



Supplementary Planning Guidance Note

No. 06 Listed Buildings

Adopted by Flintshire
County Council on 17th
January 2017



Purpose

It is Flintshire County Council's intention to prepare and keep up to date a series of Supplementary Planning Guidance (SPG) Notes which will provide detailed guidance on a range of development issues and topics. The purposes of these Notes are:

- To assist the public and their agents in preparing planning proposals and to guide them in discussions with officers prior to the submission of planning applications,
- To guide officers in handling, and officers and councillors in deciding, planning applications, and
- To assist Inspectors in the determination of appeals

The overall aim is to improve the quality of new development and facilitate a consistent and transparent approach to decision making.

Planning policies: the Flintshire context

The Development Plan

Under planning legislation, the planning policies for each area should be set out formally in the Development Plan. Flintshire County Council, as the Local Planning Authority (LPA), has a legal duty to prepare and keep up to date a development plan for the County, and the Flintshire Unitary Development Plan was adopted in 2011. The UDP provides broad policies together with allocations of land for all the main uses such as housing, employment and retailing, and will help to shape the future of Flintshire in a physical and environmental sense as well as influencing it in economic and social terms. The Plan therefore seeks:

- To help the Council make rational and consistent decisions on planning applications by providing a policy framework consistent with national policy and
- To guide development to appropriate locations over the period up to 2015.

The need for Supplementary Planning Guidance

Despite the Plan containing policies with which the Council can make consistent and transparent decisions on development proposals, it cannot in itself give all the detailed advice needed by officers and prospective applicants to guide proposals at the local level, such as house extensions or conversions of agricultural buildings. The Council's intention is to prepare a range of Supplementary Planning Guidance notes (SPG) to support the UDP by providing more detailed guidance on a range of topics and issues to help the interpretation and implementation of the policies and proposals in the UDP. The review of the Local Planning Guidance Notes will be undertaken on a phased basis and details of the available SPG's can be found on the Council's website. Where there is a need to refer to another SPG this will be clearly referenced. These SPG Notes are freely available from Planning Services, Directorate of Environment, County Hall, Mold, Flintshire CH7 6NF (telephone 01352 703228), at the Planning Services reception at County Hall and can be downloaded from the Planning Web pages www.flintshire.gov.uk/planning

The status of Supplementary Planning Guidance

Supplementary planning guidance can be taken into account as a material consideration in the decision making process. The National Assembly will give substantial weight to SPG which derives out of and is consistent with the development plan. In accordance with National Assembly advice the Council's suite of SPG's has been the subject of public consultation and Council resolution. The draft of this SPG was approved for public consultation on 13.06.13 (Council Minute no.6). The SPG was the subject of a public consultation exercise between 18.12.15 and 12.02.16. The one comment submitted to the Council has been taken into account and where appropriate amendments have been incorporated into this final draft which was approved by the Council on 17.01.17 (Council Minute no.8) for use as a material consideration in determining planning applications and appeals. A summary of the representations and the Council's response is set out in Appendix 2.

This document should therefore be afforded considerable weight as a material planning consideration.

No. 06 Listed Buildings

1 - Background

1.1 - This is one of a series of local planning guidance notes which aims to clarify planning policies and to improve standards of design generally. This guidance note specifically aims to improve design standards in relation to Listed Buildings. These guidelines cannot cover all areas and issues and applicants and agents are advised to discuss their proposal with a planning officer prior to the formal submission of an application.

1.2 - Buildings which make a significant contribution to our heritage receive protection in the planning legislation through the process of listing. These special controls aim to protect valuable buildings against alterations or demolition where normal planning controls would be ineffective. There is a general presumption in favour of preserving listed buildings. The Government's objectives (as set out in paragraph 6.2.1. Planning Policy Wales 2016) includes the need to:

- » Conserve and enhance the historic environment, which is a finite and non-renewable resource and a vital and integral part of the historical and cultural identity of Wales.
- » Safeguard the character of historic buildings and manage change so that their special architectural and historic interest is preserved.

1.3 - In Wales identification of listed buildings is undertaken by Cadw: which is the Welsh Government's (WG), historic environment service.

Proposals to alter listed buildings require listed building consent, which may well be needed in addition to planning permission and building regulations approval. They are dealt with initially by the local planning authority, Flintshire County Council. It is the owner's responsibility to maintain the listed building in good condition.

