REMIT OF THE HISTORIC BUILDINGS COMMITTEE

To identify and research into areas of potential historic or architectural interest together with any buildings and other structures thereon and to act as advisory members of the Planning & Building Committee when the future of such areas, buildings and other structures is under discussion.

To facilitate work relating to the preservation of buildings and other structures of historic or architectural interest and to administer Government grant funding to promote such preservation.

As agreed at the Historic Building Committee on 8 August 2003

The Planning Ordinance 1991

PART V
ADDITIONAL CONTROL IN RESPECT OF BUILDINGS OF ARCHITECTURAL OR HISTORIC INTEREST

62 Interpretation of this Part

In this Part, unless the context otherwise requires-

"building" includes any structure or erection and includes plant or machinery whether within a building or not and includes a group of buildings and where a building (as previously defined) is a relevant building includes the curtilage of that building if and to the extent that that curtilage is included in an order under section 65 or in a prohibition notice under section 66;

"Committee" in sections 64 to 72 means the Committee composed as required by section 63(2);

"designated building" means a building designated by the Governor by order under section 65; and

"relevant building" has the meaning assigned by section 69(4).

63 Composition and quorum of Committee for the purposes of this Part

(1) The functions of the Committee under sections 64 to 72 may be exercised only if the Committee, at any time it decides to exercise that function, is composed of-

(a) such persons as constitute the Committee for the purposes of the antecedent provisions of this Ordinance; and
(b) at least three persons appointed under subsection (2) and there are present during consideration of the matter by the Committee-

(i) those persons as apart from this section would under section 8 be sufficient to constitute a quorum of the Committee; and
(ii) at least two of the persons appointed under subsection (2).

(2) The Governor may appoint not fewer than three and not more than five persons appearing to him to have a special knowledge of or interest in buildings of architectural or historic interest to be additional members of the Committee for the purposes of its functions under sections 64 to 72 and of sections 93, 94, 97(1) and 99. A public officer is not disqualified from appointment under this subsection.

(3) The provisions of sections 5(5) to 5(9), 6, 7, 8, 9, 11 and 12 shall apply with all necessary modifications to the Committee composed as required by this section, to the members of the Committee and to its procedure when exercising any functions under this Part.

The Functions of the Committee

Building designation

64 Recommendation to the Governor to designate a building under section 65

The Committee may recommend to the Governor that a building be designated under section 65(1) and may do so-
(a) of its own motion; or
(b) on referral by the Governor to it of the question for its consideration.

(2) The Committee may, before making any recommendation under subsection

(1), consult with such other persons or bodies of persons as appear to it to be appropriate as having a special interest in buildings of architectural or historic interest.

65 Designation of buildings of architectural or historic interest

(1) Subject to subsection (2), the Governor may by order made under this subsection designate any building as being of special architectural or historic interest.

(2) The Governor shall not make an order under subsection (1) unless-

(a) he has first given an opportunity to the owner and any occupier of the building to make written representations to him in the matter; and
(b) he acts on the recommendation of or after consultation with the Committee.

(3) Subsection (2) of section 64 applies with all necessary modifications, in respect of the Governor's exercise of his powers under subsection (1) of this section as it does in respect of the Committee's exercise of its functions under subsection (1) of that section.

(4) When an order is made in respect of a building under subsection (1) of this section any planning permission previously granted for the demolition, alteration or extension of or execution of works to the building is thereby revoked and Schedule 3 shall apply to compensation in respect of such revocation.

(5) Subject to section 66(3), when a designation order under this section applies, or a prohibition notice is in force under section 66, in respect of a building, no provision of any development order shall have effect so far as concerns that building, which would otherwise permit works of any kind to be carried out without the specific grant of planning permission in respect of those works.

66 Prohibition notice

(1) The Governor may, if he believes that a building may be of special architectural or historic interest and that it may be appropriate for that building to be designated by order under section 65(1), but it has not already been designated under that provision, by notice ("a prohibition notice") to the owners and occupiers of that building prohibit the carrying out of any works of demolition, alteration, repair or maintenance to that building without the consent in writing of the Governor.

(2) A prohibition notice shall ordinarily be served upon the owners and occupiers of the building but is sufficiently served upon them if it is affixed to a prominent part of the building the subject of the notice.

(3) A prohibition notice shall have the effect of suspending while it continues in force any planning permission previously granted under any preceding provision of this Ordinance or deemed to be granted under a development order save insofar as the Governor, pursuant to subsection (4), permits to be carried out any works or options permitted thereby which are necessary to render the building safe or wind and water tight.

(4) The Governor by writing under his hand may permit to be carried out any works or operations reasonably necessary to render the building safe or wind and water tight but any such consent shall not operate so as to

render unnecessary any planning permission which would otherwise be required under Part IV of this Ordinance.

(5) A prohibition notice ceases to have effect-

(a) when it is revoked by notice by the Governor served upon the persons on whom the prohibition notice was served; or
(b) if a designation order is made in respect of the building; or
(c) on the expiration of six months from the date on which it was made, whichever shall first occur.

(6) In this section "owner" and "occupier" have the same meaning as they have under section 32.

67 Supplementary to sections 65 and 66

(1) In considering whether to exercise any power he has under section 65(1) or section 66(1), the Governor may take into account not only the building itself but also-

(a) any way in which its exterior contributes to the architectural or historic interest of any group of buildings of which it forms a part;
(b) the desirability of preserving, on the ground of its architectural or historic interest, any feature of the building consisting of a man-made object or structure or forming part of the land comprised within the curtilage of the building.

