

DRAFT MCS POLICY IN RESPECT OF

# LISTED BUILDINGS AND THEIR PROTECTION

Merseyside  
Civic  
Society

## 1 Introduction

- 1.1 Listed buildings are recognised as being important to our national identity. They form a central part of the country's cultural heritage. They are considered to be an irreplaceable record which informs our understanding and appreciation of both the past and the present. Buildings are included in the statutory list because of their special architectural or historic interest and are Graded I, II\* or II depending on their relative importance (Appendix II).
  - 1.2 Inclusion in the list means that consent is required for the demolition of a building, in whole or in part, or for any works of alteration or extension, either internal or external that is likely to affect its special interest. Under the provision of the Planning (Listed Buildings & Conservation Areas) Act 1990 (as amended) it is a criminal offence to carry out works to a listed building without consent from the relevant Local Planning Authority.
  - 1.3 Once lost, individual listed buildings together with the essential fabric of historic areas, they cannot be replaced.
  - 1.4 Listed buildings contribute to the economic development of the Liverpool City Region by attracting tourism and providing floor space for businesses. The Society recognises that the continued repair and maintenance of listed buildings creates demand for craft skills which helps to train and keep a pool of skilled labour in the city.
  - 1.5 Current Government guidance supports the contribution that historic buildings can make to the economy of an area.
  - 1.6 The Society encourages owner/occupiers through this Green Paper take a pro-active approach to ensure the continued use and repair of listed buildings in relation to the current provisions set out in the Planning (Listed Building & Conservation Areas) Act 1990 (as amended) which is enacted by the relevant Local Planning Authorities.
  - 1.7 The Society is aware that there are number of global agendas regarding the over use of non-renewable material and energy resources which industrialised and developing countries currently depend on and the relationship between the burning of fossil fuels, carbon dioxide emissions and global warming, commonly referred to as 'climate change'. The Society understands that work is progressing nationally on the process of 'retrofitting' properties to improve their energy efficiency. However, it is understood that retrofitting should not be the first thing to think of when considering how to make a building more energy efficient.
  - 1.8 The Society recognises that owner/occupiers should ideally try and get the original building fabric to perform as the best it can with appropriate maintenance and repair as well as providing it with appropriate use and then, if necessary, progress to those areas of the 'retrofitting' which are considered to be more difficult, and costly. Retrofitting properties has the potential to harm the heritage significance and appearance (internally & externally); as such the Society expects the relevant Local Planning Authorities to fully appraise proposals that involve retrofitting works to ensure such harm does not occur.
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- 1.9 The Society is aware that the provisions of the Planning (Listed Building & Conservation Areas) Act 1990 (as amended) makes available grant schemes such as Conservation Area Partnerships, Heritage Economic Regeneration schemes for the repair of historic buildings; in Merseyside (especially Liverpool) they have proved successful in attracting private investment into both listed buildings and conservation areas to assist in the regeneration by preserving its heritage and improving image (Appendix III).
- 1.10 The Society is aware that the provisions of the Planning (Listed Building & Conservation Areas) Act 1990 (as amended) that Local Planning Authorities have the powers to serve the relevant notices in respect of Repairs and Emergency works if an owner consistently fails to carry out essential repairs to a listed building. As part of these powers the Society understands that Local Planning Authorities have the powers to take appropriate action to compulsorily purchase buildings from owners who cannot, or will not, repair them, in order to hand them onto new owners who will carry out the works.
- 1.11 The Society will support the relevant Local Authority in this work by encouraging the setting up of Building Preservation Trusts in the Liverpool City Region as they have the mechanisms in place to attract funds not generally available to other organisations.
- 1.12 The Society understands that Building Preservation Trusts can be vital partners when a local planning authority is considering the use of Repairs Notices as they can enter into back-to-back arrangements with the relevant local authority to achieve a successful outcome.

