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5 December 1996

## PLANNING AND THE HISTORIC ENVIRONMENT: HISTORIC BUILDINGS AND CONSERVATION AREAS

### Introduction

1. *Planning Guidance (Wales): Planning Policy* sets out the Government's land-use planning policies as they apply in Wales. It lists relevant legislation, sets out general principles including sustainable development and the role of the planning system, and at paragraphs 114 to 140 sets out policy guidance of specific relevance to the historic environment. This Circular, which sets out advice on legislation and procedures relating to historic buildings and conservation areas and conveys certain Directions which the Secretary of State has made, supplements that guidance. Together with *Planning Guidance (Wales): Planning Policy* it should be taken into account by local planning authorities in the preparation of development plans. The combined guidance may be material to decisions on individual planning applications and should always be taken into account in the exercise of listed building and conservation area controls. It will be taken into account by the Secretary of State and his Inspectors in the determination of called-in applications and planning appeals in Wales.

2. Cadw: Welsh Historic Monuments is the Executive Agency within the Welsh Office which discharges the Secretary of State for Wales's responsibilities for the built heritage. Cadw will be included in internal consultations on all aspects of the Secretary of State's responsibilities affecting the historic environment. A brief guide to the legislation and the main heritage bodies together with the address of key bodies and organisations is set out at Annex A.

3. This Circular has an introduction followed by six parts and six Annexes. The contents fall into the following sections:

#### Introduction [paragraphs 1-31 and Annex A:

Welsh Office Planning Guide - the role of this Circular and of Cadw.

#### Part 1 [paragraphs 4-16] and Annex B:

The Planning Framework:

Development Plans and control; the setting of listed buildings; World Heritage Sites and historic parks and gardens.

#### Part 2 [paragraphs 17-44]:

Conservation Areas:

The designation procedures; importance of assessment and information; conservation area consent.

**Part 3** [paragraphs 45–129] and Annexes C–F:

Listing and Listed Building Controls:

How buildings are selected for inclusion in the list; building preservation notices, certificates of immunity from listing. Listed building control, consideration of applications for listed building consent, enforcement and prosecutions.

**Part 4** [paragraphs 130–141]:

Historic Buildings in Need of Repair:

Urgent works, repairs notices and compulsory acquisition.

**Part 5** [paragraphs 142–143]:

Ecclesiastical Exemption:

Church bodies with continued exemption; handling of proposals for alterations.

**Part 6** [paragraph 144]:

Cancellation:

Cancellation of Welsh Office Circular 61/81.

## List of Annexes

Annex A Brief Guide to Legislation and Heritage Bodies

Annex B Historic Parks and Gardens

Annex C Listed Buildings – Principles of Selection

Annex D Alterations to Listed Buildings – General Principles

Annex E Listed Building Consent – Procedures

Annex F Listed Building Consent – Conditions

## Development Plans

4. Development plans should ensure that conservation policies are co-ordinated and integrated with other planning policies affecting the historic environment. Imaginative planning policies can reduce threats to the historic environment and increase its contribution to local amenity. Plans should set out clearly the conservation policies relevant to the exercise of the authority's development control functions and policies relevant to cases where development and conservation issues are linked and need to be addressed together.

5. Section 54A of the Town and Country Planning Act 1990 provides that where, in making any determination under the Planning Acts, regard is to be had to the Development Plan the determination must be made in accordance with the Plan unless material considerations indicate otherwise. However, the Courts have accepted that this does not apply to decisions on applications for listed building consent or conservation area consent, since in those cases there is no statutory requirement to have regard to the provisions of the Plan.

## Development Control

6. The Secretary of State attaches particular importance to early consultation, by developers and authorities, on development proposals which would affect historic sites and structures, whether listed buildings, conservation areas, parks and gardens or historic landscapes. There is likely to be more scope for refinement and revision of proposals if consultation takes place before intentions become firm and timescales inflexible. Local planning authorities should indicate their readiness to discuss proposals with developers before formal planning applications are submitted. They should expect developers to assess the likely impact of their proposals on the special interest of the site or structure in question, and to discuss them directly with other owners and interest groups including amenity societies. Developers should provide information sufficient to inform understanding of a site's structure's special interest.

7. Local planning authorities are required by Sections 67 and 73 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to publish a notice of planning applications for development which in their opinion affects the setting of a listed building, or the character or appearance of a conservation area; this requirement should not be interpreted narrowly.

8. It is generally preferable for both the applicant and the planning authority if related applications for planning permission and for listed building or conservation area consent are considered concurrently. Authorities are required by Section 66(1) of the Act (throughout this Circular 'the Act' refers to the Planning (Listed Buildings and Conservation Areas) Act 1990) in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses. It is unlikely that they will be able to do so effectively unless the planning application is accompanied by a listed building consent application (where the development in question requires one) or at least contains an equivalent amount of information. If an authority is asked to consider a planning application in isolation, a decision on that application cannot be taken as predetermining the outcome of a subsequent application for listed building consent. Authorities are also required by Section 72 of the Act, in the exercise in a conservation area of their powers under the Planning Acts, to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. In the case of unlisted buildings in conservation areas, the Courts have held that consent for the demolition of a building may involve consideration of what is to take its place (see paragraph 33).

9. Authorities should ensure that they have appropriately qualified specialist advice on any development which, by its character or location, might be held to have an effect on any sites or structures of the historic environment. The need for an **environmental assessment of major development proposals** affecting historic areas should be considered in the light of the advice given in **Welsh Office Circular 23/88**. The advice of the Royal Fine Art Commission should be sought on planning applications raising conservation issues of more than local importance and should be taken fully into account.

10. Some historic buildings are scheduled ancient monuments (see paragraph 65), and many which are not scheduled are either of intrinsic archaeological interest or stand on ground which contains archaeological remains. It is important in such cases that there should be appropriate assessment of the archaeological implications of development proposals before applications are determined and that, where permission is to be granted, authorities consider whether adequate arrangements have been made for recording remains that would be lost in the course of works to which permission will relate. Further advice on archaeology is given in **Welsh Office Circular 60/96**.

### The Setting of Listed Buildings

11. Sections 16 and 66 of the Act require authorities considering applications for planning permission or listed building consent for works which affect a listed building to have special regard to certain matters, including the desirability of preserving the setting of the building. The setting is often an essential part of a building's character especially if a park, garden or grounds have been laid out to complement its design or function. Also, the economic viability as well as the character of historic buildings may suffer and they can be robbed of much of their interest and of the contribution they make to townscape or the countryside if they become isolated from their surroundings, e.g. by new traffic routes, car parks, or other development.

### Changes of Use

12. New uses may be the key to the preservation of a building or area and controls over land use, density, plot ratio, daylighting and other planning matters should be exercised sympathetically where this would enable an historic building or area to be given a new lease of life. The Secretary of State is not in favour of tighter development controls over changes of use of historic buildings as a specific instrument of conservation policy; generally the same provisions on change of use should apply to historic buildings as apply to others.

### World Heritage Sites

13. The World Heritage Convention (adopted by UNESCO in 1972) was ratified by the United Kingdom in 1984. The Convention provides for the identification, protection, conservation and presentation of cultural and natural sites of outstanding universal value, and requires a World Heritage List to be established under the management of an inter-governmental World Heritage Committee. This is advised by the International Council on Monuments and Sites (ICOMOS) and the World Conservation Union (IUCN). Individual governments are responsible for the nomination of sites, and for ensuring the protection of sites listed. There is one World Heritage entry for Wales comprising the castles and town walls of King Edward I in North Wales:

- Caernarfon Castle and Town Walls;
- Conwy Castle and Town Walls;
- Harlech Castle; and
- Beaumaris Castle.

14. No additional national planning restrictions follow from the inclusion of a site in the World Heritage List. Inclusion does, however, highlight the outstanding national and international importance of the site as a material consideration to be taken into account by local planning authorities in determining planning and listed building consent applications, and by the Secretary of State in determining cases on appeal or following call-in.

15. It is for each local authority, taking account of World Heritage Site designation and other relevant statutory designations, to formulate planning policies for these sites and to include these policies in their development plans. Different policies will be appropriate for different sites. Policies should, however, reflect the fact that all these sites have been designated for their pre-eminence and local planning authorities should place great weight on the need to protect them for the benefit of future generations as well as our own. Development proposals affecting these sites or their setting may be compatible with this objective, but should always be carefully scrutinised for their likely effect on the site in the longer term. ICOMOS can provide advice and assistance in considering issues relating to World Heritage Sites.

### Historic Landscapes, Parks and Gardens

16. Cadw, in collaboration with ICOMOS and the Countryside Council for Wales is preparing a Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales. The Register is being prepared in two parts. The first, covering Historic Parks and Gardens, is being produced in a series of county-by-county (former county council areas) volumes whilst the Historic Landscapes section has been issued for consultation. No additional statutory controls follow from the inclusion of a site in the Register. Local planning authorities are asked to take it into account in preparing local plans and in determining planning applications, especially those concerning road schemes, which would affect registered parks and gardens and their settings (see also Welsh Office Circular 29/95 Appendix B) or where the proposed development is of a sufficient scale to have more than local impact on the historic landscape. As the county volumes of historic parks and gardens are produced, planning authorities are asked to consult Cadw on planning applications in respect of Grade I and II\* sites and the Garden History Society on all parks and gardens on the Register. For further information, see Annex B.

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## PART 2: CONSERVATION AREAS

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17. Planning Guidance (Wales): Planning Policy 1996 (paragraphs 122–133) sets out the Secretary of State's policy for Conservation Areas including the restriction of permitted development rights (Article 4 Directions) and should be read alongside this guidance.

### Assessment and Designation of Conservation Areas

18. Section 69 of the Act imposes a duty on local authorities and National Park Authorities to review their areas from time to time and to consider whether further designation of conservation areas is called for. The Secretary of State also has powers to designate conservation areas. His policy is to use his own powers only in exceptional cases, for instance where an area is of more than local interest, or where there is evidence to suggest that an authority's ownership of important buildings may have influenced a decision not to use its own powers, and there is a clear threat to the character or appearance of the area. The Secretary of State would consult the authority concerned before using his powers.

19. Whilst listing procedures are focused on the protection of individual buildings, conservation area designation provides the basis for policies designed to preserve or enhance all the aspects of character or appearance that define an area's special interest.

20. Quality of place should be the prime consideration in identifying conservation areas. This depends on more than individual buildings. It is recognised that the special character of a place may derive from many factors, including: the grouping of buildings; their scale and relationship with outdoor spaces; the network of routes and nodal spaces; the mix and relative importance of focus and background buildings; vistas and visual compositions; hierarchies of public and private space; materials used in buildings and other surfaces (pavements, roads, garden walls, railings, ...); architectural detailing (of windows, doors, eaves, gates, kerbs, ...); patterns of use; colours; hard and soft landscaping; street furniture; and so on. Conservation area designation should be seen as the prime means of recognising, protecting and enhancing the identity of places with special character; local conservation policy should be sensitive to quality of place (townscape) in the broadest sense. Authorities should seek to establish consistent criteria against which they should periodically review existing conservation areas and their boundaries. Cancellation of designation should be considered where an area or part of an area is no longer considered to possess the special interest which led to its designation.

## Assessment and Proposals

21. The legislation requires that local authorities publish proposals for the preservation and enhancement of conservation areas. Preparation of these proposals should include an appraisal of strategies for the future and relate these to an appraisal of the area's special interest, including those unlisted buildings which make a positive contribution to the special interest of the area. An assessment of the effectiveness of current planning controls in the area and the need for supplementary protection, including Article 4 Directions also should be included. Local plan policies and development control decisions which relate to a conservation area will have a sounder basis, and make more positive contributions to long term aims, if the character of each conservation area is defined and policies for its enhancement set out in detail. Proposals need to take account of the Government's objective of, wherever possible, keeping to the necessary minimum control over businesses and householders.

22. Bringing vacant upper floors back into use, particularly residential use, not only provides additional income and security for the shop owner, but also helps to ensure that what are often important townscape buildings are kept in good repair. It meets a widespread need for small housing units and helps to sustain activity in town centres after working hours. Local planning authorities are urged to develop policies to secure better use of vacant upper premises, e.g. by giving careful consideration to planning applications for shop conversions which would eliminate separate accesses to upper floors; by working with housing associations to secure residential conversion; and through the house renovation grant system.

23. Authorities should take into account the resources likely to be required for the administration of conservation area controls, for consultation with local residents and formulation of policies for a new area. An authority's justification for designation, as reflected in its assessment of an area's special interest and its character and appearance, is a factor which the Secretary of State will take into account in considering appeals against refusals of conservation area consent for demolition, and appeals against refusal of planning permission.

24. Given the nature of conservation area controls (which are essentially controls over demolition, plus strengthened controls over minor development and the protection of trees) designation is not likely to be appropriate as a means of protecting landscape features, except where they form an integral part of the historic built environment. This needs to be taken into account in considering any planning applications that would affect them. Designation is not a means of controlling activities (e.g. agricultural operations) which do not fall within the definition of development. Trees are best protected by means of a tree preservation order.

## Local Information and Consultation

25. Whilst there is no statutory requirement to consult prior to designation or cancellation of designation, there should be consultation with local residents, businesses and other local interests (e.g. amenity bodies) both over the identification of areas and the definition of their boundaries. The greater the public support that can be enlisted for designation before it takes place, the more likely it is that policies for the area will be implemented voluntarily and without the need for additional statutory controls.

26. Section 71(2) of the Act requires proposals for the preservation or enhancement of a conservation area to be submitted for consideration to a public meeting in the area; but wider consultation will always be desirable. Consultation should be undertaken with local residents and amenity societies, and with chambers of commerce, public utilities, and the highway authority. The character and appearance of many conservation areas is heavily dependent on the treatment of roads, pavements and other public spaces. It is important that conservation policies are fully integrated with other policies for the area, e.g. for shopping and traffic management. Account should also be taken of wider policies (e.g. for house renovation grants) which may affect the area's character or appearance.

27. Once policies for an area have been formulated, they should be made available to local residents and businesses in leaflet form, setting out clearly why the area has been designated; what its specially valuable features are; how individual householders can help to protect its character and appearance; and what additional controls and opportunities for assistance designation brings with it.

## Advisory Committees

28. Authorities are asked to consider setting up conservation area advisory committees, both to assist in formulating policies for the conservation area (or for several areas in a particular neighbourhood), and as a continuing source of advice on planning and other applications which could affect an area. Committees should include local residential and business interests, local historical, civic and amenity societies, and local chambers of commerce and the authority may wish to seek nominations (depending on the character of the area) from national bodies such as the national amenity societies and the Civic Trust for Wales. Authorities should consider whether there is scope for the involvement of local people on a voluntary basis in practical work for the enhancement of the area.

## General Planning Control in Conservation Areas

29. The status now accorded to the development plan by Section 54A of the Town and Country Planning Act 1990 makes it particularly important that an authority's policies for its conservation areas, insofar as they bear on the exercise of development controls, should be in the plan. There should be a clear indication of the relationship between the plan itself and detailed assessment documents or statements of proposals for particular conservation areas, making clear that development proposals will be judged against their effect on the character and appearance of the area as identified in the assessment and proposal document.

