

Construction - Russia

Adapting historic buildings for contemporary use

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In St Petersburg, as in many other Russian cities, the city centre is also the historic centre. This generates numerous problems, including the need to adapt historic buildings for contemporary use in the course of developing the city centre area for business purposes. Most real estate in the historic centre falls into the category of cultural heritage items – that is, monuments of architecture and city development. Investors maintain a keen interest in such buildings due to their advantageous location; however, laws on the protection of cultural heritage items impose significant restrictions on reconstruction and major repairs of historical buildings, as well as on construction and installation works on adjacent sites, which makes it difficult to administer such real estate.

The paradox is that, on the one hand, in order to finance the maintenance of cultural heritage items state authorities aim to attract private investor money, since architectural monuments whose maintenance is not financed by the government or any other source often deteriorate significantly (and it is practically impossible to ensure day-to-day maintenance of such historic buildings using only state funds). On the other hand, garnering funds to finance the preservation of a cultural heritage item is possible only by increasing its investment attractiveness. To ensure this, a simplification of the regulations on the use of such buildings is needed. This can be done by eliminating as many restrictions as possible related to reconstruction and major repairs, as well as in regards to construction and installation work on adjacent sites. However, this would contradict the purpose of preserving such items as national treasures.

Most investors are ready to invest in preserving a historic building if a business project related to the building may also be implemented. However, realising such projects that involve adapting a building for contemporary use is a risky and time-consuming process.

Stringent regulations are in place that restrict the adaptation of buildings for contemporary use. If the adaptation project is approved by the cultural heritage protection authorities, Federal Law 73-FZ on cultural heritage items provides that only works preserving the monument can be performed on the site. Pursuant to Article 40 of Federal Law 73, preservation works include repair and restoration works aimed at ensuring the physical integrity of the monument, including:

- repair, restoration and adaptation of the cultural heritage item for contemporary use; and
- research, surveying, design and production works, scientific-methodological guidance, and technical and field supervision.

Pursuant to Article 44 of Federal Law 73, the adaptation of a cultural heritage item for contemporary use envisages research, design and production works that do not alter the distinct features of the item which afford it protection (which includes restoration of elements of historic and/or cultural buildings). Thus, pursuant to the law, the term 'adaptation for contemporary use' is limited to preservation and restoration works, while reconstruction or major repairs for the purpose of preserving historical buildings is prohibited.

Property investors usually do not object to the requirement that the exterior appearance of historical buildings (in particular, front and side faces) be preserved, although they often seek to change the inner configuration of the building, build on inner yard areas or modify internal layouts to increase the floor area (and therefore, the profitability) of the building. In theory, such works on historical buildings are not permitted.

In practice, whether a historic building can be adapted for contemporary use depends on its individual features. The more structural elements of the building that are subject to protection (ie, elements that are deemed intrinsic features and cannot be modified),

the fewer opportunities there are for adaptation works. Any existing walls or partitions included in the list of protected items thus make any change of layout impossible. Any preserved interiors also become subject to protection. In addition, by virtue of legislation on the constitutional right of public access to cultural heritage items and the protection obligations of historic building owners, the owner must ensure public access to the premises in compliance with the schedule approved by the authority for cultural heritage protection.

Stringent restrictions are also imposed on the use of the site of cultural heritage items. Article 35 of Federal Law 73 prohibits design development and land surveys on the site of a historical building, as well as ground, construction, reclamation and other works, except for maintenance activity and preservation work on the monument or the site. Moreover, one or more of the following protection zones may be established in the historic environs of or sites adjacent to the cultural heritage item:

- a protective zone;
- a development and business control zone; and
- a protected natural landscape zone.

Areas adjacent to the cultural heritage item usually fall into the first category – a protective zone in which new construction is prohibited.

Nevertheless, it is common practice to undertake reconstruction works on historical buildings, with construction work in the internal yard area often performed in a way intended to resemble preservation, restoration or adaptation of the building for contemporary use. Investors also cleverly employ loopholes in the laws on protection of cultural heritage that do not fully comply with town planning legislation.

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