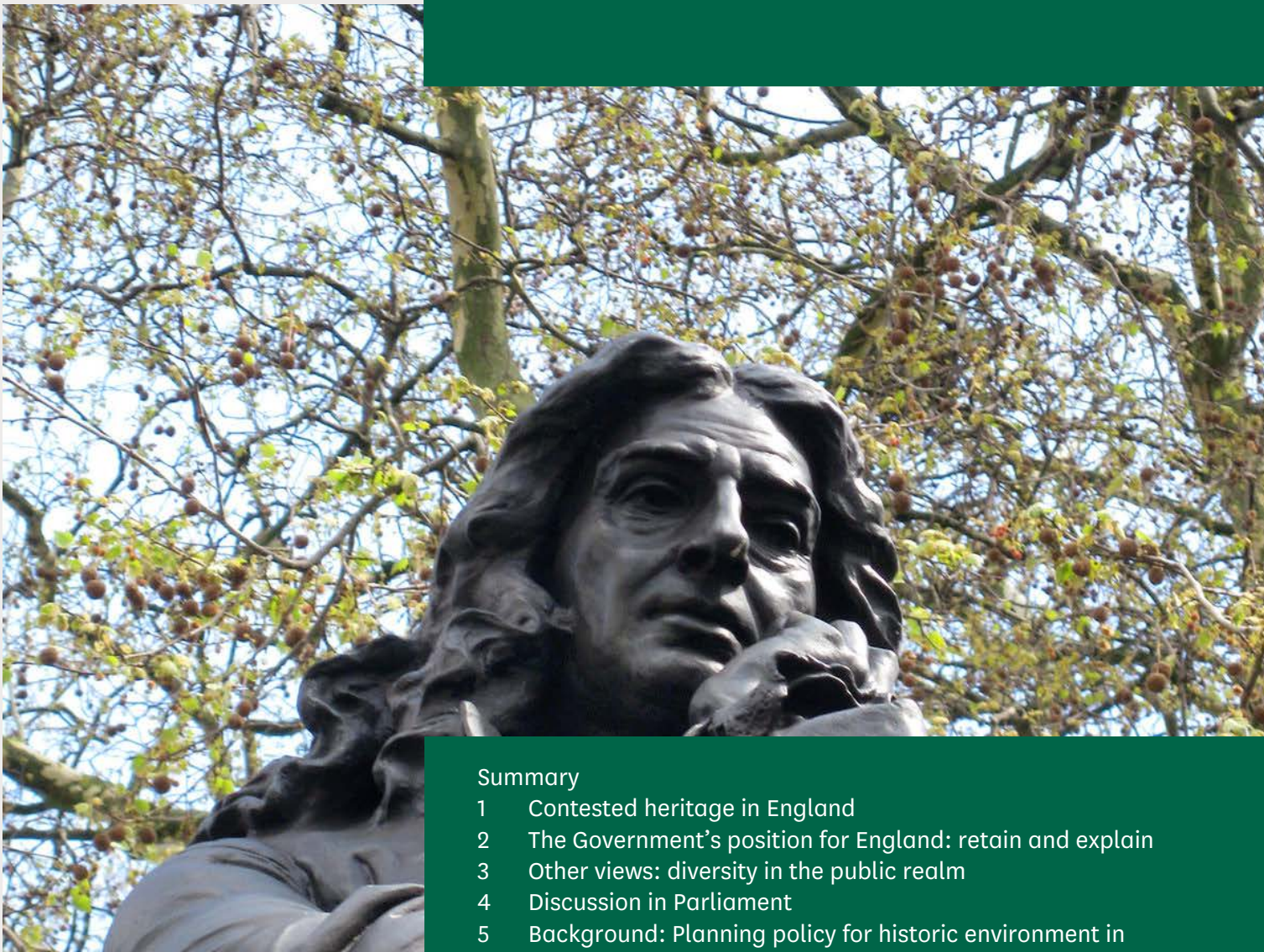


By Gabrielle Garton Grimwood

17 December 2021

# Contested heritage: Controversy surrounding public monuments



## Summary

- 1 Contested heritage in England
- 2 The Government's position for England: retain and explain
- 3 Other views: diversity in the public realm
- 4 Discussion in Parliament
- 5 Background: Planning policy for historic environment in England
- 6 Around the UK
- 7 Further reading

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## Summary

Controversy over statues, such as that in Bristol of Edward Colston, who was involved in the Atlantic slave trade, is longstanding. The Black Lives Matter movement has brought new focus and attention to the idea of ‘contested heritage’. The public discourse about what to do with monuments to figures who profited from or defended the slave trade (and others) has included calls for them to be removed, but there is disagreement as to whether that is the right course of action.

The removal of statues and monuments may (depending on circumstances) require planning permission, listed building consent or a combination of both.

This briefing describes existing law and policy.

## The Government’s position for England: Retain and explain

In a [letter to national museums and galleries \(and other bodies\)](#) in September 2020, the then Culture Secretary, Oliver Dowden, argued that some statues and historical objects “represent figures who have said or done things which we may find deeply offensive and would not defend today” but play an important role in teaching us about our past, including its faults, and so should not (in the Government’s view) be removed. Oliver Dowden quoted the view of the Government’s heritage adviser, Historic England, that “difficult and contentious” parts of the historic environment should not be “erased”.

Similarly, in response to a parliamentary question in November 2020, the Government argued that the integrity of the historic environment should be upheld and [objects should not be “erased”](#).

## Other views: Diversity in the public realm

The Government’s view is not universally shared.

The race equality think tank, [the Runnymede Trust](#), has argued that “defending” contested monuments may make some people feel unwelcome in, and excluded from, public space. The Trust has also argued that protecting all statues as if they were listed buildings is inappropriate, as statues might become irrelevant to future generations and so not require



preservation for perpetuity and could (unlike buildings facing demolition) be removed intact.

