

**GUY'S AND ST THOMAS' FOUNDATION
STATUE OF THOMAS GUY**

LEGAL SUMMARY

1. Thomas Guy (1644/5 – 1724) founded the Hospital which bears his name. Guy had made his fortune in commerce including a large stake in the South Sea Company. It is clearly established that the Company transported nearly 16,000 enslaved African people across the Atlantic.
2. The Guy statue, which stands in the main courtyard at the entrance to the historic Hospital, dates from 1734. It and the surrounding buildings are listed structures, the statue and its surrounding pedestal and railings at Grade 2, the courtyard buildings at Grade 2*. The entire historic site lies in the Borough High Street Conservation Area.
3. Because the Guy Statue is a listed building, consent (“LBC”) is required for *“any works for the demolition ... to its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest”*. Planning permission is also required for the demolition of a building within a Conservation Area.
4. Legislation requires that, in considering whether to grant LBC or planning permission in these circumstances, the decision maker must *“have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”* and, in respect

of the Conservation Area, to the desirability of preserving its character or appearance. The courts have held that this duty means that the decision taker must attach “*considerable importance and weight*” to the desirability of preserving heritage assets and their settings. National planning policy therefore provides that harm to designated heritage assets “*should require clear and convincing justification*”.

5. Turning specifically to the topic of “*contested heritage*”, the Government has made its general policy position, most recently in the updated version of the National Planning Policy Framework which now states:

“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.”

6. NPPF policy is a very important consideration in the consideration of any planning application or appeal.
7. The Government has also signalled its intention of using its powers to “call in” applications involving the removal of such statues, which means that the application would be determined by the Minister after a public inquiry or hearing, not by the Local Planning Authority. Clearly, the Minister is likely to give great weight to his policy which is not supportive of removing or otherwise altering the statue. The policy approach is to favour a “*retain and explain*” approach.
8. Whilst the Government’s current policy in relation to removal / alteration of statues is clearly not supportive, it is reasonable to suppose that there will be a number of decisions coming forward over the next months and years which

might provide a steer as to how proposals, eg. to move but retain statues, might be received by the Secretary of State. At present, there are no such decisions and the NPPF revised policy is very new.

9. On any application involving the moving of the statue, important questions would also arise as to the effect on the historic significance of the surrounding buildings and the question of what form any “*explanation*” or successor monument should take would be significant. Again, this is not something which has been considered in any decisions yet. A further point which is currently untested is the heritage effect of moving statues to new locations as opposed to removing them altogether from public view. Clearly, such decisions will be highly fact-specific, but this is one area which the Foundation might like to consider for the future, as it may be that there is one or more potential location for which a logical heritage case could be made as destination.
10. In conclusion, in the current policy climate in which the whole topic of contested heritage is new and politically charged, I would not expect a called in application for removal and relocation of the statue to succeed.

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