

Appeal Decision Notice

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Decision by Karen Black, a Reporter appointed by the Scottish Ministers

- Listed building enforcement appeal reference: LBE-270-2000
- Site address: 51 Grant Street, Inverness, IV3 8BP
- Appeal by Ms Sarah Mackay against the listed building enforcement notice dated 15 January 2016 served by The Highland Council
 - Alleged breach of listed building control: alleged unauthorised installation of fixtures and fitting along with associated panels and lettering to shop front
- Ground(s) of appeal under s.35(1) of the Act: (a), (c), (e), (g) and (i)
- Date of site visit by Reporter: 16 May 2016

Date of appeal decision: 31 May 2016

Decision

I dismiss the appeal, refuse to grant listed building consent for the matters covered in the listed building enforcement notice, and direct that the notice be upheld. Subject to any application to the Court of Session this notice takes effect on the date of the decision, which constitutes the determination of the appeal for the purpose of Section 35(3) of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997.

Preliminary matter

Historic Environment Scotland confirm in their email of 29 April 2016 that they have received a formal request to 'de-list' the property. For the purposes of this appeal however, I must address matters relevant at the date of the enforcement notice, namely 15 January 2016, and the status of the property at that time.

Reasoning

1. The appeal was made on the following grounds as provided for by section 35(1) of the above Listed Buildings Act:

- (a) that the building is not of special architectural or historic interest;
- (c) that those matters (if they occurred) do not constitute such a contravention;
- (e) that listed building consent ought to be granted for the works, or that any relevant condition of such consent which has been granted ought to be discharged, or different conditions substituted;
- (g) except in relation to such a requirement as is mentioned in section 34(2)(b) or (c), that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out;

- (i) that the steps required by the notice for the purpose of restoring the character of the building to its former state would not serve that purpose.

Ground (a)

2. The Scottish Historic Environment Policy 2011 sets out the criteria used to decide if a building merits listing. The assessment is based on the age and rarity of a building, its architectural or historic interest and close historical association. The building which is subject to appeal was listed in 1981. The statutory listing for the building describes it as ‘an early 19th-century, painted droved ashlar 2 storey and attic property, with 3 windows and 4 doors at ground floor, 5 windows at 1st floor, and 3 piended dormers’. The building has a slate roof and is category ‘B’ listed which means that it is a building of regional or more than local importance. From my site inspection, it is clear that the building has a fairly run down and dilapidated appearance, and I would therefore agree with the appellant’s views about the condition of the property. It is clear from available records however that the building has formal listed status based on the criteria outlined above, and the condition of the property is not sufficient to question the architectural or historic interest of a property. The appeal under ground (a) therefore fails.

Ground (c)

3. Under the terms of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 alterations to a listed building can only be regarded as authorised if they have written consent and would not affect the special character or historic interest of the affected building. There is no dispute that the fascia cladding and lettering has been installed on the front elevation of the building. I found at my site visit that a black metal cladding shopfront fascia has been mounted onto the outside of the shop and projecting forward of the original stone frontage. A security shutter box housing and fascia sign is also positioned above the window and entrance door. I have no evidence to show that the alterations have listed building consent and the service of the enforcement notice by the council confirms the unauthorised nature of the alterations and that the alterations do not have written consent. The appeal under ground (c) therefore also fails.

Ground (e)

4. When considering whether listed building consent should be granted for the unauthorised works, Section 14(2) of the Listed Building Act imposes a duty to 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. The council have not referred to any council policy guidance in either the delegated enforcement report, or the appeal statements so my assessment of whether listed building consent ought to be granted for the works is based on guidance contained in Historic Scotland’s Managing Change in the Historic Environment 2010 which sets out national policy guidance on such matters. With regard to shopfronts the guidance states that historic shopfronts contribute to the architectural quality of a building and to the character of a place. The guidance also specifies that alterations to accommodate commercial security can affect a building’s character and lettering on fascias, windows and doors which contribute to the significance of a historic shopfront should be retained. New lettering must be carefully designed to respect the character of a building and traditional hand-painted sign-writing is encouraged. Fixings that cut across architectural detail or that sit uneasily against the form of the

entrance or the surrounding façade should be avoided. Items which attach to, or project forward of the building's façade, such as canopy boxes or external roller metal shutters and their box housings, can also affect character. Externally mounted modern roller shutters can be difficult to accommodate on a historic shopfront and alternatives can include removable external grilles, toughened glass or security film.

5. The listed building in this case is located in a prominent location on the corner of Grant Street and Lochalsh Road. It was evident from my visit that the building is in need of cosmetic repairs and the upper floors are currently vacant with 'dummy' windows painted in the window openings. Fascia cladding has been mounted onto the outside of the shop and projecting forward of the original stone frontage. A security shutter box housing and fascia sign in the same materials with purple coloured lettering are also positioned above the window and entrance door. These features cut across the whole of the original stone frontage and fascia sign of the ground floor of the building, introducing an asymmetric feature when viewing the building frontage as a whole. The impact is increased by the scale and the significant projection of the shutter housings and fascia sign out from the shopfront. Taking account of these factors, I am satisfied that the alterations dominate the appearance of the shopfront and draw the eye away from the details and style features that give historic character and value to the original shop frontage. The applicant has supplied photographs to highlight the previous condition and appearance of the property, and I am sympathetic to the desire to improve the appearance of the building. The modern design and materials on the front elevation of this historical building however is out of keeping with the traditional appearance and architectural integrity of the frontage of the building. They are not in my view in keeping with the original character of the listed building.

6. In assessing this matter, I have considered the design and detail of the shopfront of the adjoining commercial property on the ground floor. The original painted fascia and stonework remain and more traditional external window grilles installed for security purposes, have also been retained. All are in keeping with the original character of the building. I have also taken account of the examples provided by the appellant in relation to alterations to the museum building and nearby Ladbroke's property, however those buildings, I understand are not listed. In any event, the existence of others, which may or may not be less acceptable or have the necessary permissions, should not be used to facilitate an unacceptable individual situation. I must consider the impact the alterations have on the architectural character of the particular building which is subject to appeal. I also note the support the appellant has gained from customers and adjoining businesses in her attempts to improve the appearance of the building, however for the reasons stated above, the design has, in my view had an adverse impact on the architectural integrity and character of the original building and accordingly listed building consent should not be granted for the unauthorised works in this case. The appeal under ground (e) therefore fails.

Grounds (g) and (i)

7. Taking grounds (g) and (i) together, the enforcement notice requires the removal of the panels, fixtures and fittings attached to the front elevation of the building. It also requires reinstatement of the elevation of the building to its condition prior to the fixing of the panels, including any repair required to the stone on the building required as a result of the method of fixing.

8. Removing the panels, fixtures and fittings which hide the original stonework and fascia which would have contributed to the character of the original building would reveal these features again and restore the original character and balance of the shopfront. The appeal submissions suggest that the panels could be removed if the appellant ceased trading, however the issue before me is whether the alterations have a significant impact on the character of the building at the time the enforcement notice was served and I have previously concluded that this is the case. I am satisfied that removing these features is the minimum needed to remedy the breach, and that repairing any damage caused in installation or removal is not unreasonable and would be a logical associated step. The requirements of the enforcement notice are therefore appropriate and not excessive, and the appeal fails on these grounds as well.

9. For the reasons given above, and having regard to all other matters raised I dismiss the appeal and uphold the listed building enforcement notice.

Karen Black
Reporter