



PLANNING APPEAL STATEMENT OF CASE TO SUPPORT PLANNING APPLICATION
10/02046/APP: DEMOLISH EXISTING BUILDING AND ERECT FLATTED DEVELOPMENT (8 NO
UNITS) AND ASSOCIATED INFRASTRUCTURE WORKS AT CASTLE INN 29 CAROLINE STREET
FORRES MORAY FOR MR. GRAHAM FORBES

November 2011

**St. Brendans
South Guildry Street
Elgin
Moray
IV30 1QN**

t. 01343 540020 **f.** 01343 556470
w. cmdesign.biz

**4 Bridge Street
Nairn
Highland
IV12 4EJ**

t. 01667 300230
w. cmdesignnairn.co.uk

planning**consultancy** • architectural**design** • project**management**



planning**consultancy** • architectural**design** • project**management**

St. Brendans
South Guildry Street
Elgin
Moray
IV30 1QN

t. 01343 540020 **f.** 01343 556470
e. matthew.hilton@cmdesign.biz

PLANNING APPEAL STATEMENT OF CASE TO SUPPORT PLANNING APPLICATION 10/02046/APP: DEMOLISH EXISTING BUILDING AND ERECT FLATTED DEVELOPMENT (8 NO UNITS) AND ASSOCIATED INFRASTRUCTURE WORKS AT CASTLE INN 29 CAROLINE STREET FORRES MORAY FOR MR. GRAHAM FORBES

Our Reference:	090011/TABOO/mjh
Local Authority:	The Moray Council
Planning Application Ref:	10/02046/APP
Application Proposal:	Demolish Existing Building And Erect Flatted Development (8 No Units) And Associated Infrastructure Works
Site Address:	Castle Inn 29 Caroline Street Forres Moray
Appellant:	Mr. Graham Forbes
Date Application Validated:	11 th January 2011
Council Decision Notice Date: (Appendix CMD001)	12 th October 2011
Reason for Refusal:	<p>1. The proposal is contrary to the policies of the approved Moray Structure Plan (Policy 2(f)) and the Moray Local Plan (Policy BE2, BE3, H3, T5 & IMP1) for the following reasons:</p> <ul style="list-style-type: none"> • The Castle Inn is a listed building of significant local importance and is a focus for the community in relation to the history and heritage of the area. A case has not been presented that convincingly justifies its demolition. The proposed replacement building is also not of comparable quality in terms of construction and design. This would be to the detriment of the conservation area and wider locality. • To approve this demolition with little or no justification other than the redevelopment costs, without due consideration of alternative uses, would set a precedent for the demolition of other listed buildings in other locations in Moray in similar circumstances. The Council are committed in its policies to protecting listed buildings and to seeking new alternative uses.

	<ul style="list-style-type: none"> Transportation considers that only 5 parking spaces could be provided within the parking area. The proposed development would have a shortfall of 8 parking spaces.
Application Drawings & Supporting Documents:	<p>090011.FORBES.SV03A (CMD009)</p> <p>090011.FORBES.P10A (CMD010)</p> <p>090011.FORBES.P11 (CMD011)</p> <p>090011.FORBES.P12A (CMD012)</p> <p>090011.FORBES.SK04 (CMD013)</p> <p>090011.FORBES.SK05 (CMD014)</p>
Primary Development Plan Policies:	<p>Moray Structure Plan Policy 2 (CMD002)</p> <p>Moray Local Plan 2008 Policy BE2 (CMD003)</p> <p>Moray Local Plan 2008 Policy BE3 (CMD004)</p> <p>Moray Local Plan 2008 Policy H3 (CMD005)</p> <p>Moray Local Plan 2008 Policy IMP1 (CMD006)</p>
Relevant Supplementary Planning Policy:	<p>Historic Scotland, Managing Change in the Historic Environment: Demolition Advice Note (CMD007)</p>