Discussing the toppling of the Colston statue in Bristol in June 2020, David Olusoga, professor of public history at the University of Manchester, argued that [it was not the time to defend the indefensible](#) and that things could “never go back to how they were”. Simukai Chigudu, associate professor of African politics at the University of Oxford, has argued that Cecil Rhodes’ statue at Oriel College there is “[imbued with a noxious history](#)” and belongs in a museum. Guardian columnist Gary Younge has argued that removing statues of “pillagers, plunderers, bigots and thieves” is a good thing and that [all statues of people should be taken down](#).

## Changes to planning and listing policy in England in 2021

### April 2021: Demolition of unlisted monuments requires planning permission

Depending on the circumstances, alterations to historic (but not listed) buildings may require planning permission.

In a written ministerial statement on [historic statues, plaques, memorials and monuments](#) in January 2021, the then Housing Secretary, Robert Jenrick, said that he would make the removal of any historic unlisted statue, plaque, memorial or monument subject to planning permission.

Robert Jenrick said that he would not hesitate to use his powers to call in for his own determination planning applications and appeals involving historic statues, plaques, memorials or monuments, if he considered it necessary to reflect the Government’s planning policies.

The [Town and Country Planning \(General Permitted Development etc.\) \(England\) \(Amendment\) Order 2021](#) came into force on 21 April 2021. It applies only in England.

The Order requires anyone removing certain statues, memorials or monuments to have planning permission. This is done by exempting these from the existing permitted development right for the demolition of buildings. The exemption applies to statues, memorials and monuments which have been in place for 10 years or more on the proposed date of demolition but [there are five exceptions](#) (including a listed building, those within a cemetery or consecrated land, or within museum or gallery grounds) for categories which are subject to other regulation, to protect museums and art galleries’ curatorial independence or to ensure everyday garden ornaments are outside the new rules.

## April 2021: Notification requirement for listed buildings

Depending on the circumstances, alterations to listed buildings may require listed building consent, planning permission or both.

Listed building consent (if required) is decided by the local authority, but there is a right to appeal to the Secretary of State.

In the written ministerial statement on [historic statues, plaques, memorials and monuments](#) in January 2021, Robert Jenrick said that he intended to make the alteration of listed buildings subject to the same notification requirements that apply to their demolition.

For listed buildings, the [Arrangements for Handling Heritage Applications – Notification to Historic England and National Amenity Societies and the Secretary of State \(England\) Direction 2021 \(139KB, PDF\)](#), issued in April 2021, sets out the notification requirements.

## July 2021: Revised National Planning Policy Framework

A revised National Planning Policy Framework (NPPF) was launched in July 2021. In its chapter on [conserving and enhancing the historic environment](#), the NPPF describes heritage assets as “an irreplaceable resource [which] should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations”. It leans towards retaining historic statues, plaques, memorials or monuments in situ and explaining their context, rather than removing them, but does not prohibit their removal.

In a [written ministerial statement on 20 July 2021](#), Robert Jenrick said that one of the policy changes in the NPPF was an “emphasis of the importance of retaining and explaining the historic and social context of historic statues, plaques, memorials or monuments rather than removing them”.

## Criminal damage: the Police, Crime, Sentencing and Courts Bill

The Government has also proposed taking steps beyond planning and listing measures, to preserve contested heritage.

For criminal damage offences, if the damage is valued at £5,000 or less, the case can currently only be tried in the magistrates’ court and is subject to a maximum sentence of three months’ imprisonment. The [Police, Crime, Sentencing and Courts Bill](#) would remove this monetary threshold for cases involving damage to memorials. This would increase the maximum available penalty for criminal damage to a memorial from 3 months to 10 years’ imprisonment, regardless of the financial value of the damage.

The Home Office argues that this will enable the courts to “[deal more effectively](#)” [with damage](#) to memorials and statues.

The Runnymede Trust, though, has said that [criminal justice measures will become more punitive](#) with the Bill’s provisions. The Trust has described the move towards harsher sentencing as “particularly worrying, given the lack of avenues available for contesting statues in public space”.



# 1 Contested heritage in England

Although monuments and statues of people associated with the slave trade (among other things), have long been controversial, the Black Lives Matter movement has brought new focus and attention to objects of contested heritage. The public discourse about what to do with monuments to figures who profited from or defended the slave trade (and others) has included calls for them to be removed, but there is disagreement as to whether that is the right course of action.

The removal of statues and monuments may (depending on circumstances) require planning permission, listed building consent or a combination of both.

This briefing describes existing law and policy.

## 1.1 How many contested statues and monuments might there be?

In a [press release in January 2021](#), the then Ministry of Housing, Communities and Local Government said that the new safeguards for historic monuments at risk of removal would “protect 20,000 statues and monuments throughout England for future generations”.<sup>1</sup>

The Stop Trump Coalition’s [Topple the Racists webpage](#) presents a crowd-sourced map of statues and monuments in England, Wales and Scotland which (they argue) should be removed or renamed; their [list of contested monuments](#) provides updates.<sup>2</sup>

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<sup>1</sup> Ministry of Housing, Communities and Local Government (MHCLG, now the Department for Levelling Up, Housing and Communities, DLUHC), [Press release: New legal protection for England’s heritage](#), 17 January 2021

<sup>2</sup> Stop Trump Coalition, [Topple the Racists: A crowdsourced map of UK statues and monuments that celebrate slavery and racism](#) (undated, accessed 16 December 2021). For background, see (for example) “[George Floyd protests: Activists draw up hit list of UK statues they want removed](#)”, Sky News [online], 10 June 2020

## 1.2

# Historic properties with connections to the slave trade

The main focus of this briefing is contested heritage in the form of statues, monuments and similar, but some of the same questions and debates have arisen in other contexts, such as historic houses with connections to the slave trade.

