

## Appeal Decision Notice

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Decision by David Russell, a Reporter appointed by the Scottish Ministers

- Enforcement notice appeal reference: ENA-270-2010
- Site address: Church Hall, Crescent Road, Nairn IV12 4NE
- Appeal by the Trustees of the Pentecostal Church of God, Nairn, against the enforcement notice dated 19 November 2014 and served by Highland Council
- The alleged breach of planning control is the unauthorised installation of three roller shutters on the front elevation of the church hall
- Date of site visit by Reporter: 10 February 2015

Date of appeal decision: 24 February 2015

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### Decision

I dismiss the appeal and direct that the enforcement notice dated 19 November 2014 be upheld.

Subject to any application to the Court of Session, the enforcement notice takes effect on the date of this decision, which constitutes the determination of the appeal for the purpose of Section 131(3) of the Act.

### Reasoning

1. The appeal against the enforcement notice was made on two grounds (grounds (c) and (g)) as provided for by section 130(1) of the Town and Country Planning (Scotland) Act 1997:

Ground (c): That there has not been a breach of planning control; and,

Ground (g): That the time allowed to comply with the enforcement notice is too short.

2. With regard to the first ground of appeal, it is clear from the submissions that the three roller shutters were installed when the original rotting timber framed windows were removed, and that this was to be a temporary measure pending the renovation of the whole building. This avoided the more unsightly option of boarding up the window openings pending completion of the renovation works. However the shutters have also provided a subsequent benefit in allowing the steel-work required for the renovation to be brought into the building through the window openings, and then to be kept securely prior to use.



3. Planning permission was sought retrospectively for the roller shutters, but the application was refused by the council. I do not consider that their installation can be construed now as being permitted development. These roller shutters have a permanent character and function, and are not simply temporary plant or machinery which is connected only with the renovation works. Therefore they cannot be defined as permitted development under the terms of Schedule 1, Part 4, Class 14(1) of the General Permitted Development Order 2011.

4. I therefore conclude that the installation of the roller shutters has been carried out without the necessary planning permission. Accordingly, a breach of planning control has occurred, and so the appeal on ground (c) fails.

5. With regard to the appeal on ground (g), I note that planning permission has already been obtained for the replacement windows to be installed as part of the renovation works currently underway. In these circumstances, I am satisfied that the period of six months is sufficiently long to enable the shutters to be removed and for the approved replacement windows to be installed. The appeal on ground (g) therefore fails too.

*David A. Russell*

Principal Inquiry Reporter