



Setting up a Listed Building Heritage Partnership Agreement

Historic England Advice Note 5 (HEAN 5)





Summary

The purpose of this Historic England Advice Note is to provide information to assist local authorities, planning and other consultants, owners, applicants and other interested parties in implementing historic environment policy in the [National Planning Policy Framework](#) (NPPF) and the related guidance given in the [National Planning Practice Guide](#) (PPG). While it supports the implementation of national policy it does not constitute a statement of Government policy itself, nor does it seek to prescribe a single methodology or particular data sources. Alternative approaches may be equally acceptable, provided they are demonstrably compliant with legislation, national policies and objectives.

Front cover: The internal courtyard of Falmer House, a Brutalist university building from 1960-62 by Sir Basil Spence at the University of Sussex - Grade I (List Entry Number: 1381044). [© Historic England Archive, DP054097]

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Introduction

1 What is a Listed Building Heritage Partnership Agreement (LBHPA)?

- 1.1 Listed Building Heritage Partnership Agreements (LBHPA) are covered by sections 26A and 26B of the [Planning \(Listed Buildings and Conservation Areas\) Act 1990](#). Further information on procedure, including consultation requirements, is laid out in the [Planning \(Listed Buildings and Conservation Areas\) \(Heritage Partnership Agreements\) Regulations 2014](#) and its [explanatory memorandum](#). LBHPAs allow for the owner of a listed building and the Local Planning Authority to agree a series of works comprising alteration or extension to a listed building, or part of a listed building. The Agreement provides Listed Building Consent (LBC) for those works.
- 1.2 This supports a partnership approach between the owner and the LPA and will help them to reach an agreed vision for the medium-long term management and maintenance of the listed building(s) covered. It will support dialogue and increase mutual certainty over the aspirations and requirements of all parties to the agreement. LBHPAs also have the potential to save time and resources for the partners as they will be able to spend less time dealing with minor applications, freeing them up to concentrate on any major or contentious issues affecting the building.
- 1.3 Other bodies besides the owner and LPA may be party to the agreement, including the Secretary of State and Historic England.

2 What can it cover?

- 2.1 An LBHPA may cover specified works of alteration or extension to a listed building or buildings covered by the Agreement, and for the duration of the agreement, which may be as much as ten years or more. These can be any kinds of work which might be granted listed building consent in the normal way. An LBHPA may not cover works of demolition, that is, works of demolition which go beyond any works of alteration to a listed building which comprise some element of demolition.

- 2.2 The local planning authority still has a legal duty in granting LBC through an LBHPA 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.
- 2.3 Listed Building Consent granted by an LBHPA may be granted subject to conditions. These conditions can be the same as those that could be attached to LBC which is granted in the usual way.
- 2.4 LBHPAs are likely to be of most use in particular types or complexes of listed buildings, where predictable and repetitive works are commonly carried out. They will be most effective if based on a realistic assessment of what is likely to be necessary during the life of the Agreement.
- 2.5 The kinds of listed buildings which might appropriately use an LBHPA include:
 - complexes of listed buildings that are large or expansive (e.g. campus developments such as universities and military bases);
 - large modern listed buildings (large twentieth century office buildings or housing blocks);
 - sites of a single or similar asset type in different locations perhaps under single ownership or management (e.g. bridges in local highway authority ownership).

3 What will it look like?

- 3.1 The legal requirements of an LBHPA document are that:
 - it must be in writing;
 - it must make provision for the parties to review its terms at intervals specified in the agreement;
 - it must make provision for its termination and variation.



