

Hendry P (Pauline)

From: Hendry P (Pauline)
Sent: 29 April 2013 16:36
To: 'Paul Adams'; Nicola Drummond; yvonne@ghjohnston.co.uk
Cc: Allan Todd; Kerry Bennett
Subject: RE: PPA-270-2084 and LBA-270-2000; DRUMOSSIE HOTEL, INSHES, INVERNESS, IV2 5BE

Paul

Thank you for this, you're absolutely correct, it should read 'completed', not 'completely'. I shall add this exchange to the decision.

Kind regards

Pauline Hendry

Mrs Pauline Hendry
Casework Section Leader

Directorate for Planning and Environmental Appeals
Tel: 01324 696 483

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From: Paul Adams [mailto:paul.adams@highland.gsx.gov.uk]
Sent: 26 April 2013 15:12
To: Hendry P (Pauline); Nicola Drummond; yvonne@ghjohnston.co.uk
Cc: Allan Todd; Kerry Bennett
Subject: RE: PPA-270-2084 and LBA-270-2000; DRUMOSSIE HOTEL, INSHES, INVERNESS, IV2 5BE

Pauline – with regards to the below, there may be a typo with the substitute reason where the word 'completely' is used should this read 'completed'. Thanks. Paul.

Paul W. Adams
Solicitor
Chief Executives Office
Glenurquhart Road
Inverness
IV3 5NX

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Historic Scotland
Longmore House
Salisbury Place
Edinburgh
EH9 1SH

Our ref: PPA-270-2084 and LBA-270-2000

25 April 2013

Dear Sir/Madam

**PLANNING PERMISSION APPEAL AND LISTED BUILDING CONSENT APPEAL:
DRUMOSSIE HOTEL, INSHES, INVERNESS, IV2 5BE**

I refer to the decision notice regarding this appeal, issued on 16 April 2013.
Condition 5 of the decision notice cross references back to condition 4, but should
instead refer back to condition 3.

Please substitute condition 5 on page 7 of the decision notice dated 16 April 2013
with the following:

“Within 6 months of the development being completed, or on expiry of development
work pausing for 6 months, all landscaping work and planting covered by the
scheme approved in discharge of condition 3 shall be completed. (Reason: This
cannot reasonably be left any more open-ended, and to guard against this extensive
development – which comprises several different elements – not being completely in
its entirety.)”

I apologise for any inconvenience caused by this typographical error which has no
bearing on the outcome of the appeal.

Yours sincerely

Pauline Hendry

MRS PAULINE HENDRY
Casework Section Leader

From: Pauline.Hendry@scotland.gsi.gov.uk [mailto:Pauline.Hendry@scotland.gsi.gov.uk]
Sent: 25 April 2013 15:21
To: Paul Adams; Nicola Drummond; yvonne@ghjohnston.co.uk
Subject: GSX: PPA-270-2084 and LBA-270-2000; DRUMOSSIE HOTEL, INSHES, INVERNESS, IV2 5BE

Our ref: PPA-270-2084 and LBA-270-2000

25 April 2013

To: GH Johnston Building Consultants
Ms N Drummond, Highland Council

**PLANNING PERMISSION APPEAL AND LISTED BUILDING CONSENT APPEAL:
DRUMOSSIE HOTEL, INSHES, INVERNESS, IV2 5BE**

I refer to the decision notices relating to these appeals, issued on 16 April 2013. Condition 5 of the decision notices cross references back to condition 4, but should instead refer back to condition 3.

Please substitute condition 5 on page 7 of the decision notice dated 16 April 2013 with the following:

“Within 6 months of the development being completed, or on expiry of development work pausing for 6 months, all landscaping work and planting covered by the scheme approved in discharge of condition 3 shall be completed. (Reason: This cannot reasonably be left any more open-ended, and to guard against this extensive development – which comprises several different elements – not being completely in its entirety.)”

I apologise for any inconvenience caused by this typographical error which has no bearing on the outcome of the appeal.

Yours sincerely

Pauline Hendry

**MRS PAULINE HENDRY
Casework Section Leader**

**Mrs Pauline Hendry
Casework Section Leader**

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Tha am post-d seo (agus faidhle neo ceanglan còmhla ris) dhan neach neo luchd-ainmichte a-mhàin. Chan eil e ceadaichte a chleachdadh ann an dòigh sam bith, a' toirt a-steach còraichean, foillseachadh neo sgaoileadh, gun chead. Ma 's e is gun d'fhuair sibh seo le gun fhiosd', bu choir cur às dhan phost-d agus lethbhreac sam bith air an t-siostam agaibh, leig fios chun neach a sgaoil am post-d gun dàil.

