



· INSTITUTE · OF · HISTORIC ·
BUILDING · CONSERVATION

Making Heritage Work

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Dear Sirs

REVIEW OF STATUTORY DUTIES PLACED ON LOCAL GOVERNMENT

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.

Thank you for inviting us to participate in this consultation.

We have set out our comments on the provisions in the consultation table with our comments in the attached table. We hope these are of interest.

Yours faithfully.

James Caird
Consultant Consultations Co-ordinator

INSTITUTE OF HISTORIC BUILDING CONSERVATION
 Suggestions for review of statutory duties placed on local government

Duty reference	Legislation	Date	Description	IHBC position	Comment
DCLG_140	Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 Regulation 3	1999	Local Planning Authorities to take into account environmental assessment before granting planning or subsequent consent under a planning permission for certain categories of development	Desirable to retain – EU requirement	
DCLG_141	Environmental Assessment of Plans and Programmes Regulations 2004 Regulation 5	2004	Local Planning Authorities responsible for strategic environmental assessment of certain plans during their preparation - applies to development plan documents	Desirable to retain – EU requirement	
DCLG_142	Local Democracy, Economic Development and Construction Act 2009 Section 71(1) (to be repealed in the Localism Bill)	2009	Make a scheme for the establishment and operation of a Leaders' Board (and various subsidiary duties in the same section).	No view	
DCLG_143	Local Democracy, Economic Development and Construction Act 2009 (to be repealed in the Localism Bill) Sections 73 to 77	2009	Member of a Leaders' Board- various duties on local authorities regarding the revision of a regional strategy and its implementation.	No view	
DCLG_144	Planning (Listed Buildings and Conservation Areas) Act 1990 Section 69	1990	Determine from time to time, which parts of its area should be conservation areas.	Essential to retain	
DCLG_145	Planning (Listed Buildings	1990	In considering whether to	Essential to retain	

Duty reference	Legislation	Date	Description	IHBC position	Comment
	and Conservation Areas) Act 1990 Section 66		grant planning permission affecting a listed building or its setting, have special regard to the desirability of preserving the building or its setting.		
DCLG_146	Planning (Listed Buildings and Conservation Areas) Act 1990 Section 71	1990	Publish proposals for the preservation and enhancement of conservation areas.	Retain	This duty has rarely been carried out rigorously.
DCLG_147	Planning (Listed Buildings and Conservation Areas) Act 1990 Section 72	1990	Exercise certain functions paying special attention to the desirability of enhancing or preserving the appearance of conservation areas	Essential to retain	
DCLG_148	Town and Country Planning Act 1990 (TCPA 1990) Section 65	1990	Duties imposed on Local Planning Authorities by order under this section relating to publicity of planning applications.	Essential to retain	
DCLG_149	Town and Country Planning Act 1990 Section 69	1990	Keep register of various applications made under this Act.	Retain	Most planning histories GISed and updated automatically. Duty could be reframed to reflect this.
DCLG_150	Town and Country Planning Act 1990 Section 70(2)	1990	Have regard to development plan and other material considerations in determining planning and other applications.	Retain	Otherwise what is the point of the development plan?
DCLG_151	Town and Country Planning Act 1990, Section 71	1990	By order not to determine applications for planning permission before end of prescribed period and to consult and further duty to consult other local authority	Essential to retain	Otherwise consultation and participation meaningless.

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			when granting consent for caravans		
DCLG_152	Town and Country Planning Act 1990 Section 73	1990	Duties about how to consider application to develop land without compliance with planning condition.	Essential to retain	
DCLG_153	Town and Country Planning Act 1990 Section 74	1990	How to determine planning applications.	Essential to retain	
DCLG_154	Town and Country Planning Act 1990 Section 76A	1990	Refer application for planning permission to Secretary of State for major infrastructure project when directed to by Secretary of State	No view	
DCLG_155	Town and Country Planning Act 1990 Section 77	1990	Refer application for planning permission to Secretary of State when directed to either in a specific case or because of a general direction.	No view	
DCLG_156	Town and Country Planning Act 1990 Section 78	1990	Give notice of decisions within prescribed periods	Essential to retain	Essential for transparency
DCLG_157	Town and Country Planning Act 1990 Section 83	1990	Determine from time to time whether to designate any part of their area as a Simplified Planning Zone if regional strategy identifies a need for one (and connected procedures in other sections).	No need to be a duty.	Could be retained as a power.
DCLG_158	Town and Country Planning Act 1990 Section 97	1990	Have regard to development plan and other material considerations when deciding whether or not to	Retain	Otherwise what is the point of the development plan?