Setting up a Partnership Agreement

4 Identifying the parties

- 4.1 There is no application process for Listed Building Heritage Partnership Agreements as they are reached by agreement. A LBHPA must, as a minimum be between the local planning authority (LPA) in whose area the listed building (or any part of the building) is situated and any one owner of the building. A LBHPA would normally be initiated by one of the two legally required parties, although other parties may wish to propose the formation of a partnership.
- 4.2 Where there is more than one owner it would be good practice to include all owners as party to the agreement.
- 4.3 Where a LPA wishes to make an Agreement in respect of listed buildings in its ownership, such an Agreement will be valid provided that it is between more than one legal entity – say an arm’s length management organisation and the LPA itself. It may sometimes be appropriate in these circumstances for Historic England to be a party to the LBHPA.
- 4.4 It may be helpful to include other parties with an interest in the building(s) covered by the LBHPA as parties to the Agreement. Such parties may include:
 - short-term leaseholders or occupiers;
 - anyone involved in the management of the building(s);
 - other bodies which have an interest in the building(s) itself such as user groups;
 - bodies which have special knowledge of the building(s) or building(s) of similar architectural and historic interest, e.g. local or national amenity societies.
- 4.5 Named representatives and contact details for all parties should be included in the Agreement.

5 Establishing the terms

- 5.1 Once parties have agreed to enter into a partnership agreement, they will need to agree its content. The model headings set out in [Annex 1](#) indicate the kind of issues which will need to be covered. The main focus of the document is likely to be details of the consented works.
- 5.2 There will be, in addition, a number of practical considerations that parties may need to consider, including:
- how the creation of the LBHPA is to be managed;
 - which party will bear any costs of setting it up;
 - who will write it;
 - whether consultants will need to be taken on;
 - whether any preparatory work such as condition survey, photographic or other record of assets or a review of its designation status will be required.
- 5.3 Careful consideration of the building(s) to be covered, including a review of consent activity over preceding years, may be helpful in pointing to the kind of works that the Agreement could usefully cover. Consideration of the nature of the building itself or type of building, and the normal cycles of management and repair activity may provide a reasonable indication of the time limit which might helpfully be set on the life of the Agreement.
- 5.4 Works may be identified in the LBHPA which are agreed not to have an impact on special interest and so not to require consent. These may also be covered by a Certificate of Lawfulness of Proposed Works included in the LBHPA for clarity and for the certainty that the 10 year duration of a Certificate will provide.
- 5.5 Conditions may be applied, and their discharge may be required in the same way as for conditions attached to a grant of listed building consent. It may be helpful to consider whether details of conditions are to be signed off for the life of the Agreement through method statements, drawings etc. attached to the Agreement, or whether in some cases a more flexible approach is required that would see such details viewed and signed off in advance of the relevant works being commenced.
- 5.6 LBHPAs may include provisions for notification to the LPA in advance of the commencement of and on completion of works consented under the agreement.

- 5.7 However, in all cases, care should be taken to avoid introducing requirements which undermine the process efficiencies the LBHPA is designed to achieve.
- 5.8 Once the responsibility for drafting the LBHPA has been agreed, and its contents established, the next stage will be to draft it. LBHPAs will normally be clear and concise, expressed in plain, unambiguous English, and relatively short documents.

6 Form of the LBHPA

- 6.1 Model headings for an LBHPA are set out in [Annex 1](#) for guidance. LBHPAs will benefit from clarity and conciseness.
- 6.2 It will be preferable to draft the LBHPA as a positive statement primarily setting out categories of works which are permitted rather than those which are excluded. This would be clearer, easier to observe, and more in keeping with the cooperative philosophy of LBHPAs.

7 Duration of the LBHPA

- 7.1 Although there is no time limit set in law, setting a time limit individually for an LBHPA may be helpful to ensure that the Agreement continues to meet appropriate standards and principles for conservation, and continues to have regard to the special interest of the building or buildings it covers. Conservation principles, the understanding of individual buildings and methods available for repair and maintenance change over time, so approaches may need to evolve: a consent granted today may not be the correct one for a generation hence.
- 7.2 A period of up to 25 years would be a sufficiently long term to enable strategic planning for the building(s) and to justify the input of resource needed to set up the Agreement, and probably represents the maximum time span within which the Agreement would not risk falling out of step with changing conservation requirements or the needs of the building itself. Parties to the Agreement may of course choose to identify a shorter or longer lifespan for the Agreement, depending on the characteristics and needs of the building(s) to which the Agreement relates.