Dh'fhaodadh gum bi teachdaireachd sam bith bho Riaghaltas na h-Alba air a chlàradh neo air a sgrùdadh airson dearbhadh gu bheil an siostam ag obair gu h-èifeachdach neo airson adhbhar laghail eile. Dh'fhaodadh nach eil beachdan anns a' phost-d seo co-ionann ri beachdan Riaghaltas na h-Alba.

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Appeal Decision Notice

T: 01324 696 400
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Decision by Philip G Hutchinson, a Reporter appointed by the Scottish Ministers

- Listed building consent appeal reference: LBA-270-2000
- Site address: New Drumossie Hotel, Inshes, Inverness, IV2 5BE
- Appeal by Monument Leisure Ltd against the decision by Highland Council
- Application for listed building consent 12/01687 dated 1 May 2012, refused by notice dated 28 September 2012
- The works proposed: Extension and alteration of hotel to provide spa and leisure facility, additional bedrooms, conference centre, restaurant extension, conservatory, ancillary office and (in retrospect) retention of UPVC-coated steel windows on front elevation
- Application drawings: See schedule at the end of this notice on page 7
- Date of site visit by Reporter: 11 February 2013

Date of appeal decision: 16 April 2013

Decision

I allow the appeal and grant listed building consent subject to the 5 conditions listed at the end of this notice on pages 6 and 7. Attention is also drawn to the advisory note at the end of this notice on page 7.

Notes:

(1): For the avoidance of doubt this grant of listed building consent applies to all parts of the proposal *except for* any changes to the existing building at lower ground floor level (the site of the originally proposed bar/restaurant extension).

(2): My separate notice of even date deals with the concurrent appeal against refusal of planning permission.

Reasoning

The key issues

1. The key issues are (1) whether the development would help preserve this Category B-listed building, its setting or any features of special architectural or historic interest which it possesses and if not (2) whether other material considerations nevertheless justify the grant of listed building consent.



2. This B-listed building dates from about 1930. It is east facing adjacent to the former A9 (now B9177) about 2 km southeast of Inverness. It is mainly of two storeys plus an attic storey. On its east elevation it has an offset 3-storey circular flat-roofed drum with ground and first floor balconies. There is regular fenestration all of which is in UPVC-coated steel framed windows. The Descriptive List refers to “original metal horizontal glazing in 1st floor and to casements in 11 wide piended dormers (each lighting 2 rooms); single pane glazing substituted in ground floor”. This listing dates from 1986 and the extract from the Descriptive List features a 1988 photograph. The replacement several years ago of the previous (mainly metal) windows with the present UPVC-coated frames on the front elevation - without planning permission or listed building consent - is the principal matter in contention in this appeal.

3. The other material considerations are (i) the relevant policy background and other guidance which has been drawn to my attention (ii) whether the re-glazing of all openings in the front elevation is proportionate at the present time (iii) the benefits of the scheme as a whole and (iv) whether conditions can resolve any serious difficulties.

Site-specific factors - discussion

4. Fenestration is the paramount concern. Every window opening in the hotel has UPVC-coated frames which for the greater part attempt to loosely replicate the original metal-framed windows with horizontal astragals. However, the council has indicated that only those on the front elevation are in contention. Here the ground floor windows are of a different pattern being large-paned but with high level opening hoppers above a transom. From the Descriptive List it is fairly clear that these ground floor windows were already in place prior to 1986. This is consistent with a 1988 photograph attached to the relevant extract. The long life of these different front ground floor windows is also evident from photographs showing the hotel when it was operated by Shearings in 1999 and in the 1970s when it was known as the Royal Stuart Motor Hotel. Yet another also shows these same windows with their present geometry. Although this last one is undated it is said to represent the original building in the 1930s. I accept this claim. It is consistent with the apparent age of cars in the foreground.

5. There are departures from the original design elsewhere on the front elevation, many of which might well be lost on the average visitor approaching the entrance. However the loss of curved glazing in the projecting flat-roofed drum is perhaps the most regrettable variation. The curve in each opening has been replicated by varying the angles at which successive panes are set. It is probably the best the installers could achieve with the particular product, but it is not really successful. Slightly more jarring are the thick frames used in the pair of French doors at first floor level in the drum. However these are a localised blemish on such a large building. A 2004 statement by the installers indicates that 23% of the previous windows had not been original when they were replaced with the current units, and that the original steel frames could not in any case have carried the weight of sealed double glazing.