## Policy MCS LB1 Listed Buildings

### 2 Demolition

- 2.1 The Society acknowledges that current national guidance indicates that there should be a general presumption in favour of the preservation of listed buildings, except where a convincing case can be made for alteration or demolition.
  - 2.2 The Society is aware that that the prime consideration of Local Planning Authorities is to have special regard to the desirability of preserving the building or its setting or any features of special historic interest it possesses when assessing applications for demolition.
  - 2.3 The Society respects the fact that the destruction of heritage assets is very seldom necessary for reasons of good planning.
  - 2.4 The Society is aware that more often it is the result of neglect or of failure to make imaginative efforts to find new uses for them or to incorporate them into new development.
  - 2.5 The Society supports both the relevant Local Planning Authority and the Government's commitment for presumption in favour of the preservation of listed buildings.
  - 2.6 The Society understands that in respect of determining applications for demolition, the relevant Local Authority as the Local Planning Authority does not have powers to grant consent for the demolition of a listed building without reference to the respective Secretary of State.
  - 2.7 The Society is aware that under the provisions of Paragraph 9, Section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) the demolition of listed buildings, in whole or in part, without consent is a criminal offence.
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2.8 It is also understood that it is an offence to demolish even a dangerous listed building without consent.

2.9 However the Society understands it is a defence to demonstrate that:

- Works to the building were urgently necessary in the interests of safety or health or for the preservation of the building;
- It was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording temporary support or shelter;
- The works carried out were limited to the minimum measures immediately necessary
- Notice in writing justifying in detail the carrying out of the works was given to the local planning authority as soon as reasonably practicable.

2.10 The Society is aware that demolition behind facades will be considered in the same way as total demolition.

2.11 The extent of 'Listing' covers the designated heritage asset in its entirety. It is unusual for the interest of a building only to be in its facade. The Society understands that the older listing descriptions are for identification purposes; not just the features that are described. More recent listing descriptions are much more detailed and, in some cases, will state which elements of the heritage asset are not deemed to be part of the building or structure.

2.12 The Society understands that there may be exceptional cases where although the demolition of a listed building can be justified, the contribution the facade of the building makes to the character and appearance of a conservation area, terrace or group of buildings is such that the consent may be granted with conditions for its retention together with the adjacent roof form in order to protect the overall character and appearance of the area.

2.13 In 1999 the Royal Commission on the Historical Monuments of England became part of English Heritage, now Historic England. As such Historic England must be notified all proposals that will result in the total demolition of a listed building.

2.14 The Society understands that owner/occupiers of a designated heritage asset to be demolished must allow Historic England access in order for the building to be recorded before demolition takes place.

2.15 It is also understood by the Society that notification may also be required where radical changes or alterations are to be made to the interior or exterior of listed buildings.

## **Policy MCS LB2 - Demolition**

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### 3 Alterations

- 3.1 The Society is of the opinion that the ideal way of securing the future of listed buildings is to keep them in active use, but this will often necessitate some degree of adaptation.
  - 3.2 In order to achieve the best use(s) the Society is aware that it will be necessary for the relevant Local Planning Authorities to judge the economic viability of possible uses against the effect of any changes they entail in the special architectural or historic interest of the building or its setting.
  - 3.3 The Society recognises that the optimum viable use compatible with the fabric, interior and setting of the listed building may not necessarily be the most profitable.
  - 3.4 The Society appreciates that the best use will often be the one for which the building was originally designed; however, it recognises that the nature of uses can change over time, as can the regulations governing them. Therefore, it is understood that in some cases the Society is aware that the original use may be less compatible than with an alternative.
  - 3.5 It is accepted by the Society that the relevant Local Planning Authorities will be flexible in considering new uses in order to secure a listed building's survival. The current national guidance makes it clear that the starting point for the exercise of listed building control is the statutory requirement 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.
  - 3.6 The Society fully understands that insensitive alterations and extensions can easily destroy the very character which made the building worthy of listing. Therefore, before granting consent the Society expects the relevant Local Planning Authorities to be satisfied that all aspects of the proposal are justified and that the overall effect of the proposal is not detrimental to the architectural or historic fabric of the building and can be carried out without danger to the fabric and structure of the building or to adjoining historic structures.
  - 3.7 The implications of complying with other statutory requirements for example, Building and Fire Regulations, must be taken into account as part of the process of determining the application.
  - 3.8 The Society expects the relevant Local Planning Authorities to refuse to consider planning applications for a change of use without an associated Listed Building Application, if physical works would be necessary to accommodate the proposed new use.
  - 3.9 The Society expects high standards of building work and use of materials which are in keeping with the form and detailing of the building; as outlined in the Society's adopted policy on Urban Design and Design Review.
  - 3.10 The Society expects plan forms should be retained where they are an integral part of the architectural layout of the building and as far as possible, all original features should be retained and, where this is not possible, careful attention must be given to the details of any replica replacements.
  - 3.11 The Society understands that there is a widely held view that older buildings are not energy efficient and must be radically upgraded in order to improve their performance. However, in reality the situation is more complicated and assumptions about poor performance are not always justified.
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3.12 The Society is aware that recent research and analysis of energy use has found that '*...buildings from the early part of the 20th century and before tend to use less energy than the equivalent more recent buildings*'<sup>1</sup>. Nevertheless, the Society understands opportunities exist to improve the energy and ] carbon performance of many heritage buildings, thereby helping them to remain viable and useful now and in the future.

