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A FUTURE FOR OLD BUILDINGS?

Listed Buildings: The Law and the Practice

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SOME SOLUTIONS

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In precisely the same way as our society revolves around a series of social and economic choices, the key to the future of old buildings lies in our sense of priorities and this is desperately in need of a re-examination at the present time. The undoubted growth in preservation consciousness over the last five years or so has reduced the rate of demolition of old buildings, but the depressing change in the country's economic climate has increased the neglect rate and, broadly generalising, the structural condition of old buildings has deteriorated. So what happens now to our architectural heritage, particularly to that part of it which is listed? This is what I hope to explore in this talk.

My solutions relate specifically to listed buildings, but, obviously, in an exercise of this nature, old buildings have also to be considered in their generality. Because of the lack of any inspired solutions on my part, I have avoided some temptingly extravagant ideas and attempted to follow a logical course based on factual information and personal experience ending, I hope, with some sensible and practical suggestions capable of implementation even in these days of so much political and economic uncertainty. Despite the publicity it has attracted in the press, I do not propose to adopt the scheme evolved by an aristocratic Estate lessee in Mayfair for solving the problem of maintaining a listed building.

1. Inescapable Facts

Before any progress can be made on the solutions, the problems themselves have to be identified and their nature and extent assessed against a backcloth of facts which are inescapable and cannot possibly be ignored in considering the future of old buildings.

Every year, an increasing number of old buildings, a certain proportion of which are listed, outlive their original function and become a potential liability, and unless these buildings are adapted for suitable viable alternative uses, they will cease to have a useful future life,

with dire consequences for the buildings. We cannot afford to disregard this possibility as the retention of old buildings is vital to our society, to which they give a degree of stability and continuity and ensure that the pace of townscape change is gradual. It is worth remembering that Smigelski once remarked "A town without old buildings is like a man without a memory". Although this sounds fine, it has to be accepted, in practical terms, that the retention of old buildings does not imply preservation at all costs, but rather the retaining of selected buildings for their architectural or historic value. It must also be recognised that in most of our cities and towns where modern buildings are in a minority, the quality of the area is directly influenced by the condition of its older buildings. These old buildings are becoming prohibitively costly to maintain to the desired standard and this in itself is a powerful argument that the most valuable of our older buildings, those that are listed, are a deserving case for special treatment.

There is ample evidence of good owner and local authority co-operation in producing preservation schemes to provide for the restoration and future maintenance of listed buildings without recourse to public funds. This really is positive planning on a continuing basis from which we all derive benefit and it certainly deserves to be encouraged. On the other side of the balance sheet, however, it needs to be acknowledged that preservation schemes are being discarded, or are failing to materialise, for four principal reasons. These are the inflexible interpretation of land use policies, the inability of owners to fund costly restoration and adaptation works, planning delays and cost escalation and comprehensive redevelopment plans which sometimes spring more from reasons of prestige or increased rate revenue than planning gain.

During the last two decades, even the most ardent supporter of modern architecture has had to admit that new buildings have often failed to please aesthetically and have not created the anticipated improvement in living and working conditions. High-rise flats are just one example. This has tended to spur on the preservationist in his strong resistance to change regardless of building quality and other legitimate considerations. My own experience is that the public is inclined to be voluble in its support of preservation philosophy, but, on the practical front, it is quite a different matter. There is a dangerously apathetic and indifferent attitude around and genuine interest, let alone passionate feelings, is too often only aroused if vested interests are involved. This invariably means that strongly motivated minority groups, not necessarily representative of the people most deeply involved, command a disproportionate amount of publicity and consideration.

## 2. The Elusive Balance

One of the most essential ingredients in any sound planning policy is the correct combination of buildings and the proper balance of uses in

those buildings - it is an extremely elusive element, often too readily dismissed as unattainable, but capable of being achieved by responsive local planning within a strategic framework.

Inevitably, there is a conflict between pressure to redevelop and the wish to retain individual buildings and groups of buildings of architectural and historic interest. The fact, however, is that the wrong decision may either fail to meet a legitimate demand or destroy the very character that has helped to create that demand.

