EXPLANATORY MEMORANDUM TO

THE ENTERPRISE AND REGULATORY REFORM ACT 2013 (ABOLITION OF CONSERVATION AREA CONSENT) (CONSEQUENTIAL AND SAVING PROVISIONS) (ENGLAND) ORDER 2013

2013 No. 2146

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The Enterprise and Regulatory Reform Act 2013 (Abolition of Conservation Area Consent) (Consequential and Saving Provisions) (England) Order 2013 ("the Order") makes amendments to secondary legislation consequential to the provisions of the Enterprise and Regulatory Reform Act 2013 which abolished, in England, the requirement for conservation area consent. The Order also makes saving provision in respect of applications for conservation area consent submitted before the Order comes into force.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 Paragraphs 12 and 13 of Schedule 17 to the Enterprise and Regulatory Reform Act 2013 ("the 2013 Act") amended sections 74 and 75 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the Listed Buildings Act") to provide that the requirement for conservation area consent in respect of the demolition of certain unlisted buildings in a conservation area ("relevant demolition") no longer applies to England. Instead, an application for full planning permission must be made, and paragraph 6 of Schedule 17 to the 2013 Act amended the Town and Country Planning Act 1990 to insert a new section 196D in to that Act which makes it an offence to fail to obtain the required planning permission for relevant demolition.

4.2 The Order makes consequential provision in respect of the abolition of conservation area consent and, in Article 4, provides that where, prior to 1st October 2013, an application for conservation area consent has been submitted, such an application (and any appeal, enforcement or other proceedings in respect of that application) shall be dealt with under the existing statutory provisions as unamended by the 2013 Act.

5. Territorial Extent and Application

5.1 This instrument applies to England only.

6. European Convention on Human Rights

6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 The Listed Buildings Act provides that certain unlisted buildings in a conservation area must not be demolished without conservation area consent. There has been a long standing aim, however, to abolish conservation area consent so as to streamline the heritage protection system. The Penfold Review of non-planning consents in 2010 recommended a measure to abolish the separate conservation area consent regime. The recommendation was enacted through the provisions in Schedule 17 to the 2013 Act. The aim in respect of the demolition of unlisted buildings in conservation areas (now referred to as "relevant demolition") is to transfer the protections in the conservation area consent regime to the planning regime, while leaving the level of protection for unlisted buildings in conservation areas unchanged.

7.2 As a consequence of the abolition of the conservation area consent regime there is a need to remove references to "conservation area consent" from existing secondary legislation.

Consolidation

7.3 The Order serves to remove references to "conservation area consent" in secondary legislation, so the question of consolidation does not arise.

8. Consultation outcome

8.1 No consultation was carried out for this instrument as, together with the Town and Country Planning (General Permitted Development) (Amendment) (England) (No. 3) Order 2013 and the Town and Country Planning General (Amendment) (England) Regulations 2013 it simply replaces and replicates existing protections for the demolition of unlisted buildings in conservation areas under the heritage system.

9. Guidance

9.1 There is no guidance associated with this instrument.

10. Impact

10.1 A full Impact Assessment has not been prepared for this instrument as, while it simplifies the process, no direct impact on business, charities or voluntary bodies is foreseen.

11. Regulating small business

11.1 The legislation that is amended by this instrument applies to small business, but there is no new impact since the new secondary legislation replicates the heritage system in the planning regime.

12. Monitoring & review

12.1 This is a consequential amending Order, so no formal monitoring or review of this instrument is necessary.

13. Contact

Robert Segall at the Department for Communities and Local Government Tel: 030344 41717 or email: robert.segall@communities.gsi.gov.uk can answer any queries regarding the instrument.