3. BUILDING PRESERVATION ORDER

The Town and Country Planning (Building Preservation Order) Regulations, 1948

1948 No. 1766

Made - - - -	*28th July*, 1948
Laid before Parliament	*28th July*, 1948
Coming into Operation	*16th August*, 1948

B2563.

The Minister of Town and Country Planning (hereinafter called " the Minister ") in exercise of the powers conferred on him by Section 29 of the Town and Country Planning Act, 1947(a) (hereinafter called " the Act ") and of all other powers enabling him in that behalf hereby makes the following regulations:—

1. These regulations may be cited as the Town and Country Planning (Building Preservation Order) Regulations, 1948, and shall come into force on the sixteenth day of August, 1948.

2.—(1) In these regulations, unless the context otherwise requires:—

" the Act " means the Town and Country Planning Act, 1947;

" local authority " means a local planning authority or the council of a county district;

" the Minister " means the Minister of Town and Country Planning;

" order " means a building preservation order made under section 29 of the Act, and in regulations 4, 5 and 6 includes an order amending or revoking such an order;

" notice by advertisement," in relation to an order, means a notice published in at least one local newspaper circulating in the locality in which the building is situate.

(2) Any reference in these regulations to the council of a county district shall include a reference to the Common Council of the City of London and to the council of any metropolitan borough.

(3) The Interpretation Act, 1889(b), shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

3.—(1) An order shall be in the form (or substantially in the form) set out in the Schedule hereto with such adaptations as the circumstances may require.

(2) Before making an order, the Common Council of the City of London, or the council of a metropolitan borough, shall consult with the London County Council.

4.—(1) A local authority desiring to submit an order to the Minister for confirmation shall transmit to the Minister the sealed order in duplicate with any plan annexed thereto, a copy of such order and plan (if any) and a statement of the grounds on which the local authority consider that the order should be confirmed; and shall send a copy of such order, plan and statement to the council of the county district in which the building is situate or if the authority making the order are themselves that council, to the local planning authority for the area.

(a) 10 & 11 Geo. 6. c. 51. (b) 52 & 53 Vict. c. 63.

(2) The local authority shall forthwith give notice by advertisement of the submission of the order to the Minister, and shall include in the notice a statement that the order and plan (if any) or certified copies thereof, will be open for inspection at a specified place or at specified places and between specified hours, and that any objections or representations with reference thereto may be sent in writing to the Minister within twenty-eight days from the date of the publication of the advertisement.

(3) The local authority shall serve on the owner and any occupier of the building notice of the submission of the order to the Minister, together with a copy of the order and plan (if any) and of the statement referred to in paragraph (1) of this regulation. The notice shall contain a statement that the period of twenty-eight days, during which objections and representations may be sent to the Minister, shall run from the date of the service of the notice.

(4) The local authority shall, as soon as may be after the publication of the advertisement, send a copy of the newspaper containing the advertisement to the Minister, together with a copy of the notice served on the owner and any occupier of the building, and a statement of the date or dates of such service.

5. The Minister shall, before deciding whether to confirm the order, take into consideration any objections or representations in writing received by him within the time specified in the notices under paragraphs (2) and (3) of regulation 4, and if a local inquiry is held, the report of such inquiry.

6. The local authority shall on receipt of the Minister's decision on the order

(*a*) inform the owner and any occupier of the building and the council of the county district in which the building is situate (or the local planning authority as the case may be) of the Minister's decision and, where the order is confirmed, serve on each of them a copy of the order as confirmed;

(*b*) where the order is confirmed, otherwise than provisionally under the proviso to subsection (4) of section 29 of the Act, give notice by advertisement of such confirmation and state in such notice the place where and the hours within which a copy of the order as confirmed may be inspected; and

(*c*) furnish to the Minister a certificate that the requirements of this regulation have been complied with.