In any urban environment, a delicate balance must be struck between old and new buildings and the uses in them and this is as critical as the economic and social mix of the population. At first glance, the uses may seem to be a secondary issue compared with the wish to retain the buildings, but their importance can be emphasised in two ways. The first is that the uses in an area make as great a contribution to determining the character of it as the buildings themselves - how dead Covent Garden seems now that the market has moved to Nine Elms. The second reason is that an occupier must be found whose uses will be appropriate for the location and who will also be willing and able to maintain the building.

If a city or town is to remain a living organism, a vigorous, diverse, interacting land use balance is essential. This all sounds rather dull and theoretical, but it is quite the reverse when put into practice. The right policy will produce a thriving and prosperous community which will preserve the local communities and traditions and make certain that suitable redevelopment proceeds at a sensible pace. The wrong policy will result in neglect and decay.

### 3. The Procedural Hurdle

The existing planning procedures for listed buildings seem to be designed to complicate and confuse wherever possible and it is not surprising that owners are frequently overcome with a feeling of despair and helplessness. It is a case of not being able to see the wood for the trees!

Listed buildings are part of our national heritage and, therefore, it is incumbent on both the owners and the authorities to ensure that our successors are able to enjoy them and it is generally accepted, I think, that this country would be a vastly poorer place if owners neglected their duty or took too narrow a commercial attitude. These are times when central and local government assume increasingly wide-ranging responsibilities for our general and cultural well-being and leisure activities (a pre-destined cradle-to-the-grave existence seems to be the aim of some of our politicians). Strangely, this attitude has not extended to ensuring that buildings of architectural and historic interest are satisfactorily maintained for future generations to see and visit. There is clearly a mutuality of interest and objective so why then do we frequently find acrimony between owners and planning authorities?

So far as I can judge, the existing legislation relating to listed buildings is sound enough in theory, but, unfortunately, my almost daily experience is that it has serious shortcomings when put into practice. The powers and roles of the two-tier local government system need to be more clearly defined and this would go a long way towards overcoming the inordinate delays and unnecessary duplication of duties which occur with such persistence. In London, the Borough Councils, Greater London Council and the Department of the Environment all have a hand in listed buildings. This is symptomatic of the overlapping procedures now badly in need of co-ordination. The obvious and recurring indictment of our planning machine is the fact that protracted delays and frustrations and, sometimes, a fair measure of friction are now anticipated by a realistic applicant as a natural part of planning life. This need not be so and can be remedied.

As matters stand at the moment, the local and strategic authorities can both act as the local planning authority in considering an application for a listed building consent. It is by no means unknown for the two authorities to hold diametrically opposing opinions on what is involved and this leaves the applicant with no alternative but to take the issue to Appeal - a time-consuming and costly affair. Why should the owner have to meet the costs of an Appeal for what is purely an internal planning policy or dogma disagreement between the two authorities?

The decision to preserve a building is not a short-term expedient, spot listing apart, but a conscious long-term commitment. It is quite impossible to consider the preservation of a redundant listed building, or one with an unviable use, without some joint guidance from the local authority on both architectural and use considerations, but this is where a diagnostic incompatibility between architects and planners is often exposed and this creates problems with formulating any joint guidance. The root of the problem may lie in the original listing and then we have to ask ourselves whether the question of a future use was sufficiently explored at the time the listing was done, or was it a case of authority being arbitrarily exercised without adequate responsibility?

#### 4. Economic Realities and Practical Frustrations

Surprising though it may seem, preservation was advocated and practised in one way or another long before Building Preservation Orders came on the scene, but in those days it was a voluntary matter on the part of owners. Apart from what seems to be more than its fair share of trials and tribulations, the major difference today is the legal and technical complexity and scale of the problem and the fact that obligations are imposed on numerous owners who cannot fulfil them.

Due to the state of the economy, escalating building costs, restricted rents and low prices, there has been a dramatic change in property market conditions over the last two or three years. Today, even if aesthetically and architecturally desirable in the interests of

preservation, the conversion of large houses is no longer a viable proposition notwithstanding Housing Act grants and, at the same time, houses and cottages are not being maintained to the necessary standards by owners, who find the costs an intolerable burden.