30. Many conservation areas include the commercial centres of towns and villages and generally there will need to be an emphasis on controlled and positive management of change, to allow the area to remain alive and prosperous, and ensure that any new development accords with the area's special architectural and historic qualities. Many conservation areas include gap sites, or buildings that make no positive contribution to, or indeed detract from, the character or appearance of the area; and their replacement should be a stimulus to imaginative, high quality design, and an opportunity to enhance the area. What is important is not that new buildings

should directly imitate earlier styles, but that they should be designed with respect for their context, as part of a larger whole which has a well-established character and appearance of its own.

## Conservation Area Control Over Demolition

31. Conservation area designation introduces control over the demolition of most buildings within conservation areas (Section 74 of the Act) and this is discussed here. Exceptions to conservation area control over demolition are specified in Section 75 of the Act and in the following Direction:

### Direction – Conservation area consent

Consent is not needed under Section 74 for the demolition of listed buildings, buildings protected under ancient monuments legislation, or for the partial demolition of ecclesiastical buildings and the Secretary of State may direct that the section shall not apply to certain other types of buildings. In pursuance of his powers under Section 75 of the Act, the Secretary of State hereby directs that Section 74 shall not apply to the following descriptions of buildings:

- (a) any building with a total cubic content not exceeding 115 cubic metres or any part of such a building;
- (b) any gates, wall, fence or railing which is less than 1 metre high where abutting on a highway (including a public footpath or bridleway) or public open space, or less than 2 metres high in any other case;
- (c) any building erected since 1 January 1914 and used, or last used, for the purposes of agriculture or forestry;
- (d) any part of a building used, or last used, for an industrial process, provided that such part (taken with any other part which may have been demolished) does not exceed 10% of the cubic content of the original building (as ascertained by external measurements) or 500 metres<sup>2</sup> of floor space, whichever is the greater;
- (e) any buildings required to be demolished by virtue of a discontinuance order made under Sections 102 and 103 of the Town and Country Planning Act 1990;
- (f) any building required to be demolished by virtue of any provision of an agreement made under Section 106 of the Town and Country Planning Act 1990;
- (g) any building in respect of which the provisions of an enforcement notice served under Section 172 of the Town and Country Planning Act 1990 or Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990 require its demolition, in whole or in part, however expressed;
- (h) any building required to be demolished by virtue of a condition of planning permission granted under Section 70 or 71 of the Town and Country Planning Act 1990;
- (i) any building included in an operative clearance order or compulsory purchase order made under Part III of the Housing Act 1988 or to which a demolition order made under Part II of that Act applies;
- (j) any building purchased by a local authority by agreement where Part III of the Housing Act 1988 applies to that building;
- (k) a redundant building (within the meaning of the Pastoral Measure 1983) or part of such a building where the demolition is in pursuance of a pastoral or redundancy scheme (within the meaning of that Measure).



## Notes

- (1) In this Direction, except in paragraph 31(a) above 'building' has the meaning assigned to it by Section 91 of the Act.
- (2) Paragraph 31(b) of the Direction means that consent is not required for the demolition of buildings of the type described whenever erected, if the re-erection of what has been demolished would be permitted development under the specified classes of the General Development Order, e.g. any wall less than 1 metre high abutting a highway or 2 metres elsewhere.
- (3) Authorities are not required to notify the Secretary of State before granting consent to applications for the demolition of an unlisted building in a conservation area but their own applications are required to be made to the Secretary of State.

32. Applications for consent to demolish must be made to the local planning authority or, on appeal or call-in, to the Secretary of State. Procedures are essentially the same as for listed building consent applications (see Part 3). Authorities' own applications (for buildings in their own areas) must be made to the Secretary of State. Scheduled ancient monuments are exempt from conservation area control: scheduled monument consent for proposed works must be sought from the Secretary of State. See Annex 1 of Welsh Office Circular 60/96.

33. The general presumption should be in favour of retaining buildings which make a positive contribution to the character or appearance of a conservation area. Proposals to demolish such buildings should be assessed against the same broad criteria as proposals to demolish listed buildings. In cases where a building makes little or no such contribution the authority will normally need to have full information about what is proposed for the site after demolition. Consent for demolition should not be given unless there are acceptable and detailed plans for redevelopment. It has been held that the decision-maker is entitled to consider the merits of any proposed development in determining whether consent should be given for the demolition of an unlisted building in a conservation area.

34. It will be appropriate to impose on the grant of consent for demolition a condition under Section 17(3) of the Act - as applied by Section 74(3), that demolition shall not take place until a contract for carrying out development work has been made and planning permission granted.

35. Section 336 of the Town and County Planning Act 1990 states that a building includes "any part of a building". The demolition of part of a building should therefore be regarded as falling within the scope of conservation area control. What constitutes a demolition or demolition of part of a building must be a matter of fact and degree, to be decided in the particular case and ultimately by the Courts. Routine works of repair, maintenance or replacement, including work involving such items as doors or windows, would not in the Secretary of State's view normally constitute demolition. Likewise, the removal of internal features, whether replaced or not, would not usually constitute a demolition and for the purposes of conservation area consent would not, in any event, have a material impact on the building's appearance or affect the character or appearance of the area.

## Advertisement Control

36. All outdoor advertisements affect the appearance of the building or the neighbourhood where they are displayed. One of the purposes of the advertisement control system is to encourage the display of outdoor advertisements which make a positive contribution to the appearance of an attractive environment. So it is reasonable to expect that the local planning authority's duty to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area will result, in practice, in more exacting standards when the authority consider whether to grant consent for a proposed advertisement in such an area.

37. In conservation areas it is important for local planning authorities to be flexible in their use of the powers under the Town and Country Planning (Control of Advertisements) Regulations 1992, because many areas include retail and commercial premises ranging from small corner-shops to thriving commercial centres. Outdoor advertising is essential to commercial activity in a free and diverse economy, and the success of local businesses will usually help owners and tenants of commercial premises to maintain buildings in good repair and attractive appearance.

38. Local planning authorities may wish to adopt advertisement control policies as part of their duty to formulate and publish proposals for the preservation and enhancement of conservation areas. Such policies can inform prospective advertisers about the type of displays likely to prove acceptable in an area; and they should provide a rational and consistent basis for decision-making on all advertisement control matters, including the serving of discontinuance notices.

39. Because of the special interest of most conservation areas, certain categories of 'deemed consent' advertisements which may have a significant visual impact are not permitted for display in a conservation area without the local planning authority's consent. But a general prohibition of the display of certain classes of advertisement, or the withdrawal or limitation of those which may be displayed with deemed consent, is not usually justified solely because of designation.

40. Authorities may wish to consider mounting programmes, in association with local businesses, to promote advertisement policies by providing advice about the design and siting of displays which respect the character and appearance of an area.

41. Where an authority has pursued this approach, but considers that it has not prevented unsuitable or harmful advertisement displays, the Secretary of State will be prepared to consider making a Direction under Regulation 7 of the 1992 Regulations, where an authority can show it is justified. In seeking a Direction to control the display of particular classes of advertisement, displayed with deemed consent, authorities will be expected to show that it would improve visual amenity and that the vigorous use of normal powers of control has proved inadequate. Similarly, when considering whether an advertisement is causing 'substantial injury to amenity', so that its display should be discontinued, the Secretary of State may take into account any evidence, on appeal, that the authority has acted in the light of with a well-formulated advertisement control policy.

## Trees in Conservation Areas

42. Trees are valued features of our towns and countryside and make an important contribution to the character of the local environment. Under Part VIII of the Town and Country Planning Act 1990, local planning authorities have a power to protect trees and woodlands in the interests of amenity by making tree preservation orders. In addition to this general power, authorities are under a duty where appropriate to make adequate provision for the preservation and planting of trees when granting planning permission for the development of land. They do this by a combination of planning conditions and tree preservation orders.

43. When considering whether to extend protection to trees in conservation areas, local planning authorities should always take into account the visual, historic and amenity contribution of trees. In some instances new plantings or re-plantings may be desirable where this would be consistent with the character and appearance of the area.

44. Many trees in conservation areas are the subject of tree preservation orders, which means that the local planning authority's consent must be obtained before they can be cut down, topped or lopped. In addition to these controls, and in view of the contribution that trees can make to the character and appearance of a conservation area, there is special provision for trees in conservation areas which are not the subject of tree preservation orders. Under Section 211, subject to a range

of exceptions (including small trees and ones that are dead, dying or dangerous), anyone proposing to cut down, top or lop a tree in a conservation area is required to give six weeks' notice to the local planning authority. The purpose of this requirement is to give the authority an opportunity of considering bringing the tree under their general control by making a tree preservation order in respect of it. Penalties for contravention, which may include a requirement to replant, are similar to those for tree preservation orders. For guidance on these matters see Welsh Office Circular 64/78.

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### PART 3: LISTING AND LISTED BUILDING CONTROLS

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45. Planning Guidance (Wales): Planning Policy 1996 (paragraphs 116–121) sets out the Secretary of State's policy for listing buildings of special architectural or historic interest and for addressing the subsequent control of works.

46. Section 1 of the Act requires the Secretary of State to compile a list of buildings of special architectural or historic interest with a view to the guidance of local planning authorities in the performance of their functions under the Act. The purpose of listing is to ensure that a building's special architectural or historic interest is fully recognised and that any works for the demolition of a listed building, or for its alteration or extension in any way which would affect its character as a listed building, are brought within statutory control.

47. Buildings are listed in three grades which reflect their relative importance. The current listing position in Wales is:

List Entries (Wales: September 1996)		
<u>Grade</u>	<u>Nos</u>	
I	329	(1.7%)
II*	1,045	(5.6%)
II	16,845	(89.7%)
Old grades (churches)	<u>569</u>	(3.0%)
	18,788	

#### Identification of Buildings for Listing

48. The main criteria which the Secretary of State applies in deciding which buildings to include in the statutory lists are set out at Annex C. The emphasis in these criteria is on national significance, though this cannot be defined precisely. For instance, the best examples of local vernacular building types will normally be listed. But many buildings which are valued for their contribution to the local scene, or for local historical associations, will not merit listing. Such buildings will often be protected by conservation area designation (see Part 2). It is also open to planning authorities to draw up lists of locally important buildings, and to formulate policies for their protection through development control procedures. Policies should make clear that such buildings do not enjoy the full protection of statutory listing. Buildings are added to the statutory lists in two main ways:

- (i) as a result of a systematic resurvey of particular areas or building types; or
- (ii) following proposals from local authorities, amenity societies or other bodies or individuals that particular buildings should be added to the lists ('spot listing').

49. Before including buildings in the statutory lists the Secretary of State is required to consult such other persons as he may consider appropriate as having special knowledge of, or interest in, buildings of special architectural or historic interest. Expert advisers usually visit and report on buildings before they are listed. In all

cases – resurveys and spot listing – there will normally be close consultation between Cadw and the local planning authority. The Secretary of State will consider the views of others, but his decision must be based on the special architectural or historic interest of the building. It is not his practice to advertise proposals for new listings.

### Notification of Owners and Occupiers

50. When a building is included in the statutory list, Cadw notifies the appropriate local planning authority. That authority must then notify the owner and occupier of the building. As it is a criminal offence to carry out any works (either to the exterior or interior) which would affect the character of a building once it is listed (unless listed building consent has been obtained), notice of listing must be given to the owner as soon as possible. The statutory notice is prescribed in the 1990 Regulations. In addition, Cadw aims to send an informal notification to the occupier of the building at the point of listing.

### Public Access to the List

51. The lists for Wales are available for free public inspection at Cadw's offices in Cardiff and at the Royal Commission on the Ancient and Historical Monuments of Wales (RCAHMW) in Aberystwyth. Each local planning authority has available the lists relating to its own area.

### List Descriptions

52. The lists include a description of each building. This is principally to aid identification. It has no statutory force. List descriptions will include mention of those features which led to the listing, but they are not intended to provide a comprehensive or exclusive record of all the features of importance, and the amount of information given in descriptions varies considerably. Absence from the list description of any reference to a feature (whether external or internal) does not, therefore, indicate that it is not of interest or that it can be removed or altered without consent. Where there is doubt, the advice of the local planning authority should be sought.

### Spot Listing

53. Requests for individual buildings to be spot listed can be made to the Secretary of State at any time and will be considered by Cadw. Where the area in question has recently been the subject of resurvey or review, it is important that requests for spot listing draw attention to any new evidence which may not have been available to Cadw previously, or otherwise explain why the building's special interest may have been overlooked. The Secretary of State recognises that there may be cases where new evidence justifies reconsideration of a previous decision not to list, but generally he will not be disposed to review earlier decisions unless such evidence is provided.

54. Difficulties can arise where proposals for spot listing are made when buildings are under imminent threat of alteration or demolition. Spot listing in such cases can often mean delay, sometimes with serious practical and financial consequences for the developer. All requests for spot listing are considered, but it is preferable from all points of view that buildings should be assessed for possible listing before planning permission has been granted for redevelopment. Local planning authorities should draw to Cadw's attention at the earliest possible stage any buildings affected by redevelopment proposals (including their own) which appear to them to merit listing. A building preservation notice served by the authority may be a quicker means of protecting a threatened building than a request for spot listing (see paragraph 56).

55. Requests to list buildings should be sent to Cadw's Listing Branch, Crown Building, Cathays Park, Cardiff CF11 3NQ. They should be accompanied by a justification for adding the building to the list; a location plan (such as an Ordnance Survey map extract) showing, wherever possible, the position of any other listed buildings nearby; clear up-to-date photographic prints of the main elevations of the building; any information about the building (e.g. its date); details of specialised function (e.g. industrial building); historical associations; the name of the architect (if known); its group value in the street scene; and details of any interior features of interest.

## Building Preservation Notices

56. Under Section 3 of the Act, local planning authorities have the power to serve building preservation notices in respect of buildings which are not listed, but which they consider are of special architectural or historic interest and in danger of demolition or alteration in such a way as to affect their character as buildings of such interest. A building preservation notice applies all the provisions of the Act relating to listed buildings (except Section 59) to the building concerned. It takes effect immediately it is served, and is often a quicker and so more expedient short-term measure than asking Cadw to spot list a building. A copy of the building preservation notice, a location plan and photographs of the building should be sent to Cadw as soon as the notice has been served. The notice remains in force for up to six months, but will lapse if within that period the Secretary of State either includes the building in the statutory list or notifies the authority in writing that it does not intend to do so. The authority must notify the owner and occupier if Cadw indicates it has been decided not to list the building, and may not serve another building preservation notice in respect of that building within twelve months of Cadw's notification.

57. In considering whether to serve a building preservation notice, authorities will appreciate that they become liable to pay compensation for any loss or damage resulting from the service of a notice which the Secretary of State does not uphold by listing. Cadw cannot indicate in advance whether the service of a notice in a particular case subsequently will result in listing. The same general principles of listing, set out above, will apply in these cases as in others. It should not however be assumed that listing will automatically follow the inclusion of a building by Cadw in a draft list sent to a local planning authority for consultation purposes, since that list may be amended before it is approved.

## Requests to De-List Buildings

58. The Secretary of State is prepared to review listings in the light of new evidence. There is no formal appeal procedure, but owners or others who believe that a listing should be reconsidered should send the evidence to Cadw's Listing Branch, together with photographs of the building and a location plan. The evidence must relate to the special architectural or historic interest ascribed to the building: if the objection to listing is (for instance) related to a building's condition and the cost of repairing or maintaining it, or to plans for redevelopment, the appropriate application should be made under the listed building consent procedures. The local authority concerned will be notified by Cadw of any requests received to de-list buildings.

