



A NOTE ABOUT CERTIFICATES OF IMMUNITY FROM LISTING

1. Introduction

This note describes what certificates of immunity from listing are, and why they are issued. It also sets out the circumstances in which an application for a certificate might be made, and explains how to apply for one. More information about listing is given in A Guide to the Legislation on the Listing of Historic Buildings in England, which is available free of charge from the Listing Branch of the Department for Culture, Media and Sport.

2. What Certificates of Immunity are

- 2.1 A certificate of immunity is a legal guarantee that the building or buildings named in it will not be statutorily listed as being of special architectural or historic interest during the five years from the date on which the certificate is signed. The issue of a certificate also prevents the local planning authority from serving a building preservation notice on the property during this period. (A building preservation notice is a form of temporary listing effected by the local planning authority while it invites the Secretary of State to decide whether the listing should be made permanent).
- 2.2 Application for a certificate is made to the Secretary of State. Anyone can apply, whether or not they own the building in question, provided that planning permission is being sought or has been granted in respect of the site. The Secretary of State asks the Inspectorate of English Heritage, who are his professional advisers, to carry out a full internal and external inspection of the building. He considers their recommendation, and if he is satisfied that the building is not of special architectural or historic interest, the certificate is granted. In cases where the application is refused, the building is normally listed.

3. Why Certificates are granted

- 3.1 Under Section 1 of the Planning (Listing Building and Conservation Areas) Act 1990 the Secretary of State is required to compile lists of buildings of special architectural or historic interest. If a building qualifies for listing under the criteria laid down, he is obliged to list it, regardless of other considerations such as any planning permission which may have been granted for its redevelopment. (The criteria for listing are given in the Annex to this note).
- 3.2 It is fully recognised that listing a building at a late stage in the preparation of planning proposals can cause delay and other hardships to owners, and even the abandonment of redevelopment schemes. The certificate of immunity procedure was therefore introduced under Schedule 15 to the Local Government, Planning and Land Act 1980 (which inserted section 54A into the 1971 Act) to enable owners and

developers to seek an early resolution of uncertainties over possible listings. By applying for a certificate (now under Section 6 of the 1990 Act) they can establish either that they have five years to carry out their development without the possibility of listing interrupting their programme, or that they must seek listed building consent for the alteration, extension or demolition of the building.

4. Whether to apply for a Certificate

- 4.1 Applying for a certificate is primarily a way of ending uncertainty about whether a building is to be listed or not, so applicants must accept that the building may be listed as a result. It may be worthwhile applying for a certificate if the building appears to come within the listing criteria, so that listing seems distinctly possible, or if there is reason to think that the scheme's treatment of the existing building on the site will be controversial.
- 4.2 The local planning authority will sometimes know whether the Secretary of State has previously considered listing the building. It should not be assumed however that a certificate of immunity will necessarily be granted in every instance where the Secretary of State has refused a previous request to list a building, even if the earlier decision was very recent. If this was automatically the case there would be no point in the certificate procedure. In normal circumstances the Secretary of State's refusal of a request to list a building means that on the evidence available the building is not considered to fulfil the criteria for listing at that time. Because a certificate gives a guarantee against listing for five years, an application is only decided after a very thorough inspection of the building in question, which may reveal features not suspected at the time of earlier decisions, other new evidence may also have come to light in the meantime.

5. How to apply for a Certificate

- 5.1 There is no application form, and no charge. Applications should be made by letter, addressed to the Secretary of State, and should include the following:-
- (i) The full address of the building or buildings. One application can cover several buildings, provided that they are all included in the same planning application or planning permission.
 - (ii) A copy of the planning permission in respect of the building, or a current planning application (current means that the planning application is undetermined at the date of the application for a certificate or that a planning appeal in respect of it has been lodged). It does not matter whether these are in outline or detailed, or whether the planning application has been made by, or permission granted to, someone other than the applicant for a certificate. If the necessary planning permission has been granted by virtue of Article 3 and Schedule 1 of the General Development Order, this must be clearly stated in your application.
 - (iii) A site location plan with the building clearly marked on it in red (an Ordnance Survey map extract at 1:2500 scale, or similar).
 - (iv) Clear recent photographs (not photocopies or slides), in black and white or colour, of the main elevations of the building and any particularly notable

internal features.

- (v) Confirmation that the application for a certificate and all the documents and photographs supporting it have been copied to the relevant local planning authority, and, if that authority is one of the London boroughs, also copied to:-

The Head of the London Division
English Heritage
Chesham House
30 Warwick Street
London W1R 6AB

- 5.2 It is useful, but not essential, if the application gives the approximate date of the building and the name of the architect if these facts are available, as well as very brief details of what is known - if anything - about the building's historic or architectural interest.

- 5.3 The application should be sent to:-

Department for Culture, Media and Sport
Listing Team
Designation Branch
Architecture and Historic Environment Division
2-4 Cockspur Street
London
SW1Y 5DH

The Department acknowledges the application, and if all the necessary information has been provided, it seeks the view of the Inspectorate of English Heritage. They contact the applicant to arrange the inspection of the building, unless they have very recently carried out a complete "cellar to attic inspection" for listing purposes. The Department also asks the local planning authority if it wishes to make any formal comments on the application. Applications normally take several weeks to deal with. They can be withdrawn at any time that the applicant wishes: a letter to the Department is all that is required.

- 5.4 A certificate takes the form of a letter to the applicant, and is signed on behalf of the Secretary of State. The Department will notify both the District Council (or London Borough Council) and the County Council (in London, the London Division of English Heritage) when a certificate is issued. It is suggested that the existence of a certificate and its expiry date should be included in the information relating to planning matters disclosed in response to enquiries by prospective purchasers of land.

- 5.5 Certificates do not secure immunity from the effects of designation of a conservation area. Accordingly, even if a certificate is granted, consent will still be required for demolition if the building is in a conservation area (section 74 of the 1990 Act).

6. "Spot" Listing

It naturally remains open to authorities, amenity societies and individuals to bring to the Department's attention unlisted buildings which appear to fall within the criteria for listing and which are likely to be affected by proposals for development. They

should write to the Department's Listing Branch at the address above, giving the full address of the building, photographs of the main elevations, and a location plan.

The building will be considered for listing and, if it qualifies, added to the statutory list. It is emphasised that it is in the interests of all concerned for the Department to be notified at as early a stage as possible, rather than when planning permission has been granted or redevelopment plans have been drawn up and alteration or demolition are imminent.

ANNEX

HOW BUILDINGS ARE CHOSEN FOR STATUTORY LISTING

The principles of selection for the lists were initially drawn up by the Historic Buildings Council whose functions are now carried out by the Historic Buildings and Monuments Commission (known as English Heritage) and approved by the Secretary of State. They now cover five groups:-

- All buildings built before 1700 which survive in anything like their original conditions are listed.
- Most buildings of 1700 to 1840 are listed, though selection is necessary.
- Between 1840 and 1914 only buildings of definite quality and character are listed.
- Between 1914 and 1939, selected buildings of high quality are listed.
- After 1939, buildings of strictly national or international importance are listed, provided they are more than thirty years old. In very exceptional circumstances, buildings of outstanding quality between ten and thirty years old might be considered for listing, provided they are under imminent threat.

In choosing buildings, particular attention is paid to:-

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