

EN030902

**IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY.
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990
(as amended by the Planning and Compensation Act 1991).**

LISTED BUILDINGS ENFORCEMENT NOTICE.

**RE: BRITISH MUSEUM, GREAT RUSSELL STREET,
LONDON WC1B 3DG**

ISSUED BY: THE LONDON BOROUGH OF CAMDEN

1. THIS IS A FORMAL NOTICE, which is issued by the Council being the Local Planning Authority for the purposes of Section 38 of the above Act because it appears to them that

There has been a contravention of Section 8 of the Act, in respect of the listed building described below. The Council considers it expedient to issue this notice for the reasons set out in paragraph 4 below.

2. THE LISTED BUILDING.

Land and premises at **BRITISH MUSEUM, GREAT RUSSELL STREET,
LONDON WC1B 3DG**

("the Premises") as shown, for the purposes of identification only, outlined in black on the attached plan.

3. THE CONTRAVENTION ALLEGED.

Without the grant of listed building consent in accordance with Part 1 of the Act:-

The installation of two café serveries in the northern portion of Level 2 of the Great Court, within the Grade 1 Listed Building of the British Museum.

4. REASONS FOR ISSUING THIS NOTICE

The Council considers it expedient to issue the Notice for the reason that the Installation of the serveries has had a detrimental impact on the spatial quality of the Great Court by the introduction of visual clutter and partial obscuring of the bases of original walls and columns. The serveries are thereby detrimental to the setting of this Grade 1 Listed Buildings and contrary to policies EN38 and EN40 of the London Borough of Camden Unitary Development Plan.

5. WHAT YOU ARE REQUIRED TO DO.

1. The two café serveries in the northern portion of Level 2 of the Great Court shall be permanently and completely removed.
2. All conduits containing electrical and plumbing services installed in conjunction with the serveries shall be permanently and completely removed.
3. All holes bored in the stone pavements and concrete floor slab of the Great Court shall be filled in to match adjacent work, and any resultant damage to the pavements and floor slab shall be made good.

You are to comply with the above requirements within **1 month** of this notice taking effect.

6. WHEN THIS NOTICE TAKES EFFECT.

This notice takes effect on **10 day of October 2003**, unless an appeal is made against it beforehand.

DATED: 10 day of September 2003.

(Signed)..... .

Borough Solicitor, on behalf of the London Borough of Camden, Town Hall, Judd Street, London WC1H 9LP.

ANNEX

YOUR RIGHT OF APPEAL

You can appeal against this notice, but any appeal must be received, or posted in time to be received, by the Secretary of State before **23 day of October 2003**. The enclosed **Sections 38-46 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and Regulations 5-8 from the Town and Country Planning (Enforcement Notices and Appeals) Regulations 1991 set out your rights. Read them carefully.** You may use the enclosed appeal forms.

(a) One is for you to send to the Secretary of State if you decide to appeal, together with a copy of this listed building enforcement notice.

(b) Send the second copy of the appeal form and notice to the Council at:

Development Control,
Environment (Planning) Department,
London Borough of Camden,
Fifth Floor, Town Hall,
Argyle Street, London WC1H 8EQ

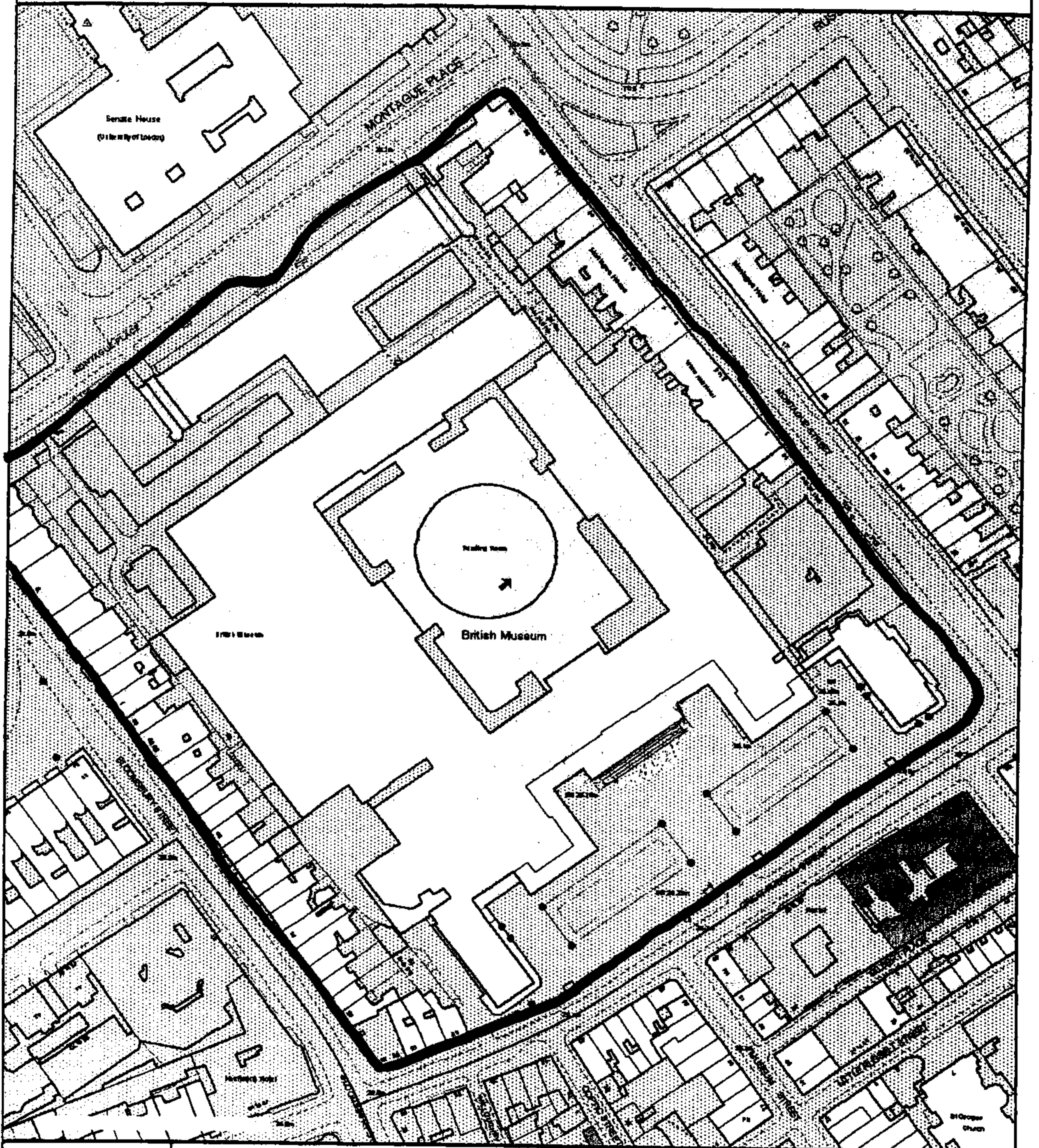
(c) The other is for you to keep as a duplicate for your own records.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this listed buildings enforcement notice, it will take effect on **23 day of October 2003**, and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period specified in the notice. Failure to comply with a listed building enforcement notice, which has taken effect, can result in prosecution and/or remedial action by the Council.