59. The Secretary of State will not generally entertain an application for de-listing if the building is the subject of an application for listed building consent, or an appeal against refusal of consent, or if action by a local planning authority is in hand because of unauthorised works or neglect. Both listed building consent and enforcement appeal procedures give appellants the right to argue that a building is not of special interest and should be removed from the list. The issue of de-listing should normally be addressed in this way, rather than regarded as a means of avoiding the need for enforcement action.

## Certificates of Immunity from Listing

60. Currently, provided that planning permission is being sought or has been obtained, any person may ask the Secretary of State to issue a certificate stating that he does not intend to list the building or buildings involved in the planning application. Once a certificate is issued, the building cannot be listed for five years, nor may the local planning authority serve a building preservation notice during that time. However, if he does not grant a certificate, the Secretary of State will normally add the building to the statutory list, and listed building controls will then apply. This procedure gives greater certainty to developers proposing works which will affect buildings which may be eligible for listing: they will know either that they must seek listed building consent in the normal way, or that they have five years to carry on their development without the possibility of disruption by spot listing.

61. As a certificate of immunity is valid for five years, a building is normally completely reassessed when an application for a certificate is made because new information may have come to light. It should not be assumed, therefore, that even a recent decision by the Secretary of State not to list a building necessarily means that he will grant a certificate of immunity.

62. Even if a certificate of immunity is granted, a building in a conservation area will still normally need consent for demolition (see Part 2). It is not practicable to extend the certificate procedure to provide immunity from the effects of conservation area designation (but conservation area consent is not required where planning permission was granted prior to designation).

63. Applications for certificates of immunity should be made to Cadw's Listing Branch. There is no application form and no charge. Applicants should supply a copy of the planning application or planning permission, as well as the information requested for spot listing applications (paragraph 55). Applicants are required to notify the local planning authority in whose area the building is situated of the application at the same time as it is submitted to Cadw. Applicants should confirm that they have notified these authorities.

64. When a certificate is issued, Cadw will notify the relevant local authority. The existence of a certificate and its expiry date should be disclosed in response to enquiries by prospective purchasers of the building or land, together with other information relating to planning matters.

## Relationship Between Listing and Scheduling

65. Cadw maintains a schedule of ancient monuments of national importance. Most scheduled monuments are archaeological sites, ruins, or buildings for which there is little prospect of an economic use. The principles of selection are set out in Annex 3 of Welsh Office Circular 60/96. Where a building is both scheduled and listed, scheduling – which introduces closer controls than does listing – takes priority and listed building controls do not apply.

## Listed Building Control – General

66. Once a building is listed (or is the subject of a Building Preservation Notice) under Section 1 of the Act, Section 7 provides that consent is normally required for its demolition, in whole or in part, and for any works of alteration or extension which would affect its character as a building of special architectural or historic interest. It is a criminal offence to carry out such works without consent, which should be sought from the local planning authority.

67. Controls apply to works, both external and internal, that would affect a building's special interest, whether or not the particular feature concerned is specifically mentioned in the list description. Consent is required where painting or

repainting the exterior or interior of a listed building would affect the building's character. Consent is not normally required for repairs, but, where repairs involve alterations which would affect the character of the listed building, consent is required. Whether repairs actually constitute alterations which require consent and whether proposed works constitute alterations or demolition is a matter of fact and degree which must be determined in each case. Fixtures and curtilage buildings – i.e. any object or structure which is fixed to the building, or which is within the curtilage and forms part of the land and has done so since before 1 July 1948 – are also treated as part of the building for the purposes of listed building control.

68. While the listing of a building should not be seen as a bar to all future change, the starting point for the exercise of listed building control is the statutory requirement on local planning authorities to "have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses" (Section 66 of the Act).

69. Applicants for listed building consent must be able to justify their proposals. They will need to show why works which would affect the character of a listed building are desirable or necessary. They must provide the local planning authority with full information, to enable them to assess the likely impact of their proposals on the special architectural or historic interest of the building and on its setting.

## General Criteria

70. The issues that are generally relevant to the consideration of all listed building consent applications are:

- (i) the importance of the building, its intrinsic architectural and historic interest and rarity, in both national and local terms (further explained in Annex C);
- (ii) the particular physical features of the building (which may include its design, plan, materials or location) which justify its inclusion in the list: list descriptions may draw attention to features of particular interest or value, but they are not exhaustive and other features of importance (e.g. interiors) may come to light after the building's inclusion in the list;
- (iii) the building's setting and its contribution to the local scene, which may be very important, e.g. where it forms an element in a group, park, garden or other townscape or landscape, or where it shares particular architectural forms or details with other buildings nearby; and
- (iv) the extent to which the proposed works would bring substantial benefits for the community, in particular by contributing to the economic regeneration of the area or the enhancement of its environment (including other listed buildings).

71. The grading of a building in the statutory lists is clearly a material consideration for the exercise of listed building control. Grades I and II\* identify the exceptional architectural or historic interest of a small proportion (7–8%) of all listed buildings. These buildings are of particularly great importance to the nation's built heritage: their significance will generally be beyond dispute. But it should be emphasised that the statutory controls apply equally to all listed buildings, irrespective of grade; and since Grade II includes some 90% of all listed buildings, representing a major element in the historic quality of our towns, villages, and countryside, failure to give careful scrutiny to proposals for their alteration or demolition could lead to widespread damage to the historic environment. Detailed technical guidance on the consideration of listed building consent applications is provided in Annex D. The Secretary of State commends this guidance and asks all planning authorities to take it into account in their exercise of listed building and development controls.

## Secretary of State's Directions

72. This Part sets out the requirements for notification of applications for listed building consent. The following Directions are in force:

### A Direction –Notification to Cadw of listed building consent applications

Section 13 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority to notify the Secretary of State of any application for listed building consent which they propose to grant. So far as applications to alter listed buildings are concerned, the Secretary of State is empowered under Section 15(1) of the Act to direct that notification shall not apply to specified descriptions of building. He hereby directs that Section 13 shall not apply to applications for listed building consent for the carrying out of work affecting the interior only of a Grade II (unstarred) building, other than applications for consent for the carrying out of works to buildings in respect of which he has made a grant under Section 4 of the Historic Buildings and Ancient Monuments Act 1953, or in respect of which an application for grant under that section has been made but not yet decided. Notification must still be given of any application which involves demolition, or affects either the interior or exterior of a Grade I or II\* building, the exterior of a Grade II (unstarred) building, or any listed building grant-aided under the 1953 Act.

### B Direction –Notification to other interested parties of applications for listed building consent

The Secretary of State has power under Section 15(5) of the Act to direct local planning authorities to notify specified persons of any applications for listed building consent and the decisions taken by the authority on them. The Secretary of State hereby directs that notice of all applications for consent to demolish (including partial demolition) a listed building and of the decisions taken thereon should be given to the following bodies: the Ancient Monuments Society, the Council for British Archaeology, the Georgian Group, the Society for the Protection of Ancient Buildings, the Victorian Society and the Royal Commission on the Ancient and Historical Monuments of Wales. The addresses of these bodies are given below. Except in the case of the Royal Commission, the notifications of the applications should be accompanied by the relevant extract from the list describing the building". Any representations received in response to these notifications should be taken into account when the application is being considered.

## Notifications

73. These bodies are required to be notified under the terms of the Direction:

The Ancient Monuments Society  
St Ann's Vestry Hall, 2 Church Entry  
London EC4V 5HB

The Council for British Archaeology  
Crud y Ser, 15 Church Meadow  
Rhydymwyn, Mold CH7 5HX

The Royal Commission on the Ancient  
and Historical Monuments of Wales  
Crown Building, Plas Crug  
Aberystwyth SY23 1NJ

The Georgian Group  
6 Fitzroy Square, London W1P 6DX

The Victorian Society  
(South and West Wales Area).  
2 Nant yr Adar  
Llantwit Major CF62 9TW

The Victorian Society  
(North Wales and Mid-Wales Area)  
Environmental Institute  
Bolton Road, Swinton  
Manchester M27 2UX

The Society for the Protection of  
Ancient Buildings  
37 Spital Square, London E1 6DY

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"Consultation arrangements have been shown to work best where sufficient information is provided both to identify the building and the extent of work proposed.



## **Departmental Evaluation and Determination Processes**

74. All private applications for listed building consent to which local authorities are minded to grant consent (other than applications for works to the interior only of Grade II listed buildings which have not been grant-aided under the Historic Buildings and Ancient Monuments Act 1953) are formally notified to the Secretary of State under Section 13 of the Act before they may be determined.

75. The initial evaluation of an application for listed building consent notified to the Secretary of State is made by Cadw. Cadw's professional officers provide an expert assessment of the application on the basis of the effect of the proposals on the special architectural or historic interest of the building in question and, if appropriate, on the character and appearance of the conservation area. Where, having taken account of the professional assessment, any representations received, the guidance in Planning Guidance (Wales): Planning Policy 1996 and in this Circular, it is considered that the application may be determined by the local authority Cadw will advise accordingly. Where necessary Cadw will notify the local planning authority that the Secretary of State needs further time, beyond the 28 day statutory period, in which to consider whether call-in under Section 12 of the Act is required. Once notified that an application may be determined, it is for the local planning authority to issue the decision, a copy of which must be sent to Cadw.

### **Called-in Applications**

76. The Secretary of State may require applications for listed building consent to be referred to him for decision, but this call-in power has been exercised only in a small number of cases per year in recent years. The policy of the Secretary of State is to be very selective about calling in listed building consent cases.

77. Cases are likely to be called in where the Secretary of State considers that the proposals raise issues of exceptional significance or controversy. It may also happen that an application for listed building consent is received by a local planning authority when a related matter (e.g. a planning appeal, a called-in planning application or a compulsory purchase order) is being considered by the Secretary of State. Unless it is clear that the listed building consent application can reasonably be dealt with separately, such an application will normally be called in.

78. Where a private application for listed building consent is called in, a written assessment by Cadw's professional officer offering an expert opinion on the merits of the application will be made available to interested parties.

### **Local Authority Applications**

79. Local authority applications for listed building consent are referred to the Secretary of State under Section 12 of the Act. Applications by a local authority for conservation area consent are determined by the Secretary of State under the provisions of Section 74(2)(a) of the Act. All applications by local authorities should be made to Cadw. Cadw's professional assessment will be sent to the applicant authority if the subsequent evaluation and determination of the application is undertaken by further written representations or public inquiry procedures.

### **Advice to Owners**

80. Owners of listed buildings should be encouraged to seek expert advice on whether proposed works require listed building consent, and on the best way to carry out any such works to their property. Many will need to obtain professional advice anyway, but the Secretary of State hopes that local planning authorities will give owners informal advice where they can or guide them to other sources where they can get advice for themselves. Much specialist advice is published on the care

of historic buildings and Cadw can sometimes give advice on individual cases, especially where unusual problems are encountered. The national amenity societies are willing to offer advice to individual owners whenever possible. The RCAHMW may have a record of a building and its reports and photographs may be available for guidance in understanding the structure and its evolution.

## Recording Buildings

81. The RCAHMW must be notified of all proposals to demolish listed buildings, and allowed access to buildings which it wishes to record before demolition takes place. There are other circumstances where notification may be appropriate – for instance, where the exterior of a building is likely to be radically changed as a consequence of major repairs, alteration or extension, or where interior work of significance will be lost, affected by subdivision, or substantially rebuilt.

82. Local planning authorities should consider, in all cases of alteration or demolition, whether it would be appropriate to make it a condition of consent that applicants arrange suitable programmes of recording of features that would be destroyed in the course of the works for which consent is being sought. Authorities should not, however, require applicants to finance such programmes in return for the granting of consent. Nor should applicants expect to be granted consent merely because they have arranged suitable programmes. (For recording of archaeological remains see paragraph 10).

83. Hidden features of interest may be revealed during works of alteration, especially in older or larger buildings: chimney pieces, fireplaces, early windows and doors, panelling, wattle-and-daub partitions and even wall paintings may come to light. Applicants for listed building consent should be made aware of this possibility and should seek the advice of the local planning authority when such things are found. If there is any likelihood that hidden features will be revealed, the local planning authority should attach an appropriate condition to the listed building consent to ensure their retention or proper recording, or should require exploratory opening up, with listed building consent as necessary, before considering consent for the main works.

## Fixtures and Curtilage Structures

84. It is important to know the extent of a listing, not just to determine whether listed building consent is needed for works, but also to determine the payment of VAT and business rates. Section 1(5) of the Act sets out the meaning of a listed building for the purposes of the Act: a listed building is one included in a list compiled or approved by the Secretary of State and includes 'any object or structure fixed to the building' and 'any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1 July 1948'. The Courts have considered in a number of cases in this context the meaning of 'any object or structure fixed to the building' and 'curtilage'.

85. The listing of a building confers protection not only on the building, but also on any object or structure fixed to the building which is ancillary to the building. The word 'fixed' has the same connotation as in the law of fixtures. These rules provide that any object or structure fixed to a building should be treated as part of it. It is a test therefore of fact in each case as to whether a structure is free-standing or physically fixed to the building. Generally it would be reasonable to expect some degree of physical annexation, together with indications that the annexation was carried out with the intention of making the object an integral part of the land or building. In the light of this test, items such as chimney-pieces, wall panelling and painted or plastered ceilings will normally be found to be part of the building.

86. It may be difficult in some individual cases to decide whether a particular object or structure is a fixture or not. Free-standing objects, e.g. statues, may be fixtures if they were put in place as part of an overall architectural design; this could include objects specially designed or made to fit in a particular space or room. But works of art which were placed in a building primarily to be enjoyed as objects in their own right, rather than forming part of the land or the building, are not likely to be properly considered as fixtures. Each case must be treated in the light of its own facts, and owners who are contemplating works are advised to contact their local planning authority first.

87. The listing of a building confers protection on any object or structure within its curtilage which forms part of the land and has done so since before 1 July 1948. Following recent case law, the Secretary of State's policy is to consider individually all the structures and buildings on a site which can be construed as separate buildings and to list those which qualify for listing. There will still be circumstances, however, where a structure or building forms part of land which surrounds or is connected to or serves a listed building, and landowners and local planning authorities will need to consider on the facts of each case whether it forms part of the land and falls within the curtilage of the listed building.

88. The principal tests as to whether an object or structure is within the curtilage of a listed building relate to the physical layout of the land surrounding the listed building at the date of the statutory listing and the relationship of the structures on the surrounding land to each other. Changes in ownership, occupation or use after the listing date will not bring about the de-listing of a building which formed part of the principal building at the date of listing. The Courts have held that for a structure or building within the curtilage of a listed building to be part of a listed building it must be ancillary to the principal building, that it must have served the purposes of the principal building at the date of listing, or at a recent time before the date of listing, in a necessary or reasonably useful way and must not be, historically an independent building. Where a self-contained building was fenced or walled-off from the remainder of the site at the date of listing, regardless of the purpose for which it was erected and is occupied, it is likely to be regarded as having a separate curtilage. The structure or building must still form part of the land, and this probably means that there must be some degree of physical annexation to the land.

89. Considerations which may assist local planning authorities in forming their own views, or giving advice if requested, include:

- the historical independence of the building;
- the physical layout of the principal building and other buildings;
- the ownership of the buildings now and at the time of listing;
- whether the structure forms part of the land;
- the use and function of the buildings, and whether a building is ancillary or subordinate to the principal building.