SCHEDULE

Form of Building Preservation Order

Town and Country Planning Act, 1947

(Title of Order)

The (1) (in this order referred to as " the Authority ") in pursuance of the powers in that behalf conferred by section 29 of the Town and Country Planning Act, 1947 (hereinafter called " the Act ") hereby makes the following order:—

(1) Insert name of Authority making the order.

1. The building described in the First Schedule hereto and shown coloured on the plan annexed hereto shall not without the consent of the Authority be demolished, or altered or extended by any of the following works (2).....

(2) Set out the works of alteration or extension prohibited by the order (see proviso to section 29(3)).

Provided that nothing in this order shall render unlawful the execution of any works which are urgently necessary in the interests of safety or health or for the preservation of the building or of neighbouring property, so long as notice in writing of the proposed execution of the works is

given to the Authority as soon as may be after the necessity for the works arises.

(3) This provision is optional and may be adapted or modified as necessary. (See section 29(2).)

2.(3) The provisions of subsection (1) and subsection (2) (except paragraph (*a*)) of section 14, section 15, subsection (1) (except the proviso) and subsections (2) and (3) of section 16, subsections (1) (2) and (4) of section 18 and section 19 of the Act relating to permission to develop land and to applications for such permission shall apply to consents under this order and to applications therefor as if such consents or applications were permissions or applications respectively to develop land, and as if the Authority were the local planning authority; and accordingly those provisions shall have effect for the purposes of this order as set out in the Second Schedule hereto.

3.(3) The provisions of section 23 and of subsections (1) (2) and (3) of section 24 of the Act shall apply in relation to this order subject to the omission of the references therein to the use of land and to the substitution for the expressions set out in column 1 of the following table, of the expressions set out opposite thereto in column 2 of that table:—

Column 1	*Column 2*
" the local planning authority "	" the Authority "
" development of land ", or " development "	" works of demolition or other works prohibited by this order " or " works "
" the appointed day "	" the making of this order "
" permission "	" consent "
" this part of this Act "	" this order "
" the retention on the land of any buildings or works "	" the retention on the land of any buildings or the execution or retention of any works "

and accordingly the provisions of the said sections shall have effect for the purposes of this order as set out in the Second Schedule hereto.

4. (Insert, where appropriate, provisions as to compensation in accordance with section 29 (2) (*c*) of the Act.)

FIRST SCHEDULE

(*Insert description of the building*)

SECOND SCHEDULE

Provisions of Part III of the Act relating to permission to develop land, to applications for such permission and to enforcement notices, adapted and modified for the purposes of the order.

(The provisions adapted or modified are printed in heavy type.)

14.—(1) Subject to the provisions of this and the next following section, where application is made to **the authority** for **consent under this order the authority** may grant **consent** either unconditionally or subject to such conditions as they think fit, or may refuse **consent**; and in dealing with any such application **the authority** shall have regard to the provisions of the development plan, so far as material thereto, and to any other material considerations.

(2) Without prejudice to the generality of the foregoing subsection, conditions may be imposed on the grant of ..... consent thereunder—

(*b*) for requiring the removal of any buildings or works authorised by the **consent**, at the expiration of a specified period, and the carrying out of any works required for the re-instatement of land at the expiration of that period;

and any **consent** granted subject to any such condition as is mentioned in paragraph (*b*) of this subsection is ..... referred to as **consent** granted for a limited period only.

15.—(1) The Minister may give directions to **the authority** ..... requiring that any application for **consent under this order** or all such applications of any class specified in the directions, shall be referred to the Minister instead of being dealt with by **the authority**, and any such application shall be so referred accordingly.

(2) Where an application for **consent under this order** is referred to the Minister under this section, the provisions of subsection (1) of the last foregoing section shall apply, subject to any necessary modifications, in relation to the determination of the application by the Minister as they apply in relation to the determination of such an application by **the authority:**

Provided that before determining any such application the Minister shall, if either the applicant or **the authority** so desire, afford to each of them an opportunity for appearing before and being heard by a person appointed by the Minister for the purpose.

