

# LOOKING AFTER YOUR OLD BUILDINGS





If you own, live or work in an historic building, you are certainly not alone. Almost one in four buildings in Britain predates 1914 and as the total of listed buildings in England, Scotland, Wales and Northern Ireland exceeds 500,000, our system of protection is second only to Italy's.

We preserve historic buildings because, in the words of the Government's *Planning Policy Guidance on 'Planning and the Historic Environment'* (PPG15) they are 'a central part of our cultural heritage and our sense of national identity'. The work of architects like Wren, Hawksmoor, Nash, Scott and Lutyens, together with their less widely known medieval predecessors, are as much part of the essence of the country as the music of Elgar, the plays of Shakespeare and the paintings of Constable.

However, this is not to say that buildings are only of value as works of art. We preserve buildings too because historically important events happened in or near them, because they are significant, rare or pioneering within a particular building type, because they are representative of a leading designer's work, or because they form part of a consistent group - a unified terrace or a sequence of pleasing variety.



**Fig. 1** Lake Street

As a nation which launched the world's first industrial revolution, much of our heritage is sturdily functional in appearance and grimy in character, whether it be the furnace, the warehouse, the railway station or the coalmine. Such buildings and structures are important for their historic interest, whether or not they are beautiful to look at.

Buildings need not be considered special on a national or international level to deserve conservation. Many thousands of the country's oldest buildings are within the tradition of 'vernacular' rather than 'polite' design, being part of a folk tradition in which houses, barns and small village churches were built by the owner or the community without the assistance of an 'architect'. We now relish the resultant asymmetry, the mixture of styles and slightly

eccentric outline to the wall and roof. It is the very 'softness' of these buildings which lies at the heart of their appeal. Almost 300 years ago Sir John Vanbrugh spoke of the 'lively and pleasing reactions' evoked by old buildings (in this case, the ruins of the old manor house at Woodstock).

Often it is the combined effect of different buildings, structures and the spaces between them which together create a unique atmosphere. Individually the buildings may be of local interest alone, but their cumulative impact together with paving, railings and other landscaping features may result in a place of national or even international importance.

## A Fragile Heritage

Historic buildings have a sense of permanence, maturity and the unselfconsciously picturesque which cannot be matched by modern structures which have been built using factory-made products under the rigours of modern building regulations.

Regional variations in style and detail rely on the use of local materials and techniques. In spite of the development of the canals in the 18th century and the railways in the 19th, most building materials remained local in origin, resulting in distinctive regional traits. However, in the modern age these regional variations are so easily ironed out as building materials are manufactured and marketed nationally, often to international standards. Once buildings in local materials have been demolished it is unlikely that they will ever be replaced.



**Fig. 2** Cudnall Street

The egalitarianism of the modern age has also created a revolution in wage levels. Handmade or natural materials, the building block of the historic building, cannot compete with cheap, modern alternatives.

The relentless mechanisation of 20th century life has also dealt a severe blow to traditional craft and building skills. Talents certainly remain but finely laid stone, carefully rubbed brick, the knapping of flint, and the setting of a



wall in cob, are now minority skills within the building trade. Historic examples of those skills therefore acquire an added and evocative rarity value. They may be difficult to replace and impossible to match.

Character is further eroded by the proliferation of poor copies of original features. Whilst subtle changes in the detailing of a window for example may not be noticeable to the untrained eye, the cumulative effect of many minor alterations combine to make a building look more like a modern 'period style' imitation, and less like an historic building.

Historic buildings can demand patience. Some early techniques of construction and design have proved unwise. Valley gutters in roofs are notoriously prone to clog up with leaves. Iron cramps inserted into masonry to bind the blocks together have tended to rust and expand, damaging the masonry. 'Bonding timbers' used in brick and stone walls for reasons which have been disputed are equally prone to rot. The front elevations of 18th century terraces are sometimes inadequately tied to the shell behind, and hardly any vernacular structures had foundations. Moreover, the physical requirements of our ancestors could be much less demanding especially in terms of heat and light. As medieval man was, on average, four inches shorter than his 20th century descendant, ducking under door lintels can be unavoidable in the older cottage.

