

Listed Buildings and Conservation Areas

The idea behind listing a particular building is borne of a sense of nostalgia and preservation of our architectural heritage. Listing a building is designed to protect the whole building both inside and out. It can include outbuildings and the setting in which the property lies. This does not just relate to some fine country house which may include a folly or a temple etc. It can also incorporate an interesting group of buildings perhaps a model village, a square, an industrial mill, or royal naval dockyard to the most humble cottage - just about anything that has played a part in our sense of national and regional identity.

AGE OF BUILDING

The older a building is the more likely it is to be listed. Practically all buildings constructed before 1700 which survive in anything like their original condition are listed. These are followed by most buildings up to 1840. After that there has to be some very special feature to be considered worth preserving.

The most exceptional buildings are **Grade one** which effects only about 2.5% of listed buildings. Next is **Grade Two** * where the building is particularly important and of more than special interest and accounting for approximately 5.5% of those listed. Then there is **Grade Two** for buildings of national importance and special interest. These represent some 92% of listed buildings a total of about 375,000 in all. In parallel with these there are scheduled ancient monuments, registered historic parks, and gardens conservation areas and so on.

LISTING CONSEQUENCES

The listing of a building is not a preservation order as such. It is an identification stage. But those buildings worthy of being recorded as having exceptional, architectural historic special interest will qualify. Listing as such does not freeze a building in time but does mean that listed building consent must be applied for if any changes to that building are desired by its owner. Listed buildings can be altered or extended, and sometimes even demolished, provided the government planning guidance is complied with. If you are the owner of a listed building then you are obliged to ensure that the property is maintained in a reasonable state of repair. There is no obligation to effect improvements, but you must not cause the building to fall into any worse state than it was when it came into your ownership. This may of course require some work in order to keep a building wind and water tight. A photographic record of the property when it came into your ownership may be very useful. But you may inherit a building with incomplete or unimplemented work from the previous owner which you will become liable to complete. The local authority can take legal action against you if they believe you are deliberately neglecting a property, or if you have carried out works without consent.

MAKING ENQUIRIES

You can **find out if your building is listed** by making enquires with the local authority planning department. There you can obtain a copy of the listing detail, that is to say the actual features which have been recorded on the list for your building.

APPLICATIONS AND NOTICES

A building which is not yet listed but which may qualify as being listable can be made a subject of a **building preservation notice** in order to protect the building for six months whilst the authority has an opportunity to assess it. Any member of the public can apply to the Department of National Heritage for a building which is considered to be at risk for what is known as “**spot**” **listing**. On the other hand, a developer can apply for a certificate of immunity from listing so that he can be confident that his plans for development will not be thwarted by subsequent listing during the period of immunity. In certain exceptional circumstances, an application may be made to **de-list a building**. The owner would have to come up with some very convincing evidence to demonstrate the original assessment of the building’s interest was wrong and that it does not possess the special interest which caused it to be listed.

CONSENT TO CHANGES

Once listed the special listed buildings consent will have to be obtained from the local planning authority to carry out any demolition alteration or extension that in any way affects the character of the building and there are **substantial penalties** available for enforcement in a suitable case.

LOCAL AUTHORITY POWERS

If the local authority considers that any listed building is not being properly preserved it can so serve a “**repairs notice**” specifying the works which are required to the proper preservation of the building, and giving two months for compliance, failing which they may in extreme cases make a compulsory purchase order. In the case of deliberate neglect, for example where the owner wishes to redevelop the site, the local authority

can not only acquire the building but may do so at a price which excludes the value of the site for redevelopment. Where a building is unoccupied, a **seven day notice of intention to carry out repairs** which are urgently necessary, can be given and the costs recovered from the owner.

GRANTS

In some circumstances it is possible to apply for a grant for such matters as re-roofing treating dry rot or carry out structural repairs however there is usually very little money available especially in the present climate of cut backs.

CONSERVATION AREAS

These are **areas of special architectural or historic interests of the character and appearance which it is desirable to preserve or enhance** i.e. not limited to an individual building. This is to provide the local authority with an additional measure of **control which applies to unlisted buildings** within such an area, and can even extend to proposals to development which are outside the designated Conservation Area boundary but which may potentially affect the character and appearance of that area. Thus, **conservation area consent must be obtained** for any sort of development in such areas.

It is important to know that trees within a conservation area are treated in the same way as if they were protected by a Tree Preservation Order. Thus, council approval must be obtained for work carried out to trees within the conservation area. Trees in a dead or dangerous condition can be accepted, but it is always advisable to contact the local authority tree officer to make sure that the proposed works are acceptable.

ACTION

So if you have set your heart on buying a lovely old country property, it is essential to know whether it is or may become listed. Check also whether it is in a conservation area as you will find that plans that you may have to build an extension, or a granny annex, or a swimming pool, or garage, or workshop, or perhaps to cut down some trees could well be limited or subject to special conditions. Such controls are put in place to make sure that the overall effect of the finished result is in keeping with the original protected building.

It is a veritable minefield. As I always advise, seek good legal advice. Feel free to contact me to discuss your property requirements on **01288 35 9000**, email me at **david.helman@busbyslaw.co.uk**.

David Helman
Notary Public
Busbys Solicitors
Bude & Holsworthy