

RE: THE VICARAGE BROADWAY RAINHAM ESSEX RM13 9YW

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

LONDON BOROUGH OF HAVERING
THE PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS)
ACT 1990 (AS AMENDED BY THE
PLANNING AND COMPENSATION ACT 1991)

LISTED BUILDING ENFORCEMENT NOTICE

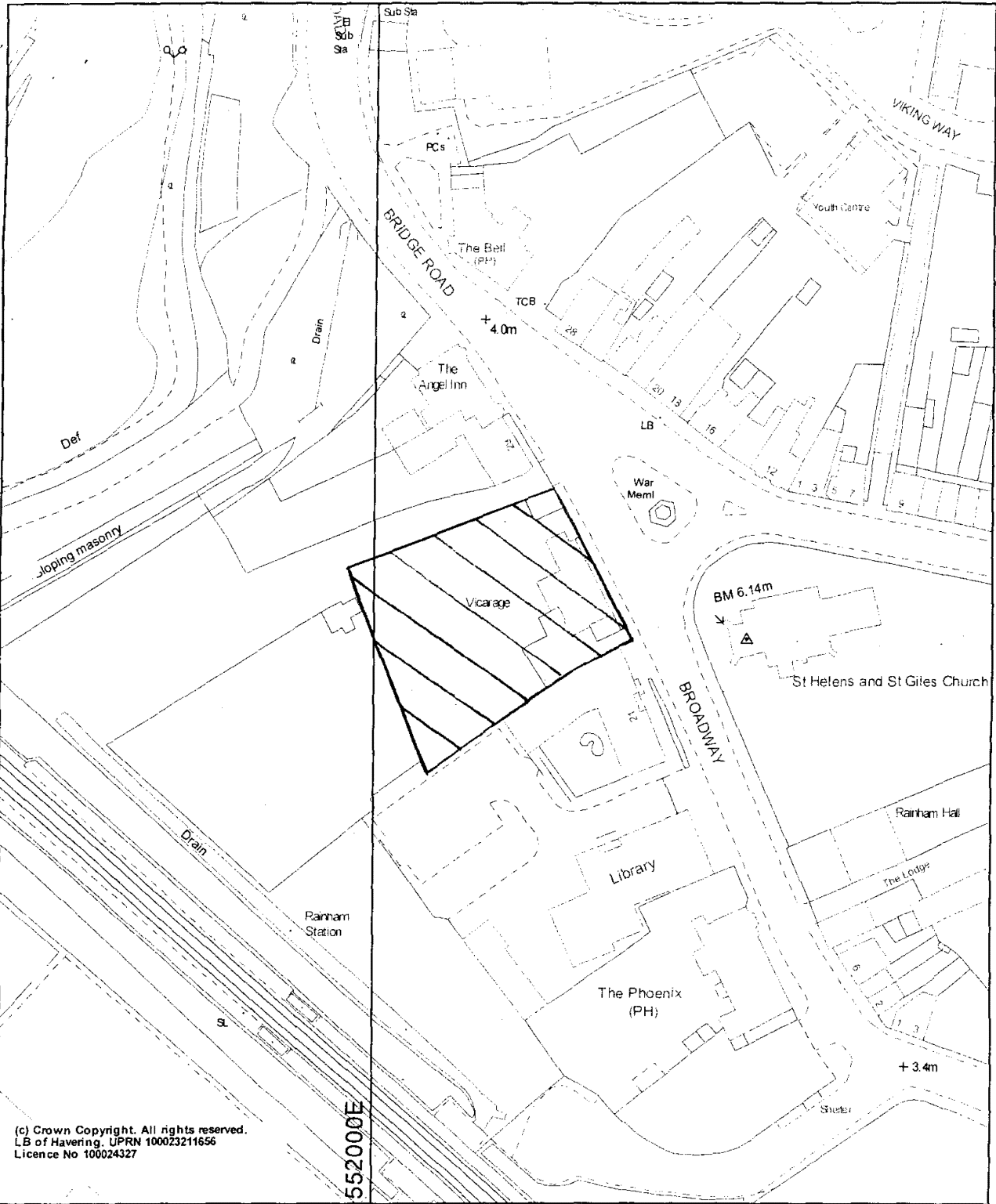
- TO:
1. The Owner of the said land
 2. The Occupier of the said land
 3. Brian Alexander MacKay The Vicarage Broadway Rainham Essex RM13 9YW
 4. Wendy Jean Offord The Vicarage Broadway Rainham Essex RM13 9YW
 5. The Company Secretary, Halifax PLC, Trinity Road, Halifax, West Yorkshire HX1 2RG