Despite the difficulties, most if not all problems can be either cured or tolerated, and most physical shortcomings can be overcome without impairing the character which draws people to live in historic buildings.



*Fig. 3 Charlton Park Gate*

## **HISTORIC BUILDINGS AND THE LAW**

All existing buildings are protected to some degree by the need for planning permission, which is required for external 'material change', a change of use, or extension (although small extensions to some residential buildings are exempt).

Greater protection is introduced by the designation of 'conservation areas', which enable planning authorities to control the demolition of buildings within the area and act as a focus for policies and programmes to promote conservation and improvements. Specific alterations to buildings within a conservation area can also be controlled where local authorities have issued Article 4 Directions (see under 'Conservation Areas').

It is, however, 'listing' which brings the greatest level of protection (or restriction), embracing all alterations to a building and its interior, and to boundary walls and buildings and structures in the grounds or 'curtilage' of the building, as outlined under *Listed Building Consent* opposite. (Buildings and structures within the curtilage are protected if either they were built before 1948, or they are independently listed.)

### **Listed Buildings**

Technically, a 'listed building' is one which is included on the statutory lists of buildings of 'special architectural or historic interest' which are issued by the Department for Culture, Media and Sport (the DCMS). Copies of the lists for each area are deposited with the local planning authority, the county council and occasionally the local library. Classification is by address and a description known as the 'schedule' which identifies features of particular interest. It is important to recognise that the schedule is there for guidance and is not meant to be exhaustive, so the omission of an item does not mean that it is not protected.

The full lists for England are available at the offices of English Heritage at the National Monuments Record in Swindon (see Useful Addresses). A master copy is kept at the DCMS and includes identification on a map.

The lists can be changed by the addition of new buildings or by the rewriting of existing schedules. The local authority will serve notice of listing but the DCMS will also write when the grading of a building is being modified. In order to preclude pre-emptive action, no forewarning of listing is normally given.



**Fig. 4** Bowbridge Lane

Listing is a formal legal process and the papers should be kept with your deeds. A copy is also deposited in the Register of Land Charges and should be revealed by a solicitor's search when a building is to be purchased.

De-listing, although rare, is possible. This is normally carried out at the time of the resurvey when buildings are found either to have been demolished or altered insensitively. It is open to householders to write to the DCMS and ask for any listing to be reassessed, although as this is an informal rather than a formal mechanism the Department is not obliged to come to a decision. It is important to remember that the criteria considered for de-listing is the degree of architectural interest and not its structural condition, except where collapse has eradicated most of the building's importance. Physical condition can be a factor in any subsequent application to demolish but not in the decision to add it to the lists in the first place. Neither do buildings have to be occupied in order to be listed. Protection can go to structures which are boarded up or derelict.

## Listability

Most buildings constructed before 1700 'which survive in anything like their original condition' are listed as are 'most buildings of 1700-1840, although selection is exercised'. Thereafter 'only buildings of definite quality and character' are embraced. The more modern the building, the tougher the criteria.

It is sometimes forgotten that buildings are listed not because of their supposed 'merit' but because of their 'interest'. Listing is not an award system but a method of protection.



**Fig. 5** Montpellier Terrace

Buildings are listed in one of three grades, I, II\* and II, in England and Wales. (Grades in Scotland are A, B and C(S).) Those in Grade I are the most select and are by definition of 'outstanding interest'. The total is presently just over 6,000. Those in Grade II\*, estimated at some 23,000, are 'particularly important' while the vast majority, placed in Grade II, are described as being 'of special interest'. You may find reference in early deeds to a Grade III listing but this was abolished in 1968-69 when most were either up-graded to Grade II or transferred to the 'local lists' which are non-statutory inventories maintained by local authorities. 'GV' on a schedule stands for 'group value' and indicates that a building is considered to possess merely or additional value as part of a group.

