

**2014 No. 550**

**TOWN AND COUNTRY PLANNING, ENGLAND**

**The Planning (Listed Buildings and Conservation Areas)  
(Heritage Partnership Agreements) Regulations 2014**

<i>Made</i> - - - -	<i>10th March 2014</i>
<i>Laid before Parliament</i>	<i>13th March 2014</i>
<i>Coming into force</i> - -	<i>6th April 2014</i>

The Secretary of State, in exercise of the powers conferred by sections 26B(2) and 93 of the Planning (Listed Buildings and Conservation Areas) Act 1990(a), makes the following Regulations:

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Planning (Listed Buildings and Conservation Areas) (Heritage Partnership Agreements) Regulations 2014 and come into force on 6th April 2014.

(2) These Regulations apply in relation to England only.

**Interpretation**

2.—(1) In these Regulations—

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

“listed building heritage partnership agreement” means a heritage partnership agreement which grants listed building consent as provided for by section 26A(3) of the Act(b); and

“local planning authority” means a relevant local planning authority as defined in section 26A(9) of the Act.

(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;
- (b) a reference to a document or a copy of a document includes a version of that document or copy in electronic form; and

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(a) 1990 c.9. Section 26B was inserted by section 60(2) of the Enterprise and Regulatory Reform Act 2013 (c.24). Subsection 6A of section 93 was inserted by section 118(1) of, and paragraph 26 of Schedule 6 to, the Planning and Compulsory Purchase Act 2004 (c. 5).

(b) Section 26A(3) of the Act provides for a heritage partnership agreement to contain provision granting listed building consent under section 8(1) of the Act in respect of specified works for the alteration or extension of the listed building to which the agreement relates, and specifying any conditions to which the consent is subject.

(c) “electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000 (general interpretation)(a).

(3) Paragraphs (4) to (6) 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 notice or other document to any other person (“the recipient”).

(4) The requirement is not taken to be fulfilled unless the notice or document transmitted by the 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 is 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, Bank Holiday or other public holiday.

### **Preparation of a statement of reasons**

**3.** Where a local planning authority propose to make a listed building heritage partnership agreement they must prepare a statement of their reasons for proposing to grant listed building consent, containing—

- (a) an assessment of the likely effect of the proposed works on the special architectural or historic interest of the listed building to which the agreement would relate;
- (b) a reasoned justification for the proposed works; and
- (c) details of any conditions to which the proposed consent would be subject.

### **Consultation on listed building heritage partnership agreements**

**4.—(1)** The local planning authority must consult the Commission before making a listed building heritage partnership agreement in respect of—

- (a) any building of special architectural or historic interest which, when last notified to the authority, was classified as a Grade I or II\* listed building; or
- (b) any listed building owned by the local planning authority.

(2) In consulting in accordance with paragraph (1) the local planning authority must—

- (a) send a copy of the notice in the form set out in the Schedule (or in a form substantially to the like effect), all plans and other documents detailing the proposed works and the statement of reasons (prepared in accordance with regulation 3) to the Commission;
- (b) specify a consultation period of not less than 28 days; and
- (c) take into account any representations from the Commission received during that period in considering whether to make the listed building heritage partnership agreement (with or without modifications).

### **Publicity for listed building heritage partnership agreements**

**5.—(1)** Where a local planning authority propose to make a listed building heritage partnership agreement they must—

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(a) 2000 c.7. Section 15(1) was amended by paragraph 158 of Schedule 17 to the Communications Act 2003 (c.21).

- (a) make the following documents available for inspection by the public at a place in the locality in which the building is situated and at all reasonable hours for a period of not less than 28 days—
  - (i) extracts from the draft heritage partnership agreement which relate to the proposed works,
  - (ii) the statement of reasons (prepared in accordance with regulation 3), and
  - (iii) all other plans and documents detailing the proposed works;
- (b) publish on their website for not less than 28 days—
  - (i) the address or location of the listed building to which the draft agreement relates, a description of the nature of the proposed works and the statement of reasons,
  - (ii) a statement that the documents specified in sub paragraph (a) are available for inspection and the place where and times when they can be inspected,
  - (iii) the date by which representations about the proposed works must be received, which must be not less than 28 days after the date of first publication on the website, and
  - (iv) details of how representations may be made about the proposed works;
- (c) display a notice in the appropriate form set out in the Schedule (or in a form substantially to the like effect) on or near the listed building to which the proposed agreement relates for not less than 28 days (subject to paragraph (4)); and
- (d) serve a copy of that notice on every person not a party to the proposed agreement whom the authority knows to be an owner<sup>(a)</sup> of that building or a part of the building and whose name and address are known to the authority.

(2) A listed building heritage partnership agreement must not be made by the local planning authority before the expiry of the latest period referred to in paragraph (1) and, if applicable, regulation 4(2)(b).

(3) A local planning authority must take into account any representations received during any period specified in paragraph (1) in considering whether to make the listed building heritage partnership agreement (with or without modifications).

