

# Planning delays



Planning delays are a concern for a third of our customers<sup>1</sup>. Even the smallest project is likely to require Planning Permission, and/or Listed Building Consent, and the whole process can be more complicated, costly and time consuming than first thought.

© Copyright Historic England: Shrewsbury Flaxmill Maltings. The main mill on the left, October 2017.

## How effective preparation can help mitigate costly planning delays

The length of time it can take to recover from a major incident such as fire or flood or to undergo an improvement or restoration project depends on the complexity and size of the building and intended plans. It can take months, even years before work commences for a variety of reasons.

You will need to apply for Listed Building Consent (LBC) if you want to demolish a listed building; or if you want to alter or extend a listed building in a manner which would affect its character as a building of special architectural or historic interest. You may also need to apply for Planning Permission (PP) if the work will affect the external appearance of the property or its use.

## Planning takes time

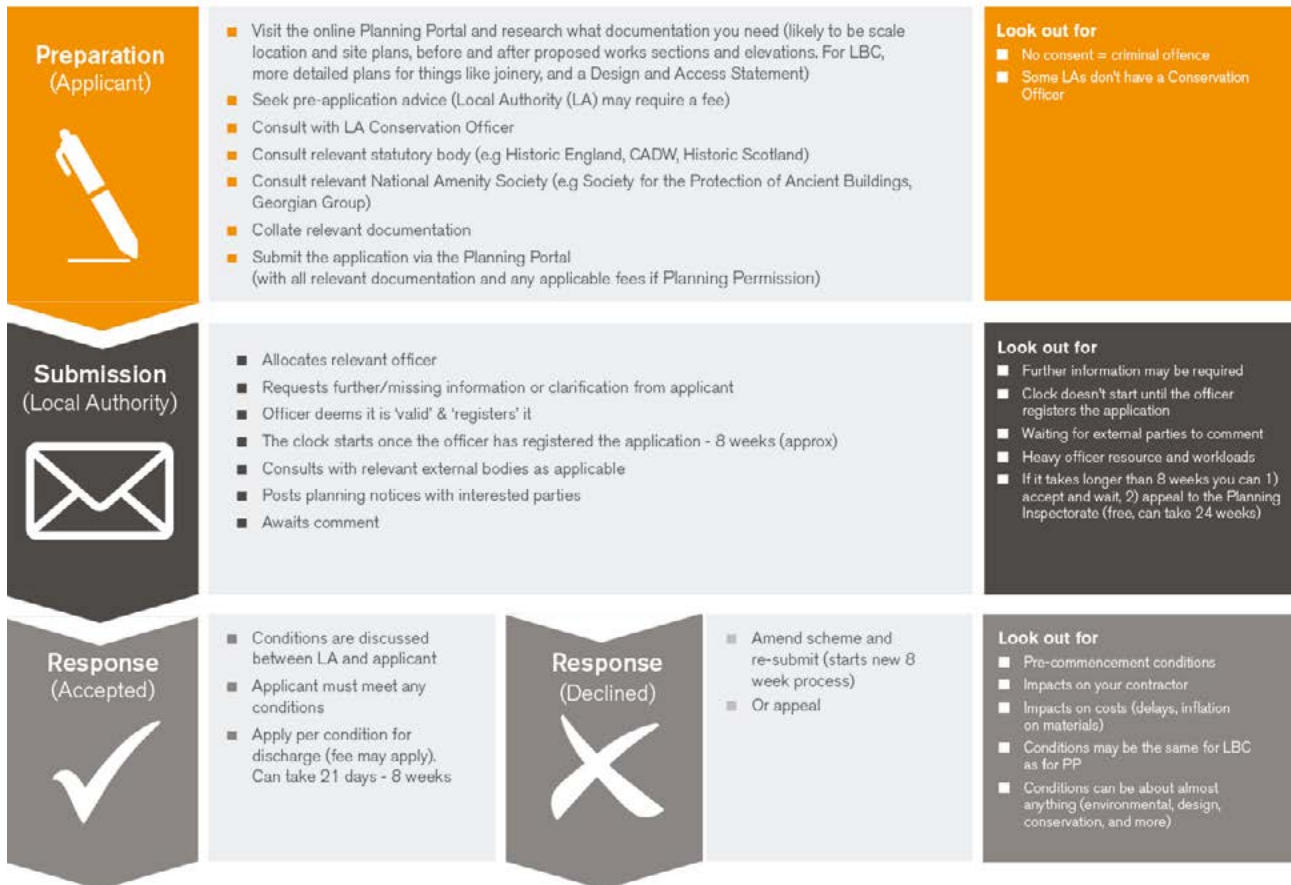
Why? Reaching agreement amongst relevant stakeholders – trustees, management, about what to demolish or develop and how can take time. The process requires full plans and many supporting documents, which all take time to produce. Gaining positive engagement from the local community and local Conservation Officer can also be a challenge. The community may have very different views and local authority resource has been halved over recent years. If you have a listed property, a Conversation Officer with relevant experience may no longer be available.

