

# Conservation areas

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*Conservation areas***1 Designation of conservation areas**

- (1) Each local planning authority –
  - (a) must from time to time decide which parts of its area are eligible for designation as conservation areas; and
  - (b) must designate those parts as conservation areas.
- (2) The Secretary of State or English Heritage –
  - (a) may decide that a part of England is eligible for designation as a conservation area; and
  - (b) may designate that part as a conservation area.
- (3) The Welsh Ministers –
  - (a) may decide that a part of Wales is eligible for designation as a conservation area; and
  - (b) may designate that part as a conservation area.
- (4) For the purposes of each of subsections (1), (2) and (3) an area is eligible for designation as a conservation area if (in the opinion of the person making the decision under that subsection) –
  - (a) it is an area of special interest; and
  - (b) it is desirable to preserve or enhance its character or appearance.
- (5) Nothing in subsections (1) to (3) requires or authorises a person to designate an area to the extent that it is already a conservation area.
- (6) The designation of any area as a conservation area shall be a local land charge.
- (7) In this Part –
  - (a) “designation” means a designation under this section, and “designate” is to be read accordingly;
  - (b) “special interest” means special historic, archaeological, architectural or artistic interest.

**2 Variation or cancellation of designation**

- (1) At any time after a conservation area is designated, the person who designated it may –
  - (a) decide that the conservation area should –
    - (i) include a further area which is eligible for inclusion; or
    - (ii) exclude an area which is no longer eligible for inclusion; and
  - (b) vary the designation in accordance with that decision.

- (2) For the purposes of subsection (1) an area is eligible for inclusion in a conservation area if under section 1 it would be eligible for designation as a conservation area by the person making the decision.
- (3) At any time after a conservation area is designated, the person who designated it may—
  - (a) decide that the conservation area is no longer eligible for designation as a conservation area (within the meaning of section 1); and
  - (b) cancel the designation in accordance with that decision.

### 3 Consultation

- (1) A person must not—
  - (a) make a designation under section 1,
  - (b) make a material variation of a designation under section 2(1), or
  - (c) cancel a designation under section 2(3),without having carried out consultation in accordance with subsections (2) to (8) below.
- (2) The person must publish a notice which—
  - (a) states the reasons for the proposed designation, variation or cancellation;
  - (b) invites written representations about it; and
  - (c) states that such representations may be made within 28 days beginning with the date of the notice.
- (3) The person must take into account any written representations received within those 28 days.
- (4) Where a local planning authority in England proposes to make the designation, variation or cancellation, it must also consult English Heritage.
- (5) Where the Secretary of State proposes to make the designation, variation or cancellation, the Secretary of State must also consult—
  - (a) English Heritage; and
  - (b) each local planning authority whose area is affected.
- (6) Where English Heritage proposes to make the designation, variation or cancellation, it must also consult—
  - (a) the Secretary of State; and
  - (b) each local planning authority whose area is affected.
- (7) Where a local planning authority in Wales proposes to make the designation, variation or cancellation, it must also consult the Welsh Ministers.
- (8) Where the Welsh Ministers propose to make the designation, variation or cancellation, they must also consult each local planning authority whose area is affected.
- (9) For the purposes of this section a variation is “material” if—
  - (a) it materially alters the extent of the conservation area; or
  - (b) the person proposing the variation considers that it should not be made unless consultation has been carried out in accordance with this section.
- (10) The appropriate national authority may make regulations as to—

- (a) the form and content of notices under subsection (2);
- (b) the way in which such notices must be published.

#### **4 Notice of designation, variation or cancellation**

- (1) A local planning authority must give notice of each designation it makes under section 1(1), and of any variation or cancellation of such a designation, to—
  - (a) the appropriate national authority; and
  - (b) English Heritage, if the area affected is in England.
- (2) The Secretary of State must give notice of each designation the Secretary of State makes under section 1(2), and of any variation or cancellation of such a designation, to—
  - (a) each local planning authority whose area is affected; and
  - (b) English Heritage.
- (3) The heritage authority concerned must give notice of each designation it makes under section 1(2) or (3), and of any variation or cancellation of such a designation, to—
  - (a) each local planning authority whose area is affected; and
  - (b) the Secretary of State, if the area affected is in England.
- (4) A person who has made a designation, variation or cancellation under section 1 or 2 must also publish notice of it in a way prescribed by regulations made by the appropriate national authority.
- (5) A notice under this section must identify the area affected.

