Editorial

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The process of appraising buildings is becoming increasingly linked to complying with further and more complex statutory obligations. Implemented over the past decade, changes to legislation governing the identification and management of hazardous materials, laws affording equal access to people with disabilities, revised fire protection regulations, new Building Control Standards with respect to energy efficiency and implementation of Decent Homes Standards for rented accommodation are just some of the new statutory obligations facing building owners and users. When added to the longstanding controls such as conservation legislation, the modern building appraisal report is often required to offer advice on many issues in addition to an original brief of providing an assessment of overall condition and fitness for purpose.

Having such a myriad of specialist obligations invariably produces conflict within the actions required to affect individual compliance. One of those is the conflict faced by owners of listed buildings, whose activities include offering services to the general public. Part three of the Disability Discrimination Act (DDA) requires service providers to make reasonable adjustments to their premises to allow equal access to those services by people with a disability, while the listed buildings legislation seeks to control any changes or adjustment which might affect the building's character (Figures 1 and 2). This conflict is likely to become a common one, as there are over half a million listed buildings in the UK and the DDA definition of a disabled person being someone who possesses a long-term mental or physical impairment which has an adverse affect upon their ability to carry out normal day-to-day activities, is one which would by Department of Work and Pensions figures for 2007 apply to one in five of the working age population of the UK, and around 10 million people in total.

All but very minor changes to listed buildings require Listed Building Consent (LBC) from either the relevant local authority or English Heritage, dependant upon the perceived cultural importance of the building. This is manifested in a three stage listing classification, of grade 1, being of exceptional interest, grade 2*, being of particular importance and grade 2, being of special interest and therefore worthy of preservation. The first two require consent to be obtained directly from English Heritage. While the grading strongly affects the nature of changes for which LBC could be expected to be granted, the principle of all listed buildings requiring LBC for much of the action required to make reasonable adjustments remains. Clearly any adjustment that fails to obtain LBC cannot be considered reasonable; however listed building owners cannot claim immunity from the requirement to make their buildings more accessible. This is evidenced by high profile legal actions under disabled access legislation. In the case of *Potter vs Canterbury Christ Church University* brought under the terms of the Special Education Needs & Disability Act 2001, a physically disabled student was awarded damages of £4,000 for the hurt feelings due to being unable to access the main stage during his graduation ceremony held in the grade 1 listed Canterbury Cathedral. There is a direct conflict in the requirements of disabled access legislation and building conservation legislation, through which the advice given by a professional building appraiser will often be required to navigate.

Clearly the defence against any action in respect of an alleged failure to make reasonable adjustments for disabled access is that the actions required are indeed not

Figure 1: Grade 2 listed brew house yard museum in Nottingham. The only means of access to the upper floors is via narrow steep staircases

reasonable. Many factors could be cited in support of whether measures are unreasonable to implement, however failure to obtain LBC is clearly a strong test of unreasonableness, as it is unlawful to effect such changes without consent. Rejection under listed building law of a proposal to deal with an element of a building that is deemed to be a barrier to access by a particular category of disabled person cannot be totally relied upon as evidence of unreasonable adjustment, unless all possible alternative adjustments have been considered and found to be also unreasonable. It is commonly recognised that adjustment of a barrier to disabled access could be affected by one of four categories of action. First, the offending barrier can be removed from the premises, or relocated where it is no longer a hindrance. Secondly the barrier can be altered, so that it no longer restricts access. Thirdly an alternative route can be found to allow disabled persons access to the service or finally the service itself can be relocated to a place where access is unrestricted. DDA requires that only access to services need be opened up not general access throughout the building. Failure to obtain LBC for implementation of any of these measures allows for a fifth option of taking no action where it is unreasonable so to do, however failure to fully explore the reasonability of each of the other measures might compromise this as a valid position.

Figure 2: This unique original 'Separate System Chapel', part of the grade 2* Lincoln Castle Prison Museum, offers a graphic insight in to this austere prison regime, but is totally inaccessible for physically disabled visitors

This conflict is recognised by English Heritage whose guidelines 'Easy Access to Historic Buildings', published in 2004, offer a model for a comprehensive strategy in respect of disabled access in listed buildings for owners and their professional advisors. English Heritage advocates a four-stage process. This process begins with an *Access Audit*, which is a systematic appraisal of the site and building to identify any features that might be barriers to disabled access to the services offered. In identification of such barriers there are standards available through both parts M of the building regulations and BS8300 in respect of the physical requirements for meeting the needs of access provision for different categories of disabled persons. This audit then needs to be contrasted with a professionally undertaken *Conservation Assessment*, where the culturally significant elements and the special physical aspects of the building and site are established. It is the impact upon these elements that should dictate the granting or declination of listed building consent. On completion of these two assessments the next stage advocated is undertaking a *Feasibility Study* where the possible solutions to alleviating the identified barriers to access are assessed along with economic and practical issues, in terms of the conservation requirements of the building. This then leads to a final *Access Strategy* that proposes measures that are feasible in respect of the business model, reasonable in terms of physically improving access, and are likely to be acceptable to the bodies administering the listed buildings regulations.

The nature of this system to ensure compliance with statutory obligations, and the need to navigate between a potential conflict between different regulations, evidences the requirement for inter-disciplinary professionalism in dealing with the issues raised during the appraisal of buildings. Depending upon the size of the project and complexity of the access issues it might be anticipated that within the four stages of the process, work would be undertaken by a combination of professionals from the fields of conservation

practice, building surveying, structural engineering, architecture, architectural technology, design, procurement, project management, planning, legal advice, architectural history, and possibly even archaeology. Such a number and variety of different professions evidences the multidisciplinary nature of work required to ensure statutory compliance, a variety that this journal seeks to reflect among its contributors.

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