The eight week decision making process does not start when you submit your plans. It starts when the allocated officer deems them valid and registers them. A delay could be due to additional information requests and officer workload. The process requires the Local Authority to work through the plans and associated documentation, and consult with relevant statutory organisations such as Historic England, CADW, Historic Scotland, and National Amenity Bodies such as the Georgian Group, and Victorian Society. This consultation takes time and is subject to a number of factors including workload and availability. To determine their decision they may also request further information and clarification. Larger projects may be determined within 13 weeks or an agreed time period.

According to the Listed Property Owners Club (LPOC)<sup>2</sup> if the building is listed, there is a single process, whether for a minor repair or major project. Further, exactly what constitutes work that affects the special architectural or historic interest of a listed building isn't defined, and is therefore something of a grey area.

When you finally receive a decision, there are likely to be a number of conditions (environmental, design, conservation, other) that must be satisfied and 'discharged'. This can take up to a further eight weeks and some might be 'pre-commencement' conditions, meaning they must be discharged (met) before work starts.

## Planning permission process



## Hidden impacts

There is a cost attached to Planning Permission submission (Listed Building Consent is free from charge). What may not be so well known is you must make a separate application to discharge each condition and each may carry a fee. Some pre-consultation may also carry a charge. So the cost of making an application for even a simple alteration can be costly as well as time consuming.

In the meantime, the availability and cost of contractors, specialist materials and crafts skills can change. You may also experience an impact on income generation, customer retention, your competitive advantage, reputation, penalties from regulators and staff downtime. In addition, if adequate insurance is not in place, or new designs mean it's not a like for like restoration/reinstatement, then additional funds may be needed to carry out the intended work.

The Landmark Trust has had a recent case where a number of 'pre-commencement' conditions were imposed. These generally state that 'no development shall take place until...' or 'prior to any works starting on site...' Discharging each and every pre-commencement condition can, and in this particular case, did take many months with the result that a) the appointed contractor was unable to start on site; and b) as a result of the delay, the contract sum to carry out the works had to be increased by a significant amount (mostly due to inflation in materials and sub-contractor costs).

To get formal written discharge of these imposed conditions, the Planning Authorities can now charge a fee - and worse still, can take up to 8 weeks to respond (although Government guidance is that a decision should be taken within 21 days). So to take one recent example (not Landmark), a Local Authority took 8 weeks and charged £116 just to confirm approval of the proposed colour of the external boarding to a WC!

**Alastair Dick-Cleland, Project Development Manager, Landmark Trust.**

## Expect the unexpected

In addition, countering the unexpected is a common aspect of dealing with projects, particularly where a listed building is concerned. Public opinion can lead to protest; disagreement can lead to legal disputes. If it gets into the media, it can quickly become extremely difficult to respond effectively even for larger more experienced organisations. Without positive engagement from your neighbours, plans can quickly unravel and reputation start to weaken.

Even with thorough investigation before construction starts, coming across unexpected defects, unusual materials or construction techniques, previous poor quality repairs or alterations and the potential for contamination or hazardous materials can all arise, again leading to further delays, as contractors work out how to overcome such challenges. And some of these issues can lead to re-submission or further planning applications.



We (English Heritage) recently submitted a planning application to create a sustainable future for an 18 Century house and parkland. We also wanted to ensure that the project embedded the property more fundamentally in the local community with active involvement of local people in its management.

Plans were communicated widely and local communities were invited to participate in consultation. What started as a relatively low profile and uncontentious set of improvements to a public park, became much more high profile. Information was mis-interpreted by a small number of individuals and this mis-information was circulated widely on social media. Concerns were raised formally, and local headlines presented an incorrect picture. It became increasingly apparent that the local authority planning and conservation officers were under-resourced and operating under extreme pressure, being caught between the needs of the wider community, the views of some very vocal individual residents, and the need to balance all these factors against our proposals.

It is extremely difficult to incorporate significant changes within an existing planning application, primarily because it becomes very confusing to understand what is being proposed. As a result, we chose to withdraw our application and review both the comments made, and the plans. We re-opened and expanded our consultation process and communications to include workshops, additional newsletters to a 3-mile radius, dedicated web pages and social media. We opened up the membership of our community steering group to include the main opposing groups as well as those in support and also invited the ward councillor to attend. The monthly meetings were chaired by a senior officer and focussed on gaining input on issues from local people. The objective was to achieve a consensus on each issue and to deliver tangible outcomes that everyone was happy with. Ultimately, with only a very small number of exceptions, this is what was achieved; the re-submitted planning application was approved, and it received strong support from a considerable number of people who had previously opposed the original planning application.

