



Levelling-up and Regeneration Act 2023

2023 CHAPTER 55

PART 3

PLANNING

PROSPECTIVE

CHAPTER 3

HERITAGE

102 Regard to certain heritage assets in exercise of planning functions

(1) After section 58A of TCPA 1990 insert—

“Regard to certain heritage assets

58B Duty of regard to certain heritage assets in granting permissions

- (1) In considering whether to grant planning permission or permission in principle for the development of land in England which affects a relevant asset or its setting, the local planning authority or (as the case may be) the Secretary of State must have special regard to the desirability of preserving or enhancing the asset or its setting.
- (2) For the purposes of subsection (1), preserving or enhancing a relevant asset or its setting includes preserving or enhancing any feature, quality or characteristic of the asset or setting that contributes to the significance of the asset.
- (3) For the purposes of this section—

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Changes to legislation: There are currently no known outstanding effects for the Levelling-up and Regeneration Act 2023, Chapter 3. (See end of Document for details)

- (a) anything within an entry in the first column of the following table is a “relevant asset”, and
- (b) “significance”, in relation to a relevant asset, has the meaning given by the corresponding entry in the second column of the table.

TABLE

<i>“relevant asset”</i>	<i>“significance”</i>
a scheduled monument within the meaning of the Ancient Monuments and Archaeological Areas Act 1979 (see section 1(11) of that Act)	the national importance referred to in section 1(3) of that Act
a garden or other area of land included in a register maintained by the Historic Buildings and Monuments Commission for England under section 8C of the Historic Buildings and Ancient Monuments Act 1953	the special historic interest referred to in subsection (1) of that section
a site designated as a restricted area under section 1 of the Protection of Wrecks Act 1973	the historical, archaeological or artistic importance referred to in subsection (1) (b) of that section
a World Heritage Site (that is to say, a property appearing on the World Heritage List kept under paragraph (2) of article 11 of the UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage adopted at Paris on 16 November 1972)	the outstanding universal value referred to in that paragraph

- (4) The reference in subsection (1) to a local planning authority includes the Mayor of London in relation to the grant of planning permission by Mayoral development order.
- (5) Nothing in this section applies in relation to neighbourhood development orders (except as provided in Schedule 4B) or street vote development orders (except as provided by SVDO regulations within the meaning given by section 61QM).”
- (2) In paragraph 8 of Schedule 4B to TCPA 1990 (matters to be considered in examining draft neighbourhood development order)—
 - (a) in sub-paragraph (2)—
 - (i) in paragraph (b), after “preserving” insert “or enhancing”;
 - (ii) after paragraph (c) insert—
 - “(ca) having special regard to the desirability of preserving or enhancing anything that is a relevant asset for the purposes of section 58B or its setting, it is appropriate to make the order.”;
 - (b) after sub-paragraph (4) insert—

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“(4A) Sub-paragraph (2)(ca) applies in relation to anything that is a relevant asset for the purposes of section 58B only in so far as the order grants planning permission for development that affects the asset or its setting.

(4B) Subsections (2) and (3)(b) of section 58B apply for the purposes of sub-paragraphs (2)(ca) and (4A) as they apply for the purposes of that section.”

(3) In section 16 of the Listed Buildings Act (decisions on applications for listed building consent), after subsection (2) insert—

“(2A) In relation to a listed building in England, “preserving” in subsection (2) is to be read as “preserving or enhancing”.”

(4) In section 66 of the Listed Buildings Act (duty to have regard to listed buildings in the exercise of certain planning functions)—

(a) after subsection (1) insert—

“(1A) The reference in subsection (1) to a local planning authority includes the Mayor of London in relation to the grant of planning permission by Mayoral development order.”;

(b) after subsection (2) insert—

“(2A) In relation to development in England, or the exercise of powers in England, “preserving” in subsection (1) or (2) is to be read as “preserving or enhancing”.”

Commencement Information

II S. 102 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

103 Temporary stop notices in relation to listed buildings

(1) The Listed Buildings Act is amended as follows.

(2) After section 44A insert—

“44AA Temporary stop notices in England

(1) This section applies where it appears to a local planning authority in England that—

- (a) works have been or are being executed to a listed building in their area, and
- (b) the works are such as to involve a contravention of section 9(1) or (2).

(2) The authority may issue a temporary stop notice if, having regard to the effect of the works on the character of the building as one of special architectural or historic interest, they consider it is expedient that the works (or part of them) be stopped immediately.

