



Acquisition Grants to Local Authorities to Underwrite Repairs Notices

(Sections 48, 47 and 52 of the Planning (Listed Buildings and Conservation Areas) Act 1990)

Guidance Notes and Application Form

Guidance Notes

This document should be read in conjunction with ‘Stopping the Rot: A Guide to Enforcement Action to Save Historic Buildings’ (2011) which sets out the enforcement powers and options available to local authorities.

Section 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990 enables a local authority to serve a Repairs Notice on the owner of a listed building, specifying those works it considers reasonably necessary for the proper preservation of the building.

If after a period of not less than two months it appears that reasonable steps are not being taken for the proper preservation of the listed building, the authority can begin compulsory purchase proceedings under section 47 of the Planning (Listed Buildings and Conservation Areas) Act 1990. It is important to note that serving a Repairs Notice under section 48 does not commit the authority to proceed to compulsory purchase action under section 47 and the authority can withdraw the Repairs Notice at any time. If the notice is withdrawn, the authority must give notice to the owner of the withdrawal.

A Compulsory Purchase Order (CPO) requires the Secretary of State’s confirmation. The Secretary of State has reserve powers under sections 47-48 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and must consult Historic England before exercising them or confirming a CPO made by a local authority.

Alternatively the building may be acquired by agreement under section 52 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

In line with our Heritage at Risk Strategy, we encourage local authorities to use these powers to reduce the number of listed buildings that are at risk or vulnerable to



becoming so. We can help with the costs of preparing and serving Repairs Notices and with the costs of acquisition where that proves necessary and cannot be recouped through onward sale.

Eligibility for Grant

- Applicants must be local planning authorities.
- Any listed building at risk is eligible, whether in a conservation area or not.

The following are **not** eligible since Repairs Notices cannot be legally served on them:

- listed buildings which are **also** scheduled monuments (this means that the **building** is scheduled rather than solely the ground beneath it);
- Crown land (but notices can be served in relation to any non-Crown interest in Crown land, e.g. a leaseholder); and
- ecclesiastical buildings in ecclesiastical use where exemption is retained under the Ecclesiastical Exemption (Listed Buildings and Conservation Areas) Order 2010.

The cost of professional services 'bought in' by authorities to enable them to serve and pursue the Repairs Notice are eligible, as well as the net cost of acquisition itself. Recharge costs for the use of in-house legal and other professional services are not normally eligible. However, they may be accepted in exceptional circumstances, providing a contribution from Historic England would demonstrably result in a proportionate increase in the resources applied to conservation work during the year.

The net cost of acquisition is the purchase price and the cost of legal, agency and other costs of acquisition and onward sale, including financing charges, **less** any profit or **plus** any unavoidable loss on onward sale. If a building has a positive residual value, we will expect, subject to fluctuations in the market, acquisition and onward sale to be substantially self-financing. If it has negative value (i.e. it will cost more to repair than it will be worth when repaired), we shall expect only a nominal sum to be offered for its acquisition by agreement or paid following compulsory purchase. What is nominal is a matter for judgement, bearing in mind the cost and delay involved and the consequences for the building of the alternative of pursuing the statutory processes to their ultimate conclusion. Such a nominal purchase price may itself be treated as an eligible cost, provided the benefit of any grant is passed on to the eventual purchaser, usually in such circumstances a building preservation trust.



In cases of deliberate neglect, it may be appropriate to seek a direction for minimum compensation.

Applying for Grant

Applications should be made as early in the process as possible, preferably at or before the preparation of a draft Repairs Notice, to enable us to offer technical advice and guidance if appropriate.

Expenditure incurred prior to approval in writing is not eligible for grant.

Strategy

Before offering grant, we will expect to see a convincing strategy for resolving the long-term future of the listed building, including where it has negative value how the conservation deficit could be funded. A back-to-back agreement, for example with a building preservation trust, to take the building from the local authority if and when they acquire it commonly forms part of the solution. A building with a positive value might equally be sold on the open market, with suitable safeguards to ensure its repair.

We do accept the need for flexibility in the face of the inevitable uncertainty about the long-term outcome of a case, but we will nonetheless expect to see evidence of the local authority's commitment to pursuing action until the future of the building is resolved.

Grant Offers

If we decide to offer a grant, the case will be handled in two stages, given that the authorisation or service of a Repairs Notice is itself likely to resolve many cases. The first stage will normally be an offer of grant towards the cost of preparing and serving the Repairs Notice, together with an 'in-principle' commitment towards the irrecoverable costs of acquiring the building if this proves to be necessary. The second stage will be an offer towards the cost of pursuing compulsory purchase and/or acquisition by agreement. Grant for the first stage will normally be paid on satisfactory service of the Repairs Notice; for the second, at milestones in the process agreed in writing at the outset.

If a grant is accepted, the authority will be expected to monitor the building regularly and inform Historic England of any significant changes in its condition as well as progress towards resolving its future. If necessary, urgent works action under section 54



of the Planning (Listed Buildings and Conservation Areas) Act 1990 should be initiated in parallel, to arrest deterioration. This action may itself be eligible for grant from Historic England, but a separate application will be needed.

If grant towards repair costs following acquisition will be necessary and the building is eligible, a separate application should be made under the appropriate scheme once it is clear who will be responsible for undertaking substantive repairs.