In August 2020, Historic England published a report, [pulling together previous research](#) on the “tangible presence of England’s slavery past in buildings, houses, streets, industrial heritage, urban fabrics and rural landscapes”.<sup>3</sup> The report found that, of 33 properties surveyed, 26 had links to the slave trade including abolitionists. It also suggested some areas for further research.<sup>4</sup>

In September 2020, the National Trust’s [colonialism and historic slavery report](#) identified 93 of its places and collections as having historical links to Britain’s colonial past.<sup>5</sup>

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<sup>3</sup> Historic England, [The Impact of Transatlantic Slavery on England’s Built Environment: a Research Audit](#), August 2020

<sup>4</sup> Dr Mary Wills with Dr Madge Dresser, [The Transatlantic Slave Economy and England’s Built Environment: A Research Audit](#), English Heritage Research Report Series no. 247-2020, page 20. For more background, see Miranda Kaufmann, [English Heritage Properties 1600-1830 and Slavery Connections A Report Undertaken to Mark the Bicentenary of the Abolition of the British Atlantic Slave Trade](#), 2007.

<sup>5</sup> National Trust, [Interim Report on the Connections between Colonialism and Properties now in the Care of the National Trust, Including Links with Historic Slavery](#), September 2020

## 2

## The Government's position for England: retain and explain

In a [letter to national museums and galleries \(and other bodies\)](#) in September 2020, the then Culture Secretary, Oliver Dowden, argued that, while some statues and historical objects “represent figures who have said or done things which we may find deeply offensive and would not defend today,” such objects play an important role in teaching us about our past, with all its faults, and so should not (in the Government’s view) be removed. Oliver Dowden quoted the view of the Government’s heritage adviser, Historic England, that “difficult and contentious” parts of the historic environment should not be “erased”:

Historic England, as the Government’s adviser on the historic environment, have said that removing difficult and contentious parts of it risks harming our understanding of our collective past. Rather than erasing these objects, we should seek to contextualise or reinterpret them in a way that enables the public to learn about them in their entirety, however challenging this may be. Our aim should be to use them to educate people about all aspects of Britain’s complex past, both good and bad.<sup>6</sup>

Oliver Dowden went on to say that arm’s length bodies should adopt an approach consistent with the Government’s.<sup>7</sup>

Similarly, in a [PQ reply in November 2020](#), the Government argued that the integrity of the historic environment should be upheld and objects should not be “erased”.<sup>8</sup>

The Museum of the Home (formerly the Geffrye Museum) in London, for example, consulted on moving its statue of Robert Geffrye to a less prominent position and found support for the proposal:

We believe there is potential to retain the statue on site but in an alternative and less prominent space, where we can better tell the full story of the history of the buildings and Robert Geffrye's life, including his involvement in transatlantic slavery.

(...)

<sup>6</sup> Department for Digital, Culture, Media and Sport, [Letter from Culture Secretary to SCMS Arm’s Length Bodies](#), 22 September 2020

<sup>7</sup> As above

<sup>8</sup> [PQ 111428, 11 November 2020](#)

Over 2,000 people took time to share their views. Overall, the response was in favour of removing the statue. There was a wide range of responses and suggestions, including how the Museum should share the historic connections between the buildings and Geffrye.<sup>9</sup>

## 2.1 April 2021: Demolition of unlisted monuments requires planning permission

Section 5 later looks in more detail at planning policy for the historic environment in England

Depending on the circumstances, alterations to historic (but not listed) buildings may require planning permission. Alterations to listed buildings may require listed building consent, planning permission or both.<sup>10</sup>

Permitted development rights (PDRs) and the Government's consultation in December 2020 on reform to PDRs are discussed in the Commons Library briefing [Planning in England: permitted development and change of use](#).<sup>11</sup>

In a written ministerial statement on [historic statues, plaques, memorials and monuments](#) in January 2021, the then Housing Secretary, Robert Jenrick, summed up the Government's stance on heritage as "retain and explain". He described the removal of the Colston statue in Bristol as "an act of criminal damage" and argued that all decisions on removing historic statues, plaques, memorials, and monuments should follow the law and the correct process. Robert Jenrick also said that he would make any such removal subject to an explicit requirement for planning permission and would not hesitate to use his powers to call in such planning applications for his own determination, where he considered that such action was necessary to reflect the Government's planning policies as set out in his statement.<sup>12</sup>

The [Town and Country Planning \(General Permitted Development etc.\) \(England\) \(Amendment\) Order 2021](#) came into force on 21 April 2021.<sup>13</sup> Its extent is England and Wales but its application is England only.

The Order's provisions dealing with statues, memorials, and monuments (which were not part of the December 2020 consultation) made certain statues, memorials and monuments exempt from the existing PDR for the demolition of buildings, meaning that removing them now require planning permission. The exemption applies to statues, memorials and monuments which have been in place for 10 years or more on the proposed date of

<sup>9</sup> [Geffrye, his statue and its future](#), Museum of the Home (undated, accessed 16 December 2021)

<sup>10</sup> See Historic England's webpage on [listed buildings](#), the [Planning Portal](#) website and the [Planning Practice Guidance on the historic environment](#) (DLUHC and MHCLG, 10 April 2014, updated 23 July 2019).

<sup>11</sup> SN 485

<sup>12</sup> [HCWS 713, 18 January 2021](#). The Commons Library briefing [Calling in a planning application](#) (SN 930) provides more information.

