INSTITUTE OF HISTORIC BUILDING CONSERVATION

Householder Development Consultation Responses
Communities and Local Government
Zone 3/J5
Eland House
Bressenden Place
London
SW1E 5DU

16 August 2007

Dear Sir/Madam

CHANGES TO PERMITTED DEVELOPMENT

The Institute of Historic Building Conservation (IHBC) is the professional body of the United Kingdom representing conservation specialists and historic environment practitioners in the public and private sectors. The Institute exists to establish the highest standards of conservation practice, to support the effective protection and enhancement of the historic environment, and to promote heritage-led regeneration and access to the historic environment for all.

The Institute welcomes the opportunity to comment on the consultation.

The Institute has serious reservations about the proposals as a whole because they do not adequately recognize the importance of protecting the setting of listed buildings which is a duty placed upon decision makers by the Planning Acts or the special qualities of conservation areas. It is also apparent that many of the proposals will work counter to the Government's aspirations for improved design quality and place-making.

Conservation areas are designated for their special character but, because of the lack of control over permitted development in them, many are constantly under threat of losing their character. The route to deal with this, article 4, is time-consuming, costly and repetitive to the extent that often it is not used when it should be. In the Institute's view, conservation areas would be best served with a specific permitted development regime of their own that reflects their general sensitivity. This is not to suggest that conservation areas should not accept new development, merely that it should be seen to be to a high standard through the scrutiny of the planning application process on a more widespread basis than at present. We would be happy to give more detailed evidence on this if required.

Question 1 – Do you agree with the principle of an impact approach for permitted development?

The Institute agrees in principle that the extent of permitted development rights should be related to their potential impact. In the past care has been taken to ensure that permitted development is of such a scale that adverse impacts are unlikely, with developments where there is a risk of impact being the subject of planning control or, at least, prior notification.

The current proposal introduces forms of permitted development which go beyond the scope of previous allowances. This means that the potential impacts arising from it will be significantly greater.

The problem with the approach being consulted on is that is does not relate to actual impacts but to generalisations about the nature of impact. The Institute consequently objects to this approach.

Question 2 – Do you agree with a restriction on development facing onto and visible from a highway in designated areas?

As worded the question implies that development might be permitted between dwellings and a highway if it were to be obscured by something (say trees or shrubs). This is contrary to the proposed change of wording to the order which seems to preclude this in all cases and which the Institute supports. Notwithstanding the difficulty in interpreting the words "visible from" this should not be allowed as there are extensive rights to remove buildings and landscaping in domestic curtilages which could make something become visible at a later stage to the detriment of the area. Conservation areas are designated because of their visual qualities and World Heritage Sites for their visual character amongst a range of other qualities. If the public interest implied by their designation is to be preserved there must be a presumption that they will not be disfigured by ill-considered developments at least from the most public viewpoints. The Institute believes that in conservation areas and World Heritage sites restrictions should apply to **all** development between dwellings and highways and supports the wording of the proposed amendments to the order.

Question 3 – Should the restriction apply in the same way to types of designated area?

The Institute is happy to allow others to argue the case for extended restrictions in National Parks and AONBs.

The greatest potential damage to the historic environment does not, however, come from the developments in designated areas but in damage to **the setting of listed buildings**. LPAs have a duty to consider the effect of proposals on the setting of listed buildings when they determine planning applications. This often applies to developments well beyond the curtilage of the listed building itself. As proposed in the Consultation Paper there would be no control over developments which might adversely affect the setting of important examples of the nation's architectural history. This is one of the reasons for the Institute's objection to a generalised approach to impact.

Question 4 – Do you agree that, subject to safeguards to protect householders from abortive costs, that the existing right to compensation for 12 months after any change to the GPDO is made is reviewed?

The Institute thinks that the existing arrangements are unreasonable. In the current inflationary housing market many proposals are driven by a desire to realise the 'hope value' of the proposed works. Should such proposals not be realisable due to a change in the GPDO that restricts permitted rights any subsequent loss is a 'paper loss' and no actual loss or damage is incurred. Given that compensation monies are found from taxed revenues, the IHBC considers that any compensation payments in such circumstances would be a misdirection of public money. However, as is recognised in the question, where a householder has already entered into contract for works that due to changes in the GPDO are no longer PD or has bought windows and doors etc. and cannot obtain a refund of a deposit or stage payment, it would be entirely reasonable that, subject to all reasonable efforts made on their part to minimise the financial loss, due compensation is made from the public purse. The Institute would support and would welcome the opportunity to participate in a review of this matter.

Question 5 – Do you consider that local planning authorities should be able to make an article 4 direction without the need for the Secretary of State's approval at any stage?

The Institute agrees with this aspect. It is important that the local planning authority should be able to act quickly in cases where it believes harm is being done by the exercise of permitted development rights. Nevertheless, article 4 designation should not be seen as a substitute for a specific permitted development regime for conservation areas.

Question 6 – Do you consider that, subject to safeguards to protect householders from abortive costs, the existing right to compensation as a result of the making of an article 4 direction should be reviewed?

