



ENGLISH HERITAGE

Stopping the Rot

**Powers Available to Local Authorities to
provide Protection for Heritage Assets**

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What are Heritage Assets?



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- Listed Buildings
- Scheduled Ancient Monuments
- Conservation Areas
- World Heritage Sites
- Historic Parks & Gardens
- Battlefields

Not all have the same status in the planning system.





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No positive obligation on an Owner to maintain a building in good repair

Neglect will lead to deterioration and decay

Important for Local Authority to act early to halt decay and secure repair

Statutory Powers available to encourage:

Urgent Works Notices

s 54 Listed Building Act 1990

Repairs Notices

s 48 Listed Building Act 1990



Differences Between Urgent Works and Repairs Notices



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Urgent Works Notices

s 54 Listed Building Act 1990

- Secure immediate Repairs
- Statement of intent that Local Authority will do work itself
- Local Authority can recover the costs from the Owners.
- Urgent works may only be carried out on unoccupied parts of a building.





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Repairs Notices

s48 Listed Buildings Act 1990

- Essential preliminary to compulsory purchase
- Can specify more extensive repair work than Urgent Works Notices to secure long term repair
- Local Authority cannot carry out works specified in a Repairs Notice
- Repairs Notices can be served in respect of occupied buildings



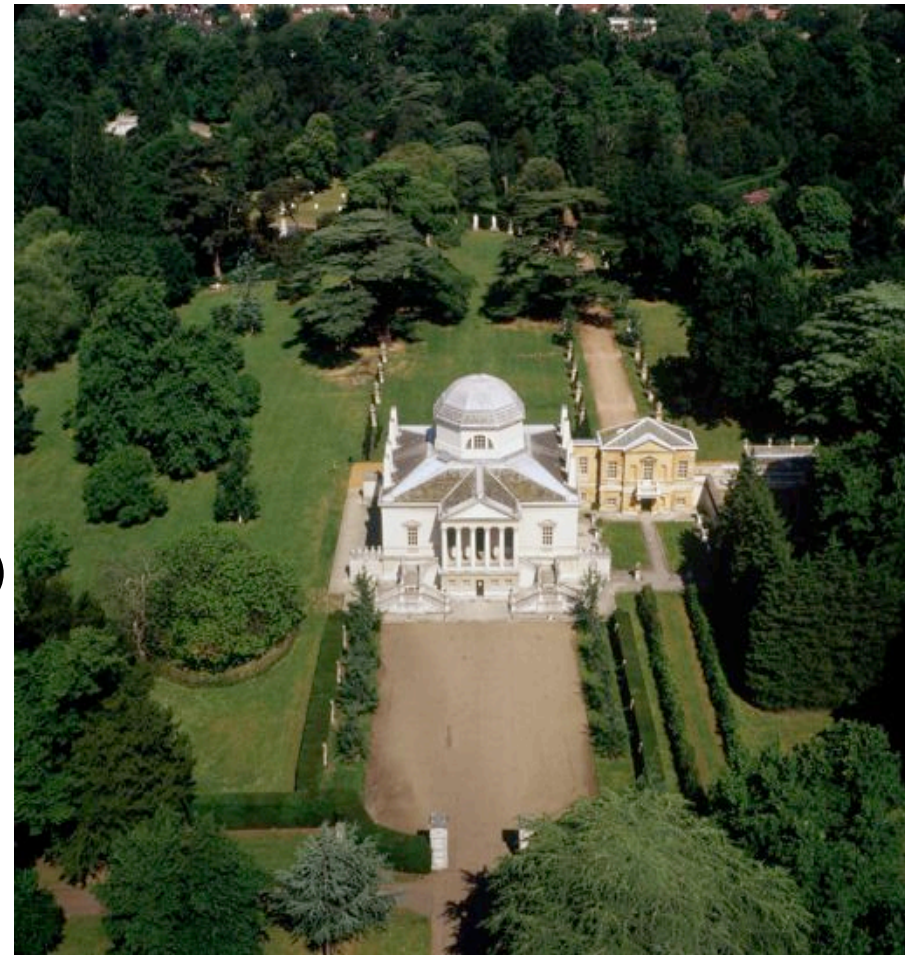
Exemptions



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Urgent Works Notices and Repair Notices cannot be served on:

- Crown land – but note non-crown interest
- Ecclesiastical Buildings in ecclesiastical use
- Listed Buildings which are also Scheduled Ancient Monuments (Ancient Monuments and Archaeological Areas Act 1979)



Urgent Works Notice



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Not a Notice requiring the Owner to do the works but a statement of intent by the Local Authority to execute them.