British Museum

GREAT RUSSELL STREET, WC1



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Scale 1/1710 Date 7/4/2003

Centre = 530059 E 181712 N

BRITISH MUSEUM, GREAT RUSSELL STREET?
LONDON WC1

Punjabi

ਜ਼ਰੂਰੀ: ਇਹ ਫਾਰਮ ਸਾਡੇ ਕੋਲ ਭੇਜਣ ਲਈ ਖਾਸ ਮਿਆਦ ਹੈ। ਇਸ ਮਿਆਦ ਦਾ ਸਮਾਂ ਪੂਰਾ ਹੋ ਜਾਣ ਤੋਂ ਪਹਿਲਾਂ ਇਹ ਫਾਰਮ ਸਾਡੇ ਕੋਲ ਲਾਜ਼ਮੀ ਤੌਰ ਤੇ ਪਹੁੰਚ ਜਾਣਾ ਚਾਹੀਦਾ ਹੈ। ਜੇ ਤੁਹਾਨੂੰ ਇਹ ਫਾਰਮ ਭਰਨ ਲਈ ਮਦਦ ਦੀ ਲੋੜ ਹੈ, ਤਾਂ ਅਸੀਂ ਤੁਹਾਨੂੰ ਸੁਝਾਓ ਦਿੰਦੇ ਹਾਂ ਕਿ ਤੁਸੀਂ ਇਹਦੇ ਬਾਰੇ ਕਿਸੇ ਤੋਂ ਸਲਾਹ ਲਓ।

Gujarati

મહત્વનું : અમને આ ફોર્મ મોકલવા માટે સમય મર્યાદા છે. આ સમય મર્યાદા પૂરી થાય તે પહેલાં અમને તે મળી જવું જ જોઈએ. જો તમને આ ફોર્મ ભરવા માટે મદદની જરૂર હોય તો અમે તમને સલાહ મેળવવાનું સૂચન કરીએ છીએ.

Hindi

आवश्यक : इस फॉर्म को हमारे पास भिजवाने की एक समय-सीमा है। उस समय-सीमा के बीतने से पहले हमें यह फॉर्म अवश्य मिल जाना चाहिए। यदि आपको इस फॉर्म को भरने में सहायता चाहिए, तो हमारा सुझाव है कि आप किसी की सलाह लें।

Urdu

اہم: اس فارم کو ہمیں بھیجنے کے لئے وقت کی ایک مہیاد ہے۔ اس مہیاد کے گزرنے سے پہلے پہلے ہمیں یہ لازمی طور پر مل جانا چاہیے۔ اگر اس فارم کو بھرنے میں آپ کو مدد کی ضرورت ہے تو ہماری رائے ہے کہ آپ مشورہ حاصل کریں۔

Bengali

জরুরী: এই ফর্ম আমাদের কাছে পাঠানোর একটা সময়সীমা আছে। এই সময়সীমা শেষ হবার আগেই এটা অবশ্যই আমাদের কাছে পৌঁছাতে হবে। এই ফর্ম পূরণ করায় যদি আপনার সাহায্যের দরকার হয় তাহলে আমাদের প্রস্তাব, কারো পরামর্শ নিন।

Chinese

重要通知: 把這份表格寄回給我們是有時間限制的。我們必須在時限過期之前收到這份表格。假若你需要別人幫助你填寫這份表格, 我們建議你尋求指導。

English

IMPORTANT: There is a time limit for sending this form to us. We must receive it before the time expires. If you need help filling in this form, we suggest you get advice.

