

TOWNSCAPE IN TROUBLE

Conservation Areas - The Case For Change



The English Historic Towns Forum



THE ENGLISH HISTORIC TOWNS FORUM

OBJECTIVE

The English Historic Towns Forum was created in order to promote and reconcile prosperity and conservation in historic towns.

BACKGROUND

The Forum was founded in 1987 at a conference in Bath when representatives from twenty English historic towns and cities discussed matters of common interest.

THE FORUM SETS OUT TO:

- establish and encourage contact between local authorities having responsibility for the management of important historic towns and cities.
- organise seminars, workshops and conferences to discuss issues of common concern.
- encourage a corporate, inter-disciplinary approach to the management of historic towns.
- compile and circulate information describing the approach of the different authorities to critical management issues for historic towns.
- express a collective view on proposals which are likely to affect the interests of historic towns.

Membership of the Forum currently stands at 45 full members with an increasing number of affiliated members. For membership details please contact:

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MEMBERS OF EHTF

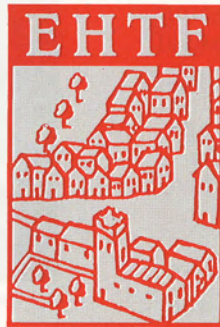
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March 1992



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and for the support of English Heritage

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FOREWORD

This Report is produced at a time when there is growing interest in the need to protect the natural environment and this has been reflected in a number of new Government initiatives and regulations. In recent years, there has been a similar appreciation of the quality of our built environment, and of historic buildings in particular.

The contribution which historic towns make to the quality of life and to the economy of this country, is immeasurable. However, there is mounting concern that the appearance of our most attractive towns and villages is in decline.

Many historic towns are under threat from damage, decay and butchery caused by an epidemic of alterations which ruin the individual appearance of buildings and dilute the unique architectural character which distinguishes each region of the country. Contrary to popular belief, town planning legislation provides little extra protection to special historic areas or 'conservation areas'.

The English Historic Towns Forum aims to bring these problems to the attention of the public, the media, local Councils and the Government, and encourage a debate on the way forward.

The Forum believes that the time is right for historic towns to be offered greater protection, and that there is a strong case for the reform of legislation on conservation areas. A concerted effort should be made by all concerned to tackle this urgent problem, — before it is too late.

**Martin Bacon, Chairman of The English
Historic Towns Forum**



1. Lincoln.

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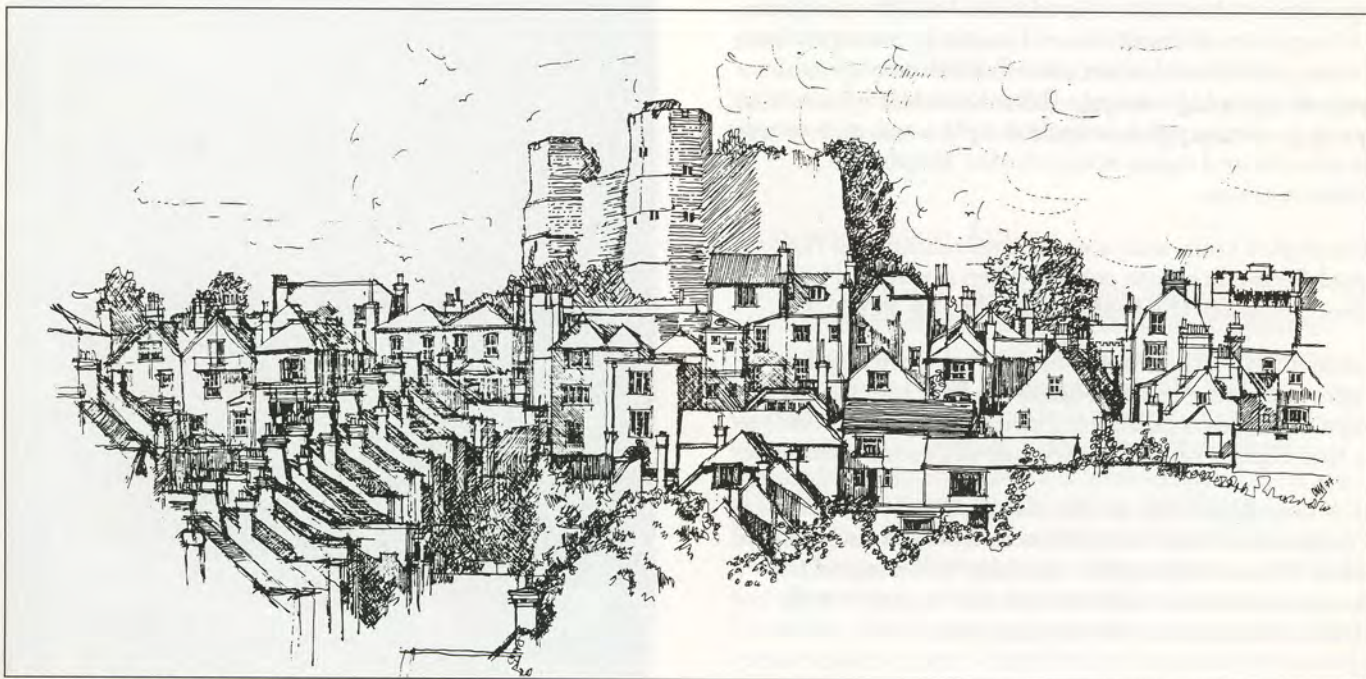
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2. Lewes, East Sussex.

INTRODUCTION

Great improvements are being made in historic towns, for example, through pedestrianisation, or the management of tourism; but members of the English Historic Towns Forum, and others, have become concerned that similar progress has not been made in improving the appearance of houses in the historic streetscene.

In June 1991 the Forum held a seminar in Hove, called 'Townscape in Trouble' which was attended by planners, architects and solicitors from local government and private practice, together with the Civic Trust, the Department of the Environment and English Heritage. The debate highlighted the problem of houses being ruined by ugly alterations, an issue which attracted a great deal of interest in the national press.

Therefore, the Forum has produced this report which describes and explains the declining appearance of historic towns. The report concludes that rapid deterioration will continue unless town planning regulations in conservation areas are strengthened.

The report concentrates on those alterations to unlisted houses, shopfronts and pavements which are damaging the character of conservation areas, over which, surprisingly, local Councils have little influence. The report is not a total review of all urban conservation issues and does not discuss, for example, traffic, trees and industrial or 'listed' buildings.

Specifically, the report recommends that the removal or alteration of traditional windows, doors, railings or roof materials on houses in conservation areas, should not be 'permitted development', ie, beyond planning control. Recommendations are also made to encourage a reduction in the size and range of adverts and signs which clutter shopfronts in historic towns.

