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Practice Group(s):

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The Enterprise and Regulatory Reform Act 2013

Part 5 - streamlining heritage planning in England

By Jane Burgess and Sebastian Charles

The Enterprise and Regulatory Reform Act 2013 introduces a number of reforms designed to simplify and streamline existing planning procedures to provide greater clarity for owners and developers of listed buildings or buildings within a Conservation Area.

“The complexity of the non-planning consents landscape and its interaction with the planning system impose additional costs and generate additional risk for businesses. Together, they are a sizable factor in determining the investment climate in the UK and, therefore, in delivering sustainable development and economic growth”. *Adrian Penfold - Foreword - the Penfold Review 2010*

The Enterprise and Regulatory Reform Act 2013 reflects the next step taken by the Government to promote economic growth by reforming the planning system and incorporates a number of recommendations from the Penfold review in 2010. It introduces reforms designed to simplify and streamline existing planning procedures to provide greater clarity and certainty for owners and developers of listed buildings or buildings within a Conservation Area.

These reforms:

- remove the need to separately apply for conservation area consent to demolish/ substantially demolish any building in a Conservation Area as this will now be authorised by any planning permission granted for a development. Developers should note that there is no time limit on when enforcement action may be taken in respect of any unauthorised demolition and it will be a criminal offence to demolish a building in a Conservation Area without planning permission;
- provide for heritage partnership agreements to be entered into between local authorities and owners of listed buildings for the purpose of granting listed building consent for specific/routine works and identifying works which would not affect the special interest of the building for which listed building consent is not required. These agreements will reduce administrative burdens and provide flexibility for owners in managing and maintaining properties including large country estates or industrial complexes in which a number of listed buildings and curtilage buildings are contained;
- enable an owner/developer to apply at any time for a certificate of immunity from listing independent of any planning application for development;
- introduce new Certificates of Lawful Works (valid for 10 years) to enable a local authority to confirm whether proposed works to a listed building require listed building consent or not. This will remove the need for developers/owners to submit an application for listed building consent in every case to determine whether or not such works affect the special interest of the building;

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- provide clarity on the extent of the special interest of a listed building within the list entry description for the building. The entry may now specify those features of a listed building which are not of special architectural or historic interest and may exclude attached structures and buildings and those within the curtilage from statutory protection. This will not only benefit owners of buildings which are listed after June this year but also owners who may wish to seek amendments to the existing list entry for their building;
- establish local and national class consent orders permitting certain specified works to listed buildings without the need to apply separately for listed building consent. It is likely national class consent orders will be used to permit operational/routine works by specific organisations whereas local orders could relate to a particular class of listed buildings or works within a specified area.

These provisions will be brought into effect piecemeal, beginning with the reforms on the certificate of immunity and the clarity of the list entry for listed buildings which will come into force on 25 June 2013. The remainder of the provisions will come into force in October 2013 or April 2014.

Should you require further information about any of the matters contained within this alert or any advice on how these reforms may impact on your development proposals, please contact the authors or your usual K&L Gates real estate contacts.

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