NOTES ON PROCEDURE

Section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Regulation 12 Schedule 3 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990

Appeal against
Conservation Areas
Enforcement Notice

39. (1) A person having an interest in the building to which a conservation areas enforcement notice relates or a relevant occupier may appeal to the Secretary of State against the notice on any of the following grounds
- (a) that retention of the building is not necessary in the interests of preserving or enhancing the character or appearance of the conservation area in which it is situated.
 - (b) that the matters alleged to constitute a contravention of section 9(1) or (2) do not involve such a contravention;
 - (c) that the contravention of that section alleged in the notice has not taken place;
 - (d) that works to the building were urgently necessary in the interests of safety or health or for the preservation of the building that it was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording temporary support or shelter, and that the works carried out were limited to the minimum measures immediately necessary;
 - (e) that listed building consent ought to be granted for the works or that any relevant condition of such consent which has been granted, ought to be discharged, different conditions substituted;
 - (f) that copies of the notice were not served as required by section 38(4);
 - (g) except in relation to such a requirement as is mentioned in section 38(2)(b) or (c), that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out;
 - (h) that the period specified in the notice as the period within which any step required by the notice is to be taken falls short of what should reasonably be allowed;

(6) The relevant period does not run if the Secretary of State has before him at the same time both—

- (a) a copy of the listed building purchase notice sent to him under section 33(4); and
- (b) a notice of appeal under section 20 or section 39 relating to any of the land to which the listed building purchase notice relates.

(7) Where any decision by the Secretary of State to confirm or not to confirm a listed building purchase notice (including any decision to confirm the notice only in respect of part of the land, or to give any direction as to the granting of a listed building consent or planning permission) is quashed under section 63, the notice shall be treated as cancelled but the owner may serve a further notice in its place.

(8) For the purposes of determining whether such a further notice has been served within the period prescribed for the service of listed building purchase notices, the decision concerning listed building consent on account of which the notice has been served shall be treated as having been made on the date on which the Secretary of State's decision was quashed.

NOTES

Commencement: 24 August 1990.

Sub-ss (1)-(4) derived from the Town and Country Planning Act 1971, Sch 19, para 3(1), (3)(a); sub-ss (5), (6) derived from the Town and Country Planning Act 1971, Sch 19, para 3(3)(3A) and the Housing and Planning Act 1986, Sch 11, para 7(2); sub-s (7) derived from the Town and Country Planning Act 1971, Sch 19, para 3(4) and gives effect to the Law Commission's Report on the Consolidation of Certain Enactments relating to Town and Country Planning, Cmnd 958, Recommendation 38; sub-s (8) derived from the Town and Country Planning Act 1971, Sch 19, para 3(5) and gives effect to the Law Commission's Report on the Consolidation of Certain Enactments relating to Town and Country Planning, Cmnd 958, Recommendation 39.

This Act does not extend to Scotland.

37. Reduction of compensation on acquisition where s 28 compensation payable

Where compensation is payable under section 28 in respect of expenditure incurred in carrying out any works to a building, any compensation which then becomes payable in respect of the acquisition of an interest in the land pursuant to a listed building purchase notice shall be reduced by an amount equal to the value of those works.

NOTES

Commencement: 24 August 1990.

This section derived from the Town and Country Planning Act 1971, Sch 19, para 4.

This Act does not extend to Scotland.

CHAPTER IV

ENFORCEMENT

38. Power to issue listed building enforcement notice

(1) Where it appears to the local planning authority—

- (a) that any works have been or are being executed to a listed building in their area; and
- (b) that the works are such as to involve a contravention of section 9(1) or (2),

they may, if they consider it expedient to do so having regard to the effect of the works on the character of the building as one of special architectural or historical interest,

interest, issue a notice under this section (in this Act referred to as a "listed building enforcement notice").

(2) A listed building enforcement notice shall specify the alleged contravention and require such steps as may be specified in the notice to be taken . . .—

- (a) for restoring the building to its former state; or
- (b) if the authority consider that such restoration would not be reasonably practicable or would be undesirable, for executing such further works specified in the notice as they consider necessary to alleviate the effect of the works which were carried out without listed building consent; or
- (c) for bringing the building to the state in which it would have been if the terms and conditions of any listed building consent which has been granted for the works had been complied with.

[(3) A listed building enforcement notice—

- (a) shall specify the date on which it is to take effect and, subject to sections 39(3) and 65(3A), shall take effect on that date, and
- (b) shall specify the period within which any steps are required to be taken and may specify different periods for different steps,

and, where different periods apply to different steps, references in this Part to the period for compliance with a listed building enforcement notice, in relation to any step, are to the period within which the step is required to be taken.]

(4) A copy of a listed building enforcement notice shall be served, not later than 28 days after the date of its issue and not later than 28 days before the [date specified in it as the date on which it is to take effect]—

- (a) on the owner and on the occupier of the building to which it relates; and
- (b) on any other person having an interest in that building which in the opinion of the authority is materially affected by the notice.

[(5) The local planning authority may—

- (a) withdraw a listed building enforcement notice (without prejudice to their power to issue another); or
- (b) waive or relax any requirement of such a notice and, in particular, may extend the period specified in accordance with section 38(3),

and the powers conferred by this subsection may be exercised whether or not the notice has taken effect.

(6) The local planning authority shall, immediately after exercising the powers conferred by subsection (5), give notice of the exercise to every person who has been served with a copy of the listed building enforcement notice or would, if the notice were re-issued, be served with a copy of it.]