A frightening realisation is that the present cost of comprehensive restoration comprising a certain amount of major structural work equates with the cost of new building. This serves to emphasise that the improvement and the subsequent maintenance of listed buildings needs either a viable use or a non-viable use supplemented by financial assistance. The non-viable commercial building must either have a change of use or be subsidised if it is to be retained. This is not so simple with a residential building where homes are involved. No matter how ingenious a preservation scheme is designed, it is probable that the building will not comply in all respects with the building regulations, daylighting codes, fire regulations, etc. and in these cases, provided there is no danger to life or limb, the authorities should show a greater willingness to waive these requirements which will encourage preservation by reducing costs.

The finite form of our planning system and its inability to adjust readily to changed circumstances causes practical difficulties which can operate strongly against the preservation of listed buildings. Here is an example of the problem. A sizeable area of land developed over a hundred years ago with small houses, some of them listed, was designated as the site for a new school in 1955. Then, the population trends were soaring, but now, 21 years later, it is accepted that birth forecasts were too optimistic and the expected school population trend has plummeted. Two things have certainly happened. The site is no longer needed for educational purposes and the buildings which have been blighted for 21 years have deteriorated virtually beyond repair. You may say this is shameful. I agree, but the site still remains designated for educational purposes and the buildings still continue to deteriorate further. Despite repeated representations, the authorities will not translate their own school population statistics into action and remove the obsolete school designation. This is a case for planning to be more responsive and more certain.

Sooner or later, the economics of preservation have to be carefully analysed and assessed by owners and the economic factors have undoubtedly become more important as the financial risks have increased. At the present time, however, it is difficult to say with any confidence what impression a strong economic case may have on the local authority or the Secretary of State for the Environment. Over the last 18 months, two Appeals have been heard on properties in the same street in Mayfair where the decisions show a worrying inconsistency. The first case was successful for continued office use in a former residential building and the Inspector emphasised that the building was not reasonably capable of conversion to residential use because of the costs involved. The second case also involved a reversion from office to residential use and it was agreed by both sides that a conversion scheme was not a commercial proposition. The Inspector recommended a five-year extension of the existing office use to allow for a general market

improvement, but the Secretary of State overruled this recommendation and the building has to be converted by the lessee, who will suffer a huge loss from the operation, or the building will be left unoccupied in its present condition. Can this possibly be construed as an enlightened piece of practical planning?

## 5. Limited Options

Let us consider for a moment the extremely limited options that can be explored when listed buildings become redundant. The desired objective is to ensure that the buildings will be properly preserved on a self-supporting basis, which can mean the injection of a new use restoring the buildings' functional usefulness.

Undeniably, the answer to a redundant listed building lies either in a change of use within the present structure or an adaptation or reconstruction to other acceptable uses. The physical alterations can usually be agreed without any great difficulty with realistic local authorities, who are as anxious as the owner to see the building preserved, but a change of use raises defined policy problems and needs the ratification of the Councillors. This is frequently a major stumbling block.

For the fortunate few, there is the parasitic solution. This happens where listed building restorations can be subsidised out of profitable office and other commercial redevelopments. This is a most helpful contribution which can only be done on a small scale and, of course, it ceases to exist when redevelopment becomes unfashionable. Residential redevelopment cannot possibly sustain any additional costs for listed buildings at the present time and, in any event, it may be inappropriate that it should do so.

## 6. Preservation in Action

The evolution of a townscape is a slow process and preservation policy needs to be continually re-assessed with patience and imagination. Despite the financial difficulties encountered by numerous owners in meeting the cost of necessary repairs, there is generally scope for the fertile mind, if not too inhibited by bureaucracy and basic economics, to find ways to resuscitate buildings and revive communities by the discerning distribution of uses within a strategic land use policy. Here are some examples of preservation in action:-

### (a) St. John's, Smith Square, London

This was built early in the eighteenth century, with subsequent alterations up to 1824, but the building's life as a Church was brought to an end when it was gutted by bombs in 1941. St. John's is a rare example of early English baroque and is built on a

monumental scale. Obviously, if such a building was to be fully restored, a new use would have to be found for it. A solution came when it was agreed that it should be used as a centre for both religious and cultural activities and an upper hall has been created for exhibition and concert use.

