



Joint Circular from the  
Department of the Environment  
2 Marsham Street, London SW1P 3EB

Welsh Office  
Cathays Park, Cardiff CF1 3NQ

31 May 1995

## PLANNING CONTROLS OVER DEMOLITION

1. This Circular replaces DOE Circular 26/92 (Welsh Office 57/92) of the same title with effect from 3 June 1995. It gives revised guidance on planning controls over the demolition of certain buildings. This reflects changes in the scope of "development" and to permitted development rights introduced as part of the general development order consolidation.<sup>1</sup>

### Demolition as development

2. Demolition is governed by section 55 (meaning of "development") of the Town and Country Planning Act 1990 ("the 1990 Act"). This was amended by section 13 of the Planning and Compensation Act 1991 ("the 1991 Act") to provide, in section 55(1A)(a), that "building operations" include the demolition of buildings. This amendment also introduced a power, in section 55(2)(g), for the Secretary of State to make directions describing buildings whose demolition is *not* development.

3. The combined effect of this amended section and successive demolition directions is to bring the *total* demolition of certain buildings within the meaning of "building operations" for the purposes of the 1990 Act and thus within the meaning of "development". The amendments do not affect the position of *partial* demolition of a building, which is generally regarded as development under section 55, by virtue of being a structural alteration of a building and thus a building operation.

4. Although, by virtue of section 55(1A)(a), certain demolition works may constitute a *building* operation, demolition works may still constitute an *engineering* operation. However, the demolition of a building described in a demolition direction made under section 55(2)(g) will not involve

<sup>1</sup>The consolidated orders are the Town and Country Planning (General Permitted Development) Order 1995, SI 1995/418 ("the Permitted Development Order") and the Town and Country Planning (General Development Procedure) Order 1995, SI 1995/419 ("the Procedure Order"), both effective from 3 June 1995. Full guidance on the consolidation and associated amendments is given in DOE Circular 9/95 (WO 29/95), "General Development Order Consolidation 1995".

development, whether or not the operation is a *building* operation or an *engineering* operation.

#### The demolition direction

5. The current demolition direction is the Town and Country Planning (Demolition—Description of Buildings) Direction 1995, effective from 3 June 1995, which is reproduced at Appendix A. (This Direction supersedes the 1994 Direction, which is reproduced, for information only, at Appendix B.)

6. The 1995 Direction excludes from the definition of “development” the demolition of four main descriptions of building:

the demolition of listed buildings, scheduled monuments and buildings in conservation areas;<sup>1</sup>

the demolition of a building with a volume of less than 50 cubic metres (measured externally);

the demolition of every building other than a dwellinghouse or a building adjoining a dwellinghouse; and

the demolition of the whole or part of a gate, fence, wall or other means of enclosure, unless in a conservation area.<sup>2</sup>

Planning control will therefore apply chiefly to the demolition of dwellinghouses (and buildings adjoining them) *outside* conservation areas; and to gates, fences, walls, etc., *within* conservation areas.

7. The demolition of buildings such as warehouses, factories, offices, churches, theatres and shops will not be subject to planning control unless they are attached to a dwellinghouse. The demolition of certain dwellinghouses may fall outside planning control if the residential use is ancillary to a non-residential use of the building or the site (for example, a caretaker’s house on an industrial site or a caretaker’s flat in an office building).

8. The term “dwellinghouse” includes buildings in use as a dwelling and those, if not currently in use, last used for this purpose. It includes detached, semi-detached or terraced houses, residential homes or hostels, and buildings containing one or more flats.

<sup>1</sup>Such demolitions are subject to control under other legislation: the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Ancient Monuments and Archaeological Areas Act 1979.

<sup>2</sup>The effect of the 1994 Direction was to exclude from the statutory definition of “development” the demolition of the whole or part of any gate, fence, wall or other means of enclosure. The only change made by the 1995 Direction is to bring within the meaning of “development” the demolition of the whole or part of any gate, fence, wall or other means of enclosure *in a conservation area*. The purpose of this change is to enable new permitted development rights to be given for such demolition (by the new Class B of Part 31 of Schedule 2 to the Permitted Development Order) and to provide a power (in the new article 4(2) of that Order) for local planning authorities to withdraw the new permitted development rights in the circumstances explained in paragraph 27 of this Circular. See also DOE Circular 9/95 (WO29/95), “General Development Order Consolidation 1995”, which describes these and the other permitted development rights which may be withdrawn by an article 4(2) direction.

