

Listed Building consent

Listed building consent is required for all works of demolition, alteration or extension to a listed building that affect its character as a building of special architectural or historic interest.

The requirement applies to all types of works and to all parts of those buildings covered by the listing protection (possibly including attached and curtilage buildings or other structures), provided the works affect the character of the building as a building of special interest.

It is a criminal offence not to seek consent when it is required. Not knowing a building is listed is not a defence to any criminal proceedings. This makes it very important that any doubt is investigated and discussed with the local planning authority.

It is also not a defence to show that consent would or should have been given if it had been applied for. A defence is available if the works were urgently necessary in the interests of health and safety.

An application for listed building consent is made to, and determined by, the local planning authority. Where the works have an impact on the external appearance of the building, planning permission may also be required and if so should be applied for at the same time. The local planning authority must consult Historic England and the National Amenity Societies on certain listed building consent applications.

Local planning authorities can be consulted on the need for listed building consent. Given the difficult nature of deciding whether the special interest might be affected and the fact that it is a criminal offence to fail to apply for consent when required, it is vital they are consulted in cases of any doubt.

It is a common misunderstanding that the special interest of a listed building lies only in its features, such as fireplaces and plasterwork. The interest is in its history and architecture. The general form and layout of the building may be as important in this regard as any eye-catching "period feature". Principles of Selection gives a good sense of what makes buildings of a particular type or period important, as do Historic England's selection guides. The list entry for each building may also give assistance but it is not an exhaustive description and older entries can offer little detail.

Whether buildings within the vicinity of the listed building are protected by being within the curtilage of the principal building and whether objects or structures attached to the principal building are protected is also a difficult judgement. Again, if there is any doubt the local planning authority should be consulted.

In summary, the principles are:

If an object is fixed to the principal building in such a way that it would be considered a fixture in the usual land-law sense (i.e. would be conveyed with the property on sale unless expressly excluded), it would be protected by the listing.

Any structure fixed to the building (however large, including whole other buildings) will be protected if it was ancillary to the principal building at the date of listing (or possibly at 1 January 1969 for list entries that pre-date).

Any pre-1948 building that was in the curtilage of the principal building at the date of listing (or possibly at 1 January 1969 for list entries that pre-date) is protected provided it is fixed to the land and is ancillary to the principal building.

The curtilage of a building has to be determined on a case-by-case basis, but is essentially the area of land that is ancillary to the main building. Relevant factors in determining that area will be: the physical layout; past and present ownership; and, current and previous uses of the land and buildings. A domestic garden is usually going to be easily identified as curtilage. Buildings in farm, commercial or institutional use provide more difficult examples.

Some buildings will have no curtilage.

After 26th June 2013 some new and amended list entries may expressly exclude curtilage or attached structures and objects from protection or may declare certain features to be not of specific interest.