(3) A temporary stop notice must be in writing and must—

- (a) specify the works in question,

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- (b) prohibit execution of the works (or so much of them as is specified in the notice),
 - (c) set out the authority’s reasons for issuing the notice, and
 - (d) include a statement of the effect of section 44AB.
- (4) A temporary stop notice may be served on a person who appears to the authority—
- (a) to be executing the works or causing them to be executed,
 - (b) to have an interest in the building, or
 - (c) to be an occupier of the building.
- (5) The authority must display a copy of the notice on the building; and the copy must specify the date on which it is first displayed.
- (6) A temporary stop notice takes effect when the copy of it is first displayed in accordance with subsection (5).
- (7) A temporary stop notice ceases to have effect—
- (a) at the end of the period of 56 days beginning with the day on which the copy of it is first displayed in accordance with subsection (5), or
 - (b) if the notice specifies a shorter period beginning with that day, at the end of that period.
- (8) But if the authority withdraws the notice before the time when it would otherwise cease to have effect under subsection (7), the notice ceases to have effect on its withdrawal.
- (9) A local planning authority may not issue a subsequent temporary stop notice in relation to the same works unless the authority have, since issuing the previous notice, taken other enforcement action in relation to the contravention referred to in subsection (1)(b).
- (10) The reference in subsection (9) to taking other enforcement action includes a reference to obtaining an injunction under section 44A.
- (11) A temporary stop notice does not prohibit the execution of works of such description, or the execution of works in such circumstances, as the Secretary of State may by regulations prescribe.

44AB Temporary stop notices in England: offence

- (1) A person is guilty of an offence if the person contravenes, or causes or permits a contravention of, a temporary stop notice—
- (a) which has been served on the person under section 44AA(4), or
 - (b) a copy of which has been displayed in accordance with section 44AA(5).
- (2) An offence under this section may be charged by reference to a day or to some longer period; and accordingly, a person may, in relation to the same temporary stop notice, be convicted of more than one offence under this section by reference to different periods.

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- (3) In proceedings against a person for an offence under this section, it is a defence for the person to show that the person did not know, and could not reasonably have been expected to know, of the existence of the temporary stop notice.
- (4) In proceedings against a person for an offence under this section, it is also a defence for the person to show—
 - (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,
 - (c) that the works carried out were limited to the minimum measures immediately necessary, and
 - (d) that notice in writing justifying in detail the carrying out of the works was given to the local planning authority as soon as reasonably practicable.
- (5) A person guilty of an offence under this section is liable on summary conviction, or on conviction on indictment, to a fine.
- (6) In determining the amount of a fine to be imposed on a person convicted under this section, the court must in particular have regard to any financial benefit which has accrued or appears likely to accrue to the person in consequence of the offence.

44AC Temporary stop notices in England: compensation

- (1) A person who, on the day when a temporary stop notice is first displayed in accordance with section 44AA(5), has an interest in the building is, on making a claim to the local planning authority within the prescribed time and in the prescribed manner, entitled to be paid compensation by the authority in respect of any loss or damage directly attributable to the effect of the notice.
- (2) But subsection (1) applies only if—
 - (a) the works specified in the notice are not such as to involve a contravention of section 9(1) or (2), or
 - (b) the authority withdraws the notice other than following the grant of listed building consent, after the day mentioned in subsection (1), which authorises the works.
- (3) The loss or damage in respect of which compensation is payable under this section includes a sum payable in respect of a breach of contract caused by the taking of action necessary to comply with the notice.
- (4) No compensation is payable under this section in the case of loss or damage suffered by a claimant if—
 - (a) the claimant was required to provide information under a relevant provision, and
 - (b) the loss or damage could have been avoided if the claimant had provided the information or had otherwise co-operated with the planning authority when responding to the notice.
- (5) In subsection (4)(a), each of the following is a relevant provision—

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- (a) section 16 of the Local Government (Miscellaneous Provisions) Act 1976, and
 - (b) section 330 of the principal Act.”
- (3) In section 31 (general provisions as to compensation for depreciation under Part 1 of the Act), in subsection (2), after “29” insert “, 44AC”.
- (4) In the heading of section 44B (temporary stop notices in relation to listed buildings in Wales), at the end insert “in Wales”.
- (5) In section 44C (offence in relation to temporary stop notices in Wales)—
- (a) in the heading, after “notices” insert “in Wales”;
 - (b) in subsection (1)(a), after “person” insert “under section 44B(4)”.
- (6) In the heading of section 44D (compensation in relation to temporary stop notices in Wales), after “notices” insert “in Wales”.
- (7) In section 45 (concurrent enforcement functions in London of the Historic Buildings and Monuments Commission)—
- (a) after “43” insert “and 44AA to 44AC”;
 - (b) after “those provisions” insert “, and in any provision of this Act referring to anything done under those provisions,”.
- (8) In section 46 (concurrent enforcement functions of the Secretary of State)—
- (a) after subsection (1) insert—
 - “(1A) If it appears to the Secretary of State to be expedient that a temporary stop notice should be issued in respect of any land in England, the Secretary of State may issue such a notice.”;
 - (b) in subsection (2), after “(1)” insert “or (1A)”;
 - (c) after subsection (3) insert—
 - “(3A) A temporary stop notice issued by the Secretary of State shall have the same effect as a notice issued by the local planning authority under section 44AA.”
- (9) In section 82A(2) (exceptions from Crown application), after paragraph (f) insert—
- “(fza) section 44AB;”.
- (10) In section 88 (rights of entry)—
- (a) after subsection (3) insert—
 - “(3ZA) Any person duly authorised in writing by the Secretary of State, a local planning authority in England or, where the authorisation relates to a building situated in Greater London, the Commission may at any reasonable time enter any land for any of the following purposes—
 - (a) securing the display of a temporary stop notice issued under section 44AA;
 - (b) ascertaining whether a temporary stop notice issued under that section is being complied with;
 - (c) considering any claim for compensation under section 44AC.”;
 - (b) in subsection (3A)—