3.13 The Society appreciates that the challenges in achieving the right balance between benefit and harm can be considerable. It is recognised by the Society that the consequences of getting energy efficiency measures wrong (or doing them badly) can lead to harm, namely:

- Heritage significance
- Altered appearance
- Loss of features

and may include harm to:

- Human health in terms of poor indoor air quality
- the building fabric i.e. condensation, mould growth and decay of building fabric

and may potentially result in:

- A failure to achieve any predicted savings
- Any reductions in environmental impact.

3.14 The Society understands that the right balance can be achieved through a systematic 'whole building' approach which is current being promoted by Historic England<sup>2</sup>. It is understood that this is a logical process based on conservation planning principles that requires:

- an understanding of a heritage asset
- its context and significance

together with all other associated factors that contribute to and affect energy use (including the inhabitants). The Society accepts that devising practical strategies for energy efficiency is the starting point to achieve a reduction in energy use.

3.15 The Society understands that applicants for listed building consent must be able to justify their proposals; full plans and elevations showing the proposed development together with details of adjoining properties and particulars of design, external appearance, materials and proposed landscaping has to be submitted to the relevant Local Planning Authorities to enable a proper assessment and likely impact of the proposal on the special architectural or historic character of the heritage asset in question.

3.16 The Society accepts that alterations to designated heritage assets must take into account the needs of disabled people. The Society expects that great care will be undertaken to achieve solutions that do not detract from the character of a listed building and locality. The Society will support the use of matching materials and details that help such alterations to blend in, but recognise that occasionally alternative access arrangements may be necessary.

## Policy MCS LB3 - Alterations

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1 Rodwell, D., 'Heritage and Sustainability' refers to the finding of HM Courts Service analysing their records of energy use, The Building Conservation Directory (Special Report), 2017 pp2-5  
[www.buildingconservation.com/articles/heritage-sustainability/heritage-sustainability.htm](http://www.buildingconservation.com/articles/heritage-sustainability/heritage-sustainability.htm)

2 McCaig, I., 'Retrofit in Heritage Buildings (Understanding the risks)', The Building Conservation Directory (Special Report), 2017 pp6-9

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## 4 Development affecting the setting and significance

- 4.1 The Society understands that listed buildings make an important contribution to their surroundings and are in turn affected by them.
- 4.2 The Town & Country Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) in conjunction with the National Planning Policy Framework requires local authorities to have special regard to the desirability of preserving the setting of listed buildings when considering development proposals that will affect the designated heritage itself and/or its setting.
- 4.3 The setting of a listed building is more extensive than its curtilage. It is the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve.
- 4.4 Elements of a setting may make a positive or negative contribution to the significance of an asset. The setting may affect the ability to appreciate that significance or may be neutral.
- 4.5 The Society recognises that the 'setting' could be its garden, grounds, open space or the general street scene.
- 4.6 In the case of a particularly prominent building (i.e., a church with a tower which may cover an extensive area) the Society expects in design terms that the siting of buildings even at some distance will need careful control in order to protect important views.
- 4.7 The Society understands that it is essential for the relevant Local Planning Authority to consider the impact of development and other proposals within the vicinity of designated heritage assets.
- 4.8 The Society expects the relevant Local Planning Authority to carefully appraise and assess development proposals to ensure that the setting created by particular groupings of buildings, including the quality of the spaces and views between them is not harmed as defined by the National Planning Policy Framework for the conservation and enhancement of the historic environment.
- 4.9 In terms of landscaping the Society will support the preservation of existing tree planting and landscape features, and expects the relevant Local Planning Authority to have appropriate control over the retention of such together with controlling the quality of design of any new development that will be in close proximity to a listed building in order to protect its setting.