ISSUED BY: London Borough of Havering

1. **THIS IS A FORMAL NOTICE** issued by the Council because it appears to them that there has been a contravention of Section 7 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended by the Planning and Compensation act 1991) in that unauthorised works have been executed to the listed building described below
2. **THE BUILDING AFFECTED**

The building and associated land hatched black on the attached plan.
3. **THE CONTRAVENTION**

Without listed building consent the erection of Garden Decking and a uPVC Conservatory which are annexed to the Vicarage a Grade II Listed Building.
4. In exercise of powers contained in Section 38 of the Act the Council considers that it is expedient to issue this notice having regard to the effect of the works on the character of the building as one of special architectural or historic interest.

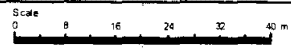


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 LB of Havering, UPRN 100023211656
 Licence No 100024327



Map Reference: TQ5282SW
 Date: 06/09/2005

Scale: 1:1000



London Borough of Havering
 Planning Department
 Mercury House, Mercury Gardens
 Romford, RM1 3SL
 Tel: 01708 434343



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on the character of the building as one of special architectural or historic interest.

5. REASONS FOR ISSUING THIS NOTICE

The Garden Decking and uPVC Conservatory in question are annexed to the Listed Building. The site lies within the Rainham Conservation Area. The unauthorised development appears as an obtrusive design and appearance. It is contrary to development plan policies and harmful to the visual amenities of this Listed Building and the Conservation Area. The Council do not consider that listed building consent should be granted, because conditions could not overcome the said adverse impact on the Listed Building and Rainham Conservation Area.

In making its decision to issue this Notice the Council considered that the contravention is contrary to the following policies of the Havering Unitary Development Plan: policies ENV1, ENV3 and ENV4.

6. WHAT YOU ARE REQUIRED TO DO

- (i) Remove the Garden Decking

Time for compliance: 3 months from the effective date of this notice.

- (ii) Remove the uPVC Conservatory

Time for compliance: 3 months from the effective date of this notice.

- (iii) Remove from the land all building materials and rubble arising from compliance with the requirements above, and restore the land to its condition before the breach occurred by levelling the ground

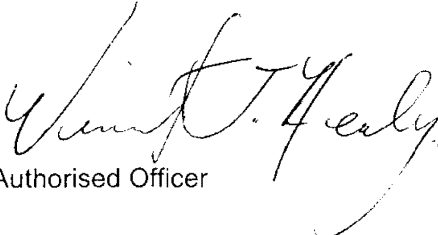
Time for compliance: 3 months from the effective date of this notice.

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 15th October 2005 unless an appeal is made against it beforehand

Dated: 12th September 2005

Signed:



Authorised Officer

On behalf of London Borough of Havering
Town Hall
Main Road
Romford RM1 3BD

ANNEX

YOUR RIGHT OF APPEAL

PLEASE NOTE THAT A SEPARATE APPEAL FORM MUST BE COMPLETED FOR EACH INDIVIDUAL PERSON OR ORGANISATION

You can appeal against this notice, but any appeal must be received, or posted in time to be received, by the Planning Inspectorate before 15th October 2005 . You should read carefully the enclosed notes and extracts from the Act. You may use the appeal form of which three copies are enclosed. One is for you to send to the Planning Inspectorate if you decide to appeal. You should also send the Planning Inspectorate the spare copy of the enforcement notice which is enclosed. The appeal should be sent to The Planning Inspectorate, PO Box 326, Bristol BS99 7XF. The second copy of the form, together with any supporting documents, should be sent to the Council (please see below the paragraph headed "Correspondence with the Council"). The third copy is for you to keep for your own records.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against the enforcement notice, it will take effect on 15th October 2005 and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period {s} specified in the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and or the carrying out of remedial action by the Council, the costs of which it may seek to recover from you.

