



Local Listed Building Consent Order for window works including secondary glazing

Royal Borough of Kensington & Chelsea consultation

Date: 9 January 2023

Preface – this consultation

This is a consultation on a proposed local listed building consent order (LLBCO) which would allow owners of Grade II listed buildings in the Royal Borough of Kensington & Chelsea (RBK&C) to install secondary glazing (and double glazing in some very specific circumstances) without having to make individual listed building consent (LBC) applications.

We responded to this consultation online, as set out from page 2 below.

The consultation can be found here: [Closed Consultations - Royal Borough of Kensington and Chelsea - Planning Consultations \(rbkc.gov.uk\)](#).

Preface – the CLA and this consultation

Although the CLA's focus is mainly rural, we responded to this consultation partly (i) because a significant number of members have flats, houses, or other property in RBK&C, but mainly (ii) because these issues are not of course confined to RBK&C: secondary glazing, and potentially other decarbonisation measures, and other low-risk works, are of course just as relevant and appropriate elsewhere.

CLA lobbying before 2013 brought listed building consent orders (LBCOs) into heritage legislation, via the Enterprise & Regulatory Reform Act 2013. This allows local authorities to make Local LBCOs, as proposed here, though the need for these to be made by individual local authorities greatly limits their number and effectiveness. Much more effectively, it also allows Governments to make national LBCOs, which could greatly improve the under-resourced heritage protection system by allowing carefully-defined, low-risk changes to listed buildings without the need for LBC. This would allow works which create public benefit, make life less difficult for owners who want to carry out works of this kind, and free up local authorities' scarce conservation and planning staff to focus on higher-impact works which do need their input. Unfortunately, no such national LBCOs have yet been created.



CLA response to this consultation

Q1. Do you agree with the principle of creating a Local Listed Building Consent Order relating to the specified window works?

Yes.

Any additional comments:

Yes, for the reasons set out in the consultation documents. This is a sensible and (subject to the amendment of detail suggested in Q3 below) well-drafted proposal with well-considered safeguards. The risks of harm appear low. If a building owner breached the local listed building consent order (LLBCO) terms, enforcement and prosecution powers of course remain. The LLBCO has a clear mechanism for review or amending/withdrawing the order. This proposal should definitely be taken forward, after amendment as suggested in Q3 below.

In more detail:

The need to apply for listed building consent (LBC) is clearly now a serious obstacle. That is partly because of the costs of making an application, but probably mainly because of uncertainty: the risk that, even after all the costs have been incurred, LBC would not in fact be granted.

Added to the fact that installing secondary glazing is expensive, and is voluntary (in the sense that people are not generally forced to do it), it is not surprising that there are very few applications.

This LLBCO is potentially a major step forward: if and when it is in place, provided it has been amended on the lines suggested in our response to Q3, listed building owners should be able to install secondary glazing (or double glazing in the limited circumstances suggested) without having to apply for LBC. We would expect this to substantially increase owners' propensity to install secondary glazing. It should therefore also create a growing workload for contractors, who would have a strong incentive to expand and train staff to have the skills needed, increasing industry capacity and the choice available to building owners.

It will also benefit RBK&C, freeing up its scarce conservation and planning staff so they can focus on work which does need their input, and on carefully-targeted enforcement.

This LLBCO is an admirable but unfortunately unusual example of part of the heritage sector actively seeking to facilitate desirable change. The sector can be inclined to issue strong declarations about 'the climate emergency' which advocate climate change mitigation in theoretical terms, but its record in positively facilitating and promoting desirable change to heritage, including for climate change mitigation, and straightforwardly granting consents, is much less strong.

It would be easy to argue that every change to every listed building should be examined exhaustively by experts, and that RBK&C should appoint more conservation officers rather than



making LLBCOs. The problem is that post-Covid, post-cost-of-living-crisis, post-demographic timebomb, with limitless demands on taxpayer and local authority funding, neither RBK&C nor Government will fund that. A pretence that they will, so nothing should be changed until new permanent funding has emerged to 'properly' fund local authority conservation services, is damaging to the heritage sector, seen as disconnected from the real world, and above all damaging to heritage, which suffers when desirable work does not happen (or if harmful work is carried out outside the consent system).

Moreover, rejections of change (like not making this LLBCO) could well encourage Governments to grant blanket consents for specific climate change measures less well-thought-out than this proposal, like PVCu window replacement and automatic approvals of solid wall insulation, which could have net-negative whole-life carbon impacts, and/or actively cause physical harm to heritage buildings and the health of their occupants, and/or damage their heritage significance.

Finally, RBK&C should discount any suggestions that "secondary glazing often doesn't need LBC anyway, so an LLBCO is not necessary". This misunderstands the issue, which is that "often doesn't" is not the same as "never". Uncertainty about consents greatly reduces the likelihood that owners or contractors take action. The proposed LLBCO (after the amendments suggested) in contrast provides certainty.

Q2. Grade II* and Grade I listed buildings are not included in the Order. There may nonetheless be higher graded buildings which could be included where window works of the kind in the Order could be carried out without harm to interest. Do you agree with the scope of the order in terms of the buildings included?

Don't know.

Any additional comments, including any particular buildings you think should be excluded from or included in the Order.

Grade I and II* listed buildings of course require decarbonisation just as much as other listed buildings, and the measures in this LLBCO are unlikely to cause them harm. However, even in RBK&C they are a relatively small part of the overall listed building stock, so an LLBCO which excluded them would still be of real value – it would certainly be better to have a LLBCO which excluded them rather than no LLBCO at all. In the longer term, if and when it is evident that the LLBCO is effective and does not cause harm, it should be extended to Grade II* and Grade I listed buildings.

