

IMPROVING PLACES SELECT COMMISSION

**Venue: Town Hall, Moorgate
Street, ROTHERHAM.
S60 2TH**

**Date: Wednesday, 5th September,
2012**

Time: 1.30 p.m.

A G E N D A

1. To determine whether the following items should be considered under the categories suggested in accordance with Part 1 of Schedule 12A (as amended March 2006) of the Local Government Act 1972.
2. To determine any item(s) the Chairman is of the opinion should be considered later in the agenda as a matter of urgency.
3. Apologies for absence
4. Declarations of Interest
5. Questions from members of the public and the press
6. Communications
7. Minutes of the previous meeting held on 25th July, 2012 (copy attached) (Pages 1 - 6)
8. Recycling - Collection of Cardboard (report attached) (Pages 7 - 11)
Adrian Gabriel, Waste Manager, to report.
9. HM Government Consultation: High Income Social Tenants, Pay to Stay (report attached) (Pages 12 - 20)
Wendy Foster, Social Housing Officer and Simon Bell, Housing Income Manager, to report.
10. HM Government Consultation - Improving Listed Building Consent (report attached) (Pages 21 - 51)
Bronwen Knight, Planning Manager, to report.
11. Improving Places Select Commission - Work Programme
Deborah Fellowes, Policy Manager, to report.

12. Date, time and venue for the next meeting:- Wednesday 17 October 2012, 1.30 pm at the Town Hall

Improving Places Select Commission: membership: -

Councillors Andrews, Astbury, Atkin, Dodson, Ellis, Falvey (Vice-Chairman), Foden, Gilding, Gosling, N. Hamilton, Havenhand, Jepson, Johnston, Read, P. A. Russell, Sims, Swift, Wallis, Whysall (Chairman), Wright.

Co-opted members: - B. Walker, D. Corkell, C. Hartley, J. Carr.

**IMPROVING PLACES SELECT COMMISSION
25th July, 2012**

Present:- Councillor Whysall (in the Chair); Councillors Andrews, Astbury, Atkin, Ellis, Falvey, Gilding, Gosling, N. Hamilton, Jepson, Read, P. A. Russell, Swift and Wallis.

Together with:- Mr. Derek Corkell, Mr. Brian Walker, Councillor Amy Rushforth and Councillor Gerald Smith and Whelbourn.

Apologies for absence were received from Councillors Havenhand and Sims.

9. DECLARATIONS OF INTEREST.

Councillors Andrews and Wallis declared personal interests in Minute No. 13 (Review of the Library and Information Service).

10. QUESTIONS FROM MEMBERS OF THE PUBLIC AND THE PRESS.

There were no members of the public or the press present.

11. COMMUNICATIONS.

There was nothing to report.

12. MINUTES OF THE PREVIOUS MEETING

The minutes of the previous meeting of the Improving Places Select Commission held on 13th June, 2012, were considered.

Resolved:- That the minutes of the previous meeting be agreed as a correct record for signature by the Chair.

Arising from Minute No. 5 (Work Programme 2012/13), it was noted that there was to be a joint Improving Places and Lives review on 106 Agreements and School Places.

13. REVIEW OF THE LIBRARY AND INFORMATION SERVICE.

The Chair advised that the report was before the Select Commission as part of the consultation process. No decisions had been made as yet on the proposals.

Elenore Fisher, Customer and Cultural Services Manager, presented the report submitted highlighting the following:-

- Consultation would continue until the end of August, 2012
- Workshops had been held in all but 2 of the community libraries so far
- Substantial number of comments from members of the public via on line, e-mails and in person

Discussion ensued with the following issues raised/clarified:-

- The rationale for the proposed closure of Kimberworth and Kimberworth Park Libraries
- The relationship between Mowbray Gardens and Wickersley Library – both success stories, both received substantial investment but served their communities differently. Wickersley had high visitor numbers and active borrowers; Mowbray Gardens, although open less hours, had equally high number of visitors which did not translate into book issues but did in different activities. Each were tailored to their communities but equally successful
- The report was long, but a lesson learnt from other authorities who had undertaken the review was to ensure it was based on a clear strategy. One of the appendices, which summarised the proposals, was what members of the public received
- The statistics reflected the number of visitors and active borrowers
- The proposal was to create a number of hub sites across the Borough – Aston, Dinnington, Wath and Riverside House (all open between 49-55 hours per week)

Resolved:- (1) That the draft future Service model (Appendix C) for the Library and Information Service be noted.

(2) That it be noted that no decisions on the model will be made until the Autumn when a further report would be submitted to Cabinet.

14. LEISURE AND COMMUNITY SERVICES: AFFECTS OF BUDGET SAVINGS ON GROUNDS MAINTENANCE AND STREET CLEANSING SCHEDULES.

Steve Hallsworth, Leisure and Community Services Manager, presented a report outlining the changes made to Grounds Maintenance and Street Cleansing schedules as a result of the 2012/13 approved budget savings highlighting:-

- Grounds Maintenance and Street Cleansing functions were now part of the Leisure and Community Services Team divided into 2 delivery teams:-
Eastern Team working from Barbers Avenue Depot, Kiveton Park Depot and Hellaby Depot
Western Term working from Oaks Lane Depot and Ulley Country Park
- Work included general grass maintenance, shrub and rose bed maintenance, hedge maintenance, fine turf, horticultural services including seasonal bedding displays, scheduled litter picking and emptying of litter and dog waste bins
- Miscellaneous Cleansing Team based at Hellaby Depot providing mechanical sweeping, graffiti removal, fly tip removal, weed killing, leaf removal and response to other cleansing issues e.g. road traffic accidents. There was also a dedicated Rotherham Town Centre Team
- Total savings for 2012/13 - £1,683,500

- Budget reduction for Grounds Maintenance resulted in change to grass cutting schedule – 3 weekly cycle from 2nd April reducing to 5 weekly from the beginning of July
- Budget reduction for Street Cleansing resulted in scheduled litter picking reduction and frequency of litter and dog waste bins emptied
- Treatment of weeds reduced to once a year
- As from August 1 of the 3 mechanical sweepers to be withdrawn

It was noted that a full review of Service provision would take place in October/November to support decision making on the deployment of resources for the remainder of 2012/13 and 2013/14. With regard to the Street Cleansing schedules, an action plan had already been established and a full review of Service provision would take place in the New Year to support decision making for the remainder of 2012/13 and 2013/14.

Discussion ensued on the report with the following issues raised/clarified:-

- Health and safety issues – the experienced team of operational managers and staff were conscious of where the scheduled work was not fulfilling the needs in terms of health and safety and would react accordingly. The additional work had added to in-year budget pressures
- Deprived communities agenda – a standard schedule established but when a Member contacted the Service, a response would be provided where possible. The Service was at such a level, that to provide additional services elsewhere would possibly mean stopping service somewhere else
- Complaints – the Contact Centre could perform certain functions but the schedules for Grounds Maintenance work were greatly influenced/affected by weather conditions so it was difficult to provide information that was always up-to-date
- Weed spraying – Weed spraying this year had been hampered by the weather. It was acknowledged that if weeds were not dealt with there were bigger consequences for the reinstatement of pavements and in some cases highway. As a part of the monthly budget monitoring, consideration was given to any resources that could be diverted to weed treatment. To reinstate a full weed spraying programme would cost approximately £50,000. So far an additional £20,000 was required to spray sight lines
- Grass verges – wild flowers was a good economical solution. Work was ongoing into possibly carrying this out along central reservations. There was the initial investment of purchasing the seeds and a level of ongoing maintenance. Additional funding had recently been agreed for rural verges and would be prioritised by the Rural Verges Team
- Reducing community assets – there were a number of open spaces and small pockets of land with little amenity value. Members of the community may wish to purchase them

- Should there be any underspend, a priority was highway maintenance as there had been a measurable deterioration in the condition of roads and footpaths
- Dog bins – the Miscellaneous Team were able to respond to any particular issue identified by a member of the public where an immediate response was required
- The entrances to the Borough had to be made a priority. If funding could be identified, bids would be submitted for central reservations and how they could be maintained differently
- There should be a review before the end of the cutting season
- Invest to Save bid?
- Gullies – a lot were blocked because of weeds growing in them. The mechanical sweepers had been reduced to 2 and operated on schedules which were out of date. They were being updated and it was expected to reduce the amount of non-productive running time of the vehicles. It was also a fact that some roads were being mechanically swept that should not be. Various options were being considered. There would not be fewer drivers but a group of employees with a wider range of skills so there would always be drivers to operate the machines

Resolved:- (1) That the report be noted.

(2) That a review be carried out as soon as possible including:-

Analysis of the impact of the budget cuts including any unanticipated impact
 Detailed future risk assessment
 Suggestions for improvement
 Invest to Save

15. HIGHWAY MAINTENANCE - POT HOLES.

David Burton, Director of Streetpride, and Stephen Finley, Highway Asset Management Principal Engineer, presented a report on the arrangements for managing highway safety defects (potholes) together with background information on budgets/costs and the number of defects dealt with over the last 5 years.