90. It is always necessary to recognise that the question of whether a building, structure or object is within the curtilage of, or is fixed to, the principal building, unless specifically included in the listing, is in any particular case a matter of fact and ultimately a matter for the Courts. Great caution **must** be exercised, therefore, in attempting to extrapolate any general principles from recent decisions and this guidance does not purport to be definitive.

## *Demolition of Listed Buildings*

91. There are outstanding buildings for which it is in practice almost inconceivable that consent for demolition would ever be granted. The demolition of any Grade I or Grade II\* building should be wholly exceptional and require the strongest justification. The Secretary of State would not expect consent to be given for the total or substantial demolition of any listed building without convincing evidence that all reasonable efforts have been made to sustain existing uses or find viable new uses, and these efforts have failed; that preservation in some form of charitable or community ownership is not possible or suitable; or that redevelopment would produce substantial benefits for the community which would decisively outweigh the loss resulting from demolition. The Secretary of State would not expect consent for demolition to be given simply because redevelopment is economically more attractive to the developer than repair and re-use of a historic building, or because the developer acquired the building at a price that reflected the potential for redevelopment rather than the condition and constraints of the existing historic building.

92. The Secretary of State would expect authorities to address the following considerations in determining applications where the proposed works would result in the total or substantial demolition of the listed building, or any significant part of it:

- (i) the condition of the building, the cost of repairing and maintaining it in relation to its importance and to the value derived from its continued use. Less favourable levels of rents and yields cannot automatically be assumed. Any assessment should also take account of the possibility of tax allowances and exemptions and of grants from public or charitable sources. In those cases where it is clear that a building has been deliberately neglected, less weight should be given to the costs of repair;
- (ii) the adequacy of efforts made to retain the building in use. This should include the offer of the unrestricted freehold of the building on the open market at a price reflecting the building's condition (the offer of a lease would normally reduce the chances of finding a new use for the building); and
- (iii) the merits of alternative proposals for the site. Whilst these are a material consideration, the Secretary of State takes the view that subjective claims for the architectural merits of proposed replacement buildings should not in themselves be held to justify the demolition of any listed building. Even where it is thought that the proposed works would bring substantial benefits for the community, it will often be feasible to incorporate listed buildings within the new development, and this option should be carefully considered: the challenge presented by retaining listed buildings can be a stimulus to imaginative new design.

## *Alterations and Extensions to Listed Buildings*

93. The listing of a building confers protection not only on the building but also on any object or structure fixed to the building and which is ancillary to it and, if built before 1 July 1948, within its curtilage.

94. Many listed buildings are already in well-established uses, and any changes need be considered only in this context. But where new uses are proposed, it is important to balance the effect of any changes on the special interest of the listed building against the viability of any proposed use and of alternative, and possibly less damaging, uses. In judging the effect of any alteration or extension it is essential to have assessed the elements that make up the special interest of the building in question. They may comprise obvious visual features such as a decorative facade or, internally, staircases or decorated plaster ceilings, and the spaces and layout of the building and the archaeological or technological interest of the surviving structure and surfaces. These elements are often just as important in simple vernacular and functional buildings as in grander architecture.

95. Many listed buildings can sustain a degree of sensitive alteration or extension to accommodate continuing or new uses. Indeed, cumulative changes reflecting the history of use and ownership are themselves an aspect of the special interest of some buildings, and the merit of new alterations or additions, especially where they are generated within a secure and committed long-term ownership, should not be discounted. Nevertheless, listed buildings do vary greatly in the extent to which they can accommodate change without loss of special interest. Some may be sensitive even to slight alterations; this is especially true of buildings with important interiors and fittings – not just great houses, but also, for example, chapels with historic fittings or industrial structures with surviving machinery. Some listed buildings are the subject of successive applications for alteration or extension: in such cases it needs to be borne in mind that minor works of indifferent quality, which may seem individually of little importance, can cumulatively be very destructive of a building's special interest.

96. The listing grade is a material consideration, but is not in itself a reliable guide to the sensitivity of a building to alteration or extension. For example, many Grade II buildings are humble, once common building types which have been listed precisely because they are relatively unaltered examples of their sort. They can have their special interest ruined by unsuitable alteration or extension as readily as can Grade I or II\* structures.

97. Achieving a proper balance between the special interest of a listed building and proposals for alterations or extensions is demanding and should always be based on specialist expertise; but it is rarely impossible, if reasonable flexibility and imagination are shown by all parties involved. Thus, a better solution may be possible if a local authority is prepared to apply normal development control policies flexibly; or if an applicant is willing to exploit unorthodox spaces rather than set a standardised requirement; or if an architect can respect the structural limitations of a building and abandon conventional design solutions in favour of a more imaginative approach. For example, standard commercial office floor-loadings are rarely needed in all parts of a building, and any unusually heavy loads can often be accommodated in stronger areas such as basements.

98. The preservation of facades alone, and the gutting and reconstruction of interiors, is not normally an acceptable approach to the reuse of listed buildings: it can destroy much of a building's special interest and create problems for the long-term stability of the structure.

99. Local authorities are reminded that they have the power to relax certain requirements of the Building Regulations where their strict application would be unreasonable in a particular case and sympathetic consideration should be given to applications for relaxation in respect of work to listed buildings. Often, it will be possible to meet the requirements of the Building Regulations in a way which does little or no damage to the appearance of the building. Authorities should seek expert advice in endeavouring to strike a balance.

### Advice from Cadw

100. As Cadw is an Executive Agency within the Welsh Office, the Agency's professional officers are permitted only to offer their informal advice to applicants and local planning authorities on proposals (which are, or may become, the subject of an application for listed building consent) where this can be done without prejudice to the Secretary of State's position in the planning process. The principle which governs their conduct lies in their position as officials of the Secretary of State. Their purpose in entering into discussions is to provide professional guidance to inform the development of proposals or their consideration and to inform the applicant's proposals from a specialist viewpoint. In this context, the advice given is not binding on consideration of an application for consent.

101. Cadw's professional officers are not permitted to undertake informal discussions once:

Private LBC Applications

- (a) the owner or developer has made an application for LBC unless the local planning authority is present at the discussions;
- (b) (with either the applicant or the local planning authority) a case for call-in is being considered; and

Local Authority Applications

- (c) the authority has made an application for LBC.

102. Cadw's professional officers will not have bilateral discussions with an applicant, rather the local planning authority is expected to be party to discussions.

## Applications

103. The various steps relevant to authorities' handling of listed building consent applications are summarised at Annex E. Every application for listed building consent should be accompanied by adequate scaled drawings. These should normally show the building as existing and the full extent of the proposed alterations, together with details of the materials and proprietary products to be used. In some cases sectional drawings will be required. Drawings are the principal record of changes to historic buildings and the foundation of proper control. They will also make the consultation procedure more effective. Local planning authorities should not accept applications with inadequate drawings.

104. Applications for listed building consent must be made in duplicate on a form issued by the local planning authority. Section 10(2) of the Act requires that they include sufficient particulars, including a plan, to identify the building in question and such other plans and drawings as are necessary to describe the works for which consent is sought. For all but the simplest work this should normally mean measured drawings of all floor plans and external or internal elevations affected by the work proposed. There should be two sets of such drawings, showing the structure before work and the altered structure or new development to replace it after the proposed work. The Act also empowers an authority to seek such other particulars as it requires and, in the case of complex proposals, an authority should be prepared to require sufficient particulars to ensure that it has a full understanding of the impact of the proposals on the character of the building in question.

## Granting of Consents

105. Section 8(1)-(2) of the Act requires that the RCAHMW be allowed at least one month to record a listed building before demolition takes place (unless they indicate that they do not wish to record it). Authorities should make sure that applicants are aware of this requirement. It is helpful if authorities can draw attention to the provisions of the relevant sections in their application forms for listed building consent. All decisions granting consent for demolition should draw attention to the provisions of Sections 8(1) and (2), and enclose form RCAHMW for applicants to use to notify the Commission of their proposals (copies are available from RCAHMW); the decision must also be copied to RCAHMW at Plas Crug, Aberystwyth SY23 1NJ.

106. Local authorities should not authorise demolition to make way for new development unless it is certain that the new development will proceed. This can be done by imposing a condition on the grant of consent providing that demolition shall not take place before a contract for carrying out works of redevelopment on the site has been made and planning permission has been granted for the redevelopment for which the contract provides.

107. Listed buildings acquired for demolition and development, whether by private owners or local authorities, should be kept in use for as long as possible, or at least kept wind, weather and vandal-proof until work actually starts. If plans subsequently change, urgent action should be taken to ensure that the building is put into good repair and brought back into suitable use.

108. Granting of consent for demolition does not always mean that it will be implemented. When local authorities know that total demolition has taken place, they should notify Cadw's Listing Branch so that the building can be removed from the list.

## Conditions

109. The power to impose conditions on a listed building consent is wide, but the Act specifically empowers certain types of condition (Section 17). All conditions should be necessary, relevant, enforceable, precise and reasonable. Some examples of conditions which may be appropriate are set out at Annex F

110. A listed building consent shall always be granted subject to a condition that the work to which it relates must be begun not later than five years (or whatever longer or shorter period is considered appropriate in a particular case) from the date on which the consent is granted (Section 18). If any consent is granted without a time limit, the five year period will automatically apply. Conditions requiring the preservation of particular features, or making good damage caused by works, or reconstruction of the building (with the use of original materials so far as practicable) may also be imposed. A listed building consent will normally operate for the benefit of the building regardless of ownership, but, where appropriate, a condition limiting the benefit of the consent to a specified person or persons may be imposed. See also the condition restricting premature demolition in paragraph 34 above.

## Later approval of details

111. The authority must always be satisfied that it has adequate information to assess the effect of proposed works on the listed building before granting consent: the extent of the work, the method to be used, and the materials involved are all important. However, Section 17 (2) of the Act permits authorities to impose conditions requiring the subsequent approval of specified details of the works (whether or not these had been set out in the application). This does not provide in any sense an outline listed building consent: it is simply intended to speed up the consideration of applications. It avoids the need for an authority to refuse consent if it is satisfied that the remaining details can safely be left for subsequent approval but it should never be used unless authorities are satisfied that they have enough details to assess the impact of the proposals on the building as a whole.

## Applications for the discharge or variation of a condition

112. Conditions should not be varied or discharged lightly. Frequently consent would not be given without conditions to safeguard the treatment of the building or to require works to be carried out in a certain way. Nevertheless, occasionally it may become clear that a condition is no longer appropriate (e.g. because genuine structural problems arise, or better solutions for the treatment of the building are devised, or other features of interest are revealed once work has started). Section 19 of the Act therefore enables an application to be made by persons with a legal interest in the building which simply seeks a change in the conditions without reopening the entire question of whether consent should have been granted. In dealing with such an application it is also open to the authority (or the Secretary of State) to add consequential new conditions to the consent.

## Appeals

113. The procedure for appeals broadly follows that for ordinary planning appeals. There is, however, provision for one special ground of appeal, namely that the building does not merit its listed status (Section 21 (4)). Where this argument is advanced Cadw will be consulted.

## Purchase Notices

114. When listed building consent is refused or granted subject to conditions, any owner of the land may serve a listed building purchase notice on the local authority requiring it to purchase the interest in the land if the owner can establish that because of the refusal or conditions the land has become "incapable of reasonably beneficial use" (Sections 32–37). The authority must respond within three months; where it proposes not to accept such a notice it must first refer it to the Secretary of State who must give the parties the opportunity of being heard and may then confirm the notice or take other action. (See Welsh Office Circular 22/83 for more detailed advice.)

## Revocation of Listed Building Consent

115. An authority may make an order revoking or modifying a listed building consent if it appears expedient to do so, having regard to the development plan and any other material considerations (Sections 24–26). Such an order must be advertised and the owner and occupier of the land and all persons who, in the authority's opinion, will be affected by the order must be notified. If all those persons notify the authority in writing that they do not object to the order, it can take effect (unless it relates to a consent granted by the Secretary of State); but in all other circumstances the order must be sent to the Secretary of State for confirmation. The Secretary of State also has default powers to make such orders. Compensation may be payable for abortive expenditure or other loss or damage caused by the order (Section 28).

## Prosecutions

116. It is an offence to execute, or cause to be executed without first obtaining listed building consent, any works for the demolition, alteration or extension of a listed building in any manner affecting its character or to fail to comply with the terms of any condition attached to a consent (Section 9). The current penalty for conviction in a Magistrates' Court is a fine of up to £20,000 or imprisonment for up to six months (or both). Whilst on conviction in the Crown Court, an unlimited fine or a prison sentence of up to two years (or both) may be imposed in determining the amount of any fine, the Magistrates Court or Crown Court must have regard to any financial benefit accruing from the offence.

117. In proceedings for an offence under Section 9 it is a defence to prove the following matters:

- (a) that works to the building were urgently necessary in the interests of safety or health or for the preservation of the building;
- (b) that it was not practicable to secure safety or health or, as the case may be, to preserve the building by works of repair or works for affording temporary support or shelter;
- (c) that the works carried out were limited to the minimum measures immediately necessary; and
- (d) that notice in writing justifying in detail the carrying out of the works was given to the local planning authority as soon as reasonably practicable.



118. Private individuals as well as local authorities can start proceedings. The Secretary of State can initiate prosecution proceedings or seek injunctions for breaches of listed building control. A prosecution may be made under Section 59 for deliberate damage to a listed building.

### Listed Building Consent for Works Already Executed

119. Section 8(3) of the Act allows listed building consent to be sought even though the works have already been completed. Applications for consent to retain such works should follow the same procedures as other listed building consent applications. Authorities should not grant consent without considering the merits of the case as they would if consent for the works had been sought before they were carried out. If the work is not of a suitable type or standard, normally consent should not be given, and the risk of prosecution or enforcement action will remain. If consent is granted, it is not retrospective; the works are authorised only from the date of the consent. A prosecution may still be brought for the offence of undertaking work without consent.

### Enforcement

120. If work is carried out without consent local planning authorities can issue a listed building enforcement notice (Section 38). The notice may require the building to be brought to its former state; or, if that is not reasonably practicable or desirable, require such other works specified in the notice to alleviate the effects of the unauthorised works; or require the building to be brought into the state it would have been in if the terms of any listed building consent had been observed. It was held in the case of *Bath City Council v Secretary of State for the Environment* (1983 JPL 737) that this provision could not be used to secure an improvement to a listed building compared to its state before the unauthorised works were carried out. There is a right of appeal to the Secretary of State against a notice; the appeal procedures are generally similar to those for enforcement of planning controls following the Planning and Compensation Act 1991, although there are no provisions equivalent to a planning contravention notice, nor is there any limitation on the period within which a listed building enforcement notice must be issued. If works subject to a listed building enforcement notice are later authorised under Section 8(3), the enforcement notice will cease to have effect in relation to those works, although the liability to prosecution for an offence committed before the date of consent remains. Breach of a listed building enforcement notice is in itself an offence, with financial penalties parallel to those for a breach of listed building control.

121. Local planning authorities will need to consider, when faced with a breach of listed building control, whether to take enforcement action or to prosecute or both. Enforcement may be desirable for the benefit of the building in question, while the work entailed by enforcement may represent a sufficient response to the offence. Unauthorised work may often destroy historic fabric, the special interest of which cannot be regained by enforcement. Well-publicised, successful prosecutions can provide a valuable deterrent to the wilful damage or destruction of listed buildings.