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			revoke or modify a planning permission (and connected procedures under other provisions to be complied with in order to revoke or modify permission).		
DCLG_159	Town and Country Planning Act 1990, Section 106A(7)	1990	Give notice of determination of application to vary or discharge planning obligation within prescribed period.	Essential to retain	Essential for transparency
DCLG_160	Town and Country Planning Act 1990 Section 107	1990	Pay compensation for revocation or modification of planning permission.	No view	
DCLG_161	Town and Country Planning Act 1990 Section 108	1990	Pay compensation for withdrawal or modification of planning permission granted by development order	Could be repealed	Is an inhibitor to Article 4 directions
DCLG_162	Town and Country Planning Act 1990 Section 109	1990	Apportion compensation under section 107.	No view	
DCLG_163	Town and Country Planning Act 1990 Section 110	1990	Give notice to Secretary of State where compensation includes compensation for depreciation	No view	
DCLG_164	Town and Country Planning Act 1990 Section 115	1990	Pay compensation where discontinuance order made	No view	
DCLG_165	Town and Country Planning Act 1990 Section 139	1990	Respond to purchase notice	No view	
DCLG_166	Town and Country Planning Act 1990 Section 191	1990	To issue certificates of lawful existing use or development or refuse applications	Essential to retain	
DCLG_167	Town and Country Planning	1990	To issue certificates of	Essential to retain	

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	Act 1990 Section 192		lawful proposed use or development or refuse applications		
DCLG_168	Town and Country Planning Act 1990 Section 197	1990	Include appropriate provision for the protection of tree in a planning permission.	Not necessary if power retained	No need for duty to act appropriately
DCLG_169	Town and Country Planning Act 1990 Section 203	1990	Pay compensation arising under tree preservation orders.	Dispensable	
DCLG_170	Town and Country Planning Act 1990 Section 204	1990	Pay compensation where requirement to replant trees.	Dispensable	
DCLG_171	Town and Country Planning Act 1990 Section 223	1990	Pay compensation for expense of removing prohibited advertisements	Dispensable	
DCLG_172	Planning and Compulsory Purchase Act 2004 S13	2004	Survey and keep under review certain matters which affect the development of their area or the planning of its development.	Essential to retain	
DCLG_173	Planning and Compulsory Purchase Act 2004 S14	2004	Keep under review those matters which may be expected to affect development in that area or the planning of that development, in so far as the development relates to a county matter.	No view	
DCLG_174	Planning and Compulsory Purchase Act 2004 and S30 Greater London Authority Act S 15	2004	Prepare and maintain a local development scheme (LDS), which is effectively a project plan for the preparation of local development documents (LDDs). LPAs must submit	No view	

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			LDS to Secretary of State and if a London LPA also to the mayor of London.		
DCLG_175	Planning and Compulsory Purchase Act 2004 S 17(3)	2004	The Local Development Documents must, taken as a whole, set out the authority's policies relating to the development and use of land in their area.	Essential to retain	Unless replace by new development plan measures
DCLG_176	Planning and Compulsory Purchase Act 2004 S17(6)	2004	Keep their Local Development Documents under review (having regard to the results of any review carried out under s.13PCPA).	Essential to retain	
DCLG_177	Planning and Compulsory Purchase Act 2004 (To be repealed in Localism Bill) S 24	2004	Local Development Documents must be in general conformity with the regional spatial strategy	Redundant	
DCLG_178	Planning and Compulsory Purchase Act 2004 S 16	2004	Prepare and maintain a development scheme in relation to minerals and waste (these being the matters in relation to which they still have planning obligations).	No view	
DCLG_179	Planning and Compulsory Purchase Act 2004 S17(4)	2004	Where a county council is required to prepare such a scheme, the council's Local Development Documents must, taken as a whole, set out the council's policies relating to development which is a council matter.	No view	
DCLG_180	Planning and Compulsory	2004	The council must keep their	Duplicates DCLG 176	