Q3. Conditions are included in the order to make sure that the window works are sensitively designed and do not harm the architectural interest of the building, and do not risk unnecessary alteration to or removal of historic fabric. Do you think we have included everything we need to achieve this?

No.



Any additional comments, including anything you think we have missed.

We have a strong concern, based on discussions with a leading secondary glazing supplier which specialises in historic and listed buildings, that the Class A conditions as drafted would make it difficult or even impossible to fit secondary glazing within the conditions, and that technically it would necessary in almost every case to seek specific written approval from RBK&C, under condition A (ii).

That would, if there was substantial uptake and people took the detail of the conditions seriously, generate a flow of tedious-to-process applications to RBK&C for the approval of very minor details.

It is much more likely, however, that this would deter building owners and contractors from taking secondary glazing forward at all, greatly reducing the amount of secondary glazing installed. Secondary glazing has a significant cost, and – as the tiny number of current secondary glazing applications in Appendix 2 shows – a real or apparent need to apply to the local authority is highly effective at stopping it from happening in practice. If the condition remained as drafted, and the LLBCO failed to significantly increase the installation of secondary glazing, this condition would almost certainly be the cause.

We therefore think that the proposed order would fail to achieve the objective, ie “to give a very clear signal to residents and businesses that we take very seriously the need to drive down carbon use and are prepared to be proactive in achieving this”.

In more detail, the main problems in the conditions in paragraph 3.2 Class A appear to be:

- (a) Fixing secondary glazing to the existing window is likely to involve at least some physical intervention, though that should be very minor and easily reversible. If under draft condition (ii) any physical intervention at all requires RBK&C written approval, that as above will almost certainly greatly reduce the amount of secondary glazing (or, less likely, create a flow of applications to RBK&C concerning very minor detail which would divert RBK&C staff away from other more important and sensitive work). We suggest an alternative below.
- (b) Condition (iv) appears to entirely exclude draughtproofing measures. That seems eccentric given that well-conceived draughtproofing of windows is a highly effective and cost-effective decarbonisation measure which is logically installed alongside secondary glazing. However, the justification in paragraph 5.3 suggests that the aim of the condition is not in fact to prevent all draughtproofing work, but simply to ensure that the gap between the panes is adequately ventilated. Assuming that is correct, this should be clarified, as below.
- (c) The ban on tinted glass in condition (v), if taken literally, would prevent the use of low-emissivity glass, which reduces heat loss considerably, because of its very slight tint. Arguably indeed it would prevent the use of almost all modern glass, because it tends to be very slightly tinted. This should be clarified as below.



- (d) In some cases untreated oak may provide a more appropriate finish than paintwork, so requiring timber to be painted as in condition (iii) may result in a less visually appropriate outcome.

A solution to these problems would be to:

1. Simplify conditions (i), (ii), and (iii) so that they focus, as briefly and simply as possible, on minimum intervention and reversibility, and invisibility from outside (this might usefully say a few words more about avoiding glazing bars or positioning them accordingly).
2. The drafting could be drawn from Historic England Advice Note 16 on listed building consent, section 11 on pp34-35 <https://historicengland.org.uk/images-books/publications/listed-building-consent-advice-note-16/heag304-listed-building-consent/>, by slightly expanding its “carefully and reversibly” wording. The key points (ie again invisibility, and minimum intervention and reversibility) can and should be stated very briefly – brevity and clarity are clearly important in a LBCO; long or confusing text would hugely reduce its effectiveness and dissuade people from using it.
3. Remove the ban on draughtproofing, while making it clear that the gap between the panes should be appropriately ventilated.
4. It would be better, given that secondary glazing and draughtproofing are best installed together, if the LBCO specifically permits the use of invisible draughtproofing, like routed-in brushes which are durable, invisible, and allow easy opening and closing of the window. For example the LBCO could allow “cutting a channel or groove into the edges of a window or window frame to accommodate draught-proofing materials” except “in cases where it would be visible, and/or affect historic fabric of significance, or would harmfully weaken the structure of the window” (this wording is drawn from Historic England Advice Note 16 as above, sections 10 and 49).
5. Qualify the prohibition of tinted glass, so that it says (for example) “substantially” or “obviously” tinted.

Q4. Do you think that this Order could go further in terms of the work consented, for instance, through allowing reglazing of large historic sashes with energy efficient glass?

Yes.

Any additional comments, including the kind of changes to windows you think we could include without harm to the special interest of listed buildings, and the buildings or building types to which they could apply.

We would welcome future LLBCOs on the lines suggested.



Q5. Please provide us with any further comments you would like to make.

Background – the CLA

The CLA's 28,000 members manage at least a quarter of all heritage, including probably a similar proportion of listed buildings. The CLA is by far the largest stakeholder body of heritage managers and owners, and CLA members are extensively involved in maintaining heritage and in change to heritage assets of all types, making thousands of LBC and heritage-relevant planning applications each year.

Although the CLA has a primarily rural locus, a significant number of our members are tenants or owners of property in RBK&C, and the issues it raises are obviously relevant to them. In addition, these issues are of course not only urban: secondary glazing and potentially also other specified measures which are effective and cost-effective are obviously just as relevant and appropriate in other places, including in rural locations. A LBCO like this could be adopted, if necessary with changes to conditions, by other local authorities, or – much more effectively – nationally, and would carry, if properly scoped and conditioned, low risk to heritage significance, much less risk than the status quo.

For further information please contact:

Jonathan Thompson
Senior heritage adviser
CLA, 16 Belgrave Square
London SW1X 8PQ

Tel: 020 7235 0511
Email: jonathan.thompson@cla.org.uk
www.cla.org.uk