2 - Policy

2.1 - "Planning Policy Wales" (2016 paragraph 6.5.11) states: "For any development proposal affecting a listed building or its setting, the primary material consideration 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." The listing itself specifies and describes the features of importance. The significance of "setting" should be noted.

2.2 - At the local level, the Flintshire Unitary Development Plan (UDP) contains one policy HE2 concerning the alteration, extension, changes of use and demolition of listed buildings, the general thrust being to safeguard and enhance listed buildings in the County and with a presumption in favour of their preservation. This policy is reproduced in Appendix 1. (There is no statutory requirement to have regard to the provisions of the UDP when considering applications for listed building consent because the Courts have accepted that Section 54A of the Town and Country Planning Act 1990 does not apply. However UDPs should contain policies relevant to development management decisions which should be taken into account when determining applications for listed building consent.)

What is a listed building?

2.3 - A building or structure listed (by Cadw in Wales) as being of special architectural or historic interest, under the Planning (Listed Buildings and Conservation Areas) Act 1990.

How listed buildings are chosen

2.4 - Buildings (and structures, such as bridges) are most commonly included on the list through a systematic survey (with occasional resurveys) of the locality by Cadw, but they can also be included by “spot listing”. The latter is normally only undertaken when a building is considered to be in danger and Cadw’s attention has been drawn to it by anyone or any organisation, but it must meet the criteria for listing and will be checked by Cadw’s surveyors.

Listing is based on national criteria:

- Architectural interest - all buildings which are of importance to the nation for their design, decoration and craftsmanship, and important examples of particular building types and techniques (e.g. displaying technological innovation) and significant plan forms.
- Historic interest - buildings which illustrate important aspects of the nation’s social, economic, cultural or military history.
- Historical associations - buildings having close links with people or events of importance to Wales. Some buildings, listed because of historical associations or technological innovation, may not have an obvious visual quality. (Normally such buildings should have preserved features related to the history, or have some architectural merit. Buildings with historical associations but which are unremarkable in themselves are unlikely to be listed.)
- Group value - where buildings together form an important architectural or historic unity, or are fine examples of planning, such as squares or terraces.
- Age and rarity are relevant. The older a building is, and the fewer the surviving examples of its kind, the more likely it is to have historical importance. As a guide:
 - » All buildings built before 1700 and in anything like their original condition are listed.
 - » In the same vein, most buildings from 1700 to 1840 are listed.
 - » After 1840 there are many surviving buildings, so only the best examples of particular building types and only buildings of definite character and quality are listed.
 - » In listing 20th century buildings the approach is to identify key examples of types of buildings, like industrial, educational, hospitals and so forth.
 - » Buildings under 30 years old are listed only if they are of exceptional quality and under threat.

The classification of listed buildings

2.5 - Listed buildings are classified in 3 grades to show their relative importance:

- Grade I buildings are of exceptional, usually national, interest.
- Grade II* buildings are of particular importance, being more than special interest.
- Grade II buildings are of special interest, which warrant every effort being made to preserve them.

2.6 - In Flintshire there are around 1032 listed buildings (which is about 2% of all the County's buildings), of which 27 are Grade I, 79 Grade II*, and the rest Grade II.

Checking if a building is statutorily listed

The Council's Environment and Conservation Section in Planning Services, County Hall, Mold, keep up to date lists and will provide a free copy of any listing description. The list is subject to review by Cadw from time to time and therefore it is advisable to check first before carrying out any works.

Listed building consent and the features which listing protects

2.7 - Listing provides an added level of protection before a listed building can be altered (internally or externally), extended or demolished, listed building consent must be obtained from the Council. It is a criminal offence to start such works without it. Guilty parties could be fined, made to redo the work, prosecuted, or jailed. It really is better to contact the Environment and Conservation Section well beforehand for informal advice!

2.8 - Once a building is listed, protection covers:

- The whole exterior, including any buildings fixed to the listed building.
- The whole interior including any fixtures.
- Curtilage buildings that have formed part of the land attached to the listed building since before 1st July 1948, including boundary walls.
- Garden structures such as walls, sundials and ha-has.

Work which might be acceptable on a listed building

2.9 - Listing a building does not mean it cannot be changed, but that change must be managed sensitively. Indeed, the value of many historic buildings is as a result of appropriate changes over time, through adaptation, extension and alteration. The legislation and national guidance is complex and detailed. Building works may vary from conservation repair work to wider and larger scale alterations. The key is that any alterations or extensions should be done sympathetically, with an emphasis on retaining and repairing listed buildings rather than altering them.