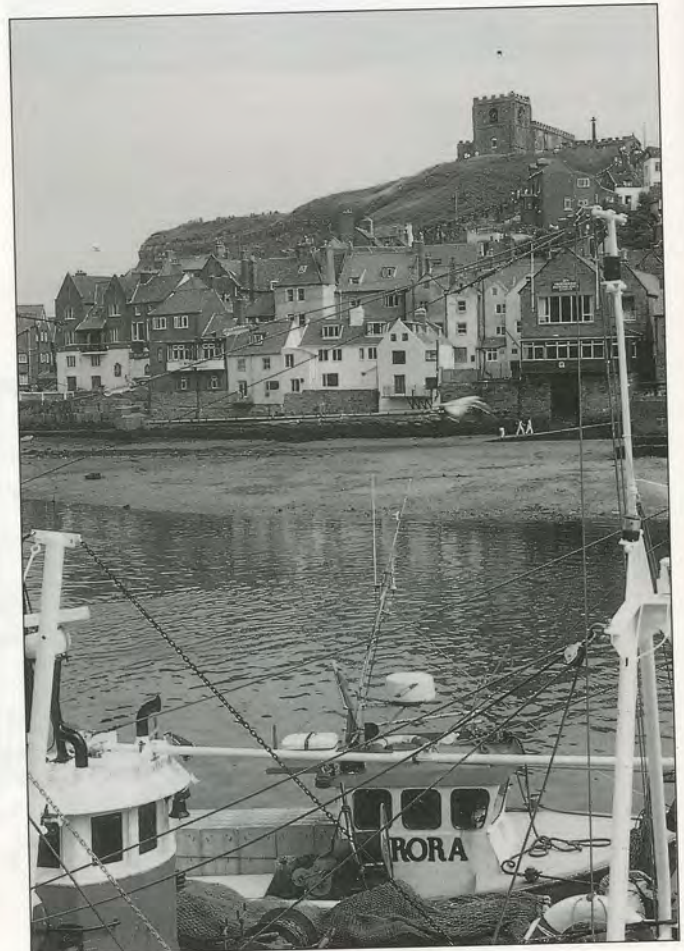
The report ends with a short commentary on how local Councils create conservation areas and how they can make the best use of existing legislation.

Later in 1992 the Forum hope to prepare another report advising local Councils on best practice in the care of conservation areas, and that will be based, as is this report, on the experience of Forum members.

It is hoped that the public, the media, Members of Parliament, local authorities and bodies such as the Civic Trust and English Heritage will support the recommendations and that the Government will listen to the concern being expressed.



3. Midhurst, West Sussex.



4. Whitby, North Yorkshire.

PART ONE : THE BACKGROUND

"There is, I believe, increasing commitment throughout the community to the importance of conservation. That is to be welcomed... This is all part of a growing recognition that conservation is an important part of the quality of life now. The historic environment is an important part of the present."

Michael Heseltine, Secretary of State for the Environment, Sept 1991.

Public Opinion

In recent years our knowledge and awareness of 'green' issues has increased dramatically and this has led to legislation on pollution, litter, wildlife protection and recycling. The 1990 White Paper "This Common Inheritance" summarises the progress that has been made; but is similar progress being made towards the protection of the 'built' environment? Has the conservation of historic buildings been left behind in the great surge of concern for the natural environment?



5. Edwardian houses.

For many people the word 'conservation' still means wildlife and flora, not the care of buildings. However, there is clear evidence that the public hope and expect that the quality of historic areas should be retained.

His Royal Highness the Prince of Wales has highlighted the nation's concern for the quality of the built environment and the benefits of using traditional building methods and materials, and of gradual change. In addition, many people now agree that the emphasis on redevelopment in the 1960's was misplaced and that renewal and repair is often a more appropriate and economic treatment of old buildings.

In Britain there has always been a strong sense of belonging to a particular town or village. There is also a growing interest in defending the local scene against various threats such as traffic or the loss of trees. To this must be added the phenomenal interest in visiting country houses, gardens, historic towns and monuments, as shown by rising National Trust membership, the number of civic societies and the emergence of magazines such as "Traditional Homes". Historic towns or sites are now the main reason for overseas tourists visiting the UK, while visits to historic areas are expected to increase¹.

However, the growing public interest in heritage extends beyond the medieval cathedrals or Georgian terraces in a few key towns. The well maintained Victorian and Edwardian house is now much valued.

The character of the typical English historic town, on which tourism and the local economy may depend, is as much a reflection of 'ordinary' yet attractive areas, containing no nationally known buildings, as of the castle or market square which they surround.

Conservation Areas

Extensive areas of historic towns, including attractive residential areas with modest unlisted buildings, are frequently designated 'conservation areas'. These areas are diverse in size and character, but in general it is the collective appearance of the area, rather than individual buildings, which is worthy of protection. There are about 8000 conservation areas in the United Kingdom containing around 1.3 million buildings; 4% of the nation's buildings. Three quarters of these buildings are not 'listed' (of national importance). There has been a steady increase in the number of conservation areas, while 80% of Councils in historic

(1) *Tourism and the Environment report of the Historic Towns Working Group, April 1991.*

towns hope to designate more². This reflects a general desire to protect the cherished local scene, but also a growing unease that these areas are being threatened by damaging alterations.

Conservation areas were first established by the Civic Amenities Act 1967. The statutory definition of a conservation area is an area of "special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance". Planning legislation and Government Circulars make it clear that local authorities should give 'special attention' to these areas and their enhancement.

There are additional planning regulations within conservation areas but these are, in general terms, limited to local councils having control over the following:

- demolition (or 'part' demolition) of buildings;
- the felling/lopping of trees;
- dormer windows;
- some forms of cladding;
- some satellite aerials;
- some hoardings;
- illuminated adverts;
- the size of some extensions; and
- minor checks on work by utility companies.

It is generally believed by the public that there are firm planning controls in conservation areas - but this is not the case. As set out in Part Two of this report, a host of damaging alterations to houses³ in conservation areas are permitted. For example, there are no special restrictions on the replacement of doors, windows or roof slates, or the removal of chimneys, railings or porches. **There are, in fact, more planning controls over the appearance of an inner city tower block than a house in a conservation area.**



6. Listed and unlisted buildings in the shadow of Beverley Minster.

Conservation areas will often contain a 'core' of listed buildings. These buildings are well protected by planning legislation, for example, nearly all external alterations require consent⁴. However, the overall character of an area is often due to the surrounding streets of unlisted buildings, but in contrast, these streets do not have the appropriate level of protection. The appearance of a mixed street of listed and unlisted buildings will suffer from the marked difference in control over the front façades.

In recent years, various aspects of the planning system have been improved. For example, the role of local plans and enforcement have been strengthened and the ability of local authorities to influence the design of new buildings has been included in Government advice. However, legislation for the care of existing buildings in conservation areas appears to have been forgotten, and has (apart from changes introduced in 1974 and 1988) changed little since its inception in 1967. In the 1960's, the idea of the conservation area was principally aimed at the threat of redevelopment and the need to enhance public spaces, but, in response to the issues facing these areas today, ie DIY and other alterations, the legislation lacks teeth.



7. Brassington, Derbyshire.

(2) See Appendix 1, (3).

(3) 'House' refers to a single family dwelling house, not flats or houses in multiple occupation.

(4) Throughout the report the words 'planning consent', 'permission' or 'consent' are used as a collective term for planning permission, listed building consent, conservation area consent, express consent under the Advertisement Regulations or other forms of local authority approval, as appropriate

Ironically, the public awareness which the 1967 Act did so much to initiate, has now moved on, leaving the legislation behind, and out of date. For example, there is no clear presumption in favour of the retention of unlisted buildings in a conservation area.

The weakness of the concept of the conservation area is revealed in the fact that the 'complex' and 'contorted'⁵ guidelines which govern the decisions of local Councils involving the words 'preserve or enhance' are still, 25 years later, being clarified⁶.

Now, in 1992, the silver jubilee year of the conservation area, there is a clear case for examining whether these areas are still 'special' and for reassessing the legislation to bring it in line with contemporary aspirations.

Damage and Decay

"English Heritage has become increasingly concerned about the long term insidious decline in the appearance of historic towns and villages brought about by the well intentioned, but unwittingly misguided home improvements of their residents."

Lord Montagu of Beaulieu - Chairman, English Heritage, June 1991.