(4) Where the notice referred to in paragraph (1)(c) is, without any fault or intention of the authority, removed, obscured or defaced before the period referred to in that paragraph has elapsed, the authority is treated as having complied with the requirements of that paragraph if they have taken reasonable steps for the protection of the notice, and, if necessary, its replacement.

### **Requirement to notify the Commission of listed building heritage partnership agreements made**

6. Where a listed building heritage partnership agreement is made by a local planning authority, that authority must submit a copy of the agreement to the Commission as soon after the agreement is made as is reasonably practicable.

### **Application and modification of the Act**

7.—(1) Subject to the modifications specified in this regulation, the following provisions of the Act apply for the purposes of listed building heritage partnership agreements.

(2) The provisions of the Act are—

- (a) sections 12, 16(1) and (2), 17(1) and (2), 26 and 28; and
- (b) sections 30, 31, 62 and 63 and Parts 3 and 4, as they apply for the purposes of any of the provisions specified in sub-paragraph (a).

(3) For the purposes of listed building heritage partnership agreements, the provisions of the Act specified in paragraph (2) apply as if—

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(a) Section 26A(9) of the Act defines “owner” in relation to a listed building or part of such a building.

- (a) references to an application for listed building consent include a proposed listed building heritage partnership agreement; and
  - (b) references to listed building consent include a listed building heritage partnership agreement.
- (4) In section 16 (decision on application) disregard the reference to “the local planning authority” in subsection (1).
- (5) Section 26 (revocation and modification of listed building consent by the Secretary of State) is modified as follows—
- (a) disregard references to “modifying” in subsection (1) and “modify” and “modification” in subsection (7); and
  - (b) disregard the reference to “under section 23” in subsection (1).
- (6) Section 28 (compensation where listed building consent revoked or modified) applies where listed building consent that was granted under a heritage partnership agreement is revoked or modified—
- (a) by an order under section 26; or
  - (b) under the provisions of the agreement, unless—
    - (i) all parties to the agreement consent to the revocation or modification, and
    - (ii) all other persons who in the authority’s opinion will be affected by the revocation or modification consent to the revocation or modification.
- (7) In subsection (2) of section 28—
- (a) the “prescribed time” means 6 months from the date on which the listed building consent that was granted under a heritage partnership agreement was revoked or modified; and
  - (b) the “prescribed manner” means a claim made in writing and served on that authority by delivering it at the offices of the authority, or by sending it so addressed by pre-paid post.

10th March 2014

*Maria Miller*  
Secretary of State for Culture, Media and Sport

SCHEDULE

Regulation 5(1)(c)

NOTICE OF PROPOSAL TO MAKE A LISTED BUILDING HERITAGE PARTNERSHIP AGREEMENT

(to be displayed on or near the building to which the proposed agreement relates and to be served on an owner\* not a party to the proposed agreement)

Proposed works at (a) .....
Notice is given that (b) ..... proposes to make a heritage partnership agreement granting listed building consent to (c) .....

Extracts from the draft heritage partnership agreement which relate to the proposed works, the statement of the Council's reasons for proposing to grant listed building consent and all other plans and documents detailing the proposed works are available for inspection at.....(d). A description of the nature of the proposed works and the statement of reasons are published on the Council's website at .....(e)

Any person who wishes to make representations about the proposed works should write to the Council at (f) ..... by .....(g)

\* "owner" means a person having a freehold interest or a leasehold interest the unexpired term of which is not less than 7 years.

Signed.....(Council's authorised officer)
On behalf of .....Council
Date .....

Statement of owners' rights
The grant of listed building consent by a heritage partnership agreement does not affect owners' rights to retain or dispose of their property, unless there is some provision to the contrary in an agreement or in a lease.

- Insert:
(a) the address or location of the listed building to which the draft agreement relates
(b) name of local planning authority
(c) description of the proposed works for which listed building consent would be granted by the agreement
(d) address of the Council
(e) website address where the documents are published
(f) address of the Council
(g) date giving a period of not less than 28 days beginning with the date of service

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

Section 26A of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Act”) provides that a local planning authority may make a heritage partnership agreement with any owner of a listed building situated in England. Section 26A and associated provisions of the Act were inserted by the Enterprise and Regulatory Reform Act 2013.

These Regulations set out the procedures for heritage partnership agreements which contain provision granting listed building consent under section 8(1) of the Act in respect of specified works for the alteration or extension (but not demolition) of the listed building to which the agreement relates. In particular, the Regulations require a local planning authority to publicise its intention to make a heritage partnership agreement granting listed building consent and consult English Heritage in certain circumstances.

Regulation 7 applies (with some modifications) specified sections of the Act to make listed building heritage partnership agreements work more effectively. This includes applying section 26 of the Act which provides for the Secretary of State to revoke listed building consent and section 28 of the Act which makes provision for compensation where listed building consent is revoked or modified.

An impact assessment has not been prepared for this instrument, as impacts were considered as part of the impact assessment for the Enterprise and Regulatory Reform Act 2013. This can be found at <http://www.legislation.gov.uk/ukpga/2013/24/impacts/2013/1065>.

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