Attention was drawn to:-

- 2012/13 Highway Maintenance budget was £4,474,932
- Safety defect repairs (potholes) were funded from the Revenue Basic Maintenance allocation - £450,000. This type of repair was classified as reactive. Methods to reduce the number and increase planned non-reactive repairs were actively pursued

- Expenditure on potholes over the last 5 years had increased significantly from £1/4M in 2007/08 to approximately £1/2M 2012/13
- Additional funding provided by the Department of Transport to deal with the impact of the severe weather in 2009/10 and 2010/11
- The Council was responsible for a highway network of 1,189km and 1,680km of footway
- Defects categorised as either 'immediately dangerous' - made safe within 4 hours - or 'actionable' - made safe within 24 hours
- The 'industry standard' method for dealing with safety defects was to sweep out the defect, place in the appropriate material, and compacted by hand. As many roads were traffic sensitive, it was essential that the defect repairs were completed quickly on site to reduce the health and safety to operatives otherwise road closures may be required
- Consideration was being given to taking a different approach to dealing with defects by 'planing' out the potholes and immediate surrounds to eliminate the immediate danger and returning several days later to complete a permanent repair
- Condition surveys were carried out on all roads/footways as part of the longer term maintenance plan. This gave a condition and suggested treatment for the road in question. The condition of the Council's network had for some years been in the upper quartile; it was expected that it would fall into the 2nd quartile in the 2012 survey
- Work was bundled up in an area which may include pre-patching for surface treatments, small patching works and larger type schemes. This allowed the Delivery Team to "set up camp" in that area to maximise efficiency. Liaison also took place with other Teams to carry out works at the same time

Discussion ensued with the following issues raised:-

- o Meadowbank Road had been the subject of a Gateway Scheme with its footways the focus of treatment but the carriageway not. Patching had been carried out to get rid of the defects. A bid had been submitted to the Department of Transport to hopefully carry out super patching
- o When considering the condition of the network extra criteria was also used e.g. G.P. surgery, identified by Ward Members
- o Utility companies - regular inspections carried out of reinstatement works. Utilities were legally responsible for up to 2 years
- o The forward schedule was updated weekly. It was a fluid programme but attempted to stick to the schemes selected for that year. If, when on site, a site was found to have deteriorated greatly from the previous inspection and caused the works to take longer than anticipated, any schemes delayed would automatically be added to the next programme

- Road Traffic Accidents – the cost of road sweeping after an accident would be approximately £50. It was not felt to be financially viable to try and recover the cost together with the difficulties in getting information from the Police due to data protection. However, if it was a major traffic accident and the costs of clearing the road much higher, attempts would be made to recover the costs
- Surface dressing – Residents and some Ward Members did not like it as it caused disruption to the road network. Other products were used which were economical and did not cause disruption
- To bring the Borough's roads up to standard would cost in the region of £70-90M
- Review of gateways

Resolved:- (1) That the report be noted.

(2) That a report on the effectiveness of the new method of repairs potholes be submitted in due course.

16. DATE, TIME AND VENUE FOR THE NEXT MEETING:-

Resolved:- That a further meeting be held on Wednesday, 5th September, 2012, commencing at 1.30 p.m.

ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS

1.	Meeting:	Improving Places Select Commission
2.	Date:	Wednesday 5th September 2012
3.	Title:	Cardboard Collection – Update Report
4.	Programme Area:	Environment and Development Services

5. Summary

In March 2012, new collection arrangements were introduced to remove cardboard from the green bin and collect it with paper as part of the dry recyclables collection. This report provides an update on the service after approximately five months of operation

6. Recommendations

Members are requested to note the content of this report

7. Proposals and Details

Background and Context

For a number of years the Council collected cardboard, co- mingled with green garden waste in the green bin, with the result that approximately 3,600 tonnes of cardboard was sent for re-processing into compost. Since the introduction of garden waste and card collections the composting re-processors experienced difficulties in composting the cardboard, especially during the winter months when there was little or no green garden waste to act as a blending medium. This issue was further compounded by the increasing amounts of contamination placed in the green bin by residents, made up of plastic, parcel tape, polystyrene and general residual waste.

The Environment Agency (EA) as part of their duties, inspect waste facilities to which they have issued an Environmental Permit. As a consequence of visits to the Yorkshire Horticultural Supplies Limited (YHS) site at Finningley the EA expressed major concerns over the amount of contamination being delivered into the site from Rotherham's green waste collections and stated that the removal of the card from the green bin was the only sustainable way to prevent YHS breaching its permit conditions.

Guidance and Enforcement

Following a meeting with officers from the EA at which they informed the Council they were quite prepared to issue a prohibition notice on the Finningley site, it became evident that we had to find a way of removing contamination from the green bin or change to a "green only" collection service.

This situation was further reinforced by the Waste Resources Action Programme (WRAP) and the Association for Organics Recycling issuing guidance that stricter standards were being introduced on compost quality through:

- Publicly Available Standard 100 Compost (BSI PAS100)
- Compost Quality Protocol (CPQ 2012)

These standards in effect halved the amount of non compostable material allowed in recycled organic waste (contaminants) from 0.25% to 0.12%.

This guidance and the targets basically meant it would have made it much more difficult to achieve the required reduction in contamination levels in our green bin collections and was driving us to change to a "green only" service to ensure our re-processing outlet would continue to operate within the terms of the Environmental Permit.

Following research it was noted that some Councils, for example Bath and North East Somerset dealt with the issue in a similar manner to the system adopted in Rotherham, whilst others, such as in Shropshire determined to offer no future kerbside collection of cardboard. If this latter approach had been adopted it would have incurred significant additional disposal costs (£27/tonne through Household

Waste Recycling Centres or £90 /tonne through landfill) equating to £200,000 per annum.

Changes to the Collection Service

From Monday 19th March 2012 new collection arrangements were introduced as follows:

- Blue Bag – Paper and Card
- Blue Box – Glass, Cans and Textiles
- Green Bin – Garden Waste

Prior to this scheme starting all householders were notified by leaflet about the change to the collection service and the need to place only garden waste in the green bin and cardboard in their blue bag. Householders were also given the opportunity to request a further blue bag if they were experiencing capacity issues with the containment of cardboard.

During the first two collections following implementation of the scheme any bins found to have contamination in were tagged to notify the householder of the problem and requested removal of the offending waste / card from the bin and provided an information advice contact number. In many cases enquiries were received by the Waste Management Team following the placement of the tag on the bin and arrangements were made to get the bin emptied on these occasions.

After the first two collections the “amnesty” ceased and householders are now expected to remove any contamination from a tagged bin prior to the next collection.

Service Statistics

The service has now been in operation for 5 months and following an initial surge in enquiries they have now diminished to the level of general enquiry experienced across other areas of waste collection.

Enquiries

In terms of enquiries the service has received approximately 500 complaints as follows:

- Dissatisfaction with not having a wheeled bin for Paper / Card – **41%**
- Failure to receive notification of Service Change – **44%**
- Other (Contamination – Bin Left, Clarification on what goes in each receptacle, Why change implemented) – **15%**

To put this in context, during this period recycling collections were made to approximately 56,000 premises per week for a 20 week period. In terms of the ratio of enquires to collections made this is 1:2,240 or 0.04%.

Issue of Bags

The service change generated a significant number of requests for extra bags for the storage of cardboard.

February 2012 to August 2012 – 11,463 bags delivered.

February 2011 – August 2011 – 2,419 bags delivered (Comparison)

Biodegradable Waste

The impact of the service change upon the green waste, paper and card collection services has been assessed over comparable periods and the results are shown in the table below

2011/12 (April – July)		2012/13 (April – July)		Percentage Increase
Service	Tonnes	Service	Tonnes	
Kerbside Paper Only	1,683	Kerbside Green and Cardboard	2,257	34%
Kerbside Green and Cardboard	9,374	Kerbside Green Only	9,963	6%
TOTAL BIODEGRADABLE	11,057		12,190	10%

The Government Review of Waste Policy 2011 has re-affirmed the requirement that 50% of biodegradable waste must be diverted away from landfill by 2020.

Local Recycling Centres

The Council currently has 48 Bring Site locations within the Borough. The existing contractor for paper banks Palm Recycling have recently been replaced as our partner by Veolia Environmental Services. In developing this new partnership arrangement the new banks on site now accept mixed cardboard / paper.

Local Position on Cardboard Collection

Neighbouring Councils within South Yorkshire make the following arrangements for the collection of cardboard:

Barnsley – Have just commenced a trial to take card out of the green bin following intervention by the Environment Agency, using a caddy that fits in the top of the green bin.

Doncaster – Provide a green box for glass, cans, textiles, plastics and cardboard.

City of Sheffield – Provides a blue box / blue bin for card and paper.

8. Finance

Following negotiations with our partner Newport paper to accept mixed paper and cardboard we have secured a guaranteed minimum price per tonne for mixed paper (paper and card) for a 5 year period to March 2017, however it must be noted the last three years are an optional annual contract extension by agreement of both parties.

In addition we are currently in discussion with our organic waste partner Yorkshire Horticulture / Freeland (operators of the composting facility) to secure a reduced “clean” green gate fee for the green waste being delivered to Maltby Transfer Station, before onward bulking to the processing site in Finningley, Doncaster.

9. Risks and Uncertainties

It is considered that the publicity campaign prior to the change in the method of collecting cardboard was, on the whole, successful and that the change was managed without any significant disruption to the service. Although it was anticipated that some of the cardboard may end up being disposed of within the grey residual bin, data shows that the actual residual waste collected to date is in line with the estimated profile used for budget purposes.

10. Policy and Performance Agenda Implications

The recycling of cardboard contributes to the following performance indicators:

NI 191 – Residual household waste per household.

NI 192 – Percentage of household waste sent for reuse, recycling or composting.

