



## Report to the Scottish Ministers

### PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) (SCOTLAND) ACT 1997

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Report by Richard Hickman, a reporter appointed by the Scottish Ministers

- Case reference: NAL-MRY-001
- Site Address: 184-188 High Street, Elgin IV30 1BA
- Application by Springfield Properties Ltd
- Application for listed building consent, ref 16/00854/LBC dated 24 May 2016 called-in by direction dated 15 March 2017
- The works proposed: Full demolition with reinstatement of façade with new build elements to rear, to form one retail unit and 15 serviced accommodation apartments
- Date of site visit: 31 May 2017

Date of this report and recommendation: 11 July 2017

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**Full demolition of listed buildings at 184-188 High Street, Elgin, with reinstatement of façade and new build elements to rear, to form one retail unit and 15 serviced accommodation apartments.**

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|------------------------------------|-----------------------------------------------------------------------|
| • Case reference                   | NAL-MRY-001                                                           |
| • Case type                        | Called-in application for listed building consent                     |
| • Reporter                         | Richard Hickman                                                       |
| • Applicant                        | Springfield Properties Ltd                                            |
| • Planning authority               | Moray Council                                                         |
| • Other parties                    | Historic Environment Scotland, Elgin Community Council, Elgin BID Ltd |
| • Date of application              | 24 May 2016                                                           |
| • Date case received by DPEA       | 15 March 2017                                                         |
| • Method of consideration and date | Written submissions and accompanied site inspection on 31 May 2017    |
| • Date of report                   | 11 July 2017                                                          |
| • Reporter's recommendation        | Refuse listed building consent                                        |

### Description of the listed buildings and proposals

The application site is within the historic core of Elgin. It accommodates traditional stone and slate buildings dating from around 1800, set on a long narrow plot extending back from the High Street frontage. The building fronting onto the High Street (listed category B) has a shop unit and access pend at ground level and residential accommodation above. The rear building (listed category C) is long and narrow, accommodating 3 residential units, and is one of several similar row buildings forming part of the historic herringbone pattern of development in the heart of Elgin. The site is within the Elgin High Street Conservation Area.

All buildings were vacant at the time of the site visit, and in a dilapidated condition. They have been vacant for several years.

The proposed works [Cross sections and elevations](#) would involve the demolition of all the buildings and their replacement with a 2.5 storey building generally similar in massing to the existing buildings, though wider and with a higher roof line. The new building would include reinstatement of the façade on the High Street frontage, with architectural detailing, pend, and shop unit similar to those existing, and with a natural slate finish and rather larger dormer windows at roof level. The rear wing would be a modern design, with modern fenestration, concrete roof tiles, and render

wall finishes. The rear wing would accommodate 11 one bedroom apartments, with a further 4 apartments on the upper floors of the front part of the building, above the shop and pend.

## **Legislative and policy context**

As Ministers will know, the legislative and policy background to the consideration of applications for listed building consent comprises:

- Section 14(2) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, which requires that, in considering whether to grant listed building consent for any works, the planning authority or the Secretary of State shall 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. In addition, section 64(1) of the same Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
- Scottish Planning Policy (2014) relating to the historic environment (paragraph 137) promotes the care and protection of designated historic assets (including individual items) and seeks to enable positive change in the historic environment. Change should be sensitively managed to avoid or minimise adverse impacts on the fabric and setting of the asset, and ensure that its special characteristics are protected, conserved or enhanced. Listed buildings should be protected from demolition or other work that would adversely affect it or its setting.
- Where demolition is proposed, Historic Environment Scotland Policy states that applicants will be expected to provide evidence to show that (among other things) the building is incapable of repair, or the demolition is essential to delivering significant benefits to economic growth or the wider community, or that the repair of the building is not economically viable and that it has been marketed at a price reflecting its location and condition to potential restoring purchasers for a reasonable period. No listed building should be demolished unless it can be clearly demonstrated that every effort has been made to retain it.