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- (i) in paragraph (a), for “(see section 44B)” substitute “issued under section 44B”;
 - (ii) in paragraph (b), after “notice” insert “issued under that section”;
 - (c) in subsection (4), after “29” insert “, 44AC”.
- (11) In section 88B (supplementary provision about rights of entry), after subsection (1) insert—
- “(1ZA) Subsection (1) does not apply to a person authorised under section 88(3ZA) who intends to enter the land for either of the purposes mentioned in paragraphs (a) and (b) of that subsection.”
- (12) In Schedule 2 (lapse of building preservation notices)—
- (a) in paragraph 2, after “43” insert “, 44AB”;
 - (b) after paragraph 4 insert—
 - “4A Any temporary stop notice served under section 44AA(4) by the local planning authority with respect to the building while the building preservation notice was in force ceases to have effect.”;
 - (c) in paragraph 5, after “served” insert “under section 44B(4)”.

Commencement Information

I2 S. 103 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

104 Urgent works to listed buildings: occupied buildings and recovery of costs

- (1) The Listed Buildings Act is amended as follows.
- (2) In section 54 (urgent works to preserve listed buildings)—
- (a) omit subsection (4);
 - (b) in subsection (5A), omit “in Wales”;
 - (c) after subsection (7) insert—
 - “(8) Section 6 of the Local Land Charges Act 1975 (general charge registrable pending specific charge) applies in relation to expenditure incurred in executing works under this section as if—
 - (a) the Commission and the Secretary of State were local authorities, and
 - (b) the giving of a notice under section 55 were the making of an order.”
- (3) In section 55 (recovery of expenses of urgent works)—
- (a) after subsection (2) insert—
 - “(2A) A notice given under subsection (2) in relation to a building in England is a local land charge.”;
 - (b) in subsection (5A)—
 - (i) after “Where” insert “the Secretary of State or”;
 - (ii) after “local authority” insert “or the Commission”;
 - (c) in subsection (5B)—

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- (i) for the words from “In” to “when the” substitute “As from the time when a”;
- (ii) for “the Welsh Ministers may prescribe” substitute “may be prescribed”;
- (d) after subsection (5B) insert—
 - “(5BA) An order under subsection (5B) may be made—
 - (a) by the Secretary of State, in relation to buildings in England;
 - (b) by the Welsh Ministers, in relation to buildings in Wales.”;
- (e) in subsection (5C), for “that time” substitute “the time mentioned in subsection (5B)”;
- (f) after subsection (5G) insert—
 - “(5H) If, after a notice is given under subsection (2) in relation to a building in England, there is a change in the owner of the building, a fresh notice may be given to the new owner at any time before the first notice becomes operative (and the provisions of this section apply again in relation to the fresh notice).
- (5I) If a notice is given to the new owner under subsection (5H), the first notice referred to in that subsection ceases to have effect.”

Commencement Information

I3 S. 104 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

105 Removal of compensation for building preservation notice

- (1) The Listed Buildings Act is amended as follows.
- (2) In section 3 (temporary listing in England: building preservation notices), after subsection (1) insert—
 - “(1A) Before serving a building preservation notice under this section, the local planning authority must consult with the Commission.
 - (1B) Subsection (1A) does not apply where the Commission proposes to serve a building preservation notice under this section (see subsection (8)).”
- (3) In section 29 (compensation for loss or damage caused by service of building preservation notice where building not listed)—
 - (a) in the heading, after “damage” insert “in Wales”;
 - (b) omit subsection (1);
 - (c) in subsection (1A), omit “also”.
- (4) The amendments made by subsection (3) do not apply in relation to a building preservation notice that has come into force before that subsection comes into force.

Commencement Information

I4 S. 105 not in force at Royal Assent, see [s. 255\(3\)\(b\)](#)

Status:

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Changes to legislation:

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