(2) In considering any recommendation to the Governor under section 64(1) the Committee shall have regard to the same matters as are mentioned in paragraphs (a) and (b) of subsection (1) of this section.

Consents for works

68 Consent for works to relevant buildings

(1) Subject to this Part of this Ordinance, if a person executes or causes to be executed any works for the demolition of a designated building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, and the works are not authorized in accordance with section 66(4) or subsection (2) or (4) of this section, he commits an offence.

(2) Works for the demolition of a designated building or for its alteration or extension (including alteration or extension of its curtilage insofar as that curtilage is included in an order under section 65) are authorized if they are permitted under the terms of a planning permission granted under this Ordinance after the designation of the building and are carried out in

accordance with all conditions, restrictions and limitations subject to which that permission was granted.

(3) Subsections (1) and (2) apply to a building the subject of a prohibition notice and its curtilage with the substitution for the words "designated building" of the words "building the subject of a prohibition notice" and for the words "after the designation of the building" of the words "after the making of the prohibition order" wherever occurring in those subsections.

(4) The Planning Officer may, on the application of any person appearing to him to have a sufficient interest in the building to which subsection (1) or (3) applies, grant consent for the carrying out of any works not requiring planning permission and not likely, in his opinion-

(a) to affect the exterior of the building; or
(b) to affect any man-made feature of the building having architectural or historic interest, and may impose such conditions on the grant of any such consent as appear to him to be necessary and works carried out under and in accordance with the conditions of any such consent are authorized for the purposes of subsection (1).

(5) Notwithstanding the terms of any development order nothing in any such order authorizes the carrying out of any works to or demolition of a building to which this section relates contrary to the provisions of subsection (1).

(6) Without prejudice to subsection (1) and subject to subsection (8), a person commits an offence who carries out or causes to be carried out works to a building the subject of a designation order or prohibition notice-

(a) without planning permission in that behalf granted after the date of the designation order or prohibition notice or consent granted under section 66(4) or under subsection (2) or (4) of this section; or
(b) otherwise than in compliance with any conditions imposed on the grant of any such permission or consent.

(7) A person convicted of an offence under this section is liable to imprisonment for a term not exceeding twelve months or to a fine not exceeding the maximum of level 6 on the standard scale or to both such imprisonment and fine.

(8) In proceedings for an offence under this section it is a defence to prove the following matters-

(a) that works to the building were urgently necessary in the interests of safety or health or for the preservation of the building; and

(b) that it was not practicable to secure safety or health or, as the case may be, the preservation of the building, by works of repair or works for affording temporary support or shelter;
(c) that the works carried out were limited to the minimum measures immediately necessary; and
(d) that notice in writing justifying in detail the carrying out of works was given to the Committee as soon as reasonably practicable.

(9) Demolition of a relevant building shall be deemed for the purposes of Part IV of this Ordinance to constitute development conflicting with the development plan and section 37 (planning permission only to be granted by the Governor) shall apply accordingly to an application for planning permission for such demolition and without prejudice to the foregoing the Governor shall and may exercise in relation to such an application all the powers of the Committee under section 69.

69 Conditions which may be attached to consents

(1) In relation to a relevant building the conditions subject to which planning permission or consent may be granted under section 66(4) or section 68(2) or (4) (for the purposes of this section called, in every case, "consent") include conditions with respect to-

(a) the preservation of particular features of the building, either as part of it or after severance therefrom;
(b) the making good, after the works are completed, of any damage caused to the building by the works;
(c) the reconstruction of the building or any part of it following the execution of any works, with the use of original materials so far as practicable and with such alterations of the interior of the building as may be specified in the conditions

(2) Consent may be granted subject to a condition reserving specified details of the works (whether or not set out in the application) for subsequent approval by the Committee or, in the case of consent granted by the Governor, specifying whether the reserved details are to be approved by the Committee or by him.

(3) Consent for the demolition of a relevant building may be granted.

(4) In this section-

"relevant building" means a building which is a designated building or the subject of a prohibition notice.

Miscellaneous

70 Dangerous structure orders in respect of relevant buildings

Before taking any steps under any applicable enactment with a view to the making of a dangerous structure order in respect of a relevant building the Committee shall consider whether they should instead recommend the Governor to exercise his powers under section 103 (power to carry out urgent works for preservation of building).

71 Damage to relevant buildings

(1) If any person who, but for this section, would be entitled to do so, does or permits the doing of any act which causes or is likely to result in damage to a relevant building or building (other than an act for the execution of excepted works) and he does or permits it with the intention of causing such damage, he commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) In subsection (1) of this section "excepted works" means works authorized pursuant to a consent.

(3) Where a person convicted of an offence under this section fails to take reasonable steps as may be necessary to prevent any further damage resulting from the offence, he commits a further offence and is liable on summary conviction to a fine not exceeding £100 for each day on which the failure continues.

(4) In this section "consent" has the same meaning as it has under section 69(4).

72 Application for variation or discharge of conditions and appeals

(1) Any person interested in a relevant building in respect of which a consent (within the meaning given by section 69(4)) has been granted subject to conditions may apply to the Committee for variation or discharge of those conditions, where the consent was granted by the Committee or by the Planning Officer, or to the Governor, where the consent was granted by him.

(2) On such an application the Committee or, as the case may be, the Governor (in the case of a consent granted by him) may vary or discharge the conditions attached to the consent and may add new conditions consequential upon such variation or discharge, as it or he thinks fit.

(3) Sections 47 and 47A apply in relation to decisions of the Committee that relate to relevant buildings.

[S. 20/Ord. 9/14/w.e.f. 13/11/14.]