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Listed Buildings and Conservation Area Planning Legislation in England

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Abstract

This short paper provides details about the Planning (Listed Buildings and Conservation Areas) Act 1990(PLBA). This is the primary piece of legislation in England covering the planning system relating to Listed Buildings and Conservation Areas. The paper has a brief introduction section that provides an overview of the history related to this type of legislation and the current statutory position. This is followed by a section that looks specifically at the pieces of the legislation that relate to Listed Buildings. A further section then looks at the specifics of the legislation relating to conservation Areas. The paper concludes by highlighting the importance of having a legislative framework to ensure that old and special buildings are protected.

Keywords: *Listed building, Conservation area, Planning*

INTRODUCTION

In England there are a number of buildings in villages, towns and cities that were built at periods in the past. Some of these buildings are important because of their age. Some are important because they may represent a specific type of construction or property design. Some are important because they represent a special interest either nationally or within a local context. An example of a house that is of national interest is the property in Stratford upon Avon where Shakespeare was born. In order to protect these buildings from the threat of being demolished or changed there needs to be laws in place that preserve and conserve them for future generations. In England there is planning legislation that does that.

Under the planning regime in England central government passes legislation that establishes how the planning system works. It provides ‘statutory guidance’ [1] to Local Planning Authorities (LPA’s)

which are bodies defined by the National Planning Policy Framework (NPPF) [2]. These are public authorities that have the responsibility to process and make decisions on applications for planning consent in their geographical area. The guidance provides information to LPAs about the requirements for planning issues to be dealt with by these organisations as stated in the primary legislation. The NPPF was published in 2012 and this replaced all previous planning policy guidance in England. There is separate guidance for Wales [3-5] whereas in Scotland there is different legislation [6, 7] and guidance [8]. In relation to the historic environment, the NPPF replaced previous government guidance [9]. The Practice Guide that was issued with PPS5 had some changes made but remained ‘largely unchanged’ [1].

METHODOLOGY

The method used in this paper has been to carry out a thematic review of the planning

legislation relating to listed buildings and Conservation Areas in England.

LISTED BUILDINGS

Under Section 1 (1) of the PBLA, a building is listed because it has 'special architectural or historic interest' [10]. This means that buildings associated with a specific period in history are listed as well as buildings that have been associated with certain people or events. A building must be listed if it is to be subject to the requirements of the PLBA. The legislation provides the Secretary of State (SoS) with the powers to hold the list of buildings that have been listed which they provide to each LPA with the details relating to each building in their area. Any building that is listed includes: any object or structure fixed to the building; any object or structure within the curtilage of the building [10].

Under Section 1(6) of the PBLA, a person can apply to the SoS for a certificate of immunity from having to list a building for a period of five years. If a planning service thinks that a building should be listed, then they can serve a building preservation notice on the person who owns and occupies the building. This provides the building with legal protection which is equal to the protection that it would receive if it was listed and this then gives the planning service time to apply to the SoS to be listed. If the building is listed, then it continues to be protected but if the application for it to be listed is not approved then the preservation order stops having an effect. If this were to happen then the owner of the building can apply for compensation under the PBLA.

Under Section 9 (1) of the PBLA, it is a criminal offence to do work to carry out works to a listed building without the appropriate listed buildings consent. The type of building work is the construction of any extensions to buildings, adding to the buildings infrastructure or knocking

any of the building down. In order to obtain listed building consent an application needs to be made to the LPA. The listed building consent could be granted with conditions attached and under Section 9 (2) it is an offence not to comply with these conditions.

All applications for listed building consent and planning permission are dealt with under the Planning (Listed Buildings and Conservation Areas) Regulations 1990. These are regulations that are made under the primary legislation. If any works that are proposed affect the nature of the listed building and constitute development, then both listed building consent and planning permission are required. An application for listed building consent to the LPA. It must be accompanied with details confirming the applicant's ownership of the building. The LPA advertise that the application has been made and consider any representations made to them in relation to any application. The LPA makes a decision on the application and there is a system of appeal to the SoS. Section 17 of the PBLA deals with the granting of listed building consents subject to conditions and Section 18 (1) stipulates that where the consent has been granted then the works must be started within a five year period from the granting of the consent [10]. Certain ancient monuments are exempted from the PBLA and under Section 60 ecclesiastical buildings of specific groups are also exempt from the requirements of the legislation. No compensation is available under the legislation where an application is made to demolish a listed building but this is refused.

CONSERVATION AREAS

Each LPA should determine which parts of the areas that they are responsible for should be considered as conservation areas which are of special architectural or historic interest. This is covered under Section 69 of the PBLA. As well as being of special architectural or historic interest

the purpose of a conservation area is for the character or appearance of it to be preserved or enhanced. The LPA must notify the SoS regarding any conservation areas that are approved and under Section 71 of the PBLA it must publish its proposals for preservation and enhancement for the conservation area.

CONCLUSION

This paper has provided a brief history of the current legislation that applies to listed buildings and conservation areas in England. It has provided a brief insight into the specific requirements of the law that relates to Listed Buildings and Conservation Areas. The legislation provides an important legal framework that offers protection for old buildings and buildings that are of special interest. In order for the legislation to continue to work and provide this protection into the future it is key that the appropriate authorities enforce this planning law.

The planning law that has been passed by parliament lays out the legislation which needs to be implemented in each area of the country by the relevant planning authority. They use the guidelines issued by the Government to interpret the legislation and make decision on planning applications. The legislation by itself is just a tool but it has to be used and put into practice by the local planning authority in an area to provide proper protection for Listed Buildings.

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