### Policy MCS LB4 – Development affecting the setting and significance

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## Appendix I

Draft Policies (for discussion)

### Policy MCS LB1 - Listed Buildings

1. The Society will encourage the relevant Local Planning Authority to take positive action to secure the retention, repair, maintenance and continued use of listed buildings by:
  - Fully utilising the available powers to take action in the case of derelict buildings
  - Exploring all possibilities to obtain funding from all available sources to set up grant and repair schemes
  - Supporting the relevant Local Authority, when absolutely necessary, to relax planning and other locally adopted policies in order to secure the retention of a building that is designated heritage asset as defined by the current national planning policy framework pertaining to the conservation and enhancement of the historic environment.
  - Providing guidance and advice to owners and developers.

### Policy MCS LB2 - Demolition

1. In accordance with current legislation and national guidance the Society supports the presumption in favour of the preservation of listed buildings.
2. The Society will not support any consent for demolition other than in the most exceptional circumstances, and in any case, not unless applicants have fully justified in accordance with current national guidance for the conservation and enhancement of the historic environment that every possible effort has been made to continue the present use or find a suitable alternative use.
3. The Society expects applications for demolition to contain a full justification by accredited building conservation specialists for proposals which should include all the relevant information necessary to enable the relevant local planning authority to formally assess the application against the established criteria set out below, including fully detailed and annotated plans for any redevelopment;
  - The importance of the building
  - The condition of the building
  - The cost of repairing and maintaining it in relation to its importance
  - The adequacy of efforts made to retain the building in use
  - Its intrinsic architectural and historic interest
  - Its contribution to the local scene
  - The merits of alternative proposals for the site



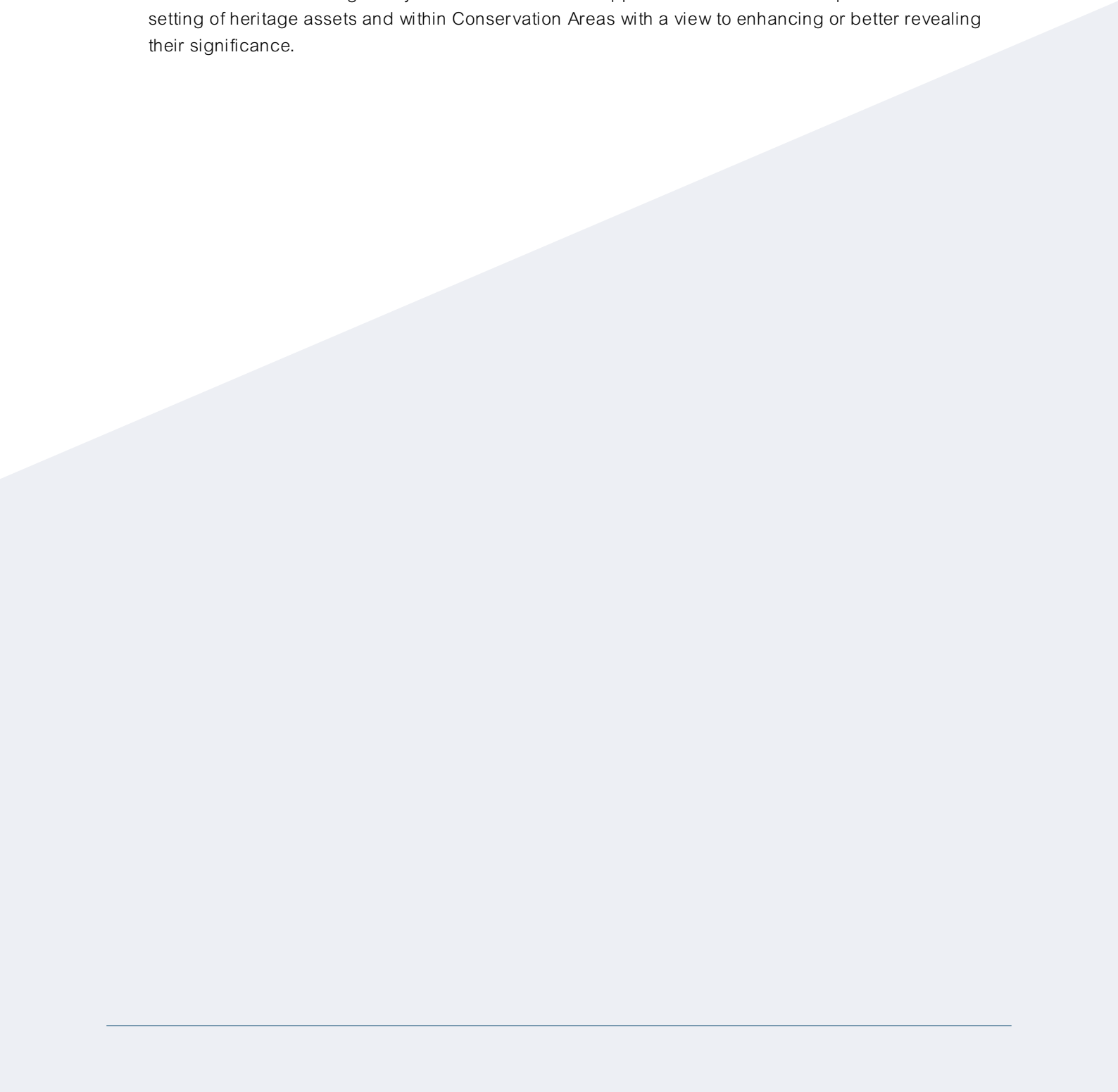
4. The Society understands that any consent granted for demolition will, where appropriate, be subject to specific conditions stating that demolition must not start until;
  - Planning permission has been granted
  - There is evidence that a contract has been let for the full implementation of the redevelopment proposals
  - That this evidence has been submitted to the relevant Local Planning Authority as part of the relevant conditions attached to the consent for demolition
  - Provision is made for Historic England to record the building before any works commence.

