
STATUTORY INSTRUMENTS

1992 No. 3138

TRANSPORT AND WORKS

TOWN AND COUNTRY PLANNING, ENGLAND AND WALES

ANCIENT MONUMENTS

The Transport and Works Applications (Listed Buildings, Conservation Areas and Ancient Monuments Procedure) Regulations 1992

<i>Made</i>	- - - -	<i>9th December 1992</i>
<i>Laid before Parliament</i>		<i>10th December 1992</i>
<i>Coming into force</i>	- -	<i>1st January 1993</i>

The Secretary of State for Transport, in exercise of the powers conferred on him by section 15 of the Transport and Works Act 1992(1), and of all other enabling powers, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Transport and Works Applications (Listed Buildings, Conservation Areas and Ancient Monuments Procedure) Regulations 1992 and shall come into force on 1st January 1993. Interpretation

2. In these Regulations—

“the 1979 Act” means the Ancient Monuments and Archaeological Areas Act 1979(2);

“the 1990 Act” means the Planning (Listed Buildings and Conservation Areas) Act 1990(3);

“the 1992 Act” means the Transport and Works Act 1992;

“the Ancient Monuments Regulations” means the Ancient Monuments (Applications for Scheduled Monument Consent) Regulations 1981(4);

“conservation area consent” and “listed building consent” have the same meanings respectively as in the 1990 Act;

(1) 1992 c. 42.
(2) 1979 c. 46.
(3) 1990 c. 9.
(4) S.I. 1981/1301.

“the Listed Buildings Regulations” means the Planning (Listed Buildings and Conservation Areas) Regulations 1990⁽⁵⁾;

“scheduled monument consent” has the same meaning as in the 1979 Act;

“section 6 application” means an application made under section 6 of the 1992 Act (applications for orders).

Modification of procedures for listed building consent and conservation area consent

3.—(1) This regulation shall apply where listed building consent or conservation area consent is required for the purposes of proposals included in a section 6 application and either—

- (a) the application for the relevant consent has been made not later than 10 weeks after the section 6 application; or
- (b) the Secretary of State considers it appropriate that this regulation should apply and he has given a direction to that effect.

(2) Where this regulation applies the 1990 Act and the Listed Buildings Regulations shall have effect with the modifications set out in Schedule 1.

Modification of procedures for scheduled monument consent

4.—(1) This regulation shall apply where scheduled monument consent is required for the purposes of proposals included in a section 6 application and either—

- (a) the application for scheduled monument consent has been made not later than 10 weeks after the section 6 application; or
- (b) the Secretary of State considers it appropriate that this regulation should apply and he has given a direction to that effect.

(2) Where this regulation applies the 1979 Act and the Ancient Monuments Regulations shall have effect with the modifications set out in Schedule 2.

Concurrent inquiries

5.—(1) Where the Secretary of State causes the following inquiries to be held, namely—

- (a) a public local inquiry under section 11(1) of the 1992 Act for the purposes of a section 6 application; and
- (b) a local inquiry into an application for listed building consent, conservation area consent or scheduled monument consent made in connection with that section 6 application;

such inquiries shall be held concurrently unless the Secretary of State considers it inappropriate to do so and has given a direction to that effect.

(2) Where any inquiries are held concurrently pursuant to paragraph (1) of this regulation, any rules made under section 9 of the Tribunals and Inquiries Act 1992⁽⁶⁾ applying in relation to the inquiry which is held pursuant to section 11 of the 1992 Act shall apply also in relation to the other inquiry.

(5) S.I. 1990/1519.

(6) 1992 c. 53.

Signed by authority of the Secretary of State

9th December 1992

Roger Freeman
Minister of State,
Department of Transport

SCHEDULE 1

Regulation 3(2)

MODIFICATIONS OF THE 1990 ACT AND THE LISTED BUILDINGS REGULATIONS

1.—(1) Section 10 of the 1990 Act (making of applications for listed building consent) shall be modified as follows.