Duty reference	Legislation	Date	Description	IHBC position	Comment
	Purchase Act 2004 S 17(6)		Local Development Documents under review (having regard to the results of any review carried out under s. 14 PCPA)		
DCLG_181	Planning and Compulsory Purchase Act 2004 S 18	2004	Prepare a statement of community involvement	Dispensable	
DCLG_182	Planning and Compulsory Purchase Act 2004 S 20	2004	Local planning authorities must submit every Development Plan Document for independent examination by a person appointed by the Secretary of State	Essential to retain	
DCLG_183	Planning and Compulsory Purchase Act 2004 S. 26	2004	If the Secretary of State so directs, a local planning authority must prepare a revision of any Local Development Document, which is then subject to the examination process again.	No view	
DCLG_184	Planning and Compulsory Purchase Act 2004 S 35	2004	Every local planning authority must make an annual report to the Secretary of State giving such information as is prescribed in relation to the extent of its implementation of the Local Development Scheme, and the extent to which the policies set out in the Local Development Documents are being achieved.	No view – dispensable?	
DCLG_185	Planning and Compulsory Purchase Act 2004 Section	2004	Local Planning Authorities to decide planning	Essential to retain	

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	38(6)		applications in accordance with development plan unless material considerations indicate otherwise.		
DCLG_186	Planning and Compulsory Purchase Act 2004 Section 39(2)	2004	Local Planning Authorities to exercise functions under Part 2 with the objective of contributing to the achievement of sustainable development (and subsidiary duty to have regard to connected guidance).	Essential to retain	Government policy
DCLG_187	Planning and Compulsory Purchase Act 2004 Section 19	2004	Preparation of local development documents	No view	
DCLG_188	Planning and Compulsory Purchase Act 2004 Section 34	2004	Guidance	No view	
DCLG_189	Planning and Compulsory Purchase Act 2004 Section 22	2004	Withdrawal of local development documents.	No view	
DCLG_190	Planning and Compulsory Purchase Act 2004 Section 23	2004	Adoption of local development documents	No view	
DCMS_001	Public Statues (Section 5) (Metropolis) Act 1854 (the "PS(M)A 1854")	1854	No public statue can be erected without written consent of Secretary of State	Dispensable	
DCMS_002	Ancient Monuments and Archaeological Areas Act 1979 ("AMAAA 1979") Sections 12 and 13	1979	To maintain any monument which is under that local authority's guardianship by virtue of the Ancient Monuments and Archaeological Areas Act	Essential to retain	

Duty reference	Legislation	Date	Description	IHBC position	Comment
			1979		
DCMS_003	Ancient Monuments and Archaeological Areas Act 1979 -Section 14	1979	To consult with the Secretary of State (and authority must be satisfied as to certain conditions) before entering into any agreement to exclude any part of a monument from guardianship or renounce guardianship of the monument under s14(2) Ancient Monuments and Archaeological Areas Act 1979	Essential to retain	
DCMS_004	Ancient Monuments and Archaeological Areas Act 1979 - Section 19	1979	To grant public access to any monument under the ownership or guardianship of the local authority by virtue of Ancient Monuments and Archaeological Areas Act 1979	Dispensable	Reduce to power
DCMS_005	Ancient Monuments and Archaeological Areas Act 1979 Section 30(2)	1979	A local authority shall only dispose of an ancient monument situated in England which has been acquired by agreement, gift or transfer (i.e. under s11 or 21 Ancient Monuments and Archaeological Areas Act 1979) after consulting with the Secretary of State	Essential to retain	
DCMS_006	Ancient Monuments and	1979	A local authority must	Essential to retain	

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	Archaeological Areas Act 1979 - Section 33(2) and Sch 2		notify English Heritage ("EH") of an intention to designate by order an area of archaeological importance within its area if area is in England		
DCMS_007	Planning (Listed Buildings and Conservation Areas) Act 1990 - Section 2(3)(b) and 2(5)	1990	To inform owners and occupiers when building is listed or delisted in their area (s2(3)(b)); and to make copies of the local list available to the public (s2(5))	Essential to retain	But first part should be transferred to English Heritage
DCMS_008	Planning (Listed Building Conservation Area) Regulations 1990 - Section 3	1990	If a local authority chooses to serve a building preservation notice ("BPN") (takes effect as temporary listing) on a building in their area, they must request the Secretary of State to consider the building for listing under the P(LBCA)A 1990.	Essential to retain	
DCMS_009	Planning (Listed Building Conservation Area) Regulations 1990 Section 13 P(LBCA)A 1990	1990	To notify Secretary of State where application is made for listed building consent and authority intends to grant the consent. The local planning authority shall not grant listed building consent until conditions in s13(3) are satisfied	Dispensable	
DCMS_010	Planning (Listed Building	1990	Where a London borough	Dispensable	