### **Policy MCS LB3 - Alterations**

1. The Society expects that the relevant Local Planning Authority will not grant listed building consent for:
  - Extensions, external or internal alterations to a designated heritage asset that would adversely affect its architectural or historic character
  - A change of use (or other works) that would be considered to cause permanent harm to its architectural or historic character
  - Applications for extensions, alterations to (including a change of use) a designated heritage asset that are not accompanied by the full information necessary to understand the impact of the proposals on the significance of the building
  - Any works which are not considered to be of a high standard of design in terms of form, scale, detailing and materials.
2. The Society recognises that where the adaptive reuse of a listed building is to be used by visiting members of the public, the needs of disabled people should be provided for in a manner that will help conserve the special architectural or historic interest of the designated heritage asset irrespective of its designation grade.
3. In respect of retrofitting heritage assets for climate change the Society appreciates that there are challenges ahead in achieving the right balance between benefit and harm can be considerable. It is recognised that there are consequences associated with getting energy efficiency measures wrong which can lead to harming the heritage significance, altering the appearance and the loss of period features. As such the Society will make the appropriate representations to the relevant Local Planning Authority to ensure that such harm does not occur and that any proposals to implement such measure are fully assessed before consent is granted.

### **Policy MCS LB4 - Development affecting the setting**

1. The Society understands that consent (planning permission) will only be granted by the relevant Local Planning Authority for development that affects the setting of a listed building, which:
    - Preserves the setting and important views of the building.
  2. The Society expects the relevant Local Planning Authority to have regard to guidance set out in the National Planning Policy Framework pertaining to the conservation and enhancement of the historic environment which requires applicants to describe the significance of any heritage assets affected, including any contribution made by their setting which is to be proportionate to the assets' importance and is sufficient to understand the potential impact of the proposal on the setting and significance.
  3. The Society understands that the relevant Local Planning Authorities need to identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting).
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4. The Society is fully aware that the relevant Local Planning Authority must include:
    - taking account of the available evidence and any necessary expertise
    - consider the impact of a proposal on a heritage asset including control over the design and siting of new development
    - avoiding or minimising any conflict between the heritage asset's conservation control over the use of adjacent land including the preservation of trees and landscape features
  5. The Society recognises that any harm to, or loss of, the significance of a listed building (i.e. its alteration or destruction, or from development within its setting) must be fully justified through a clear and convincing supporting statement.
  6. The Society recognises that the relevant Local Planning Authorities are required under the current National Planning Policy Framework to look for opportunities for new development within the setting of heritage assets and within Conservation Areas with a view to enhancing or better revealing their significance.
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## Appendix II

### What are Listed Buildings and their Grades?

(Principles of selection)

#### **Architectural interest:**

The lists are meant to include all buildings which are of importance to the nation for the interest of their architectural design, decoration and craftsmanship; also important examples of particular building types and techniques and significant plan forms;

#### **Historic interest:**

This includes buildings which illustrate important aspects of the nation's social, economic, cultural or military history;

**Close historical associations:** with nationally important people or events;

**Group value:** especially where buildings comprise an important architectural or historic unity or a fine example of planning (e.g., squares, terraces or model villages).