2.10 - Normal maintenance works undertaken on a like for like basis (for example, replacing roof slates of the same colour and size, or painting the same colour), and therefore not affecting the building's character, would not need listed building consent. But replacing timber windows with modern-style replacements or UPVC, for example, would not be considered to be like for like. Again it must be emphasised that early advice be sought, as mistakes are easily made and would be considered to be offences.

2.11 - Modern attachments – satellite television antennae, solar panels and meter boxes – are generally incongruous on listed buildings and can detract from their appearance or character.



» Former Prison Gatehouse & Residence, Mold

2.12 - Where necessary the applicant should look for innovative solutions to building regulations, highway and other standards in order to avoid damage to the character of listed buildings, and the Council can assist in this respect. Efforts should be made to use local materials or ones which have the equivalent appearance, colour and weathering characteristics.

2.13 - The Environment and Conservation Section will be pleased to give early advice on what may or may not be acceptable on a listed building. In the vast majority of cases in Flintshire there is pre-application dialogue.

2.14 - Advice on alterations to improve access for disabled people is given in the Cadw publication "Overcoming the Barriers, Providing Physical Access to Historic Buildings". The forthcoming LPG Note 12 Access for All will refer to this aspect.

Uses of listed buildings

2.15 - Proposed changes of use must be considered for their impact on the building. For instance, it would be appropriate to avoid a proposal which would intensify activity to a level considered to be potentially harmful. Continuation or reinstatement of the original use should normally be the first choice when the future of a listed building is being considered. However, this is not always viable or appropriate and then a more flexible approach is needed to secure the building's survival, by finding a new use compatible with the building's character.

The setting of a listed building

2.16 - Protection of the listed building involves protecting its setting from development which would be harmful to its character and by enhancing this setting through the careful control of development. The setting may be limited to its immediate surroundings but could include land some distance from it, depending on local characteristics and circumstances. An individual judgement would have to be made in each case as to what comprises the building's setting.



» Hawarden Castle

Demolition

2.17 - Demolition requires specific consent which will be hard to obtain because the demolition of any grade I or II* listed building should be wholly exceptional. In determining applications for total or substantial demolition the Council will take into account:

- the condition of the building,
- the cost of repairing and maintaining it in relation to its importance and to the value derived from its continued use,
- the adequacy of efforts made to retain it in use, and the merits of alternative proposals for the site.

2.18 - The Welsh Government (WG) would not expect consent to be granted without convincing evidence that:

- all reasonable efforts have been made and that these have failed,
- that preservation via some form of charitable or community ownership is not possible or suitable,
- or that redevelopment would produce substantial benefits for the community outweighing the loss resulting from demolition. Conditions can be used to ensure the new development will proceed and to protect particular features.

2.19 - The Royal Commission on the Ancient and Historical Monuments of Wales (Crown Buildings, Plas Crug, Aberystwyth. SY23 1NJ) must be notified of all proposals to demolish listed buildings and allowed access to such buildings to record them before the works take place. This too can be covered by condition.

Applying for listed building consent

2.20 - Forms are available from Planning Services for listed building consent. No fee is payable to the Council for processing listed building applications. With listed buildings there is no equivalent to an outline planning application which is, in effect, an “in principle” application. Indeed, the listed building application must be supported with detailed and specific information from the applicant, because without it the Council would not be able to judge the effect of the proposals on the special character of the listed building. To apply, the Council’s listed building consent form must be submitted with the appropriate supporting information, as stated in Appendix 2.

2.21 - The Council examines the proposals in relation to sound conservation philosophy, with the presumption in favour of preserving the building. It looks for:

Minimum intervention - repair and adaptations only when absolutely necessary.

Reversibility - new works could, in theory at least, be capable of reversal to the original state.

Truthfulness – new work must be sympathetic but clearly distinguishable.