8 Other preparatory work

- 8.1 A record (written, photographic or graphic) may form a helpful benchmark to help with future assessment and monitoring of the Agreement. Parties to the LBHPA will need to decide how records will be archived. Recording may also be appropriate as works are undertaken to assist parties in monitoring the Agreement – the form this will take may helpfully be confirmed within the Agreement. It would be good practice for any such records to be archived, for example as part of the local authority’s systems for recording planning permission/consent and/or within the local Historic Environment Record (HER).
- 8.2 In all cases, however, care should be taken to avoid introducing requirements which undermine the process efficiencies the Agreement is designed to achieve.
- 8.3 A Statement of Reasons must be produced, and will be subject to the consultation requirements set out below. The Statement comprises an assessment of the likely effect of the proposed works on the special architectural or historic interest of the listed buildings to which the Agreement would relate, a reasoned justification for the proposed works and details of any conditions to which the proposed consent would be subject. The reasoned justification will clarify the rationale behind the LBHPA at the outset, demonstrating how the special regard duty has been discharged.

9 Consultation and publicity

- 9.1 Relevant individuals or organisations will be given an opportunity to comment on the listed building consent contained in a draft LBHPA. [The Planning \(Listed Buildings and Conservation Areas\)\(Heritage Partnership Agreements\) Regulations 2014](#) (“the LBHPA Regulations”) set out the consultation and publicity requirements for LBHPAs.
- 9.2 The consultation and publicity process will be for a minimum of 28 days, and broadly follows that for listed building consent, allowing public inspection of details relating to the grant of consent in a place within the locality of the listed building; this will typically be an office of the LPA or a public library.
- 9.3 LBHPAs will normally relate to listed buildings in single ownership or the ownership of a small number of parties, and there will be benefits to the Agreement where all owners are parties; however, where exceptionally there is an owner who is not a party, the LBHPA Regulations require that, where known to the LPA, that owner must be specifically notified of and given the opportunity to comment on the LBHPA. A simple notice for this purpose and for display as a site notice is contained in the LBHPA Regulations.

- 9.4 Historic England must be formally consulted on the listed building consent contained in any draft LBHPA involving any Grade I or II* building(s), or where the LBHPA involves any building(s) owned by the LPA. The set requirements are the minimum, and the LPA may also consider that other local or national groups, such as the National Amenity Societies, have a particular interest or expertise in the building or type of building which might be helpfully brought to bear on the draft.
- 9.5 The LBHPA Regulations require consultation and publicity on details of the proposed works and on the Statement of Reasons for proposing to grant listed building consent. However, LPAs may wish simply to consult on the whole draft LBHPA (having taken account of any data protection issues and confidential or commercially sensitive information contained within the LBHPA).

10 Sign-off and adoption of the LBHPA

- 10.1 Once consultation and publicity responses have been considered the LPA may consider it appropriate to modify a LBHPA, with the agreement of parties, before adopting it. The LBHPA may then be adopted by the LPA and signed by all parties according to normal governance arrangements.
- 10.2 Once signed, for clarity and transparency it may be helpful to record LBHPAs and make them publicly available on the LPA's website, having due regard to any matters of data protection and confidential or commercially sensitive information contained within the LBHPA. The LPA may also wish to consider whether it would be beneficial to record the LBHPA as part of its systems for recording planning permissions/consents and/or in the relevant Historic Environment Record (HER). The LPA may also want to consider how the LBHPA might link with the Local Plan or any Supplementary Planning Document.
- 10.3 The LBHPA Regulations require that Historic England is sent a copy of the completed LBHPA. Electronic notification would be preferred to enable the Agreement to be made available for public viewing online, subject to having taken account of any data protection issues and confidential or commercially sensitive information contained within the LBHPA.