The older a building is, the more likely it is to be listed. All buildings built before 1700 which survive in anything like their original condition are listed, as are most built between 1700 and 1840.

After that date, the criteria become tighter with time, so that post 1945 buildings have to be exceptionally important to be listed.

### Grades of listed buildings

Listed buildings are graded to show their relative architectural or historic interest:

Grade I	buildings are of exceptional interest
Grade II*	are particularly important buildings of more than special interest
Grade II	are of special interest, warranting every effort to preserve them

The percentages of Listed Buildings provided by the Department of Culture; Media & Sport are as follows:

#### **Grade I**

Represents buildings of exceptional interest and accounts for just 2% of all listed buildings nationally.

#### **Grade II\***

Particularly important buildings of more than special interest and these account for 4% nationally.

#### **Grade II**

Buildings of special interest, that warrant every effort being made to preserve them and accounts for the remaining 94%.

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## Appendix III

### Sources of grant for the protection and refurbishment of the historic environment

#### Historic Buildings and Ancient Monuments Act 1953

##### Section 3a Grants

To be used for the repair and maintenance of buildings and land of outstanding interest.

This grant was mainly used for repairs to Church Buildings in use and Grade I & II\* listed buildings.

#### Town & Country Planning (Amendment) Act 1972

##### Section 10 grants

For the preservation or enhancement of any conservation area)<sup>3</sup>

##### Section 10B grants

To be used for the repair of buildings in a town scheme (usually administered by Local Authority) in respect of specific targeted properties.<sup>4</sup>

#### Planning (Listed Building & Conservation Areas) Act 1990

##### Section 57 grants

Powers available to a local authority<sup>5</sup> to contribute to the preservation of listed buildings etc

(i.e. may contribute towards the expenses incurred or to be incurred in the repair or maintenance of:

- A listed building which is situate in or in the vicinity of their area;
- A building in their area which is not listed but appears to them to be of architectural or historic interest.

As with the previous Section 10 grants can be used for the preservation or enhancement of any conservation area.<sup>6</sup> The selected Conservation Areas in Liverpool to benefit from this 'programme' were Canning Street; Rodney Street; Mount Pleasant; Edge Hill; Princes Road; Princes Park; Sefton Park; Grove Park; St Michael's Hamlet; Lark Lane.

##### Sections 79 & 80 Grants

For the repair of buildings in a town scheme, (usually administered by Local Authority in respect of specific targeted properties.<sup>7</sup> The selected Conservation Areas in Liverpool to benefit from 'Town Scheme' assistance (& subsequent iterations) were targeted properties in Castle Street, Duke Street and latterly 'Ropewalks Area' (targeted properties within part of the Duke Street CA)

#### National Heritage Lottery Fund

In recent times NHLF has largely taken over the operation/management of the 'Section 3a' Grant Schemes of the Historic Buildings and Ancient Monuments Act 1953 for ecclesiastical buildings in use and Grade I & II\* listed buildings; and in partnership with local authorities the 'Townscape Heritage Initiative Schemes'<sup>8</sup> operating under the provisions of Sections 79 & 80 of the Planning (Listed Building & Conservation Areas) Act 1990.

3 Prior to 1980 they were only available in conservation areas that were considered to be of 'outstanding interest'; around this time (1978) 11 of Liverpool's designated conservation areas were considered to be 'outstanding' in the national context; by 1988 the HBMC (English Heritage) had established 500 priority areas or 'programme towns'.

4 The first Conservation Area in Liverpool to benefit from this grant was Castle Street.

5 Liverpool City Council operated a Section 57 Grant scheme between 1990 & 1993; it is understood that approximately 100 properties benefited from this short-lived grant package.

6 This fund was only available to 'programme towns' which were determined by English Heritage: Liverpool was chosen as one of the 'programme towns' to benefit from this grant.

7 The 'Town Scheme' was renamed in 1993 to the Conservation Area Partnership (CAP) Scheme and subsequently evolved to the Heritage Economic Regeneration Scheme (HERS) in 2000 later to become the Townscape Heritage Initiative Scheme (THI) in 2004/05.

8 The last being the 'Liverpool World Heritage Site THI' - this scheme has apparently assisted 16 projects out of the 33 target properties.





EMPIRE THEATRE

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