9. Each house in a pair of semi-detached houses and every house in a row of terraced houses is to be regarded as a separate building, whether or not in residential use. This means that where such a house has been converted to a non-residential use, its demolition is only excluded from planning control where any adjoining house is also not in use as a dwellinghouse.

#### **Permitted Development Order**

10. Demolition constituting development is granted a general planning permission by Part 31 of Schedule 2 to the Permitted Development Order (demolition of buildings). Class A deals with dwellinghouses (see paragraphs 11-24 below) and Class B with gates, fences and walls etc. (see paragraph 25).

#### **Permitted demolition of dwellinghouses**

11. Class A of Part 31 gives permitted development rights for the demolition of dwellinghouses and buildings adjoining them, subject to one exception and certain conditions. These permitted development rights do not affect, and are not affected by, any requirement to notify proposed demolition of a building to the local authority under section 80 of the Building Act 1984.

12. The one exception to the permitted development rights is set out in paragraph A.1 of Part 31. Demolition is not permitted where the building has been made unsafe or uninhabitable, either through deliberate action or neglect, by anyone having an interest in the land on which the building stands, and can be made secure through temporary repairs or support.

13. Permitted demolition is subject to two conditions set out in paragraph A.2 of Part 31. The first condition (paragraph A.2 (a)) is that where demolition is urgently necessary in the interests of safety or health, the developer must give the local planning authority a written justification of the demolition as soon as reasonably practicable.

14. Authorities will wish to satisfy themselves that buildings have not deliberately been made unsafe or uninhabitable. The written justification, which should preferably include objective evidence that demolition was necessary, will be the starting point for their consideration.

15. The second condition (paragraph A.2(b)) provides for permitted development rights in certain cases to be subject to the prior approval of certain details. This is discussed fully in the following section.

#### *Prior approval of certain details of demolition*

16. Prior approval is *not* required where demolition is:

- (a) urgently necessary in the interests of health or safety, provided that the developer gives a written justification of the demolition to the local planning authority as soon as reasonably practicable after the demolition has taken place;
- (b) taking place on land for which planning permission for redevelopment has been granted or is deemed to be granted;
- (c) required as a result of a demolition order made under Part IX of the Housing Act 1985 or in a clearance area declared under section 289 of the same Act;

- (d) required as a result of an enforcement notice issued under Part VII of the 1990 Act;
- (e) required as a result of an order requiring the removal of the building made under section 102 of the 1990 Act and which has been confirmed;
- (f) required by virtue of a planning agreement or obligation made under section 106 of the 1990 Act, as originally enacted or as substituted by section 12 of the 1991 Act, or any provision corresponding to that section; or
- (g) required or permitted under any other legislation.

17. In all other cases, the developer must apply to the local planning authority for a determination of whether their prior approval will be required to the proposed method of demolition and any proposed restoration of the site. A Building Act notification is not sufficient for this purpose. This requirement gives local planning authorities the means of regulating the details of demolition in order to minimise its impact on local amenity. The Secretaries of State only consider prior approval appropriate where authorities judge that a specific proposal is likely to have a significant impact on its surroundings. By no means all the demolition proposals submitted to the authority under the prior approval provisions will have such an impact.

#### *Applications for prior approval determination*

18. Local planning authorities should prepare forms for applicants to use in applying for a determination. This will help to ensure that sufficient details are submitted with the application to enable the authority to make a sound judgement. An application for a determination must be accompanied by a written description of the proposed demolition, a statement that a site notice has been posted (see paragraphs 20 and 21 below) and any fee payable. Authorities should acknowledge receipt of the application, giving the date of receipt.

19. The Secretaries of State attach great importance to the prompt and efficient handling of applications for determinations. The procedures adopted by authorities should be straightforward, simple and easily understood. Delegation to officers will help to achieve prompt and efficient handling, and should be extended as far as possible. Where the authority decide that their prior approval is *not* required, it is helpful and courteous to inform the applicant as soon as possible, to avoid any unnecessary delay or uncertainty. There will often be scope for informal negotiations on the details with the applicant to facilitate early agreement that the demolition may proceed.