<sup>13</sup> [Town and Country Planning \(General Permitted Development etc.\) \(England\) \(Amendment\) Order 2021](#), SI 2021/428

demolition, unless they fall within one of the five specified exceptions, that they are

- a listed building
- a scheduled monument
- within a cemetery, on consecrated land or within the curtilage of a place of public worship
- within the grounds of a museum or art gallery or
- within the curtilage of a dwellinghouse.<sup>14</sup>

The [Explanatory Memorandum to the Order](#) observes that the five exceptions have been made because these categories are subject to other regulation, to protect museums and art galleries' curatorial independence or to ensure everyday garden ornaments are outside the new rules. The Explanatory Memorandum also explains how the notification arrangements will work, noting that the requirement to notify the Secretary of State of such applications for planning permission will allow him the opportunity to call in such applications for his own determination, where appropriate. It reiterates the Government's view that statues should be retained and explained.<sup>15</sup>

The notification requirements mentioned in the Explanatory Memorandum are set out in Directions - for applications for planning permission involving unlisted statues etc in [The Town and Country Planning \(Consultation\) \(England\) Direction 2021](#). The Direction stipulates that, where the local planning authority (LPA) does not propose to refuse the application for planning permission, it must consult the Secretary of State. The [Planning Practice Guidance \(PPG\) on the historic environment](#) provides further guidance.<sup>16</sup>

## 2.2

### April 2021: Notification requirement for listed buildings

Listed building consent (if required) is decided by the local authority, but there is a right to appeal to the Secretary of State.

In the January 2021 written ministerial statement, Robert Jenrick confirmed that he intended to make the alteration of listed buildings – including “the removal of a statue, plaque, memorial or monument” which forms part of the building – subject to the notification requirements that apply to their demolition.

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<sup>14</sup> SI 2021/428, Article 11 (2) (e)

<sup>15</sup> [Explanatory Memorandum to the Town and Country Planning \(General Permitted Development Etc.\) \(England\) \(Amendment\) Order 2021, 2021 No. 428](#), paragraphs 7.29-30

<sup>16</sup> DLUHC and HMCLG, [Guidance: historic environment](#), 10 April 2014, updated 23 July 2019, paragraph 058 onwards

For listed buildings, the [Arrangements for Handling Heritage Applications – Notification to Historic England and National Amenity Societies and the Secretary of State \(England\) Direction 2021](#) (issued in April 2021) set out the notification requirements, which are also outlined in the [PPG on the historic environment](#).<sup>17</sup>

## 2.3

### July 2021: Revised National Planning Policy Framework

The National Planning Policy Framework (NPPF) provides the framework against which LPAs draw up Local Plans and determine applications for planning permission.

A revised NPPF was issued in July 2021, reflecting (amongst other things) the Government’s position on contested heritage. In its chapter on conserving and enhancing the historic environment, the NPPF describes heritage assets as “an irreplaceable resource [which] should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations”.<sup>18</sup> The NPPF leans towards retaining historic statues, plaques, memorials or monuments in situ and explaining their context, rather than removing them, but does not prohibit their removal:

198. In considering any applications to remove or alter a historic statue, plaque, memorial or monument (whether listed or not), local planning authorities should have regard to the importance of their retention in situ and, where appropriate, of explaining their historic and social context rather than removal.<sup>19</sup>

In a [written ministerial statement on 20 July 2021](#), Robert Jenrick said that one of the policy changes set out there was an “emphasis of the importance of retaining and explaining the historic and social context of historic statues, plaques, memorials or monuments rather than removing them”.<sup>20</sup>

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<sup>17</sup> DLUHC and HMCLG, [Guidance: historic environment](#), 10 April 2014, updated 23 July 2019, paragraph 058 onwards

<sup>18</sup> MHCLG, [National Planning Policy Framework](#), July 2021, paragraph 189

<sup>19</sup> As above, paragraph 198

<sup>20</sup> [CWS216, 20 July 2021](#)



## 2.4

# Criminal damage: the Police, Crime, Sentencing and Courts Bill

The Government has also proposed to take other steps, beyond planning and listing measures, to preserve contested heritage.

For offences of criminal damage, if the damage is valued at £5,000 or less, the case can currently only be tried in the magistrates' court and is subject to a maximum sentence of three months' imprisonment. The [Police, Crime, Sentencing and Courts Bill](#) would remove this monetary threshold for cases involving damage to memorials. This would increase the maximum available penalty for criminal damage to a memorial from 3 months to 10 years' imprisonment, regardless of the financial value of the damage.<sup>21</sup>

The Home Office argues that this will enable the courts to [deal more effectively with damage](#) and desecration of memorials and statues.<sup>22</sup>

The race equality think tank, the Runnymede Trust, has argued that police action against people alleged to have defaced statues has protected statues whilst criminalising activists, and [criminal justice measures will become more punitive](#) with the Bill's provisions. The Trust has described the move towards harsher sentencing as "particularly worrying, given the lack of avenues available for contesting statues in public space".<sup>23</sup>

For more about the Bill's provisions, see the Commons Library briefing [Police, Crime, Sentencing and Courts Bill 2019-21: Part 2 - Prevention, investigation and prosecution of crime](#).<sup>24</sup>

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<sup>21</sup> HL Bill 40 2019-21, 2021-22

<sup>22</sup> Home Office, [Policy Paper, Police, Crime, Sentencing and Courts Bill 2021: criminal damage to memorials factsheet](#), 7 July 2021

<sup>23</sup> Sadia Habib, Chloe Peacock, Ruth Ramsden-Karelse and Meghan Tinsley, [The Changing Shape of Cultural Activism: Legislating Statues in the Context of the Black Lives Matter Movement](#), Runnymede Trust, June 2021

<sup>24</sup> CBP 9163

## 3

## Other views: diversity in the public realm

The Government's view, though, is not universally shared and some commentators have argued against the Government's approach of "retain and explain".

