

31 March 2011

The Chief Planning Officer
Local planning authorities in England

Dear colleague

DEMOLITION

I write to draw your attention to last Friday's Court of Appeal Judgement in the case of *SAVE Britain's Heritage v SSCLG* which has important and immediate consequences for planning control over demolition.

This judgment by the Court of Appeal has quashed paragraphs 2(1)(a) to (d) of the Town and Country Planning (Demolition – Description of Buildings) Direction 1995, contained in DoE Circular 10/95 (WO 31/95).

This means that the demolition of a listed building, a building in a conservation area, a building which is a scheduled monument, or a building that is not a dwelling house or adjoining a dwelling house is now 'development'. This brings the demolition of such structures into line with the treatment of residential buildings generally.

Permitted development rights for such development apply, under part 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995, but an application to the local planning authority is needed to check whether the authority requires prior approval of the method of demolition (in line with the conditions to part 31 of the GPDO).

In addition, the Court of Appeal has followed the decision of the CJEU in the case, "*Commission v Ireland (C-50/09)*", which concluded that demolition works come within the scope of the EIA Directive. The effect is that where demolition works are likely to have significant effects on the environment the local planning authority must issue a screening opinion on whether environmental impact assessment is required.

What does this mean for a local planning authority?

You will have to consider applications for determination for prior approval for this expanded range of demolition projects, in the same way as you do for the demolition of dwelling houses.

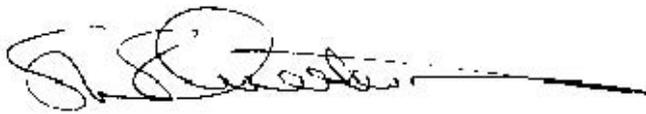
You should also consider whether the demolition project is likely to have significant environmental effects and requires a screening opinion to be issued; as such

projects can come under Schedule 2.10(b) (urban development projects) to the Town and Country Planning (Environmental Impact Assessment) Regulations 1999.

What does this mean for a developer?

If you intend to demolish a building falling within one of these categories as a separate project, you must apply to the local planning authority for a determination as to whether they will require prior approval for the method of demolition. This will be in addition to any other consent required for demolition (e.g. for heritage properties).

The Government is considering the outcome of this case and its next steps but in the meantime I hope this advice is of assistance.

A handwritten signature in black ink, appearing to read 'Steve Quartermain', with a long horizontal flourish extending to the right.

STEVE QUARTERMAIN
Chief Planner