(2) For subsection (2)(b), there shall be substituted—

“(b) such other plans, drawings, sections, models, photographs and other materials as are necessary to describe the works which are the subject of the application and which may include—

- (i) detailed plans, drawings and sections; or
- (ii) extracts from plans and sections submitted, or to be submitted, with an application under section 6 of the Transport and Works Act 1992; or
- (iii) (where no such plans, drawings or sections have been prepared at the date of the application) a clear written description of the works proposed to be carried out at or to the building, supported by such other materials as the applicant is reasonably able to provide; and”.

2.—(1) The Listed Buildings Regulations shall be modified as follows.

(2) In paragraph (1) of regulation 3, for the words “plans and drawings” there shall be substituted the words “and of such plans, drawings, sections, models, photographs and other materials as are submitted with it”.

(3) For paragraph (1) of regulation 5 there shall be substituted—

“(1) Subject to paragraph (3), where an application is made under regulation 3 or 4—

(a) the applicant shall, not more than 14 days before nor later than the date of the application, publish in a local newspaper circulating in the area in which the building is situated a notice—

- (i) indicating the nature of works which are, or are to be, the subject of the application, and
- (ii) naming all the places in the area (or as close as reasonably possible to that area) where a copy of the application, and of all plans, drawings, sections and other materials submitted with it, may be inspected free of charge at all reasonable hours during a period specified in the notice, being a period of not less than 42 days from the date of the application,

and such notice may be combined with such notice of the concurrent application as the applicant is required, by rules made under section 6 of the Transport and Works Act 1992, to publish in a local newspaper; and

(b) the local planning authority shall for not less than 7 days, during the period of 42 days prescribed by sub-paragraph (a) above, display on or near the said building a notice containing the same particulars as are required to be published in accordance with sub-paragraph (a).”.

(4) In regulation 5, after paragraph (3), there shall be inserted—

“(3A) In this regulation and in regulation 6 below, “concurrent application” means an application made under section 6 of the Transport and Works Act 1992 relating to proposals for the purposes of which the granting of listed building consent or conservation area consent is required in respect of the building to which the application relates.”.

(5) In paragraph (1) of regulation 6, after sub-paragraph (a), there shall be inserted—

- “(aa) a certificate stating that—
 - (i) notice of the concurrent application has been given in accordance with rules made under section 6 of the Transport and Works Act 1992 to all of the persons (other than the applicant) who were, at the beginning of a period of 28 days ending with the date of the concurrent application, the owners of the building; and
 - (ii) every such notice contains a statement that an application for listed building consent or conservation area consent has been, or is to be, made in respect of the building.”.

(6) For paragraph (4) of regulation 6 there shall be substituted—

“(4) For the purposes of this regulation, “owner” means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the building (whether in possession or reversion) and includes also a person holding, or entitled to the rents and profits of the land under, a lease or agreement the unexpired term whereof exceeds three years.”.

(7) In Part I of Schedule 2, after Certificate A, there shall be inserted—

“Certificate AA

I hereby certify that:

1. [I have] [The applicant has]* served, in accordance with rules made under section 6 of the Transport and Works Act 1992, all the notices required to be served upon the persons (other than the applicant) who were, at the beginning of a period of 28 days ending with the date of an application made under the said section 6, the owners of the building.
2. Every such notice contains a statement that an application for [listed building] [and] [conservation area]* consent has been made in respect of the building.

Signed

[On behalf of]

Date

* Delete where inappropriate

SCHEDULE 2

Regulation 4(2)

MODIFICATIONS OF THE 1979 ACT AND THE ANCIENT MONUMENTS REGULATIONS

1.—(1) Paragraph 2 of Schedule 1 to the 1979 Act (applications for scheduled monument consent) shall be modified as follows.

(2) In sub-paragraph (1), after paragraph (a), there shall be inserted—

- “(aa) a certificate stating that—
 - (i) notice of the concurrent application has been given in accordance with rules made under section 6 of the Transport and Works Act 1992 to all of the persons (other than the applicant) who were, at the beginning of a period of 28 days ending with the date of the concurrent application, the owners of the monument; and
 - (ii) every such notice contains a statement that an application for scheduled monument consent has been, or is to be, made in respect of the monument.”.