(3) The decision of the Minister on any application referred to him under this section shall be final.

16.—(1) Where application is made **to the authority for consent under this order** ..... and that **consent** ..... is refused by that authority, or is granted by them subject to conditions, then if the applicant is aggrieved by their decision he may by notice served within ..... **one month** from the receipt of notification of their decision, ... appeal to the Minister.

(2) Where an appeal is brought under this section from a decision of **the authority** the Minister may allow or dismiss the appeal or may reverse or vary any part of the decision of **the authority**, whether or not the appeal relates to that part, and deal with the application as if it had been made to him in the first instance; and the provisions of the last foregoing section shall apply, subject to any necessary modifications, in relation to the determination of an application by the Minister on appeal .... as they apply in relation to the determination by the Minister of an application referred to him under that section.

(3) Unless within **two months from the date of the receipt of an application for consent under this order,** or within such extended period as may at any time be agreed upon in writing between the applicant and **the authority, the authority** either—

(*a*) give notice to the applicant of their decision on any application for **consent under this order** ..... or

(*b*) give notice to him that the application has been referred to the Minister in accordance with directions given by him under the last foregoing section,

the provisions of subsection (1) of this section shall apply in relation to the application as if the **consent** ..... to which it relates had been refused by **the authority** and as if notification of their decision had been received by the applicant at the expiration of the **said period of two months** or the extended period agreed upon as aforesaid, as the case may be.

18.—(1) The power to grant **consent under this order** shall include power to grant **consent** for the retention on land of any buildings or **for the execution or retention of works of demolition or other works prohibited by this Order,** constructed or carried out thereon before the date of the application, ... (whether without **consent** granted **under this order** or in accordance with **consent** so granted for a limited period only) and references ..... to **consent under this order** and to applications for such **consent** shall be construed accordingly.

(2) Any such **consent** as is mentioned in the foregoing subsection may be granted so as to take effect from the date on which the buildings or works were constructed or carried out ..... or from the expiration of the said period as the case may be.

(4) Where **consent** is granted **under this order** then, except as may be otherwise provided by the **consent,** the grant of **consent** shall enure for the benefit of the land and of all persons for the time being interested therein .....

19.—(1) Where **consent under this order** is refused, whether by **the authority** or by the Minister, on an application in that behalf ....., or is granted by that authority or by the Minister subject to conditions, then if any owner of the land claims—

(*a*) that the land has become incapable of reasonably beneficial use in its existing state; and

(*b*) in a case where **consent under this order** was granted as aforesaid subject to conditions, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of the permitted **works** in accordance with those conditions;

(*c*) in any case, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of any other **works** for which **consent** has been ..... granted ....., or for which the local planning authority or the Minister have undertaken to grant such **consent,**

he may, within **six months from such refusal,** serve on the council of the county borough or county district in which the land is situated a notice (hereinafter referred to as a " purchase notice ") requiring that council to purchase his interest in the land in accordance with the provisions of this section.

(2) Where a purchase notice is served on any council under this section, that council shall forthwith transmit a copy of the notice to the Minister, and subject to the following provisions of this section the Minister shall, if he is satisfied that the conditions specified in paragraphs (*a*) to (*c*) of the foregoing subsection are fulfilled, confirm the notice, and thereupon the council shall be deemed to be authorised to acquire the interest of the owner compulsorily in accordance with the provisions of Part IV of this Act, and to have served a notice to treat in respect thereof on such date as the Minister may direct:

Provided that—

(*a*) if it appears to the Minister to be expedient so to do, he may, in lieu of confirming the purchase notice, grant **consent** for the **works** in respect of which the application was made or, where **consent** for **those works** was granted subject to conditions, revoke or amend those conditions so far as appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of **those works;**