The range of listable structures is extraordinary. If stone has been placed purposely on stone, or brick on brick, the structure may be listable - even monolithic-like headstones and granite paving blocks have been accepted. The lists include lampposts, garden walls, sundials, ice houses, bridges, canal locks, statues, war memorials, horse troughs, bandstands, telephone boxes, pillar boxes, stocks, lime kilns, turnstiles, milestones, mounting blocks, dog kennels, rockeries, ha-has, and even former railway carriages converted to homes. A building of no intrinsic interest may be listed if it houses important early features surviving from a predecessor or transferred from elsewhere. The rolling 'Thirty Year Rule' precludes the listing of buildings that are under three decades in age, although more modern buildings may be considered where they are of particular importance and are over ten years old.

Gardens *per se* cannot be included on the list, although there is a parallel *Register of Parks and Gardens of Special Historic Interest* in England and Wales, and an *Inventory of Gardens and Designed Landscapes* in Scotland. The similarity of wording and the use of an identical system of grading should not

disguise the fact that the Register is advisory only. Twelve hundred sites were picked up in England in the first sweep although a second resurvey is now well underway. Compilation in England is in the hands of English Heritage and not the DCMS. The equivalent *Register of Historic Battlefields*, commenced in 1995, now has 43 sites.

Since 1980 there has been a system of listing in reverse with provision for legal immunity from listing. When a planning application has been made to redevelop a site, the owner, or indeed any other party, can apply for a certificate from the Department which will prohibit the listing of any building affected. Immunity lasts for five years and any applicant should beware that on average as many as half the buildings drawn to the attention of the Department under this procedure have been listed. Any immunity from listing does not prevent the same building being included within a conservation area, an act which would prevent total demolition without consent.

## Listed Building Consent

An application must be lodged for listed building consent whenever there is a proposal to extend or to alter a listed building in any way that would affect its 'character' as a listed building. This consent, which is similar to planning permission, is also required for any proposal to demolish the whole or part of a listed building, including very small scale proposals like the breaching of a boundary wall or the insertion of a roof light.

'Character' may be a nebulous concept and, if in any doubt, always consult the Planning Department to determine whether an application is necessary.

Works of basic maintenance are generally exempt but cleaning external surfaces is not. As a rule, works of repair do not require consent unless there is any element of rebuilding or alteration.

Planning authorities have a statutory duty to protect the setting of listed buildings and relevant planning proposals will need to be advertised so that objection or support can be canvassed.



**Fig. 6** Church Road, Swindon Village

Contrary to a popular misconception, consent does extend to interiors as well as exteriors. The precise extent is a matter for the Planning Department. The control applies to all fixtures and immovable items. On the basis of past cases, fixtures include such items as paintings incorporated into overmantels, historic wallpaper, bread ovens within fireplaces, and pieces of sculpture fixed to the wall or ground. The addition of non-architectural features, such as satellite dishes and meter boxes, will also need express blessing.

Applications for listed building consent must, initially, be lodged with the local planning authority using a pro forma. Unlike planning applications, listed building consents do not attract a fee. Unless a proposal involves alterations to the interior only of a Grade II building, it will be advertised in the local paper and by a notice placed on site. In England and Wales, whenever there is any element of demolition (partial or total) five organisations must be consulted and their views taken into account. These are the Ancient Monuments Society, the Society for the Protection of Ancient Buildings, the Georgian Group, the Victorian Society and the Council for British Archaeology. The Twentieth Century Society, which deals with buildings constructed after the First World War, will be consulted indirectly through the Victorian Society. Their role is to comment and campaign, in effect providing independent defence counsel for the building.

English Heritage is consulted on all applications affecting Grade II\* and Grade I buildings, whether for listed building consent or planning permission, and on Grade IIs, where the proposal is total or substantial demolition. In London the regime is different and English Heritage will determine most applications for listed building consent and conservation area consent except where the proposals are minor. Regardless of the determining authority, all applications in London must be submitted in the first place to the local planning authority.

Just as in the eyes of the law where a person is presumed innocent until proved guilty, so listing only makes sense if it favours retention



of the building without alteration. Known legally as a 'presumption in favour of retention', the legislation allows alterations only where it can be shown that there is a need. A proposal to demolish a disused listed building would need to be supported by evidence that there is no viable alternative and that genuine efforts to sell or lease the building had been made, without success. (PPG15 explains more - see Further Information.)