11 Review and modification

- 11.1 The commitment to a LBHPA does not end with the finished document and informal contact with parties throughout the life of the Agreement will be helpful. The LBHPA is required in law to contain arrangements for its periodic review, and modifications may arise from the review process. This may helpfully be achieved through arrangements to establish and maintain regular formal meetings where the Agreement is reviewed against its stated justification.
- 11.2 Annual or bi-annual review meetings seem sensible, although they may need to be more frequent in year 1. An interim or emergency review may be triggered by planned or unplanned events such as:
- completion of works;
 - a change of personnel or ownership;
 - a disaster;
 - a dispute;
 - a breach of the LBHPA;
 - a change in understanding of significance;
 - expiry of the LBHPA.
- 11.3 On the basis of review, the parties may consider it expedient to modify the LBHPA, for instance by adding or removing a consented work or modifying a condition or specification associated with a consented work. Arrangements for doing so, including appropriate levels of publicity and consultation with affected parties, may be included within the terms of the Agreement.
- 11.4 Modification of the provisions of the Agreement could in very rare cases lead to a liability for compensation where the owner or other person with an interest in the building has carried out works which are rendered abortive by the modification or otherwise sustained loss or damage which is directly attributable to the modification. The risk of this can be removed by consultation and negotiation in advance of modification of the terms of the Agreement to ensure that the parties and any other persons considered by the LPA to be affected by the modification are in agreement with it.

12 Lapse or termination

- 12.1 A LBHPA must contain provisions for termination by the parties, and the listed building consent granted by the Agreement may be terminated by the Secretary of State if it is considered expedient to do so. As a LBHPA approaches its expiry date, a review of its performance over the full term of the Agreement will help the parties to decide whether or not a new LBHPA should be entered into.
- 12.2 Where a LBHPA comes to an end there is a small risk of compensation liability if it is shown that a person interested in the building has incurred expenditure in carrying out works which are rendered abortive by the termination or lapse or has otherwise sustained loss or damage which is directly attributable to the termination or lapse. The risk will be minimised if the LBHPA contains clear arrangements for authorised works which have begun before the end of the Agreement to be completed.
- 12.3 LPAs may wish to make clear in any supporting information prepared for their LBHPA that once the Agreement expires or is revoked, any works previously covered by the Agreement which have not been started, will no longer benefit from the consent granted through the Agreement.
- 12.4 Where a LBHPA is revoked or expires the LPA may wish to consider putting in place publicity and notification arrangements to ensure transparency regarding this change. It would, however, be helpful to keep Historic England informed (via governmentadvice@historicengland.org.uk) to enable an accurate national picture of Agreements.

13 A breach of the LBHPA

- 13.1 A breach of the listed building consent granted by the Agreement may lead to enforcement action. Breaches of the Agreement may also invoke an agreed dispute resolution process which may be agreed by the parties and included in the terms of the Agreement. If the dispute cannot be resolved the LBHPA may be terminated or varied, following provisions set out within the Agreement itself. These are all issues which need to be considered in drawing up an LBHPA.

14 Other considerations

- 14.1 The listed building consent granted by the LBHPA is effective for the benefit of the building and of all persons interested in it for the time being. This means that it will continue even if there is a change of owner, although it will be helpful if a new owner is persuaded to sign up to the agreement.
- 14.2 An LBHPA cannot impose any obligation or liability or confer a right on a person not party to the agreement. They are voluntary agreements – there is no compulsion in the primary legislation for either owners or an LPA to enter into one.
- 14.3 The Secretary of State will have reserve powers to call in an LBHPA, and may revoke or modify it as he feels expedient.

15 Further sources of information

- 15.1 [Regulations for Listed Building Heritage Partnership Agreements](#) and the relevant [Explanatory Memorandum](#) contain further detail.



Annex 1

Model headings

16 Introduction

16.1 This section provides a suggested structure for LBHPAs and sets out what kind of information should be included:

Sections 26A and 26B of the Planning (Listed Buildings and Conservation Areas) Act 1990

THE LISTED BUILDING HERITAGE PARTNERSHIP AGREEMENT
is made on the day of 20 BETWEEN

i.....

ii.....

iii.....

17 The listed buildings covered by the agreement

17.1 This may just be set out in writing, or, for the avoidance of doubt, include a plan, with the partnership buildings or parts of buildings outlined or shaded. The designated status of buildings may need to be indicated in sites where there are a mixture of listed and unlisted buildings, or buildings at differing grades.

17.2 It may be also be necessary to identify any structures attached to or within the curtilage of the listed building or any part or feature of the building which are not considered to be part of the listed building or of special interest for the purposes of the [Planning \(Listed Buildings and Conservation Areas\) Act 1990](#) (“the 1990 Act”), where no listed building consent would be required. Buildings or parts of buildings identified may need also to be clearly linked to particular conditions, schedules, specifications or method statements contained within the Agreement. Curtilage buildings covered by the provision of the LBHPA should also be identified.

