



department for  
**culture, media  
and sport**

# Draft Conservation Area Clauses

## Explanatory Notes

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Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

# Section 1: Explanatory Notes

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## Conservation Areas

**Clause 1:** This clause provides the Secretary of State, English Heritage, Welsh Ministers and local planning authorities with powers to designate an area as a conservation area. The powers of the Secretary of State, English Heritage and Welsh Ministers are discretionary, whereas the local planning authorities have a duty to consider, on a regular basis, whether parts of their area are eligible for designation as Conservation Areas. *Subsection (7)* provides that the bases on which a Conservation Area may be designated are its special historic, archaeological, architectural or artistic interest, and the desirability of preserving or enhancing its character or appearance.

**Clause 2:** This clause currently provides that the authority that originally designated a Conservation Area has the power to vary the extent of or cancel that designation. It is our intention that on introduction of the Bill the powers to vary or cancel will be consistent with those to designate. In the case of the Secretary of State, English Heritage and Welsh Ministers, these powers will be discretionary, but for local planning authorities there will be a duty on them to cancel or vary a designation where they have determined this is necessary.

**Clause 3:** This clause sets out the consultation procedure which must be followed before designation or the cancellation or material variation of a Conservation Area designation.

**Clause 4:** This clause provides that the authority making a designation, variation or cancellation of a Conservation Area must give notice of that decision to the other authorities capable of making such a decision themselves. They must also publish the notice of that decision in a manner to be set out in regulations.

**Clause 5:** This clause provides that local planning authorities must publish a management plan for those parts of its area which are, or form part of, a Conservation Area. The management plan will comprise an assessment of the special interest of the relevant area and proposals for preserving or enhancing the character or appearance of that area.

*Subsection (2)* places a duty on local planning authorities to publish an updated management plan, i.e., one prompted by time having elapsed, therefore making sure that the plan remains up-to-date. *Subsection (3)* places a duty on local planning authorities to publish a revised management plan, i.e., one prompted by material changes in circumstances occurring to the Conservation Area, thereby ensuring that the contents of the plan remain accurate.

**Clause 6:** This clause sets out the duties of local planning authorities when exercising their planning functions with regard to Conservation Areas.

*Subsection (1)* provides that the LPA must pay special attention to the desirability of enhancing the character or appearance of a Conservation Area where there is an opportunity to do so. Where there is no opportunity for enhancement then the LPA must give special regard to preserving the area's character or appearance.

The intention of this clause is to reverse the effect of the decision in *South Lakeland District Council v Secretary of State for the Environment and Carlisle Diocesan Parsonages Board [1992] 2 WLR 204* which held that local planning authorities are not required to insist that developments are beneficial to conservation areas, but merely that they do not harm them.

**Clause 7:** This clause provides that the national authority may make regulations for the publicity to be given to applications for planning permission in cases where it would affect the character or appearance of a Conservation Area.

**Clause 8:** This clause provides that the Secretary of State or Welsh Ministers have the power to direct that preservation works may be carried out in relation to a registrable structures in a Conservation Area where the preservation of that structure is important for maintaining the character or appearance of the conservation area (see also Clauses 174 and 175 in relation to preservation works to registered heritage structures).

**Clause 9:** This clause provides that the demolition (total and partial), without planning permission, of an unregistered registrable structure in a Conservation Area is a criminal offence by inserting a new clause into the Town and Country Planning Act 1990 (TCPA). *Subsection (2)(b)* of that clause expressly refers to the demolition of part of a building rather than simply relying on the definition of "building" in section 336(1) of the TCPA (which includes part of a building). This is in order to avoid the possibility that the use of "demolition" in this context might be taken to refer only to the demolition of the whole and not to parts of a building. The intention is to reverse the effect of the decision in *Shimizu v Westminster CC [1997] 1 All ER 481* which held that demolition of part of a building does not require conservation area consent. *Subsection (4)* sets out the defences available and *subsections (5) – (7)* the penalties applicable.





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