

Planning and Demolition

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Be careful of demolition!

- Empty building rates
- New chapter in planning history



Structure of Talk

- Law and Policy at Present
- Proposed Changes

Image..



**BUILDINGS
CONSERVATION AREAS
SCHEDULED MONUMENTS**

Listed Buildings

- LBC required to demolish
- What is covered by the listing
- Substantial fines
- Tests of Policy BH10 of PPS6
- Appeals

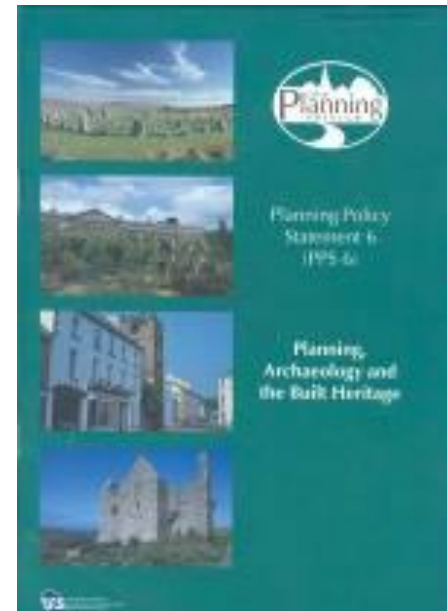
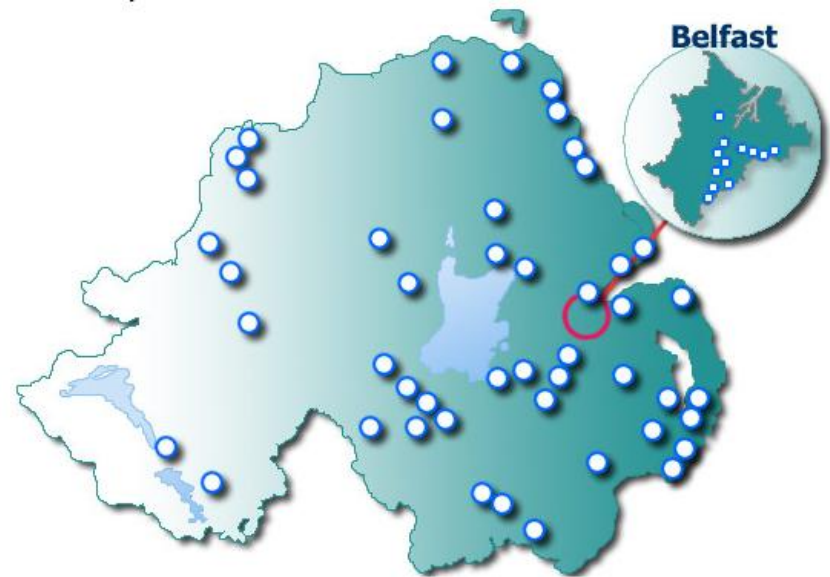
Portrush Town Hall Appeal 1999/A248

- Condition of building
- Evidence of appellant on costs of repair and alternative use
- Evidence on efforts made to retain building
- Merits of alternative proposals for the site
- Appeal dismissed



Conservation Areas

- 8500 Conservation Areas in N Ireland
- LBC required to demolish
- Statutory test of preserve or enhance
- Test of BH14 of PPS6
- Partial demolition?