NOTES FOR PERSONS SERVED WITH A LISTED BUILDING ENFORCEMENT NOTICE

(These notes do not form any part of the Listed Building Enforcement Notice)

PENALTIES FOR NON-COMPLIANCE

1. You have been served with copies of a Listed Building Enforcement Notice which will come into effect on the date given in paragraph 7 of the Notice. You then have the period or periods specified in paragraph 6 in which to comply with the requirements contained in that same paragraph. If you fail to comply within that time you will be liable to prosecution and, on conviction, to a fine.

RIGHT OF APPEAL

2. You have a right of appeal against the Notice to the Planning Inspectorate. If you do appeal, the Notice will not come into effect until the appeal is finally determined or withdrawn.

WHEN TO APPEAL

3. An appeal must be made before the date given in paragraph 7 being the date when the Notice takes effect. The Planning Inspectorate has no power to extend this period nor to accept an appeal made out of time.

HOW TO APPEAL

4. An appeal form should be completed and sent to the Planning Inspectorate, P.O. Box 326, Bristol BS99 7XF and the envelope marked "Listed Building Enforcement Appeal". It will help the Planning Inspectorate in dealing with the preliminary stages of the appeal (see paragraph 7 below) if you send him the additional enclosed copy of the Listed Building Enforcement Notice or, failing that, state the address of the listed building to which the Notice relates and that the Notice was issued by Westminster City Council. (If you have also made, or are making, an appeal against a refusal of planning permission or listed building consent in respect of the same building, you should mention this as well).

GROUNDS ON WHICH AN APPEAL CAN BE MADE

5. An appeal can be made on one or more of the grounds set out in Section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended. Details are contained in the "Notes for appellants" from the Planning Inspectorate enclosed with this letter.

STATING THE FACTS

6. The statement of facts in support of the appeal must be more than just a reiteration of the grounds set out in Section 39 of the Act and must at least give the basic facts on which you rely in pleading those grounds.

SUBSEQUENT ACTION

7. The Planning Inspectorate will acknowledge receipt of your appeal and contact the Council. Unless the Planning Inspectorate considers that an Inquiry is essential, an opportunity will be given to both you, as appellant, and the Council to say whether you wish to appear before an Inspector at a Local Inquiry or are prepared to have the matter dealt with by way of written statements. This latter procedure may be more suitable where there is no dispute as to the facts of the case.

PROFESSIONAL ADVICE

8. If the issues are simple you may decide to deal with the appeal yourself or with the help of someone not professionally qualified. Where legal or other complex issues are likely to be involved, it may be better to seek professional advice at an early date. Whoever the spokesman is, all representations will be carefully considered. If there is an Inquiry, the Inspector will ensure that everybody gets a fair hearing whether professionally represented or not.

NOTE

These notes are supplied for guidance only. Although they seek to draw your attention to the more important provisions of the legislation concerning enforcement of listed building control, they do not purport to be a complete statement of the law. Further reference should be made to the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended, and associated Orders or Regulations.

LONDON BOROUGH OF HAVERING
LISTED BUILDING ENFORCEMENT NOTICES

Extracts from the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)

Power to
Issue listed
Building enforce-
ment
notice

38. (1) Where it appears to the local planning authority -
- (a) that any works have been or are being executed to a listed building in their area; and
 - (b) that the works are such as to involve a contravention of section 9(1) or (2),

they may, if they consider it expedient to do so having regard to the effect of the works on the character of the building as one of special architectural or historic interest, issue a notice under this section (in this Act referred to as a "listed building enforcement notice").

- (2) A listed building enforcement notice shall specify the alleged contravention and require such steps as may be specified in the notice to be taken -
 - (a) for restoring the building to its former state; or
 - (b) if the authority consider that such restoration would not be reasonably practicable or would be undesirable, for executing such further works specified in the notice as they consider necessary to alleviate the effect of the works which were carried out without listed building consent; or
 - (c) for bringing the building to the state in which it would have been if the terms and conditions of any listed building consent which has been granted for the works had been complied with.
- (3) A listed building enforcement notice -
 - (a) shall specify the date on which it is to take effect and, subject to sections 39(3) and 65(3A), shall take effect on that date, and