NI 193 – Percentage of Municipal Solid Waste sent to landfill

11. Background Paper and Consultation

- Waste Resource Action Programme - Publicly Available Standard 100 (BSI PAS100)
- Association for Organics Recycling – Compost Quality Protocol (CPQ 2012)
- Government Review of Waste Policy 2011

Contact Name: Adrian Gabriel, Waste Manager Telephone Ext. 22100,
E-mail: Adrian.gabriel@rotherham.gov.uk

ROTHERHAM BOROUGH COUNCIL – REPORT TO DLT
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1.	Meeting	Improving Places Select Commission
2.	Date	Wednesday 5th September 2012
3.	Title	Response to Government Consultation; High Income Social Tenants, Pay to Stay
4.	Directorate	Neighbourhoods and Adult Services

5. Summary

In November last year Government launched their strategy for housing, [Laying the Foundations: A Housing Strategy for England](#). As well as tackling empty homes and fuel poverty and encouraging the building of new homes, this strategy highlights reforms to social housing that afford landlords greater flexibility and options in allocating and managing their housing stock.

Government suggests that households on high incomes who occupy social housing is an issue which can only be addressed through further reform, and proposes the introduction of a 'Pay to Stay' scheme whereby social landlords could charge higher rents to tenants on high incomes.

This consultation invites views on how this policy should be delivered.

6. Recommendations

- Note draft consultation responses (appendix 1) and identify any changes required
- Agree that subject to further amendments, the response will be submitted to CLG by 12 September 2012

7. Proposals and details

7.1 Background

The Government consultation, *High Income Social Tenants, Pay to Stay* commenced on 13 June 2012 and will close on 12 September 2012.

<http://www.communities.gov.uk/publications/housing/paytostayconsultation>

The consultation is proposing to add to its suite of housing reforms by giving social landlords the opportunity to charge tenants who earn relatively high incomes a higher level of rent. It is unclear whether or not this proposal will be mandatory or an option for social housing landlords. The consultation contains 28 questions; the questions and draft responses are detailed in appendix 1.

In September 2011, the housing application form was amended to include questions around applicants' earnings as some housing associations do not let to high earners. These questions are not mandatory and many applicants do not complete the income questions. However, this information is only pertinent to the allocation of some housing association properties as the financial status of applicants for RMBC properties is irrelevant and has no bearing on either allocations or the level of rent charged.

The consultation proposes a rental increase from social rent to interim rent of 80% market rent with the ultimate aim of charging full, market rent.

Broadly speaking, private sector rents across the borough are higher than Rotherham's council housing rents but financial gains would be relatively minor due to;

- Local salaries sitting at below national average, and
- The difference between market rent and social housing rent being relatively minor, in most areas

Increasing rent levels for higher earning tenants could indirectly encourage Right to Buy which will affect the rental income available for reinvestment in housing stock and impact on Rotherham's 30 Year HRA Business Plan.

8. Finance

RMBC's recent Where You Want to Live Survey has indicated that some 2% of households in council housing tenants may earn more than £40k per annum. Charging full market rent to higher earning tenants could lead to a potential annual increase of £296,192 to Rotherham's Housing Revenue Account. This would have to be off-set by;

- a) the resources needed to check the income levels of existing and new tenants, and

- b) the future loss to the HRA account through increased Right to Buy as high earning tenants buy their properties as, in some instances, mortgage repayments would be comparable with market rent

NB - The exact number of households who live in council properties and earn more than £40k is estimated to be around 339 – 405; households earning greater than £60k, £80k or £100k is unknown.

9. Risks and uncertainties

The administration costs involved in checking earnings for tenants and modifying IT systems is unknown.

The extent to which charging high earners market rent would increase the number of Right to Buy applications is also unknown.

10. Background papers and consultation

Feedback has been received from the Housing and Communities Team, Housing Income Team, Housing Solutions, Strategic Housing Investment Service and RotherFed.

[*Laying the Foundations: A Housing Strategy for England.*](#) CLG, November 2011
[*High Income Social Tenants: Pay to Stay Consultation.*](#) CLG, June 2012

11. Contact details

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Simon Bell
Housing Income Manager, Housing Income Team
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APPENDIX 1

**Strategic Housing and Investment Service
Neighbourhood & Adult Services**

Riverside House, Main Street

Rotherham S60 1AE

Tel: (01709) 255047 Fax: (01709) 823154

Email the Council for **free** @ your local library!

Our Ref: Wendy Foster

Your Ref:

Date: ?? September 2012

Dear Sirs

Consultation Response: High Income Social Tenants, Pay to Stay

Please find below Rotherham Metropolitan Borough Council's Consultation Response:

1. *Do you agree with the principle that very high earners living in social housing should pay higher than social rents?*

The impact of charging high income earners market rent would be minimal as we understand very few of our tenants earn more than £60k. However we do not want to penalise working families to the extent where social housing is not a viable housing choice as this will create a situation whereby social housing is only for the needy

2. *Do you agree that this approach would be the best way of delivering additional flexibility for local authorities and private registered providers?*

The option to charge additional rent for very high earners living in subsidised housing may be welcomed by social housing landlords with stock in areas where housing costs and salaries are relatively high.

Allowing social housing landlords to retain all Right to Buy receipts or decide Right to Buy discount levels would offer much greater flexibility.

3. *What are your views on the guidance at Annex A?*

Rotherham Metropolitan Borough Council has concerns about the initial and ongoing administration costs involved in monitoring income levels and tenants' changes in circumstances.

4. *Do you think that landlords should be required to charge high income households a higher rent?*

Market rent should be charged to high income earners at the landlord's discretion, as per;

- Issuing flexible tenancies
- Applying locally determined criteria to housing register
- Offering priority to certain allocations, and
- Re-letting void properties at market rent

5. *Do you consider that £60,000, £80,000 or £100,000 would be an appropriate threshold, avoiding the impacts referred to above?*

The £80,000 and £100,000 figures appear to be arbitrary; there is some logic in aligning the income threshold with affordable home ownership income levels.

6. *Could levels below £60,000 be considered without disadvantaging other households on low incomes or the vulnerable? Where should the line be drawn?*

RMBC believes a joint income threshold of £60k appears low and may penalise some vulnerable tenants and act as a deterrent for those tenants who work hard to increase their earnings, especially through working overtime.

7. *At what level do you think the income threshold could start impacting on welfare or affecting work incentives?*

The national average household income is £27,114 therefore the threshold should be set at considerably higher levels.

8. *Should the policy apply only to those whose names are on the tenancy agreement?*

It would be very difficult to monitor the income of occupants whose names were not on the tenancy agreement as there is no legal obligation for secure tenants to inform their landlord of other occupants. That said, Rotherham Metropolitan Borough Council feels that ignoring what could be significant proportions of household income earned by other occupants would appear grossly inequitable. If higher rents are to be charged to avoid receipt of subsidy then all household income should be taken into account as it is with housing benefit assessment.

9. *Should income other than pay be included in the threshold amount, such as Lottery windfalls or inheritances?*

Ideally, yes but how could this be administered? What about tenants whose earnings fall below the threshold but who have accrued significant amounts of savings/investments (from the sale of their home, for example)? If council housing is viewed as part of the welfare state then income assessment should mirror assessments for welfare benefits.

10. *Should certain groups be exempted from higher rents, such as disabled people or pensioners? If so, please set out your reasoning.*

If the motivation behind charging market rent to high earners living in subsidised housing then the income threshold should be applied to all tenants as financial

vulnerability is not directly linked to age or disability. However payments received to fund care, such as Disability Living Allowance or Personal Independence Payments should be excluded from income calculations.

There are multiple, valid reasons why, once financial commitments have been met, those classified as 'high earners' may not have reasonable amounts of disposable income. e.g. pensioners using their savings to generate a modest pension.

11. *Do you agree that landlords should be able to charge 80% of market rent to high income households which meet the proposed criteria, that is an individual or two individuals with a high joint income?*

If the proposal is agreed then 80% market rent should be part of the suite of options available to social housing landlords.

12. *Would allowing landlords to charge full market rents be appropriate in your area, in your view?*

No. The resources needed to implement the charging of market rent to higher earners are unlikely to be recouped as;

- a) rent levels are relatively low across the Borough – in some areas of the borough Rotherham market rent levels are similar to social housing rent levels

	1 Bed	2 Bed	3 Bed
Housing Association	£59.14	£67.84	£75.60
Private Rented	£68.00	£82.00	£97.00
RMBC	£62.05	£67.76	£74.10

- b) Rotherham has a very low number of high earning tenants and local income levels are relatively low compared to the national average; this is unlikely to change in the short to medium term

	England	Rotherham
Average Annual Gross Household Income	£27,114	£22,957

	Borough wide	Council tenants
Annual Gross Household Income of more than £40,000	13%	2%

13. *Are there any practical barriers to charging full market rents?*

IT constraints and administering proof of income but mainly, for Rotherham, there is very little financial benefit as the difference between market rent and social housing rent is minimal.

14. *If the power to charge a higher rent was optional for landlords, would you be likely to make use of it?*

No, as there appears to be very little financial benefit and the proposals appear to penalise higher earning tenants.

15. *Your views are invited on how we could best enable landlords to set higher rents to high income households in advance of any legislation.*

We are unsure how this could happen without legislative changes.

16. *We would also welcome your views on the practicalities of requiring income disclosure; and specifically, what kind of mechanism would be needed and how this would best work.*

Online access to tax and NI data would be the easiest way of monitoring tenants' declared earnings although wage slips and proof of savings and investment would suffice.

17. *Do you already hold or have access to information about tenants' income levels that could be used to support a 'pay to stay' approach?*

No.