Evidence of a slow but steady decline in the appearance of many conservation areas comes from a number of sources. Some of the seaside resorts of Britain have been described as tatty and scruffy⁷. The Civic Trust has felt the need to set up a Regeneration Unit to show how to tackle decay in attractive towns such as Ripon and Ilfracombe. Overseas visitors remark on the poor quality of our tourist towns and facilities⁸. There is concern for the quality of shopfronts in the typical British 'high street'⁹. English Heritage has mounted a nationwide campaign on replacement windows called "Framing Opinions" and has channelled funds into 'fading' seaside resorts. In January 1992 the Georgian Group mounted an exhibition entitled "The Future of The English Town" and published a series of reports which provide evidence of 'serious', 'alarming' and 'overwhelming' erosion of character in towns such as Berwick upon Tweed, Cirencester and Beverley. The Building Conservation Trust estimate that 12% of the nation's houses are in urgent need of repair. In Derbyshire, 81 of the 166 conservation areas are considered to have suffered significant loss of character and the pace of destruction is said to be quickening¹⁰.

In a House of Lords debate, in February 1991, Lady Hollis commented on the "alterations and defacements" which are rapidly eroding the quality of areas where there was a statutory duty to 'preserve or enhance'. **The problem has reached a stage where the de-designation of conservation areas has been discussed, because they have become so debased. This is a sad reflection on the achievements of the British planning system.**

The Daily Telegraph

Dim view of plastic in old homes

Defenestration

AMONG the great horrors of our time, plastic replacement windows must rank high. As we report elsewhere, officials at English Heritage now say that plastic window frames are neither cheaper nor easier to maintain than wooden ones.

'Improvement' campaigners make replacement windows Public Enemy No 1

Ancient towns threatened by alterations to house facades

Sign of the times

AS A NATION we have become renowned, after the excesses of the 1960s and 1970s, for having a care for our architecture.

By John Grigaby
Local Government
Correspondent

HISTORIC towns are threatened by an epidemic of building alterations, conservationists and planners said yesterday.

They will call on the Government this week to toughen laws to protect tens of thousands of 18th and 19th century buildings, particularly in conservation areas.

Yet, having spared our buildings from destruction, we still treat them in the most cavalier way... you will see those same buildings smothered with hideous aluminium signs proclaiming their corporate identity. Towns in France or Italy with shopping streets of architectural excellence do not allow themselves to be blighted by these invaders.

Today

State of the art bad taste knocks £6,000 off your home

THE INDEPENDENT

Planning law as it stands means that planning permission is not needed to alter windows and doors.

The Department of the Environment believes that it is impossible to legislate against alterations to windows and doors because it would overwhelm council planning departments so English Heritage has decided on a campaign of education.

OBSERVER

The Woolwich, too, urges owners to 'see through the double talk of the window salesmen'. Installing plastic double-glazed units remains the most popular improvement, but is only cost-effective if the windows need replacing anyway. Improved insulation will cut heating bills, but savings are marginal compared with outlay.

THE SUNDAY TIMES

DIY overkill blights Britain's best towns

BRITAIN'S most attractive towns and cities are threatened by an epidemic of building alterations defacing their character, writes Andrew Yates. The main culprit are residents who rip out traditional materials, replacing them with ugly alternatives, say conservationists.

HERITAGE OUTLOOK

The journal of the Civic Trust

Conservation Areas - can they survive?

8. Press coverage on heritage problems.

(5) Denzil Millichap, RTPPI Planning Law Conference - 24/01/1992

(6) House of Lords Judgement, 30/01/1992, on South Lakeland District Council v Sec. of State for the Environment clarifies 'preserve or enhance'.

(7) 'Daily Telegraph' - 01/07/1991

(8) Brighton 'Evening Argus' - 26/09/1991

(9) 'Daily Telegraph' - 12/04/1991

(10) Derbyshire County Council - 1991

PART TWO : THE PROBLEM

"We would have nothing of value in this Country today if in the past someone had not fussed over the details, hadn't cared that if a thing was to be done it should be done properly - the face of our Country, whether in our buildings or in the way in which we treat the countryside is moulded by these small incremental essential decisions about detail. In fact I happen to believe that the essence of civilisation lies in attention to detail."

H.R.H The Prince of Wales, February 1991

Townscape at Risk

One of the most attractive features of Britain is the distinctive architecture to be found in each region, for example, in the Cotswolds, the Dales, or the Lancashire mill towns. The character of these areas, and of conservation areas generally, consists of a jigsaw of local architectural details and materials made up of brick colour, chimney pots, porches, or railings. Without these details, a region loses its individuality - it is devalued. The ability of a local authority to protect a conservation area is therefore dependent on the degree of control over these details.

Property in conservation areas will often be in terraces or crescents where the character is due to architectural unity. In mixed architectural areas, certain building materials will unify the streetscene. The loss of this unity by the introduction of 'alien' features or materials, or through the demolition of parts of a building, will radically change the character and value of the area.

Individually, alterations of this kind may have little effect, but a street can be transformed by the cumulative effect. The problem is compounded by property that is described as "in need of modernisation" when sensitive repair is usually all that is needed. However, in recent years many estate agents have warned that 'improvements' such as plastic windows or painting brickwork can devalue property¹¹. A relative decline in property prices leads to less investment in repair and maintenance and further loss of interest by potential purchasers — a downward spiral. Eventually, the image, reputation and economic success of a town can decline as the epidemic of damage spreads like a plague. This process is wasteful and avoidable.

Conservation areas should not be frozen in a particular period; however, at a time when we would not dream of repairing a Chippendale table with an



9. Beach pebble wall, ornate brick, balustrade and cottage window - architectural features which are at risk from damage or removal.

MFI leg, or putting a Volkswagen part on a Ford, should not the same standards apply to our special buildings?

The most significant problem facing conservation areas today is that all the alterations, minor demolition, damage and disfiguration described in the following pages is, on unlisted houses, 'permitted development'. That is, it can normally be carried out quite legally without the consent of the local Council, or in the case of damage to pavements, after minimal consultation with the planning authority.

In other words, the very features which contribute to the character of a conservation area, can be ripped out or altered. The concept of the conservation area is being undermined by legislation which allows this 'permitted destruction'.

(11) *The Independent* - 28/04/1991. *The Observer* - 11/08/1991.

Doors and Windows

One of the most damaging alterations which can be made to houses is replacement aluminium or PVC-U windows and doors. These are, together with blocking up or creating new windows, permitted on houses in a conservation area. The replacement window market is worth £3.36 billion per annum. However, the English Heritage campaign, "Framing Opinions", has shown that the alleged benefits of these windows are not necessarily superior to traditional materials and designs. Wood sliding sash windows, secure and draught-proof, are available at comparable cost. The visual effect of a mock Georgian plastic door or an 'off the shelf' hardwood door on a Victorian building, or a 'tilt & turn' window in a terrace of sliding sash windows and the addition of shutters, is, quite simply, catastrophic. Despite attempts by some manufacturers, plastic or aluminium can never replicate all the subtleties of traditional joinery.

Small extensions on the front of houses can be even more damaging. Extensions in the form of large porches or infilling between bay windows are usually permitted and can obscure much of a fine façade.



10. Replacement windows in Whitby, North Yorkshire.

Roofs and Chimneys

Natural slates, traditional clay tiles or stone covered roofs can be replaced with coloured corrugated concrete tiles without permission in conservation areas. These changes create a haphazard, patchwork effect on the (often) uniform roofscape of these areas. In hilly towns or rural areas, roofs are highly visible and the co-ordinated feel of, for example, the grey-brown roofs of a Cotswold village or the red pantiles of an east coast port, are crucial to the image of that place. Also, heavier concrete tiles may create structural problems.

Roof replacement is often accompanied by the removal of chimney pots or the rendering of brick stacks. This, together with the replacement of cast iron gutters with plastic and the 'spaghetti effect' of new pipes and flues, ruin the character of attractive façades.

11. A fine chimney stack stripped of its character.



Walls, Railings and Gardens

The loss of front gardens to a sea of concrete and parked cars has a significant effect on the 'green' appearance of many streets. This is aggravated by the removal of walls or railings, which give continuity to a street scene, and their replacement with posts, chains, or fancy concrete blocks. Walls and railings less than 1 metre high can be removed without consent.