(*b*) if it appears to the Minister, that the land, or any part of the land, could be rendered capable of reasonably beneficial use within a reasonable time by the carrying out of any other **works** for which **consent** ought to be granted, he may, in lieu of confirming the notice, or in

lieu of confirming it so far as it relates to that part of the land, as the case may be, direct that such **consent** shall be so granted in the event of an application being made in that behalf;

(*c*) if it appears to the Minister having regard to the probable ultimate use of the land, that it is expedient so to do, he may, if he confirms the notice, modify it either in relation to the whole or in relation to any part of the land to which it relates by substituting any other local authority for the council on whom the notice is served, and in any such case the foregoing provisions of this subsection shall have effect accordingly.

(3) If within the period of six months from the date on which a purchase notice is served under this section the Minister has neither confirmed the notice nor taken any such other action as is mentioned in paragraph (*a*) or paragraph (*b*) of the last foregoing subsection nor notified the owner by whom the notice was served that he does not propose to confirm the notice, the notice shall be deemed to be confirmed at the expiration of that period, and the council on whom the notice was served shall be deemed to be authorisd to acquire the interest of the owner compulsorily in accordance with the provisions of Part IV of this Act, and to have served notice to treat in respect thereof at the expiration of the said period.

(4) The power conferred by subsection (2) of section five of the Acquisition of Land (Assessment of Compensation) Act, 1919, to withdraw a notice to treat shall not be exercisable in the case of a notice to treat which is deemed to have been served by virtue of this section.

(5) Before confirming a purchase notice, or taking any other action in lieu thereof, under this section, the Minister shall give notice of his proposed action—

(*a*) to the person by whom the notice was served;

(*b*) to the council on whom the notice was served;

(*c*) to the local planning authority for the area in which the land is situated; and

(*d*) to any other local authority whom the Minister proposes, under the foregoing provisions of this section, to substitute for the said council;

and if within the period prescribed by the notice under this subsection (not being less than twenty-eight days from the service thereof) any person or authority on whom that notice is served so requires, the Minister shall, before confirming the purchase notice or taking any such other action as aforesaid, afford to those persons and authorities an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose.

23.—(1) If it appears to **the authority** that any **works of demolition or other works prohibited by this order have** been carried out after the **making of this order** without the grant of **consent** required in that behalf **under this order,** or that any conditions subject to which such **consent** was granted in respect of **any such works** have not been complied with, then, subject to any direction given by the Minister, the **authority** may within four years of such **works** being carried out, if they consider it expedient so to do having regard to the provisions of the development plan and to any other material considerations, serve on the owner and occupier of the land a notice under this section.

(2) Any notice served under this section (hereinafter called an " enforcement notice ") shall specify the **works** which **are** alleged to have been carried out without the grant of such **consent** as aforesaid or, as the case may be, the matters in respect of which it is alleged that any such conditions as aforesaid have not been complied with, and may require such steps as may be specified in the notice to be taken within such period as may be so specified for restoring the land to its condition before the **works**

of demolition or other works prohibited by this order took place or for securing compliance with the conditions, as the case may be; and in particular any such notice may, for the purpose aforesaid, require the demolition or alteration of any building or works.....or the carrying out on land of any building or other operations.

(3) Subject to the provisions of the next following subsection an enforcement notice shall take effect at the expiration of such period (not being less than twenty-eight days after the service thereof) as may be specified therein:

Provided that—

(*a*) if within the period aforesaid an application is made to **the authority under this order** for **consent** for **the retention on the land of any buildings or the execution or retention of any works,** ..... to which the enforcement notice relates shall be of no effect pending the final determination of that application, and if such **consent** as aforesaid is granted on that application, the notice shall not take effect;

(*b*) if within the period aforesaid an appeal is made to the court under the following provisions of this section by a person on whom the enforcement notice was served, the notice shall be of no effect pending the final determination or withdrawal of the appeal.

