

# PLANNING PROCEDURE TABLES

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# BUILDINGS OF SPECIAL ARCHITECTURAL OR HISTORIC INTEREST

## Listed buildings (s. 54)

### Procedure—listing

1. The Secretary of State compiles the list, or approves a list compiled by some other person. He may amend a list from time to time by the inclusion or exclusion of buildings or otherwise.
2. The Secretary of State, as soon as he has compiled or approved a list, or made or approved an amendment, deposits a certified copy with the London borough council and Greater London Council in Greater London and elsewhere with the district council and C.P.A., which is registered in the appropriate local land charges register. The Secretary of State and the authorities are to keep copies of the lists available for free public inspection.
3. As soon as the Secretary of State has informed the London borough council or the district council of the inclusion or exclusion of a building in or from a list that council must serve notice of the listing, or exclusion by amendment from the list, in the prescribed form on every owner and occupier of any building included in the list.
4. There is no right of objection to the listing of a building, but in effect this may be achieved informally by writing to the Department of the Environment or formally by applying for listed building consent and, if refused, appealing on the ground that the building should not be listed (see step 9 on p. 107).

### Unlisted buildings—building preservation notices

5. L.P.A., if of opinion that an unlisted building other than an excepted building (see note to step 9) is of special architectural or historic interest and is in danger of demolition or of alteration so as to affect its character as such, may apply to Secretary of State for building to be listed and serve on owner and occupier a building preservation notice:

- (1) stating building appears to them to be of special architectural or historic interest

### Section (or Rule, etc.) and Notes

S. 54 (1). See also Circular 102/74, paras. 4-11 and Appendix thereto, giving principles of selection.

S. 54 (4) as amended by the L.G.A., 1972, Sched. 16, para. 28.

S. 54 (6).

S. 54 (8).

S. 54 (7) as applied by the L.G.A., 1972. The prescribed forms are in Sched. 3 to the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) Regulations, 1972, S.I. 1972 No. 1362.

S. 58 (1).

L.P.A. for this purpose includes both D.P.A. and C.P.A., except in a National Park where it is C.P.A. only (L.G.A., 1972, s. 182 (2) and (4)).

The form of notice is not prescribed.

If it appears to the L.P.A. to be urgent that a notice should come into force,

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**Procedure—listing**

- and that they have requested the Secretary to consider listing it;  
and  
(2) explaining effect of section.
6. Notice comes into force as soon as served on owner and occupier and remains in force for six months or until decision of the Secretary of State on request to list, whichever is the earlier. Notice has same effect as if building listed, except for application of s. 57 (see step 9 (2) below).
7. If the Secretary of State decides not to list, L.P.A.:  
(1) notify owner and occupier; and  
(2) may not serve another notice for the building within 12 months.
8. If the Secretary of State does not list the building before the expiration of the notice, compensation may be claimed by application in writing to L.P.A. within 6 months or such longer period as Secretary of State may allow. Compensation is for loss or damage directly attributable to notice including damages for breach of contract in discontinuing or countermanding any works on account of the notice.

**Section (or Rule, etc.) and Notes**

- they may, instead of serving on the owner and occupier, affix the notice conspicuously to some object on the building (s. 58 (6) as inserted by the Town and Country Planning (Amendment) Act, 1972).
- S.58 (3).
- S. 58 (4).
- S. 58 (5).
- S. 173 and reg. 7 of the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) Regulations, 1972, S.I. 1972 No. 1362.

**The new preservation procedure**

The L.P.A. for this procedure is, outside Greater London, the D.P.A. except in a National Park, where it is the C.P.A. (except as mentioned in the next headnote on p. 105). (L.G.A., 1972, Sched. 16, para. 25 and s. 182 (4) and (6)).

9. (1) A person who executes or causes to be executed unauthorised works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest is guilty of an offence: on summary conviction imprisonment for not more than three months or maximum fine £250 or both; on conviction on indictment imprisonment for not more than 12 months or unlimited fine, in imposing which the court are to have regard to any financial benefit to the offender from the works, or both.

S. 55 (1). The provisions of ss. 55 and 57 do not apply to buildings used for ecclesiastical purposes, other than a minister's residence, or ancient monuments dealt with under the ancient monuments legislation (s. 56 (1), and see Circular 102/74, paras. 12-14). These are called "excepted buildings".