(7) Where a listed building enforcement notice imposes any such requirement as is mentioned in subsection (2)(b), listed building consent shall be deemed to be granted for any works of demolition, alteration or extension of the building executed as a result of compliance with the notice. [406]

NOTES

Commencement: 24 August 1990 (sub-ss (1), (2), (4), (7)); 2 January 1991 (sub-ss (3), (5), (6)).
This section (as originally enacted) derived from the Town and Country Planning Act 1971, s 96(1)-(7) and the Local Government and Planning (Amendment) Act 1981, Schedule, para 9.
The words omitted from sub-s (2) repealed, sub-ss (3), (5), (6) and the words in square brackets in sub-s (4) substituted, by the Planning and Compensation Act 1991, ss 25, 84(6), Sch 3, Pt I, para 2, Pt II, para 19, Sch 19, Pt I.

This Act does not extend to Scotland.

39. Appeal against listed building enforcement notice

(1) A person having an interest in the building to which a listed building enforcement notice relates or a relevant occupier may appeal to the Secretary of State against the notice on any of the following grounds—

- (a) that the building is not of special architectural or historic interest;
- [(b) that the matters alleged to constitute a contravention of section 94(1) or (2) have not occurred;
- (c) that those matters (if they occurred) do not constitute such a contravention];
- (d) that works to the building were urgently necessary in the interests of safety or health or for the preservation of the building, that it was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording temporary support or shelter, and that the works carried out were limited to the minimum measures immediately necessary;
- (e) that listed building consent ought to be granted for the works, or that any relevant condition of such consent which has been granted ought to be discharged, or different conditions substituted;
- (f) that copies of the notice were not served as required by section 38(2)(a);
- (g) except in relation to such a requirement as is mentioned in section 38(2)(b) or (c), that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out;
- (h) that the period specified in the notice as the period within which a step required by the notice is to be taken falls short of what shows to be reasonably to be allowed;
- (i) that the steps required by the notice for the purpose of restoring the character of the building to its former state would not serve that purpose;
- (j) that steps required to be taken by virtue of section 38(2)(b) exceed what is necessary to alleviate the effect of the works executed to the building;
- (k) that steps required to be taken by virtue of section 38(2)(c) exceed what is necessary to bring the building to the state in which it would have been if the terms and conditions of the listed building consent had been complied with.

[(2) An appeal under this section shall be made either—

- (a) by giving written notice of the appeal to the Secretary of State before the date specified in the listed building enforcement notice as the date on which it is to take effect; or
- (b) by sending such notice to him in a properly addressed and prepaid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before that date.]

(3) Where such an appeal is brought the listed building enforcement notice shall [subject to any order under section 65(3A)] be of no effect pending the determination or the withdrawal of the appeal.

(4) A person who gives notice of appeal under this section shall submit to the Secretary of State, either when giving the notice or within such time as may be prescribed, a statement in writing—

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- (a) specifying the grounds on which he is appealing against the listed building enforcement notice; and
- (b) giving such further information as may be prescribed.

(5) If, where more than one ground is specified in the statement, the appellant does not give information required under subsection (4)(b) in relation to each of those grounds within the prescribed time, the Secretary of State may determine the appeal without considering any ground as to which the appellant has failed to give such information within that time.

(6) Where any person has appealed to the Secretary of State under this section against a notice, no person shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.

(7) In this section "relevant occupier" means a person who—

- (a) on the date on which the listed building enforcement notice is issued occupies the building to which the notice relates by virtue of a licence ...; and
- (b) continues so to occupy the building when the appeal is brought. [407]

NOTES

Commencement: 24 August 1990 (sub-ss (1), (3)–(7)); 2 January 1992 (sub-s (2)).
Sub-s (1) derived from the Town and Country Planning Act 1971, s 97(1), the Local Government and Planning (Amendment) Act 1981, Schedule, para 9, the Town and Country Planning Act 1984, s 4(2) and the Housing and Planning Act 1986, Sch 9, para 2(2); sub-ss (3)–(5) derived from the Town and Country Planning Act 1971, s 97(1), (3), (8), (9) and the Local Government and Planning (Amendment) Act 1981, Schedule, para 9; sub-s (6) derived from the Town and Country Planning Act 1971, s 110(2); sub-s (7) derived from the Town and Country Planning Act 1984, s 4(2).
Sub-ss (1)(b), (c), (2) substituted, the words "square brackets in sub-s (3) inserted, and the words omitted from sub-s (7) repealed, by the Planning and Compensation Act 1991, ss 25, 84(6), Sch 3, Pt I, para 3, Pt II, para 20, Sch 19, Pt I.
This Act does not extend to Scotland.

40. Appeals: supplementary provision

(1) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under section 39, and in particular, but without prejudice to the generality of this subsection may—

- (a) require the local planning authority to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;
- (b) specify the matters to be included in such a statement;
- (c) require the authority or the appellant to give such notice of such an appeal as may be prescribed, being notice which in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the building in question is situated;
- (d) require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.

(2) Subject to section 41(4), the Secretary of State shall, if either the appellant or the local planning authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(3) Schedule 3 applies to appeals under section 39.

[408]

5

NOTES

Commencement: 24 August 1990.

Sub-s (1) derived from the Town and Country Planning Act 1971, ss 88(5), 97(4) and the Local Government and Planning (Amendment) Act 1981, Schedule, paras 1, 9; sub-ss (2), (3) derived from the Town and Country Planning Act 1971, s 97(6), (10) and the Local Government and Planning (Amendment) Act 1981, Schedule, para 9.