(4) If any person on whom an enforcement notice is served under this section is aggrieved by the notice, he may, at any time within the period mentioned in the last foregoing subsection, appeal against the notice to a court of summary jurisdiction for the petty sessional division or place within which the land to which the notice relates is situated; and on any such appeal the court—

(*a*) if satisfied that **consent** was granted under this **order** for the **works** to which the notice relates, or that no such **consent** was required in respect thereof, or, as the case may be, that the conditions subject to which such **consent** was granted have been complied with, shall quash the notice to which the appeal relates;

(*b*) if not so satisfied, but satisfied that the requirements of the notice exceed what is necessary for restoring land to its condition before the **works** took place, or for securing compliance with the conditions, as the case may be, shall vary the notice accordingly;

(*c*) in any other case shall dismiss the appeal.

Provided that where the enforcement notice is varied or the appeal is dismissed, then, without prejudice to the provisions of paragraph (*a*) of the proviso to subsection (3) of this section, the court may, if they think fit, direct that the enforcement notice shall not come into force until such date (not being later than twenty-eight days from the determination of the appeal) as the court think fit.

(5) Any person aggrieved by a decision of a court of summary jurisdiction under the last foregoing subsection may appeal against that decision to a court of quarter sessions.

24.—(1) If within the period specified in an enforcement notice, or within such extended period as **the authority** may allow, any steps required by the notice to be taken ..... have not been taken, **the authority** may enter on the land and take those steps, and may recover as a simple contract debt in any court of competent jurisdiction from the person who is then the owner of the land any expenses reasonably incurred by them in that behalf; and if that person, having been entitled to appeal to the court under the last foregoing section, failed to make such an appeal, he shall not be entitled in proceedings under this subsection to dispute the validity of the action taken by **the authority** upon any ground which could have been raised by such an appeal.

(2) Any expenses incurred by the owner or occupier of any land for the purpose of complying with an enforcement notice served under the last foregoing section in respect of any **works**, and any sums paid by the owner of any land under the foregoing subsection in respect of the expenses of **the authority** in taking steps required to be taken by such a notice, shall be deemed to be incurred or paid for the use and at the request of the person by whom the **works** were carried out.

(3) Where, by virtue of an enforcement notice, ... any conditions are required to be complied with in respect of ..... the carrying out of any operations thereon, then if any person, without the grant of **consent** in that behalf under **this order** ..... carries out or causes or permits to be carried out those operations, in contravention of the notice, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifty pounds .....

.....

Given under the Official Seal of the Minister of Town and Country Planning this twenty-eighth day of July, 1948.

(L.S.) (Sgd.) *Lewis Silkin,*
Minister of Town and Country Planning.

EXPLANATORY NOTE

(This Note is not part of these Regulations, but is intended to indicate their general purport.)

These regulations deal with the form of building preservation orders made under section 29 of the Town and Country Planning Act, 1947, and the procedure to be followed in connection with the submission and confirmation of such orders.

4. CHURCHES, PLACES OF RELIGIOUS WORSHIP, ETC.

The Town and Country Planning (Churches, Places of Religious Worship and Burial Grounds) Regulations, 1948

1948 No. 401

Made - - - - *28th February*, 1948
Laid before Parliament *1st March*, 1948
Coming into Operation *15th March*, 1948

B2140.

The Minister of Town and Country Planning in exercise of the powers conferred upon him by Section 28 of the Town and Country Planning Act, 1944, and of all other powers enabling him in that behalf hereby makes the following Regulations:— 7 & 8 Geo. 6. c. 47.

1. These Regulations may be cited as the Town and Country Planning (Churches, Places of Religious Worship and Burial Grounds) Regulations, 1948, and shall come into force on the 15th day of March, 1948.

2.—(1) In these Regulations unless the context otherwise requires—

" the Act " means the Town and Country Planning Act, 1944.

" the Minister " means the Minister of Town and Country Planning.