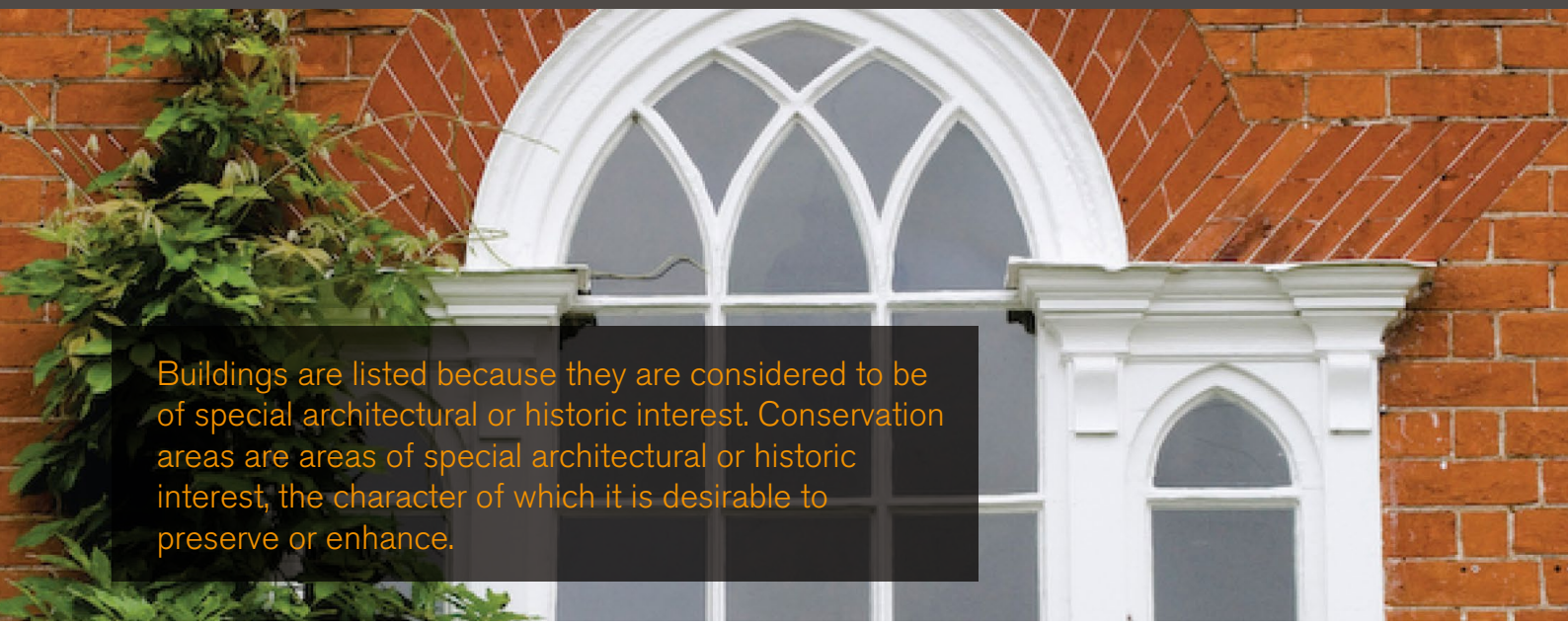
Listed buildings and conservation areas



Buildings are listed because they are considered to be of special architectural or historic interest. Conservation areas are areas of special architectural or historic interest, the character of which it is desirable to preserve or enhance.

Listed buildings

Legislation covering listed buildings is essentially similar in England, Scotland, Wales, and Northern Ireland. There are slight differences and the listing process is under the control of separate bodies in each country. As the mechanics of each system are broadly the same, a detailed explanation has been provided in respect of England, with the main differences for Scotland, Wales and Northern Ireland indicated afterwards.

Listing in England

The Secretary of State for the Department of Culture, Media & Sport is required to compile lists of buildings of special architectural or historic interest to help guide local planning authorities in the execution of their duties under the Planning (Listed Buildings and Conservation Area) Act, 1990.