12. Winchester.

Signs and Advertisements

The appearance of shopfronts in historic towns is crucial to attracting trade and tourism. However, the much loved English high street is fast losing its character and Councils are powerless to prevent it. Signs which can be erected on an unlisted shop without consent include: huge glossy plastic facias, forecourt signs measuring 4.5sq.m. (7ft x 6ft approx.), bulky projecting signs and glossy 'Dutch' blinds with advertising. Too often, signs go way beyond what is necessary to advertise a business or product.

The draft General Planning Policy Guidance Note (PPG) on Outdoor Advertisement Control (1991) states that *"it is reasonable to expect more exacting standards of advertisement control would prevail in conservation areas"*. However, the Advertisement Regulations make no significant concessions to conservation areas (except illuminated adverts) and therefore Councils have no power to be more exacting.



13. (left) Sign clutter

14. (right) Thick render, replacement windows and missing garden fence ruin the appearance of this house in Beverley.

Painting and Render

Painting the external façade of a brick house or stone cottage is one of the cheapest, but most damaging of 'improvements' that can be made quite legally in a conservation area. Painting is usually irreversible, requires maintenance, can cause 'spalling' of brickwork, and can have an unbalancing effect on the appearance of unpainted neighbouring property. The careful cleaning of a façade and/or repointing is more cost effective and sympathetic.

In towns such as Scarborough or Brighton, the harmony of colour is important to the appearance of a group of painted buildings. The use of black paint, stripes, mock-Tudor painted beams, thick textured paints, 'pebble-dash' and render on traditional façades, totally obscures mouldings or stonework, yet is permitted on **any** unlisted building in conservation areas. The replacement of traditional roughcast with cement, or its removal, is another problem.



Pavement Damage

Pavements in historic towns are being destroyed by the utility companies, eg, gas, telephone, water and electricity companies. Emergency and other work can damage expensive natural flag stones. However, Circular 8/87 states that *"statutory undertakers ... should not leave an ugly scar behind them"*, but the careful lifting and re-laying of flags is not precisely controlled by law. In addition, highway authorities often rip-out cast iron street lamps and stone kerbs, thus diluting the quality of the streetscene. These issues raise strong public feeling.

Structures installed on the pavement by telephone or cable companies, eg, phone boxes and overhead wires, together with bus shelters, litter bins, seats and over-large and numerous traffic signs, clutter many historic street scenes, but are usually beyond the control of the planning authority. To this can be added the impact of large satellite-dishes, radio masts or aerials installed, by telecommunication operators (eg, car phone companies).

Architectural Details

"It is as if the owner of a great gallery were to slash or destroy a Renoir everyday - such destruction betrays our future".

John Major, Prime Minister, July 1991, (speaking on the environment).

The demolition or removal of details such as cornices, capital heads, porches, decorative brickwork, brick arches, canopies, bargeboards, tiled or stone paths and steps, can strip an attractive house of its decoration, individuality and authenticity. If these are replaced, it is often with completely inappropriate alternatives or unsympathetic materials, yet Councils cannot normally prevent this in conservation areas.

Legal Problems

"Effect is given to conservation area control in a remarkably complicated and awkward manner"

Encyclopaedia of Planning Law

To compound the visual problems outlined above, Councils face a number of legal problems which prevent them protecting conservation areas as they would like. For example, on buildings with flats or shops, any alteration which has a 'material affect on the external appearance of the building' requires permission. This can include replacement roofs, doors, windows, etc. In sharp contrast, similar alterations to private dwelling houses are free from planning control.

Therefore, on a pair of semi-detached houses, one half can be radically altered without permission, while on the identical other half, if converted into flats, the same alterations will require permission!



15. Houses in Hove badly affected by replacement windows, painting, concrete roof tiles and the removal of railings.

This anomaly has crucial repercussions. The precedent created by perfectly legal alterations deters local Councils (and Government Inspectors) from taking or upholding enforcement action on similar, unauthorised alterations in the same street.

These anomalies confuse the public and builders, who will copy alterations or materials used on neighbouring property assuming these to be 'approved'. This confusion leads to an epidemic of unauthorised alterations and a growing backlog of enforcement cases¹².

Legislation is vague and confusing to both planners and legal experts. For example, what constitutes a 'material alteration to the appearance of the building'? An Inspector has stated that new

concrete tiles on an unlisted building in a conservation area did not need consent, while, on another property in the same area, another Inspector required the removal of the same type of tile¹³. If a blind has writing on it, it is 'permitted', but without writing it requires permission!

Another legal problem arises where a Council takes action against advertisements installed without consent. The only remedy is prosecution, a draconian measure with a 6 month time limit. This is difficult to achieve if an appeal is involved, leaving a Council powerless to act. This is in contrast to the normal 4 years, within which enforcement action can be taken on most unauthorised development.

Councils are often criticised for not having the political will to take action to protect conservation areas, but it is the nature of the law which inhibits and restrains many Councils from adopting a positive approach.



16. 'Traditional Homes' magazine has a feature entitled "Mess of the Month". A reader sent in this picture of a property in West Hampstead. The alterations using glass bricks would be permitted on an unlisted house in a conservation area.

(12) See Appendix 1, (5).

(13) T/APP/F1420/A/86/058020/P2; & 85/038905/P2 (Hove).

Demolition

"The concept of demolition causes problems ... since it is not defined in the Planning Acts"

Butterworths Planning Law Service

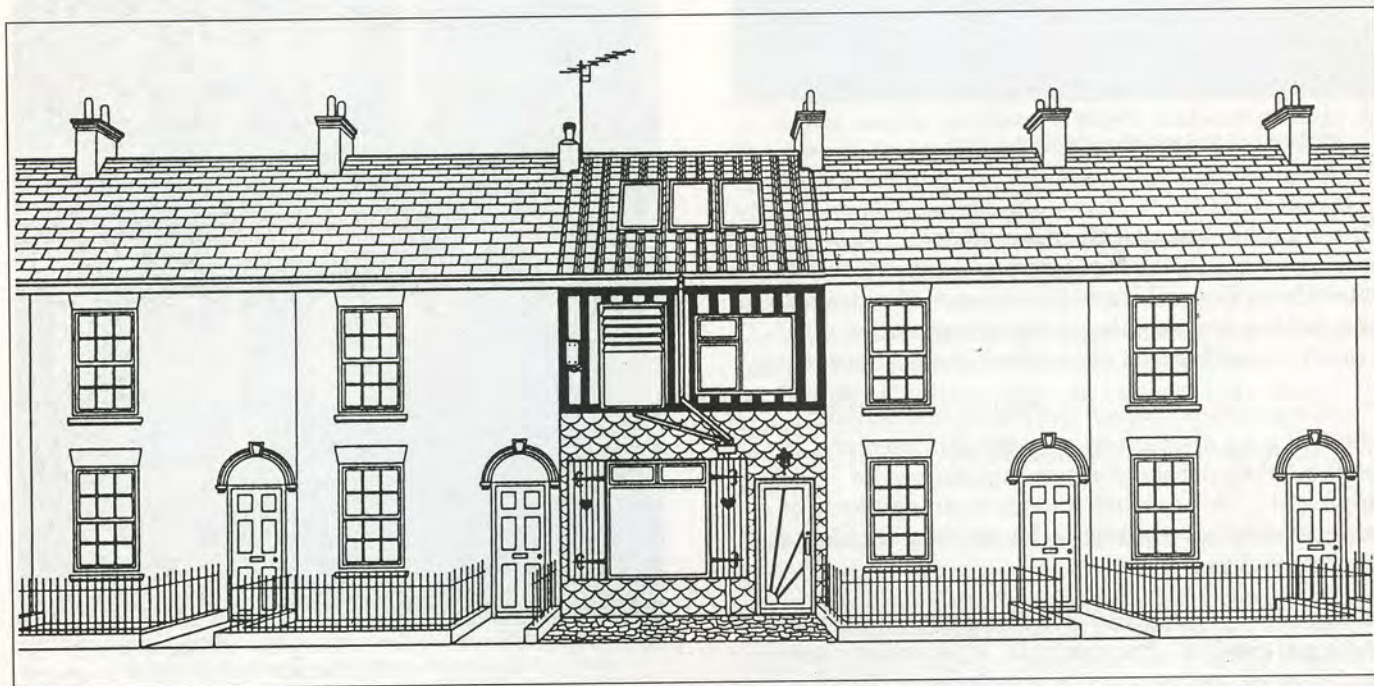
One of the main benefits of designating a conservation area is the control over the demolition (or demolition of part) of buildings. However, the definition of demolition is unclear. Small but important features such as mouldings or decorative metalwork can be demolished on unlisted buildings without consent. Some Councils take the view that the removal of windows or chimneys is 'part demolition' and requires consent, while others do not. There is a great deal of confusion. An article in the *Journal of Planning and Environmental Law* (March 1984) stated that this subject does "introduce an alarming element of subjectivity".

