

Roz Archer on the joys and pitfalls of a listed home



Hampstead Garden Suburb's development controls must be some of the toughest in England – what a claim to fame! Not only do we have the Trust telling us what we can and can't build and the standard planning controls of a conservation area (with additional 'article 4 directions' which take away normal householder's rights to do minor works) but a lot of residents have listed building legislation to cope with too. The Suburb has many listed buildings and the number is increasing. The result is that a Suburb householder might have to make three separate applications in order to put up a new drain pipe (and, if you live in one of the listed blocks of flats, a fourth consent from the landlord). In addition, Listed Building Consent is required for changes to the inside of the house.

The Statutory List of Buildings of Architectural or Historic Interest was introduced in 1947: the List was to be prepared by the relevant Government Minister for the guidance of planning authorities but it had no other implications. The control of works to listed buildings began in 1968, after this date any work to a listed building had to have listed building consent (until 1980 an application could be included with an associated planning application). 1965 saw the first Suburb houses put on the List with more being added sporadically over the following forty years or so. The biggest addition to the List happened in late 1996 following a systematic survey of the Suburb by English Heritage (with fieldwork funded by Hampstead Garden Suburb Trust) when most of the first Copartnership Tenants Ltd. estate was listed (Asmunds Place and Hill, Temple Fortune Hill, the North end of Hampstead Way, part of Willifield Way, etc.), adding over 500 houses in all. Since then there have been a few random additions (individual houses "spot" listed) plus the listing of two more blocks of flats (Heathcroft on Hampstead Way and The Pantiles on Finchley Road). It is important for residents

to know what implications listing has for them as owners or potential owners because the legislation can be draconian in its effects – and there are benefits worth knowing about too.

If you put an extension on your (unlisted) house and no-one notices for four years, the Planning system can't make you take it down (but, before you rush out and build that ten foot extension you've been dreaming of, remember that you need the Trust's consent too and, not very surprisingly, they don't play by the same rules). You might be forgiven for thinking that the same sort of exemption could apply to listed building consent but beware! About a year ago, a case at the Court of Appeal drew attention to something that, although always part of the legislation, wasn't as well known as it should have been. The case involved new purchasers of a listed building who had had a Listed Building Enforcement Notice issued against them which required that they put right works done to the house since the 1970s by the previous owners; the Appeal Court upheld the council's action in issuing the Notice (although in fact the court went on to quash the actual Notice because it wasn't clear enough). Lord Justice Brown held that the purchasers of a listed building should check very carefully that all the necessary consents had been given for any work done since the date of listing.

Given this situation, how can you be sure that you won't have to reinstate work done by someone else at your own expense – even having to reinstate walls or features that you would rather

be without? First, the law says that work requires consent if it affects the character of the building as one of architectural or historic interest. This is such a catchall phrase it can encompass something as small as putting recessed lighting in a ceiling or changing the skirting boards in a room. Almost impossible to check, but there are things which make it a bit easier than you might suppose at first. Get a copy of the list description (there is a full copy of the list in Barnet's planning office and the Trust too have one in their office in Finchley Road) and note the date when the house was added to the list. Although the majority of cottages were listed in 1996, the houses of North, Central and South Squares, Heathgate and the top of Erskine Hill were listed as early as 1965 and those of Turner Drive in the 1970s.

Any house which was listed early on, unless it is in near mint condition, will almost certainly have had something done which required consent (rooms knocked together and en-suite bathrooms were favourite alterations thirty years ago just as they are today). Ironically, an owner who knocked two living spaces into one in 1970 would probably have been told, if he'd asked, that the work was so minor as not to require an application. Today, for such work, an application is vital (it might not succeed). If Barnet can show that the house had separate rooms when it was listed you could have to reverse the changes yourself. How the Courts would deal with the anomalies created by the change in conservation approach is untested.

Once you know when the building was added to the list, consent for any alterations which appear to date from a later time has to be checked on. Barnet now have their applications database on line (www.barnet.gov.uk/environment_transport/planning). Here you can find out what applications have been made for your target house; the database goes back to 1965 which, as we have seen, is earlier than the introduction of controlling legislation (unfortunately, applications before 1987 aren't all on the database). This website is an excellent resource and one which will allow you a first attempt at finding out the planning history.

If you are buying a Listed Building, your solicitor should know that a search of any planning files is necessary (but many solicitors still don't appear to). It is hard to know how he or she is going to make a proper assessment of what is found without a thorough understanding of architectural drawings because, if an application has been made and approved, the extent of the approved work should be checked against what was actually done. Only then can you be reasonably sure that the building you are buying won't later reveal unexpected and costly problems.

Although the law has been in place for a long time, it hasn't hit the headlines before and most people remain vague about it. In the event, Barnet's Conservation Team will deal with cases not only on their merits but also with an amount of understanding. Of course often no outsider knows what state the inside of the newly listed building was in or

what unauthorised work might have been done since it was listed. As time passes, this will change as more and more Listed Building applications are made which will entail more and more site visits by conservation officers with the effect that the information held on file in Barnet House will grow and minor changes will become trackable.

It isn't only when a building changes hands that the implications of the lack of time-granted immunity comes to the fore. You may have done work in the past yourself to your listed building, perhaps mistakenly believing as many owners do that listing only applies to the outside of the house. The courts have held that carrying out works without consent is an offence of strict liability. This legal term means that ignorance is no defence to this criminal offence. Your builder isn't immune from prosecution either.