**Alex Sydney, Head of Investment & involvement, English Heritage.**

## Top concerns among customers



**43%** increasing cost of skilled craftsmen – may increase further in the meantime



**67%** cost of repairs – could rise whilst waiting for consent

**business continuity** – the impact on business operations and income



**craft skills shortage** – reduced availability as schedules shift



**38%**

**funding** – without the correct sums insured, you may need additional funds for your project, or without consent you may not qualify for grants applied for



**55%**



**63%** reputational damage – as a result of lack of community agreement or extended periods of closure

Source: FWD Ecclesiastical heritage survey 2018

## Take advice from a specialist

On the bright side, help is at hand from a number of sources. [The planning portal](#) will tell you what documentation you need to provide and your local Conservation Officer should be able to provide useful pre-application advice. National statutory organisations and amenity societies are also worth consulting in advance. The LPOC offers specialist independent advice on matters of planning, maintenance, specialist suppliers, law and insurance issues, all through a membership scheme. The club is also in the process of [campaigning](#) for the introduction of a more streamlined and less cumbersome process for listed consent applications, a process which is commonly acknowledged to involve long delays and high costs.

At Ecclesiastical, our overriding counsel is to:

- Consult ahead of making an application.
- Have a robust and tested [business continuity plan](#) – a preconceived set of protocols and considerations to follow in the event of a crisis or to operate safely during building works.
- Purchase adequate business interruption insurance protection with sufficient indemnity periods and sums insured. This will help cover the costs that keep your business running for the period of time you are likely to experience interruption whilst obtaining planning permission, and completing works.

And further:

- Gain agreement between trustees or directors in advance about development, and what your preferred recovery approach for your building would be in the case of an incident so that if something did happen this part of the process is minimised.
- Engage positively with your community/neighbour in advance.
- Familiarise yourselves with the documentation you are likely to need. Consider employing the right professional team to ensure good advance planning and preparation.
- Be clear in your explanation of how the proposals preserve or even enhance the special character.
- Try and establish early on whether any additional information is likely to be needed to determine the application.
- Think hard about any sources of opposition in advance and make special effort to engage proactively, even if in your opinion they shouldn't be adversely affected. Have conversations up front and before submitting an application before channels such as social media facilitate a campaign of opposition and put you on the back foot.
- Try and get any conditions discussed and agreed before the issuing of consent.
- Appeal only as a last resort.

Work out how long you think it might take to restore your building, planning in realistic timescales for:

- Consultation
- The salvage process/drying out process/decontamination process/any repatriation of flora fauna etc. that may be required/reinstatement of building – e.g. parquet floors, block by block
- Understanding planning restrictions in City centre locations etc. e.g. noise/scaffolding/timing issues – 9am-5pm in residential areas
- Knowing what you can remove without permissions in a heritage property for drying out purposes etc.
- The tender process for any construction work
- Identifying specific crafts people you may need and their lead times
- How long the buildings works/snagging etc. may take and if there is anything specific which may affect the timing the works can be completed in (e.g. you may not be able to do work in certain times of year if you have protected bat species breeding/nesting for example).

Don't wait for the worst; have a disaster recovery plan in place. Engage in regular routine facilities maintenance to avoid problems escalating into costly, disruptive issues. Build in a contingency for possible delays and further loss of business and avoid playing catch-up down the line by future-proofing your building through the integration of energy efficiency and fire protection systems that conform to the latest sector-leading standards. Consider the future as well as now when creating your plans so you can consult the planning process in one go.

## How can business interruption insurance help?

Business interruption insurance enables operations to resume as quickly and smoothly as possible with the least inconvenience to employees, customers or suppliers. If purchased it cuts in after any peril-related claim made against your building insurance, and covers financial losses or unforeseen costs that are a direct consequence of the business interruption, such as loss of revenue, alternative accommodation or additional staff costs, including salaries. The length of cover of the insurance, known as the indemnity period, typically runs for 12, 24 or 36 months. With delays a seeming inevitability for listed or complex buildings, longer indemnity periods may be considered in some instances. Your broker can offer expert advice to ensure your indemnity period runs for the appropriate amount of time to optimise your cover.

"We very much encourage organisations operating out of listed premises to view their property and location through a planning lens and to carefully consider any potential impact a partial or full business interruption might have. Armed with this information, they should protect themselves with the appropriate level of business interruption cover and indemnity period that is neither too much nor too little for their specific needs."

**Faith Kitchen, Heritage Director, Ecclesiastical**

1 FWD Ecclesiastical heritage survey 2018.

2 [https://www.lpoc.co.uk/wp-content/uploads/LPOC\\_LBC\\_FACTSHEET.pdf](https://www.lpoc.co.uk/wp-content/uploads/LPOC_LBC_FACTSHEET.pdf)