There is also conflict between whether works to some buildings should be considered 'demolition' or an 'alteration' which 'materially affects the external appearance of the building'¹⁴. This is a serious problem because unauthorised 'demolition' in a Conservation Area is a criminal offence but 'alteration' is not.

Damage to buildings through neglect or storm is not considered to be demolition. Councils cannot insist on reinstatement. The public cannot understand this lack of power particularly as it is in sharp contrast to the powers which a Council has to influence the details of planning applications in conservation areas.

Grants

A further cause for concern arises from Circular 8/87 which states that "permitted development should not be allowed to detract from the appearance of buildings which have been, or are being granted aided". English Heritage spend approximately £8m p.a. on 352 'town scheme' grants supplemented by local Council funds. Some of this money is spent on subsidising the reintroduction of architectural details which may have been removed under 'permitted development'. Conversely, windows or railings restored with grant-aid can be ripped out or replaced at a later date. **Government funds are therefore being used to make up for the weakness of Government legislation.**



17. A collection of alterations which would be permitted development on an unlisted house in a conservation area, involving: painted imitation beams, textured paint, doors and windows, shutters, roof lights, roof tiles, railings and pipes. (Illustration: Steve Collins).

(14) S74 Planning (Listed Buildings and Conservation Areas) Act 1990; JPL 1984 (144 - 247); R v N. Herefordshire D.C. 1981; Definition of 'Building' S336 Town and Country Planning Act 1990; Appeal in Brighton: APP/5202/F/77/22.

Permitted Destruction

Examples of alterations which are, in general, permitted development, on unlisted houses in conservation areas.



22. (below) Derbyshire: cottages built by Arkwright for his mill workers c.1780. Replacement windows (on left) installed 1989. Building listed 1990.

23. (bottom left) St. Albans: decorative brickwork painted over and replacement windows.

24. (bottom right) The Cotswolds.

18. & 19. (above) original and replacement doors in St. John's Street, Wirksworth, a town which has a national reputation for conservation and improvement work.

20. (top right) Bury St. Edmunds.

21. (below) In the heart of one of Brighton's finest conservation areas!



Permitted Destruction

Examples of alterations which are, in general, permitted development, on unlisted houses in conservation areas.



25. (above) Victorian cast iron railings removed.

26. (top right) Hove: this type of top floor extension would be permitted development (ie, because it is less than 50 cubic metres, and does not project forward) if carried out on a house in a conservation area. This example was built prior to designation.



27. (above) Crude replacement windows.

28. (left) York: painting, shutters, windows, doors and missing boundary walls.

29. (bottom left) Insensitive door replacement.

30. (below) Rare stone flags broken by a utility company.

31. (bottom) Attractive steps replaced with concrete and quarry tiles.



PART THREE : RECOMMENDATIONS

The recommendations are shown thus: ■

"I would like to see both the General Development Order and the Advertisement Regulations reviewed and tightened up in conservation areas and the limits of permitted development correspondingly reduced."

Peter Robshaw - Assistant Director (Policy), The Civic Trust, June 1991.

The Case for Change

The draft PPG1 on General Policy and Principles 1991 states that *"the planning system should be efficient, effective and simple in conception and operation"*. This report has shown that this is not the case with conservation areas and that a simplified system is needed.

A former Deputy Secretary at the DOE and a leading planning lawyer have both spoken of the 'discretionary' nature of legislation on conservation and design control; and the former has suggested a more 'regulatory' approach¹⁵. This report has shown that Councils need stronger legislation.

Others have made the point that *"the concept (of conservation areas) is sound but the implementation has a number of weaknesses which mean that it is not as effective in practice as it should be"*¹⁶. This report has shown that Councils lack the power to preserve or enhance conservation areas.

Speaking at the launch of the Centre for Historic Area Management and Practice in Durham in 1991 Dame Jennifer Jenkins, (former Chairman of the National Trust), stated that British conservation was too timid in comparison with European practice. She stated: **"conservation areas came late and have not proved firm enough for some of our historic town centres"** and **"Britain's record in protecting historic towns is in my view less satisfactory than that of France, Italy or Holland"**.

The report on historic towns by the Tourism Task Force set up by the Secretary of State for Employment (April 1991) states: *"It is the total historic character and setting of a town which provides the appeal ... This appeal would be lost if attractive townscapes were dramatically altered. The attention placed on the ambience of an historic town by visitors is important to local planning policies ... and encourages renovation of existing*

buildings". This reaffirms the need for stronger conservation areas, particularly in town centres, otherwise, in the longer term there is the prospect of well preserved cathedrals, castles or historic centre 'film sets' being surrounded by deteriorating, average townscape.

- **The Forum believe that there is a clear case in conservation areas for:**
- a) legislative reform by amendments to permitted development in the General Development Order¹⁷, and**
 - b) the clarification of, and changes to, Government advice and policy in Planning Policy Guidance Notes or Circulars.**



32. Chartres, France.

Education or Regulation?

Some Councils, SPAB, the Georgian Group, the Victorian Society and Traditional Homes magazine are all producing leaflets aimed at informing and educating the public on proper restoration. The English Heritage 'Framing Opinions' campaign expresses the hope that the public have an innate sympathy for the conservation cause and that awareness and not restrictions, will bring people around. This may be true, but the experience of local authorities is that no amount of education can reach all residents or builders in a conservation area

(15) D. Millichap, *Townscape in Trouble Seminar Papers, EHTF, 1991.* J. Delafons, *Town and Country Planning Summer School, 1991.*

(16) R. Suddards and D. Morton (JPL P1011 1991).

(17) *The General Development Order defines those classes of development which require planning permission.*

year in, year out. By the time educational measures take effect, the damage to our heritage will have been done. Council officers feel that they are involved in an unremitting, uphill struggle against muddled legislation, illegal development and residents misled by builders and salesmen ignorant of traditional building practice. It is felt that, as with traffic speed limits or the quality of sea water, there is a clear need for controls being imposed for the common good.

- **The Forum believes that additional controls in conservation areas will place a greater responsibility on Councils to publicise and inform the public about conservation. For maximum effect, education and regulation must operate together.**

Article 4 Directions

Current legislation does provide a solution to the problem of unsympathetic permitted development viz: the Article 4 Direction. On application to the Secretary of State, named classes of permitted development, eg, replacement windows can be brought under planning control. Although a "special need" must be shown, the Secretary of State is "favourably disposed" towards approving Directions (Circular 8/87), Lady Blatch (Government Spokesmen on Heritage in The House of Lords) has encouraged local authorities to make greater use of Directions to tackle specific threats in specific areas¹⁸.