18. *Would you be likely to make use of any new statutory powers to require tenants to disclose their income?*

It is unlikely as, due to the lack of financial gain and perceived inequity, Rotherham would not voluntarily seek to implement a policy of charging a different level of rent to higher earning tenants.

19. *Should the income year be the tax year, the calendar year or a rolling year? Do you see difficulties with adjusting a tenant's rent based on a previous year?*

An annual check of income should take place at the end of the tax year but not necessarily identify inheritance or other one off sums.

20. *What practical issues do you see in charging existing high income tenants a higher rent?*

Monitoring income levels, changing tenancy agreement, modification of IT systems.

21. *How quickly could local authority and housing association rent processes respond to changed tenant circumstances? What issues might arise? For instance would there be a need to seek regular updates from tenants on their circumstances? Would this just be in relation to known high income social tenants, or all tenants?*

Rotherham would need to arrange an appropriate IT interface which could regularly update changes in income levels.

22. *Is an internal appeal or complaint process the best way of allowing tenants to appeal against decisions to put them onto a higher rent? Are there existing appeal or complain mechanisms within your structures that could be adapted for this purpose?*

Yes. Appeals could be heard through RMBC's standard complaints procedure.

23. *Should there be a uniform set of rules across the social housing sector on how any appeals should be handled? If so, who should make these rules?*

A uniform set of rules, issued by Government, would offer the greatest parity and transparency across all social housing landlords.

24. *What is your view of the administrative cost that might be incurred in implementing these proposals? What opportunities do you see for minimising additional costs?*

In terms of rent setting, income monitoring and income recovery costs would run at approximately £30k - £50 per annum, plus initial set up costs.

25. *Do you have any comments about the regulatory implications of giving private registered providers these additional flexibilities?*

Parity for the tenants of private registered providers would be viewed positively.

26. *How should additional income generated by this policy be used?*

Additional income should be retained by the relevant social housing landlord. For local authorities, additional income generated should be treated the same as other rental income and paid into the Housing Revenue Account for reinvestment as per the 30 Business Plan.

27. *What are the practical implications of requiring grant reinvestment/recovery when a property moves to a higher rent (or reverts back to social rent)?*

This will only be an issue for local authority new build properties and the implications are currently being explored.

28. *Are there any other issues you wish to raise?*

The Government's Right to Buy Policy and the Government's Pay to Stay proposals are incompatible and inconsistent;

- Those classed as high income social tenants will be asked to pay higher rents as it is argued that they should not benefit from government subsidy, yet

- Those same high income tenants have the option to purchase their council house at a sizeable discount, therefore benefiting from significant government subsidy

The proposal will clearly benefit social housing landlords who hold stock in areas where market rents are significantly higher than social rent and where income levels are greater than the national average. Neither of these applies in Rotherham.

I trust this information is helpful; should you require further assistance please do not hesitate to contact this office.

Yours faithfully

Councillor R McNeely
Cabinet Member for Safe and Attractive Neighbourhoods

ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS
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1.	Meeting:	Improving Places Commission
2.	Date:	Wednesday 5 September 2012
3.	Title:	Listed Building Consultation document and response
4.	Directorate:	Environment and Development Services

5. Summary

A consultation document was published by the Government on 27th July 2012 (with a deadline for responses of 23rd August 2012) relating changes to the way planning and heritage assets are dealt with.

The report summarises the consultation and sets out RMBC's response.

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6. Recommendations

That members note the response that has been provided to Department for Culture Media and Sport.

7. Proposals and Details

The consultation document "Improving Listed Building Consent" proposes:

The introduction of a system of prior notification leading to deemed consent if the Local Planning Authority (LPA) does not respond within 28 days - Option 1

OR

the introduction of a system of local and national class consents which would enable local planning authorities or the Secretary of State, respectively, to identify works which will not longer require Listed Building Consent (LBC) as they have no impact on special interest. - Option 2

Introduction of Certificates of Lawful Works which will enable the applicant to get a formal view from the LPA **either** that proposed works will not require LBC or that works already carried out did not require LBC;

Introduction of a system of accredited agents who will be able to provide an LPA with an expert report on LBC applications instead of them being considered by the authority's own conservation officer.

The Consultation documents and the response to each of the individual questions have been attached to this report as appendices however in summary:

Option 1 - The system of prior notification could be supported, subject to sufficient information being required for an informed decision to be made.

- Potential issues with the proposal are that it may alienate the public / interest groups who would have no ability to comment on proposals;
- A two stage process has the potential to delay the process and also increase the burden on the Local Planning Authority.

In relation to the current processing of Listed Building Consents we were able to confirm that very few require alterations through the application process due to our strong emphasis on effective pre-application discussions however non standard conditions are often required due to the individual nature of specific listed buildings.

Option 2 - Local and National class consents would require a strong evidence base to be built up before it could be implemented. An issue which would be particular to Rotherham would be the wide range of listed buildings from residential to industrial which could not easily be grouped together.

The preference would be to support Option 1.

In relation to Certificates of Lawful Works either proposed or undertaken, these processes already exist within the planning system but not for LBCs. The certificates would be useful for applicants who require a definitive answer regarding the

requirement for LBC. Again the level of information required would be crucial for an informed decision to be made.

There are high levels of satisfaction with informal and formal pre-application advice already provided at Rotherham.

Accredited Agents – the Government is suggesting an alternative approach due to the reduction in resources for Heritage work within Local Planning Authorities. Although Rotherham's Conservation Officer retired and was not replaced we do have conservation expertise with the LPA and there are no delays in decision making. It is considered that the suggestion that the agent submitting the application also make the recommendation on the application is flawed due to the distinction between the applicant and the regulatory authority becoming blurred resulting in distrust of the process and its transparency.

Enforcement – LPA work pro-actively with owners in all cases with a fall back position of legal action. The situation that public funds are required to underwrite works carried out in default remains an issue.

8. Finance

No financial implications from consultation document.

10. Policy and Performance Agenda Implications

Protection of Heritage Assets.

11. Background Papers and Consultation

Appendix 1: Improving Listed Building Consent Consultation

<http://www.culture.gov.uk/consultations/9236.aspx>.

Appendix 2: Response to Department for Culture Media and Sport.

Contact name: Bronwen Knight, Planning Manager 01709 823866

Bronwen.knight@rotherham.gov.uk



department for
**culture, media
and sport**

Improving Listed Building Consent

A Consultation

July 2012

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

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Section 1: Introduction

1.1 This consultation seeks views on options for changing the system of listed building consents. Government's response to the Penfold Review of Non-Planning Consents ("Implementation of the Penfold Review", BIS, November 2011) included a commitment to seek public consultation on simplifying the Listed Building Consent (LBC) system through measures to reduce the circumstances in which LBC is required and reduce the level of information applicants are required to submit, thus reducing burdens on developers and allowing the public agencies which administer these consents to focus upon the highest risk areas and to deliver a more efficient service. Potential measures were set out in the document. Wide-ranging pre-consultation discussions with heritage practitioners produced additional options for change. It is on both sets of options that we are consulting now. All are intended to meet the Penfold Review objectives, while ensuring that heritage assets are conserved in a manner appropriate to their significance, in line with the objectives of the National Planning Policy Framework, and at the same time to avoid increasing burdens on Local Planning Authorities.

1.2 The options for consultation include:

- 1) A system of prior notification leading to deemed LBC
- 2) A system of local and national class consents granting deemed LBC
- 3) A "certificate of lawful works to Listed Buildings"
- 4) Replacing local authority conservation officer recommendations for LBC by those made by accredited agents, if LBC applicants wish to do so.

1.3 This consultation also seeks views on new or improved measures to address building neglect, which may or may not include legislative change.

Option 1: A system of prior notification leading to deemed LBC

1.4 Option 1 is a system of prior notification of proposals for specified types of work to local planning authorities, who would be able to respond to the notification with a request for a full LBC application within a specified time period, or to allow that period to lapse, with LBC thereby deemed to be granted.

1.5 Currently, Listed Building Consent is required for any works for the demolition, alteration or extension of a listed building which affects its character as a building of special architectural or historic interest. This brings a wide range of works into the

control system, not all of which have a harmful or significant impact on special interest. Submission to the Local Planning Authority (LPA) of a simple prior notification of the intention to carry out works to a listed building would then allow the LPA either to allow the works to go ahead without further intervention, if they judged them acceptable, or to require the submission of a full LBC application. Enabling LPAs to focus on applications more likely to impact on a building's special interest, while allowing a lighter touch for applications with less impact, would allow better use of their resources, and would also lighten the burden on owners and developers.

Option 2: A system of local and national class consents granting deemed Listed Building Consent

- 1.6 Option 2 is a system allowing class consents for defined works to defined heritage assets to be issued unilaterally by a local authority. It is also proposed that the Secretary of State, advised by English Heritage, be enabled to grant a class consent for an area or group of assets that cross local authority boundaries for a defined class or classes of works. A system of local and national class consents has been put forward as an alternative measure to Option 1.
- 1.7 This option seeks to address the number of full LBC applications for works which have neither a harmful nor significant impact on special interest. A system of local class consents, set up by a LPA, could be used to set aside the need for LBC for a defined class or classes of works affecting a defined area or group of heritage assets. The Secretary of State could be empowered to grant a class consent for an area or group of assets that cross local authority boundaries, for instance canal networks or other infrastructure, for a defined class or classes of works. By responding to well understood local characteristics this approach would allow a light touch for a range of works which have minor or acceptable impacts on the special interest of known categories of listed building. It would also reduce regulation and lift burdens by removing altogether any requirement to consider, make or process an application.