(b) Ghirardelli Square, San Francisco

This development on the waterfront overlooking San Francisco Bay was carried out between 1893 and 1916 as a factory and warehouse complex belonging to the Ghirardelli chocolate company. One of the buildings, the Woollen Mill, is of an earlier date and was the oldest factory in the Western States of America. The old buildings have been imaginatively restored and converted to a number of new commercial uses and new buildings have sympathetically been incorporated to create a remarkably fine waterfront shopping centre.

(c) Ilminster, Somerset

The building here is a small house built nearly 150 years ago of local Ham stone with a thatched roof and the present owner, an old age pensioner, has occupied the house for over 60 years. Two years ago, it was realised that extensive repairs were needed to the thatched roof to keep the building wind and water-tight and two estimates were obtained for the necessary work - the cost of a new roof would have been £2,000 and the cost of repairs to the worst parts of the roof was put at £450. The owner could not contemplate a new roof and the partial repairs were carried out, but the owner was unable to obtain any financial assistance from either the District Council or the County Council and, in the end, the £450 was borrowed to carry out the work and the ultimate repayment will undoubtedly create some hardship. This puts a different slant on an owner's responsibility to preserve a listed building.

(d) Temporary Office Consents - Mayfair

Temporary Office Consents were issued to re-accommodate in Mayfair professional firms and businesses displaced by bombing in the City of London during the Second World War. These buildings had formerly been used for single family occupation. In the main, two periods for Temporary Consents were adopted - one expired in 1971 and the other will expire in 1990. The difference in the term of the Consents recognised the degree of constraint on any possible conversion to residential use. A significant portion of the 1971 Consents have now been converted into life-of-the-building office Consents after a classic preservation discussion with the City Council. In these cases, it was agreed that the buildings were incapable of being converted to residential use without destroying their architectural features. Some of the remaining buildings subject to 1971 Consents have now been converted to residential use, but others are quite unviable at the present time and are still under discussion.

accommodation behind the restored facade. This was one of the first schemes of its kind to be completed and its success has encouraged others to follow suit.

These examples emphasise what can be achieved when owners and local authorities are frank with themselves and the public in the interests of our architectural heritage. The sad fact is that preservation ranks high only in the verbal and histrionic ratings.



## 7. Suggested Solutions

Enough has been said in this Paper about practical difficulties and financial problems and I must admit that they are far easier to identify than to remedy. Here are some suggested solutions which, obviously, are not in themselves a panacea for all our preservation ills, but, if adopted, they would constitute an encouraging, even if belated, step in the right direction.

- (a) The future of listed buildings is a national problem which deserves to be treated on a national scale. A wholly inadequate situation exists at the present time whereby funds are disbursed by the Historic Buildings Council for England and the local authorities in the form of grant aid. For 1976/77, the budget of the Council for structural repairs is £2 million, but this sum will satisfy only a fraction of the total deserving applications. The allocation to the Council in 1972/73 for repairs was £1 million, which actually means that the level of allocation for 1976/77 has little more than matched the inflationary trend of building costs.

The position today is that a listed building does not automatically qualify for a grant. The funds available for grants are so limited that even for outstanding buildings, any financial assistance must be directed to where it is most urgently needed and the owner is expected to discharge a proportion of the cost of the repairs and to show that the total costs are entirely beyond his means. In the context of grant aid, it is quite reasonable to say that grants are made for the benefit of buildings and the public, not for the benefit of owners. Furthermore, from the taxpayers' point of view, by far the cheapest way to preserve these buildings is for the owners themselves to continue to look after them.

My opinion is that funds should be allocated annually by the Government to a Listed Buildings Fund for the making of more realistic grants towards the repair of listed buildings in England. The new Fund would supplement and complement the superb work of the Historic Buildings Council and operate in a similar centralised manner with regional representation. One considerable advantage of a central Fund is that resources are distributed over the country fairly whereas, under the existing system, buildings in certain counties which are less preservation conscious suffer at the present time. The essential point is that buildings should not be penalised on a geographical basis.

A sensitive by-product of preservation and local authority grants is the contention that grants extend the life of old buildings and keep rateable values and rate revenue at a low level. The relevance or validity of this proposition to any city or town needs to be extremely carefully analysed.