However, in 1988/89 only 44% of Directions were approved in conservation areas (76% between 1987 - 1989). There are only 200 Article 4 Directions in English conservation areas and only 50% of historic towns have Directions¹⁹. The bureaucratic

difficulties of preparing these Directions are well known, including the varying approaches of DOE Regional Offices to approval, and the fear of compensation claims. Before a Direction is granted, a Council has to show that damage has, or will occur, and that there is both support and lack of public co-operation - by which time it is too late and precedents have been created²⁰.

These Directions are perceived to be the only solution to the care of conservation areas. 85% of Councils in historic towns hope to introduce Article 4 Directions in the near future¹⁹. However, they are intended for very limited situations. They were never intended to be a solution to a mass 'everyday' problem. If Article 4 Directions were used on the scale needed to solve the problems outlined in this report, the administration involved would soon overburden both Council and DOE offices.

In any event Article 4 Directions cannot control the problem of minor demolition.

The selective use of Article 4 Directions leads to first and second class conservation areas, with different levels of planning control. This is unacceptable because it would make the application of consistent policies more difficult and add to public confusion.

- **The Forum believes that, in the short term, Article 4 Directions should be used to tackle urgent problems but local Councils need guidance from the DOE in their use. In the long term, they are an inefficient and inferior remedy compared with the consistent application of an increased level of planning control for all conservation areas.**



33. Polperro, Cornwall: listed and unlisted buildings protected by an Article 4 Direction.

(18) Address at the 'Framing Opinions' Conference, April 1991.

(19) See Appendix 1, (9 & 10).

(20) Enforcement appeal allowed in an Article 4 area due to precedent of earlier similar development, Leicester APP/C/87/U2425/10.

Permitted Development Rights

"We fully agree that in general, much of the protection offered in conservation areas, is an illusion and it is high time the law was reviewed."

P. Venning, Secretary, The Society for the Protection of Ancient Buildings, Dec. 1991.

The removal of permitted development rights is an emotive issue. The current view of Government was summarised by Lady Blatch in April 1991²¹, ie, that we must be careful not to stifle the natural desire of people to restore and improve the surroundings in which they live. The approach Ministers clearly favour is through education and encouragement rather than detailed regulation, but specific changes in control are not ruled out. During the passage of the Planning and Compensation Bill 1990 when the reduction of permitted development rights for unlisted buildings in conservation areas was discussed, the Government saw real difficulties in defining a category or categories of development which are particularly significant in this context and needed to be subject to general control, bearing in mind that the definition of development itself is in terms of what 'materially affects the external appearance of a building'. The Government believe that there is a real danger that changes to the General Development Order would swamp planning authorities with minor applications and would often amount to unnecessary and bureaucratic intervention in the way in which householders look after their homes.

As with listed buildings, the designation of a conservation area does restrict individual freedom in the common interest. However, houses are usually

bought in conservation areas because of their character and residents know to expect extra controls. Residents have a responsibility not to alter their houses in a way which 'blights' neighbouring property which is being properly restored. Circular 8/87 recognises this: "*residents may welcome (additional) statutory control as a protection against less cooperative neighbours*".

The concern that additional planning controls in conservation areas will lead to additional bureaucracy is unfounded. Operating current legislation is complex and time consuming. For example, the DOE booklet which explains the Advertisement Regulations to the public is 30 pages long! A simplified and increased level of control in conservation areas, with few exceptions and anomalies would reduce bureaucracy.

The number of planning applications will not necessarily rise as a result of increased control. Those Councils with Article 4 Directions have experienced the effect of wider controls and have found that they do not swamp the system²².

As with listed buildings, tight restrictions over alterations would encourage proper restoration and suppress the demand for unsympathetic changes, because if 'like for like' replica materials are used, then no application is needed. Residents are pleased to avoid the alleged delays of submitting an application, especially if assisted by Council guidance on alternative materials and designs. Eventually, 'restoration' not 'alteration' becomes commonplace and the level of unauthorised development and enforcement workload can be expected to decrease not increase²².

34. *Semi-detached Victorian houses. The right hand property illustrates a collection of alterations which are permitted development on an unlisted house in a conservation area, involving: a porch, pebble dash, garden walls, blocked up windows, and the removal of mouldings, fascias, slates and decorative metalwork. (Illustration: Steve Collins).*



(21) Address at the 'Framing Opinions' Conference, April 1991.

(22) See Appendix 1, (11 - 13).

The report on Berwick upon Tweed by the Georgian Group states that "detailed guidelines and policies made available to the public would inevitably lessen the number of unsympathetic improvements and take the pressure off planning officers who do not have the time to check or supervise every building"²³.

By encouraging restoration in traditional materials, increased planning controls would help revive traditional building skills and employment prospects for the small builder. Also, as restoration becomes the norm, the dependency on grant-aid to rectify problems could decrease.

In 1988, the Government introduced additional controls in conservation areas to include: stone cladding, some satellite dishes and dormer windows. Local Councils have found that, rather than increase the number of applications, this has suppressed the demand for these changes. Control over non-traditional doors and windows, concrete tiles and painted façades would have a similar effect.

The case for the inclusion of doors, windows, roofs, garden walls and demolition of details etc., is the same, if not more compelling than for dormers.

■ **The Forum believes that the following classes of development should NOT be permitted development in conservation areas:**

- a) **The replacement, removal or insertion (with a different design or material) of external doors, windows and shutters.**
- b) **The erection of walls, railings and fences .**
- c) **Rooflights on any roofslope.**
- d) **Replacement roof coverings (in a different material or colour).**
- e) **The erection of a porch or extension and the provision within the curtilage of a hard surface, driveway or parking space, facing or abutting a highway.**
- f) **The painting of an unpainted exterior wall, or in a different colour, of any unlisted building (including textured paint).**
- g) **All forms of cladding and renders, including pebble dash.**
- h) **Demolition, to include the removal of architectural features, eg, chimney pots, mouldings, porches, railings, garden walls, cladding, tile hanging, and renders.**

The above suggestions would bring the permitted development rights of dwelling houses and other property (eg, flats) closer.

- **A preferable alternative, would be to exclude from the list of permitted development any development which would 'materially affect the external appearance' of a house in a conservation area, as it does to flats and other premises. This would give conservation areas a simple, strong and consistent level of planning control.**
- **The definition of 'demolition' and 'materially affects the external appearance of the building' must be clearly set out, perhaps through examples, in a Circular or PPG.**



35. Cheltenham: unlisted shopfronts.

The Advertisement Regulations

The Advertisement Regulations are drafted to enable businesses to promote their services effectively and without delay. Therefore, the Regulations contain the odd system of 'Deemed Consent' whereby many advertisements can be erected without making an application. However, if an advertisement is 'a substantial injury' to amenity or safety, then a Council can require its removal (subject to an appeal) through a 'Discontinuance Notice'. This unusual procedure is confusing for the public and Councils are reluctant to take such action against advertisements which are perfectly 'legal'.

Remedies to control this problem do exist such as a 'Regulation 7 Direction' and an 'Area of Special Advertisement Control'.

A Regulation 7 Direction can remove certain classes of advertisement from 'Deemed Consent' with the Secretary of States' approval. An Area of Special Advertisement Control is designed to restrict advertisements in, eg, very sensitive areas, and to prevent some classes of sign altogether. Both of these tools were designed to be used in special circumstances and although there is a body of opinion amongst Forum members for applying Areas of Special Advertisement Control measures to all

(23) Report No. 7 Berwick upon Tweed, The Georgian Group, September 1990.

conservation areas, the recommendations below cover the key issues.

