

Georgian Leaflet No. 10

TOWN AND COUNTRY PLANNING  
ACT, 1947

— AND —

BUILDINGS OF ARCHITECTURAL  
OR HISTORIC INTEREST

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*“ Whatever is good of its kind ought to be preserved in respect of antiquity as well as our present advantage; for destruction can be profitable to no one but such as live by it.”*

Hawksmoor, 1714.



## TOWN AND COUNTRY PLANNING ACT, 1947

So far as it is concerned with the protection of buildings of architectural or historic interest, the Town and Country Planning Act, 1947 is in the main a consolidating measure with Sections 29, 30 and 41 replacing Section 17 of the 1932 Act and Sections 42 and 43 of the 1944 Act which are repealed. But it also introduces certain administrative improvements. Whereas under the 1932 Act a "Section 17 Order", now to be known as a "Building Preservation Order", could only be made by the local authority for the area in which the building was situated, under the 1947 Act it may be made in the first instance *either* by the local planning authority (i.e. the county or county borough council) *or* the council of the county district (i.e. the urban district council), the rural district council, or the borough council), *see* Section 29 (8); and, in case of need, by the Minister himself, *see* Section 100 (2). Again, under the earlier Acts, a person who carried out works to a protected or to a listed building contrary to the provisions of the Acts could certainly be fined, but there was no power to require reinstatement: this is remedied by Sections 29 (2) and 30 (8) of the 1947 Act.

A far more important and far-reaching change is the virtual removal of the bugbear of compensation. Hitherto when a Building Preservation Order has been made, the owner of the building has been entitled under Sections 18 and 20 of the 1932 Act to claim compensation for any diminution in the value of his property by reason of the Order. In short; the price of preserving a building of architectural or historic interest was the payment to the owner of its development value. Under the provisions of the 1947 Act, development values are taken over by the State so that "there is no question in future of a planning authority paying for their loss": the fate of the building will be decided on its merits and will not be dictated by the necessity of avoiding compensation.

Accordingly, the present scheme for protecting buildings of architectural or historic interest from damaging alteration or destruction is in outline as follows:

First, under Section 30 (1) and (5) of the 1947 Act, the Minister of Town and Country Planning is charged with the preparation of lists of these buildings, after consulting with "such persons or bodies of persons as appear to him appropriate as having special knowledge of or interest in" such buildings. Thus at last the architectural wealth of England and Wales (the case of Scotland is covered by another Act) is being catalogued for all to see, so that the Nation may no longer be covertly robbed of its heritage of National Buildings.

Secondly, by Section 30 (6) no one may demolish any listed building or alter or extend it in such a way as seriously to affect its character unless at least two months before the work is set on



foot notice in writing has been given to the local planning authority, which must then send a copy of the notice to the Minister, to the local council (where this is not itself the local planning authority) and to such other persons or bodies of persons (e.g., Amenity Societies) as the Minister may specify. It follows that listed buildings in private ownership are *not* definitely preserved; but that they are protected from demolition or damaging alteration without warning. The public, in short, is given an opportunity of considering each case on its merits and of intervening, if necessary, to prevent the loss of a national asset.

Thirdly, by Section 29 (1) and (8) where it appears expedient to make provision for the preservation of any building of special architectural or historic interest, whether at the behest of the owner or in order to forestall his plans to damage or destroy it, the council of the county district in which the building is situated *or* the local planning authority may make the building subject to a Building Preservation Order in which case the consent of the local planning authority must be obtained to the execution of any works which will affect its character. By Section 29 (3) such an Order does not take effect until confirmed by the Minister, who also, in case of defaults by the local council and local planning authority, by Section 100 (2) is given power to direct that an Order be made.

Fourthly, by Section 41 (1), where it appears to the Minister that reasonable steps are not being taken to keep a building which is subject to a Building Preservation Order in a proper state of repair, he may authorise the council of the county or county borough or county district in which the building is situated to acquire it compulsorily together with any land needed for its proper control or management or for the protection of its amenities. By Section 41 (2) a similar power of compulsory purchase is given to the Minister of Works.

Lastly, by the unrepealed Section 19 (8) of the 1944 Act, in dealing with land acquired under the Act, local planning authorities are required to have regard to "the desirability of preserving features of special architectural or historic interest" and, in particular, listed buildings. And, before giving his consent to any disposal or appropriation of any such land, the Minister is required to satisfy himself *either* that listed buildings on the same will be effectively preserved *or* that there is good reason for not doing this.

*January, 1948.*

NOTE: For a fuller analysis of the Town and Country Planning Act, 1947, see Georgian Pamphlet No. 1 (Revised edition) *Protection by Law of National Monuments and National Buildings* (price 1s.).