Almost any conditions can be attached to a grant of consent provided that they are relevant and reasonable. All consents unexecuted after three years expire, and buildings remain listed even after a grant of consent to demolish. Listing is expunged only by an express decision of the Secretary of State to delist or by the act of demolition with listed building consent itself. English Heritage will normally be allowed a month to record the building if it has not done so already.

## Building Regulations and Fire Safety

Compliance with Building Regulations and Fire Safety requirements can introduce alterations which are highly damaging to the character of historic buildings. Typical requirements include the introduction of new staircases and balustrades, fire resistant doors and structural alterations. However, both regulations apply mainly to new structures, extensions to existing buildings and to conversions. Normally they affect standing buildings only where an existing situation is to be made worse. They do not apply to the repair of existing features, and exemptions or 'waivers' can often be obtained for alterations where rigid compliance would be damaging to the historic interest of the structure.

In this field, negotiations can be extremely complex. If in any doubt always consult a specialist professional adviser or the conservation officer.

## Conservation Areas

Since 1992 local planning authorities have been able to exercise limited control over the demolition of a house, or an adjoining building, through the system of planning permission. However, where the building falls within a conservation area an express additional permission is required called 'conservation area consent' (just as when a building is listed the additional need is for listed building consent).



*Fig. 7 Prestbury Conservation Area*

Conservation areas, first introduced in 1967, exist to protect complete districts with a definable historic character and ones in need of preservation and enhancement. Subsequent Acts of 1972 and 1974 respectively brought the demolition of buildings and the felling of trees under statutory control.

Unlike listed buildings, conservation areas in England are designated by the local planning authority without the need for the approval of the Secretary of State. The total number of conservation areas in England alone is now 9,000.

The designation of conservation areas also allows planning authorities to protect trees that are more than three inches in diameter, and so designation has been used to protect landscapes. However, nearly all conservation areas are centred on groups of buildings, whether planned estates or historic town and village centres with buildings of many dates and types.

As a rule, internal works to buildings within a conservation area are not controlled unless the building is listed, whilst demolition is also exempt where it embraces a structure under 115 cubic metres in volume. Generally speaking, however, permission to demolish a building within a conservation area is required and it will almost certainly be refused where the creation of a gap or unsuitable replacement will neither 'preserve' nor 'enhance' the locality.

The control over alterations is more complicated. Those alterations which do not require planning permission can only be controlled through the designation of Article 4 Directions issued by the local authority. This spells out certain categories of development which require planning permission, such as replacement windows, the construction of a porch or a shed, the laying of hard standing, the erection of an oil storage tank or the painting of the exterior. Where these have been introduced the Planning Department will be able to explain further.

Controls are positive as well as negative. Schemes of enhancement, the relaying of telegraph wires underground, the painting and cleaning of facades, coupled with the prevention of over-development or inappropriate redevelopment, all help to maintain and improve the quality of conservation areas.

Some local authorities operate parallel but more informal regimes, as in the so-called 'areas of high townscape merit' but these do not enjoy legal sanction.

**Note:** Where a building lies within a conservation area and is listed, listed building consent takes primacy over conservation area consent.

## Scheduled Monuments

Most historic buildings are protected either through listing or inclusion within a conservation area. There is, however, a third designation: scheduling as an 'ancient monument' which is primarily used to safeguard sites of archaeological importance. This method cannot be applied to buildings that are in residential occupation, but listed buildings may have scheduled sites within their grounds, such as earthworks, tumuli, medieval fishponds or ruins. Scheduling can also be applied to give added protection to historic machinery and can even cover moveable objects, such as cars, ships and planes. For example, Captain Scott's ship 'The Discovery' is scheduled.



