

Appendix 2 - Powers available to Local Authorities in Securing the Preservation of the Built Heritage

There are various statutory powers available to local authorities to help them ensure that buildings are kept in good repair. Keeping historic buildings in good repair and in use - where this is possible - is the main factor in their preservation. Although under no statutory obligation to maintain their property in a good state of repair, owners of Listed Buildings should bear in mind that it is in their interests to do so since local authorities can take action to secure repairs when it becomes evident that a building is being allowed to deteriorate.

Urgent works notices

Under Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (referred to from now on as The Act) enables Local Authorities to execute any works which appear to them to be urgently necessary for the preservation of a listed building in their area. If the building is occupied, the works may be carried out only on those parts not in use.

Section 55 enables the authority to recover those expenses from the owner

If it is an unlisted building in a conservation area and its preservation is important for maintaining the character and appearance of that area. The Secretary of State can direct that Section 54 powers apply under Section 76 of the Act.

Repairs notices as preliminary action towards compulsory purchase

Section 48 of The Act enables local authorities to serve a Repairs Notice on the owner of a listed building specifying those works which it considers reasonably necessary for the 'proper preservation' of that building. If two months go by and no reasonable steps appear to have been taken, the local authority can begin CPO proceedings under Section 47. This requires the confirmation of the SoS, who in turn has the reserve powers under Sections 47-8. The SoS must consult English Heritage before exercising these powers, as he/she must before confirming a CPO made by a local authority.

Dangerous Structure Order

Section 77 of the Building Act 1984 enables local authorities to apply to a Magistrate's Court for an order requiring the owner to make a building safe, or to demolish it. If the owner fails to comply, the local authority can carry out the works and reclaim the expenses which are then registerable as a local land charge.

Works under a Dangerous Structures Order are subject to listed building controls and consent may be required.

'Amenity' notices

Section 215 of the Town and Country Planning Act 1990 enables local authorities to

serve notice on the owner and occupier of land whose condition is adversely affecting the amenity of an area. The notice must specify the works necessary to remedy the condition of the land and a period after which the notice comes into effect. During this time the owner can appeal against the notice to a Magistrate's Court.

Subject to the owner's right to appeal, the local authority can carry out the works if the owner fails to comply and reclaim the costs - again, registerable as a land charge. The local authority can also prosecute for non-compliance.

Work to unoccupied buildings

Section 29 of the Local Government (Miscellaneous Provisions) Act 1982 enables local authorities to undertake works to an unoccupied building or one whose owner is temporarily absent, to prevent unauthorised entry or prevent it becoming a danger to the public's health. 48 hours' notice is required after describing the proposed works unless it is necessary to undertake them immediately or it had been impossible to ascertain the owner. Expenses, again, are recoverable.

The effective use of these powers is essential but in itself will not prevent historic buildings from falling into neglect or disuse. The production of the Buildings At Risk register, for example, can facilitate the monitoring of decay or improvement and identify those buildings which it is most appropriate to take formal action on. However, the first port of call will always be to encourage building owners to take on maintenance and repairs themselves, and officers are available to provide expert advice free of charge on these matters. It is important to remember that routine maintenance, at a modest expenditure, can prevent much more expensive works becoming necessary at a later date.