First Steps

1. Contact the owner

Who is the owner?

- Land Registry search (only effective if the land is registered)
- S330 Town and Country Planning Act 1990 – to requisition owner details from any occupier
- Company search advisable
- Informal approach may be sufficient





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2. Access for Inspection

- s88 Listed Buildings Act 1990
- Anyone authorised in writing by the Secretary of State for LPA may enter for wide range of reasons
- 24 hours notice for occupied buildings
- unoccupied - may enter without forcing entry
- apply to Magistrates Court if necessary





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3. If informal approach unsuccessful:

- write setting out provisions of s54 -55 Listed Building Act 1990 requesting site meeting and access
- refer to statutory access if necessary
- follow up site visit with draft written schedule of necessary works
- set date for formal service of Urgent Works Notice if works not carried out
- Obtain written confirmation owner will carry out works draft schedule and start date.



Formal Service of Urgent Works Notice



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What Works to include?

PPG 15 Pt2 7.7 “...powers are confined to urgent works: ...use should be restricted to emergency repairs to keep a building wind and weather proof and safe from collapse, or action to prevent vandalism or theft. The steps taken should be the minimum consistent with achieving this objective and should not involve an owner in great expense.”

Urgently necessary

- preventing deterioration and damage

Minimum necessary

- weather tight
- dry out
- safe from collapse
- safe from vandalism
- permanent repairs possible
- balance between costs not excessive and cost of repeat notices



Consider Repair Notice as well as Urgent Works Notice if permanent repair required.

- Schedule of Work

Owner may carry out work himself so ensure the Schedule is:

- concise
 - numbered
 - layman terms
 - techniques and safeguards
 - clear plans
 - local firms with expertise
- Reasonable time specification
 - not too long if works are urgent

Form of Urgent Works Notice



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No prescribed form in the
legislation for the Notice

English Heritage recommends it
should contain:

- Summary of s54
- Reference to possible cost recovery under s55
- Separate Schedule of Works
- Plans and location map
- Local Authority contact details



Carrying out Urgent Works



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If the owner does not comply with the Notice then the local authority will have to do so on expiry of 7 day notice period. So:

- Have suitable contractors ready
- Labour and materials at competitive rates if to recover costs
- Importance of good instructions to contractor covering:
 - authorisation
 - security
 - photographic record
 - follow schedule
 - further UWN if more extensive work is evident
 - site log
 - secure on completion
 - invoice to closely follow schedule

Reclaiming Expenses



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S55 Listed Buildings Act 1990 --
notice to be served on the owner
for the local authority to reclaim
the costs of the Works

What costs? S 36 Local
Government Act 1974 – “such
sums as appear to them to be
reasonable in respect of their
establishment charges”

S55 Notice - no prescribed format
but certain information must be
included such as clear
supporting evidence

Grounds for challenge by the owner



What if Urgent Works Notice prompts owner to do works?



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Owner probably not responded to earlier requests so

- Reasonable to require proof it is done this time
- Inspect if necessary
- Inadequate Works?
- Consider further Notices



Urgent Works to Unlisted Building in Conservation Area



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- s76 Listed Building Act 1990
- Secretary of State Culture Media Sport may direct the application of s54 to an unlisted building in a conservation area if its preservation is important for the character or appearance of the area.
- Information required by Secretary of State
- Procedures are same once Secretary of State made a s76 direction

Any Other Powers?



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- s77 Buildings Act 1984 – Dangerous Structures
- s215 Town&Country Planning Act 1990 –Amenity Notices
- s29 Local Government (MP) Act 1982 –Works to Unoccupied Buildings
- S38 Listed Building Act 1990-Enforcement Notice
- s9 Listed Building Act 1990 – Criminal Offence
- DCLG Best Practice Guidance on Listed Building Prosecutions 2006
- Enforced Sale Powers?



Conclusion



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The Objective of an Urgent Works Notice:

1. To preserve what is there
2. To prevent it getting worse
3. To do so in the most cost effective way possible.