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	Conservation Area) Regulations 1990 - Section 14		council receives application for listed building consent and authority intends to grant consent, it must notify English Heritage. The authority shall not grant the consent unless they are authorised or directed to do so under s 14(2)(a).		
DCMS_011	Planning (Listed Building Conservation Area) Regulations 1990 Sections 23-25	1990	Procedure to be followed by a local authority which makes an order to revoke or modify listed building consent	Essential to retain	
DCMS_012	Planning (Listed Building Conservation Area) Regulations 1990 Section 28	1990	To pay compensation where listed building consent revoked or modified and an interested person has incurred expenditure or suffered damage etc	Essential to retain	
DCMS_013	Planning (Listed Building Conservation Area) Regulations 1990 - Section 33 and 34	1990	Action by local authority on whom listed building purchase notice served	Essential to retain	
DCMS_014	Planning (Listed Building Conservation Area) Regulations 1990 Section 38	1990	Issue of listed building enforcement notice requires Local Authorities to certain follow procedures	Essential to retain	But detailed procedure could be reviewed.
DCMS_015	Planning (Listed Building Conservation Area) Regulations 1990	1981	Local Authorities must submit a draft compulsory purchase order for a listed building in need of repair to	Dispensable	

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			the Secretary of State for confirmation		
DCMS_016	Planning (Listed Building Conservation Area) Regulations 1990 - Section 52(1)(b)	1990	To obtain confirmation from Secretary of State if authority wishes to acquire by agreement any land that is necessary for preserving a building acquired under s52 of P(LBCA)A 1990 or necessary for preserving amenities or for affording access to it or for its control or management	Dispensable	
DCMS_017	Planning (Listed Building Conservation Area) Regulations 1990 - Section 56	1990	Dangerous structure orders in respect of listed buildings - local authority must consider use of sections 47 and 48 or section 54 before exercising certain powers under the Building Act 1984 or the London Building Acts (Amendment) Act 1939	Essential to retain	
DCMS_018	Planning (Listed Building Conservation Area) Regulations 1990 Section 66	1990	To have special regard to the desirability of preserving the building etc when considering whether to grant planning permission for development which affects a listed building or its setting	Essential to retain	
DCMS_019	Planning (Listed Building Conservation Area)	1990	To designate (and review designated) conservation	Replace with power	As currently phrased, this does not sit well as a duty.

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	Regulations 1990 Sections 69 and 70		areas. Must also give notice of designation to Secretary of State and (in respect of designations in England) to English Heritage, and in the London Gazette and a local newspaper		It might just as well be a power.
DCMS_020	Planning (Listed Building Conservation Area) Regulations 1990 Section 71	1990	Local planning authority must formulate and publish proposals for the preservation and enhancement for their conservation areas; any proposals to be considered at a public meeting	Retain – duplicated DCLG 146	This duty has rarely been carried out rigorously.
DCMS_021	Planning (Listed Building Conservation Area) Regulations 1990 Section 74	1990	To obtain Secretary of State consent to demolish a building in a conservation area (NB under s75, requirement for consent does not apply to all classes of buildings, e.g. does not apply to listed buildings - see Section 82)	Dispensable	
DCMS_022	Planning (Listed Building Conservation Area) Regulations 1990 Sections 76 and 54	1990	If a local authority wishes to apply s54 to undertake urgent works to preserve an unoccupied building in a conservation area, it must obtain a direction from Secretary of State under s76 that s54 applies	Dispensable	

Duty reference	Legislation	Date	Description	IHBC position	Comment
DCMS_023	Planning (Listed Building Conservation Area) Regulations 1990 Section 82	1990	Application of P(LBCA)A 1990 to land and works of local planning authorities: Local authority required to seek listed building consent, conservation area consent etc. Application for listed building consent to demolish their listed buildings, or to alter or extend them must be made to the Secretary of State	Dispensable	Las do not need oversight of this kind – the legality of actions may always be tested in the courts
DCMS_024	Planning (Listed Building Conservation Area) Regulations 1990 Section 82(D)	1990	To obtain consent of appropriate authority before taking any step for the purposes of enforcement in relation to Crown land	Dispensable	
DCMS_025	Planning (Listed Building Conservation Area) Regulations 1990 Schedule 1	1990	Treatment as listed buildings certain buildings formerly subject to building preservation orders - To give notice under para 2(2)	Dispensable	