6. The scheme as a whole self-evidently represents a major investment. The appellant company has owned the hotel for 10 years and now proposes to pursue 5-star status. The

spa, leisure and bedroom extension would run along the southern boundary of the site, cut into banking, without unbalancing the Art Deco frontage. The existing fenestration would be repeated in extensions which have been described as pleasing and attractive. An existing rear extension would become a bar and lounge area, whereas the hotel does not presently have a dedicated bar area. The conference centre would lie to the north of the hotel with its own dedicated entrance. The former bar on the lower ground floor would have been refurbished and extended to become (as originally proposed) a steakhouse type restaurant with bar. All this calls for serious energy-efficiency on a number of fronts. Historic Scotland is generally “supportive of the redevelopment and expansion of facilities at Drumossie as investment such as this will have a positive impact on the local economy” but the agency recognises that the windows which are in contention run contrary to policy.

7. In addition to the front fenestration, the only other element of the overall scheme to which the council takes exception is the (originally proposed) glazed curved front extension to the new restaurant on the lower ground floor. This would have a footprint about the same size as that of the canopy at the main entrance. Historic Scotland has expressed concern over its potential for “a significant adverse impact on the original design”. The appellant has therefore offered to drop this element. To this end amended drawings were submitted to the council in mid-September last year. These drawings record the status quo in the existing building at lower ground floor level. This option was a cooperative response (before the application was determined) to the preferences of both the council and Historic Scotland, leaving this part of the front elevation unchanged. Preserving the status quo in this way cannot possibly disadvantage the council.

8. It is doubtful that the council would have had much time to consider this late but very simple change in the few days remaining before the relevant committee meeting. If there are to be changes to the entrance detailing - such as a remodelling of the existing front projection - these will require a new application. However what is *now* proposed is absolutely no change to this part of the building, not even consequential interior changes. This situation does not require listed building consent, nor does the council need any further notice of it. Moreover Scottish Ministers would most definitely not wish me to let this almost tangential and exaggerated area of dispute obstruct major investment in other parts of the property in the present climate.

9. Returning to the existing windows on the front elevation I consider the comments of Historic Scotland to be significant. The agency states it has reassessed the listing and that its position is “that the building still merits inclusion on the list as a rare example of a 1930s road house, despite the original windows having been removed”. It advised the council “to think carefully about the balance between the fact that the windows are unauthorised and inappropriate; the length of time that the case has lain unresolved; the fact that we have confirmed that the building remains of list-able quality with the unauthorised windows in situ, and to decide what a proportionate response would be”. These comments present me with more than normal scope for flexibility.

10. A listed building enforcement notice was served after the windows were installed in 2003. This notice is dated 2005 and required the removal of the disputed windows by 28 February 2006. The period for compliance was later extended to 31 March 2007. It was

not complied with. There has apparently been much discussion over the years, plus an appeal against the notice. This appeal was sisted prior to a Public Local Inquiry. At that time there was an offer to comply with the notice. This sought only the replacement of windows on the front elevation. However the disputed windows remain in place some 8 years on. The council has confirmed that the listed building enforcement notice remains in force. No related appeal is before me. Significantly I have seen no evidence of any attempt to follow up the notice with a referral to the Procurator Fiscal. Even so one is bound to wonder how seriously the matter would *now* be received in Court. Tellingly, the committee report reveals that the enforcement action is “currently under review”. I accept that there are no time-exemptions in listed building control, but there is every likelihood that these windows are now exempt from planning enforcement action. Even if these current appeals were to fail, against the above background I would have no great confidence in the offending front windows ever being removed.

11. This background, among other factors, easily distinguishes the present proposals from the various other projects which have been drawn to my attention. In addition the committee report suggests that the UPVC-coated window frames which are in contention are of a design “roughly similar to those of the original but the proportion of the astragals is best described as clumsy”. In response to the appeal this position appears to have hardened. The council now holds that they “fail to replicate even the most basic characteristics of the originals”. I struggle to fully reconcile these two comments.

12. Moreover the council is content for all UPVC-coated windows on the end and rear elevations to remain. This position implies that a listed building is somehow only ‘skin deep’. This is an inappropriate way in which to approach listed building control. The entire building is listed, even its rear extensions. Existing and proposed car parks extend around the rear of the hotel allowing views of its other elevations. Movement around the rear will become more commonplace when the new facilities (spa etc) are operational. The council’s acquiescence over the UPVC-coated window frames on all but the front elevation weakens its position significantly.