0 40 80 Metres

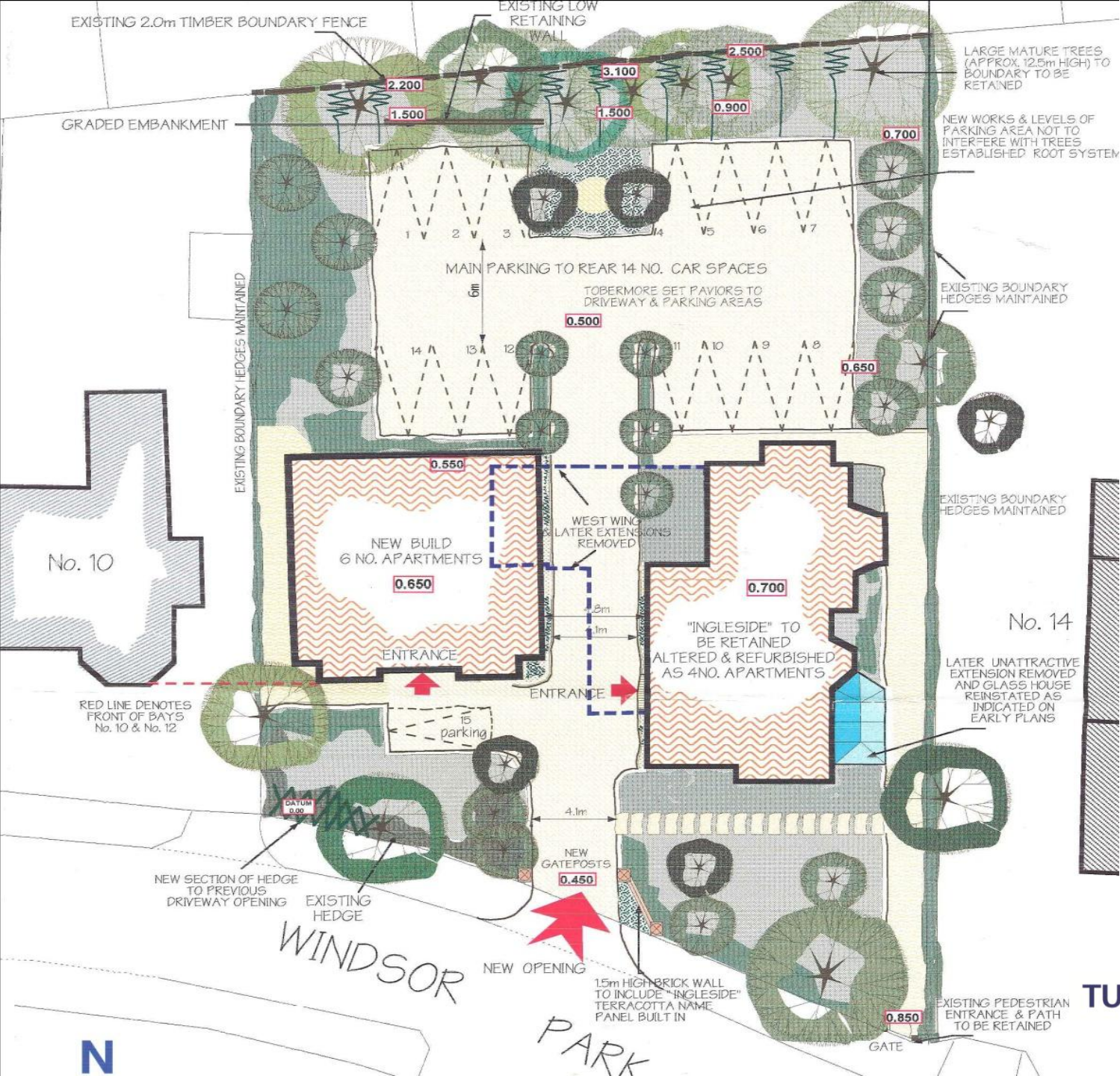
Conservation Area

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CA Appeal Case

2000/A048 and 2000/A160

- Whether combined effect of demolition/ new building either makes a contribution to the character of the CA or leaves it unharmed
- The character and appearance of the CA as a whole is what the proposal must be judged against.



Shimizu (UK) Ltd v Westminster (1997)

Partial demolition may not be demolition but an alteration

- *“demolition” and “alteration” mutually exclusive concepts. In relation to a building, demolition meant its total destruction or works which are so substantial as to amount to a clearing of the site for redevelopment. Whereas works which involve the demolition of only part of the listed structure would amount to an “alteration”.*
- Matter of fact in each case and applies to LBs and CAs
- Test for an alteration to a LB – effect on character

Appeal Case

2001/A226 Adelaide Park

- Scale and ancillary nature of rear return
- Building functioned as one building
- **No Consent** required as not demolition

Scheduled Monuments

- 1800 scheduled monuments in N Ireland
- Historic Monuments and Archaeological Objects (NI) Order
- SM Consent required for demolition or alteration and for other works
- Historic Monuments (Class Consents) Order (NI) 2001 grants consent to certain works including works urgently required for health and safety.



