

“ Plain speaking legal advice ”

## The Dangers of Owning a Listed Building

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This publication is written as a general guide only. It is not intended to contain definitive legal advice, which should be sought as appropriate in relation to a particular matter.

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More than 500,000 buildings in the UK are listed for their architectural or historical importance, and for all they bring to the nation, they can also provide their owners with a headache if they want to alter or demolish them.

A recent case involving the Hippodrome in Derby highlights just how hard it can be for listed property owners to do what they want with them in the face of opposition from the local planning authority. The reality, as this case illustrates, is that the courts will usually defer to the views of local officials, whatever the owner may think is the best course of action, unless you can produce an overwhelming case.

There are three types of listed building: Grade 1 buildings are of exceptional national importance; Grade II\* buildings are particularly important buildings of more than special interest and have some national significance; and Grade II buildings are of special interest, warranting every effort to preserve them, but tend to be of more local importance. Most listed buildings are in the last category. Listing means the owner needs consent from the planning authority to demolish it or make any alteration that would affect its character as a building of special interest.

The Hippodrome started life in 1914 as a variety theatre, but by the time it was listed as a Grade II building in 1996, it was in part-use as a bingo hall. By 2005, use of the building had totally ceased.

The defendant in this case bought the building in April 2007. A month later, the local authority, Derby City Council, wrote to him about its poor condition. At this point, opinions began to diverge. The defendant's structural engineer recommended that the state of the Hippodrome was such that it ought to be demolished – the authority, however, insisted that it just required repair and served a section 54 notice of required works (under the Planning (Listed Buildings and Conservation Areas) Act 1990).

Following a fire and later the collapse of much of the roof, the defendant maintained that total demolition was needed as soon as possible and applied to the authority for consent to do so. Concerned that the defendant may just go ahead and knock the building down, the authority sought an injunction under section 44A of the 1990 Act to prevent demolition. (It's worth noting that, subject to any injunction, section 9(3) does allow the owner of a listed building to alter or even demolish it without consent if urgently necessary in the interests of safety or health, or for the preservation of the building.)

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The application was granted. The High Court was not convinced that the risk of a collapse of the building was such that immediate demolition was necessary.

Local planning authorities have a range of strong enforcement powers in relation to listed buildings, as this case demonstrates. It also shows how hard it can be to resist a section 44A application.

The judge stressed that the decision about whether to consent to demolition of a listed building should ideally be made by either the local planning authority or by an inspector on appeal. He was clearly reluctant to overrule Derby City Council's view of the state of the Hippodrome without compelling evidence.

Many property owners fail to take account of the logistical and administrative task ahead of them in simply wishing to carry out basic repairs to a listed building. For some owners, having this information at an early enough stage may influence their decision as to whether to purchase the property in the first place. Obtaining professional advice on local planning procedures and rules before embarking on any works is essential in saving valuable time and expense.

If you would like to discuss these issues with our Property team then please contact Andrew Annette on 01267 686222 or email [Andrew.annette@herrington-carmichael.com](mailto:Andrew.annette@herrington-carmichael.com).

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