The annual statistics of public expenditure need only a cursory examination to realise that vast sums are devoted to contentious national projects each year. In my opinion, therefore,

the Listed Buildings Fund should be allocated at least £5 million per annum in the first instance as a more realistic recognition of the country's architectural heritage, the important part it plays in our daily lives and the unquantifiable contribution it makes to attracting the international tourist. My contention is that the suggested figure is certainly not excessive in relative terms if priorities are properly assessed. It is merely a drop in the ocean of our national budget!

- (b) With the number of listed buildings increasing by over 100% between December 1968 and March 1976 to a total of 229,629, the problem of lower maintenance standards is becoming increasingly acute. The obvious temptation is to advocate a reduction in the Statutory List by devising a new de-listing procedure, but is this a sensible thing to do when one has to acknowledge, I feel, that the listings were a matter of sound architectural and intellectual judgment in most cases? My suggestion is that future listings should adhere to a stricter code of practice and specify the part of the building to be preserved, and provision should be made for owners to Appeal against listings. At the same time, the Grade II buildings should be re-examined and a proportion, assessed on architectural quality, either removed from the List or allowed a considerably relaxed treatment by the planners so far as alterations, materials and other works involving the owners are concerned. This would go some way to easing the problem.
- (c) As periodic injections of capital on permanent improvements are inevitable for any building in the medium and long term, I consider it is reasonable that a capital allowance or depreciation allowance, similar to those existing for farm, industrial and research buildings, should be given for capital expenditure on listed buildings and the allowance offset against any rental and other income received. This would give some encouragement to owners to carry out improvements, but, of course, the allowance would not be effective if tax is not paid. Looking a little further ahead, it is worth remembering that a proportion of the improved value would be claimed by the Inland Revenue under the Capital Transfer Tax.
- (d) Because skilled workmen and traditional materials are used and the repair and redecoration cycle is more frequent, the cost of day-to-day repairs to listed buildings is a good deal higher than the equivalent repairs to modern buildings. To assist owner-occupiers to maintain their listed buildings to the proper standards, I suggest that the additional cost is admissible for tax relief. This could be done by saying that a percentage, say 25%, of all repairs to listed buildings is allowable against tax.
- (e) A virtually insuperable difficulty today is the preparation of viable residential conversion schemes. These schemes are uneconomic on market rents - more so on Fair Rents - and

consequently the number of listed large houses which are under-used or vacant is increasing due to the prohibitively high maintenance costs. The private owner or investor cannot possibly wrestle with the problem, so what are the alternatives? The building remains as it is, the owner is given some financial assistance to carry out the conversion or the local authority must step in.

The grants provided under the Housing Act are certainly helpful, but insufficient to produce an economic scheme where major alterations are involved. A conversion scheme both restores the listed building and achieves a badly-needed residential gain and these two elements should be more positively recognised. My suggestion is that the present difficulty could partly be overcome by the introduction of a new standard grant based on the number of habitable rooms in the newly created flats. The level of the grant would be a percentage of the total cost of the work undertaken by the owner and, in this way, the repair of a listed building and the addition of residential units has been achieved in one fell swoop. This is how the hotel shortage was eliminated in London a few years ago.

(f) I consider that a re-definition of responsibilities is needed in the two-tier local government system and the London Boroughs and District Councils should be able to decide more fully their own destiny within an agreed strategic plan. After the strategic authority allocates its uses for a specified period of time, the local authority should be left to use its own discretion as to the distribution of these uses. The facility for buildings with widely differing uses to complement each other is not sufficiently recognised in land use policies, and I suggest that a more relaxed policy on land uses is appropriate, particularly in urban environments.

(g) The future of a listed building often depends on the physical capability and financial viability of the building for a particular use. This fundamental issue can be the source of protracted and sometimes inconclusive discussions which may end with an Appeal to the Secretary of State for the Environment. I suggest that issues of this nature should be submitted to an independent professional committee nominated by the Royal Institution of Chartered Surveyors, or a similar body, for a decision within a specified period of time. This would save an enormous amount of time, worry, expense and effort.

It is for others to judge the accuracy and reasonableness of my diagnosis and suggested remedies. I can only hope that they stimulate further consideration of an important national problem and do not reveal what G.K. Chesterton once called "eyes that see qualities other men cannot see - the eyes of a mystic or an estate agent".