13. In the course of further procedure in the concurrent planning appeal the council identified 3 companies which could supply metal-framed windows of modern thermal performance levels, two such companies being reportedly able to provide curved windows suitable for the drum. The council continues to firmly resist modern alternatives. One of the companies is said to be recommended by the Technical Conservation Team in Historic Scotland. It is not clear that those sources can *precisely* replicate the profiles of the original window frames, mullions and astragals. It is difficult to envisage how the weight of modern double glazing could be carried by astragals which precisely match those of the original upper floor windows. My difficulty here is consistent with the observations of the installers. In any case the presence of such sources does not appear to have inhibited the rather flexible response to the present proposals by Historic Scotland. I find it unfortunate that the above sources emerged so late in the process – in fact on my own initiative. I have seen no record of them being explored in depth over the 8 years since the listed building enforcement notice was served.

14. I am therefore persuaded to follow the proportionate course of action to which Historic Scotland has implicitly pointed. The agency has significantly moderated its previous (2005 and 2006) opposition in response to the current proposals. The continued obstruction of this major investment on account of relatively detailed matters - in all the above circumstances - would be unreasonable in the present economic climate. I am certain that Scottish Ministers would deplore the obstruction of major privately funded investment in this way. I attach much weight to the obvious benefits of the scheme in striking a balance at the end of the day. Self-evidently the new facilities and the re-working of the interior layout are likely to increase the length of visitors' stays, provide for larger numbers of visitors (including conference delegates) and increase their total on-site spend. This is exactly what policy 43 in the Highland-wide Local Development Plan is looking for.

Assessment against the first key issue

15. As submitted and even in its reduced amended form the proposal does not 100% help to preserve or enhance this Category B listed building, or its features of special architectural or historic interest. However there should be no more than a neutral effect on its setting. Even with such major extensions the building will remain in Category B. Such blemishes as arise are minor in the whole scheme of things. Below I find good reasons which more than counter-balance the fact that the second key issue does not run in favour of the appeal.

Other material considerations

16. Turning to the relevant policy background I recognise that there is a degree of conflict with policy 57 in the Highland-wide Local Development Plan. This, together with an associated Appendix 2 seeks to avoid adverse impacts when Category B-listed buildings are being altered or extended. This conflict is sufficiently counter-balanced by the positive support for such tourism developments from policies 43 and 44 in the said plan.

17. I note that Scottish Planning Policy [SPP] confirms at paragraph 113 that listing covers the whole of a building including its interior and any ancillary structures within its curtilage that were constructed before 1 July 1948. This is why I am uncomfortable with the council's acquiescence over UPVC-coated window frames on the end and rear elevations. Scottish Historic Environment Policy [SHEP] (in paragraph 3.35) states that each case should be taken on its merits. In paragraphs 3.43 and 3.49 it also leaves open the possibility that even significant intervention in a listed building can sometimes be justified on account of significant benefits to economic growth. I have also reviewed the guidance in *Managing Change in the Historic Environment – Windows* (2010). Although this illustrates an example of a metal Art Deco curved bay window, it does not discuss the replication of this type of window. I am not suggesting that this means caution should be discarded. I have hesitated a very great deal before striking the final balance. However, taking all this wider policy background and other guidance together I am convinced that it leaves room for a little flexibility over economic realities.

18. From my earlier reasoning I find that insistence on re-glazing the whole front elevation would be disproportionate. Moreover the benefits of the scheme as a whole have

had insufficient weight attached to them. I consider this unreasonable in the present economic climate, bearing in mind the importance which Scottish Ministers attach to sustainable economic growth.

19. As for possible conditions, the council has not offered a list on a 'without prejudice' basis. This is at odds with paragraph 31 in Circular 1/2000 – *Code of Practice for Planning Appeals and Other Planning Cases Determined by Written Submissions*. I have therefore generated these from scratch, and consider those below should deal satisfactorily with all outstanding matters. Any new proposals for the lower ground floor bar area may very well require a new application for listed building consent.

Conclusion

20. I conclude that the proposed development will not fully preserve or enhance this B-Listed building or its architectural or historic features of interest, but find that there is an overwhelming case for a little flexibility in the circumstances. I also conclude that the appeal proposal is at odds with the development plan in one very limited respect, but that this conflict is neutralised by other parts of the development plan. Other material considerations also pull in different directions, but I conclude that the grant of conditional planning permission is sufficiently justified when all the above factors are taken together.

21. Careful account has been taken of all the other matters which have been raised but they do not outweigh those considerations on which this decision is based. Parties have at different stages taken exception to the submission of new material by the other side. Such matters have had no influence on the outcome either way. There seems to have been a general failure to distinguish new matters from new material submitted in support of topics which were already in play.

