



## A Guide to the Law



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# Introduction

Within the 200 square miles of East Hampshire, there are over 1630 statutory listed buildings (this includes 15 Grade I buildings and 71 Grade II\* buildings). Listed buildings span a diverse range of structures including modest cottages, barns, country houses, telephone boxes, memorials etc.

The purpose of this guide is to explain to owners and occupiers of listed buildings what 'listing' means and how it may affect them.

The National Heritage list for England is gathered by the Department for Culture, Media and Sport (DCMS) and administered by Historic England. The 'List' comprises of a wide variety of buildings and structures which are of special architectural and/or historic interest.







Why are buildings listed? To enable us to recognise the best of our heritage and to conserve and appreciate it. Listing highlights the significance of a building or site and helps to ensure that any changes do not result in the loss of its significance.

Under section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990 the Secretary of State has a duty to compile or approve a list of buildings of special architectural or historic interest. The list is used by planning authorities when carrying out their planning functions. The list is a register, it identifies buildings which are of special interest. It gives local authorities additional powers to protect them as well as imposing special responsibilities upon their owners to maintain them.



# How are buildings listed?

The statutory criteria for listing are the special architectural or historic interest of a building. Many buildings are interesting architecturally or historically, but, in order to be listed, a building must have “special” interest.

Buildings on the list are graded to reflect their relative architectural and historic interest. Buildings of historic interest may justify a higher grading than would otherwise be appropriate.

- **Grade I** buildings are of exceptional interest. Only 2% of all listed buildings are currently in this grade. East Hampshire District currently has 17 such buildings. e.g. The Court House, Church Lane, East Meon, and West Court Barn at Binsted.
- **Grade II\*** buildings are particularly important buildings of more than special interest. East Hampshire District currently has 70 such buildings. e.g. Hall Farm House, Holt End Lane, Bentworth.
- **Grade II** buildings are of special interest, warranting every effort to preserve them.







A programme of surveys takes place throughout the country. This is carried out by professional field workers. The rural parts of East Hampshire District were last re-surveyed by English Heritage in 1985 and 1986, Alton in 1976/77 and Petersfield in 1973/74.

Sometimes it is necessary for buildings which were overlooked at the survey stage to be added to the list at a later date either by 'spot listing' or by the serving a Building Preservation Notice, which has the effect of listing a building for six months, during which time the DCMS must consider whether the property should be permanently listed or not.

A copy of the list of Listed Buildings for East Hampshire District is available for inspection at the Council's offices at Penns Place, Petersfield during normal office hours and can be found on the Historic England Website.





# Criteria used for the selection of Listed Buildings

All the properties inspected are judged according to a set of national criteria, which is approved by the DCMS. The Department's advisers are professional inspectors at the Historic Buildings and Monuments Commission for England (better known as Historic England).

Historic England is also responsible for seeing that the standards for listing are applied nationally and for supervising the survey field work.

The following types of building and structures are listed:-

- **All buildings before 1700 which survive in anything like their original condition**
- **Most buildings built between 1700 and 1840, although selection is necessary.**
- **After 1840, only buildings of definite quality and character are listed, the selection is designed to include the principal works of the principal architects or designers.**

Particularly careful selection is required for buildings after 1945 and buildings of less than 30 years old are normally listed only if they are of outstanding quality or under threat.





In choosing buildings for listing, particular attention is paid to special architectural and historic interest :

To be of special architectural interest a building must be of importance in its architectural design, decoration or craftsmanship; special interest may also apply to nationally important examples of particular building types and techniques (e.g. Buildings displaying technological innovation or virtuosity) and significant plan forms;

To be of special historic interest a building must illustrate important aspects of the nation's social, economic, cultural or military history and / or have close historical associations with nationally important people. Even then there should normally be some quality of interest in the physical fabric of the building itself.

