



## HOW TO APPEAL AGAINST LISTING

### 1. Introduction

- 1.1 Although there is no statutory right of appeal against listing, you may make representations that a building should be de-listed if you think:-
- the listing is a mistake; or that
  - the building does not have any special interest; or that
  - listing may once have been right, but the building has been altered to such an extent since the listing took place that it has lost its special interest.
- 1.2 There are no forms to fill in and no time limits. The procedure is informal and is described in sections 4 and 5 below.
- 1.3 You should be aware, however, that under the Planning (Listed Buildings and Conservation Areas) Act 1990, the Secretary of State for National Heritage has a statutory duty to compile lists of buildings of special architectural or historic interest. Before compiling such a list the Secretary of State is required to consult English Heritage, his statutory advisers on listing matters. The purpose of the lists is to put a mark against certain buildings to ensure that their special interest is taken fully into account in decisions affecting their future. In choosing buildings for listing, the Secretary of State cannot consider any factors other than their architectural or historic interest. State of repair (unless this has harmed the architectural interest), costs of maintenance and unsuitability to modern needs are matters which are not directly relevant to the assessment of a building's qualifications for listing - but they are all things which can be taken into account if a person wishes to demolish or alter a listed building. This means that we cannot take a building off the list just because an owner feels aggrieved. We have to be convinced that it was wrong to add the building to the list in the first place; or that a building has become so altered over the years that it is no longer worthy of listing.
- 1.4 Also, the Secretary of State will not generally be prepared to entertain an application for de-listing where the building in question is the subject of an application for listed building consent or an appeal against refusal of consent, or where action by a local authority is in hand in respect of unauthorised works or neglect. This is because both the 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. It would also be inappropriate to consider the de-listing of a building through an informal non-statutory procedure while there is outstanding statutory action in respect of the building.

## **2. How buildings are listed**

- 2.1 Most buildings on the statutory list have been selected in the course of the national re-survey of listed buildings in England which began in 1970, and has just been completed. Every part of England was visited by expert fieldworkers and the best buildings selected against a set of national criteria (see 3.1 below). The results of this exercise (edited into lists) are available for inspection at your local authority offices.
- 2.2 There are some buildings which may have been overlooked during the re-survey or where new information may have become available subsequently. These buildings are 'spot-listed'. The effect is the same, and such buildings are added to the list which is available for inspection at your local authority offices. Sometimes spot-listing is preceded by a building preservation notice which is made by the local authority where they consider a building is under threat of demolition or alteration and which invites us to consider the building for listing at once.

## **3. The criteria we use**

- 3.1 All the properties considered for listing are judged according to a set of national standards. 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 technical innovation or virtuosity) and significant plan forms;
  - historic interest: this includes buildings which display important aspects of the nation's social, economic, cultural or military history;
  - close historical associations with nationally important people or events;
  - group value, especially where buildings comprise together an important architectural or historical unity or a fine example of planning (e.g. squares, terraces or model villages).

Not all of these criteria will be relevant to every case, but a particular building may qualify for listing under more than one of them.

- 3.2 Age and rarity are important considerations, 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. For the same reasons, only selected buildings from the period after 1914 are normally listed. Buildings which are less than 30 years old are normally only listed if they are of outstanding quality and under threat. Buildings which are less than 10 years old are

not listed.

#### **4. Making your representations**

- 4.1 All you have to do is to write to the Department setting out why you think your property should not be listed. Photographs of the building (interior as well as exterior) should be provided to assist us and English Heritage in assessing whether the building is listable. If it has only just been listed, you will have received a letter from an official in the Department. Address your letter to him or her. If the listing was done some time ago, simply write to:

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

- 4.2 The following hints may help in preparing your letter:

- Check the description of your property which forms part of the list entry. The lists for your area are available for inspection at your District Council offices (in London, from your Borough Council). If you have difficulty obtaining the description, write to the Department at the address above. Check that the description is accurate, particularly as to the age of your property. It should be borne in mind, however, that the main purpose of the list description is for identification, and while it will aim to be accurate and highlight the main features which have led to its listing, it will not necessarily include every detail of the building.
- Consider whether your building merits listing: is it of special architectural or historic interest? The criteria used by the Department are summarised in section 3 above. How does your property match up to these?
- Lastly, we will need to know whether you have applied for planning permission or listed building consent (or are about to do so) to carry out works on your property; and, if so, what the proposed works are.

- 4.3 The evidence provided in support of a de-listing request must relate to the special historic or architectural interest ascribed to the building; if the objection to listing is, for instance, related to the building's condition and the cost of repairing and maintaining it, or to plans for alteration or redevelopment, the appropriate application should be made under the listed building consent procedures.

#### **5. What will happen**

- 5.1 Your letter (and the photos you send) will go to English Heritage. Your property will already have been assessed by an English Heritage Inspector before it was listed, but we will ask for an assessment by a different Inspector in the light of what you say about the building. The Inspector will, in most cases, wish to visit the building and will, if you wish, make an appointment to see you when he or she does so. You are

of course free to tell the Inspector anything about the property that you think is relevant to your appeal. He or she will also be very willing to discuss the listing informally with you if you wish, and to answer any questions that you may have about it.

- 5.2 The local authorities concerned and the appropriate national amenity society will be notified by English Heritage of the de-listing request.
- 5.3 The Inspector will make a recommendation, which will go through the Principal Inspector, and we will write to you just as soon as a decision has been made. It may take the Inspector a little while to make his assessment, particularly if a visit is necessary, but if you need to get a quick decision, tell us and we will try to give your case priority. Our aim throughout is to be as open as possible about the listing or delisting of your property. In most cases, the decision about whether your property should remain on the list will be taken by the Head of the Department's Listing Branch. But in some exceptional cases, the decision will be taken by the Minister or by the Secretary of State personally.

## 6. Finally

Remember, even if your property does remain listed, it may be possible to alter, extend or even demolish it if you get the necessary consent from your local council; and there is a right of appeal to the Secretary of State for the Environment if consent is refused, or granted subject to conditions which you consider to be unacceptable. The lists are intended to be a register protecting buildings from unnecessary or unconsidered work, but the fact that a building is listed should not be seen as a bar to all future change. The government's policies for the control of works to listed buildings are set out in Planning Policy Guidance 15, copies of which are available from The Stationery Office. Their contact details are:

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123 Kingsway  
London WC2B 6PQ

Tel: 020 7242 6393 or 020 7242 6410  
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e-mail: london.bookshop@tso.co.uk