Philip G Hutchinson

Reporter

Conditions

Before any work commences:

1. Precise details of all facing and roofing materials and the treatment of all openings shall be submitted for the prior approval of the planning authority, the object being to replicate existing finishes wherever possible. (Reason: In the interests of visual amenity by securing a satisfactory match of old and new finishes.)
2. Precise details of all surfacing of paths roads and car parks shall be submitted for the prior approval of the planning authority. (Reason: In the interests of visual amenity since all these areas are extensive.)
3. There shall be submitted for the prior approval of the planning authority a detailed landscaping scheme for the entire site. This shall indicate the species of all new trees and

shrubs, their sizes at time of planting and a programme of aftercare measures. (Reason: In the interests of visual amenity by maintaining the setting of this B-listed building.)

Before any of the new development is taken into use:

4. All car parking areas and internal circulation roads shall be completed, unless a phased arrangement is first approved in writing by the planning authority. (Reason: To ensure that satisfactory parking facilities and access details are available when required, avoiding any temporary shortfall situation, and any associated adverse impact on the setting of this B-listed Building.)

After completion:

5. Within 6 months of the development being completed, or on expiry of development work pausing for 6 months, all landscaping work and planting covered by the scheme approved in discharge of condition 4 shall be completed. (Reason: In the interests of visual amenity and the maintenance of the setting of this B-listed building. This matter cannot reasonably be left any more open-ended, and to guard against this extensive development - which comprises several different elements - not being completed in its entirety.)

Advisory note

The length of the consent: This listed building consent will last only for three years from the date of this decision notice, unless the works have been started within that period. (See section 16 of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 (as amended).)

Schedule of Approved Plans

<u>Plan Type</u>	<u>Plan No</u>	<u>Version</u>
Location Plan	1000	Version A
Existing Site Layout	1001	A
Site Layout	1002	C*
Existing Floor Plans	1003	A
Floor Plan	1004	B*
Floor Plan	1005	A
Existing Elevation	1006	A
Elevations	1007	B*
Elevations	1008	A
Landscaping	1009	C*

*These plans record the status quo at lower ground floor level in the existing building.

Historic Scotland
Longmore House
Salisbury Place
Edinburgh
EH9 1SH

Our ref: PPA-270-2084 and LBA-270-2000

25 April 2013

Dear Sir/Madam

**PLANNING PERMISSION APPEAL AND LISTED BUILDING CONSENT APPEAL:
DRUMOSSIE HOTEL, INSHES, INVERNESS, IV2 5BE**

I refer to the decision notice regarding this appeal, issued on 16 April 2013.
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Please substitute condition 5 on page 7 of the decision notice dated 16 April 2013
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its entirety.)”

I apologise for any inconvenience caused by this typographical error which has no
bearing on the outcome of the appeal.

Yours sincerely

Pauline Hendry

MRS PAULINE HENDRY
Casework Section Leader

Decision by Philip G Hutchinson, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2084
- Site address: New Drumossie Hotel, Inshes, Inverness, IV2 5BE
- Appeal by Monument Leisure Ltd against the decision by Highland Council
- Planning application 12/01692/FUL dated 1 May 2012, refused by notice dated 28 September 2012
- The development proposed: Extension and alteration of hotel to provide spa and leisure facility, additional bedrooms, conference centre, restaurant extension, conservatory, ancillary office and (in retrospect) retention of UPVC-coated steel windows on front elevation
- Application drawings: See schedule at the end of this notice on page 8
- Date of site visit by Reporter: 11 February 2013

Date of appeal decision: 16 April 2013

Decisions

I allow the appeal and grant planning permission subject to the 5 conditions listed at the end of this decision notice on pages 6 and 7. Attention is drawn to the 3 advisory notes which follow those conditions on page 7.

Notes

(1): For the avoidance of doubt this grant of planning permission applies to all parts of the proposal *except for* any changes to the existing building at lower ground floor level (the site of the originally proposed bar/restaurant extension)

(2): My separate decision notice of even date deals with the concurrent appeal against refusal of listed building consent.

Reasoning

The key issues

1. The key issues are (1) whether the proposal is consistent with the development plan (2) whether the development would help preserve this Category B-listed building, its setting or any features of special architectural or historic interest which it possesses and (3) if conflict arises in the above connections whether other material considerations nevertheless justify the grant of planning permission.

2. The most relevant part of the development plan is policy 57 in the Highland-wide Local Development Plan. This policy covers a wide range of natural, built and cultural heritage interests. The associated Appendix 2 indicates that the policy covers alterations, extensions or repairs to B-listed buildings. It requires development proposals to demonstrate that they will not have an unacceptable impact. However also of relevance are policies 43 and 44. In summary the first of these conditionally encourages appropriate types of tourism development, including cases which increase the length of stays and an increase in visitor spending. The second of these policies conditionally supports tourism development in the open countryside.