### Compulsory Purchase Orders Which Include Listed Buildings in Conservation Areas

122. Welsh Office Circular 1/90 gives general guidance on the submission of compulsory purchase orders which include listed buildings or buildings in conservation areas. Welsh Office Circular 2/93 summarises the provisions on compulsory purchase orders made under Housing Act powers.

## Dangerous Structures

123. Local planning authorities may not consider making a dangerous structures order for listed buildings, buildings subject to building preservation notices and buildings in conservation areas unless they have considered, as an alternative, whether to exercise their powers under Sections 47, 48 or 54 of the Act relating to repairs (Section 56). Even when they consider that a dangerous structures order is appropriate, the works specified in such an order relating to such buildings still require listed building consent. Authorities making dangerous structures orders should remind owners of the need to obtain listed building consent – or fulfil the requirements of Section 9 (3) which provides a defence against prosecution.

## Building and Fire Regulations

124. In exercising their responsibilities for the safety of buildings under the building regulations and fire legislation, local authorities should deal sympathetically with proposals for the repair or conversion of historic buildings. Authorities should seek expert advice in endeavouring to strike a balance.

## Access for Disabled People

125. It is important in principle that disabled people should have dignified easy access to and within historic buildings. If it is treated as part of an integrated review of access requirements for all visitors or users, and a flexible and pragmatic approach is taken, it should normally be possible to plan suitable access for disabled people without compromising a building's special interest. Alternative routes or organising the use of spaces may achieve the desired results without the need for damaging alterations. Local authorities should take account of the requirements of the Disability Discrimination Act 1995.

## House Renovation Grants

126. Where an authority proposes to grant aid renovation work to a listed house or a house in a conservation area, care should be taken to ensure that standard grant conditions (e.g. for damp proofing or insulation) are not imposed in a way which would be damaging to the historic character of the building. In such cases housing and environmental health departments should consult the authority's conservation officer or seek expert advice from other sources.

## Local Authorities' Own Buildings

127. Local authorities are normally required to make their own listed building consent applications to the Secretary of State, whether or not they themselves own the listed building in question. The Secretary of State asks authorities to deal with their own buildings in ways which will provide examples of good practice to other owners. It is particularly important that every effort should be made to maintain historic buildings in good condition, and to find appropriate new uses for buildings in authority ownership which are no longer in active use. Prompt disposal is important: empty buildings should not be retained on a contingency basis, with all the risk of neglect and disrepair that this can create. The Secretary of State will not be disposed to grant consent for the demolition of a listed building in an authority's ownership unless there is clear and convincing evidence that alternative possibilities for new ownership and new uses have been thoroughly explored.

## Churches and Crown Buildings

128. Special provisions apply to ecclesiastical buildings in use for ecclesiastical purposes, which are in some circumstances exempt from listed building and conservation area controls (see Part 5).

129. The Crown is exempt from listed building and conservation area controls; but the Government has undertaken that Crown bodies will normally operate as if the controls apply (see Welsh Office Circular 37/84). Proposals have been published for the removal of Crown exemption in planning and conservation matters, but pending the necessary legislation these arrangements continue to apply.

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## PART 4: HISTORIC BUILDINGS IN NEED OF REPAIR

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### **Urgent Works**

130. Section 54 of the Act enables a local authority to carry out urgent works for the preservation of listed buildings in its area. These powers can be used only in respect of an unoccupied building, or the unused part of a partly occupied building. The Act enables the Secretary of State to direct that the powers shall apply to an unlisted building in a conservation area if it appears to him that its preservation is important for maintaining the character or appearance of that area. Local authorities or members of the public may ask the Secretary of State to make such a Direction; such requests should be supported by evidence confirming the importance of the building in question.

131. The Secretary of State can also exercise these powers himself. His policy is to use the powers only in exceptional cases, for instance where a building is of exceptional interest or is in local authority ownership; or where a conservation area is of more than local interest and either the building in question is so important to the area that failure to carry out urgent works to it would seriously damage the character or appearance of the area or the building as well as meeting the basic Section 76 criterion, or is in local authority ownership. In all such cases he would consider the use of his own powers only where the local authorities concerned had decided not to take action themselves.

132. Authorities will note that these powers are confined to urgent works: in the Secretary of State's view, their use should be restricted to emergency repairs, for example works to keep a building wind and weather-proof and safe from collapse, or action to prevent vandalism or theft. The steps taken should be the minimum consistent with achieving this objective.

133. Local authorities may recover from owners the cost of urgent works carried out under these provisions, subject to the owner's right to make representations to the Secretary of State (Section 55 of the Act). Representations may be made on the grounds that some or all of the works were unnecessary; that temporary arrangements have continued for an unreasonable length of time; or that amounts are unreasonable or their recovery would cause hardship. The Secretary of State will take all such representations into account before determining the amount to be recovered, and will be particularly concerned to establish whether the works carried out were the minimum required to secure the building's preservation and prevent further deterioration.

### **Repairs Notices**

134. If a local authority or National Park Authority considers that a listed building is not being properly preserved, it may serve on the owner a Repairs Notice (Section 48 of the Act). This notice must specify the works which the authority considers reasonably necessary for the proper preservation of the building, and must explain the relevant provisions of the legislation, which are described briefly below. These powers are not confined to urgent works or to unoccupied buildings, and authorities should consider their use in cases where protracted failure by an owner to keep a listed building in reasonable repair places the building at risk.

135. Repairs Notice powers may also be exercised by the Secretary of State, but, as with urgent works, his policy is to treat these powers essentially as reserve powers, and to use them only in exceptional circumstances. It is not open to the Secretary of State to authorise the use of Repairs Notices in respect of unlisted buildings in conservation areas.

### **Compulsory Acquisition of Listed Buildings in Need of Repair**

136. If at least 2 months have elapsed following the service of a Repairs Notice, and it appears to the body who served the Notice that reasonable steps are not being taken for the proper preservation of the building, they may begin compulsory purchase proceedings. Orders made by a local authority require the Secretary of State's confirmation. In making or confirming a compulsory purchase order (CPO), the Secretary of State must be satisfied that it is expedient to make provision for the preservation of the building and to authorise its compulsory acquisition for that purpose. The Secretary of State will need to be satisfied that the means and the resources necessary for securing the building's repair will be available.

137. The Secretary of State considers that privately owned historic buildings should, wherever possible, remain in the private sector. Every effort should be made to identify a private individual or body, such as a building preservation trust, which has access to funds to carry out the necessary repairs and to which the building will be sold as quickly as possible. Suitable covenants should be negotiated to ensure that repairs will be carried out by a purchaser.

### **Extent of Repairs**

138. A House of Lords judgment (*Robbins v Secretary of State for the Environment* (1989) 1 All. E.R. 878) has provided guidance on the nature of the works which may properly be specified in a Repairs Notice. The judgment held that, while the definition of works reasonably necessary for the proper preservation of the building will always relate to the circumstances of the individual case, and involve judgements about what is reasonable, the word 'preservation' has to be given its ordinary meaning in contrast to 'restoration', and this imposes an objective limitation which must be applied in considering the scope of works to be specified in a Notice. The judgment also made clear that a Notice can include works for the preservation of a building having regard to its condition at the date when it was listed: in other words, where a building has suffered damage or disrepair since being listed, the Repairs Notice procedure can be used to secure the building's preservation as at the date of listing but should not be used to restore other features.

### **General Considerations**

139. The possible need to follow-up with a CPO is something which local authorities should take into account when contemplating Repairs Notice action. A recent study in England\* has shown that in over 80% of cases, authorisation or formal service of a Notice was itself sufficient to prompt owners either to begin repairs or to sell the building in question to a third party: in only 16% of cases did the matter reach a CPO inquiry.

The following too are relevant considerations:

- the purpose of compulsory purchase is to ensure that reasonable steps are taken to properly preserve a listed building: it is not a requirement that the local authority should itself carry out the repairs or pay for them. Indeed in the Secretary of State's view it is preferable, as stated in para 8 above, for the local authority to obtain a firm commitment from a private purchaser to repair the building and meet the costs (perhaps with the assistance of grant-aid);

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*Listed Building Repairs Notices*; Bob Kindred, for the Association of Conservation Officers, 1992.

- the Act contains provisions for minimum compensation where an owner has deliberately allowed a building to fall into disrepair in order to justify its demolition and secure permission for redevelopment of the site (Section 50 of the Act); minimum compensation should however be sought only where there is clear evidence of such an intention;
- where the minimum compensation provisions do not apply, normal market value rules apply (as laid down in the Land Compensation Act); but even here, high costs of repair, combined with limited possibilities for development, may indicate a very low or even nominal value.

Authorities have powers under Section 52 of the Act to acquire land and buildings by agreement.

140. Authorities are reminded that where a historic building is disposed of (either by freehold sale or long lease) within 2 years of its acquisition, and the price received on resale is no more than the price paid, the capital receipt is unrestricted. Acquisitions under arrangements for immediate onward sale to e.g. a building preservation trust should, therefore, have no adverse financial implications for the authority, though there will clearly be other resource costs involved in securing confirmation of a CPO.

141. Grant assistance is available from Cadw: Welsh Historic Monuments towards the cost of repair of buildings of outstanding historic or architectural interest and towards the cost of works (usually to historic buildings) which significantly enhance a conservation area. Increasingly, this assistance is channelled through Town Schemes in partnership with local authorities. The Historic Buildings Council for Wales is the statutory advisory body on historic buildings grants. Additionally, grants may be available from the Heritage Lottery Fund.

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## PART 5: ECCLESIASTICAL BUILDINGS - LISTED BUILDING CONTROL

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142. Since the Ecclesiastical Exemption (Listed Buildings and Conservation Areas) Order 1994 came into force on 1 October 1994 the exemption of ecclesiastical buildings from listed building and conservation area control under Section 60 of the 1990 Act applies in Wales only to those denominations and faiths who have set up internal systems of control which embody the following principles, and have been approved by the Secretary of State:

- (a) proposals for relevant works (i.e. works for the demolition of a listed ecclesiastical building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest; works for the demolition of an unlisted ecclesiastical building in a conservation area; or works which would affect the archaeological importance of an ecclesiastical building or archaeological remains within it or its curtilage) should be submitted by the local congregation for the approval of a body independent of them;
- (b) that body should include, or have arrangements for obtaining advice from, people with expert knowledge of historic church buildings;
- (c) the decision-making process should provide for:
  - (i) consultation with the local planning authority and national amenity societies, allowing them (except in cases of emergency) 28 days to comment;
  - (ii) the display of a notice in a prominent position outside the building describing the proposed works and inviting comments within the same 28 day period;
  - (iii) the publication of a similar notice in a local newspaper circulating in the locality; and
  - (iv) in cases of demolition, notification to RCAHMW.

- (d) the decision-making body should be required, in considering proposals for relevant works, to take into account any representations made and, along with other factors, the desirability of preserving historic ecclesiastical buildings and the importance of protecting features of architectural merit and historic interest;
- (e) there should be a clear and fair procedure for settling all disputes between the local congregation and the decision-making body as to whether proposals should proceed;
- (f) there should be procedures for dealing with any breach of the control system including provision for reinstatement where works to historic ecclesiastical buildings have been carried out without consent;
- (g) there should be arrangements for recording in the case of each proposal for works how the above procedures were implemented and the nature of the decision taken, and for notifying the decision to those who made representations;
- (h) for those denominations and faiths with an approved internal system of control on these lines the exemption should be redefined as covering buildings primarily used as places of worship and possibly some curtilage structures as well; and
- (i) the denominations and faiths which have been accepted as having an internal system of control qualifying for the exemption are the Church of England, the Church in Wales, the Roman Catholic Church, the Methodist Church, the Baptist Union of Great Britain and the Baptist Union of Wales, and the United Reformed Church.

143. For denominations and faiths and independent congregations not listed, all relevant works will be subject to the secular systems of listed building and conservation area control. In considering applications for consent relating to the interiors of buildings used for worship, local planning authorities are advised that liturgical requirements should be given due weight as a material consideration. Among the matters which should be taken into account are:

- (i) whether the changes proposed are a requirement of the liturgical authority of the relevant denomination, or are discretionary changes put forward by the local congregation;
- (ii) whether they are necessitated by a reduction in congregation size and are directed at accommodating other activities within the building to help ensure its continued viability;
- (iii) whether they would involve substantial structural changes, e.g. subdivision of important, existing spaces;
- (iv) whether they would involve removal and destruction of important fixtures and fittings, or are more in the nature of a reversible re-ordering of internal features; and
- (v) whether proposed changes would involve disturbance of archaeologically important remains below ground.

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**PART 6: CANCELLATION**

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144. The advice contained in this Circular replaces that in Welsh Office Circular 61/81 which is hereby cancelled.

Unitary Authorities }  
National Parks } In Wales

T J Cassidy  
Chief Executive  
Cadw: Welsh Historic Monuments

## ANNEX A

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### THE LEGISLATION AND THE MAIN HERITAGE BODIES

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#### Cadw: Welsh Historic Monuments, Executive Agency

1. Cadw: Welsh Historic Monuments is an Executive Agency within the Welsh Office. Its general duties are:

- (a) to secure the preservation of ancient monuments and historic buildings;
- (b) to promote the preservation and enhancement of the character and appearance of conservation areas; and
- (c) to promote the public's enjoyment of, and advance their knowledge of, ancient monuments and historic buildings and their preservation.

2. Cadw's specific functions involve giving advice in relation to ancient monuments, historic buildings and conservation areas, including advice to the Secretary of State on the inclusion of buildings in the statutory lists of buildings of special architectural or historic interest and the scheduling of ancient monuments; it may make grants and loans in relation to historic buildings, land and gardens, conservation areas, ancient monuments and in respect of archaeological investigations.

3. Provisions relating to listed buildings and conservation areas are set out in the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) – referred to as the Act in this Circular – augmented by the Planning (Listed Buildings and Conservation Areas) Regulations 1990 and the Directions set out in paragraphs 31 and 72. Provisions relating to grants by the Department on the advice of the Historic Buildings Council for Wales (see below) are set out in Sections 3–4 of the Historic Buildings and Ancient Monuments Act 1953 (as amended) and Sections 77 and 80 of the Act.

#### Central and Local Government

4. The Secretary of State is responsible for the general legislative and policy framework; for the listing of buildings of special architectural or historic interest; for the exercise of statutory powers to secure repairs to historic buildings; for the scheduling of ancient monuments and for deciding applications for scheduled monument consent; and for the funding of the main heritage agencies.

5. The Secretary of State is responsible for deciding applications called-in for his determination, applications by local authorities for listed building consent or conservation area consent and appeals against refusals of listed building or conservation area consent.

6. Local planning authorities and National Park Authorities have the crucial leading role in securing the conservation of the historic environment in their areas. They are responsible for the integration of conservation policy with wider planning policy for their areas, and for the designation of conservation areas. They exercise controls over works to listed buildings, and over demolitions in conservation areas. They have powers to secure the repair of listed buildings which have been allowed to fall into disrepair, and to make grants towards the cost of repairing historic buildings (whether or not listed).

#### Historic Buildings Council for Wales (HBCW)

7. The HBCW is the statutory advisory body on historic buildings and conservation area grants. Its terms of reference include giving advice to the Secretary of State on his responsibilities set out in this Circular.

## Royal Commission on the Ancient and Historical Monuments of Wales (RCAHMW)

8. RCAHMW is the national body of survey and record. Its aim is to compile and make available a basic national record of Wales's historic buildings and ancient monuments for use by individuals and bodies concerned with understanding, conserving and managing the built environment; for listed buildings, this is contained in the National Buildings Record.