The Runnymede Trust has argued that "defending" contested monuments may make some people feel unwelcome in, and excluded from, public space:

When statues of slavers and colonisers occupy public space, they convey the message that racially minoritised people are unwelcome strangers – a message that is reinforced when these statues are celebrated and 'defended'. In a democracy, public space should be equally accessible, and equally welcoming, to all members of the public. Yet actively maintaining statues of colonisers and slaveholders perpetuates the exclusion of many people from public space. ...<sup>25</sup>

The Runnymede Trust has also argued that protecting all statues as if they were listed buildings is inappropriate, as [statues might become irrelevant to future generations](#) and so not require preservation for perpetuity and could (unlike buildings facing demolition) be removed intact. The Black Lives Matters protests (the Trust has suggested) make these questions more urgent:

The Black Lives Matter protests of 2020 provided a new sense of urgency, catalysing demands to review how (and whose) history is represented. It is vital that this energy is sustained, and that stakeholders proactively and meaningfully engage with the public in all its diversity. This must be accompanied by work to address the ongoing structural racism that the Black Lives Matter movement highlights.<sup>26</sup>

In London, the Mayor, Sadiq Khan, has set up a [commission to review and improve diversity across London's public realm](#), including landmarks already in the public realm. The Mayor spoke of the "uncomfortable truth" about the role of the slave trade in creating the city and nation's wealth and said that we should question which legacies are being celebrated:

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<sup>25</sup> Sadia Habib, Chloe Peacock, Ruth Ramsden-Karelse and Meghan Tinsley, [The Changing Shape of Cultural Activism: Legislating Statues in the Context of the Black Lives Matter Movement](#), Runnymede Trust, June 2021

<sup>26</sup> As above

Our capital's diversity is our greatest strength, yet our statues, road names and public spaces reflect a bygone era. It is an uncomfortable truth that our nation and city owes a large part of its wealth to its role in the slave trade and while this is reflected in our public realm, the contribution of many of our communities to life in our capital has been wilfully ignored.

This cannot continue. We must ensure that we celebrate the achievements and diversity of all in our city, and that we commemorate those who have made London what it is – that includes questioning which legacies are being celebrated.<sup>27</sup>

David Olusoga, professor of public history at the University of Manchester, argued that, after years of peaceful campaigns against Bristol's statue of Edward Colston, its toppling by protesters in June 2020 [was a significant moment in history](#):

Now is not the time for those who for so long defended the indefensible to contort themselves into some new, supposedly moral stance, or play the victim. (...) Whatever is said over the next few days, this was not an attack on history. This is history. It is one of those rare historic moments whose arrival means things can never go back to how they were.<sup>28</sup>

Simukai Chigudu, associate professor of African politics at the University of Oxford, has argued that the statue there of Cecil Rhodes is "[imbued with a noxious history](#)" and belongs in a museum:

The removal of the Rhodes statue would be a powerful gesture of public accountability and it would allow a good-faith discussion about institutional racism in my university as a small part of much broader demands for racial justice and equality in British society.<sup>29</sup>

Guardian columnist Gary Younge has argued that removing statues of "pillagers, plunderers, bigots and thieves" is a good thing and that [all statues of people should be taken down](#).<sup>30</sup>

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<sup>27</sup> Mayor of London, London Assembly, [Mayor unveils commission to review diversity of London's public realm](#), 9 June 2020. See also [Commission for Diversity in the Public Realm](#) and [Diversity in the Public Realm Commission Members](#). Planning applications that are of "potential strategic importance" must be [referred to the Mayor of London](#). The Mayor of London may use his powers to call-in any planning application, if he is minded to do so and considers that the application meets the policy tests for call-in.

<sup>28</sup> "[The toppling of Edward Colston's statue is not an attack on history. It is history](#)", Guardian [online], 8 June 2020

<sup>29</sup> "[As one of Oxford's few black professors, let me tell you why I care about Rhodes](#)", Guardian [online], 12 June 2020

<sup>30</sup> "[Why every single statue should come down](#)" Guardian [online], 1 June 2021

## 4 Discussion in Parliament

### 4.1 Digital, Culture, Media and Sport committee session in October 2020

The Select Committee on Digital, Culture, Media and Sport held a [session in October 2020](#), to consider “how fit for purpose Historic England is to deliver on policy for physical heritage, and contested heritage in particular”. The committee heard from Sir Laurie Magnus (Chair of Historic England), Elsie Owusu (a specialist conservation architect), Marvin Rees (the Mayor of Bristol) and Sonia Solicari (Director of the Museum of the Home).

One of the questions discussed was whether it is better to ignore, contextualise or remove physical heritage related to the slave trade. Sonia Solicari argued that decisions should be made on a case by case basis.<sup>31</sup> Later, Sonia Solicari explained how the Museum of the Home had reached the decision not to remove its statue of Robert Geffrye, who was involved in the slave trade.<sup>32</sup>

Marvin Rees drew a distinction between moving and removing.<sup>33</sup> Giles Watling remarked that it was not unusual to pull down statues, such as those of Stalin and Saddam Hussein, and asked whether heritage in public places should be “threatened” every time public attitudes change. In reply, Marvin Rees argued that removing statues in the light of changing public attitudes was not a threat. Nobody, Marvin Rees suggested, was “pure”, but there comes a point where the evil that someone has done is so great that a line is crossed.<sup>34</sup>

Sir Laurie Magnus set out English Heritage’s stance in favour of contextualisation.<sup>35</sup> Sir Laurie Magnus argued that our collective past should not be “torn away slowly, piece by piece” and that “if we start tampering with the historic fabric associated with our collective past because things are contentious, we start changing the basis on which we can understand it”.<sup>36</sup> This (Sir Laurie said) was a general view; every case would be different, but

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<sup>31</sup> Digital, Culture, Media and Sport Committee, [Oral evidence: Physical Heritage](#), HC 832, Q5