Yes. The Institute believes that householders should be protected from costs caused by sudden changes to policy. However, the process should be arranged to allow article 4 directions to be made by authorities without fear of compensation claims. The Institute thinks that the existing arrangements are unreasonable and place an unnecessary real and psychological restraint on Council's making article 4 directions that might better protect conservation areas and historic buildings and other designated areas. Very few compensation claims have been made over the years and there is a sense that any perceived loss is marginal or even illusionary. Nevertheless, for Councils working within highly prioritised and limited budgets, the unquantified nature of any potential claim is a distinct disincentive to fulfil its duty to protect and preserve the heritage through the making of article 4 directions. Subject to the rightful safeguard to protect householders from abortive costs the existing compensation regimes should be removed.

The Royal Institution of Chartered Surveyors has demonstrated consistently over the years that conservation areas and historic buildings attract a premium in the housing market (consider most estate agent's property particulars where such designations are part of the advertised features of such properties). Well-preserved and maintained historic areas and buildings attract the highest premiums. Consequently the making of article 4 directions will, as a by-product of their function, enhance the value of properties affected. Any perceived loss at the point of making the direction will be more than compensated for by the increase in desirability and consequently, value of the property over the medium term.

Question 7 – Should there be a requirement for planning authorities to review article 4 directions at least every five years?

While periodic review is necessary, it is not clear what this is expected to deliver on a 5-year cycle. Article 4 directions are intended to prohibit poor quality permitted development. If they succeed in doing this they have fulfilled their function. But assessing the extent of this is impossible because it is impossible to know what would have happened in their absence. The Institute is concerned that a 5-year cycle would merely serve to divert resources from more pressing areas of work. A more restrictive regime for permitted development in conservation areas would obviate the need for many article 4 directions and any consequent review.

Question 8 – Would there be benefit in making certain types of permitted development subject to a prior approval mechanism?

This is the Institute's preferred mechanism for frontage developments and those where the sensitivity of the area is high, especially conservation areas. It allows a quick scrutiny of proposals so that those that actually will have an adverse impact can be "called-in" for detailed approval.

Question 9 – If so, what types of permitted development should be subject to prior approval and what aspects of the development should be subject to approval?

Prior approval should be required for **all** permitted development rights for householders, in designated areas and all permitted development fronting onto highways elsewhere.

Question 10 – Would there be benefit in having a separate development order containing just permitted development rights for householders?

The Institute believes that any new arrangements will require wide publicity. It is probably not necessary to have a separate order for householder developments so long as there is discrete guidance available.

Question 11 – Do you have any comments on the proposed definitions?

The Institute is very unsure what the words "visible from" are intended to mean. It seems to us that the expression only serves to conflict with the actual levels of permitted development proposed.

Question 12 – Do you agree with the proposed limits for extensions?

No. The Institute believes that the limits are too permissive. They will lead to larger numbers of unsightly extensions than previously. It will be harder to convince applicants for planning permission of the seriousness of the Government's commitment to improving design quality and the delivery of public places of quality.

In terms of size, extensions proposed to be permitted are similar to existing limits for ordinary property. The impacts will be greater for larger property because of the greater width available. But for designated areas, the limits will be considerably increased. This is not acceptable. The proposal does not seem to deal adequately with extensions with monopitched roofs. It seems they could be allowed to have a ridge height of 4m on a boundary, which we do not think is intended.

There is likely to be much debate, on a case by case basis, over what is meant by "matching" materials and whether they are available at reasonable cost. The Institute is not clear about how this might be addressed as it is a problem for planning conditions covering materials as well. Perhaps householders who are uncertain about whether their proposal conforms, could seek specific advice from the authority?

Question 13 – Do you agree with the proposed limits for roof extensions?

No. Roof extensions can be particularly intrusive and give rise to much public comment. The Institute believes that the limits are too permissive. They will lead to larger numbers of unsightly extensions than previously. It will be harder to convince applicants for planning permission of the seriousness of the Government's commitment to improving design quality and the delivery of public places of quality.

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Question 14 – Do you agree with the proposed limits for roof alterations?

The Institute is content with this aspect of the proposals.

Question 15 – Do you agree with the proposed limits for curtilage developments?

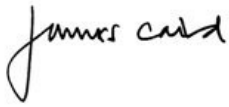
The Institute agrees in general with the proposed limits which are more restrictive than at present. In particular, the Institute is pleased with the low limit for structures within the curtilage of listed buildings.

Question 16 – Do you agree that there should be no national restriction on hard surfaces?

The Institute regrets the nature of this proposal. The consultation paper recognizes several issues of concern and then proposes no restrictions. The Institute believes that if the Government is serious about dealing with the effects of climate change reducing impacts through the implementation of all policy is important. Given the recent flooding that has caused widespread damage and social and economic disruption in locations across the country it is now time to act on the issue of hard surfacing and its impact on the surge capacity of drainage systems. The Institute urges the Government to introduce the porosity requirement suggested in the study. The hard surfacing of frontage areas also often involves the removal of walls, fences and other boundary features. This can be particularly damaging to the character and appearance of conservation areas.

We would be grateful if these comments could be taken into account.

Yours faithfully



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