**Fig. 8** Churchyard Cross, St. Mary's Churchyard, Cheltenham

The number of scheduled sites in England was around 20,000 at the end of 2001. This number is rising at a rate of approximately

1,250 per year due to an accelerated programme of reassessment. A final total of around 30,000 is expected at the end of the review. At present, scheduling is wholly the preserve of the Secretary of State and the DCMS. The Secretary of State both schedules structures and exercises control over them through the need for scheduled monument consent for any works affecting them. The regime differs from listing in that, in the great majority of cases, consent will be given, albeit hedged around with many conditions, and in the welcome practice of a regular reminder every five years to the owner that his site is scheduled. English Heritage employs a number of Field Monument Wardens who will report back on damage or illegal change.

Properties can be both scheduled and listed but where a monument is roofed and occupied as a building, it will usually be descheduled, relying on the need for listed building consent alone.

## Penalties

The protection of listed buildings, conservation areas and scheduled monuments relies on the strength of law, and illegal action can therefore bring serious consequences. Summary and indictment can bring imprisonment or fines, some of them swingeing. Parallel to the criminal process of prosecution, the Council also has enforcement powers to secure the physical removal of the offending alterations or extensions made to buildings which are listed or in conservation areas. Alternatively, works to mitigate rather than undo the effects of the illegal alteration can be required.

Where a listed building becomes 'dangerous' the District Surveyor can step in and take action through the local magistrates' court. However, local planning authorities are now required to explore all means other than demolition to remove the danger and the Council will also insist on the submission of a concurrent application for listed building consent. If the Council itself has to take action by default, the bill is sent to the owner.

Under the 1990 Act the law has a sting in its tail not only to combat contravention, but also to arrest disrepair. This is either through Section 54 'Urgent Works Notices' or a Section 48 'Repairs Notice'. Under an Urgent Works Notice, pressing but inexpensive work can be carried out on an unoccupied or partially occupied listed building (and on unlisted equivalents in conservation areas where the Secretary of State allows). Ultimately the bill for the work is submitted to the recalcitrant owner. The tougher Section 48 Repairs Notice need not be confined to urgent works or to unoccupied buildings, but is to be used 'where protracted failure by an owner to keep a listed



building in reasonable repair places the building at risk'. Inadequate response may lead to a Compulsory Purchase Order although this rarely has to be carried through.

## DESIGN

The great majority of listed buildings is in good repair and meets the needs of their occupants. However, where the space or its layout is unsuitable, extensions or alterations may have to be contemplated. In formulating plans, which will in any case require the consent of the planning authority, it is always best to involve a suitable conservation professional as soon as possible and to consult with the Council's Conservation Officer before lodging an application where the proposal is likely to be controversial.

Accepted conservation philosophy agrees that there are two methods of extending or altering an historic building - either by careful or seamless 'keeping in keeping' or by making the new work visibly, but not discordantly, new. Both approaches bring with them risks as well as advantages but each should be guided by the need for minimum intervention with historic fabric, reversibility wherever appropriate or practical, and the avoidance, except in exceptional circumstances, of speculative restoration. Generally speaking, later work adds to the historical richness of the building and should not be removed or replaced except where there is a consensus that it is visually unacceptable or physically damaging.

## FURTHER INFORMATION

### Recommended Reading

Mynors, Charles, *Listed Buildings and Conservation Areas*, Pearson Professional Ltd, Southport 1995

Suddards, Roger, *Listed Buildings Law and Practice*, Sweet & Maxwell, London 1992

*Guide to Historic Buildings Law*, Cambridgeshire County Council Planning Section, 1997

*The Building Conservation Directory* (annual), Cathedral Communications Limited, Tisbury, Wiltshire – [www.buildingconservation.com](http://www.buildingconservation.com)

*The Heritage Monitor* (annual), the English Tourism Council

Acts of Parliament:

- Town & Country Planning Act 1990
- Planning (Listed Buildings and Conservation Areas) Act 1990

Government Guidance:

- Planning Policy Statement 5 (PPS5) – Planning for the Historic Environment
- PPS5 – Historic Environment Planning Practice Guide

## Funding Sources

Most grants and other sources of funding are restricted to registered charities and voluntary organisations. Three of the largest sources are listed below.