CURRENT LAW & POLICY FOR THE REST

Areas of Townscape Character - Current

- PPS6 and PPS6 Addendum
- Departmental Direction 2005
- Demolition in ATCs/AVCs requires planning permission as 'development'
- Applies to draft ATCs/AVCs
- Test of PPS6 addendum - No material contribution to the character of the area

The Rest

- Other demolition (although an engineering operation) lies outside the meaning of development according to the current 2009 Departmental Direction
- Within ATCs/AVCs demolition requires planning permission except for
 - small buildings less than 115 cu m;
 - a gate, wall, fence or other means of enclosure less than 1m high adjacent to a road or public open space of less than 2 m high elsewhere;
 - or a building last used for agriculture or forestry;
 - or a building subject to an enforcement notice requiring demolition;
 - or a building required to be demolished under Art 35 or vested under Art 63 or 48 or 87 of the Housing Order.

Save Britain's Heritage Case 2011 CoA

- Concluded that demolition of a building could amount to development and require planning permission if it were in itself a project that requires an EIA
- Therefore 2009 Direction exclusion most demolition from the meaning of development unlawful



PROPOSED CHANGES

The Proposed Direction

- Demolition of all buildings included within the 'definition of development' and theoretically requires planning permission
- except.....



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The Proposed Direction

Except:

(a) small buildings of less than 115 cu m

(b) gates, walls, fences or other means of enclosure

But within ATCs and AVCs gates, walls, fences or other means of enclosure over 1m in height adjacent to a road or public open space or 2m in height elsewhere are 'development' and require permission

The Proposed GDO Amendment

- The proposed revised GDO (Part XX) will give PD rights to all demolition that is not EIA development in its own right and is not within an ATC/AVC. (This EIA issue is however not clearly stated!)
- PD rights also given within an ATC/AVC where the demolition is required under the Housing Order 1981 Art 35 and 63 or is included within a Vesting Order under Arts 48 or 87

SOME THOUGHTS

DEMOLITION : EIA ISSUES

1. Environmental Impact Assessment – Potential Effects / Screening Considerations

- Construction Phase (temporary effects of demolition works)
- Usual construction impacts – construction management issues
- Protected species – especially bats
- Amenity – noise, disturbance, visual, traffic, vibration, socio-economic etc.
- Pollution Control – air quality, ground contamination, water protection, human health, etc.

Image..

DEMOLITION : EIA ISSUES

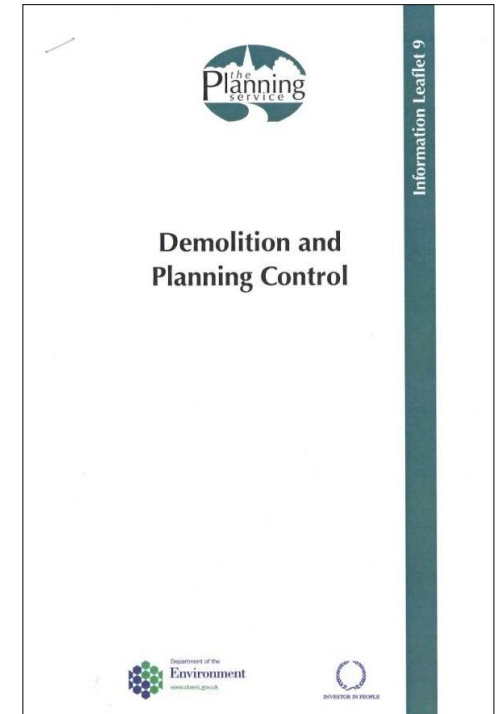
- **Residual Effects (permanent effects of demolition)**

