
  - 4.3 The Principal Order grants planning permission for a range of predominantly minor development, subject to certain limitations and conditions. Development granted planning permission under the General Permitted Development Order is known as “permitted development”, and the effect is that no application needs to be made to the local planning authority to obtain planning permission, although in some cases the permitted development right will require the local planning authority to give “prior approval” of certain matters.

- 4.4 The Order amends Part 31 (demolition of buildings) of Schedule 2 to the Principal Order to provide that “relevant demolition” is not permitted development – full planning permission will therefore be required.
- 4.5 The Order also amends Part 31 of Schedule 2 to the Principal Order to provide that the demolition of a listed building or a scheduled monument (which is permitted development under Part 31) will not require prior approval of the local planning authority.

## **5. Territorial Extent and Application**

- 5.1 This instrument applies to England only.

## **6. European Convention on Human Rights**

- 6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

### What is being done and why

- 7.1 The Listed Buildings Act provides that certain unlisted buildings in a conservation area must not be demolished without conservation area consent. There has been a long standing aim, however, to abolish conservation area consent so as to streamline the heritage protection system. The Penfold Review of non-planning consents in 2010 recommended a measure to abolish the separate conservation area consent regime. The recommendation was enacted through the provisions in Schedule 17 of the 2013 Act. The aim in respect of the demolition of unlisted buildings in conservation areas in England (now referred to as “relevant demolition”) is to transfer the protections in the conservation area consent regime to the planning regime, while leaving the level of protection for unlisted buildings in conservation areas unchanged.
- 7.2 This instrument removes relevant demolition from the permitted development rights for demolition, because full planning permission is now required, and so prevents duplication. It also ensures that the permitted development rights for the demolition of listed buildings and scheduled monuments (which require listed building consent and scheduled monument consent) are unconditional. This is necessary to avoid duplication as the matters that would otherwise be the subject of conditions and limitations under the permitted development right are already dealt with by the separate consent regimes.

### Consolidation

- 7.3 There are no plans to consolidate the Principal Order in the immediate future.

## **8. Consultation outcome**

- 8.1 No consultation was carried out for this instrument as, together with the Town and Country Planning General (Amendment) (England) Regulations 2013 and the Enterprise

and Regulatory Reform Act 2013 (Consequential and Saving Provisions) (England) Order 2013 it simply replaces and replicates the existing protections for the demolition of unlisted buildings in conservation areas under the heritage system.

## **9. Guidance**

- 9.1 Guidance will be brought forward as part of the Department's wider review of planning practice guidance

## **10. Impact**

- 10.1 A full Impact Assessment has not been prepared for this instrument as, while it simplifies the process, no direct impact on business, charities or voluntary bodies is foreseen.

## **11. Regulating small business**

- 11.1 The legislation applies to small business, but there is no new impact since the new secondary legislation replicates the heritage system in the planning regime.

## **12. Monitoring & review**

- 12.1 No formal monitoring or review is necessary, as this instrument is one of a group that replaces the current protection regime for regulating the demolition of unlisted buildings in conservation areas.

## **13. Contact**

Robert Segall at the Department for Communities and Local Government Tel: 030344 41717 or email: [robert.segall@communities.gsi.gov.uk](mailto:robert.segall@communities.gsi.gov.uk) can answer any queries regarding the instrument.