- **The Forum believes that there should be an increased level of advertisement control for conservation areas.**
- **Forecourt signs less than 4.5 sq.m (approx. 7ft by 6ft) and fixed non-retractable blinds should not have Deemed Consent as at present. Facia signs and external signs on shops which can be erected with Deemed Consent should be limited in size to, for example, 10% of the external face of the shop, or for facias to a height of 0.6m and Express Consent needed for a change of material. Projecting signs with Deemed Consent should be limited to no more than 0.2 sq.m. and one per shop.**
- **Signs erected without Express Consent should be liable to enforcement action in the usual way.**
- **The Forum support the greater use of Regulation 7 Directions.**

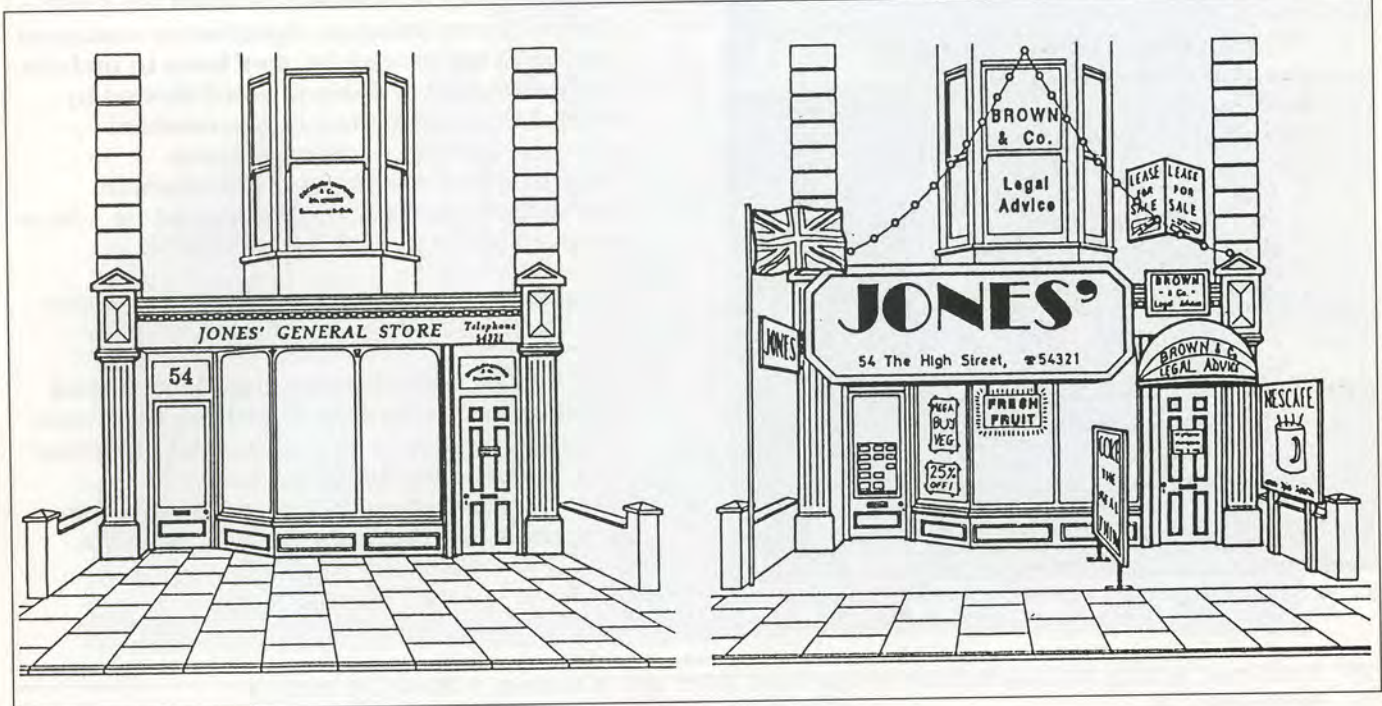
The above proposals would not prevent a shopkeeper or business erecting the normal range of signs quickly and without the need for consent. The proposals merely discourage obtrusive, overlarge, or unnecessary signs.

Pavement Powers

The problem of street clutter and a number of desirable solutions are highlighted in "London's Image" by Colin J. Davis (Sept. 1991), a study commissioned by the DOE. Changes to the activities of various authorities, utility companies and telecommunication operators are changing following the Street Works Act 1991 and the Draft PPG on Telecommunications (Sept. 1991).

- **The Forum believes that local Councils require greater powers to coordinate the various agencies who carry out work on pavements.**
- **Highway authorities, utility companies and others should be required to comply with policies on pavement surfaces where set out in local plans, or be required to agree a code of practice with the planning authority.**
- **28 or 40 days notice (except emergencies) should be given for the installation of public call boxes, telecommunication apparatus, bus shelters, streetlights and overhead wires, with a right of appeal should the planning authority refuse consent as a result of policies which are outlined in its local plan.**
- **The Department of Transport should revise the Traffic Signs Manual/Regulations and official advice to permit and encourage the flexible use of smaller, less obtrusive traffic signs as set out in the Davis report.**

36. A typical unlisted shopfront in a conservation area (left), and (right) badly affected by a collection of signs and advertisements which can be installed with the benefit of 'Deemed Consent', ie, without permission. (Illustration: Steve Collins).



Designation of Conservation Areas

This report has been concerned with development affecting conservation areas. It does not examine why or where these areas are designated nor the enhancement policies of Councils.

However, designation and the degree of extra planning control it brings, are inextricably linked.

There has been criticism that there are too many conservation areas with average architectural quality²⁴. However, these areas may be rare and cherished in one town but common in another and it is important that the scope for local choice is retained.

Many Councils do not follow designation with grant-aid or policies to preserve the character of an area or enhancement plans, as indicated by legislation²⁴. However, these plans or grant schemes can never overcome the problems caused by permitted development. The production of design guides or leaflets urging residents to restore houses or limit the size of shop fascias can be a waste of time, if this is undermined by permitted alterations.

If conservation areas contained stronger controls, then the production of design guides, and policy statements, would be justified, because they would have legal weight. Also, the reduction of permitted development rights would place a greater responsibility on Councils to inform the public of acceptable restoration practice.

If designation was accompanied by greater controls than exist at present, the effect and impact of designation would be greater, and Councils would be more selective with the number of designations.



37. 'Nora Batty's' house from 'Last of the Summer Wine' in Holmfirth. A tourist attraction, but note the replacement window bottom left.

There is no current requirement for public consultation in the designation of conservation areas, but a number of Councils designate conservation areas through the formal local plan procedures. However, designation may be needed to protect an area which is under threat without waiting for a Local Plan to be approved. Following the case of Cambridge City Council v Secretary of State and Milton Park Investments Ltd. in 1991 and the Planning and Compensation Act 1991, it is likely that there will be some degree of Planning control over demolition, on some properties, outside conservation areas. Therefore, unless other powers are available to control demolition, Councils must still be free to designate conservation areas as and when necessary, as provided for in current legislation.



38. Whitehaven: an attractive unlisted terrace.

- To complement additional planning control in conservation areas, the Forum would support consideration being given to a Public Notice procedure (as used for Traffic Orders) permitting an objection or comment period. This procedure may have to include the possibility of designation followed by formal ratification later - a procedure already used for protecting trees. Alternatively, the existing designation procedure could be complemented by a 28 or 40 day 'call in' period by the DOE²⁵.

The fundamental purpose and definition of conservation areas still requires clarification.

- The Forum seeks further clarification and guidance in a Circular or PPG on the duties of a local authority to pay 'special attention' and the need for development in conservation areas, to 'preserve or enhance', or a revision of this phrase in legislation.

(24) D. Millichap / M. Judd, *Townscape in Trouble Seminar Papers*, EHTF, 1991. R. Suddards, D. Morton, JPL P1011 1991.

(25) See Appendix 1, (8).