3. This B-listed building dates from about 1930. It is east facing adjacent to the former A9 (now B9177) about 2 km southeast of Inverness. It is mainly of two storeys plus an attic storey. On its east elevation it has an offset 3-storey circular flat-roofed drum with ground and first floor balconies. There is regular fenestration all of which is in UPVC-coated steel framed windows. The Descriptive List refers to "original metal horizontal glazing in 1st floor and to casements in 11 wide piended dormers (each lighting 2 rooms); single pane glazing substituted in ground floor". This listing dates from 1986 and the extract from the Descriptive List features a 1988 photograph. The replacement several years ago of the previous (mainly metal) windows with the present UPVC-coated frames on the front elevation - without planning permission or listed building consent - is the principal matter in contention in this appeal.

4. The other material considerations are (i) the remaining policy background and other guidance which has been drawn to my attention (ii) whether the re-glazing of all openings in the front elevation is proportionate at the present time (iii) the benefits of the scheme as a whole and (iv) whether planning conditions can resolve any serious difficulties.

Site-specific factors - discussion

5. Fenestration is the paramount concern. Every window opening in the hotel has UPVC-coated frames which for the greater part attempt to loosely replicate the original metal-framed windows with horizontal astragals. However, the council has indicated that only those on the front elevation are in contention. Here the ground floor windows are of a different pattern being large-paned but with high level opening hoppers above a transom. From the Descriptive List it is fairly clear that these ground floor windows were already in place prior to 1986. This is consistent with the photograph attached to the relevant extract. The long life of these different front ground floor windows is also evident from photographs showing the hotel when it was operated by Shearings in 1999 and in the 1970s when it was known as the Royal Stuart Motor Hotel. Yet another photograph shows these same windows with their present geometry. Although this last one is undated it is said to represent the original building in the 1930s. I accept this claim. It is consistent with the apparent age of cars in the foreground.

6. There are departures from the original design elsewhere on the front elevation, many of which might well be lost on the average visitor approaching the entrance. However the loss of curved glazing in the projecting flat-roofed drum is perhaps the most regrettable variation. The curve in each opening has been replicated by varying the angles at which successive panes are set. It is probably the best the installers could achieve with the particular product, but it is not really successful. Slightly more jarring are the thick frames



used in the pair of French doors at first floor level in the drum. However these are a localised blemish on such a large building. A 2004 statement by the installers indicates that 23% of the previous windows had not been original when they were replaced with the current units, and that the original steel frames could not in any case have carried the weight of sealed double glazing.

7. The scheme as a whole self-evidently represents a major investment. The appellant company has owned the hotel for 10 years and now proposes to pursue 5-star status. The spa, leisure and bedroom extension would run along the southern boundary of the site, cut into banking, without unbalancing the Art Deco frontage. The existing fenestration would be repeated in extensions which have been described as pleasing and attractive. An existing rear extension would become a bar and lounge area, whereas the hotel does not presently have a dedicated bar area. The conference centre would lie to the north of the hotel with its own dedicated entrance. The former bar on the lower ground floor would have been refurbished and extended to become (as originally proposed) a steakhouse type restaurant with bar. All this calls for serious energy-efficiency on a number of fronts. Historic Scotland is generally "supportive of the redevelopment and expansion of facilities at Drumossie as investment such as this will have a positive impact on the local economy" but the agency recognises that the front windows which are in contention run contrary to policy.

8. In addition to the front fenestration, the only other element of the overall scheme to which the council takes exception is the (originally proposed) glazed curved front extension to the new restaurant on the lower ground floor. This would have a footprint about the same size as that of the canopy at the main entrance. Historic Scotland has expressed concern over its potential for "a significant adverse impact on the original design". The appellant has therefore offered to drop this element. To this end amended drawings were submitted to the council in mid-September last year. These drawings record the status quo in the existing building at lower ground floor level. This option was a cooperative response (before the application was determined) to the preferences of both the council and Historic Scotland, leaving this part of the front elevation unchanged. Preserving the status quo in this way cannot possibly disadvantage the council.

9. It is doubtful that the council would have had much time to consider this late but simple change in the few days remaining before the relevant committee meeting. If there are to be changes to the entrance detailing - such as a remodelling of the existing front projection - these will require a new application. However what is *now* proposed is absolutely no change to this part of the building, not even consequential interior changes. This situation does not require planning permission, nor does the council need any further notice of it. Moreover Scottish Ministers would most definitely not wish me to let this almost tangential and exaggerated area of dispute obstruct major investment in other parts of the property in the present climate.