This Act does not extend to Scotland.

41. Determination of appeals under s 39

[(1) On an appeal under section 39 the Secretary of State may—

(a) correct any defect, error or misdescription in the listed building enforcement notice; or

(b) vary the terms of the listed building enforcement notice,

if he is satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority.

(2) Where the Secretary of State determines to allow the appeal, he may quash the notice.

(2A) The Secretary of State shall give any directions necessary to give effect to his determination on the appeal.]

(3) The Secretary of State—

(a) may dismiss such an appeal if the appellant fails to comply with section 39(4) within the prescribed time; and

(b) may allow such an appeal and quash the listed building enforcement notice if the local planning authority fail to comply within the prescribed period with any requirement imposed by regulations made by virtue of section 40(1)(a), (b) or (d).

(4) If the Secretary of State proposes to dismiss an appeal under paragraph (a) of subsection (3) or to allow an appeal and quash the listed building enforcement notice under paragraph (b) of that subsection he need not comply with section 40(2).

(5) Where it would otherwise be a ground for determining an appeal in favour of the appellant that a person required to be served with a copy of the listed building enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

(6) On the determination of an appeal the Secretary of State may—

(a) grant listed building consent for the works to which the listed building enforcement notice relates or for part only of those works;

(b) discharge any condition or limitation subject to which listed building consent was granted and substitute any other condition, whether more or less onerous;

(c) if he thinks fit, exercise his power under section 1 to amend any list compiled or approved under that section by removing from it the building to which the appeal relates.

(7) Any listed building consent granted by the Secretary of State under subsection (6) shall be treated as granted on an application for the same consent under section 10 and the Secretary of State's decision in relation to the grant shall be final.

[(8) Subsection (5) of section 250 of the Local Government Act 1972 (which

authorises a Minister holding an inquiry under that section to make orders with respect to the costs of the parties) shall apply in relation to any proceedings before the Secretary of State on an appeal under section 39 as if those proceedings were an inquiry held by the Secretary of State under section 250.] [409]

NOTES

Commencement: 24 August 1990 (sub-ss (3)-(7), sub-s (8) (for effect see annotations)); 2 January 1992 (sub-ss (1), (2), (2A)).

Sub-ss (1), (2), (5)-(7) derived from the Town and Country Planning Act 1971, s 97A(1)-(5) and the Local Government and Planning (Amendment) Act 1981, Schedule, para 9; sub-ss (3), (4) derived from the Town and Country Planning Act 1971, s 97(5), (7) and the Local Government and Planning (Amendment) Act 1981, Schedule, para 9.

Sub-ss (1), (2), (2A) substituted for sub-s (2) by the Planning and Compensation Act 1991, s 25, Sch 3, Pt I, para 4.

Sub-s (8): temporarily added by the Planning (Consequential Provisions) Act 1990, s 6, Sch 4, paras 1, 9 until such day as may be appointed by the Secretary of State. The Planning (Consequential Provisions) Act 1990 (Appointed Day No 1 and Transitional Provisions) Order 1991, SI 1991 No 2698, appoints 2 January 1992 only for the purposes of awards of costs in relation to proceedings which give rise to a hearing.

This Act does not extend to Scotland.

12. Execution of works required by listed building enforcement notice

(1) If any of the steps specified in the listed building enforcement notice have not been taken within the [period for compliance with the notice], the authority may—

- (a) enter the land and take those steps, and
- (b) recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.

(2) Where a listed building enforcement notice has been served in respect of a building—

- (a) any expenses incurred by the owner or occupier of the building for the purpose of complying with it, and
- (b) any sums paid by the owner of the building under subsection (1) in respect of expenses incurred by the local planning authority in taking steps required by it,

shall be deemed to be incurred or paid for the use and at the request of the person who carried out the works to which the notice relates.

(3) Regulations under this Act may provide that all or any of the following sections of the Public Health Act 1936, namely—

- (a) section 276 (power of local authorities to sell materials removed in executing works under that Act subject to accounting for the proceeds of sale);
- (b) section 289 (power to require the occupier of any premises to permit works to be executed by the owner of the premises);
- (c) section 294 (limit on liability of persons holding premises as agents or trustees in respect of the expenses recoverable under that Act),

shall apply, subject to such adaptations and modifications as may be specified in the regulations, in relation to any steps required to be taken by a listed building enforcement notice.

(4) Regulations under subsection (3) applying all or any of section 289 of that Act may include adaptations and modifications for the purpose of giving the owner of land to which such a notice relates the right, as against all other persons interested in the land, to comply with the requirements of the notice.

(5) Regulations under subsection (3) may also provide for the charging of the land on which the building stands of any expenses recoverable by a local planning authority under subsection (1).

[(6) Any person who wilfully obstructs a person acting in the exercise of powers under subsection (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.]

(7) ...

NOTES

Commencement: 24 August 1990.

Sub-ss (1),(2), (5) derived from the Town and Country Planning Act 1971, s 99(1)-(3); sub-s (3) derived from the Town and Country Planning Act 1971, ss 91(3), (4), 99(3) and the Local Government Act 1974, Sch 8; sub-s (4) derived from the Town and Country Planning Act 1971, ss 91(3), 99(3).

The words in square brackets in sub-s (1) and the whole of sub-s (6) substituted and sub-s (7) repealed, by the Planning and Compensation Act 1991, ss 25, 84(6), Sch 3, Pt I, para 5, Pt II, para 21, Sch 19, Pt I.