Listed buildings are classified in grades to show their relative importance. However, it does not mean that a Grade I building is more worthy of preservation than a Grade II building. Structures such as garden buildings, gate piers, telephone kiosks, walls, fountains, statues, bridges and milestones are also listed.





# How far does the listing extend?

It is sometimes wrongly assumed that the listing only applies to the exterior or front elevations. In fact, buildings are listed in their entirety, including their interiors.

The description in DCMS's list is intended primarily for identification purposes only. It does not provide a comprehensive record of the buildings attributes or features of importance.

The listing also covers any object or structure fixed to the building or any detached structure within the curtilage (grounds) of the listed building if it was constructed before 1948. Listed features or structures cannot be altered, demolished or removed without first obtaining Listed Building Consent (LBC) from the District Council.

Historic England recently engaged a national programme of updating list descriptions to provide a greater understanding of the architectural and historic interest of the buildings, including the 'Enriching the List' programme. During this, members of the public are invited to share knowledge and pictures of listed places in order to record important facts. Contributions appear separately on the list after the official entry for that place.





# The Effect of Listing

A Listed Building may not be demolished, extended or altered , internally or externally, in any way that affects its character without Listed Building Consents (LBC) having been obtained first. This is in addition to any need for Planning Permission and Building Regulation approval.

Applications for LBC are determined by the District Council, sometimes after consultation with Historic England. The fact that a building is listed does not necessarily mean that it must remain unaltered for all time. There is, however a presumption in favour of preserving all listed buildings and their settings.

If proposed works affect a listed building, it is a statutory requirement for the Local Authority 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 (SS.16,66, Planning (Listed Buildings and Conservation Areas)Act 1990) when making it's decision.

If proposed works affect a Conservation Area, it is a statutory requirement for the Local Authority to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area (s.72, 1990 Act) when making its decision.



Government Policy is set out in the National Planning Policy Framework (NPPF). It confirms that the more important the asset, the greater the weight should be given to the preservation of the Listed Building. As Listed Buildings are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or the loss of Grade II Listed Building should be exceptional. Substantial harm to or loss of heritage assets of the highest significance, including Grade I and Grade II\* buildings, should be wholly exceptional.

Proposals for the change of use of Listed Buildings must not diminish the architectural or historic value of the building, its setting or reason for listing.





# Listed Buildings and Works for Alteration and Extension

To alter a listed building in order to enhance its appearance or bring it up to modern standards or simply repair it requires considerable design skills and use of sympathetic materials. Work should be carried out in the correct manner, in accordance with the period, style and detail of the building. In view of this, the appointment of a suitably qualified architect or historic buildings specialist, is strongly advised.

Listed Building Consent will only be granted if the Council is satisfied that all the work proposed is necessary and is not detrimental to the architectural or historic integrity of the building. Wherever possible existing details of the building should be preserved, repaired or, if missing, replaced. In general, the repair of historic fabric is preferable to new work.

If works of alteration or extension are proposed, the District Council will require these to blend sympathetically with the old, for example by using natural materials and maintaining historic features, such as original windows and doors, interior fireplaces, staircases and ironmongery. The danger of over-restoration should be guarded against.

The use of UPVC plastic or aluminium windows and doors is normally unacceptable.





Listed Building Consent is required even when Planning Permission is not. For example:

- Altering or replacing windows and doors (including double glazing units and roof lights).
- Rendering or painting outside walls.
- Replacing natural materials with concrete, imitation stone, resins, fibre or plastic.
- Removing rendering or changing roof materials (including rethatching).
- Fixing or removing bargeboards.
- Changing chimney stacks or chimney pots and guttering.
- Installing solar panels or satellite antenna.
- The fixing of advertisement signs or sun blinds.
- Altering or removing interior features of interest such as doors, fireplace surrounds, over-mantles, staircases, cornices, panelling, or ironmongery.
- All works of demolition require Listed Building Consent, this includes the removal of chimneys, chimney pots, doors, windows and parapets.