S. 55 (5).

It will be a defence to proceedings under s. 55 (1) to prove that the works were urgently necessary in the interests of safety or health, or for the preservation of the building, and notice in

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**Procedure—listing**

**Section (or Rule, etc.) and Notes**

- (2) Also a person who does or permits any act which causes or is likely to result in damage to a listed building with the intention of causing such damage unless authorised by a planning permission or listed building consent is guilty of an offence: maximum fine £100, and, where he fails to take steps to prevent damage or further damage, maximum daily fine £20.
- (3) And see enforcement procedure on p. 109.
10. Works are unauthorised for the purpose of s. 55 (1) unless:
- (1) L.P.A. or Secretary of State have granted a listed building consent for them; or
- (2) planning permission has been granted since 1968 for development including the works *and the permission expressly authorises the works*;
- and, in either case,
- (3) in the event of demolition notice is given to the Royal Commission on Historical Monuments and they are allowed one month to record the building.

writing of the need for the works was given to L.P.A. as soon as reasonably practicable (s. 55 (6)).

S. 57.

S. 55 (2) and s. 56 (2).

See generally Circular 61/68.

Failure to comply with a condition on a consent is also an offence punishable as at step 9 (1) above.

S. 55 (4).

**Procedure—listed building consent**

The L.P.A. for the purpose of this procedure is, outside Greater London, the D.P.A. except in a National Park where the D.P.A. must, except in certain transitional cases in s. 182 (6), transmit the application to the C.P.A. for determination and C.P.A. consult with the D.P.A. (L.G.A., 1972, s. 182 (4) and Sched. 16, paras. 16 and 25). The validity of a determination in a National Park may not be questioned on the ground that it is by the wrong L.P.A. (see note 4 on p. 2).

**Applying for consent**

1. Application must be made in triplicate with plans in triplicate on a form to be obtained from the D.P.A. or London borough council and returned to them completed accompanied by a certificate in form A or B, or C or D in Sched. 2 to the regulations that the applicant is the owner or tenant or has given appropriate notice to owners.

The procedure on an application for listed building consent is prescribed by s. 56 (6) and Sched. 11 and the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) Regulations, 1972, S.I. 1972 No. 1362.  
Reg. 3 (1) and (2).

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Procedure	Section (or Rule, etc.) and Notes
	<p>Reg. 5.                      Knowingly giving a false or misleading certificate is an offence: maximum penalty, fine £100. Sched. 11 to Act, para. 2 (2).                      Forms of certificate and notice in Parts I and II respectively of Sched. 2 to regulations.</p>
<p>2. L.P.A. acknowledge in prescribed form.</p>	<p>Reg. 3 (3). Form in Part I of Sched. 1 to regulations.</p>
<p>3. Except where works applied for affect only the interior of a Grade II (not Grade II*) building, L.P.A.:</p> <p>(1) advertise a notice giving the nature of the works and a place where the application and plans will be available for inspection for 21 days, and</p> <p>(2) for not less than 7 days display a similar notice on or near the building.</p>	<p>Reg. 4 (1) and (3).                      Form of notice not prescribed.</p>
<p>4. L.P.A. must not determine application for 21 days:</p> <p>(a) from latest notice to owners under reg. 5 (see step 1 above);</p> <p>(b) from advertisement and first display of notice at step 3 above,</p> <p>and must consider any representations received.</p>	<p>Reg. 5 (3) and (4).                      Reg. 4 (2).</p>
<p>5. L.P.A. may not grant consent unless they have notified Secretary of State of application and 28 days have expired since notification or Secretary of State has notified that he does not intend to call application in.</p>	<p>Sched. 11, para. 5 to Act.</p>
<p>6. The Secretary of State may direct an application to be referred to him for determination and must afford a hearing if the applicant or the L.P.A. require it.</p>	<p>Sched. 11, para. 4.</p>
<p>7. Subject to above, L.P.A. determine application by granting consent with or without conditions or refusing.</p>	<p>S. 56 (5).</p>
<p>8. L.P.A. within 2 months of receipt of application or such extended period as may be agreed in</p>	<p>Reg. 3 (4).</p>