10. Returning to the existing windows on the front elevation I consider the comments of Historic Scotland to be significant. The agency states it has reassessed the listing and that its position is "that the building still merits inclusion on the list as a rare example of a 1930s road house, despite the original windows having been removed". It advised the council "to think carefully about the balance between the fact that the windows are unauthorised and inappropriate; the length of time that the case has lain unresolved; the fact that we have confirmed that the building remains of list-able quality with the unauthorised windows in situ,

and to decide what a proportionate response would be". These comments present me with more than normal scope for flexibility.

11. A listed building enforcement notice was served after the windows were installed in 2003. This notice is dated 2005 and required the removal of the disputed windows by 28 February 2006. The period for compliance was later extended to 31 March 2007. It was not complied with. There has apparently been much discussion over the years, plus an appeal against the notice. This appeal was sisted prior to a Public Local Inquiry. At that time there was an offer to comply with the notice. This sought only the replacement of windows on the front elevation. However the disputed windows remain in place some 8 years on. The council has confirmed that the listed building enforcement notice remains in force. No related appeal is before me. Significantly I have seen no evidence of any attempt to follow up the notice with a referral to the Procurator Fiscal. Even so one is bound to wonder how seriously the matter would *now* be received in Court. Tellingly, the committee report reveals that the enforcement action is "currently under review". I accept that there are no time-exemptions in listed building control, but there is every likelihood that these windows are now exempt from planning enforcement action. Even if these current appeals were to fail, against the above background I would have no great confidence in the offending front windows ever being removed.

12. This background, among other factors, easily distinguishes the present proposals from the various other projects which have been drawn to my attention. In addition the committee report suggests that the UPVC-coated window frames which are in contention are of a design "roughly similar to those of the original but the proportion of the astragals is best described as clumsy". In response to the appeal this position appears to have hardened. The council now holds that they "fail to replicate even the most basic characteristics of the originals". I struggle to fully reconcile these two comments.

13. Moreover the council is content for all UPVC-coated windows on the end and rear elevations to remain. This position seems to imply that a listed building is somehow only 'skin deep'. This is an inappropriate way in which to approach listed building control. The entire building is listed, even its rear extensions. Existing and proposed car parks extend around the rear of the hotel allowing views of its other elevations. Movement around the rear will become more commonplace when the new facilities (spa etc) are operational. The council's acquiescence over the UPVC-coated window frames on all but the front elevation weakens its position significantly.

14. In the course of further procedure the council identified 3 companies which could supply metal-framed windows of modern thermal performance levels, two such companies being reportedly able to provide curved windows suitable for the drum. The council continues to firmly resist modern alternatives. One of the companies is said to be recommended by the Technical Conservation Team in Historic Scotland. It is not clear that those sources can *precisely* replicate the profiles of the original window frames, mullions and astragals. It is difficult to envisage how the weight of modern double glazing could be carried by astragals which precisely match those of the original upper floor windows. My difficulty here is consistent with the observations of the installers. In any case the presence of such sources does not appear to have inhibited the rather flexible response to the present proposals by Historic Scotland. I find it unfortunate that the above sources emerged so late in the process – in fact on my own initiative. I have seen no record of them

being explored in depth over the 8 years since the listed building enforcement notice was served.

15. I am therefore persuaded to follow the proportionate course of action to which Historic Scotland has implicitly pointed. The agency has significantly moderated its previous (2005 and 2006) opposition in response to the current proposals. The continued obstruction of this major investment on account of relatively detailed matters - in all the above circumstances - would be unreasonable in the present economic climate. I am certain that Scottish Ministers would deplore the obstruction of major privately funded investment in this way. I attach much weight to the obvious benefits of the scheme in striking a balance at the end of the day. Self-evidently the new facilities and the re-working of the interior layout are likely to increase the length of visitors' stays, provide for larger numbers of visitors (including conference delegates) and increase their total on-site spend. This is exactly what local development plan policy 43 is looking for.

Assessment against first two key issues

16. In the light of the previous 10 paragraphs I find that the appeal proposal conflicts to a degree with policy 57 in the Highland-wide Local Development Plan. I also find that in the present climate, and in all the unusual circumstances explored above, such conflict is neutralised by the clear support of policy 43 (and to a lesser extent policy 44).

17. As submitted the proposal does not fully preserve or enhance this Category B listed building, or its features of special architectural or historic interest. However there should be no more than a neutral effect on its setting. Even with such major extensions the building will remain in Category B. Such blemishes as arise are minor in the whole scheme of things. Below I find good reasons which more than counter-balance the fact that the second key issue does not run in favour of the appeal.