#### *Publicity*

20. On applying for a determination, the applicant should post a site notice. This must be displayed by firm affixture to some object so that it is easily visible and legible by members of the public on or near the land on which the building to be demolished is sited.<sup>1</sup> This notice has to be left in place for not

<sup>1</sup> Paragraph A.2(b)(iii) of Part 31 of Schedule 2 to the Permitted Development Order requires, with effect from 3 June 1995, the display of a site notice to be "by site display" (as now defined in article 1 of that Order). This achieves consistency with the other provisions for statutory publicity and involves a requirement to post the site notice "by firm affixture to some object" so that it is "easily visible and legible by members of the public".

less than 21 days during the period of 28 days from the date on which the application is submitted to the local planning authority. If the notice is, without any fault or intention of the applicant, removed, obscured or defaced within the 21-day period, then the applicant should be treated as having complied with this requirement. The applicant is, however, expected to take reasonable steps to protect the notice and replace it if it is removed or damaged.

21. The site notice should give:

the name of the applicant;

a description and the address of the building (or buildings) to be demolished;

a statement that the applicant has applied to the local planning authority for a determination as to whether the prior approval of the authority will be required to the proposed method of demolition and any proposed restoration of the site;

the date on which the applicant proposes to carry out the demolition; and

the name and address of the local planning authority.

The site notice should be signed and dated by or on behalf of the applicant.

#### *Time periods*

22. The local planning authority have 28 days from the date of receipt of the application to determine whether their prior approval of the method of demolition and any site restoration is required. If the authority notify the applicant within the 28-day period that their prior approval of these details is *not* required, demolition may proceed according to the details submitted to the authority in the application or to details otherwise agreed. Demolition carried out in breach of such details may be the subject of enforcement action (see paragraph 33). If the authority give notice that their prior approval *is* required then, by virtue of article 21 of the Procedure Order, they will have the normal eight-week period from the receipt of the application for a determination to issue their decision on giving or refusing approval of details. A period longer than eight weeks may be agreed in writing with the applicant.

23. Demolition may be carried out at any time within five years of the approval. Where prior approval is not required, it must be carried out within five years of the date on which the local planning authority received the application for a determination, accompanied by a written description of the proposed development, a statement that the site notice had been posted as required and any fee payable. Outside that period, a further prior approval application to the local planning authority will be needed.

#### *Appeals*

24. There is no right of appeal against a decision by the local planning authority to require the prior approval of details. However, applicants may appeal to the Secretary of State under section 78(1)(c) of the 1990 Act if the authority refuse to approve the details submitted or if their decision on the details submitted is not given within the eight-week period (or any longer period agreed). Such appeals must be received within six months of the date of the notice of the local planning authority's decision.

### **Gates, fences, walls etc. in conservation areas**

25. Class B of Part 31 of Schedule 2 to the Permitted Development Order gives permitted development rights for the demolition of gates, fences, walls and other means of enclosure in conservation areas. There are no limits or conditions. Where a gate etc. is partly within and partly outside such an area, only the demolition of the part within the conservation area will constitute development.

### **Article 4 directions**

26. If a local planning authority wish to withdraw the permitted development rights given by Part 31 of Schedule 2 to the Permitted Development Order, they may serve a direction under article 4(1) of the Order. Such directions have to be confirmed within six months by the Secretary of State. Given that prior approval powers are available under Class A, strong justification will be needed for withdrawing these permitted development rights altogether.

27. The Permitted Development Order also introduces a new power for authorities exceptionally to make a direction under article 4(2). This enables them to withdraw permitted development rights given by Class B of Part 31. A planning application would then be required for the demolition of gates, fences, walls etc. which front a highway, waterway or open space and is within the curtilage of a dwellinghouse in the conservation area. These directions do not have to be confirmed by the Secretary of State, but the local planning authority must not decide whether to confirm an article 4(2) direction without first notifying local residents and taking their views into account.

28. Full guidance on article 4 directions is given in DOE Circular 9/95 (WO 29/95), "General Development Order Consolidation 1995".