#### **5 Publication of management plans for conservation areas**

- (1) A local planning authority must publish a management plan in respect of each part of its area which is or forms part of a conservation area, as soon as practicable after the designation of the conservation area.
- (2) From time to time after publishing a management plan under subsection (1) in respect of a part of its area, a local planning authority must publish an updated management plan in respect of that part.
- (3) A local planning authority must publish a revised management plan in respect of any part of its area which is or forms part of a conservation area, as soon as practicable after any material variation of the designation relating to that part.
- (4) In this section “management plan” means, in relation to a part of the area of a local planning authority—
  - (a) an assessment by the local planning authority of the special interest of that part; and
  - (b) proposals formulated by the local planning authority for preserving or enhancing the character or appearance of that part.
- (5) Before publishing a management plan under this section, a local planning authority must—
  - (a) make available a draft of the management plan at a public meeting held in the conservation area in question; and
  - (b) have regard to any views expressed at the meeting.
- (6) In this section “material variation” has the meaning given by section 3.

## **6 Duty to have regard to conservation areas in exercise of planning functions**

- (1) In exercising a planning function with respect to any building or other land in a conservation area, special regard must be had to the desirability of—
  - (a) preserving the character or appearance of that area in cases where an opportunity for enhancing its character or appearance does not arise;
  - (b) enhancing the character or appearance of that area in cases where an opportunity to do so does arise.
- (2) In subsection (1) “planning function” means any function under or by virtue of—
  - (a) this Act;
  - (b) the planning Acts (within the meaning of section 336(1) of the Town and Country Planning Act 1990 (c. 8)); or
  - (c) sections 70 and 73 of the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28).

## **7 Publicity for planning applications affecting conservation areas**

- (1) The appropriate national authority may make regulations as to the publicity to be given to applications for planning permission in cases where the local planning authority considers that the development of land would affect the character or appearance of a conservation area.
- (2) In this section “planning permission” does not include planning permission within section 73A of the Town and Country Planning Act 1990.

## **8 Power to carry out preservation works to registrable structures in conservation areas**

- (1) This section applies where it appears to the appropriate national authority—
  - (a) that works are necessary for the preservation of a registrable structure (other than a registered heritage structure) in a conservation area; and
  - (b) that the preservation of the registrable structure is important for maintaining the character or appearance of the conservation area.
- (2) The appropriate national authority may direct that section 174 (power to carry out preservation works to registered heritage structures) applies also to those works.
- (3) The Secretary of State must consult English Heritage before giving a direction under subsection (2) in respect of a registrable structure in England.

## **9 Offence of failing to obtain planning permission for certain development in conservation area**

After section 196C of the Town and Country Planning Act 1990 insert—

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### **196D Offence of failing to obtain planning permission for certain development in conservation area**

- (1) It is an offence for a person to carry out or cause or permit to be carried out relevant development without the required planning permission.

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- (2) In subsection (1) “relevant development” means –
    - (a) the demolition of a building, other than a registered heritage structure, in a conservation area; or
    - (b) a structural alteration of a building in a conservation area, other than a registered heritage structure, where the alteration consists of demolishing part of the building.
  - (3) Without prejudice to subsection (1), it is an offence for a person –
    - (a) to carry out or cause or permit to be carried out relevant development under planning permission; and
    - (b) to fail to comply with any condition or limitation subject to which the planning permission is granted.
  - (4) It is a defence for a person accused of an offence under this section to prove the following matters –
    - (a) that the development was urgently necessary in the interests of safety or health or, in the case of structural alterations, for the preservation of the building;
    - (b) in the case of structural alterations, that the alterations were limited to the minimum measures immediately necessary; and
    - (c) that notice in writing of the development was given to the local planning authority as soon as reasonably practicable.
  - (5) A person guilty of an offence under this section is liable –
    - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding £20,000 or both;
    - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
  - (6) Until the coming into force of section 154 of the Criminal Justice Act 2003 (c. 44), subsection (5)(a) has effect as if the reference to 12 months were to 6 months.
  - (7) In determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court must in particular have regard to any financial benefit which has accrued or appears likely to accrue to that person in consequence of the offence.
  - (8) In this section “registered heritage structure” has the meaning given by the Heritage Protection Act 2009.”