



ENGLISH HERITAGE

Fact Sheet

Certificate of Immunity (COI)

Introduction

This note describes what a Certificate of Immunity (COI) from listing is, and why it is issued. It also sets out the circumstances in which an application for a certificate might be made, and explains how to apply for one.

What is a Certificate of Immunity?

A certificate is a legal guarantee that the building or buildings named in it will not be statutorily listed as being of special architectural or historic interest during the five years from the date on which the certificate is signed. The issue of a certificate also prevents the local planning authority from serving a Building Preservation Notice (BPN) on the property during this period. (A BPN is a form of temporary listing served by the local planning authority under section 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990). The statutory provisions relating to COIs are laid down in section 6 of the above mentioned Act.

Why is a Certificate granted?

COIs are a useful tool where development is intended on a site. They give greater certainty to owners and/or developers proposing works which will affect buildings that may be eligible for listing. It is fully recognised that listing a building at a late stage in the preparations of planning proposals can cause delay and other hardships to owners, and even the abandonment of redevelopment schemes. The COI procedure was introduced to enable owners and developers to seek an early resolution to uncertainties over possible listings. By applying for a certificate they can establish either that they have five years to carry out their development without the possibility of listing interrupting their programme, or that if the buildings gets listed as part of the COI process, they must seek listed building consent (LBC) for the alteration, extension or demolition of the building. If a COI is not issued, then a building will normally be added to the statutory list.

Should I apply for a Certificate?

Applying for a certificate is primarily a way of ending uncertainty about whether a building is to be listed or not, so applicants must accept that the building may be listed as a result. It may be worthwhile applying for a certificate if the building appears to come within the listing criteria and listing seems distinctly possible, or there is reason to

think that the treatment of the existing building under the redevelopment proposals for the site will be controversial. The local planning authority will sometimes know whether the Secretary of State has previously considered listing the building. It should not be assumed, however, that a COI will necessarily be granted in every instance where the Secretary of State has refused a previous request to list a building, even if the earlier decision was very recent. The Secretary of State's refusal of a request to list a building means that on the evidence available the building is not considered to fulfil the criteria for listing at that time. Because a certificate gives a guarantee against listing for five years, an application is only decided after a very thorough inspection of the building in question, which may reveal features not known about at the time of the earlier decision. Other new evidence may also have come to light in the meantime. The criteria for listing are available from the English Heritage website.

Who can apply for a Certificate of Immunity?

Anyone can apply, whether or not they own the building in question, provided that planning permission is being sought or has been granted in respect of the building or buildings.

How can I apply for a Certificate of Immunity?

Applications for a COI should be submitted to English Heritage via the online application form. A copy of the planning permission in respect of the building, or a current planning application (current means that the planning application is un-determined at the date of the application for a certificate or that an appeal in respect of it has been lodged) must be uploaded to the online application form. It does not matter whether these are in outline or detailed, or whether the planning application has been made by, or permission granted to, someone other than the applicant for a certificate. If the necessary planning permission has been granted by virtue of Article 3 and Schedule 2 of the Town and Country Planning General Development Order 1988, this should be clearly stated in your application.

Applicants will also need to confirm that the application for a certificate and all the documents and photographs supporting it will be copied to the relevant local planning authority. The application should be supported by as much information as possible, including photographs of the building. The online application form and guidance are available on the English Heritage website.

What happens next?

English Heritage, the government's statutory adviser on the historic environment, will carry out a full internal and external inspection of the building and make a recommendation on whether it merits listing. The process followed is the same as that for listing which is set out in the guidance notes. If the Secretary of State is satisfied that the building is not of special architectural or historic interest, the certificate is granted. In cases where the application is refused, the building is normally listed. Applications for a COI can be withdrawn at any time that the applicant wishes: a letter to English Heritage is all that is required.

A certificate takes the form of a letter to the applicant from English Heritage, sent on behalf of the Secretary of State. English Heritage will notify the County Council (in London, the London Division of English Heritage) and the owner (if different from the applicant) when a certificate is issued. A COI entry also appears on the Heritage List for England. It is removed upon expiry of the COI.

The National Heritage List for England is an online database, which brings together all nationally designated heritage assets in one place. For listed buildings the Heritage List is the statutory record. COIs are added for information, as obviously the building or buildings are not listed.

Additional information

Certificates do not secure immunity from the designation of a conservation area. Accordingly, even if a certificate is granted, consent will still be required for demolition if the building is in a conservation area (section 74 of the 1990 Act). Where a certificate has already been issued it is possible to apply for the renewal of that certificate before the expiry of the five years of the original certificate, although a decision cannot be taken until after the expiry date of the original certificate has been reached. However, any such application will be subject to exactly the same procedure and considerations as a new application. It cannot be assumed that a certificate will be re-issued automatically in such cases since the circumstances may have changed since the issue of the original certificate, particularly if new evidence about the building has come to light. 3

It is suggested that the existence of a certificate and its expiry date should be included in the information relating to planning matters disclosed in response to enquiries by prospective purchasers of land.

There is no right of review in a COI case. In order for a COI to be revoked it would need to be legally overturned.

Contact details

The online application form and guidance are available on the English Heritage website. www.english-heritage.org.uk

If you would like this document in a different format, please contact
our Customer Services department:
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