It is important to understand that the onus lies with the applicant or their agent to provide the



» The Tower, Nercwys

relevant information to enable the application to be considered. A historic building survey will always be required together with a written justification of the proposals. If the Council is supplied with poor drawings or inadequate information so that the impact of the proposals is unclear, it will not be able to register the application, which means that the proposals cannot be dealt with. In all cases the information requirements will necessitate the employment of an architect or surveyor with good knowledge and experience of historic buildings. The RIBA and the RICS, for example, will be able to supply lists of suitable practices:

Royal Institute of British Architects, 66 Portland Place, London. W1B 1AD (Telephone 020 7307 3700)

2.22 - Royal Institution of Chartered Surveyors, 12 Great George Street, Parliament Square, London. (Telephone 020 7334 3781 or 020 7695 1618)

2.23 - However, the Environment and Conservation Section is happy to help prospective applicants at an early stage via informal discussions about a proposal to see whether it is worthwhile going to the expense of drawing up plans and submitting these as an application. For larger, more complex schemes, a development team approach may be offered, whereby Development Management, Building Control and Highways officers also participate in order to facilitate coordination within the Council, and thereby reduce the risk of encountering problems later.

How the application is handled

2.24 - Whilst the Local Planning Authority determines an application for Listed Building Consent, Cadw have 28 days after the decision has been forwarded to them to decide whether to “call in” the application. Should they decide to do so, the decision rests with them. However, Cadw will not be involved where the decision is to refuse. In such cases the applicant has a right to appeal.

2.25 - Although the Council aims to make a decision within 8 weeks, it may take longer if further information is needed and especially if the scheme is complex, therefore it is sensible to submit the application well before the intended start date.

After listed building consent has been received

2.26 - There may be some conditions which must be met before work can start or at particular stages in the works, for example, to ensure specifications for window frames or the use of particular materials

2.27 - They may relate to highways issues, materials or recording of features through a photographic survey prior to changes being made. If uncertain, clarification can be obtained from the officer who dealt with the application.

2.28 - Any works to a listed building, whether or not consent is required, should be undertaken with care as they may uncover structures or features of interest, which will need to be re-assessed. Works should be undertaken by specialist contractors who are familiar with traditional building materials and practices.

3 - Other related powers of protection

Building Preservation Notices (BPNs)

3.1 - The Council has the power to serve BPNs in respect of unlisted buildings which are considered to be of special architectural or historic interest and in danger of demolition, or alteration which would detrimentally affect their character (i.e. a temporary listing for a period of 6 months allows time for formal assessment to be carried out). The notice applies most of the legal provisions relating to listed buildings and takes immediate effect.

3.2 - Urgent Repair Work Notice and Repairs Notice. Local authorities do have the power under Section 54 and 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990, to serve an Urgent Repair Work Notice or a Repairs Notice on an owner if a listed building becomes dilapidated, but these notices are only used as a last resort. In general there are three steps that can be taken if your property is falling badly into disrepair:

- The Council will encourage you to maintain it and staff can offer you helpful practical and technical advice;
- if the property still remains neglected, the council may serve an urgent repair works notice or a full repairs notice;
- if there is failure to comply with the notice, then the Council can take action to compulsorily acquire the property.

Article 4 Directions

3.3 - Exceptionally, where there is a real and specific threat, certain categories of permitted development can be brought within planning control by the Council without the need for WG's approval. These directions must relate solely to a listed building or to development within the curtilage of a listed building, but the direction must not affect the carrying out of development by a statutory undertaker.

Buildings of Local Interest (BLI)

3.4 - Policy HE4 of the UDP states the intention to protect Buildings of Local Interest. The Council maintains a list of Buildings of Local Interest which would will be reviewed and added to as appropriate. Such buildings might include buildings on the former Grade 3 list (which had no statutory protection), buildings associated with important local historic events, people or activities, and buildings contributing to the setting of a listed building. Additional guidance on the designation of BLI's is due to be produced in the future.

Other types of heritage protection which may have relevance

3.5 - In many instances there exist other forms of protection, which need to be understood. Many old houses are in grounds that may be registered as Historic Landscapes, Parks and Gardens. They are not protected in law as listed buildings are, but any development proposals must be considered in relation to the impact on the special historic character, appearance or setting as stipulated by Policy HE5 of the UDP.

3.6 - Trees may be protected by Tree Preservation Orders. (See LPG Note 4 Trees and Development.) Many listed buildings are in conservation areas, where most trees are protected from felling and 6 weeks notice must be given to the Council before pruning or felling. Listed building controls override conservation area controls. (See LPG Note 7 Conservation Areas.)