### English Heritage

Customer Services Department, PO Box 570, Swindon, SN2 2YP

Tel 0870 3331181 Fax 01793 414 926

Historic Buildings and Monuments Grants are offered towards the cost of repairing scheduled monuments and listed buildings (usually Grades I and II\*). However, grants are targeted towards those buildings and owners with greatest need, and private homes and commercial properties may be excluded if the increase in value of the property when repaired will exceed the cost of the repairs.

### Heritage Lottery Fund

7 Holbein Place, London SW1W 8NR

Tel 020 7591 6000 Fax 020 7591 6001

The Fund offers grants mostly to public organisations and registered charities for the protection of land, buildings, objects and collections which are considered of interest to the local, regional and national heritage. Private houses can benefit under the Townscape Heritage Initiative.

### Landfill Tax Credit Scheme

Entrust, 5th Floor, Suite 2, Acre House, 2

Town Square, Sale, Cheshire M33 7WZ

Tel 0161 972 0044 Fax 0161 972 0055

Operators of landfill sites are able to make contributions to registered organisations to support environmental initiatives in lieu of paying some tax on the disposal of waste. Projects can include the conservation of historic buildings and places of worship within 10 miles of a landfill site where the work contributes to the protection of the environment. Organisations must register with Entrust (the regulatory body) and also elicit the support of a landfill operator (not necessarily the local one).

### Other Grant Sources

Some Government bodies such as MAFF and the DETR offer grants designed to help regenerate local areas. There are also several charities offering grants locally or nationally, although like the Heritage Lottery Fund these are usually restricted to buildings which are owned or used by other charitable organisations. The best source of information is published by the Architectural Heritage

Fund; *Funds for Historic Buildings – A directory of sources.*

## Useful Addresses

Ancient Monuments Society  
St Ann's Vestry Hall, 2 Church Entry,  
London EC4V 5HB  
Tel 020 7236 3934 Fax 020 7329 3677

Council for British Archaeology  
Bowes Morrell House,  
111 Walmgate, York YO1 2UA  
Tel 01904 671417 Fax 01904 671384

Department for Culture, Media and Sport  
(formerly the Department of National Heritage)  
2-4 Cockspur Street, London SW1Y 5DH  
Tel 020 7211 6200 Fax 020 7211 6210

Department of the Environment,  
Transport and the Regions  
Eland House, Bressenden Place, London  
SW1E 3EB  
Tel 020 7944 3000

English Heritage  
Customer Services Department, PO Box 570,  
Swindon, SN2 2YP  
Tel 0870 3331181 Fax 01793 414926

Regional office:

South West Region  
29-30 Queen Square, Bristol BS1 4ND  
Tel 0117 975 0700 Fax 0117 975 0701

English Heritage - National Monuments  
Record Centre  
Kemble Drive, Swindon SN2 2GZ  
Tel 01793 414600 Fax 01793 414804

Georgian Group, The  
6 Fitzroy Square, London W1P 6DX  
Tel 020 7387 1720 Fax 020 7387 1721

The Institute of Historic Building Conservation  
(IHBC) Business Office: Jubilee House,  
High Street, Tisbury, Wiltshire SP3 6HA  
Tel 01747 8717

Royal Institute of British Architects  
66 Portland Place, London W1N 4AD  
Tel 020 7580 5533 Fax 020 7255 1541

Royal Institution of Chartered Surveyors  
12 Great George Street,  
Parliament Square, London SW1P 3AD  
Tel 020 7222 7000 Fax 020 7222 9430

Royal Town Planning Institute  
26 Portland Place, London W1N 4BE  
Tel 020 7636 9107 Fax 020 7323 1582

Society for the Protection of Ancient Buildings  
37 Spital Square, London E1 6DY  
Tel 020 7377 1644 Fax 020 7247 5296

Twentieth Century Society, The  
70 Cowcross Street, London EC1M 6BP  
Tel 020 7250 3857 Fax 020 7251 8985

Victorian Society, The  
1 Priory Gardens, London W4 1TT  
Tel 020 8994 1019 Fax 020 8995 4895

## Council Information

For further information and advice concerning  
this leaflet or any heritage issue, please  
contact:

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PO Box 12  
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