*BUILDINGS OF SPECIAL ARCHITECTURAL OR HISTORIC INTEREST—continued*

<b>Procedure</b>	<b>Section (or Rule, etc.) and Notes</b>
<p>writing with the applicant before he has given notice of appeal notify decision in writing with reasons for refusal or conditions and a notification as to right of appeal, service of a purchase notice and right in certain circumstances to compensation in the form in Part II of Sched. 1 to the regs. L.P.A. must also notify decision to any person who has made representations under reg. 5.</p>	<p>Reg. 3 (5).  Reg. 5 (4) (b).</p>
<b>Appeal to Secretary of State</b>	
<p>9. To appeal against a refusal or conditional grant of consent, give notice of appeal to Secretary of State within 6 months of receipt of decision notice, or expiry of period for decision where none is given, or such longer period as he may allow, with a copy of the application, plans and other application documents including reg. 5 certificate, the decision notice, if any, and all relevant correspondence with L.P.A. A fresh reg. 5 certificate with any appropriate notice to owners is required (forms in Part I and Part III of Sched. 2 to the regulations).</p>	<p>Sched. 11, paras. 8 and 9. Reg. 6.  No form of notice prescribed; a letter will do. The appellant may, apart from any other ground of appeal, appeal on the ground that the building should not be listed: Sched. 11, para. 8 (2).</p>
<p>10. Secretary of State must afford opportunity to appellant and L.P.A. to be heard if either wishes it. The Town and Country Planning (Inquiries Procedure) Rules, 1974, S.I. 1974 No. 419 apply to any hearing or inquiry as to an appeal on a planning application (see pp. 65-69).</p>	<p>Sched. 11, para. 8 (4).</p>
<p>11. The Secretary of State notifies his decision, which is final subject to any application to the High Court under s. 245 on grounds of <i>ultra vires</i> or prejudicial non-compliance with procedure.</p>	<p>Sched. 11, para. 8 (5).</p>
<b>Compensation for a refusal or conditional consent</b>	
<p>1. Compensation may be claimed for depreciation in value, where consent is refused or granted subject to conditions for work, other than demolition, which is not development or which is permitted by a general development order.</p>	<p>S. 171. The refusal or conditional grant must be by the Secretary of State, so that an appeal will be necessary to found a claim (s. 171 (1) (b)).</p>
<p>2. To claim compensation, submit claim in writing (no form prescribed) to L.P.A. who took the</p>	<p>L.G.A., 1972, Sched. 16, para. 34, and reg. 7.</p>

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**Procedure**

action by virtue of which the claim arose within 6 months of decision or such longer period as the Secretary of State may allow. A mortgagee may claim (s. 178 (3)).

3. Any dispute as to compensation is determined by the Lands Tribunal.

4. No other compensation is payable, and in particular no compensation is payable for refusal of consent to demolition. The purchase notice procedure, if applicable, is the only other redress available. If a purchase notice can be justified, the compensation on acquisition would include the value of material in the building less the cost of demolition, as well as the value of the site for development in Sched. 8 to the Act but not other development.

**Purchase notice on refusal or conditional consent**

1. A purchase notice may be served where consent is refused or granted conditionally and:

(a) the land has become incapable of reasonably beneficial use in its existing state and, where a conditional consent has been granted, cannot be rendered capable of reasonably beneficial use by carrying out the work subject to the conditions; and

(b) the land cannot be rendered capable of reasonably beneficial use by the carrying out of any other works for which consent has been granted or for which L.P.A. or Secretary of State has undertaken to grant such consent.

The purchase notice procedure is laid down in Sched. 19, and is basically similar to the ordinary purchase notice procedure, but the Secretary of State must refuse to confirm it if not satisfied that the land included in it comprises such land contiguous or adjacent to the building as in his opinion is required for preserving it or its amenities, or for affording access to it, or for its proper control or management.

**Section (or Rule, etc.) and Notes**

S. 179.

S. 190.

S. 116 as amended by the Town and Country Amenities Act, 1974, s. 6.

S. 190.

Sched. 19, para. 2 (2).

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Procedure	Section (or Rule, etc.) and Notes
2. The purchase notice (no form prescribed) must be served in writing on the D.P.A. or London borough council within 12 months of the decision or such longer period as the Secretary of State may allow.	Reg. 7.
<b>Enforcement procedure</b>	
L.P.A. for this procedure is, outside Greater London, the D.P.A., except in a National Park, where it is the C.P.A. (L.G.A., 1972, Sched. 16, para. 25 and s. 182 (4)).	
1. L.P.A. may serve a listed building enforcement notice specifying contravention and requiring steps specified in notice to be taken to restore building or bring it to state it would be in if terms and conditions of any listed building consent for the works had been complied with.	S. 96.
2. Notice must be served on owner and occupier and on any other person having an interest in the building which interest is in opinion of L.P.A. materially affected by notice.	S. 96.
3. Notice must specify: (a) alleged contravention; (b) steps required to be taken; (c) period (not less than 28 days) at end of which notice to take effect subject to any appeal; (d) period after expiration of (c) within which steps to be taken.	S. 96 and s. 98 (5).
4. To appeal against a notice, give notice in writing to Secretary of State (no form prescribed) indicating grounds of appeal and facts on which it is based within the period specified in the notice at the end of which it is to take effect (no power to extend time).	S. 97. The grounds of appeal are set out in s. 97 and are basically similar to grounds (a), (b), (c), (f) and (g) for an ordinary enforcement notice (see p. 87) with consequential alterations of wording, but include grounds that the building is not of special architectural or historic interest, that the works were urgently necessary in the interests of safety or health or for the preservation of the building, or that the steps required would not serve the purpose of restoring the character of the building.