The planning system is designed to regulate the development and use of land in the public's interest. The designation of historic sites enables the planning system to protect them, through the systems of listed building consent and conservation area control.

How the buildings are chosen

Since 2015, Historic England has been responsible for recommending buildings for inclusion on the statutory lists compiled by the Secretary of State. They consider buildings in 3 main ways:

- Spot listing – looking at individual buildings brought to their attention by local authorities, amenity and historical societies and members of the public
- Area lists – every part of England has been visited by expert fieldworkers and the best buildings selected against the listing criteria
- Thematic listing – focusing on particular building types such as Industrial Heritage.

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Older buildings are more likely to be listed:

- All buildings built before 1700, which survive in anything like their original condition, are listed
- Most buildings constructed between 1700 and 1840 are listed, though selection is necessary
- Between 1840 and 1945, only buildings of definite quality and character are listed, including those by renowned architects
- Post 1945, buildings have to be exceptionally important to be listed
- Buildings less than 30 years old are normally only listed if they are of outstanding quality and under threat.

In choosing buildings, particular attention is paid to:

- Special value within certain types, either for architectural or planning reasons or as illustrating social and economic history (for instance, industrial buildings, railway stations, schools, hospitals, theatres, town halls, markets, exchanges, almshouses, prisons, lock-ups, mills)
- Technological innovation or craftsmanship (e.g. cast iron, prefabrication, the early use of concrete)
- Association with well-known characters or events
- Group value, especially as examples of town planning (e.g. squares, terraces or garden cities).

Grading

Buildings are given a grading to show their relative importance:

Grade I	Grade II*	Grade II
These are buildings of exceptional interest. Only around 2.5% of listed buildings are rated Grade I.	These are particularly important buildings of more than special interest. Only around 6% of listed buildings are rated Grade II*.	These are buildings of special interest, which warrant every effort being made to preserve them. Accounting for 91.5% of all listed buildings, most domestic listed buildings fall into this category.

The overall number of listed buildings is estimated to be in the region of 500,000.

The full list, the National Heritage List for England (NHLE), is kept by Historic England. Their contact details are:

Historic England
The Engine House
Fire Fly Avenue
Swindon
SN2 2EH

Tel 01793 445050
www.historicengland.org.uk/listing/the-list/

De-listing

The statutory criteria for a building being included on the List are that it holds special architectural or historic interest. The Secretary of State will remove a building from the List only if it no longer meets these criteria.

An application for de-listing may be made because new evidence is available about the lack of special architectural or historic interest of the building, or due to a material change of circumstances, for example fire damage.

Extra care is needed with fire-damaged buildings. Experience shows that special interest may remain even when considerable damage has been done to the fabric of the building as a result of both the fire itself and the water used to extinguish it. A de-listing application will not normally be processed until the cause of a fire has been established and any potential enforcement action requiring some form of restoration or repair, ruled out.

The Secretary of State will only recommend de-listing after careful consideration of each individual case. The vast majority of buildings that are listed have been correctly identified as having special interest. It should not be assumed that the List description encompasses all aspects of the special interest for which the building was listed. Older List descriptions in particular were often tools for identifying a building, rather than an explanation of its special interest. Even the more extensive modern descriptions will not necessarily cover all aspects of the special interest.

Building Preservation Notices

A Building Preservation Notice is a form of temporary listing served by the local planning authority under section 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Planning authorities and national park authorities have the power to serve a Building Preservation Notice on the owner of a building which is not listed, but which they consider is of special architectural or historic interest, and is in danger of demolition or alteration in such a way as to affect their character as buildings of such interest.

For a period of 6 months following a Building Preservation Notice, the building is treated as if it were listed, providing sufficient time for a formal assessment to be carried out.

Protection

The fact that a building is listed does not mean that it will be preserved intact in all circumstances. It does, however, ensure that the case for its preservation is fully considered, taking into account the community value etc. of potential future use.