Option 3: A "Certificate of Lawful Works to Listed Buildings"

- 1.8 Option 3 is to allow local planning authorities to grant a Certificate of Lawful Works either for proposed works to a listed building which do not have an impact on special interest, or for existing works carried out in the understanding that no LBC was required, and confirming that this was the case.
- 1.9 Works to a listed building which do not affect its character as a building of special architectural or historic interest do not require consent. Interpretations of whether or not consent is needed can vary between Local Planning Authorities. LPAs are often reluctant to give a view as to whether the work would require LBC because it is ultimately a matter for the courts to determine and LPAs do not wish to fetter their own discretion. Those seeking to make change to listed buildings are sometimes required to submit a formal application for Listed Building Consent in order to gain certainty, whether or not the works in fact affect special interest. Owners and prospective developers have expressed their desire for a mechanism allowing them to receive a

simple assurance about whether or not LBC will be required for given works. A legal mechanism allowing a local authority to grant a “Certificate of Lawful Works” would allow formal clarification of whether or not LBC is required, and would avoid the submission of a full LBC application.

Option 4: Replacing local authority conservation officer recommendations for LBC by those made by accredited agents, if LBC applicants wish to do so

- 1.10 Option 4 is a system which allows independent accredited agents to make expert recommendations to Local Planning Authorities in the exercise of their statutory duty to determine applications.
- 1.11 Government is keen to expand the range of expertise involved in decision-making on LBC cases so that decisions can be reached more quickly and effectively, while standards of protection are maintained. Research indicates that nearly three quarters of all applications for LBC in town and city centres are made by an agent on behalf of the owner/tenant of the property¹. Pre-consultation discussions with heritage bodies and consultancies confirmed that detailed heritage reports are often submitted to accompany major applications affecting heritage assets. Enabling owners or developers to commission an independent agent to offer an expert report and recommendation to the LPA as part of the LBC application, effectively “certifying” the works as acceptable, would be a logical next step. It would expand the sources of expert advice to local authorities, and encourage early consideration of heritage issues in the development of proposals. The LPA would continue to administer consultation and notifications, including to English Heritage and national amenity societies, as at present, and decisions would continue to be taken following current governance arrangements.

Reform of measures available to address building neglect

- 1.14 The Government is concerned with the number of listed buildings which have been on the Heritage at Risk Register for a long time. Local authorities have powers to serve Urgent Works Notices or to pursue Compulsory Purchase Orders but find them problematic to exercise. This is a disincentive for carrying out any enforcement work in cases of listed buildings that appear to be neglected.
- 1.15 We wish to investigate reforms to measures available to deal with buildings at risk, which might include legislative reforms, but could cover a wide range of measures.

¹ “The Patterns of Business Occupation and Consent Applications for Historic Buildings”, Colliers International for English Heritage and the Heritage Lottery Fund, June 2012

Considering the Options

- 1.16 Options 1 and 2 look at alternative approaches to reducing the number of full applications for Listed Building Consent, and are mutually exclusive. We hope the responses to this consultation will help Government judge which approach is likely to have the most impact in improving the operation of the LBC system.
- 1.17 Option 3 deals specifically with works which do not affect special interest, and for which LBC is not needed. It could, therefore, operate alongside any of the other options.
- 1.18 Option 4 looks at a proposal for expanding the range of expertise available to inform or make decisions on LBC cases by opening up the process to accredited independent agents. This option could operate in tandem with Options 1 or 2, and Option 3.
- 1.19 For some of the options, we have identified areas where more information would be of value in understanding the current operation of the system and would inform a decision on possible changes. We ask for your assistance in filling in these gaps if you are engaged in the heritage protection system and have access to this information.

Section 2: Purpose of this consultation and next steps

2.1 This proposal seeks your views on options to streamline the Listed Building Consent system as follows:

- A system of prior notification leading to deemed LBC
- A “certificate of lawful works to Listed Buildings”
- A system of local and national class consents granting deemed LBC
- Accredited Agents replacing local authority officer recommendations on LBC, if applicants wish

We are also seeking your views on the enforcement mechanisms for dealing with listed buildings which have been put at risk through neglect, such as Repairs Notices and Compulsory Purchase Orders, with a view to making these more effective.

2.2 A separate, consultation stage Impact Assessment has also been prepared, and is available on the DCMS website.

2.3 The geographical scope of this consultation is England.

2.4 This is a public consultation. We particularly seek views from those engaged in the system of LBC as past or prospective applicants and developers, or heritage and/or planning expert practitioners.

2.5 The consultation period will run for 4 weeks from 26th July 2012 to 23rd August 2012.

2.6 Please respond before the closing date by submitting responses to the questions asked and/or comments to listingsconsultation@culture.gsi.gov.uk. If you do not have access to email, please write to:

The Heritage Team

Department for Culture, Media and Sport

2 – 4 Cockspur Street

London SW1Y 5DH

- 2.7 For enquiries about the consultation (handling) process only, please email enquiries@culture.gsi.gov.uk, heading your communication “Improving Listed Building Consent”.
- 2.8 This consultation is intended to be an entirely written exercise. Please contact the Heritage Team on 020 7211 6129 if you require any other format, e.g. Braille, Large Font or Audio.
- 2.9 Copies of responses will be published after the consultation closing date on the Department’s website: www.culture.gov.uk.
- 2.10 Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environment Information Regulations 2004). If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply, and which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.
- 2.11 The Department will process your personal data in accordance with the DPA, and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.
- 2.12 The consultation is guided by the Government’s Code of Practice on consultation which is available at www.bis.gov.uk/files/file47158.pdf .
- 2.13 We will publish a response to the consultation setting out any proposed changes arising from it.

Section 3: Option 1 - A system of prior notification leading to deemed consent

- 3.1 Government is committed to ensuring that levels of protection for listed buildings are maintained, and also wishes to reduce the burdens on local authorities and on businesses and householders proposing to change listed buildings. Burdens arise from the numbers of LBC applications submitted and processed for works which are limited in impact and which are subsequently approved. A system of prior notification leading to deemed consent, focusing full LBC applications away from works which impact little on a listed building's special interest, would reduce the number of such LBC applications made.
- 3.2 Currently, LBC is required for any works for the demolition, alteration or extension of a listed building which affects its character as a building of special architectural or historic interest. This brings a wide range of works into the control system, not all of which have a harmful or significant impact on special interest. On average there are 30, 000 applications for Listed Building Consent every year. Research commissioned by English Heritage and the Heritage Lottery Fund indicates that in town centres around 90% of these applications are for small schemes (costing less than £100, 000) or minor works (around 20% of total LBC applications).² The same study confirmed that the majority of LBC applications – 95% in the sample examined - are approved, although a significant number will have been amended before approval or will have received conditional approval. It has not been possible to establish through research the numbers of applications which required amendment before approval was granted, nor the numbers to which substantive (rather than standard) conditions were attached – finding this out will be important in establishing the numbers of LBC applications annually that could potentially be dealt with through deemed consent.
- 3.3 Enabling Local Planning Authorities to focus on applications more likely to impact on a building's special interest, while allowing a lighter touch for applications with less impact would allow better use of their resources, and would also lighten the burden on owners and developers. We propose, therefore, a system whereby a developer may give the LPA a simple prior notification of their intention to carry out works to a listed building. If the notification indicates little or no harm to special interest, or some harm, clearly justified in the interests of conserving the building in its optimum viable use, the LPA will be able either to confirm that works could go ahead through a simple letter, or,

² "The Patterns of Business Occupation and Consent Applications for Listed Buildings", Colliers International for English Heritage and the Heritage Lottery Fund, May 2012.

by allowing the notification period to lapse, confirm the grant of deemed consent by default. If the LPA are satisfied that the notification is for works which are likely to harm the special interest of the listed building, and does not contain any clear justification for that harm in terms of the conservation interests of the building, they will, within a period of 28 days, be able to request the submission of a full LBC application.

- 3.4 To ensure that this proposal brings about real improvements, it will have to be simpler than the current system of LBC. It will work best if targeted on applications for works which affect but do not harm special interest, or where levels of harm are low, and clearly justified in the interests of keeping a building in its optimum viable use. These works could be defined nationally, but the system could be more flexibly applied if it is left up to the LPA to make a judgment on a case by case basis. In either case, applicants will benefit from clear national guidance on the kinds of works which are likely to benefit from deemed consent, and on the standards of information to be submitted.
- 3.5 A time limit of 28 days would ensure that a request from the LPA for submission of full LBC did not create appreciable delay. Pre-application discussions would remain an important means of gaining clarity in advance and reducing delays once a notification is submitted.
- 3.6 The standards for supporting information will have to be carefully balanced; too high and they risk reproducing the system of full LBC, too low and they risk either harm to the listed building, or the application being called in for full LBC anyway. The information supplied should be sufficient to ensure that the extent and impact of the proposed works are clear to the LPA. A national definition of appropriate standards would support LPA and applicant alike. Careful thought will be needed by Local Planning Authorities, to ensure that expert staff are given an early opportunity to view notifications, and decide between deemed and full consent before 28 days elapse.
- 3.7 To avoid the risk of harm to special interest through incremental and uncontrolled changes over time, and to maintain clarity on changes to listed buildings, there should be a proper record of decisions made under deemed consent; they should be recorded in the planning register. A formal note confirming the outcome of notification would protect the interests of both applicant and Local Planning Authority and also avoid doubt, for instance, when a property is sold. It would be prepared by the LPA, and could be provided only on request of the applicant in a form much simpler than a standard decision notice.

