EXPLANATORY MEMORANDUM TO

THE TOWN AND COUNTRY PLANNING GENERAL (AMENDMENT) (ENGLAND) REGULATIONS 2013

2013 No. 2145

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 Town and Country Planning General (Amendment) (England) Regulations 2013 ("the Regulations") amend the Town and Country Planning General Regulations 1992 ("the 1992 Regulations") to provide that the Secretary of State shall determine applications for planning permission made by an interested planning authority to demolish an unlisted building in a conservation area.

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 into that Act which makes it an offence to fail to obtain the required planning permission for relevant demolition.

4.2 Prior to its amendment by the 2013 Act, section 74(2)(a) of the 1990 Act provided that an application by a local planning authority for conservation area consent to demolish an unlisted building in a conservation area must be made to the Secretary of State (the "appropriate authority" for these purposes).

4.3 The Regulations, therefore, amend the 1992 Regulations to make equivalent provision – under the power in section 316 of the Town and Country Planning Act 1990 – in respect of applications by an interested planning authority for planning permission for development which relates solely to relevant demolition. The Regulations also provide for the procedure to be followed on such applications.

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 provision in Schedule 17 to the 2013 Act. The aim in respect of the demolition of unlisted buildings in conservation areas in England (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 The Listed Buildings Act requires local planning authorities to apply to the Secretary of State (the "appropriate authority" for these purposes) for consent to demolish their own unlisted buildings within a conservation area. However, the abolition of conservation area consent and its incorporation into the Planning regime means that new provision needs to be made - within the Planning regime - in respect of local authorities' own applications. The Regulations make that provision and thereby replicate the previous requirement that local planning authorities' own applications in respect of relevant demolition must be made to the Secretary of State.

Consolidation

7.3 As the amendment is minor in nature and is only one provision of the 1992 Regulations consolidation is not thought necessary at this stage.

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 Enterprise and Regulatory Reform Act 2013 (Abolition of Conservation Area Consent) (Consequential and Saving Provisions) (England) Order 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 Guidance will be brought forward as part of the Department's wider review of planning practice guidance.

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 This legislation does not apply to small business, as there is no new impact since the new secondary legislation replicates the heritage system it is replacing in the planning regime.

12. Monitoring & review

12.1 No formal monitoring or review is necessary, as this instrument is one of a group of instruments that replace the current protection regime for regulating the demolition of unlisted buildings in conservation areas.

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.