- (b) shall specify the period within which any steps are required to be taken and may specify different periods for different steps, and, where different periods apply to different steps, references in this Part to the period for compliance with a listed building enforcement notice, in relation to any step, are to the period within which the step is required to be taken.
- (4) A copy of a listed building enforcement notice shall be served, not later than 28 days after the date of its issue and not later than 28 days before the date specified in it as the date on which it is to take effect
 - (a) on the owner and on the occupier of the building to which it relates; and
 - (b) on any other person having an interest in that building which in the opinion of the authority is materially affected by the notice.
- (5) The local planning authority may -
 - (a) withdraw a listed building enforcement notice (without prejudice to their power to issue another); or
 - (b) waive or relax any requirement of such a notice and, in particular, may extend the period specified in accordance with Section 38(3), and the powers conferred by this subsection may be exercised whether or not the notice has taken effect.
- (6) The local planning authority shall, immediately after exercising the powers conferred by subsection (5), give notice of the exercise to every person who has been served with a copy of the listed building enforcement notice or would, if the notice were re-issued, be served with a copy of it.
- (7) Where a listed building enforcement notice imposes any such requirement as is mentioned in subsection (2)(b), listed building consent shall be deemed to be granted for any works of demolition, alteration or extension of the building executed as a result of compliance with the notice

Appeal
Against
Listed
Building
Enforce-
ment
notice

39. (1) A person having an interest in the building to which a listed building enforcement notice relates or a relevant occupier may appeal to the Secretary of State against the notice on any of the following grounds

- (a) that the building is not of special architectural or historic interest;
- (b) that the matters alleged to constitute a contravention of section 9(1) or (2) have not occurred;
- (c) that those matters (if they occurred) do not constitute such a contravention;
- (d) that works to the building were urgently necessary in the interests of safety or health or for the preservation of the building, that 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, and that the works carried out were limited to the minimum measures immediately necessary;
- (e) that listed building consent ought to be granted for the works, or that any relevant condition of such consent which has been granted ought to be discharged, or different conditions substituted;
- (f) that copies of the notice were not served as required by section 38(4);
- (g) except in relation to such a requirement as is mentioned in section 38(2)(b) or (c), that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out;
- (h) that the period specified in the notice as the period within which any step required by the notice is to be taken falls short of what should reasonably be allowed;
- (i) that the steps required by the notice for the purpose of restoring the character of the building to its former state would not serve that purpose;
- (j) that steps required to be taken by virtue of section 38(2)(b) exceed what is necessary to alleviate the effect of the works executed to the building;
- (k) that steps required to be taken by virtue of section 38(2)(c) exceed what is necessary to bring the building to the state in

which it would have been if the terms and conditions of the listed building consent had been complied with.

- (2) An appeal under this section shall be made either -
 - (a) by giving written notice of the appeal to the Secretary of State before the date specified in the listed building enforcement notice as the date on which it is to take effect; or
 - (b) by sending such notice to him in a properly addressed and pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before that date.
- (3) Where such an appeal is brought the listed building enforcement notice shall, subject to any order under section 65 (3A), be of no effect pending the final determination or the withdrawal of the appeal.
- (4) A person who gives notice of appeal under this section shall, submit to the Secretary of State, either when giving the notice or within such time as may be prescribed, a statement in writing -
 - (a) specifying the grounds on which he is appealing against the listed building enforcement notice; and
 - (b) giving such further information as may be prescribed.
- (5) If, where more than one ground is specified in the statement, the appellant does not give information required under subsection (4)(b) in relation to each of those grounds within the prescribed time, the Secretary of State may determine the appeal without considering any ground as to which the appellant has failed to give such information within that time.
- (6) Where any person has appealed to the Secretary of State under this section against a notice, no person shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.
- (7) In this section "relevant occupier" means a person who -

- (a) on the date on which the listed building enforcement notice is issued occupies the building to which the notice relates by virtue of a licence and
- (b) continues so to occupy the building when the appeal is brought.

Appeals:
supple-
Mentary
Provisions

40. (1) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under section 39, and in particular, but without prejudice to the generality of this subsection may -

- (a) require the local planning authority to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;
 - (b) specify the matters to be included in such a statement;
 - (c) require the authority or the appellant to give such notice of such an appeal as may be prescribed, being notice which in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the building in question is situated;
 - (d) require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.
- (2) Subject to section 41(4), the Secretary of State shall, if either the appellant or the local planning authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (3) Schedule 3 applies to appeals under section 39.