<sup>32</sup> As above, Qs 34-7

<sup>33</sup> As above, Q6

<sup>34</sup> As above, Q10

<sup>35</sup> As above, Q46

<sup>36</sup> As above, Q48

for controversial statues English Heritage’s starting point would be to retain and explain.<sup>37</sup>

On the question of how to contextualise, Sir Laurie Magnus suggested that this would mostly (but not always) be a matter for local discussion.<sup>38</sup> Sir Laurie also suggested that more would be done to update the National Heritage List’s descriptions of controversial listed statues (as had been done with the Colston statue in 2007), to better represent the facts.<sup>39</sup> Sir Laurie emphasised, however, that while Historic England can provide advice it is ultimately up to the owners of statues to decide how to “reinterpret and re-contextualise” in practice.<sup>40</sup>

## 4.2 Adjourment debate in March 2021

On 18 March 2021, there was an [adjourment debate tabled by Gareth Bacon](#) on the public landmarks review commissioned by the Mayor of London, Sadiq Khan. Gareth Bacon argued that “our heritage is under direct assault”.<sup>41</sup>

Responding to the debate, the housing minister, Christopher Pincher, argued that values had changed with the passage of time, but it was far better to remember history and it would be “quite misguided” to take down statues of people who profited from the slave trade.<sup>42</sup>

## 4.3 Adjourment debate in June 2021

On 7 June 2021, there was an adjourment debate tabled by Rupa Huq on preserving heritage and statues in cities.

In this debate, Rupa Huq argued that “we should keep [statues] because they are part of history and they need to be put in proper context” rather than removed. It was “kind of simplistic” (Rupa Huq argued) to divide the world into heroes and villains, so history should be taught “warts and all”.<sup>43</sup> Rupa Huq suggested that (amongst other things) putting things in context - for example with explanatory notes in museums - would be preferable to “unthinking idolatry” and that relocation of monuments might be a better option than removing them or keeping them where they are.<sup>44</sup>

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<sup>37</sup> Digital, Culture, Media and Sport Committee, [Oral evidence: Physical Heritage](#), HC 832, Qs49 - 53

<sup>38</sup> As above, Q71

<sup>39</sup> As above, Q79 and Q82

<sup>40</sup> As above, Q80

<sup>41</sup> [HC Deb 18 March 2021 c593 onwards](#)

<sup>42</sup> [HC Deb 18 March 2021 c600](#)

<sup>43</sup> [HC Deb 7 June 2021 c774](#)

<sup>44</sup> [HC Deb 7 June 2021 c778](#)

In reply, the minister for digital and culture, Caroline Dinenage, reiterated the Government's commitment to retaining and explaining contentious statues and other aspects of history in the public realm, even if "unpalatable", and argued that the actions of people whose actions would now be considered wrong could nonetheless teach us about our past.<sup>45</sup>

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<sup>45</sup> [HC Deb 7 June 2021 cc779-80](#)



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## 5 Background: Planning policy for historic environment in England

As noted earlier, the NPPF provides the framework against which LPAs draw up Local Plans and determine applications for planning permission. It has a chapter on conserving and enhancing the historic environment.<sup>46</sup>

The PPG offers more detailed advice on (amongst other things) [the historic environment](#). It sets out the legislative background and policy and identifies the different types of designated heritage assets.<sup>47</sup>

### 5.1 Planning permission

The [PPG on the historic environment](#) describes in more detail when planning permission may be required, distinguishing it from listed building consent.<sup>48</sup>

### 5.2 Listed buildings

Five Acts – including the [Town and Country Planning Act 1990](#) and the [Planning \(Listed Buildings and Conservation Areas\) Act 1990](#) (often referred to as the Listed Buildings Act 1990) – provide the legislative background for efforts to conserve the historic environment.

The requirement to have permission to conduct works on a listed building is set out in sections 16 and 66 of the Listed Buildings Act 1990. Historic England's guidance [Stopping the Rot: A Guide to Enforcement Action to Save Historic Buildings](#) sets out the various powers in that Act and when they might be used.<sup>49</sup>

In England, the various protections associated with listed building status apply only from the point that the listing is approved; there is no interim

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<sup>46</sup> MHCLG, [National Planning Policy Framework](#), July 2021, paragraph 189 onwards

<sup>47</sup> DLUHC and MHCLG, [Conserving and enhancing the historic environment](#), 6 March 2014, updated 23 July 2019

<sup>48</sup> As above, paragraphs 042 and 043

<sup>49</sup> Historic England, [Stopping the Rot: A Guide to Enforcement Action to Save Historic Buildings](#), April 2016

protection. A [case in Bristol in 2017](#) highlights some of the issues that can arise.<sup>50</sup>

## Development control for buildings already listed

For heritage protection for listed buildings, two separate consent regimes run in parallel: listed building consent and planning permission. Depending on the works proposed, sometimes both listed building consent and planning permission will need to be obtained before work can be undertaken. In other instances only one, or indeed neither, would be required.

Both of these consents are issued by the LPA and the development must abide by the Planning Act 1990 as well as the NPPF, the Local Plan and the Neighbourhood Plan if applicable.

The [Planning Portal](#) website summarises what work will require listed building consent.<sup>51</sup> The [PPG on the historic environment](#) describes in more detail when listed building consent is required.<sup>52</sup> Historic England also offers guidance on [listed buildings](#)<sup>53</sup> and on [consent and planning permission requirements](#), remarking that the matter is complex.<sup>54</sup>

Failure to comply with these various requirements can lead to enforcement action; Historic England's [webpage on listed building consent](#) advises that carrying out unauthorised works may lead to prosecution.<sup>55</sup> The [PPG on ensuring effective enforcement](#) sets out in detail what planning enforcement notices are, what they do and further details. The PPG also sets out [options for enforcement action against breaches of listed building consent](#), pointing out the differences between planning enforcement and listed building and conservation area enforcement.<sup>56</sup>

There are other necessary consents for certain buildings, for example in conservation areas, religious buildings, or monuments. A list of these consents and further information is available from Historic England's webpage on [heritage consents](#).<sup>57</sup>

There are also Listed Building Heritage Partnership Agreements, Local Listed Building Consent Orders and Listed Building Consent Orders (which grant listed building consent for a certain period, to remove the need for the owner to submit repetitive applications for listed building consent for works).