### **Demolition as part of redevelopment**

29. Where the demolition of one or more buildings is required as part of a redevelopment for which planning permission is sought, the developer should include details of the demolition in his application for planning permission. These details should be considered by the local planning authority along with other aspects of the redevelopment. Permission to demolish the building or buildings according to such details as are agreed by the local planning authority should be included in any planning permission which may be granted for the development. By virtue of article 3(4) of the Permitted Development Order, permitted development rights do not permit the demolition of a building contrary to any condition which has been imposed by a planning permission granted or deemed to be granted under Part III of the 1990 Act.

30. Where it is not clear from a planning application whether the proposed development involves demolition, the local planning authority should seek clarification from the applicant before determining the application. Even where the demolition of a building on land over which a planning permission has been granted is not *required* for the redevelopment of the site, the authority may impose a condition withdrawing permitted development rights, where reasonable, for the demolition of that building.

31. Conditions may be attached to the planning permission to ensure that, in carrying out the demolition, the applicant has due regard to amenity and to any other relevant planning consideration. It would not be appropriate to impose conditions which may duplicate any requirements which may be imposed on the demolition under the Building Act 1984. For this reason, close consultation between planning officers and building control officers is important.

32. When planning permission is granted for the development of a site containing several buildings, some of which are still occupied at the time of the granting of permission, it may be necessary to impose conditions relating to the commencement or phasing of the demolition. In this way, premature demolition, which could intimidate owners of the occupied buildings, can be controlled where there are sound land-use planning reasons for doing so.

#### **Enforcement**

33. The unlawful demolition of a building may be subject to enforcement proceedings under Part VII of the 1990 Act, as amended. Where an enforcement notice is issued in respect of a breach of planning control consisting of the demolition of a building, the notice may require the construction of a replacement building which is as similar as possible to the demolished building.

#### **Financial and manpower implications**

34. This Circular brings existing guidance up to date. It has no financial or manpower implications for local planning authorities.

#### **Cancellations**

35. The following sources of guidance are hereby cancelled:

DOE Circular 26/92 (WO 57/92), "Planning Controls over Demolition";

DOE and Welsh Office circular letters dated 19 September 1994, "Town and Country Planning (Demolition—Description of Buildings) Direction 1994"; and

DOE and Welsh Office circular letters dated 6 March 1995, "Town and Country Planning (Demolition—Description of Buildings) Direction 1995" (but the 1995 Direction continues to have effect).

### Enquiries

36. Any enquiries about this Circular should be directed to Development Control Policy Division, Department of the Environment, Room C13/04, 2 Marsham Street, London SW1P 3EB (telephone 0171-276 3857); or Planning Department, Welsh Office, Room G040, Cathays Park, Cardiff CF1 3NQ (telephone 01222 823479).

RICHARD JONES, *Assistant Secretary*  
PETER RODERICK, *Assistant Secretary*

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[DOE PDC 8/1/01]  
[WO PAA 08/09/151]



*(This Appendix reproduces the 1995 Demolition Direction, issued with DOE and Welsh Office circular letters dated 6 March 1995. Those letters are now cancelled. The Direction continues to operate until amended or replaced.)*

*To all Local Planning Authorities in England and Wales*

**TOWN AND COUNTRY PLANNING (DEMOLITION—  
DESCRIPTION OF BUILDINGS) DIRECTION 1995**

The Secretary of State for the Environment, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred on them by section 55(2)(g) of the Town and Country Planning Act 1990(a) and of all other powers enabling them in that behalf, hereby give the following direction:

1. This direction shall come into force on 3 June 1995.
- 2.—(1) Subject to sub-paragraph (2), the demolition of the following descriptions of building shall not be taken, for the purposes of the Town and Country Planning Act 1990, to involve development of land:
  - (a) any building which is a listed building as defined in section 1(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990(b);
  - (b) any building in a conservation area;
  - (c) any building which is a scheduled monument as defined in section 1(11) of the Ancient Monuments and Archaeological Areas Act 1979(c);
  - (d) subject to sub-paragraph (3), any building other than a dwellinghouse or a building adjoining a dwellinghouse;
  - (e) any building the cubic content of which, measured externally, does not exceed 50 cubic metres;
  - (f) the whole or any part of any gate, fence, wall or other means of enclosure.

(2) The descriptions of building in sub-paragraph (1) do not include the whole or any part of any gate, fence, wall or other means of enclosure in a conservation area.