LIST OF DOCUMENTS

CMD001	Council Decision Notice
CMD002	Moray Structure Plan Policy 2
CMD003	Moray Local Plan 2008 Policy BE2
CMD004	Moray Local Plan 2008 Policy BE3
CMD005	Moray Local Plan 2008 Policy H3
CMD006	Moray Local Plan 2008 Policy IMP1
CMD007	Historic Scotland, Managing Change in the Historic Environment: Demolition Advice Note
CMD008	CM Design Detailed response to Historic Scotland Consultation
CMD009	090011.FORBES.SV03A
CMD010	090011.FORBES.P10A
CMD011	090011.FORBES.P11
CMD012	090011.FORBES.P12A
CMD013	090011.FORBES.SK04
CMD014	090011.FORBES.SK06
CMD015	Allan Cormack Quotation
CMD016	CM Design Pre-application Letter
CMD017	Council Pre-application Acknowledgment
CMD018	Council Letter confirming loss of Pre-application
CMD019	Council Planning Application Validation Letter
CMD020	HGA Structural Survey Report
CMD021	Council Report of Handling
CMD022	Council Parking Standards

1. The above detailed planning application was submitted to the Moray Council for planning approval on 2nd December 2010. Regrettably, after a considerable timeframe, the application was refused by the Appointed Officer (thereafter called 'the Officer') under delegated powers on 12th October 2011 for the reasons outlined above.

2. Following due consideration, our client (thereafter called 'the appellant') has instructed us to appeal the Officer's decision to the Moray Council Local Review Board and the following statement prepared by CM Design Chartered Architect and Planning Consultants (thereafter called 'the agent'), outlines the reasons why the appellant considers this appeal conforms to both the Moray Council Development Plan and Historic Scotland policy and should therefore be supported.

3. Initially, it should be noted that the appellant does not dispute that the appeal site is both a listed building and is within Forres conservation area and for this reason when the appellant first appointed the agent, the commission was to prepare a scheme which reused/rehabilitated the building.

4. The agent undertook a detailed survey of the existing building and prepared a fully detailed scheme proposing the creation of 3 town houses, within the existing building (**Documents CMD0013 & CMD0014**). This scheme met the client aspirations for the site and he noted his interest in developing this scheme further.

5. Prior to progressing this scheme to a formal planning stage, the appellant rightly wanted to cost the scheme. Therefore, he took these initially proposal to the highly respected local contractor, Allan Cormack Joiners for pricing. Regrettably, this price came back at £485,000.00 (ex. VAT) (**Document CMD015**) for the conversion work. Allan Cormack justifies this considerable fee due to the serious structural defects within the existing building and the constricted site conditions, namely; the existing building bounding the plot on all four sides, including the public road.

6. Alarmed at this high build cost quotation and before progressing with this project the appellant, also approached Cluny Estate Agent in Forres to gauge the resale value of each of the proposed townhouses. Mr. Steve Beck of Cluny Estate Agent advised that each unit could achieve a maximum return of £160,000.00 per unit.

7. Even assuming the appellant achieves this maximum return for the sale of each of the three units, this would only generate £480,000.00, which is regrettably £5000.00 below the contractors provisional quotation and when the cost of the building/land is factored into these costs, the appellant would face a considerable financial loss in bring this building back into life.

8. Corollary, the appellant asked the agent to review other options to bring the building back into use, including temporarily re-opening the public bar. In terms of the latter, this option was discounted as without substantial financial costs to make the building structurally safe, the public house could not reopen and in a market where 52 public houses are closing every week due to a lack of trade, this was considered to be foolhardy.

9. This resulted in the appellant concluding that the wholesale demolition of the existing building and its replacement was the most appropriate way forward and following the advice contained within Section 4.4 of Historic Scotland, Managing Change in the Historic Environment: Demolition advice note (**Document CMD007**), the appellant submitted a pre-application consultation document to the Council on 5th November 2009 (**Document CMD016**).

10. This pre-application consultation was acknowledged by the Council Planning Service on the 6th November 2009 (**Document CMD017**) and the acknowledgment letter states that the Council would endeavour to provide a response within four weeks (approximately 4th December 2009). The agent discussed the project with the Council Officer allocated the case on 8th December 2009 and the Officer agreed to provide a response before the 2009 Christmas Break.