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<sup>50</sup> "[Bristol Jacobean ceiling 'destroyed before listings visit'](#)", BBC News [online], 1 September 2017

<sup>51</sup> Planning Portal, [Listed Buildings](#) (undated, accessed 16 December 2021)

<sup>52</sup> DLUHC and MHCLG, [Guidance: Historic environment](#), 6 March 2014, updated 23 July 2019, paragraph 044

<sup>53</sup> Historic England, [Listed Buildings](#) (undated, accessed 16 December 2021)

<sup>54</sup> Historic England, [Consent and planning permission requirements](#) (undated, accessed 16 December 2021)

<sup>55</sup> Historic England, [Listed building consent](#) (undated, accessed 16 December 2021)

<sup>56</sup> DLUHC and MHCLG, [Guidance: Ensuring effective enforcement](#), 6 March 2014, updated 22 July 2019

<sup>57</sup> Historic England, [Heritage Consents](#) (undated, accessed 16 December 2021)

For certain applications, LPAs are required to consult or notify [Historic England](#), [The Gardens Trust](#), [the Ancient Monuments Society](#), the [Council for British Archaeology](#), the [Georgian Group](#), the [Society for the Protection of Ancient Buildings](#), the [Victorian Society](#) and the [Twentieth Century Society](#).

## The listing process

Historic England has published guidance on [how to get historic buildings or sites protected through listing](#).<sup>58</sup> This includes [fast track listing](#).<sup>59</sup>

Historic England has also published a [listing selection guide for commemorative structures](#). On [history and diversity](#), the guide suggests that memorials to former slaves may be of special interest but does not discuss (for example) memorials to people formerly involved in the slave trade.<sup>60</sup>

## Delisting

Historic England published guidance in January 2019 on [removing a building from the List](#).<sup>61</sup>

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<sup>58</sup> Historic England, [How To Get Historic Buildings or Sites Protected Through Listing](#) (undated, accessed 16 December 2021)

<sup>59</sup> Historic England, [Fast-Track listing](#) (undated, accessed 16 December 2021)

<sup>60</sup> Historic England, [Commemorative structures: listing selection guide](#), 4 December 2017, page 10

<sup>61</sup> English Heritage, [Removing a building from the list](#), January 2019

## 6 Around the UK

The joint Library briefing [Comparison of the planning systems in the four UK countries](#) describes and compares aspects of the current land use planning systems in the four UK countries.<sup>62</sup>

### 6.1 Northern Ireland

In Northern Ireland, the [Strategic Planning Policy Statement](#)<sup>63</sup> and [Planning Policy Statement 6: Planning, archaeology and the built environment](#) require planning permission to be sought for development affecting monuments in state care or scheduled monuments.<sup>64</sup>

The removal of a scheduled monument would require [scheduled monument consent](#) from the Department for Communities.<sup>65</sup> The Historic Environment Department (HED) of the Department for Communities is a statutory consultee and provides advice to planning authorities on development proposals that could potentially affect heritage assets, or impact on their setting.

Removal for development purposes would require planning permission from the LPA (and Department for Infrastructure for regionally significant proposals). Both consents can run concurrently, but scheduled monument consent must be sought first from the HED.<sup>66</sup>

A [reply to an Assembly Question](#) in March 2021 referred to the role of HED in advising on change or removal and noted that, for non-designated heritage assets falling outside planning controls, it would be for the owner to take any decision to remove.<sup>67</sup>

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<sup>62</sup> CBP 07459

<sup>63</sup> Department for Infrastructure, [Strategic Planning Policy Statement for Northern Ireland \(SPPS\): Planning for Sustainable Development](#), September 2015

<sup>64</sup> Planning Service, [Planning Policy Statement 6: Planning, archaeology and the built environment](#), March 1999

<sup>65</sup> Department for Communities, [Historic environment: scheduled historic monuments](#) (undated, accessed 16 December 2021)

<sup>66</sup> For more background, see Department for Communities, [Historic Environment Advice and Guidance in the Planning Process](#) (undated, accessed 16 December 2021).

<sup>67</sup> [AQW 16397/17-22, 24 March 2021](#)

## 6.2

## Scotland

Media articles relating to the Melville monument in Edinburgh are listed later in section 7.7.

The plaque giving more information and context on the memorial was dealt with under existing planning legislation and policy for Scotland. There have been no legislation or policy changes in Scotland in the wake of the renewed debate about contested heritage.

## 6.3

## Wales

The Welsh Government established a task and finish group to undertake an audit of how the slave trade and the British Empire are commemorated in Wales.

The task and finish group [published an audit report](#) in November 2020, which (amongst other things) identified people who had been associated with the slave trade or other crimes against Black people and who had been commemorated with statues, monuments, buildings and street names in Wales.<sup>68</sup> In a [written statement in November 2020](#), the First Minister, Mark Drakeford, said that the audit was not about naming and shaming, but about recognising and learning from the events of the past.<sup>69</sup>

A committee in the previous Senedd carried out an [inquiry into re-examining public realm commemoration](#) and published its [report](#) in March 2021.<sup>70</sup> The Committee recommended that “the Welsh Government should leave ultimate authority for decisions relating to contentious statues, monuments or commemorations with local authorities and communities” but the Welsh Government should provide leadership and produce specific guidance to support local authorities and other public bodies.<sup>71</sup>

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<sup>68</sup> Welsh Government, [The Slave Trade and the British Empire: An Audit of Commemoration in Wales](#), November 2020

<sup>69</sup> [Written Statement: The Slave Trade and the British Empire: An Audit of Commemoration in Wales](#), 26 November 2020. See also Welsh Government, [Press release: Over 200 Welsh statues, streets and buildings connected to the slave trade listed in nationwide audit](#), 26 November 2020

<sup>70</sup> Welsh Parliament Culture, Welsh Language and Communications Committee, [Set in Stone? A report on who gets remembered in public spaces](#), March 2021

<sup>71</sup> As above, recommendation 2, page 16

## 7 Further reading

Some of the titles below require a subscription – Members and their staff may obtain copies of these articles from the Commons Library on 020 7219 3666.