This Act does not extend to Scotland.

[43. Offence where listed building enforcement notice not complied with

(1) Where, at any time after the end of the period for compliance with the notice, any step required by a listed building enforcement notice to be taken has not been taken, the person who is then owner of the land is in breach of the notice.

(2) If at any time the owner of the land is in breach of a listed building enforcement notice he shall be guilty of an offence.

(3) An offence under this section may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under this section by reference to any period of time following the preceding conviction for such an offence.

(4) In proceedings against any person for an offence under this section, it shall be a defence for him to show—

- (a) that he did everything he could be expected to do to secure that all the steps required by the notice were taken; or
- (b) that he was not served with a copy of the listed building enforcement notice and was not aware of its existence.

(5) A person guilty of an offence under this section shall be liable—

- (a) on summary conviction, to a fine not exceeding £20,000; and
- (b) on conviction on indictment, to a fine.

(6) In determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.]

[411]

NOTES

Commencement: 25 November 1991 (certain purposes); 2 January 1992 (remaining purposes).

Substituted by the Planning and Compensation Act 1991, s 25, Sch 3, Pt I, para 6.

This Act does not extend to Scotland.

44. Effect of listed building consent on listed building enforcement notice

(1) If, after the issue of a listed building enforcement notice, consent is granted under section 8(3)—

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- (a) for the retention of any work to which the notice relates; or
- (b) permitting the retention of works without compliance with some condition subject to which a previous listed building consent was granted,

the notice shall cease to have effect in so far as it requires steps to be taken involving the works not being retained or, as the case may be, for complying with that condition.

(2) The fact that such a notice has wholly or partly ceased to have effect under subsection (1) shall not affect the liability of any person for an offence in respect of a previous failure to comply with that notice. [412]

NOTES

Commencement: 24 August 1990.
This section derived from the Town and Country Planning Act 1971, s 99A(1)-(3) and the Local Government, Planning and Land Act 1980, Sch 15, para 17.
This Act does not extend to Scotland.

[44P. Injunctions

(1) Where a local planning authority consider it necessary or expedient for any actual or apprehended contravention of section 9(1) or (2) to be restrained by injunction, they may apply to the court for an injunction, whether or not they have exercised or are proposing to exercise any of their other powers under this Part.

(2) On an application under subsection (1) the court may grant such an injunction as the court thinks appropriate for the purpose of restraining the contravention.

(3) Rules of court may, in particular, provide for such an injunction to be issued against a person whose identity is unknown.

(4) The references in subsection (1) to a local planning authority include, as respects England, the Commission.

(5) In this section "the court" means the High Court or the county court. [412A]

NOTES

Commencement: 25 November 1991 (certain purposes); 2 January 1992 (remaining purposes).
Inserted by the Planning and Compensation Act 1991, s 25, Sch 3, Pt I, para 7.
This Act does not extend to Scotland.

45. Commission to have concurrent enforcement functions in London

The Commission shall, as respects any London borough, have concurrently with the council of that borough the functions of a local planning authority under sections 38 to 43; and references to the local planning authority in those provisions shall be construed accordingly. [413]

NOTES

Commencement: 24 August 1990.
This section derived from the Town and Country Planning Act 1971, s 99B and the Local Government Act 1985, Sch 2, para 1(7).
This Act does not extend to Scotland.

46. Enforcement by the Secretary of State

(1) If it appears to the Secretary of State to be expedient that a listed building enforcement notice should be issued in respect of any land, he may issue such a notice.

(2) Before the Secretary of State serves a notice under subsection (1) he shall consult—

- (a) the local planning authority; and
- (b) if the land is situated in England, the Commission.

(3) A listed building enforcement notice issued by the Secretary of State shall have the same effect as a notice issued by the local planning authority.

(4) In relation to a listed building enforcement notice issued by the Secretary of State, [section 42] shall apply as if for any reference in [that section] to the local planning authority there were substituted a reference to the Secretary of State.

(5) References in this section to the local planning authority shall in the case of an authority for an area outside Greater London be construed as references to the district planning authority. [414]

NOTES

Commencement: 24 August 1990.

Sub-s (1) derived from the Town and Country Planning Act 1971, ss 100(1), 276(5A), the Local Government and Planning (Amendment) Act 1981, Schedule, paras 11, 24, and the Local Government Act 1985, Sch 17; sub-s (2) derived from the Country Planning Act 1971, ss 100(1), 276(5A), the Local Government and Planning (Amendment) Act 1981, Schedule, paras 11, 24, the National Heritage Act 1983, Sch 4, para 17 and the Local Government Act 1985, Sch 17; sub-s (3) derived from the Town and Country Planning Act 1971, ss 100(1), 276(5A), the Local Government and Planning (Amendment) Act 1981, Schedule, para 11, the National Heritage Act 1983, Sch 4, para 17 and the Local Government Act 1985, Sch 17; sub-s (4) derived from the Town and Country Planning Act 1971, ss 100(2), 276(5B), the Local Government and Planning (Amendment) Act 1981, Schedule, paras 11, 24 and gives effect to the Law Commission's Report on the Consolidation of Certain Enactments relating to Town and Country Planning, Cmnd 958, Recommendation 40; sub-s (5) derived from the Local Government Act 1972, Sch 16, paras 47(2), 52.

