

## Control over demolition

In determining an application for Conservation Area Consent (CAC) the LPA is obliged to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. The NPPF and case law places a general presumption in favour of retaining buildings and other elements which make a positive contribution to the character or appearance of a conservation area. LPAs need to establish whether the loss of an unlisted building amounts to substantial harm or insubstantial harm to the significance of the conservation area. In the case of the former, the NPPF advises that LPAs should refuse consent unless the substantial harm is necessary to achieve substantial public benefits that outweigh the harm or loss. Where a development proposal will result in less than substantial harm, then this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. So if a building makes little or no contribution to the significance of the conservation area and the LPA is convinced that the new development will make a positive contribution to local character and distinctiveness, then CAC should be granted. Granting of CAC is normally conditional on the new development proceeding and the LPA may ask for the building to be recorded before it is demolished.

Following the House of Lords ruling on *Shimizu Ltd vs. Westminster City Council* (1997), demolition is now interpreted as meaning the total or substantial destruction of the building concerned. The removal of a roof or chimney will not require CAC as this is an alteration but the destruction of an entire building except the facade will probably require CAC.<sup>(3)</sup>

## Unauthorised Works

The demolition of an unlisted building in a conservation area without CAC is a criminal offence. It is also an offence to undertake demolition for which CAC has been granted without complying with a condition attached to the consent. While magistrates can hear such prosecutions, the more serious offences can be referred to a Crown Court. A Crown Court case in 2011, *London Borough of Richmond-upon-Thames v. Johnson*, shows that the judiciary will take such matters extremely seriously fining the owner £80,000 plus £42,000 costs for demolishing his semi-detached 19th century villa without CAC. It would have been even higher if the defendant had not pleaded guilty.

## New development

Often there are development opportunities within conservation areas and here it is essential that new buildings respect the local context in terms of scale, mass or volume, footprint and site layout.

## Grants for repair and maintenance

These can take the form of discretionary grants from local planning authorities under sections 57 and 58 of the act, and public funding from the Heritage Lottery Fund through a Townscape Heritage Initiative Scheme or, in England, from English Heritage through Partnership Schemes in Conservation Areas. Such schemes and their precursors have taken a comprehensive approach, not only repairing historic buildings but funding improvements to the public realm including the reinstatement of railings, historic paving, new street lighting and furniture. In the past ten years English Heritage has contributed some £60 million.

Taken from Richard MacCullagh article

<http://www.buildingconservation.com/articles/conservareas09/conservation-areas.htm>