17.3 Summary of significance of the listed buildings for the purposes of the Agreement – this may be briefly set out and need not be a full assessment, which may be appended to the Agreement for information.

18 Description of the consented works

18.1 Details of the listed building consent granted under section 8(1) of the Act in respect of specified works for the alteration or extension of the listed building(s) to which the Agreement relates, including any conditions to which consent is subject.

19 Statement of reasons for the consented works

19.1 As required for consultation and publicity purposes, appropriately modified to take account of consultation and publicity responses.

19.2 To include:

- An assessment of the likely effect of the proposed works on the special architectural or historic interest of the listed building(s).
- A reasoned justification for the proposed works; and
- Details of any conditions on which the proposed consent would be subject.

20 Purpose of the agreement

20.1 Reasons for making the Agreement, why is it appropriate to the site, and what issues it is intended to address. Any issues covered in the document which add context to the listed building(s) and upon which the parties may have agreed a policy, but which do not come under the heritage legislation (eg management of the natural environment, moveable artefacts).

21 Term of the agreement (if required)

21.1 Dates from ... and to (a period of no more than X years from the starting date of the Agreement)

22 Review and termination

22.1 Section 26B(1) of the 1990 Act provides that a LBHPA must include:

- Provision for reviewing terms at intervals specified in the Agreement. A brief indication of review periods and steps to be taken for the resolution of issues will be helpful.
- Provisions for the termination or variation of the Agreement [by the parties], including the circumstances under which this will be considered and an agreed mechanism by which variations may be agreed. The parties may agree that small changes (a request to have X colour signs rather than the Y colour set out in the LBHPA, for example) could be agreed by an exchange of e-mails, for example. Larger changes may require more negotiation and discussion, and potentially re-consultation and publicity to a degree proportionate to the degree of modification.
- Arrangements on the expiry or termination of the listed building consent granted by the Agreement, including the completion of authorised works begun under the terms of the Agreement if the listed building consent is withdrawn after the works are started but before they are completed.

23 Other agreement particulars

- Recitals.
- Definitions.
- Statutory Provisions and Covenants.
- An LBHPA may include:
 - Details of works that would not affect the character of the building as one of special architectural and historic interest and, therefore not require consent; or
 - A Certificate of Lawfulness of Proposed Works, if preferred.
- An LBHPA may also include agreement on other issues which do not constitute works, and are not the subject of listed building control, including:
 - Provisions for the maintenance and preservation of the listed building.

- Provisions for public access to the listed building and the provision to the public of associated facilities, information or services.
- Restrictions on access to, or use of, the listed building.
- Prohibitions on the doing of any specified thing in relation to the listed building.
- Provision for any relevant public authority to make payments of specified amounts and on specified terms (a) for, or towards, the costs of any works provided for under the Agreement (b) in consideration of any restriction, prohibition or obligation accepted by any party to the Agreement.

24 Signatures

Signatures of all parties or the common seal of the LPA.

25 Possible appendices

Key information

- **Site Location Plan**
- **Drawings, Schedules, Specifications or Method Statements** - referred to in Section 3, Description of Consented Works, and concise, technical documents.

Supplementary Information

The following could be added as appendices.

- **List Description(s)**
- **Special Interest of the Listed Buildings:**
Definition of the site and listed buildings involved in terms of their special interest, and agreed priorities for their protection, and further information on any parts which are not considered to hold special interest for the purposes of the LBHPA. This might include any statement of special interest which has been prepared to support the LBHPA or the management of the building(s).
- **Surveys:**
Written, photographic or graphic, which underpin the contents of the LBHPA.

- **Conservation Plan or Statement:**
Any relevant policies, standards, principles, strategies and documentation that the parties agree will inform the Agreement, which are either to hand or are to be compiled (if the parties agree it is necessary). The contents here will vary from Agreement to Agreement but may include an existing conservation plan or statement, or information commissioned to underpin the LBHPA.

- **Definitions:**
Clarification of any terms used in the LBHPA that are technical or may be subject to differing interpretation.

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