(3) In sub-paragraph (1)(c), there shall be substituted for the word “either” the word “any”.

(4) After sub-paragraph (4), there shall be inserted—

“(4A) In this paragraph, “concurrent application” means an application made under section 6 of the Transport and Works Act 1992 relating to proposals for the purposes of which the granting of scheduled monument consent is required in respect of the monument.”.

2.—(1) The Ancient Monuments Regulations shall be modified as follows.

(2) In paragraph (2) of regulation 2, there shall be substituted, for the words commencing “a plan identifying” to the end of the paragraph—

“the following—

- (a) a plan identifying the monument to which it relates;
- (b) such other plans and drawings as are necessary to describe the works which are the subject of the application, and which may include—
 - (i) detailed plans, drawings and sections; or
 - (ii) extracts from the plans and sections submitted with the concurrent application; or
 - (iii) (where no such plans, drawings or sections have been prepared) a clear written description of the works which are the subject of the application supported by such other materials as the applicant is reasonably able to provide.”.

(3) In regulation 2, after paragraph (2), there shall be inserted—

“(2A) The application shall also be accompanied by a statement that the application is made for the purposes of proposals included in the concurrent application and the statement shall give (where the same are known) the date and the reference number of the concurrent application.”.

(4) In regulation 2, after paragraph (3), there shall be inserted—

“(3A) In this regulation, “concurrent application” has the meaning given by paragraph 2(4A) of Schedule 1 to the Act.”.

(5) For regulation 4 there shall be substituted—

“4. In relation to any monument, a person shall for the purposes of paragraph 2 of Schedule 1 to the Act be treated as the owner of the monument if he is a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the monument (whether in possession or reversion) or is a person holding, or entitled to the rents and profits of the land under, a lease or agreement the unexpired term whereof exceeds three years.”.

(6) In Part I of Schedule 2, there shall be inserted before the words “Certificate in accordance with paragraph 2(1)(b)”, the following—

“Certificate in accordance with paragraph 2(1)(aa).

It is hereby certified—

- (1) that the applicant has served, in accordance with rules made under section 6 of the Transport and Works Act 1992, all the notices required to be served upon the persons (other than the applicant) who were, at the beginning of a period of 28 days ending with the date of an application under the said section 6, owners of the monument;
- (2) every such notice contains a statement that the accompanying application for scheduled monument consent has been made in respect of the monument.

Signature

Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the assimilation of the procedures for making applications and holding inquiries where proposals contained in an application made under section 6 of the Transport and Works Act 1992 (a “section 6 application”) give rise to a requirement for one or more of the following consents (a “relevant consent”)—

- (a) listed building consent or conservation area consent under the Planning (Listed Buildings and Conservation Areas) Act 1990; or
- (b) scheduled monument consent under the Ancient Monuments and Archaeological Areas Act 1979.

The regulations apply when either—

- (a) the application for a relevant consent is made not later than 10 weeks after the section 6 application is made (the earliest date on which the Secretary of State may decide whether to hold a public inquiry into the section 6 application: see the Transport and Works (Inquiries Procedure) Rules 1992 (S.I. [1992/2817](#))); or
- (b) the application for the relevant consent is made later but the Secretary of State believes it to be appropriate that the procedural changes made by these Regulations should nevertheless apply.

Regulations 3 and 4 and Schedules 1 and 2 modify the requirements of the Planning (Listed Buildings and Conservation Areas) Regulations 1990 and the Ancient Monuments (Applications for Scheduled Monument Consent) Regulations 1981 as regards the documentation which must be submitted with an application for a relevant consent and the publishing of notices in local newspapers. They also make certain consequential modifications to the 1979 and 1990 Acts.

By *Regulation 5*, provision is made for the holding of concurrent inquiries and for the application thereto of the procedural rules referred to above.