Listed Building Consent

Anyone who wants to demolish a listed building, or alter or extend one in any way that affects its character, must obtain 'Listed Building Consent' from the local planning authority or, in some circumstances, the Secretary of State. The procedure is similar to that for obtaining planning permission and details can be obtained from the Planning Department of any Local Authority.

A planning authority can insist that any work undertaken without consent is reversed. Therefore, you should always talk to the local planning authority before undertaking any work on a listed building.

It is an offence to demolish, alter or extend a listed building without Listed Building Consent and the penalty can be a fine, imprisonment, or both.

Listed Building Consent and planning permission

Anyone wishing to redevelop a site on which a listed building stands will need both Listed Building Consent for the demolition, and planning permission for the new building. Similarly, anyone wishing to alter or extend a listed building in a way which would affect its character, and whose proposed alteration amounts to development for which permission is needed (as distinct from a general permission given by the General Development Order), will also need to apply for planning permission and for Listed Building Consent. It is a criminal offence to carry out work which needs Listed Building Consent, without obtaining it beforehand.

The local planning authority must notify Historic England of all planning applications for works affecting the fabric or setting of Grade I or Grade II* listed buildings. Some Grade II applications are also notified.

Appeals

If an application for Listed Building Consent is refused by the local planning authority, or granted subject to conditions, the applicant has a right of appeal to the Secretary of State.

On receipt of an appeal, the Secretary of State will normally hold a local inquiry if either the applicant, or the local authority, request one. The procedure for appeal is virtually identical to the procedure for appealing against a refusal of planning permission, but the applicant can include, as one of the grounds of appeal, an argument that the building concerned is not of special architectural or historic interest and ought not to be listed.

Recording of buildings to be demolished

If you are granted Listed Building Consent to demolish a building – either wholly or in part – you must not do so until Historic England has been given an opportunity to make a record of it. Therefore, you should tell Historic England either before or immediately after you get Listed Building Consent.

You can get a form for this purpose from the local planning authority. You must then wait for at least a month (the period runs from one of two dates – the date on which Listed Building Consent is given or the date on which Historic England is notified, whichever is later), during which time you must allow Historic England reasonable access to the building.

If Historic England completes its records of the building within the month, or states that it does not wish to record it, you can then demolish the building at once.

Repairs

If a local authority consider that a listed building is not being properly preserved, they may serve the owner a 'Repairs Notice' under Section 48 of the Planning (Listed Buildings and Conservation Areas) Act, 1990. This notice must specify the works which the authority consider reasonably necessary for the proper preservation of the building, and explain that if it is not complied with, within two months, the authority may make a Compulsory Purchase Order and submit it to the Secretary of State for confirmation (Section 47 of the Act).

The Secretary of State will only confirm the Order if satisfied that:

1. reasonable steps are not being taken to preserve the building;
2. it is expedient that the building should be preserved;
3. it should be compulsorily purchased to ensure its preservation.

Under sections 54 and 55 of the Act, if a building is unoccupied, the authority can serve a Repairs Notice on the owner, giving them seven days' warning of their intention to carry out repairs which are urgently necessary to secure the buildings preservation and recover the cost from them. There is no provision for an appeal against a Repairs Notice, nor is there a requirement to consider the financial means of the owner when specifying the repairs.

If the owner deliberately neglects the building in order to redevelop the site, the local authority may not only acquire the building, but may do so at a price which excludes the value of the site for redevelopment. These powers may also be exercised by the Secretary of State.

Owners of listed buildings can, in some cases, get grants or loans to help them with repairs and maintenance.

Grants and loans

Historic England operate several grant schemes for historic buildings and monuments as well as some conservation areas.

Local authorities may supplement a grant from Historic England, for example for a modest historic building outside a conservation area. A house renovation grant could also be sought from the local authority.