*BUILDINGS OF SPECIAL ARCHITECTURAL OR HISTORIC INTEREST—continued*

<b>Procedure</b>	<b>Section (or Rule, etc.) and Notes</b>
5. The procedure in a listed building enforcement notice appeal is thereafter substantially similar to that in an ordinary enforcement notice appeal (see pp. 87-90).	
6. If steps required by an effective notice not taken, owner when notice served liable on summary conviction to maximum fine of £400 or on conviction on indictment unlimited fine; there is a third party procedure for substituting a new owner. There is also a daily fine for continuing failure, maximum £50 on summary conviction, unlimited on conviction on indictment.	S. 98.
7. If steps not taken, L.P.A. may enter and take steps and recover cost from then owner, who may recover from person who carried out the unauthorised works.	S. 99.
<b>Urgent preservation of unoccupied building</b>	
1. A local authority (other than a parish or community council), or the Secretary of State, may, where works urgently necessary for preservation of an unoccupied listed building (not being an excepted building: see note to step 9 on p. 104), after giving owner not less than 7 days' notice in writing of proposed execution of works, take such steps as they consider appropriate for executing works.	S. 101 as substituted by s. 5 of the Town and Country Amenities Act, 1974. No form of notice prescribed, but it must specify the works and their proposal to execute them. No appeal against notice. No compensation payable to owner.
2. Local authority, or Secretary of State as the case may be, may give notice to owner requiring him to pay expenses of executing works at 1.	
3. Within 28 days of notice at 2, owner may represent to Secretary of State: (a) amount in notice unreasonable, or (b) recovery would cause him hardship, or (c) some or all works unnecessary for preservation.	
4. Secretary of State determines extent to which representations at 3 justified, and notifies owner and local authority of determination with reasons and amount, if any, recoverable.	No right to hearing or inquiry. See Circular 147/74, paras. 24-31.

*BUILDINGS OF SPECIAL ARCHITECTURAL OR HISTORIC INTEREST—continued*

**Procedure**

5. Amount specified in notice at 2, or, if representations at 3 and 4, amount in notice at 4, recoverable by local authority or Secretary of State as the case may be.

**Compulsory acquisition for lack of repair**

1. London borough council or Greater London Council in Greater London or county council or district council elsewhere, or Secretary of State, where reasonable steps are not being taken for properly preserving a-listed building other than an excepted building (see note to step 9 on p. 104) may serve a repairs notice on the owner:

- (1) specifying the works necessary for proper preservation; and
- (2) explaining the statutory provisions in ss. 114 to 117.

2. After 2 months, authority or Secretary of State may, if it appears to them reasonable steps not being taken for properly preserving building, acquire compulsorily under ordinary compulsory purchase procedure of Acquisition of Land (Authorisation Procedure) Act, 1946, subject to a right of appeal within 28 days of the notice of making of the compulsory purchase order to the local magistrates, with appeal to the Crown Court, on the ground that reasonable steps have been taken for proper preservation.

3. If building has been deliberately allowed to fall into disrepair for justifying demolition and development or redevelopment of the site or adjoining site, a minimum compensation direction may be included in the order and the notice of making of the order must state authority are applying for confirmation of the direction and explain its effect. Effect of this provision is an assumption in assessing compensation that no planning permission will be granted for developing or redeveloping the site and no consent for demolition, alteration or extension other than proper repair works. There is an appeal to the local magistrates, within 28 days of service of the notice, with a further appeal to the Crown Court, on the ground that the building has not been deliberately allowed to fall into disrepair for the purpose mentioned.

**Section (or Rule, etc.) and Notes**

S. 115.  
No form prescribed.  
No appeal against a notice.  
A notice may be withdrawn (s. 115 (3)).

S. 114.

S. 117.

S. 117 (4).

S. 117 (5) and (6).