Bats and owls and other species protected by the Wildlife and Countryside Act 1981 may live in the listed building. Care is needed, for example when treating timber, to ensure that these creatures are protected. Advice is available from the County Ecologist (telephone 01352 703268) and the Natural Resources Wales (NRW) (telephone 01352 706600).

3.7 - The grounds may contain Scheduled Ancient Monuments or other nationally important archaeological sites, which are also protected.

Will other consents be needed?

3.8 - Listed building consent is in addition to any other consents that may be necessary. In particular, planning permission is likely to be needed for extensions and changes of use. If planning permission is required, a planning application should be submitted, for which a fee is payable. This should be at the same time as the listed building consent application, and they will be considered simultaneously. Obtaining planning permission does not mean listed building consent can be assumed.

3.9 - Advertisement consent may also be required; LPG Note 16 will advise in which circumstances.

3.10 - Building regulation approval is likely to be needed if any structural work is involved. This is usually sought after listed building consent has been granted, but in the case of listed buildings it is the Council's preference that these details should be submitted as part of the listed building consent to facilitate agreement of the most innovative solutions. It is in the applicant's interest to state that a listed building is involved as then a more relaxed or innovative approach may be taken if justified by the overriding aim to preserve the listed building.

4 - Grants

4.1 - Discretionary grant aid may be available from Cadw for outstanding listed buildings where original features are being reinstated or repair work is needed to them. It is not available to modernise or extend listed buildings. Cadw is the Welsh Assembly Government's historic environment service. They are able to make grants and loans (Historic Buildings and Conservation Area Grants) from the Historic Buildings Advisory Council for Wales funds towards the cost of works (usually external) judged to make a significant contribution towards the preservation and enhancement of the conservation area;

4.2 - In certain circumstances, from time to time, there may be other forms of assistance from other schemes, e.g. Housing Renovation grants. The Environment and Conservation Section can advise in this respect.

Appendix 1: The UDP Policies showing the Proposed Modifications

HE2 Development Affecting Listed Buildings and their Settings

Any development affecting listed buildings or their settings, including internal or external alterations or change of use will be permitted only where:

- a. there is no adverse effect on the building's special architectural or historic character and appearance and the setting of a listed building.
- b. it can be demonstrated that the loss of, or damage to its historic fabric is unavoidable, has been minimised and that works which would result in the loss of, or which would conceal parts of a listed building, and which contribute to its interest, will be recorded by a photographic or drawn survey; and
- c. a change of use of a listed building or structure would increase the likelihood of the survival of the building and where alterations do not harm its character or special interest.

Contacts

Cadw: (Plas Carew, Unit 5/7 Cefn Coed, Parc Nantgarew, Cardiff. CF15 7QQ. telephone 01443 33 6000. www.cadw.wales.gov.uk)

Conservation Officer, Environment and Conservation Section, Flintshire County Council, County Hall Mold CH7 6NF. Telephone 01352 703215. www.flintshire.gov.uk

Planning Application Documentation

APPENDIX 2

Supplementary Planning Guidance Note (SPGN) Public Consultation, (Dec 18th 2015 and Feb 12th 2016) comments and responses to SPGN No 6 Listed Buildings.

Appendix 3

Supplementary Planning Guidance Note (SPGN) Public Consultation, (Dec 18th 2015 and Feb 12th 2016) comments and responses to SPGN No 6 Listed Buildings.

Commenting Body / Individual	Comment	Response	Recommendation
No. 6 Listed Buildings			
Huw Evans Planning	There is no reference in the guidance to “enabling development” which may be necessary to restore and find appropriate uses for buildings at risk. It is important that there is clear advice in order that the planning system can play a more proactive role in safeguarding our nationally significant built heritage assets. The lack of an appropriate level of grant assistance to help restore listed buildings increases the significance of the role of enabling development.	By its very nature, enabling development is something which represents a departure from the development plan i.e. it would not normally be acceptable, but could be considered acceptable where, for instance it brings about beneficial heritage works to say a listed building. In this context, the UDP policies in respect of listed buildings do not make reference to enabling development as each case must be considered on its individual merits. Detailed advice is available in the Historic England publication ‘Enabling Development and the Conservation of Significant Places’ and the principles of this guidance are equally applicable to Wales. It would not be appropriate to seek to cover such a detailed issue within a general SPG on listed buildings and it is also unnecessary given the availability of specific guidance.	No change