(3) A building is not to be regarded as a dwellinghouse for the purpose of sub-paragraph (1)(d) if the use of that building, or part of that building, as a dwellinghouse is ancillary to any non-residential use of that building or other buildings on the same site.

3. In this direction—

“building” does not include part of a building, except—

- (a) for the purposes of paragraph 2(1)(f); and

(a) 1990 c.8; section 55(2)(g) was inserted by section 13(2) of the Planning and Compensation Act 1991 (c.34).

(b) 1990 c.9.

(c) 1979 c.46.

(b) in paragraphs 2(2) and (3);

and each house in a pair of semi-detached houses, and every house in a row of terrace houses (whether or not, in either case, the house is in residential use), is to be regarded as a building;

“conservation area” has the same meaning as in section 91(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990;

“dwellinghouse” includes—

(a) a residential home or hostel, and

(b) a building containing a flat;

“flat” means a separate and self-contained set of premises constructed or adapted for use for the purpose of a dwelling and forming part of a building from some other part of which it is divided horizontally; and

“site” means the whole area of land within a single unit of occupation.

4. The Town and Country Planning (Demolition—Description of Buildings) Direction 1994 is hereby cancelled.

Signed by authority of the Secretaries of State

RICHARD JONES, *Assistant Secretary*  
Department of the Environment  
PETER RODERICK, *Assistant Secretary*,  
Welsh Office

21 February 1995

*(This 1994 Direction, which was issued with DOE and Welsh Office circular letters dated 19 September 1994, has been superseded by the 1995 Demolition Direction, reproduced at Appendix A, and is given here for information only.)*

*To all Local Planning Authorities in England and Wales*

**TOWN AND COUNTRY PLANNING (DEMOLITION—  
DESCRIPTION OF BUILDINGS) DIRECTION 1994**

The Secretary of State for the Environment, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred on them by section 55(2)(g) of the Town and Country Planning Act 1990(a) and of all other powers enabling them in that behalf, hereby give the following direction:

1. This direction shall come into force on 10 October 1994.
- 2.—(1) The demolition of the following descriptions of building shall not be taken, for the purposes of the Town and Country Planning Act 1990, to involve development of land:
  - (a) any building which is a listed building as defined in section 1(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990(b);
  - (b) any building in a conservation area as defined in section 91(1) of that Act;
  - (c) any building which is a scheduled monument as defined in section 1(11) of the Ancient Monuments and Archaeological Areas Act 1979(c);
  - (d) subject to paragraph (2), any building other than a dwellinghouse or a building adjoining a dwellinghouse;
  - (e) any building the cubic content of which, measured externally, does not exceed 50 cubic metres;
  - (f) the whole or any part of any gate, fence, wall or other means of enclosure.

(2) A building is not to be regarded as a dwellinghouse for the purpose of paragraph (1)(d) if the use of that building, or part of that building, as a dwellinghouse is ancillary to any non-residential use of that building or other buildings on the same site.
3. In this direction—
 

“building” does not include part of a building, except—

  - (a) for the purposes of paragraph 2(1)(f); and
  - (b) in paragraph 2(2);

and each house in a pair of semi-detached houses, and every house in a row of terrace houses (whether or not, in either case, the house is in residential use), is to be regarded as a building;

(a) 1990 c.8; section 55(2)(g) was inserted by section 13(2) of the Planning and Compensation Act 1991 (c.34).

(b) 1990 c.9.

(c) 1979 c.46.

“dwellinghouse” includes—

- (a) a residential home or hostel, and
- (b) a building containing a flat;

“flat” means a separate and self-contained set of premises constructed or adapted for use for the purpose of a dwelling and forming part of a building from some other part of which it is divided horizontally; and

“site” means the whole area of land within a single unit of occupation.

4. The Town and Country Planning (Demolition—Description of Buildings) (No. 2) Direction 1992 is hereby cancelled.

Signed by authority of the Secretaries of State

RICHARD JONES, *Assistant Secretary*  
Department of the Environment  
PETER RODERICK, *Assistant Secretary*  
Welsh Office

12 September 1994



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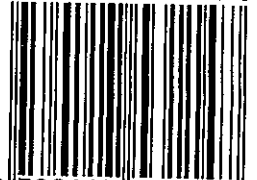
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*First published 1995*

**£3.00 net**

ISBN 0-11-753114-6



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