Determi-
nation of
appeals
under s.39

41. (1) On an appeal under section 39 the Secretary of State may -

- (a) correct any defect, error or misdescription in the listed building enforcement notice; or

- (b) vary the terms of the listed building enforcement notice,

if he is satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority.

- (2) Where the Secretary of State determines to allow the appeal, he may quash the notice.
- (2A) The Secretary of State shall give any directions necessary to give effect to his determination on the appeal.
- (3) The Secretary of State -
 - (a) may dismiss such an appeal if the appellant fails to comply with section 39(4) within the prescribed time; and
 - (b) may allow such an appeal and quash the listed building enforcement notice if the local planning authority fail to comply within the prescribed period with any requirement imposed by regulations made by virtue of section 40(1)(a), (b) or (d).
- (4) If the Secretary of State proposes to dismiss an appeal under paragraph (a) of subsection (3), or to allow an appeal and quash the listed building enforcement notice under paragraph (b) of that subsection he need not comply with section 40(2).
- (5) Where it would otherwise be a ground for determining an appeal in favour of the appellant that a person required to be served with a copy of the listed building enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.
- (6) On the determination of an appeal the Secretary of State may -
 - (a) grant listed building consent for the works to which the listed building enforcement notice relates or for part only of those works;
 - (b) discharge any condition or limitation subject to which listed building consent was granted and substitute any other condition, whether more or less onerous;

- (c) if he thinks fit, exercise his power under section 1 to amend any list compiled or approved under that section by removing from it the building to which the appeal relates.
- (7) Any listed building consent granted by the Secretary of State under subsection (6) shall be treated as granted on an application for the same consent under section 10 and the Secretary of State's decision in relation to the grant shall be final.

Execution of works required by listed Building Enforcement Notice

42. (1) If any of the steps specified in the listed building enforcement notice have not been taken within the period for compliance with the notice, the authority may -

- (a) enter the land and take those steps, and
 - (b) recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.
- (2) Where a listed building enforcement notice has been served in respect of a building -
- (a) any expenses incurred by the owner or occupier of the building for the purpose of complying with it, and
 - (b) any sums paid by the owner of the building under subsection (1) in respect of expenses incurred by the local planning authority in taking steps required by it, shall be deemed to be incurred or paid for the use and at the request of the person who carried out the works to which the notice relates.
- (3) Regulations under this Act may provide that all or any of the following sections of the Public Health Act 1936, namely -
- (a) section 276 (power of local authorities to sell materials removed in executing works under that Act subject to accounting for the proceeds of sale);
 - (b) section 289 (power to require the occupier of any premises to permit works to be executed by the owner of the premises);

- (c) section 294 (limit on liability of persons holding premises as agents or trustees in respect of the expenses recoverable under that Act), shall apply, subject to such adaptations and modifications as may be specified in the regulations, in relation to any steps required to be taken by a listed building enforcement notice.
- (4) Regulations under subsection (3) applying all or any of section 289 of that Act may include adaptations and modifications for the purpose of giving the owner of land to which such a notice relates the right, as against all other persons interested in the land, to comply with the requirements of the notice.
- (5) Regulations under subsection (3) may also provide for the charging on the land on which the building stands of any expenses recoverable by a local planning authority under subsection (1).
- (6) Any person who wilfully obstructs a person acting in the exercise of powers under subsection (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Offence
Where
Listed
Building
Enforce-
ment
notice not
complied
with

43. (1) Where, at any time after the end of the period for compliance with the notice, any step required by a listed building enforcement notice to be taken has not been taken, the person who is then owner of the land is in breach of the notice.

(2) If at any time the owner of the land is in breach of a listed building enforcement notice he shall be guilty of an offence.

(3) An offence under this section may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under this section by reference to any period of time following the preceding conviction for such an offence.

- (4) In proceedings against any person for an offence under this section, it shall be a defence for him to show -

- (a) that he did everything he could be expected to do to secure that all the steps required by the notice were taken; or
 - (b) that he was not served with a copy of the listed building enforcement notice and was not aware of its existence.
- (5) A person guilty of an offence under this section shall be liable -
- (a) on summary conviction, to a fine not exceeding £20,000; and
 - (b) on conviction on indictment, to a fine.
- (5) In determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.