## **The case for redevelopment**

The main points put forward by **Springfield Properties Ltd** in support of the redevelopment proposals are (in summary) :

- The buildings are in a poor state of repair and structurally unsound, leaving them partly derelict and run-down, with no active use. They have been vacant, in part, since 2008.
- Every effort has been made to safeguard the building but regrettably its overall condition is found to be too poor and unviable to retain.
- A comparison of repair costs with redevelopment costs has shown that repair and retention would be approximately 60% more expensive
- Complete demolition and partial reinstatement is the only viable means to bring the building back into active use, ensuring its future and affording wider regeneration of Elgin High Street and the conservation area.

- The High Street façade would be reinstated, retaining the key attribute in the listing, while enhancing the building and the wider street scene overall and bringing residents and activity back into the area.
- The new building on the rear part of the site would be a modern high quality suitably scaled building providing serviced apartments which are a much needed element in the provision of accommodation in the area.

A report prepared for **Moray Council** recommended granting listed building consent and planning approval for these proposals. The main points in the report leading to the recommendation to grant listed building consent are that the proposals would allow the front facade and front roof of the building facing onto the High Street to be reinstated as part of the historic frontage in this part of the High Street, and the provision of the shop and the serviced apartments would contribute to the local economy and bring life back to the High Street during the evening period.

Of the 4 tests set out by Historic Environment Scotland where demolition is proposed, the council does not accept that the buildings are incapable of repair (test 2), or that repair has been shown to be economically unviable (test 4). The council also accepts that at least the front building is of special interest (test 1). However the council considers that the grant of listed building consent is justified because demolition is regarded as essential to delivering significant benefits to economic growth or the wider community (test 3).

The overall conclusion of the committee report, in relation to the application for listed building consent, is that although the loss of historic fabric is regrettable, it is appropriate to grant listed building (and planning) consent, as at least one of the 4 tests has been met.

**Elgin Community Council** supports the proposed development and associated demolition. Support for the listed building application is on the basis that unoccupied and derelict properties give a discouraging impression of the town, especially in the town centre, and that occupancy should have a higher priority than heritage in the current economic climate

### **Assessment of the proposals by Historic Environment Scotland**

Historic Environment Scotland (HES) objects to the proposals on the grounds that the applicants have not justified the demolition in terms of the HES Policy Statement. The proposals would result in the loss of the majority of the B-listed building fronting onto the High Street, and the entire C-listed traditional row building to the rear, all within the Elgin High Street Conservation Area. The proposal for residential use seems appropriate to conversion of the existing buildings, rather than their replacement.

Among various more detailed points made by HES in support of retaining the listed buildings for renovation are :

- The site as it survives today is an integral part of the original historic town centre. There are a number of similar rows to either side of the site extending back from the High Street.

- There has not been a loss of part of the herringbone pattern of medieval closes as significant as the current proposal for many years, so that a compelling case is required to demonstrate that there are no practical alternatives to retaining and reusing the buildings within the site.
- There should be a presumption in favour of retaining these listed buildings.
- HES welcomes the proposed rebuilding of the front elevation of the front building.
- The walls and roof of the rear building appear to be sound enough to be suitable for conversion to residential use.
- The necessity of rebuilding the High Street elevation might require an imaginative redevelopment of the site, such as glazing over the courtyard to increase usable commercial space, within the historic walls and roofs, so as to preserve the listed structures and their appearance within the conservation area.
- The applicant contends that the condition of the buildings and the benefits of the new proposals meet the HES tests to justify demolition. However HES notes that no detailed assessment of the criteria has been provided.
- HES would normally expect the assertions in a structural report to be supported by comparative costings, which have not been provided.
- It is stated that the building has been marketed in recent years without success, but it appears to have been sold in 2015. This sale suggests that the site was viewed as a viable proposition for development in the knowledge of the poor condition of the front building.
- HES has considered the applicant's amended statement (August 2016) [Amended demolition statement](#) supporting demolition, but remains of the view that inadequate detailed information has been submitted to justify the extent of demolition.
- The replacement buildings would occupy a similar layout to those existing but with a taller wider row to the rear. However so much of the historic fabric of the buildings would be removed that the proposals would fail to preserve the buildings, and the character and appearance of the conservation area.