11. Regrettably, no response was received before the 2009 Christmas Break and following various telephone calls in the early part of 2010 by the agent to the Officer, no response was ever received and in later correspondence the Planning Service admits to misplacing the Pre-application Consultation (**Document CMD018**).

12. During 2010, following growing public pressure from both the Community Council and the general press for the appellant to do something with the building, the appellant considered that he had no option but to progress with his proposal to demolish the building and propose a replacement building even though the Planning Service had as yet failed to respond to his request for a pre-application consultation.

13. In April 2010, the agent prepared a scheme proposing the complete demolition of the existing building and its replacement with 8 no. flats, similar in form, scale and massing of the existing building. After much deliberation and still lacking a response from the Planning Service to his pre-application consultation request, the appellant decided to submit his proposal for planning approval on 1st December 2010.

14. Following various amendments sought via the Planning Service the Planning Application was validated by the Council on 11th January 2011 (**Document CMD019**), with the Planning Service advising that the statutory timeframe for determining the application would expire on 8th March 2011.

15. The agent tried to contact the Appointed Officer at various times following the submission of the application within the statutory determination period without success and it was not until 19th April 2011 that the Appointed Officer provided a copy of the Council Transportation Section Response (dated 31st January 2011) and Historic Scotland Consultation Response (dated 16th February 2011) to the agent.

16. Upon receipt of the above information from the Appointed Officer, and following discussion with the appellant, the agent submitted additional documents on 13th May 2011 and requested that Historic Scotland were re-consulted in light of this additional information.

17. By early June it had become apparent that Historic Scotland had not been passed these additional documents by the Appointed Officer and they were only finally passed to them, following a complaint about the lack of progress to the Planning & Economic Development Manager.

18. Historic Scotland provided a revised consultation response on 27th June 2011 and upon receipt the agent submitted a detailed rebuttal on 5th July 2011 (CMD00, the salient points of are elaborated upon in the first section of this Statement of Review below.

19. As the Council Transportation Section had also sought amendments to the scheme, at the same time the aforementioned Historic Scotland consultation was taking place, the agent engaged with the Council Transportation Section in order to try and resolve their concerns.

20. The outcome of the discussions between the agent and Transportation Section resulted in the Transportation Section removing their objection to the Caroline Street/North Road visibility splay and width of the new footway along Caroline Street. Unfortunately, the Transportation Section would not accept the appellant argument in terms of the proposed parking provision and this became a reason for refusal, which is addressed in detail in the second section of the Statement of Review below.

HISTORIC SCOTLAND:

21. The Moray Council Local Plan Policies and Historic Scotland Guidance rightly seeks to prevent the demolition of Listed Buildings, unless it is unviable to retain/reuse them or where the applicant is able to justify its demolition meets **one** of the following tests:

1. The importance of the building is no longer worth to be listed;

2. The condition of the building has deteriorated and is beyond repair;
3. The building is capable of being repaired but the costs of doing so mean that the repair would be unviable;
4. The development brings about wider public benefits.

22. Section 5.2 of Historic Scotland, Managing Change in the Historic Environment: Demolition advice note (Document CMD007) clearly states that to obtain consent to demolition a Listed Building, the appellant only needs to satisfy one of the above tests and in this instance, the appellant contends that his proposal clearly meets tests 2 & 3 for the following reasons;

23. From an external perspective, the building clearly appears seriously dilapidated and is in a poor state of repair, most notable is the serious sag in the roof of the second 'arm' of the building and the bowing of the external wall outwards at the road level again in the second 'arm'.

24. Additionally, the slate roof on the lower projecting part, suffered from nail fatigue and, as such, the appellant was forced to strip the slates off this part of the building and apply a temporary repair. The main roofs are also showing serious signs of defect with a large number of slates slipping and it will therefore not be long before the entire roof structure will need to be replaced.

25. However, internally the building is in a far worse state of repair and whilst the property was operating as a Public House the appellant was bound to have the building surveyed. HGA Engineers undertook this survey in March 2007, with the subsequent report (Document CMD021) stating that the ground floor '...joists ends...are in a very poor condition with evidence of water ingress...' whilst the '...first floor joists are not level and indicate considerable movement of the property...'