All this notwithstanding, there are upsides to owning a Listed Building and making the most of listed status is clearly sensible. Works of improvement to a listed building are zero rated for VAT and it is of course such works that require Listed Building Consent. Your builder's Customs and Excise Inspector has to see your Listed Building Consent and therefore to gain maximum benefit it makes sense to include everything you might want to do on your application. This area of legislation is complicated and there are VAT experts out there who can advise on the details; be aware too that the situation might change so that works of repair as well as those of

improvement might one day be included in the exemption though they are not at present.

Things might be going to change soon in a number of ways though owners of currently listed buildings will not be affected in the same way as the owners of future listed houses. One major change is that English Heritage will have overall responsibility for the listing process (currently the body puts forward its choices for new list entries to the Government Minister for Culture, Media and Sport who makes the final decision) and owners will be invited to comment before the listing is affirmed. List descriptions should give an indication of the reasons for listing, pointing out features considered particularly valuable and, in some cases, a management agreement might be included. Agreements, specific to each building or group, will identify what can be done without consent, resolving what is a very grey area. The paperwork might also decrease – at the moment a Listed Building application has to be made separately from and as well as a planning application but it might happen that it can all be done on one form (reverting to the situation before 1980). The planning fee structure isn't set to change in the near future: at the moment every planning application for work on a Listed Building, be it ever so minor, attracts the standard £110 planning fee although the Listed Building application itself is free.

There is good advice to be had on the web. Lots of Local Authorities have good websites and seek to explain the system to those about to make applications. Any search engine fed with "listed building" + advice will find plenty of them. Some planning law firms also have a lot of clear and concise help pages and even easy to use advice services and www.odpm.gov.uk is the site of the Office of the Deputy Prime Minister where primary legislation can be seen. Further information specific to Hampstead Garden Suburb is on my website at www.rozarcher.co.uk.

Letters to the Editor

We are asked to print a letter not to *Suburb News* but to the North London Hospice. Ed

Wordsworth Walk
London NW11 6AU

Sir
My friends and I wanted to do something really good and raise money for a charity that we all believe in. We chose to support and try to raise money for the North London Hospice by having a stall in our road on Saturday 12 June.

We spent three weeks preparing everything and our neighbours helped us by

designing invitations to the stall and donating things that we could sell. We made friendship bracelets and baked loads of cakes and cookies.

Our stall looked very nice and we made a big sign telling everyone who we were raising money for. From 1 pm to 6pm we sold all sorts of stuff to people who lived in the road and even to people who were just walking by.

We made £185.41 and my mummy has written a cheque as she said this would be easier for you. I thought you would like to see some photos of us all. My name is Rosy and I was

helped by Ivana, Venetia, Abigail and Beans.

We had a great time and hope our money helps the people you care for.

Yours
Rosy Bolam (Age 9)

Hampstead Way
London NW11 7YA

Sir,
The Spring edition of *Suburb News* produced a cavalier report of Ken Murrell, at the AGM, in a one-man attack on the Association. This shoddy piece

of journalism was inaccurate, incomplete and misleading – designed only to save the Executive further embarrassment.

Prior to meeting, four members of the Executive, including the Editor of *Suburb News* were aware that I would question their actions regarding Temple Fortune, at the AGM. To suggest the Chairman was taken by surprise strains the credibility of the Editor's reporting.

I did criticise some officers for dragging their feet over a promised letter to the Local Government Ombudsman, and was followed by a series of

other residents who also spoke out against the dithering of the Executive. The residents in the capacity audience (who are the Residents Association!) were clearly supportive of the call for the Executive to act, but were continuously opposed by the RA Chairman and Executive member David Lewis.

It was Terry Rand, not me, who proposed a motion requiring the Executive to send in a Complaint to the Ombudsman. The Chairman agreed to put the motion to the meeting and there was no dissent from the Executive. The Editor in his distorted account

omitted to report that the 200 strong audience at the AGM passed the motion with only one vote against.

I can understand why the Executive should not wish to advertise what was, in effect, a vote of 'no confidence' in their actions. It is, however, unfortunate that the Editor's misleading report leads to 'no confidence' in the accuracy and honesty of *Suburb News*.

Yours,
Ken Murrell

A similar letter has been received from Terry Rand. Ed

P R HARTLEY
CHARTERED ACCOUNTANT
& LICENSED AUDITOR
Accounting & Taxation Services
Call 020 8731 9745 or 07850 634395
Email HartleyP@aol.co.uk
www.prhartley.co.uk

Need a Personal Assistant?

All your personal correspondence efficiently handled in your own home by an experienced freelance PA, book keeper.
Filing organised, bills paid, tax returns completed, etc.
Confidential service assured,
hourly rates and excellent references
Tel: Jessica 07971 258440/020 8455 0505

PERSONAL COMPUTER REPAIRS

NEED IT FIXED, UPGRADED OR REPLACED?

Inexpensive, quick service, friendly help at your home or office. All at very reasonable rates

HARDWARE · SOFTWARE UPGRADES
INTERNET/EMAIL PROBLEMS · PC'S BUILT TO ORDER

call Nicholas on 07968 561 355
or email to nroseborne@aol.com