The words in square brackets in sub-s (4) substituted by the Planning and Compensation Act 1991, s 25, Sch 3, Pt II, para 22.

This Act does not extend to Scotland.

CHAPTER V

PREVENTION OF DETERIORATION AND DAMAGE

Compulsory acquisition of listed building in need of repair

47. *Compulsory acquisition of listed building in need of repair*

(1) If it appears to the Secretary of State that reasonable steps are not being taken for properly preserving a listed building he—

- (a) may authorise the appropriate authority to acquire compulsorily under this section the building and any relevant land; or
- (b) may himself compulsorily acquire them under this section.

(2) The Acquisition of Land Act 1981 shall apply to compulsory acquisition under this section.

(3) The Secretary of State shall not make or confirm a compulsory purchase order for the acquisition of any building by virtue of this section unless—

- (a) in the case of the acquisition of a building situated in England otherwise than by the Commission, he has consulted with the Commission; and
- (b) in any case, he is satisfied that it is expedient to make provision for the preservation of the building and to authorise its compulsory acquisition for that purpose.

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 [438]

t 1971, s 277(10)(a), the Town and
 Act 1985, Sch 2, para 1(14)(b); sub-
 '1, s 277(5), the Town and Country
 '85, Sch 2, para 1(14)(a); sub-s (3)
 77(4) and the Town and Country
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ercise of planning functions

other land in a conservation
 mentioned in subsection (2),
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Act 1971, s 277(8) and the Town and
 Planning (Hazardous Substances)
 is Act.

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for any development of land
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subsections (2) to (7) of section 67 shall apply as they apply in the circumstances
 mentioned in subsection (1) of that section.

[(2) In this section references to planning permission do not include
 references to planning permissions falling within section 73A of the principal
 Act.] [441]

NOTES

Commencement: 24 August 1990 (sub-s (1)); 2 January 1992 (sub-s (2)).
 Sub-s (1) derived from the Town and Country Planning Act 1971, ss 28(1)-(3), 29(4), the Local
 Government Act 1972, Sch 16, para 21, the Local Government Act 1974, Sch 6, para 25(1), the
 Town and Country Amenities Act 1974, s 4(1), the National Heritage Act 1983, Sch 4, para 15(2),
 (3) and the Local Government Act 1985, Sch 2, para 1(2).
 Sub-s (2) substituted by the Planning and Compensation Act 1991, s 32, Sch 7, para 60.
 The principal Act: Town and Country Planning Act 1990.
 This Act does not extend to Scotland.

Control of demolition

74. Control of demolition in conservation areas

(1) A building in a conservation area shall not be demolished without the
 consent of the appropriate authority (in this Act referred to as "conservation
 area consent").

(2) The appropriate authority for the purposes of this section is—

- (a) in relation to applications for consent made by local planning
 authorities, the Secretary of State; and
- (b) in relation to other applications for consent, the local planning
 authority or the Secretary of State.

(3) Sections 7 to 26, 28, 32 to 46, 56, 62 to 65, 66(1), 82(2) to (4), 83(1)(b), (3)
 and (4) and 90(2) to (4) have effect in relation to buildings in conservation areas
 as they have effect in relation to listed buildings subject to such exceptions and
 modifications as may be prescribed by regulations.

(4) Any such regulations may make different provision—

- (a) in relation to applications made by local planning authorities, and [442]
- (b) in relation to other applications.

NOTES

Commencement: 24 August 1990.
 Sub-s (1) derived from the Town and Country Planning Act 1971, s 277A(1), (2) and the Town
 and Country Amenities Act 1974, s 1(1); sub-ss (2), (4) derived from the Town and Country Planning
 Act 1971, s 277A(7), (9) and the Town and Country Amenities Act 1974, s 1(1); sub-s (3) derived
 from the Town and Country Planning Act 1971, s 277A(8), the Town and Country Amenities Act
 1974, s 1(1), the Town and Country Planning Act 1984, s 4(3) and the Housing and Planning Act
 1986, Sch 9, para 8(2).
 This Act does not extend to Scotland.

75. Cases in which s 74 does not apply

(1) Section 74 does not apply to—

- (a) listed buildings;
- (b) ecclesiastical buildings which are for the time being used for
 ecclesiastical purposes;
- (c) buildings for the time being included in the schedule of monuments
 compiled and maintained under section 1 of the Ancient Monuments
 and Archaeological Areas Act 1979; or

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PART II

ENFORCEMENT NOTICES UNDER SECTION 172

3. Additional matters to be specified in enforcement notice

An enforcement notice issued under section 172 of the principal Act shall specify—

- (a) ~~the reasons why the local planning authority consider it expedient to issue the notice; and~~
- (b) the precise boundaries of the land to which the notice relates, whether by reference to a plan or otherwise. [1051]

NOTES

Commencement: 2 January 1992.

4. Explanatory note to accompany copy enforcement notices

Every copy of an enforcement notice served by a local planning authority under section 172(2) of the principal Act shall be accompanied by an explanatory note which shall include the following—

- (a) a copy of sections 171A[, 171B and 172] to 177 of the principal Act, or a summary of those sections including the following information
 - (i) that there is a right of appeal to the Secretary of State against the enforcement notice;
 - (ii) that an appeal must be made by giving written notice of the appeal to the Secretary of State before the date specified in the enforcement notice as the date on which it is to take effect or by sending such notice to him in a properly addressed, pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before that date;
 - (iii) the grounds on which an appeal may be brought under section 174 of the principal Act;
- (b) notification that an appellant must submit to the Secretary of State, either when giving notice of appeal or within 14 days from the date on which the Secretary of State sends him a notice so requiring him, a statement in writing specifying the grounds on which he is appealing against the enforcement notice and stating briefly the facts on which he proposes to rely in support of each of those grounds. [1052]

NOTES

Commencement: 2 January 1992.
Amended by SI 1992 No 1904, reg 2(1).