Similarly, a building's listed status can prevent the operation of permitted development rights, therefore planning permission may be required in addition to Listed Building Consent.

It is a criminal offence to demolish, alter or extend Listed Buildings without first obtaining Listed Building Consent. The penalties for this can be heavy - either in the form of large fines or imprisonment.

If an offence is committed the District Council or the Secretary of State for Culture, Media and Sport may either prosecute or serve a Listed Building enforcement notice on the owner to restore the building to its former state. Failure to comply with a listed building enforcement notice within the specified period is also an offence.



# Frequently Asked Questions

## Q. Can owners be made to maintain their listed building?

**A.** Yes, the owner of a listed building is obliged to keep it in a reasonable state of repair. If an owner or tenant neglects to preserve or maintain a listed building, the District Council may serve a Repairs Notice; this specifies the works that are necessary to preserve the building. If these works are not carried out within the specified period, the Council may seek to compulsorily purchase the property. Minimum compensation values may be payable if the building has been deliberately neglected. The District Council can also execute urgent works to protect an unoccupied or partially unoccupied listed building from further deterioration. The costs of such works are recoverable from the owner. There is a right of appeal within 28 days to the Secretary of State against such recovery.

The local planning authority has various powers it can use to ensure repairs are carried out to improve the condition of buildings in its area, besides an urgent works notice or a repairs notice. Where a building is in sufficient disrepair to be considered dangerous the local planning authority may apply for a court order requiring the owner to make the building safe or to demolish all or part of it. If the owner fails to comply the authority can carry out the work and reclaim the expense. The court order is registerable as a local land charge.

Additionally, if land or buildings are in such poor condition that the local planning authority considers it adversely affects the amenity of the area, the local planning authority may serve an amenity notice on the owner under s.215 of the Town and Country Planning Act 1990 specifying the works necessary to remedy the poor condition



## Q. Can I obtain help for repairing my Listed Building?

A. Yes, Historic England award grants via a variety of funding schemes for specific activities or types of building:

- Grants towards the repair and conservation of listed buildings, scheduled monuments and registered parks and gardens;
- Funding towards activities and projects to understand, manage and conserve the historic environment;
- Funding for strategic research and to build skills and capacity in the historic environment;
- Partnership funding to support a sustainable future and heritage based regeneration in Conservation Areas. Further details are available on the Historic England website.

EHDC has a modest historic grant budget towards the repair (not general maintenance) of listed buildings and other buildings or features of strong architectural/historic interest. The grant is aimed at assisting with the more specialist skills required and is prioritised towards:

- buildings that are listed
- buildings that have been identified as being “at risk”
- listed ecclesiastical buildings
- listed buildings owned or operated by charities
- features of no economic value; for example the repair of historic boundary walls or monuments.

What the grant can't be used for:

Grants are not provided to commercial organisations or businesses. Grants are subject to a number of conditions set out in the guidance notes. In particular where a property is sold within three years of the grant payment we reserve the right to seek repayment in full or part. While new owners are not excluded, the expectation is that the cost of repairs should be taken into account when determining the purchase price. The purpose of the grant is to assist with the long term conservation of the building and not to reward purchaser or vendor.





**Q. Is there any Tax relief?**

**A.** As from 1 October 2012 VAT at the standard rate (20%) applies to all materials and services supplied in the course of approved alterations to listed buildings or scheduled monuments. Previously the cost of approved alterations was zero rated for VAT.



**Q. Are Churches listed?**

**A.** Yes, a large proportion of churches of all denominations are listed. The Ecclesiastical Exemption (Listed Buildings and Conservation Areas) (England) Order 2010 provides that places of worship used for ecclesiastical purposes can be exempt from having to obtain certain consents.



Ecclesiastical buildings of the Church of England, the Roman Catholic Church, the Methodist Church, the Baptist Union of Great Britain and the United Reformed Church which remain in ecclesiastical use, are not subject to some of the controls and provisions described in this leaflet.