Question 1: Do you agree with the proposal to introduce a system of prior notification of works to a listed building, leading to deemed Listed Building Consent if the Local Planning Authority does not request a full application within 28 days? If not, please clearly state your reasons and your views on the approach you consider the Government should take.

Question 2: If you are commenting from a Local Planning Authority, are you able to comment on the proportion of your LBC applications which require amendment or the application of non-standard conditions prior to consent? If you are able to supply supporting information, please set it out clearly, or indicate where it can easily be accessed.

Section 4: Option 2 - A system of local and national class consents

- 4.1 There are over 350, 000 listed buildings, and within that number great variation in type and character. This makes it challenging to identify nationally the kind of works that could be done without harming special interest in every case; a feature may be affected which is common or relatively unimportant in one area or building type, but may be key to special interest in others³. There may be, however, localised groups of buildings whose similarities mean that it is easy to identify works which can be removed from the LBC system without fear of harming special interest. This may be due to the design, materials or history of use common amongst them. Local authorities will be in a good position to judge which of their inventory of listed buildings will be most amenable to a light-touch management approach without undermining the protection of what is special.
- 4.2 This option proposes a change in legislation to enable LPAs voluntarily and unilaterally to grant consent in advance for certain defined works to listed buildings within a defined area or of a defined type within their boundary. They could be encouraged in the use of these consents – “class consents” – to grant advance consent for works of limited impact, or, based on understanding of local characteristics, works whose impact can be confidently identified as not harmful.
- 4.3 An example of situation in which this approach might work well could be the terraced townhouses of seaside and spa towns, which often have a lengthy history of subdivision into flats accompanied by changes to interior layouts and features. Their special interest may often be seen to reside primarily in their external, townscape and group value, although their interiors can retain features with special interest. Specified internal changes to such much-altered properties could be exempted from the need for further LBC application, and might include removal, relocation or alteration of internal partitions and features. Known unaltered survivals could be specifically exempted from the class consent.

³ For example, the great majority of works to bathrooms – replacing fittings, etc, are unexceptionable and do not require consent. There are, however, a very small number of exceptional bathrooms of the early twentieth century that are certainly worthy of protection – mirrored Art Deco bathrooms, for instance – where there is a need to guard against their unnecessary harm or loss.

- 4.4 This option also proposes that the Secretary of State, advised by English Heritage and the relevant LPAs, be enabled to grant class consent for a defined class or classes of work relating to an area, type or group of listed buildings that cross local authority boundaries. This might be applied, for instance, to listed structures in the ownership of an infrastructure manager such as British Waterways Board/The Canal and River Trust. The national class consent could cover predictable and repetitive defined works of repair and maintenance to these assets which safeguard their special interest.
- 4.5 In setting up class consents, the works within scope would need careful definition, and if conditions are used, care should be given that they are proportionate and enforceable. This content should be drawn up in discussion with owners, English Heritage, and local and national amenity societies, and publicly consulted on. Rather than being required to sign off all local class consents, the Secretary of State could retain the power to call in and review where there is particular local controversy or opposition by English Heritage, say, for going beyond minor works. The issue of a class consent should be accompanied by guidance to help owners carry out consented works to an appropriate standard.
- 4.6 National or cross-boundary class consents would be promoted and negotiated on behalf of the Secretary of State by English Heritage. They would be set up as above, although consultation would be with all relevant Local Planning Authorities. Single or small numbers of owners of a large portfolio of heritage assets would almost certainly be involved in negotiations, but large numbers of multiple owners would be unlikely to be approached individually, although national notification/consultations could be carried out. As national class consent would be seen to benefit the owners of properties by reducing their need to apply for consent, this need not be seen as harmful. It would, however, be necessary to work with the relevant local authorities to ensure that in the event of such a class consent being put into operation, all those affected were notified, to avoid any abortive work in preparing consent applications that are no longer needed. Local authorities should also be given the opportunity to restrict use of national class consent, through a measure mirroring Article 4 Directions, whereby certain permitted development rights are removed by a Local Planning Authority.
- 4.7 Arrangements for monitoring the impacts of class consents would help to address concerns that this is a less transparent approach than LBC, and that there is a danger of the class consent being exceeded in unauthorised works; normal enforcement should apply to works which do this, and if a class consent is manifestly leading to abuse, then there should be a mechanism to rescind it.
- 4.8 This is a voluntary approach, which Local Planning Authorities or the Secretary of State would adopt as and when they perceive an advantage. The savings and benefits of fewer full LBC cases would be built up incrementally over the medium- to long-term through the actions of individual Local Planning Authorities, but could potentially be considerable; local flexibility means there is potential to be far-reaching in scope, and, once a class consent is in place, it removes altogether any requirement to make, process or consider an application.

Question 3: Do you agree with the proposal to introduce a voluntary system of local and national class consents? If not, please clearly state your reasons and your views on the approach you consider the Government should take.

Question 4: If you are commenting from a Local Planning Authority, are you able to comment on the likely applicability of this option within your area, in terms of the kinds of listed building and type of works to which it might be applied, and to the likely resource implications of setting up a local class consent? If you are able to supply supporting information, please set it out clearly, or indicate where it can easily be accessed.

Question 5: Which of the options set out in this consultation to reduce the number of LBC applications for works with limited or justifiable harm to special interest (Options 1 and 2) do you prefer? Please state the reasons for your preference.

Section 5: Option 3 - A Certificate of Lawful Works for Listed Buildings

- 5.1 Works to a listed building which do not affect its character as a building of special architectural or historic interest do not require consent. Judgements on whether or not works need consent can vary between Local Planning Authorities. LPAs are often reluctant to give a view as to whether the work would require LBC because it is ultimately a matter for the courts to determine and LPAs do not wish to fetter their own discretion. As a result, LBC applications may be made which are not really necessary, imposing a burden on LPA and developer alike: it is not known how many, but anecdotal evidence suggests a small but significant number. Pre-consultation discussions with heritage and development bodies and practitioners revealed that owners and prospective developers would welcome a simple assurance about whether or not LBC will be required for proposed works.
- 5.2 This option proposes the introduction of a “Certificate of Lawful Works” which would be able to specify, by reference to a plan or drawing, the listed building and precise nature of works carried out to it that are certified as lawful. This would be a voluntary mechanism, whereby an owner or prospective developer could receive assurance concerning works. The certificate could take two forms; one to certify works which are proposed, and one granted retrospectively for works carried out in the belief that LBC was not required.
- 5.3 A Certificate of Lawful Works for proposed works, would describe the works considered permissible without the need for consent. It would provide the formal mechanism to allow Local Planning Authorities to confirm that LBC is not required. It would provide an optional and simple approach for seeking clarity on the need for consent. There would be a right of appeal to the Secretary of State. Works going beyond those specified in the certificate would risk being the subject of enforcement action. Although it would be a new measure, which would require additional input from LPAs, this would be offset through reductions in the numbers of unnecessary applications for LBC.
- 5.4 The second option, to get retrospective certification of works would help to inform potential buyers of listed properties about the legality of works which have been carried out to a listed property. It does, however, carry the risk of encouraging a culture of doing works first and seeking certification afterwards, with the risk for the applicant that if a certificate cannot be issued due to the nature of the works carried out, the applicant may be considered to have committed an offence.

5.4 There are successful precedents for this approach in other parts of the planning system in the certificate of lawful use and certificate of lawful development. The Certificate of Lawful Works could help avoid the misapplication of LBC and of any lighter-touch system for LBC that may be introduced; it deals simply with works which do not require consent at all.

Question 6: Do you agree with the proposal to introduce;

- a) a Certificate of Lawful Works to Listed Buildings for proposed works;
- b) a Certificate of Lawful Works to Listed Buildings for works already undertaken?

If not, please clearly state your reasons and your views on the approach you consider the Government should take.

Question 7: If you are involved in the Listed Building Consent system either in a Local Planning Authority or any other capacity, can you provide further information on the following;

- a) possible numbers of LBC applications currently made due to the lack of a formal mechanism for LPAs to confirm whether or not consent is needed;
- b) the numbers of informal requests received or made every year concerning the need for LBC;
- c) how such queries are handled?

Section 6: Option 4 – Accredited Agents replacing local authority officer recommendations on LBC, if applicants wish

- 6.1 Most LPAs have access to expert advice in some form when determining LBC applications. However, the past few years have seen a steady decline in the numbers of local authority conservation staff; in early 2011 there were 957.5 full time equivalent (FTE) historic environment members of staff in local authorities in England, a reduction of 5.6% since comprehensive data was first collected in 2003 and a 21.8% reduction since the high point in numbers of historic environment staff in 2006 when 1224 FTEs were working in local authorities⁴. Government is keen to expand the sources of expertise involved in decision-making on LBC cases so that decisions can be reached more quickly and effectively and there is more choice and flexibility for developers, while standards of protection are maintained.
- 6.2 Research indicates that nearly three quarters of all applications for LBC in town and city centres are made by an agent on behalf of the owner/tenant of the property⁵. Pre-consultation discussions with heritage bodies and consultancies acknowledged that detailed heritage reports are often submitted to accompany major applications affecting heritage assets. Enabling owners or developers to commission an independent agent to offer an expert report and recommendation to the LPA as part of the LBC application, effectively “certifying” the works as acceptable, would be a logical next step.
- 6.3 Option 4 would allow independent accredited agents to be commissioned by the applicant to make technical, expert recommendations to Local Planning Authorities in the exercise of their statutory duty to determine applications. The accredited independent agent would take on some of the role of the LPA; they would have to set out the special interest of the building under consideration, analyse the impact of the proposed works on special interest and make a recommendation on the basis of those considerations as to

⁴ “A Third Report on Local Authority Staff Resources”, produced by English Heritage, the Association of Local Government Archaeological Officers and the Institute of Historic Building Conservation, August 2011.