26. The report continues '... access was gained to the roof space. The timbers viewed are in extremely poor condition. Water ingress was also noted. Finally the report notes in its conclusion that '**...the property is**

in a very poor condition...’ and that ‘...consideration should be given to totally removing the floors and roof from the property and potentially removal of walls...’

27. Following receipt of this Engineers Report and following consultation with his insurers, it was determined that the building was unsafe for public use and the Public House and HMO operations both ceased, since which time the building has laid empty.

28. Whilst the appellant accepts that this Engineers Report does not explicitly state that the building is in a danger of collapse or is a hazard to public safety, he would contend that the report clearly identifies that the building is in a seriously poor condition and the work to restore it is both extensive and would require the removal of all roofing structure, all internal woodwork and a substantial section of the exterior wall. Therefore, the appellant fails to understand how the integrity of the building will be maintained if the above schedule of works was undertaken.

29. Moreover, the Engineer’s Report notes that once the roofing structure and internal timberwork is removed, there is a significant risk that the remaining walls will also become unstable and collapse as ‘...the stability of the walls is dependant on the diaphragm action of the floors and roof...’.

30. Consequently, it is contended that the Engineer’s Report demonstrates that the building condition is in such a poor state of repair that in order to bring the building back into life it will require such extensive rebuilding works that little of the original character would be retained.

31. Furthermore the cost associated with doing so, will be greater than the value of the building could yield in return in terms of the sale of the three individual townhouses, as demonstrated in paragraphs 4 - 7 above.

32. Finally, even before progressing with the above application and subsequent appeal, the appellant tried without success to dispose of the property and it was on the open market between April 2008 and June 2009 with the highly respectable Re/max Estate Agents for only £80,000.00. Within this period **not one** potential purchaser even viewed the property and on the advice of the Estate Agent the property was removed from the market. The price tag of £80,000.00 at the height of the property market is considered to reflect the poor condition of this building and would not put off someone looking to restore the building,

33. In considering the merits of the proposed replacement building against the design and character of the existing building, the appellant is pleased to note that the Appointed Officer accepts that the ‘...proposed replacement building in terms of scale does at least fit into the surrounding landscape...’ (**Document CMD021**).

34. Regrettably, the Appointed Officer goes on to state that the design and finish is not comparable to the original building, which the appellant disputes for the following reasons:

- Careful consideration was given to the architectural design of the building in order to replicate the demolished building, with the new building incorporating the following key design characteristics; gable ends onto Caroline Street, both of which are similar in width and height of the existing; Skew tabling on the three gables viewable from the public road network; a window style and finish complementing the existing style, including a mock round window on one of the gables.
- The existing building is mainly constructed from stone with some more modern parts being concrete block, all parts of the building are finished in a white smooth render. Whilst the proposed new building is to be formed from concrete blocks and rendered in a white wet dash finish. The wet dash finish is considered to be a traditional finish and the chosen colouration complements the existing building.
- All surrounding buildings are finished in coloured renders and, as such, the proposed building will also complement adjacent buildings.

- The roof covering is currently natural slate and whilst the proposal before you refers to the use of a slate effect tile, but the appellant would be content for it to be conditioned that the new roof should be finished with natural slate.

35. Additionally, to these design considerations, the appellant has also improved pedestrian and vehicles flows around his site with the formation of a new public footpath along Caroline Street and North Road and improved junction visibility for vehicles exiting Caroline Street onto North Road.

36. All the above have been achieved on an extremely restricted site size of only 390m², whilst at the same time reducing the overall built footprint of the development from the current 71% down to just 60%. Corollary, the appellant strongly disputes that the design and finish is not comparable to the original and would instead argue that this proposal strongly represents the original building for the above reasons, whilst achieving major environmental and access improvements to the area.

PARKING & ACCESS ISSUES:

37. The Council Transportation Official identified three issues which required to be addressed, namely:
- i. Visibility onto the Public Road,
 - ii. Footways
 - iii. Parking.