Best Practice: Conservation Area Management

The care of conservation areas does not depend solely on negative regulatory control. It requires a positive and comprehensive set of policies, implemented with enthusiasm. Many local authorities, civic societies and others have worked tirelessly since 1967 on design guides, grant aid, education and enhancement, but clearly, greater use of existing powers could be made. Councils need to work with the public and the building trade to put across the conservation message.

Development plans are to have primary importance and therefore, it is essential that local authorities include conservation policies in these plans and detailed design codes in other policy documents. However these plans may not be able to make positive statements on the need to retain traditional features, if the loss of these features continues to be permitted development.

Many Councils are facing up to the problem of conservation area care with an approach called 'conservation area management'. This approach is based on the assumption that the protection of conservation areas is undermined by weak legislation and is an uphill struggle which is bound to fail, unless a more aggressive and corporate attitude is adopted²⁶.

- **The Forum will prepare a report on best practice in the care and management of conservation areas which will expand the above issues.**

Conclusion

The recommendations in this report reflect public opinion; will arrest the deterioration of our historic areas; will encourage the restoration of buildings; promote craftsmanship; improve the quality of shopping streets and streamline the planning system.

Local authorities in the historic towns of England will continue to protect this nation's heritage in a positive and progressive manner, but they could fail in their duty unless the burden of inadequate legislation is lifted. This report represents a charter for the positive enhancement and protection of the nations historic areas for the 1990's. Given the proper tools for the task, the public expectation of a better environment will be fulfilled.

39. Illustration © Chris Smedley.



(26) Paper by M. Bacon, Centre for Historic Area Management and Practice, Durham, 1991.

Permitted Destruction

Further examples of alterations which are, in general, permitted development, on unlisted houses in conservation areas.



40. & 41. (above left) A splendid house in Derbyshire restored with grant-aid and (above middle) at a later date altered by a new owner with a plastic window.

42. (top right) Norwich.

43. (above right) Frome, Somerset.

44. (left) Beverley: four houses - four different window types.

45. (below left) Whitehaven, Cumbria: front gardens and walls lost to parking.

46. (below) Built in 1863, one half of this semi is well restored, on the other the original door, window, brick façade and garden wall are removed which would be permitted development on a house if inside a conservation area.



PART FOUR : SUMMARY

THE PROBLEM:

- There is an urgent problem of damage and decay affecting the image of historic towns.
- Contrary to popular belief, planning regulations permit the special character of historic streets to be diluted by the removal of traditional features.
- The appearance of shopping areas suffers from an excessive number of signs.
- Expenditure on historic building grants is undermined by damaging, yet permitted development.
- Legislation in conservation areas is weak, confusing and anomalous.

THE RECOMMENDATIONS:

CONSERVATION AREA LEGISLATION

- To encourage restoration in conservation areas, there should be planning control over:
 - 1) Replacement roof materials, rooflights, painting/rendering façades, cladding, external doors or windows, walls and railings.
 - 2) Porches, extensions and hardstandings fronting a highway.
 - 3) Demolition of architectural details.
- Preferably, all development which 'materially affects the external appearance of the building' should be subject to control.
- Development which is 'demolition' or 'materially affects the appearance of the building' should be defined.
- The size of advertisements permitted on shopfronts should be reduced.
- Measures to protect historic pavements are needed.

CONSERVATION AREAS

- The designation of a conservation area should be a matter for local choice but consideration could be given to a public consultation procedure.
- Clarification of the duties of local Council's in conservation areas is needed.

BEST PRACTICE

- Councils should adopt corporate conservation area management.
- Councils should make greater use of existing powers and set out conservation policies in local plans, or guidelines.

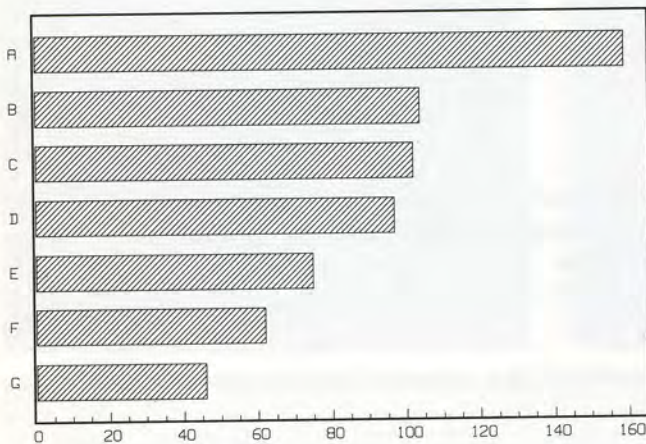
CONCLUSION:

- The recommendations in this report reflect public opinion; will arrest the deterioration of our historic areas; will encourage the restoration of buildings; promote craftsmanship; improve the quality of shopping streets and streamline the planning system.

APPENDIX ONE

A survey of facts, views and opinions of the 45 members of the English Historic Towns Forum was carried out in December 1991. The survey forms were completed by Council Officers. The conclusions were as follows:

1. 97% of Councils thought the character of their conservation areas was adversely affected by existing permitted development rights.
2. The following alterations to buildings were ranked for their adverse effect on unlisted buildings in conservation areas:



Key to graph:

Lower number = lesser impact on property

Higher number = greater impact on property

A = Replacement windows

B = Replacement doors

C = Roof materials

D = Removal of Garden walls/railings

E = Satellite Aerials

F = Demolition of Architectural Details

G = Surfacing of Front Gardens

(Painting of buildings, advertisements, porches, etc. were excluded from the survey).

3. 80% of Councils hope to designate more conservation areas in the next five years.
4. 91% of Councils consider that permitted development rights should be 'reduced', 9% 'simplified' and 0% 'remain unchanged'.
5. 74% of Councils cannot keep pace with unauthorised development in conservation areas.
6. 71% of Councils know there is public support for more planning controls in conservation areas, 24% 'don't know' and 5% 'no support'.

7. 71% of Councils know there is support from elected Councillors for more planning controls in conservation areas, 26% 'don't know' and 3% 'no support'.
8. If control over permitted development was strengthened, Councils consider that the designation of conservation areas should only be designated:
 - a) following a public notification/objection process 56%
 - b) in local plans 19%
 - c) subject to the approval of either DOE region, English Heritage, or County Council, etc. 11%
 - d) remain unchanged 14%
 (NB: Option of 'call in' procedure not included in survey).
9. 50% of Councils have Article 4 Directions covering some of the 7 alterations in question 2 (above).
10. 85% of Councils plan, or hope to introduce, (more) Article 4 Directions in the near future.
11. 54% of Councils with Article 4 Directions do not think that they have led to an increase in planning applications.
12. 83% of Councils with Article 4 Directions do not think that they have led to the need for more staff or other resources.
13. 50% of Councils with Article 4 Directions do not think that they have led to an increased enforcement workload.
14. 50% of Councils have an 'Area of Special Advertisement Control'.
15. 76% of Councils state that the Advertisement Regulations do not give sufficient powers to protect the appearance of shopping streets in conservation areas.
16. 56% of Councils have taken Advertisement Discontinuance action in the last five years.
17. 47% of Councils have prepared design guides on most/all of the 7 alterations listed in question 2 (above).
18. One Council has a 'Regulation 7 Direction' controlling advertisements.

CONSULTATIONS AND CREDITS

This report was prepared following consultation with representatives of:

The Association of Conservation officers	The Georgian Group
The Association of District Councils	The National Trust
The Building Conservation Trust	The Royal Institute of British Architects
The Centre for Historic Area Management and Practice (CHAMPS)	The Royal Institution of Chartered Surveyors
The Civic Trust	The Royal Town Planning Institute
The District Planning Officers Society	SAVE
English Heritage	The Society for the Protection of Ancient Buildings
The English Tourist Board	The Victorian Society

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