9. RCAHMW has a specific responsibility to consider the need for recording, and to record, listed buildings threatened with total or partial demolition (Section 8 of the Act). Works for such demolition are only authorised under the Act if the RCAHMW has been afforded reasonable access to the building in order to record it.

## Royal Fine Art Commission (RFAC)

10. The RFAC advises Government departments, local planning authorities and other bodies in England and Wales on mainly architectural, town planning and landscape matters. It does so primarily by means of comment on individual major development proposals which are submitted for scrutiny (see paragraph 9 of the Circular).

## National Heritage Memorial Fund (NHMF) and Heritage Lottery Fund (HLF)

11. NHMF was established to give financial assistance towards the cost of acquiring, maintaining or preserving land, buildings, works of art and other objects of outstanding interest which are also of importance to the national heritage. The Fund is in the control of independent Trustees and was intended as a memorial to those who have died for the United Kingdom. The Fund concentrates its activities on securing, through co-operation with other heritage agencies and funding bodies, the retention or preservation of outstanding heritage entities which are perceived to be at risk in some way.

12. NHMF is charged with distributing the proceeds from the National Lottery earmarked for the historic environment through the HLF. Grants from the HLF are an important additional source of support both for the repair of historic structures and in improving public access to them.

## The National Amenity Societies

13. The six national amenity societies aim to protect different aspects of the built heritage. The societies are:

- (a) the Ancient Monuments Society, which is concerned with historic buildings of all ages and types, but with a particular interest in churches;
- (b) the Council for British Archaeology, which is concerned with all historic buildings, but with a particular interest in the archaeology of subterranean and standing structures;
- (c) the Society for the Protection of Ancient Buildings, which is concerned mainly with structures constructed before 1700, but also with philosophical and technical aspects of conservation;
- (d) the Georgian Group, which is concerned with architecture and architecture-related arts between 1700 and 1840;
- (e) the Victorian Society, which is concerned with Victorian and Edwardian architecture and architecture-related arts between 1840 and 1914; and
- (f) the Twentieth Century Society (formerly the Thirties Society), which is concerned with architecture of the twentieth century in all decades except the first.



The first five of these are required to be notified by local authorities of applications to demolish listed buildings, either in whole or in part; the Twentieth Century Society receives relevant notifications via the Victorian Society.

14. The Garden History Society has considerable experience of dealing with planning applications affecting parks and gardens. Its work is analogous to that of the national amenity societies. The Welsh Historic Gardens Trust has growing experience of the historic parks and gardens of Wales and will have a contribution to make.

15. Local civic societies with support from the Civic Trust for Wales, and local branches of the national societies, work closely with their local authorities to secure conservation objectives. The Secretary of State attaches particular importance to the activities of the voluntary sector in heritage matters and hopes that local authorities will work in close co-operation with national and local amenity societies and other voluntary bodies to draw on their expertise to the full.

### Architectural Heritage Fund (AHF)

16. The AHF is a national conservation fund established to give local non-profit making buildings preservation trusts access to working capital at favourable rates of interest. Such trusts play a particularly valuable role in renovating and finding new uses for historic buildings at risk from neglect and disrepair. The AHF gives grants for feasibility studies on potential projects. Its entire capital is at all times available for low interest loans on a 'revolving fund' basis, since running costs and all non-loan activities to help trusts are paid for out of interest earnings, with some assistance from Departmental grants. The AHF has played a leading part in establishing the United Kingdom Association of Building Preservation Trusts.

### Addresses of Key Bodies and Organisations

1. Cadw: Welsh Historic Monuments, Executive Agency  
Crown Building, Cathays Park  
Cardiff CF1 3NQ  
Tel 01222 500200
2. Royal Commission on the Ancient & Historical Monuments of Wales  
Crown Buildings, Plas Crug  
Aberystwyth SY23 1NJ  
Tel 01970 621233
3. Royal Fine Art Commission  
7 St James's Square  
London SW1Y 4JU  
Tel 0171 839 6537
4. National Heritage Memorial Fund  
10 St James's Street  
London SW1A 1EF  
Tel 0171 930 0963
5. The Welsh Local Government Association, 10–11 Raleigh Walk  
Atlantic Wharf, Cardiff CF1 5LN  
Tel 01222 462722
6. Joint Committee of the National Amenity Societies  
St Ann's Vestry Hall, 2 Church Entry  
London EC4V 5HB  
Tel 0171 236 3934
7. Ancient Monuments Society  
St Ann's Vestry Hall  
2 Church Entry  
London EC4V 5HB  
Tel 0171 236 3934
8. Council for British Archaeology:
  - (i) Bowes Morrell House  
111 Walmgate, York YO1 2UA  
Tel 01904 671417
  - (ii) CBA (Wales)  
Crud y Ser, Church Meadow  
Rhydymwyn, Mold CH7 5HX  
Tel 01352 741476
  - (iii) CBA (Wales) d o Clwyd–Powys  
Archaeological Trust  
7a Church Street  
Welshpool SY21 7DL  
Tel 01938 553670

9. The Society for the Protection of Ancient Buildings  
37 Spital Square  
London E1 6DY  
Tel 0171 377 1644
10. The Georgian Group  
6 Fitzroy Square  
London W1P 6DX  
Tel 0171 387 1720
11. The Victorian Society :-  
(National Group)  
(i) 1 Priory Gardens  
Bedford Park, London W4 1TT  
Tel 0181 994 1019  
(Mid and North Wales Area)  
(ii) Environmental Institute  
Greaves School  
Bolton Road, Swinton  
Manchester M27 2UX  
Tel 0161 727 9611  
(South Wales Area)  
(iii) 2 Nant yr Addar  
Llantwit Major CF62 9TW  
Tel 01446 796381
12. The Twentieth Century Society  
70 Cowcross Street  
London EC1M 6BP  
Tel 0171 250 3857
13. The Civic Trust for Wales  
4th Floor, Empire House  
Mount Stuart Square  
Cardiff CF1 6DN  
Tel 01222 484606
14. The Architectural Heritage Fund  
27 John Adam Street  
London WC2N 6HX  
Tel 0171 925 0199
15. The United Kingdom Association of Preservation Trusts  
27 John Adam Street  
London WC2N 6HX  
Tel 0171 930 1629
16. Campaign for the Protection of Rural Wales  
31 High Street  
Welshpool SY21 7JP  
Tel 01938 552525
17. Welsh Historic Gardens Trust  
Coed y Ffynnon, Lampeter Velfrey  
Narberth SA67 8UJ  
Tel 01690 750366
18. Garden History Society  
Station House, Church Lane  
Wickwar, Wotton-under-Edge  
Gloucestershire GL12 8NB  
Tel 01454 294888
19. Historic Buildings Council for Wales  
Crown Building, Cathays Park  
Cardiff CF1 3NQ  
Tel 01222 500200
20. Ancient Monuments Board for Wales  
Crown Building, Cathays Park  
Cardiff CF1 3NQ  
Tel 01222 500200
21. The Association of Conservation Officers, PO Box 301  
Brighton, Sussex BN2 1BQ  
Tel 01273 571199
22. ICOMOS UK  
10 Barley Mow Passage  
Chiswick, London W4 4DH  
Tel 0181 994 6477
23. Royal Society of Architects in Wales  
Midland Bank Chambers  
75a Llandennis Road  
Cardiff CF2 6EE  
Tel 01222 762215
24. Royal Town Planning Institute  
26 Portland Place  
London W1N 4BE  
Tel 0171 636 9107
25. Theatres Trust  
Doric House  
22 Charing Cross Road  
London WC2HJ OHR  
Tel 0171 836 8591
26. The Countryside Council for Wales  
Plas Penrhos, Ffordd Penrhos  
Bangor LL57 2LQ  
Tel 01248 385500

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HISTORIC PARKS AND GARDENS

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1. Part I of the Register of Landscapes, Parks and Gardens of Special Historic Interest is currently being compiled and maintained by Cadw. The criteria for selection of sites for the Register is as follows:

Gardens, parks, designed grounds, designed ornamental landscapes and places of recreation are of historic interest when they:

- (a) illustrate some particular aspect of the history of gardens, parks, designed grounds, designed ornamental landscapes and places of recreation, or of the history of gardening, ornamental landscaping or horticulture. (For instance, they may provide significant examples of the work of a particular designer, or have features from a particular period or in a particular style);
- (b) have significant historic associations (for example, with a particular person or event); or
- (c) have a group value with buildings or other land and the group value is of historic interest; for example, they may provide a setting for a building of historic interest).

Sites that reflect the traditions of gardens, parks, designed grounds, designed ornamental landscapes and places of recreation are included within the definition.

2. A grading system similar to that used for listed buildings (I, II\*, II) is used for parks and gardens. Grades indicate the following qualities:

- I Parks and gardens which by reason of their historic layout, features and architectural ornaments considered together make them of exceptional interest.
- II\* Parks and gardens which by reason of their historic layout, features and architectural ornaments considered together make them of great quality.
- II Parks and gardens which by reasons of their historic layout, features and architectural ornaments considered together make them of special interest.

Planning authorities are asked to consult Cadw on planning applications impacting on Grade I and II\* sites, and the Garden History Society on applications impacting on all parks and gardens on the register.

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LISTED BUILDINGS - PRINCIPLES OF SELECTION

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1. The following are the main criteria which the Secretary of State applies in deciding which buildings to include in the statutory lists:

- architectural interest: the lists are meant to include all buildings which are of importance to the nation for the interest of their architectural design, decoration and craftsmanship; also important examples of particular building types and techniques (e.g. buildings displaying technological innovation or virtuosity) and significant plan forms;
- historic interest: this includes buildings which illustrate important aspects of the nation's social, economic, cultural or military history;
- close historical associations with people or events of importance to Wales;
- group value: especially where buildings contribute an important architectural or historic unity or are fine examples of planning (e.g. squares, terraces or model villages).

2. Age and rarity are relevant, particularly where buildings are proposed for listing on the strength of their historic interest. The older a building is, and the fewer the surviving examples of its kind, the more likely it is to have historical importance. Thus, all buildings built before 1700 which survive in anything like their original condition are listed, and most buildings of about 1700 to 1840 are listed, though some selection is necessary. After about 1840, because of the greatly increased number of buildings erected and the much larger numbers that have survived, greater selection is necessary to identify the best examples of particular building types, and only buildings of definite quality and character are listed. Buildings which are less than 30 years old are normally listed only if they are of exceptional quality and under threat. The approach adopted for twentieth century listing is to identify key examples for each of a range of building types – industrial, educational, hospitals, etc – and to treat these examples as broadly defining a standard against which to judge proposals for additions to the lists.

### Selectivity

3. Where a building qualifies for listing primarily on the strength of its intrinsic architectural quality or its group value, the fact that there are other buildings of similar quality elsewhere is not likely to be a major consideration. The listing of buildings primarily for historical reasons is to a greater extent a comparative exercise, and, where a substantial number of buildings of a similar type and quality survive, needs to be selective. In such cases the Secretary of State's aim will be to list the best examples of the type.

### Aesthetic Merits

4. The external appearance of a building – both its intrinsic architectural merit and any group value – is a key consideration in judging listing proposals, but the special interest of a building, for example those which are important for reasons of technological innovation, or as illustrating particular aspects of social or economic history, will not always be reflected in obvious visual quality.

## **Historical Associations**

5. Well documented historical associations of a building's importance to Wales will increase the case for its inclusion in the statutory lists. They may justify a higher grading than would otherwise be appropriate, and may occasionally be the deciding factor. But in the Secretary of State's view normally there should be some quality or interest in the physical fabric of the building itself to justify the statutory protection afforded by listing. Either the building should be of some architectural merit in itself, or it should be well preserved in a form which directly illustrates and confirms its historical associations (e.g. because of the survival of internal features). Where otherwise unremarkable buildings have historical associations, the Secretary of State's view is that normally they are best commemorated by other means (e.g. by a plaque), and that listing will be appropriate only in exceptional cases.

## ANNEX D

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### ALTERATIONS TO LISTED BUILDINGS: GENERAL PRINCIPLES

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1. These guidelines are intended to assist local planning authorities and others in deciding on the suitability of proposed alterations to listed buildings. They are concerned only with works which affect the special interest and character of a building and which require listed building consent. For advice on repairs the attention of local planning authorities is drawn to *The Repair of Historic Buildings: Advice on Principles and Methods* published by English Heritage in 1991.
2. Historic buildings should be considered in the same light as antiques, paintings or manuscripts: they are important both as products of human creativity and for what they can tell us about the past. The foremost principle which should guide works to historic buildings is conserve as found. Successful conservation lies in the maintenance and like-for-like repair of the existing fabric including the replacement of features and details.
3. Each type of historic building has its own characteristics, which are usually related to its original or former function, and these should be respected when proposals for alterations or change of use are put forward. Marks of special interest appropriate to a particular type of building are not restricted to external elements, but may include anything from the orientation, plan, or arrangement of window openings to small internal fittings. Local planning authorities should attempt to retain the characteristics of distinct types of building, especially those which are particular to their area. The use of appropriate local materials is very desirable.
4. Information about the history and development of a building which will be of value when considering proposed alterations can be gained from several sources. There may be physical evidence in the building itself – ghosts of lost features in plaster, rough edges where features have been cut away, empty peg-holes and mortices – which can elucidate the original form or construction. There may be documentary information, such as early photographs, drawings, written descriptions, or other documents relating to its construction or use.
5. Features of interest are revealed sometimes during the course of alterations, especially in older or larger buildings; chimney-pieces, fireplaces, early windows and doors, panelling, wattle-and-daub partitions and even wall-paintings may come to light. Applicants for listed building consent should be made aware of this possibility and should at once seek the advice of the local planning authority when such things are found. If there is any likelihood that hidden features will be revealed, the local planning authority should attach an appropriate condition to the listed building consent to allow for their retention or for proper recording.
6. Alterations should be based on a proper understanding of the structure. Many listed buildings suffer from structural defects arising from their age, methods of construction and past use, but can still give adequate service providing they are not subject to major disturbance. Repairs should usually be low-key, re-instating and strengthening the structure where necessary; such repairs may sometimes require listed building consent. New work should be fitted to the old to ensure the maximum survival of the historic fabric. Old work should not be sacrificed merely to accommodate the new.
7. Subsequent additions to historic buildings including Victorian or Edwardian accretions such as conservatories, porches, balconies, verandahs, door dressings, barge boards or chimneys will often add to the quality of a building and be of interest in their own right as part of its organic history. Generally, later features of interest should not be removed in order to restore a building to its earlier form.

8. In general the wholesale reinstatement of lost, destroyed or superseded elements of a building or an interior is not appropriate, although, where a building has largely retained the integrity of its design, then the reinstatement of lost or destroyed elements of that design could be considered. In such cases there should always be adequate information confirming the detailed historical authenticity of the work proposed. Speculative reconstruction should be avoided, as should the reinstatement of features that were deliberately superseded by later historic additions.

9. Modern extensions should not dominate the existing building in either scale, material or situation. There will always be some historic buildings where any extensions would be damaging and should not be permitted. Successful extensions require the application of an intimate knowledge of the building type which is being extended together with a sensitive handling of scale and detail.

10. Detailed guidance on which local planning authorities should draw in considering applications for listed building consent is set out in the Appendix to this Annex.