PART III

APPEALS

5. Statement by appellant

A person who makes an appeal to the Secretary of State under section 174(3) of the principal Act or section 39(2) of the Listed Buildings Act against an enforcement notice and who does not include with it a statement in writing specifying the grounds on which he is appealing against the notice and stating briefly the facts on which he proposes to rely in support of each of those grounds, shall deliver such a statement to the Secretary of State not later than 14 days from the date on which the Secretary of State sends him a notice so requiring him. [1053]

NOTES

Commencement: 2 January 1992.

6. Local planning authority to send copy of notice to Secretary of State

Where an appeal has been made to the Secretary of State against an enforcement notice the local planning authority who issued the notice shall if so required by the Secretary of State send to him, not later than 14 days from the date on which the Secretary of State gives them notice that the appeal has been made, a copy of the enforcement notice and a list of the names and addresses of the persons on whom a copy of the notice was served under section 172(2) of the principal Act or section 38(4) of the Listed Buildings Act, as the case may be. [1054]

NOTES

Commencement: 2 January 1992.

7. Statement by local planning authority

(1) Where an appeal has been made to the Secretary of State against an enforcement notice issued by a local planning authority, the authority shall [serve on the Secretary of State and] on the appellant a statement indicating the submissions which they propose to put forward on the appeal, including the following matters—

- (a) a summary of the authority's response to each ground of appeal pleaded by the appellant;
- (b) a statement whether the authority would be prepared to grant planning permission for the matters alleged in the enforcement notice to constitute the breach of planning control, or to grant listed building consent or conservation area consent for the works to which the listed building enforcement notice or conservation area enforcement notice relates, as the case may be, and, if so, particulars of the conditions, if any, which they would wish to impose on such permission or consent.

[(2) Any statement which is required to be served by paragraph (1) of this regulation shall be served—

- (a) where a local inquiry is to be held, and the date fixed for the holding of the inquiry is less than 18 weeks after the relevant date, at least 6 weeks before the date fixed for the holding of the inquiry;
- (b) where a local inquiry is to be held and paragraph (a) does not apply, not later than 12 weeks after the relevant date;
- (c) where no local inquiry is to be held, not later than 28 days from the date on which the Secretary of State sends to the authority a notice requesting the statement.

(3) In paragraph (2), "relevant date" means the date of the Secretary of State's written notice to the appellant and the local planning authority of his intention to cause an inquiry to be held. [1055]

NOTES

Commencement: 2 January 1992.

Sub-ss (2), (3) substituted for sub-s (2) as originally enacted by SI 1992 No 1904, reg 2(2).

Transitional provision: substitution of sub-ss (2), (3) does not apply to an appeal made before September 1992 (SI 1992 No 1904, reg 3).

8. Public notice of appeal

(1) Where an appeal has been made to the Secretary of State against an enforcement notice issued by a local planning authority and he proposes not

hold a local inquiry, the authority shall give notice of the appeal to occupiers of properties in the locality of the site to which the enforcement notice relates and to any other persons who in the opinion of the authority are affected by the breach of planning control or contravention of listed building or conservation area control which is alleged in the enforcement notice.

- (2) Any notice given under paragraph (1) of this regulation shall include—
- (a) a description of the alleged breach of control;
 - (b) in the case of an appeal against an enforcement notice issued under section 172 of the principal Act, a statement of the reasons specified in the notice under regulation 3(a) of these Regulations;
 - (c) the grounds on which the appellant appealed against the enforcement notice; and
 - (d) a statement inviting interested persons to submit comments in writing to the local planning authority within such time as may be specified in the notice.

[1056]

NOTES

Commencement: 2 January 1992.

PART IV

NOTICES ISSUED BY THE SECRETARY OF STATE

9. Application of Regulations

These Regulations, except regulation 6, shall apply with respect to enforcement notices issued by the Secretary of State under section 182 of the principal Act, to appeals made to the Secretary of State against such notices, and to appeals against notices issued by him under section 46 of the Listed Buildings Act as they apply with respect to such notices issued by local planning authorities and to appeals made against them as if—

- (a) for references to a local planning authority there were substituted references to the Secretary of State;
- (b) in regulation 3, for "section 172" there were substituted "section 182";
- (c) in regulation 4—
 - (i) for "section 172(2)" there were substituted "section 182(1)"; and
 - (ii) in paragraph (a), after "sections 171A[, 171B and 172] to 177" there were inserted "and section 182"; and
- (d) for regulation 7 the following were substituted—

"7.—(1) Where an appeal has been made to the Secretary of State against an enforcement notice which he has issued, the Secretary of State shall serve on the appellant a statement indicating the submissions which he proposes to put forward on the appeal including a summary of his response to each ground of appeal pleaded by the appellant.

(2) Any statement which is required to be served by paragraph (1) of this regulation shall, where a local inquiry is to be held, be served not later than 28 days before the date of the inquiry."

[1057]

NOTES

Commencement: 2 January 1992.

Amended by SI 1992 No 1904, reg 2(1).

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