### 7.1 Comment and analysis

- [“Sky News research finds quarter of controversial statues removed, due to be removed or under review since Edward Colston monument toppled”](#), Sky News [online], 6 June 2021
- “At the mercy of the public: is it necessary to kill some statues, or could we add to them?”, Times Literary Supplement, 9 April 2021
- [“Statues: the UK’s plan to ‘retain and explain’ problem monuments is a backwards step”](#), The Conversation [online], 9 March 2021
- [“The reckoning: the toppling of monuments to slavery in the UK”](#), Guardian [online], 29 January 2021
- [Listing Controversy II: Statues, Contested Heritage and the Policy of ‘Retain and Explain’](#), University of Bristol Law School, 25 January 2021
- [“The Nelsons of Bridgetown and Birmingham: what two statues tell us about the legacy of colonialism”](#), The Conversation [online], 29 Oct 2020
- [“Derecognising past honours: toppling statues can redirect passions, but towards what?”](#), LSE Politics and Policy, 27 July 2020
- [Who are monuments for? Considering slavery legacies in London’s public statues](#), Museum of London, 3 July 2020
- [The toppling of statues is a moment in history, not its erasure](#), Lens [online], 25 June 2020
- [“Toppling monuments is a global movement. And it works”](#), Washington Post [online], 23 June 2020
- [“Taking Down Statues Isn’t Enough. We Need to Radically Rethink How We Celebrate Power”](#), Time [online], 17 June 2020
- [Toppling Statues Is Not About History, It’s About the Present](#), Frieze [online], 12 June 2020
- [“Should Armstrong fall? Newcastle MP Chi Onwurah on the debate over the Armstrong statue”](#), Chronicle Live [online], 12 June 2020
- “Can statues capture the complexity of Britain’s past?“, The Times, 12 June 2020
- “One and a half cheers for the statue topplers”, Prospect, 9 June 2020



- [“Labour's left uneasy with leader's view on tearing down Colston statue”](#), Guardian [online], 8 June 2020
- [“Statues have had their day. Let's make our monuments memorable”](#), Guardian [online], 19 January 2018

## 7.2 Review of London's public realm

“Housing minister calls for London mayor to disband his ‘statue-toppling’ public realm commission”, Planning, 10 March 2021

## 7.3 Edward Colston statue in Bristol

- [Statement from Mayor of Bristol](#), Bristol City Council, 15 July 2020
- [Statement from the Mayor of Bristol](#), Bristol City Council, 7 June 2020
- [“Edward Colston statue replaced by sculpture of Black Lives Matter protester Jen Reid”](#), The Guardian [online], 15 July 2020
- [Edward Colston: Listing Controversy](#), University of Bristol Law School, 15 June 2020
- [“The day Bristol dumped its hated slave trader in the docks and a nation began to search its soul”](#), Observer [online], 14 June 2020
- [The Edward Colston statue: could the protestors be prosecuted and is there a defence](#), Hodge Jones & Allen LLP, 10 June 2020
- [“Who was Edward Colston and why is Bristol divided by his legacy?”](#), BBC News [online], 8 June 2020
- [“It's a disgrace' - Thousands call for removal of controversial Bristol statue”](#), Bristol Live [online], 5 June 2020
- [“Bristol MP calls for Edward Colston statue to be removed”](#), BBC News [online], 11 October 2018

## 7.4 Geffrye statue in London

- [“Geffrye debate continues amid growing pressure to remove the slave trader statue”](#), Hackney Gazette [online], 26 May 2021
- [“Museum of the Home to keep Sir Robert Geffrye statue”](#), BBC News [online], 30 July 2020
- [“Museum of the Home's decision to keep Robert Geffrye statue sees swift backlash”](#), Hackney Citizen [online], 29 July 2020

## 7.5 Cecil Rhodes statue at Oriel College, Oxford

- “Council ‘invites’ Oxford college to seek planning consent to remove Rhodes statue”, Planning, 10 June 2020
- [Statement on Rhodes statue](#), Oxford City Council, 17 June 2020
- [Statement from the Governing Body of Oriel College](#), Oriel College, 17 June 2020

## 7.6 Robert Baden-Powell statue in Poole

- [“Lord Baden-Powell statue back on display in Poole”](#), BBC News [online], 11 July 2020
- [“Baden-Powell statue is back on display on Poole Quay”](#), Bournemouth Echo [online], 8 July 2020
- [“Robert Baden-Powell statue to be removed in Poole”](#), BBC News [online], 11 June 2020
- [“Was Robert Baden-Powell racist? Why the statue of Scouts founder in Poole Quay could be removed”](#), iNews [online], 14 June 2020
- “As Scouts, we certainly do not celebrate Baden-Powell for his failings”, Telegraph, 13 June 2020

## 7.7 Melville monument in Edinburgh

- [Temporary signs installed at Melville Monument](#), City of Edinburgh Council, 13 July 2020
- [“Edinburgh’s Dundas statue to be dedicated to slavery victims”](#), BBC News [online], 11 June 2020
- [“Who was Henry Dundas, and why do people want his statue torn down?”](#), Edinburgh Live [online], 9 June 2020



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