Other material considerations

18. Turning to the remaining policy background I note that Scottish Planning Policy [SPP] confirms at paragraph 113 that listing covers the whole of a building including its interior and any ancillary structures within its curtilage that were constructed before 1 July 1948. This is why I am slightly uncomfortable with the council's acquiescence over UPVC-coated window frames on the end and rear elevations. Scottish Historic Environment Policy [SHEP] (in paragraph 3.35) states that each case should be taken on its merits. In paragraphs 3.43 and 3.49 it also leaves open the possibility that even significant intervention in a listed building can sometimes be justified on account of significant benefits to economic growth. I have also reviewed the guidance in *Managing Change in the Historic Environment – Windows* (2010). Although this illustrates an example of a metal Art Deco curved bay window, it does not discuss the replication of this type of window. I am not suggesting that this means caution should be discarded. I have hesitated a very great deal before striking the final balance. However, taking all this wider policy background and other guidance together I am convinced that it leaves room for a little flexibility over economic realities.

19. I have already dealt in passing with the second and third of the other material considerations identified in paragraph 4 above. In summary I find that insistence on re-

glazing the whole front elevation would be disproportionate. Moreover the benefits of the scheme as a whole have had insufficient weight attached to them. I consider this unreasonable in the present economic climate, bearing in mind the importance which Scottish Ministers attach to sustainable economic growth.

20. As for planning conditions, I note that the council has not offered a list on a 'without prejudice' basis. This is at odds with paragraph 31 in Circular 1/2000 – *Code of Practice for Planning Appeals and Other Planning Cases Determined by Written Submissions*. I have therefore generated these from scratch, and consider those below should deal satisfactorily with all outstanding matters. Any future changes to the lower ground floor bar area may very well require a new planning application.

Conclusion

21. I conclude that the appeal proposal is at odds with the development plan in one limited respect, but that this conflict is neutralised by other parts of the development plan. I accept that the proposal should not fully preserve or enhance this B-Listed building or its architectural or historic features of interest, but find that there is an overwhelming case for a little flexibility in the circumstances. I find that other material considerations pull in different directions. I conclude that the grant of conditional planning permission (for all parts of the proposal except the bar/restaurant extension at lower ground floor level in the existing building) is sufficiently justified when all the above factors are taken together.

22. Careful account has been taken of all the other matters which have been raised but they do not outweigh those considerations on which this decision is based. Parties have at different stages taken exception to the submission of new material by the other side. Such matters have had no influence on the outcome either way. There seems to have been a general failure to distinguish new matters from new material submitted in support of topics which were already in play.

Philip G Hutchinson

Reporter

Conditions

Before any work commences:

1. Precise details of all facing and roofing materials and the treatment of all openings shall be submitted for the prior approval of the planning authority, the object being to replicate existing finishes wherever possible. (Reason: In the interests of visual amenity by securing a satisfactory match of old and new finishes.)
2. Precise details of all surfacing of paths roads and car parks shall be submitted for the prior approval of the planning authority. (Reason: In the interests of visual amenity since all these areas are extensive.)
3. There shall be submitted for the prior approval of the planning authority a detailed landscaping scheme for the entire site. This shall indicate the species of all new trees and



shrubs, their sizes at time of planting and a programme of aftercare measures. (Reason: In the interests of visual amenity so that the development matures into its setting as swiftly as possible.)

Before any of the new development is taken into use:

4. All car parking areas and internal circulation roads shall be completed, unless a phased arrangement is first approved in writing by the planning authority. (Reason: To ensure that satisfactory parking facilities and access details are available when required, avoiding any temporary shortfall situation.)

After completion:

5. Within 6 months of the development being completed, or on expiry of development work pausing for 6 months, all landscaping work and planting covered by the scheme approved in discharge of condition 4 shall be completed. (Reason: This cannot reasonably be left any more open-ended, and to guard against this extensive development - which comprises several different elements - not being completed in its entirety.)

Advisory notes

1. **The length of the permission:** This planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development has been started within that period. [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).]

2. **Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action. [See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).]

3. **Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position. [See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)].

Schedule of Approved Plans

<u>Plan Type</u>	<u>Plan No</u>	<u>Version</u>
Location Plan	1000	Version A
Existing Site Layout	1001	A
Site Layout	1002	C*
Existing Floor Plans	1003	A
Floor Plan	1004	B*
Floor Plan	1005	A
Existing Elevation	1006	A
Elevations	1007	B*
Elevations	1008	A
Landscaping	1009	C*

*These plans record the status quo at lower ground floor level in the existing building