The agent undertook minor amendments to the scheme, which addressed the Visibility onto the Public Road and Footway issues to the satisfaction of the Transportation Official.

38. Unfortunately, the Parking issue remained outstanding and became a reason for refusal as follows:

'...Transportation considers that only 5 parking spaces could be provided within the parking area. The proposed development would have a shortfall of 8 parking spaces...'

39. Nonetheless, the appellant disputes the justification and reasoning behind this reason for refusal and it is on this basis that this Review is made.

40. The appellant argues that the Transportation Section response, completely omits any consideration as to the existing parking burden this site already holds. The site operated successfully for a large number of years as a Public House and Inn/Hotel, with the latter aspect more recently superseded by the use of the upper stories as a House in Multiple Occupancy (HMO).

41. Initially, considering the Public House element in terms of the recently adopted Moray Council Parking Standards, August 2011 (**Document CMD022**), these standards note that the minimum amount of off street parking required for a Public House is 6.0spaces per 100m². Whilst the Standards do not state what aspects of the Public House floor area to include in this calculation, our calculation is based on the side of caution, as we have purely based it on internal measurements of the floor area of the main bar areas, excluding all circulation spaces and toilet areas.

42. Nevertheless, the public bar areas of the Castle Inn still extend to 149m² (**Document CMD009**), which would equate to a requirement of 8.9 off street parking spaces for the Public House element.

43. Furthermore, when factoring in the parking burden of the 5no. bedroom HMO aspect of the first floor (Council Parking Standards 1.0space per bedroom), which contrary to the Transportation Official assertion was granted a HMO Licence and operated as such for a number of years, the site has an addition burden of 5.0 off street parking spaces.

44. Thereby giving the existing building a total burden of 13.9 off street parking spaces and currently a maximum of 2no. vehicles could park on the site, resulting in an **on-street parking burden of 11.9 car parking spaces.**

45. In comparing the existing burden to the proposed development under Review, a development of 8 residential apartments would require 12 off street parking spaces (1.5spaces per flat), of which 5 spaces have been shown to be achievable in the basement parking area. Thus leaving a shortfall of only 7 spaces (**not the 8 referred to in the decision notice**).

46. Consequently, the appellant asserts that the proposal under Review, will result in the on-street parking burden of this development reducing by 4.9 spaces at this locality and the appellant contends that his development will result in an improvement to the parking burden of the area and is therefore acceptable in this regard.

47. It is worth noting that the assertion in the Transportation Section consultation response stating that no HMO licence has been granted for the use of the upper as a HMO is incorrect, as the Council HMO Officer confirms that **there was** a licence granted for the use of the 5no. first floor bedrooms.

48. The licence that was not granted (noted as being 04/02349/HMO in the Transportation Section Consultation) relates to a subsequent proposal to change the Lounge Bar area into an additional 4no. bedroom HMO. This proposal was granted planning approval on 21st April 2005 (Council Ref: 04/02337/FUL, Change of use of bar to house of multiple occupancy at Castle Inn Caroline Street Forres Moray refers), but was never implemented and therefore the lounge bar use remains.

49. Finally, in terms of the Transportation Section comments that as the Public House element of the building has ceased trading and that this use no longer has any parking provision associated with it. In terms of Planning Legislation, the last and therefore the current legal use of the ground floor areas of the building is one of a Public House and providing our client obtains a Premises Licence (under different legislation) he would not need further planning approval to operate the premise as a Public House.

50. Corollary, for the Transportation Section to state that the last use has ceased in terms of the planning legislation and therefore the parking burden of the site has been lost is erroneous and misleading, thus bringing into question the validity of the final reason for refusal.

51. In concluding, the appellant contends that the preceding paragraphs demonstrate that this project conforms to at least two key criteria of Historic Scotland, Managing Change in the Historic Environment: Demolition Advice Note and that the existing parking burden is sufficient to accommodate the parking needs of the proposal.

52. Therefore, the appellant respectfully asks for this appeal to be duly supported and we look forward to the consideration in due course.