## APPENDIX TO ANNEX D

### Alterations in Detail

1. In considering applications for listed building consent the following points should be borne in mind:

(a) External Elevations

1. Walls: Alterations to wall surfaces are usually the most damaging that can happen to the overall appearance of an historic building. Alterations or repairs to external elevations should respect the existing fabric and match them in materials, texture, quality and colour. Brick or stonework should not normally be rendered unless the surface was rendered originally. For climactic reasons porous rubble or non-dressed stonework was always lime rendered. Such coverings may therefore be historic and should never be removed without the strongest justification. It may be necessary to remove more recently applied render if this is damaging the surface beneath. Every effort should be made to retain or re-use facing brickwork, stonework, slate or tile hanging, mathematical tiles and weatherboarding. Cob and other earth walling require surface protection which should be carefully maintained and expert advice should be taken if there is a need for repair.
2. Openings: Door and window openings should not generally be altered in their proportions or details especially when they are a conspicuous element of the design. The depth to which window-frames are recessed within a wall is a varying historical feature of importance and greatly affects the character of a building; this too should be respected. Historic cill and lintel details should be retained.
3. Pointing: The primary feature of a wall is the building material itself and the pointing should normally be visually subservient to it. There are occasions where decorative pointing is used, but in general pointing which speaks louder than the walling material is inappropriate. Repointing should usually be no more than a repair – a repeat of the existing mix and appearance. Any change in the character of the pointing can be visually and physically damaging and requires listed building consent. Historic mortars are always lime-based.
4. It is important to ensure that repointing does not extend beyond the area where it is necessary. Historic pointing may survive wholly or in part and this should be preserved. New work or repair work should integrate with the existing coursing. Cutting out old mortar with mechanical cutters should not be permitted because it makes the joints unacceptably wide, and may score the masonry above vertical joints.
5. Plaster and Render: Existing plaster or render should not be stripped off merely to expose rubble, brick or timber-framed walls that were never intended to be seen. Refacing of stone, flint, brick or terra-cotta facades with roughcast, cement render, stick-on stone, Tyrolean render, cement-based paints or other cosmetic treatment which is difficult or impossible to remove should be avoided. This is particularly so where architectural or decorative features would be partially obscured or covered-over.
6. Traditional lime-based render is always preferable to cement-rich render for very practical reasons. Cement render forms a waterproof barrier which prevents any moisture trapped within the wall from evaporating and tends to drive damp both higher up and further in. This can lead to the breakdown of the wall surface which will, in time, fall away with the render. Cement render has also given unacceptably distinctive hard sharp edges to quoins and wall-openings. A traditional render based on lime has a softer appearance and allows natural evaporation.
7. Some historic renders like stucco and Roman 'cement' were intended to have smooth surfaces and sharp edges in imitation of well-cut ashlar stonework. These should not be replaced with other types of render. On late 18th and 19th century stuccoed elevations where there is mock jointing, grooving, rustication or plaster



architectural elements like cornices and architraves these should always be retained where possible or carefully copied, never skimmed off. Any new lining out should be matched carefully to the existing.

8. Decorative plaster details and plaster features such as pargeting or sgraffito work should not be destroyed. Such features are not always durable and it may be appropriate to reproduce them to complete a decorative scheme. Proper evidence would be required for such a scheme of reproduction.

9. With timber framed buildings, the totality of the structure has to be taken into consideration; i.e. walls, roof and internal partitions. Repair to timber frames should be kept to the essential minimum; splicing in new sections should be the rule, rather than complete replacement of timbers. Traditional fixing and repair methods should be perpetuated. Proper attention should be given to the in-filling panels which are an integral part of any timber-framed building, and also to the surface of the timbers. The original tool marks are often visible, as well as carpenters' marks, graffiti and smoke-blackening. Such features can be lost through cleaning or painting, which should not normally be permitted.

10. External painting: Painting the outside of a listed building requires listed building consent when the character of the building is affected. Previously unpainted surfaces should not normally be painted over. (An exception to this rule can be made for the shelter-coating of decayed stonework with a lime-based mixture). In many cases the colour of the paint may be less important than the first application of an unsuitable covering which could be damaging to remove. Cement-based or other waterproof and hard gloss paints should not be used on surfaces covered with traditional render. The correct finish for traditional renders and plasters is limewash (although much 19th Century stucco has traditionally been coated in oil paint). In Wales there is a tradition of lime-washing stonework, sometimes internally as well as externally, and that tradition should be respected. When inappropriate paint has been applied expert advice should be obtained on suitable methods of removal. Repainting with lead-based paints may be historically correct, but now requires special permission. Downpipes are usually best painted in unobtrusive colours, but lead downpipes should not normally be painted.

11. Exterior Cleaning: External cleaning of buildings with water and brushes does not require listed building consent, but cleaning with water can lead to saturation of the walls and outbreaks of dry-rot in built-in timbers. Other methods of cleaning stone or brickwork may be appropriate but can have a marked effect on the character of the building and will generally require listed building consent. Local planning authorities should satisfy themselves that such cleaning is both necessary and worthwhile, to remove corrosive dirt or to bring a major improvement in appearance. If the cleaning of stone, brick or terra-cotta is approved, it should be carried out only by specialist firms and under close supervision. Surfaces can be badly damaged and detail lost through crude techniques. Areas of the building not being cleaned should be protected.

12. Wrought and Cast Iron: The special character of wrought iron fittings, railings, lamp-brackets etc is derived from the unique qualities of the material and from traditional smithing techniques. It is appreciated that complicated wrought iron is not always readily available therefore old ironwork should always be retained wherever possible. It is not possible to copy satisfactorily the character of wrought iron using mild steel. Old cast iron, including railings, balconies, windows, fire-grates, door furniture and structural beams and columns are of important visual and architectural significance. Such features may carry the name of the foundry and the date of casting, thereby adding to the historic interest of the building. Broken cast iron can be repaired and damage should not be regarded as an excuse for removal. The traditional method of setting each upright of a railing into lead-lined pockets of a stone base should be respected.

13. Parapets and other features: Parapets (solid or balustraded), pediments, parapetted or coped gables and saddlestones, eaves, cornices and moulded cappings are essential terminal features in the articulation of an elevation. If they have to be replaced then it should be in facsimile and in the same materials.

14. Porches: Porches are sometimes the dominant feature of an elevation; their detailing should always be respected. Open columned porches of the Classical type should not be enclosed, (e.g. with glazed sides and doors to the front), but should be left open. In those instances where they are considered acceptable, their design should be undemonstrative and should not challenge the integrity of the facade. They should be unobtrusively dated.

15. Balconies and Verandahs: Balconies and verandahs are very often formal components in the design of an elevation. They should be maintained and repaired; and if they have to be replaced then facsimiles should be erected using matching materials. As with porches they should not be enclosed with glazing.

16. Fire Escapes: Fire escapes can be very damaging to the external appearance of a building. If an escape is essential it should be inconspicuously located and fixed in such a way as to avoid rust or other staining of the wall surfaces.

17. External Plumbing: External plumbing should be kept to a minimum and should not disturb or break through any mouldings or decorative features. A change from cast iron or lead downpipes to materials such as plastic or extruded aluminium sometimes requires listed building consent and should normally be resisted.

18. Inscriptions and other features: Inscriptions, old lettering, old shop signs, inn sign boards, date plaques and stones, coats of arms, monograms, fire insurance plaques, commemorative or symbolic carvings and statues in niches are part of the history of a building. These features should be retained in situ wherever possible. If work requires the temporary removal of an interesting feature it should be put back in its former position. New signs and advertisements will normally require listed building consent. They should be carefully designed and positioned with appropriate fixings which will not damage the building.

19. Carved details: Carved and other sculptural details on buildings, such as moulded brickwork, terracotta and faience, are an important part of the design and character of buildings which carry them. Where such details are decaying, it is important to record them prior to repair or renewal.

#### (b) Roofs

1. The roof line is nearly always a dominant feature of a building and the retention of the original shape, pitch, cladding and ornament is important.

2. Local planning authorities should encourage the retention and development of sources of traditional roofing materials. The cannibalising of other buildings for traditional materials should be discouraged. When a roof is stripped it is important that as much as possible of the original covering is re-used, preferably on the visible slopes, with matching new materials on other slopes.

3. Thatch: Thatched roofs should be preserved, and consent should not be given for their replacement by different roof-coverings. Where medieval thatch survives with characteristic smoke blackening on the underside, it should be retained in situ and overlaid. When roofs are re-thatched this should always be done in the form of thatch traditional to the region. Local ways of detailing eaves, ridges and verges should also be followed. Re-thatching roofs which have lost their thatch will require a waiver of Building Regulations in most cases, since they may not be allowed within 12m of a site boundary, but local authorities should be prepared to relax this rule if it does not constitute an unacceptable fire risk to other properties.

4. Slates and Stone Tiles: The pattern and coursing of different roofing materials are a distinguishing feature of different building types and areas of the country. Some slates and all stone tiles are laid to diminishing courses. This should be retained and, where necessary, restored with matching materials. Likewise, the

character of slated roofs should not be damaged by a radical change of the size of the slates. Details such as 'swept' valleys should always be retained, as should regional constructional traditions such as the grouted slate roofs of the western coast.

5. Lead and Copper: Both lead and copper are traditional roof coverings and should not normally be replaced by modern substitute materials. Details such as lead rolls, hips and ridges are important visual elements. Any dates or inscriptions in the lead should be preserved.

6. Embellishments to Roofs: Towers, turrets, spires, bellcotes and cupolas are not only part of the overall design or indeed sometimes its main feature, but frequently make an important contribution to the townscape or landscape. This is particularly so with public buildings, churches, etc. which may be listed primarily because they possess these features. Lesser decorative embellishments such as ridge and cresting tiles, slate ridges, iron cresting, finials, gargoyles and spouts, bargeboards, valences, cartouches and statues should also be preserved.

7. Dormers and roof lights: Early dormers, especially the 17th or 18th century pedimented type, should be retained or carefully repaired. If beyond economic repair they should be reconstructed with all details reproduced. Enlargement of existing dormers on principal elevations should normally be avoided.

8. Any decision as to whether new dormers can be added to a roof must be approached carefully. Historic roof structures must not be damaged by their insertion. New dormers should not upset a symmetrical design either of an individual building or a terrace. Areas have differing traditional types of dormer and these traditions should be respected.

9. Rooflights were normally used only on industrial buildings and only occasionally on other buildings, usually out of sight. In such locations their use may be appropriate but they should not normally be used on principal or prominent roof slopes.

10. Chimney stacks and pots: Chimney stacks are both formal and functional features of the roofscape and can be important indicators of the date of a building and of the internal planning. In many cases chimneys also perform a vital structural function and they should be retained, even when no longer required. There may, however, be poorly built and positioned later additions which can be removed with advantage. Chimney pots can sometimes be valuable decorative features in their own right, but they are also functional features: plain Georgian and 19th century pots are often important as part of a traditional roofscape which will be damaged if they are removed.

#### (c) External Doors

1. Doors and Doorways: Original doorways and any surviving original doors should be retained. Their replacement or defacement is often entirely unnecessary. Domestic and public building door types vary widely and if they have to be replaced their design should be appropriate to the character of the building. Replacement doors should copy the original in both the materials and the detail of the design and the paint finish. Modern off-the-peg doors are not generally acceptable for use in listed buildings, nor are doors with incongruous design features such as integral fanlights. Unpainted hardwood doors, stained or varnished softwood doors are rarely suitable.

2. Redundant doorways: Doorways that become redundant should in general not be removed. This is particularly the case where a terrace of houses is converted into flats or offices and all the doors are no longer required. It is most important that they are retained for the sake of the overall design of the terrace.

3. Door details: Doorcases, door furniture including hinges, knockers and letter-boxes, foot scrapers, fanlights, pediments, columns, pilasters, cornices, consoles and carved or stucco moulded details should not be removed or mutilated but retained even if the doorway is redundant.

(d) Windows.

1. As a rule, original windows in historic buildings should be repaired, or if totally beyond repair should be replaced exactly like-for-like. If listed building consent is to be given for new windows it is important that their design, scale and proportion should be sympathetic to the existing character of the building.
2. Within the broad window types such as 'sash' or 'casement' there is a wide variation of detail according to date, function and area. Standardisation to one pattern should be avoided. The thickness and moulding of glazing bars, the size and arrangement of panes and other details should be appropriate to the date of the building or when the window aperture was made.
3. If a building has had replacement windows, there is always a desire to return to the original glazing pattern. In general the surviving windows should be retained, unless they are obviously inappropriate or in very poor condition. There may be some cases, particularly in uniform urban terraces, where a return to earlier glazing patterns following a specific local pattern is desirable.
4. Window types vary according to the region and its building tradition. Mullioned and transomed casement windows continued into the 18th century in some areas. Such mullions should therefore never be cut out.
5. Leaded and other metal framed casements in 19th century and particularly earlier buildings are an increasing rarity and should be repaired or re-leaded rather than be lost.
6. 18th and 19th century fancy glazing bars in geometric, Gothick or marginal patterns should be retained wherever possible, or copied, whether they are original to the building or even later additions or alterations.
7. 20th century mild steel windows were often a design feature of Arts and Crafts, Modern Movement and Art Deco buildings. These should be repaired or replaced 'like for like' if beyond repair.
8. Prior to the early 1700s timber windows, usually oak, were rarely given any finish. The oak weathered naturally. Many of these windows were later coated with black pitch (particularly in the Victorian period) which was thought to be an effective preservative. This gave rise to the popular but erroneous conception that black is the 'correct' colour for medieval and Tudor timberwork. When repairing or renewing such windows, it is preferable that they be finished with a mixture of turpentine and boiled linseed oil, and then be allowed to weather to their natural colour.
9. Sash windows, and most casements, of the Georgian and Victorian periods were invariably finished with paint. On no account should paint be stripped from old windows in order to expose permanently the bare wood. Such action is not only historically and visually inaccurate, but also removes the necessary protection afforded to the timber by the paint. Whether repairing one of these windows, or providing a replacement window, or even installing windows in a new extension, the use of painted timber will assist in safeguarding the character of the building. Staining is not a traditional finish and should not normally be used.
10. Old Glass: All old glass is of interest, whether it be stained glass, crown glass, or early plain glass. Great care should be taken to protect historic glass during building works. If it is necessary to remove panes to repair the window they should be re-set. Where external protection for historic glass is required this should be reversible and as unobtrusive as possible. Glazing should continue to be fixed by the traditional method of linseed oil putty.
11. Replacement Windows: Windows form one of the most significant constructional elements of any building, and their style and proportion vitally affect the character and appearance of elevations. In Wales this is particularly true of the period from 1750 to 1850, when the architectural fashion was for restrained simplicity and windows were the dominant feature in otherwise plain facades. The detailing of replacement windows is crucial to the sympathetic conservation of the vernacular buildings that constitute such a rich part of the Welsh architectural heritage.

12. In this context, the insertion of factory-made standard windows of all kinds, whether in timber, aluminium, galvanised steel or plastic, is almost always damaging to the character and appearance of historic buildings. In particular, for reasons of strength, the thickness of frame members tends to be greater in plastic or aluminium windows than in traditional timber ones, and is rarely acceptable in listed buildings. Modern casements with top-opening or louvered lights, or asymmetrically-spaced lights, are generally unsuitable as replacements for windows in historic buildings, as are modern details such as storm-proofing and trickle vents. Such alterations should be resisted. Drawings and specifications submitted with listed building consent applications should make perfectly clear the manner in which new windows are intended to open.