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Effect of the loss of a building on townscape, visual amenity, cultural importance, heritage, socio-economic matters etc

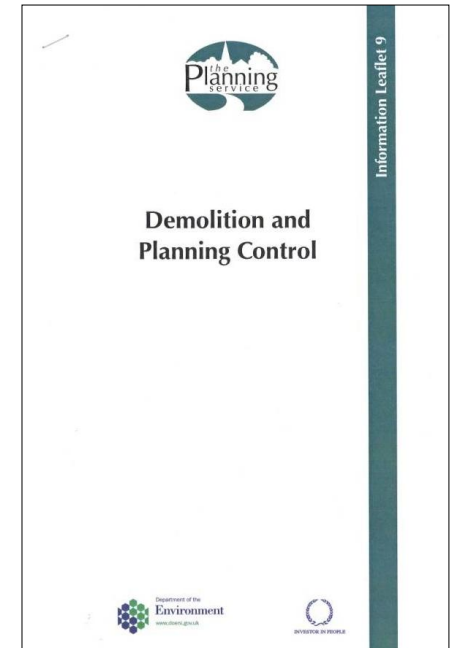
Issues

- Include demolition in description of development for redevelopment site
- Does demolition of LB and in CA now require planning permission as well as other consents as not PD?
- Screening for EIA where only demolition proposed



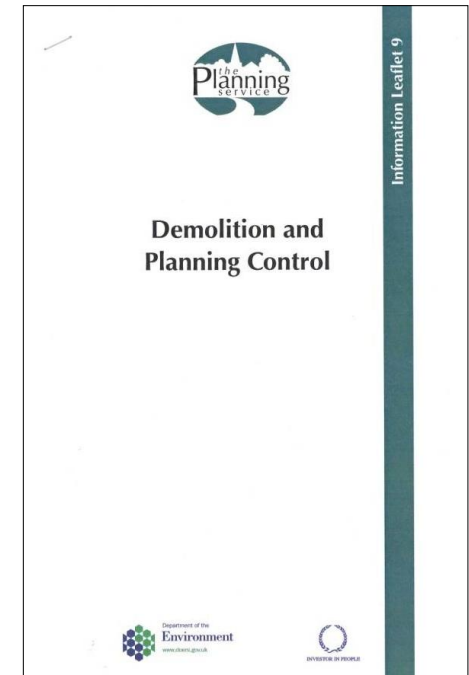
Issues

- Dangerous structures demolition required by Councils – not mentioned in document
- Need for new Guidance
- Why so complicated – no Direction needed, just PD
- No prior approval process when exercising PD rights (as in England)



Issues

- Why so complicated – no Direction needed, just PD
- No prior approval process when exercising PD rights (as in England)
- enforcement notice demolition only needs planning permission where it involves EIA
- Enforcement notice demolition not granted PD for ATCs/AVCs – intentional?



Developer/landowners perspective

- Concern about existing planning approvals and effect on value if demolition now needs EIA when new permission applied for?

Image..

- If demolition 'development' then can demolition be commenced prior to pre commencement conditions on the redevelopment proposals?
- A step too far to require planning permission to demolish some areas of enclosure in ATCs/AVCs

Developer/landowners perspective

- Urgent need for new guidance as all very confusing
- In ATCs/AVCs - is it right to exclude demolition under the Housing Order?
- In ATCs/AVCs what about dangerous structures – should they be exempt as above?
- In ATCs/AVCs have we got the walls, gates, fences, enclosures restrictions right?

Heritage perspective

- Is 115 cu m the right cut off point for demolition to be development in general cases? Its 50 cu m in England
-
- Should all means of enclosure in ATCs/AVCs be subject to planning approval, not just taller ones?

Heritage perspective

- In ATCs/AVCs - is it right to exclude demolition under the Housing Order as such demolitions can have substantial impact on ATC/AVC?
- In ATCs/AVCs what about demolition of dangerous structures under Council powers – should they be exempt as above?

THANK YOU

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