⁵ “The Patterns of Business Occupation and Consent Applications for Historic Buildings”, Colliers International for English Heritage and the Heritage Lottery Fund, June 2012, which indicates that architects are the biggest single category of agent used for all kinds of application (36%), with planning consultants (9% of total) and chartered surveyors (7% of total) used almost exclusively for non-residential schemes.

the suitability of the proposed works to receive LBC. They would also advise the applicant on any modifications that may be required to achieve LBC, and suggest appropriate conditions. Where any impact on special interest was low, or justified by conservation considerations, the agent would be able to recommend that LBC be granted. The LPA would normally be expected to follow this recommendation, unless, in their opinion, the special interest of the building would in fact be harmed. Existing procedures for appeal and enforcement would remain.

- 6.4 The LPA would continue to administer consultation and notifications on the consent as at present, including to English Heritage and national amenity societies. Decisions would be informed by the technical report and recommendation provided and taking into account the representations of third parties, and would continue to be taken following current existing governance arrangements. This proposal would reduce the burden on LPAs, as the preparation of the technical assessment of the development was passed over to the accredited agent, and the role of the LPA becomes one of scrutinising and signing off their recommendation in the light of impact on special interest, and any wider considerations of public benefit.
- 6.5 Benefits to owners or developers taking advantage of this approach would include early advice on proposals which was focused on achieving LBC. This in turn would tend to bring earlier certainty about the outcome of an application, and a potentially faster consent process. Overall, accreditation has the potential to drive up standards for applications, create a smoother process where the likelihood of flat rejection is reduced, and improve productivity. However, owners would be likely to have to take on additional costs above those already incurred in employing an agent, as the agent's role would be greater.
- 6.6 There are challenges in this approach as determination of LBC is not simply a matter of technical compliance; it often requires different factors to be weighed up in reaching a judgement. These factors may go beyond conservation considerations into issues of wider public benefit or interest: local authorities are able to draw on a range of professional inputs to reach judgments in such cases. This will set the limitations of the system, and help to define those cases most suitable to determine relying on accredited agent report and recommendation. These are likely to be those where impacts on special interest are low, or are entirely justified in the interests of keeping a building in its optimum viable use.
- 6.7 Concerns have been expressed that this approach might blur the demarcation between regulatory function and development interests, with independent agents carrying out functions previously belonging to LPAs, but on behalf of the applicants. It would be possible to reduce this risk through clearly defining and limiting the circumstances in which determination can be made on the basis of the accredited agent's recommendation, and by ensuring that robust and well-enforced professional standards are applied through the accreditation process. It is suggested therefore that national government defines the circumstances in which accredited agents' reports may be accepted and that appropriate professional safeguards are in place.

6.8 A system of accreditation would be needed to ensure that appropriate standards of expert advice were applied to LBC cases, and to provide monitoring and enforcement of professional behaviour. In principle this could be provided through the existing professional institutions and accreditation schemes whose members are involved in the LBC system, working to agreed common standards through existing systems of accreditation⁶. We need to understand whether there will be additional costs for these professional bodies in expanding their existing systems of accreditation. It has not yet been possible to investigate this in detail, and we would like to find out more about likely changes to them from the professional institutes whose members would be most likely to become accredited agents under this system. Further information about practical issues such as public liability insurance is also needed.

Question 8: Do you agree with the proposal to introduce a system whereby accredited independent agents provide expert reports on LBC applications directly to the LPA? If you are involved in the Listed Building Consent system either in a Local Planning Authority or any the capacity of an independent consultant, we will be particularly interested in your views on the likely take-up of this option. If you do not agree with it, please clearly state your reasons and your views on the approach you consider the Government should take.

Question 9: If you are commenting from a one of the professional institutes listed, are you able to comment on the likely impact on your institute of establishing, monitoring and administering such an accreditation system to support this option? If you are able to supply supporting information, please set it out clearly, or indicate where it can easily be accessed.

Question 10: How should the existing heritage accreditation scheme be modified or replaced to accommodate this proposal? What professional standards and enforcement would be needed to cope with the potential conflict of interest, and should agents scope be constrained through national government?

Question 11: Should the proposal for advice be extended further, as some stakeholders have suggested, for example allowing accredited agents to certify LBC directly themselves?

⁶ Architects Accredited in Building Conservation, Institute for Archaeologists, Institute of Historic Buildings Conservation, , Royal Institute of British Architects, Royal Institute of Chartered Surveyors, Royal Town Planning Institute.

Section 7: Reform of Enforcement Powers for Buildings at Risk

- 7.1 There are many listed buildings which have been on the Heritage at Risk Register for a long time; around half of those on the original 1999 Register, 1, 428 buildings, remain there. Although local authorities were granted extensive powers to serve Urgent Works Notices and Repairs Notices or to compulsorily acquire listed buildings in poor repair under the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 1990 Act) they often elect not to pursue any of these courses of action. English Heritage conducted an informal survey of local authority planning officers in which nearly all those asked stated that they and their planning committees were very reluctant to issue Repair Notices or Urgent Works Notices in respect of buildings which have fallen into disrepair.
- 7.2 We are committed to exploring the reasons why LPAs are discouraged from taking action to deal with neglected buildings, with a view to identifying appropriate legal reforms and other non-statutory measures, where these would deliver substantive improvements. Information gathered from this consultation will be important in doing so.

Question 12: If you are commenting from an authority which is able to take action under Enforcement and Compulsory Purchase powers, can you give any examples of where you have done so, or can you comment on the reasons why you have chosen not to?

Question 13: Do you consider that amending the legal powers relating to Urgent Works Notices, Repairs Notices and Compulsory Purchase could be effective in encouraging authorities to pursue cases of neglect to listed buildings? If so, please clearly state your reasons.

Question 14: Can you propose any further changes or amendments, including non-statutory changes, beyond those suggested here, which would provide additional benefits or improvements to protect Buildings at Risk?

Section 8: Summary of Questions

Question 1: Do you agree with the proposal to introduce a system of prior notification of works to a listed building, leading to deemed Listed Building Consent if the local planning authority does not request a full application within 28 days? If not, please clearly state your reasons and your views on the approach you consider the Government should take.

Question 2: If you are commenting from a Local Planning Authority, are you able to comment on the proportion of your LBC applications which require amendment or the application of non-standard conditions prior to consent? If you are able to supply supporting information, please set it out clearly, or indicate where it can easily be accessed.

Question 3: Do you agree with the proposal to introduce a voluntary system of local and national class consents? If not, please clearly state your reasons and your views on the approach you consider the Government should take.

Question 4: If you are commenting from a Local Planning Authority, are you able to comment on the likely applicability of this option (2) within your area, in terms of the kinds of listed building and type of works to which it might be applied? If you are able to supply supporting information, please set it out clearly, or indicate where it can easily be accessed.

Question 5: Which of the options set out in this consultation to reduce the number of LBC applications for works with limited or justifiable harm to special interest (Options 1 and 2) do you prefer? Please state the reasons for your preference.

Question 6: Do you agree with the proposal to introduce;

- c) a Certificate of Lawful Works to Listed Buildings for proposed works;
- d) a Certificate of Lawful Works to Listed Buildings for works already undertaken?

If not, please clearly state your reasons and your views on the approach you consider the Government should take.

Question 7: If you are involved in the Listed Building Consent system either in a Local Planning Authority or any other capacity, can you provide further information on the following;

- d) possible numbers of LBC applications currently made due to the lack of a formal mechanism for LPAs to confirm whether or not consent is needed;
- e) the numbers of informal requests received or made every year concerning the need for LBC;
- f) how such queries are handled?

Question 8: Do you agree with the proposal to introduce a system whereby accredited independent agents provide expert reports on LBC applications directly to the LPA? If not, please clearly state your reasons and your views on the approach you consider the Government should take.

Question 9: If you are commenting from a one of the professional institutes listed, are you able to comment on the likely impact on your institute of establishing, monitoring and administering such an accreditation system to support this option? If you are able to supply supporting information, please set it out clearly, or indicate where it can easily be accessed.

Question 10: How should the existing heritage accreditation scheme be modified or replaced to accommodate this proposal? What professional standards and enforcement would be needed to cope with the potential conflict of interest, and should agents scope be constrained through national government?

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Question 12: If you are commenting from an authority which is able to take action under Enforcement and Compulsory Purchase powers, can you give any examples of where you have done so, or can you comment on the reasons why you have chosen not to?

Question 13: Do you consider that amending the legal powers relating to Urgent Works Notices, Repairs Notices and Compulsory Purchase could be effective in encouraging authorities to pursue cases of neglect to listed buildings? If so, please clearly state your reasons.

Question 14: Can you propose any further changes or amendments, including non-statutory changes, beyond those suggested here, which would provide additional benefits or improvements to protect Buildings at Risk?

Improving Listed Building Consent A Consultation July/August 2012

Consultation response from Rotherham Metropolitan Borough Council

For information: This is an officer opinion only which has not been ratified by the Council due to the consultation taking place during the summer recess.

Question 1: Do you agree with the proposal to introduce a system of prior notification of works to a listed building, leading to deemed Listed Building Consent if the local planning authority does not request a full application within 28 days? If not, please clearly state your reasons and your views on the approach you consider the Government should take.