OTHER RELEVANT EXTRACTS FROM THE PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990 (AS AMENDED)

Listing of buildings of special architectural or Historic Interest

1. (1) For the purposes of this Act and with a view to the guidance of local planning authorities in the performance of their functions under this Act and the principal Act in relation to buildings of special architectural or historic interest, the Secretary of State shall compile lists of such buildings, or approve, with or without modifications, such lists compiled by the Historic Buildings and Monuments Commission for England (in this Act referred to as "the Commission") or by other persons or bodies of persons, and may amend any list so compiled or approved.
- (2) The Secretary of State shall not approve any list compiled by the Commission if the list contains any building situated outside England.
- (3) In considering whether to include a building in a list compiled or approved under this section, the Secretary of State may take into account not only the building itself but also -
 - (a) any respect in which its exterior contributes to the architectural or historic interest of any group of buildings of which it forms part; and
 - (b) the desirability of preserving, on the ground of its architectural or historic interest, any feature of the building consisting of a man-made object or structure fixed to the building or forming part of the land and comprised within the curtilage of the building.

- (4) Before compiling, approving (with or without modifications) or amending any list under this section the Secretary of State shall consult -
 - (a) in relation to buildings which are situated in England, with the Commission; and
 - (b) with such other persons or bodies of persons as appear to him appropriate as having special knowledge of, or interest in, buildings of architectural or historic interest.
- (5) In this Act "listed building" means a building which is for the time being included in a list compiled or approved by the Secretary of State under this section; and for the purposes of this Act -
 - (a) any object or structure fixed to the building;
 - (b) any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1st July 1948, shall be treated as part of the building.
- (6) Schedule 1 shall have effect for the purpose of making provision as to the treatment as listed buildings of certain buildings formerly subject to building preservation orders.

Restriction
on works
affecting
Listed
Buildings

7. Subject to the following provisions of this Act, no person shall execute or cause to be executed any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, unless the works are authorised.

Authoris-
ation of
works;
listed
Building
consent

8. (1) Works for the alteration or extension of a listed building are authorised if -

- (a) written consent for their execution has been granted by the local planning authority or the Secretary of State; an
 - (b) they are executed in accordance with the terms of the consent and of any conditions attached to it.
- (2) Works for the demolition of a listed building are authorised if -
- (a) such consent has been granted for their execution;
 - (b) notice of the proposal to execute the works has been given to the Royal Commission;
 - (c) after such notice has been given either -
 - (i) for a period of at least one month following the grant of such consent, and before the commencement of the works, reasonable access to the building has been made available to members or officers of the Royal Commission for the purpose of recording it; or
 - (ii) the Secretary of the Royal Commission, or another officer of theirs with authority to act on their behalf for the purposes of this section, has stated in writing that they have completed their recording of the building or that they do not wish to record it; and

- (d) the works are executed in accordance with the terms of the consent and of any conditions attached to it.
- (3) Where -
 - (a) works for the demolition of a listed building or for its alteration or extension are executed without such consent; and
 - (b) written consent is granted by the local planning authority or the Secretary of State for the retention of the works, the works are authorised from the grant of that consent.
- (4) In this section "the Royal Commission" means -
 - (a) in relation to England, the Royal Commission on the Historical Monuments of England; and
 - (b) in relation to Wales, the Royal Commission on Ancient and Historical Monuments in Wales.
- (5) The Secretary of State may by order provide that subsection (2) shall have effect with the substitution for the references to the Royal Commission of references to such other body as may be so specified.
- (6) Such an order -
 - (a) shall apply in the case of works executed or to be executed on or after such date as may be specified in the order; and
 - (b) may apply in relation to either England or Wales, or both.
- (7) Consent under subsection (1), (2) or (3) is referred to in this Act as "listed building consent".

Offences.

9. (1) If a person contravenes section 7 he shall be guilty of an offence.

(2) Without prejudice to subsection (1), if a person executing or causing to be executed any works in relation to a listed building under a listed building consent fails to comply with any condition attached to the consent, he shall be guilty of an offence.

(3) In proceedings for an offence under this section it shall be a defence to prove the following matters -

- (a) that works to the building were urgently necessary in the interests of safety or health or for the preservation of the building;
- (b) that 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;