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Q. Can I apply to have a Listed Building removed from the list?

A. There is no statutory right of appeal against listing but if you feel your property is not of special architectural or historic interest, you may ask the Secretary of State for Culture, Media and Sport to have the building considered for removal from the statutory list. The Secretary of State will remove a building from the List only if it no longer meets these criteria. The general principles that the Secretary of State for Culture, Media and Sport applies when deciding whether a building is of special architectural or historic interest are set out in the Principles of Selection for Listed Buildings, DCMS 2010. The Secretary of State can only take into account a building's architectural and historic interest when considering an application for de-listing. An application for de-listing may be made because new evidence is available about the lack of special architectural or historic interest of the building, or a material change of circumstances, for example fire damage.



### **Q. What can I do if I wish to undertake works to a Listed Building?**

**A.** If you are the owner or occupier of a Listed Building or act as an agent or architect acting on behalf of the owner, the District Council's Planning Control and Conservation Officers will be pleased to advise you on the need to obtain Listed Building Consent together with the suitability of any works proposed.

Before undertaking any works of repair or alteration to a Listed Building, make sure your contractor or builder is made aware that the building is listed and is given a copy of any Listed Building Consent application and plans or conditions, together with any specifications or any grant conditions that may be applicable.

### **Q. Recording of Listed Buildings**

**A.** If Listed Building Consent is granted for demolition or partial demolition, the applicant is required to give notice to the Royal Commission for Historic Monuments for England to allow an opportunity to record the building. Forms for this purpose can be obtained from the District Council. Thirty days' notice to the RCHME is required. Failure to notify the Royal Commission is also an offence which can carry a substantial fine.

During works you should ensure that a copy of the appropriate Listed Building Consent, including any conditions attached and the accompanying drawings, is kept on site so that it can be checked against the approved works. During works you may find changes may be needed to comply with Building Regulations. This does not automatically mean you have Listed Building Consent for this change and you should consult the Planning Authority on Listed Building Consent immediately before carrying out any further work.





# A Summary of Points to Remember

- The listing of a building applies to the whole building and all objects or structures affixed to that building or within its curtilage (grounds); this includes both internal and external features.
- The effect of listing a building is that Listed Building Consent must be obtained for all works of alteration, extension and demolition which may affect the character of a listed building.
- Planning permission or Building Regulations approval does not act as Listed Building Consent and vice versa.
- Listing Building Consent may be required even when Planning Permission or Building Regulations may not, for example:- alterations to windows, changing roof materials, rendering or painting external walls, removal of parts of the building such chimneys, dormers, porches and interior features of interest such as panelling or cornices and for any demolition.
- Works of repair also need consent if architectural or historic details are to be changed, e.g. staining of windows which are now painted or intended to be painted, installing fascias or guttering, the use of different types of thatch, painting brickwork or painting in unusual colours.
- UPVC plastic and aluminium replacement windows and doors are normally unacceptable for listed buildings.
- It is a criminal offence to execute any works to a listed building which affects its character, without prior approval from the District Council. Failure to obtain Listed Building Consent for the works may result in prosecution and the serving of a Listed Building Enforcement Notice requiring the complete restoration of the building. If convicted there are heavy fines or imprisonment for such offences.



- The Council has powers available to require repairs to be undertaken to neglected buildings which are in need of proper preservation.
- Grants may be available towards the cost of certain essential repairs.
- Information on technical and design matters is available from the Planning Department or the Conservation Officers of the Heritage Team, East Hampshire District Council, Penns Place, Petersfield (01730 266551 extension 4248 /4214).



# Further Information

This leaflet is designed to answer only general queries. Further information and advice can be obtained by contacting:

**The Conservation Officers or Planning Enquiries  
East Hampshire District Council  
Penns Place  
Petersfield  
Hants  
GU31 4EX  
Telephone 01730 266551**







**East  
Hampshire**  
DISTRICT COUNCIL  

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PLANNING SERVICES