In principle this could be supported.

Subject to: the standards for supporting information being clearly spelt out. The “formal note” confirming the outcome of notification would also benefit from having a national standardised format. In effect this would formalise what happens in practice already. A lot of deemed consent is currently being captured in Pre-Application advice, which is encouraged by the NPPF and which many LPA’s are now charging for.

There are reservations, however.

- In the consultation document the argument for a form of deemed consent is partially made by stating that 90% of applications are small schemes. However, just because a scheme is small (less than £100K) does not mean that it will not have a significant impact upon a listed building.
- The ‘simple prior notification’ suggested is likely to provide insufficient information for an informed decision to be made, works may well slip through which would be much more damaging than anticipated and works which under the present consent regime would be subject to conditions requiring the approval of fine detail would not be subject to such a condition.
- Moreover the burden is likely to be increased upon both the LPA and the property owner/developer due to the fact that this suggestion is likely to lead to a two stage process – i.e. a prior notification resulting in a request that a formal application be submitted especially where there are areas of uncertainty. In practice applicants are probably also going to need a steer from the LPA as to whether a notification is likely to give rise to an application or not and this in itself may be time consuming.
- Deemed consent could potentially slow down the process for borderline cases – basically adding 28 days to LBC.
- There is an assumption in the document that there are a lot of unnecessary LBC’s made. This is disputed - the fact that 9 out of 10 LBC’s are approved does not mean, therefore, that LBC is an unnecessary layer of bureaucracy.
- The default position of deemed consent being granted if the LPA does not respond within 28 days is particularly dangerous. It actually increases the pressure and hence the burden on the LPA and delays beyond the LPA’s control could result in harmful works being carried out by default
- What about council owned buildings – how would they get deemed consent?

- Any system of deemed consent potentially alienates both the general public and specific interest groups from the decision making process as inevitably, there would be no possibility of consultation within the 28 day period. Therefore a high probability of conflict/criticism.

Question 2: If you are commenting from a Local Planning Authority, are you able to comment on the proportion of your LBC applications which require amendment or the application of non-standard conditions prior to consent? If you are able to supply supporting information, please set it out clearly, or indicate where it can easily be accessed.

We place a strong emphasis on pre-application discussions on proposals affecting listed buildings. Experience shows that when this is carried out constructively, there is a greatly reduced need for amendments once a LBC application is submitted. There is significant usage of non-standard conditions largely because works proposed are individual to the specific building concerned.

Question 3: Do you agree with the proposal to introduce a voluntary system of local and national class consents? If not, please clearly state your reasons and your views on the approach you consider the Government should take.

This approach would be difficult to support. It is difficult to see how this could reduce the burden on either developers or the LPA. At the present time, if a class of work 'can be confidently identified as not harmful' the LPA can already make the judgement that these works do not need a formal consent. In addition, there is likely to be a huge burden on the LPA in putting a class consent system in place. We would have, for example, to identify the 'known unaltered survivals (which) could be specifically exempted from the class consent'. In effect this would require a listed building resurvey of the whole Borough, including internal inspections. There are over 520 Listed Buildings in the Borough. Essentially, a good evidence base would be vital to the success of these consents. It is doubted that the evidence base is strong enough at either a national or local level.

There is no indication as to whether class consent could be conditional on a range of requirements or subject to codes of practice. It is doubtful whether class consents, without such conditions, would meet the Government's stated aim in several places in the Consultation Document of ensuring that levels of protection of listed buildings are maintained.

On the positive, Class consents could relate to specific bodies with generic assets and specific works which might cover more than one LPA boundary (e.g. Network Rail or the Canals and Rivers Trust). This could be achieved by way of national Heritage Partnership Agreements as an alternative.

Question 4: If you are commenting from a Local Planning Authority, are you able to comment on the likely applicability of this option (2) within your area, in terms of the kinds of listed building and type of works to which it might be applied? If you are able to supply supporting information, please set it out clearly, or indicate where it can easily be accessed.

It is considered that a major problem with this proposal is the wide range of architectural types in the Borough ranging from former industrial buildings to nationally significant country houses. It may be possible to write class consents for one type of asset nationally, similar to what is already done with some Scheduled Monuments. However, this could prove extremely challenging due to the variation between types of building and the features which create an important part of their significance already highlighted.

Question 5: Which of the options set out in this consultation to reduce the number of LBC applications for works with limited or justifiable harm to special interest (Options 1 and 2) do you prefer? Please state the reasons for your preference.

Given a choice, there is a preference for Option 1. In many respects, this is what happens already in this Authority.

Question 6: Do you agree with the proposal to introduce;

a) a Certificate of Lawful Works to Listed Buildings for proposed works;

b) a Certificate of Lawful Works to Listed Buildings for works already undertaken?

If not, please clearly state your reasons and your views on the approach you consider the Government should take.

This option could in theory be supported. Proposed or retrospective lawful works certificates already exist in the planning system but not for LBC. This option would deal with the perennial nervousness about whether something needs LBC or not. A definitive answer would finally be possible and if the process efficiencies suggested for Option 1 were applied (ie. a 28 day turn-around) it could be nice and quick – making applicants happy. It may be useful in determining the exact extent of what has been agreed by an officer as not needing an application and avoid subsequent debate about the extent of agreed works.

Again with this option the level and kind of information required will be crucial. If the LPA were not able to establish the impact or harm from a CLW application, then they should be entitled to ask for LBC and more detail in order to be able to make their decision. There is a wider discussion to be had about the quality of information currently submitted under LBC and the need to improve this i.e. the quality of Heritage Statement can leave a lot to be desired yet this is not enough to prevent validation.

Question 7: If you are involved in the Listed Building Consent system either in a Local Planning Authority or any other capacity, can you provide further information on the following;

a) possible numbers of LBC applications currently made due to the lack of a formal mechanism for LPAs to confirm whether or not consent is needed;

b) the numbers of informal requests received or made every year concerning the need for LBC;

c) how such queries are handled?

a) Extremely rare.

b) and c) No detailed record of the numbers of informal requests made concerning the need for LBC is kept. However, we take pride in offering an 'open door' service when it comes to both Development Management and Conservation enquiries. Informal research suggests that owner/development satisfaction with the current system is high.

Question 8: Do you agree with the proposal to introduce a system whereby accredited independent agents provide expert reports on LBC applications directly to the LPA? If not, please clearly state your reasons and your views on the approach you consider the Government should take.

No.

The Planning system, including the operation of the Listed Building legislation, has always operated impartially in the public interest and despite the suggestion that controls and accreditation could be put in place the proposed approach would blur the demarcation between the regulatory function and development Interests. This is critical in terms of public perception in how the system operates. Because of this blurring of distinction, either actual or perceived, it could actually make the process more rather than less expeditious since distrust in such a process could result in additional, rather than fewer applications being referred to Planning Committee/Boards, thus introducing delay and increasing costs.

The Government acknowledges that nationally, the number of specialist conservation staff has reduced by over 20% over the last ten years (a period over which documents such as PPS5 and the NPPF have strongly suggested that there should be increased specialist input).

Question 9: If you are commenting from a one of the professional institutes listed, are you able to comment on the likely impact on your institute of establishing, monitoring and administering such an accreditation system to support this option? If you are able to supply supporting information, please set it out clearly, or indicate where it can easily be accessed.

Not applicable.

Question 10: How should the existing heritage accreditation scheme be modified or replaced to accommodate this proposal? What professional standards and enforcement would be needed to cope with the potential conflict of interest, and should agent's scope be constrained through national government?

If you disagree with the basic premise, this is difficult to answer.

Question 11: Should the proposal for advice be extended further, as some stakeholders have suggested, for example allowing accredited agents to certify LBC directly themselves?

No.

Question 12: If you are commenting from an authority which is able to take action under Enforcement and Compulsory Purchase powers, can you give any examples of where you have done so, or can you comment on the reasons why you have chosen not to?

Question 13: Do you consider that amending the legal powers relating to Urgent Works Notices, Repairs Notices and Compulsory Purchase could be effective in encouraging authorities to pursue cases of neglect to listed buildings? If so, please clearly state your reasons.

Question 14: Can you propose any further changes or amendments, including non-statutory changes, beyond those suggested here, which would provide additional benefits or improvements to protect Buildings at Risk? If not, please clearly state your reasons and your views on the approach you consider the Government should take.

Dealing with the issues surrounding Buildings at Risk takes up a significant proportion of officer time. The Council endeavour to follow the best practice guidance in the English

Heritage publication, 'Stopping the Rot'. This involves a combination of pro-actively working with building owners backed up with the implied threat of legal action. This approach has proved moderately successful and the Authority's record on Buildings at Risk is good. As an Authority, we are not averse to taking enforcement action and the serving of both Urgent Works Notices and Repairs Notices, however, the risks are high and we have had a recent example where the Authority was left with a substantial bill following repairs to a Grade 2 listed building when the (overseas based) owner went into liquidation.

A principal lesson to have been drawn from this exercise has, in the first instance, been to underline the need for significant funding to render statutory powers effective beyond the mere threat of action.

All of this illustrates that any remotely ambitious building at risk programme, i.e. one which seeks to implement multiple urgent works notices at any one time, requires a reliable source of public funds to underwrite it. Perhaps there is a role for a Regional Property Board or an Asset Board who could underwrite or own the asset?

The bottom line, certainly in terms of the difficult cases concerning everyday Grade II Listed Buildings, if LA's don't intervene then nobody will.