Further Reading

The following are available on our website (www.HistoricEngland.org.uk):

- ‘Stopping the Rot: A Guide to Enforcement Action to Save Historic Buildings’ (2011)
- National Heritage List for England
- Information on the Heritage at Risk Programme



Acquisition Grants to Local Authorities to Underwrite Repairs Notices

(Sections 48, 47 and 52 of the Planning (Listed Buildings and Conservation Areas) Act 1990)

Application Form

Please read the accompanying notes before completing this form. Please read every section and answer every relevant question.

1. Name of property for which grant is sought

1.1 Name and full address of property:

Name
Address
Postcode

1.2 Name of the local planning authority (unitary, district, city or borough council):

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If the property is in an area covered by a National Park, please state which:

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1.3 Please indicate the grade of listing:

- Grade I
- Grade II*



Grade II

(Unlisted buildings are not eligible as a Repairs Notice can only be served on a listed building.)

1.4 Scheduled monuments (even if also listed) are not eligible because Repairs Notices cannot be served on them. Please tick to confirm that no part of the **building** is a scheduled monument:

Please state if the **site**, or any part of it, is scheduled:

1.5 If the property is within a conservation area, please state which:

1.6 If the property is within or next to a registered park or garden, please give its name and grade:

Name
Grade

1.7 To your knowledge, has the property ever been the subject of a grant application to Historic England? **Yes/No**

If Yes, please give details including our reference number if known:

2. Heritage at Risk

2.1 Is the property on Historic England's Heritage at Risk Register? **Yes/No**

2.2 Is the property on any local register or list of heritage at risk? **Yes/No**

If Yes, please state which:



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3. The applicant

3.1 Name of the local authority proposing to serve a Repairs Notice:

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3.2 Address of the local authority:

Postcode

3.3 Name of person to act as the point of liaison with Historic England:

(The name given should be that of the day-to-day contact point to whom we should address queries. It does not have to be the same as the authorised signatory in section 9.)

Name
Position held
Address (if different from 3.2 above)
Postcode
Daytime telephone
E-mail address



4. The owner

4.1 The full name(s) and address(es) of the current owner(s):

(Please use a separate sheet if necessary.)

Name
Address
Postcode

5. Use and occupancy

5.1 Is any part of the building or structure occupied or in use? **Yes/No**

5.2 If the answer to question 5.1 is Yes, please state the extent of the occupation and the nature of use:

5.3 If the answer to question 5.1 is No, please tick if the building or structure is incapable of beneficial use (e.g. a decorative or commemorative structure such as an obelisk, gazebo or monument):

5.4 If the building or structure is capable of beneficial use but not currently in use, please answer the following questions:

What was the property last used for?

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When did that use cease?

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6. Repairs

6.1 Please summarise the works to be covered by the Repairs Notice:

(This should be a brief summary. Full details, if available, should be attached in a separate draft schedule.)

6.2 What is the estimated cost (excluding fees and VAT) for this work?

£

6.3 Anticipated date of draft Repairs Notice:

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7. Valuation

7.1 Approximate open market value of the property when repaired for optimum use (complete this question only if you have information available, and enclose a copy of any valuation you have already obtained):

£



7.2 State if the value will be significantly limited by any covenants the local authority intends to impose on an onward purchaser:

8. Need

8.1 If you have appointed or intend to appoint an architect or other advisers (e.g. solicitors and chartered surveyors), what fees will be charged and what is the cost for each adviser?

We will normally only grant aid the cost of fees to external advisers (see ‘Eligibility for Grant’ above).

Adviser	Estimated cost (excluding VAT)
	£
	£
	£

8.2 What is the estimated cost of:

(a) preparing and serving a Repairs Notice; and what percentage is sought from Historic England?

£	Percentage sought:
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(b) subsequently pursuing acquisition through Compulsory Purchase Order and/or by agreement; and what percentage is sought from Historic England?

£	Percentage sought:
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8.3 Please state why a higher percentage of the total costs cannot be met/underwritten by the local authority:

9. Signature and declaration

9.1 The completed form must be signed by an authorised member of the local authority and their position given.

I declare that the information provided in this application is to the best of my knowledge true and complete:

Signature	Date
Name	
Position	

10. Checklist

Copies of the following should be enclosed with the application. Please tick the boxes to confirm that you have enclosed them:

(Failure to provide all the necessary information may delay the processing of your application.)

- up-to-date photographs of the building or structure and location plans
- a site plan showing the area of relevant land proposed for acquisition
- a statement of the building's overall condition and recent history (including any previous statutory action) and how it has come to be at risk
- strategy to secure the long-term future of the building (include for example a business plan or feasibility study, if available)
- a breakdown of the estimated net cost of acquisition (including external professional services)



- professional reports or other advice on the repairs in question (if available)
- draft schedule of repairs (if available)
- draft Repairs Notice (if available)
- valuation documents (if available)
- agreement with a building preservation trust or potential new owner to take on a building after Compulsory Purchase Order (if applicable)
- any other documents that you think are relevant; please provide a list of documents submitted and a summary of their relevance to the application.

Please do not submit documents which are not directly relevant to this application.

None of the documents or photographs will be returned to you unless you specifically ask us to do so. You should not send original documents or anything of special historic or personal value.

Submission of supporting information can be made electronically by prior agreement. However, please ensure e-mail files are no more than 5MB. The application form must be signed and submitted in hard copy.

Please return the completed form and enclosures to your local office.

If you have any questions about the application process, please contact your local office.



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Historic England may provide the information you have supplied in response to a request made under this legislation, subject to any exemptions which apply. Historic England will consult with external parties as necessary prior to releasing information.

If you require an alternative accessible version of this document (for instance in audio, Braille or large print) please contact our Customer Services Department:

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