The Grants for Places of Worship Scheme, operated by the Heritage Lottery Fund has now closed, but grants are still available under the headings Our Heritage and Heritage Grants, depending on the size of the project. These will now support a broader range of projects, including capital repairs, new facilities and activities to improve engagement, amongst others.

VAT and listed buildings

Some listed buildings enjoy a more favoured position with regards to VAT than unlisted buildings. For example, zero-rated VAT is available for 'approved alterations' (that is, alterations which both require and obtain Listed Building Consent from the appropriate planning authority). Repair works or maintenance are standard-rated, as is the construction of a new building within the curtilage of a listed building (unless the new building is designed as a dwelling or is to be used for a qualifying purpose).

This is a complicated issue and it may be necessary to make contact with the local Revenue & Customs Department for clarification. For more information refer to guidance VCONST08210 on HRMC's website.

Certificates of immunity against Listing

Where an application has been made for planning permission for any development involving alteration, extension or demolition of a building, or where such planning has been granted, the Secretary of State may issue a certificate stating the intention not to list the building.

The issue of such a certificate prevents the Listing of the building by the Secretary of State for a period of five years. It also prevents the local planning authority from serving a building preservation notice in relation to the building.

Conservation areas

Buildings, whether they are listed or not, can be situated in one of the 9,000 conservation areas designated since the Civic Amenities Act, 1967. The approach to designation of conservation areas has changed greatly since 1967.

A conservation area is 'an area of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance'. Local planning authorities have a duty to periodically review the extent of designation and designate further areas if appropriate. In order to preserve the character and appearance of an area, it may also be necessary for the local planning authority to make a direction under Article 4 of The Town and Country Planning (General Permitted Development) Order, 1995.

It is the quality and interest of areas, rather than individual buildings, which should be the prime consideration in identifying conservation areas. So the contribution of a given building or group of buildings and their relationship to other buildings and/or spaces can all determine the designation given to a conservation area.

As a result, planning consent from the local planning authority will be required for any work under consideration, whether it is repair, enhancement or even demolition. In addition, certain conditions may be attached to any permission granted.

It is now a criminal offence to carry out demolition in a conservation area without planning permission.

Listed buildings in Scotland, Wales and Northern Ireland

Although there are different legislative acts for each country, essentially the legislation covers the same areas. The main areas of difference are indicated below.

Scotland

Scottish buildings are covered by the Planning (Listed Buildings and Conservation areas) (Scotland) Act 1997, with the body controlling the system being Historic Environment Scotland.

The listing categories being A, B, and C (S).

Category A: Buildings of national or international importance, either architectural or historic, or fine, little-altered, examples of a particular period, style or building type.

Category B: Buildings of regional or more than local importance, or major examples of particular period, style or building type which may have been altered.

Category C(S): Buildings of local importance, lesser examples of any period, style or building type, as originally constructed or altered; and simple, traditional buildings which group well with others in categories A and B, or are part of a planned group, for example an estate or an industrial complex 'S' denotes a statutory listing.

Buildings may also be linked in A or B class groups to indicate their position in relation to a wider set of buildings with which they form a related whole, for example an industrial estate, an urban square or a village high street.

Wales

Welsh listed buildings are covered by the Planning (Listed Buildings and Conservation Areas) Act 1990 and the system is controlled by CADW. The listing categories broadly follow those used by Historic England.

Northern Ireland

Buildings are listed in accordance with Article 42 of the Planning (Northern Ireland) Order 1991. The lists are compiled and maintained by the Environment and Heritage Service department of the Department of the Environment.

The listed categories are A, B+, B1 and B2

Grade A: Buildings of national importance including both outstanding grand buildings and fine, little-altered, examples of an important style or date.

Grade B+: Buildings that might have merited A status but for relatively minor detracting features such as impurities of design, or lower quality additions or alterations. Also buildings that stand out above the general mass of grade B1 buildings because of exceptional interiors or some other feature.

Grade B1 and Grade B2: Buildings of local importance or good examples of a period or style. Some degree of alteration or imperfection may be acceptable.

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