13. It is usually impossible to install double-glazed sealed units in existing frames or to replicate existing frames with new sealed units without making drastic changes to the shape or proportions of glazing bars. Weather-stripping and draught-proofing are thermally efficient and cost-effective alternatives, and do not require alterations to the window itself. In some cases secondary glazing in a removable inner frame is another alternative.

14. Old louvered and panelled external shutters are important features and often contribute to the design of an elevation. Blind-cases and canopies should also be preserved.

#### (e) Shop Fronts

1. Shop fronts and display windows: Wherever shop fronts of merit survive they should be retained. Early 20th century shop fronts such as those with Art Nouveau or early Art Deco details can be as unusual as 18th century or 19th century examples. Features of value, such as blinds in blind boxes, shutters in shutter boxes against an upright, and stallrisers are often concealed beneath later facings. Premises where works to shop fronts are proposed should always be inspected and the possible survival of old features checked.

2. Proposals to remove a shop front to restore an elevation to its previous designed appearance matching the rest of a terrace can usually be encouraged, but should be viewed with caution in cases where the shop front is of interest in itself.

3. Shop blinds and security grilles: Retractable apron blinds covered in canvas are often characteristic features of historic shop fronts and should be retained. Modern plastic canopies are not acceptable.

4. External steel roller shutters are seldom suitable for historic shop fronts. Traditional timber shutters give reasonable protection: laminated glass and internal chain-link screens are modern alternatives. Traditional stall-risers are an effective deterrent to 'ram-raiders', as are small shop windows between masonry piers.

5. New shop fronts: New shop fronts should be designed in sympathy with the rest of the elevation and incorporate any ground floor details of interest. Large inserted plate-glass shop fronts without any visual support for the upper part of the premises can have an unfortunate effect, and shop fronts should not extend into the storey above nor alter the proportion of first-floor windows. Highly glazed tiles and other modern materials such as plastics are to be avoided as facings. The fascia board should not be out of scale with the building as a whole and should usually be finished at the top with a cornice or other capping. Not only is this the traditional treatment for shop fronts but the cornice provides an architectural division between the modern shop front and the older upper floors.

6. Depending on the nature of a proposed commercial or office use, it is very often unnecessary to provide display windows and thus alter an intact ground floor. Existing openings should be retained wherever possible, and if alteration is necessary it should only be to the minimum extent required. The potential prestige value of listed building premises should always be emphasised. 'Corporate image' shop fronts are seldom appropriate for historic buildings. Nor are internally illuminated fascia boxes or signs. Shop frontage extending over two or more buildings should be divided up, and owners encouraged to avoid a dominant 'house-style'.

(f) Interiors

1. Listed building consent must be obtained for all internal alterations to listed buildings of whatever grade which affect the character of the building as a listed structure. Internal planning and individual features of interest should be respected and left unaltered so far as possible. Internal spaces, staircases, panelling, window shutters, doors and doorcases, cornices, moulded beams and joists, decorated ceilings, stucco-work, and wall-decorations are part of the special interest of a building and may be its most valuable feature.

2. Walls: Internal walls in old buildings should always be investigated with care in advance of alterations in case ancient or interesting features are hidden in the plaster or behind the panelling or other covering. In many cases the partitions themselves are of historic interest such as moulded post-and-panel partitions or screens. New partitions should be kept to a minimum. They should not cut through mouldings or enriched plaster decoration but be shaped around them to allow for reinstatement at a later date.

3. Plasterwork: All old plain plasterwork should be preserved where possible. Traditional lime and hair plaster has good insulation qualities and is better able to tolerate condensation than modern gypsum plaster. Care should always be taken with works to old plaster, especially when chasing-in electrical wiring, in case there is early decoration. All decorative features from a simple cornice or cove to elaborate wall and ceiling decoration should be preserved.

4. Chimney pieces and chimney breasts: Good chimney pieces are part of the decorative history of a building, and are often central to the design of a room. There is no excuse for their removal or for the removal of the associated chimney-breast and stack if this is simply because a chimney is redundant. Where there is no alternative to removal, efforts should be made to re-site the chimney piece. The removal of a later chimney piece of interest should not normally be allowed even if an earlier open hearth is known to survive behind.

5. Staircases: The removal or alterations of any historic staircase is not normally acceptable. The stair is often the most considerable piece of design within a house and can be important dating evidence. In retail premises, the removal of the lowest flight of stairs which will preclude access to, and use of upper floors, should not be allowed.

6. Interior paintwork: A careful choice of both paint type and colour can make a significant contribution to the appearance and integrity of an historic interior. Generally, a paint should be chosen that allows the underlying wall to breathe. Inappropriate paints may, conversely, be damaging. In some instances specialist advice should be sought and the original colours researched.

7. Although strict adherence to historical forms is not normally a requirement in buildings whose interiors are of a 'private' rather than a 'museum' character, the use of historically appropriate decoration can greatly enhance most listed buildings. In general, the need for listed building consent should be decided on the merits of the case.

8. Where important early colour schemes or painted decoration survive, an application for listed building consent should be required for any repainting which affects their character. For important schemes of decoration, cleaning and conservation rather than repainting may be appropriate, since overpainting, even of deteriorated or discoloured areas of plain colour, may damage or obscure the historical record.

(g) Floors

1. Floor surfaces: Floor surfaces are too often disregarded when buildings are refurbished. It is not only marble floors which are important. All types of paving, such as stone flags, pitched cobbles, old brick floors, early concrete, lime ash, and plaster floors, should be respected. This also applies to old boarded floors, especially those with early wide oak and elm boards. All such features should normally be repaired and re-used. When new floorboards are needed, they should be of the same timber, width and thickness as those they are replacing.

Great care should be taken when lifting old boards for the installation or repair of services, especially where the boards are tongued or doweled. The cutting of joists for new services should be kept to a minimum, and any early sound-deadening or fire-proofing between the joists should be preserved.

2. Floor strengthening: Proposals for floor strengthening increasingly form part of refurbishment schemes. Often such proposals are dictated by the inflexible requirements of particular clients or funding bodies which demand the same standards as those applied to new buildings. These are almost always at variance with the architectural and structural integrity of an historic building and can damage plaster ceilings of historic value and should not normally be regarded as a sufficient justification for major alterations. The floors of most historic buildings are perfectly adequate for the actual loads they will carry.

3. Unobtrusive techniques of stiffening the existing floors, or limited strengthening, may often be possible, providing there is minimum disturbance to the overall structural equilibrium thereby retaining as much existing fabric and structure as possible as well as, where necessary, improving its performance. Repairs should usually be carried out using traditional materials and methods, such as scarfing on new timber. Where more modern techniques are put forward applicants will need to show good reasons why these are being proposed.

4. Often the pressure for floor strengthening and replacement arises from the presence of dry rot within the structural members. Dry rot eradication can rapidly lead to the progressive stripping and dismantling of a building. In every case where remedial works are proposed the minimum works necessary should be carried out after detailed discussion. The use of new techniques requiring the minimum removal of timber should be encouraged.

#### (h) Minor Additions and New Services

1. Minor additions to listed buildings: There are some standard external fixtures that require listed building consent when they affect the character of a listed building. These include satellite dishes, meter boxes (the British Gas semi-concealed box among them), burglar alarms, security and other floodlighting, video cameras, and central heating and other flues, both standard and balanced. If an acceptable positioning cannot be agreed consent should be refused.

2. Introduction of services to listed buildings: The poorly thought out introduction of services, for example, mains electricity, telephone and gas, can be detrimental to the structure, appearance and character of a building. Long runs of surface wiring and any external piping should be avoided. The introduction of new services to historic interiors must also be handled with care and any false floors or ceilings for concealing services, computer trunking, fibre optics, central heating, etc, should be reversible and not entail alterations to other parts of the building like doors and skirtings.

## ANNEX E

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### LISTED BUILDING CONSENT - PROCEDURES

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The various steps relevant to authorities' handling of listed building consent applications are summarised below. Authorities should note that some of these steps apply in certain cases only (e.g. in relation to all works to Grade I and Grade II\* buildings, exterior works to grade II buildings, and interior works to grade II buildings that have received grant aid under the 1953 Act) as will be apparent from the Directions set out in paragraph 72 of this Circular.

Procedure	Statutory Basis
A. Initial Advertisement and Notification of Application.	<i>The Planning (Listed Buildings and Conservation Areas) Regulations 1990.</i>
	<i>Direction A.</i>
(1) Advertise in local newspaper.	<i>Reg 5.</i>
(2) Display a notice on or near the building concerned.	<i>Reg 5.</i>
(3) Notify RCAHMW and the National Amenity Societies.	<i>Direction B.</i>
<p>The relevant extract from the list description, and for the amenity societies, appropriate supporting information should be included. 28 days should be allowed for comment.</p>	
B. Consideration of Application.	
(4) Any comments received must be taken into account.	<i>Reg 5.</i>
(5) Authorities should decide applications as soon as possible after the statutory periods for representations have expired, normally within 8 weeks from receiving a valid application. If they wish to seek the applicant's agreement to an extension of time, they should make clear that he has a right of appeal against failure to take a decision within 8 weeks.	
(6) Authorities are free to refuse any application without further reference to any other body.	
C. Where Authorities Wish to Grant Consent.	<i>The Planning (Listed Buildings and Conservation Areas) Act 1990.</i>
(7) Notify the Secretary of State (Cadw).	<i>Section 13(1), Section 15(1) &amp; 2.</i>



Authorities are asked to use the proforma at the end of this Annex for this notification. Normally the Secretary of State will aim to decide within 28 days of notification whether to call-in a case but he may extend that time if necessary (under Section 13(2)).

The Secretary of State may wish to consider calling-in an application for his own determination. The Secretary of State will normally aim to reach a decision on whether to call-in an application within 56 days but may extend the time.

#### D. Issue of Decision.

- (8) The authority has no further jurisdiction if the Secretary of State decides to call in the application. *Section 12.*
- (9) Otherwise the authority is free to determine the application.
- (10) Issue reasoned decision in prescribed form. *Reg 3(5); Part II of Schedule 1 to Regs.*
- (11) Warn applicant that RCUHMW must have opportunity to record building. *Section 8(2)(b) & (c).*
- (12) Copy decision letter to bodies consulted under steps 3 & 4 and to Cadw. *Direction B.*

#### E. Local Authority Applications.

- (13) The procedures outlined in step X are undertaken by the local authority. *Reg 13(4).*
- (14) Application is made to Cadw: Welsh Historic Monuments whose architectural advisers prepare a professional assessment prior to a decision by the Welsh Office. *Reg 13(2).*

**PLANNING (LISTED BUILDINGS AND  
CONSERVATION AREAS) ACT 1990**

**Listed Building Consent Application:  
Notification to Cadw Under S13(1) of the Act**

1. Name of the local planning authority	
2. Name and address of listed building	
3. Grade of listed building	
4. This application relates to (please delete whatever does not apply)	
<b>Grade I/II*</b>	alteration/extension/total demolition/partial demolition of principal building only/ curtilage building(s) only/both principal and curtilage buildings
<b>Grade A/B/C Churches</b>	alteration/extension/total demolition/partial <b>demolition</b> of principal building only/ curtilage building(s) only/both principal and curtilage buildings
<b>Grade II</b>	total demolition of a principal building/demolition of substantially all of an external elevation of a principal building/demolition of substantially all of th interior of a principal building
5. The local planning authority resolved to grant consent on (date)	
Subject to the following conditions	
For the following reasons	

**6. To assist the Department's consideration of the case the following are attached**  
(please tick boxes as appropriate)

- (a)  Copy of the application form
- (b)  Copy of the list description
- (c)  Copy of accompanying plans, drawings, photographs
- (d) Copies of representations received
  - (i)  from the public      (ii)  from national amenity societies
- (e)  Photographs
- (f)  Copy of Council's resolution
- (g)  Other supporting information (specify)

7. In case of queries please contact	
8. Name and position of local planning officer notifying case	
9. Signature	10. Date

## ANNEX F

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### CONDITIONS FOR LISTED BUILDING CONSENTS

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This Annex sets out examples of conditions which may be appropriate to listed building consents:

#### A. Standard Condition

1. The works to which the consent relates shall be begun not later than (5 years) from the date of this consent (Section 18(1) of the Act).

#### B. Examples of Conditions Acceptable in Appropriate Circumstances

2. The (description of building) shall not be demolished before a contract for the carrying out of the works of redevelopment of the site has been made and planning permission has been granted for the redevelopment for which the contract provides (Section 17(3)).

3. The demolition of the [wall/roof/porch etc] shall be carried out by hand [or by tools held in the hand other than power-driven tools] and the materials stored for re-use [in the building to be erected on the site]. (NB Demolition by hand is expensive and the condition should only be imposed if it is essential to avoid damage to the part of the building which is to remain standing).

4. For a period of [14 days] before work commences the [insert name of person or body] shall be given access to the building to enable [him] to [take photographs of the interior] [make measured drawings].

5. In respect of [a specific defined element of the building] the local planning authority shall be given [number of days] notice of the intention to carry out [specific defined work of demolition or alteration to that defined element of the building] for which consent has already been given and [name of person or body] shall be given access to the building to enable [him] to [take photographs] [make measured drawings] of any fabric of historic or architectural interest before it is covered up or removed in continuance of the work for which consent has been given.

Notes to conditions 4 and 5:

(i) These conditions must not specify who is to pay for any photographic or drawn records. If, however, the applicant/owner has offered to make a record himself, this can be required in terms reflecting the offer made. The time allowed for making a record must be reasonably short and must not unreasonably interfere with the execution of the authorised works.

(ii) These conditions do not affect the obligation to make reasonable access available to members or officers of the Royal Commission on the Ancient and Historical Monuments of Wales to enter a building which is to be demolished, for the purposes of making a record of it under the provisions of Section 8(2)(c)(i) of the Act.

6. The [plaster ceiling/wall painting] in the room shown on the attached plan shall be removed under the supervision of a contractor specialising in this work appointed by the developer/applicant and approved by the local planning authority. It shall thereafter be stored under cover for re-use.

7. The [staircase/panelling/chimney-piece] shall be removed and stored under cover for re-use.

8. The internal fixtures which are removed in accordance with this consent, together with as much as practicable of the original external materials, shall be incorporated in the new buildings.

9. Dado weatherboarding from the existing rear wall of the cottage shall be used on the rear wall of the extension hereby permitted.

10. Linked conditions:

(\*a) The front range of the property, as shown edged and shaded red in the attached plan, shall be retained and incorporated into any new development on this site.

(\*b) Before any work is undertaken in pursuance of this consent to demolish any part of the building, the applicant shall take such steps and carry out such works as shall during the progress of works permitted by this consent secure the safety and stability of that part of the building which is to be retained in accordance with condition (a) above

(\*c) Such steps and works shall where necessary include, in relation to any part of the building to be retained, measures to strengthen any wall or vertical surface; to support any floor, roof or horizontal surface; and to provide protection for the building against the weather during the progress of the works.

11. The carved entrance doorway, surround, balcony and panelling extending across the whole width of the western end of the building shall be retained in situ and shall be protected during the whole period of alterations by a plywood box cover mounted on a timber frame.

12. The windows in the extension to which this consent relates shall be side-hung casements in plain glass without glazing bars.

13. The door in the extension to which this consent relates shall be timberboarded.

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\*This type of condition should normally be accompanied by a Section 17(3) "redevelopment" condition.