## **Reporter's conclusions and recommendation**

The main conclusions reached by the Reporter are :

- Although the reconstruction of the front elevation and north facing roof has been accepted as unavoidable and is acceptable to HES, the remainder of the works would remove all remaining fabric of the listed buildings, and their replacement by a new building of modern appearance. This building would resemble the massing of the rear building that exists, but would be rather wider and higher (and possibly higher than illustrated), and would have a completely different (modern) character and appearance. (See images in the Design and Access Statement 2016. [Design and Access Statement](#) )
- The proposals would result in a profound change in the appearance and character of the listed buildings, leaving nothing but the reinstated front façade as a remnant of the interesting collection of buildings currently on the site. The changes to the buildings would also have an adverse effect on the

series of back row buildings in the vicinity, which form part of the historic pattern of herringbone development in the Elgin High Street Conservation Area.

- These impacts would be contrary to the objectives of paragraphs 137 and 141 of Scottish Planning Policy.
- The four tests set by HES that would justify demolition have been considered in detail, but it is concluded that none of the tests has been met.

Overall, it is concluded that the redevelopment scheme that is proposed would result in the loss of most of the listed buildings on the site and their replacement by a new building of largely modern design at the rear that would not preserve the listed buildings and their setting. The only feature of architectural or historic interest that would remain would be the reinstated front façade on the High Street, whereas the rear row building makes a significant contribution to the series of similar buildings forming part of the historic herringbone pattern of development in the Elgin High Street Conservation Area

Accordingly it is recommended that listed building consent is not granted for this application.

Scottish Government  
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DPEA case reference: NAL-MRY-001

The Scottish Ministers  
Edinburgh

Ministers

I conducted an accompanied site visit in connection with the application for listed building consent for works affecting the listed buildings at 184-188 High Street, Elgin. This report is required because Ministers have called in this application for their decision, following notification that the council was minded to grant consent for the works.

The report is based on the various written submissions that have been lodged in connection with this application, and the accompanied inspection of the site and its setting, which took place on 31 May 2017.

## **BACKGROUND**

### **Description of proposals**

1. The listed buildings that are the subject of this application are located within the historic core of Elgin, on the south side of the High Street towards the western end of the city centre. They comprise a two storey and attic front building facing onto the High Street (listed category B), with retail premises at ground floor level and residential accommodation above, and a separate 2.5 storey building to the rear (listed category C), extending down the length of the long property plot. This wing comprises 3 residential units, and is linked to the front building by a single storey store. A pend in the High Street frontage gives access to the rear part of the property and Thunderton Lane, which runs along the back of the High Street properties..
2. The buildings were vacant at the time of the site visit, and in a dilapidated condition.
3. The application property is located within a row of predominantly Victorian buildings fronting onto the High Street, with a variety of styles, many with similar long plots occupied by long rear extensions. These extensions are typically two storeys in height, with pends and lanes connecting the High Street to the rear areas. They form part of the herringbone pattern of development that forms the historic core of Elgin. Historic maps showing the herringbone pattern, and recent photographs of the building, can be found at the end of the Historic Environment Scotland assessment dated 13 June 2016. [HES assessment June 2016](#)



4. The proposed works [Cross sections and elevations](#) would involve the demolition of all the buildings and their replacement with a 2.5 storey building generally similar in massing to the existing buildings, though wider and with a higher roof line. (Note : an annotation on the submitted drawings showing the proposed elevations and cross sections states “Ridge height to be determined”.) The new building would include reinstatement of the façade on the High Street frontage, with architectural detailing, pend, and shop unit similar to those existing, and with a natural slate finish and rather larger dormer windows at roof level. The rear wing would be a modern design, with modern fenestration, concrete roof tiles, and render wall finishes. The rear wing would accommodate 11 one bedroom apartments, with a further 4 apartments on the upper floors of the front part of the building, above the shop and pend.

### **Legislative and policy context**

5. Section 14(2) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that, in considering whether to grant listed building consent for any works, the planning authority or the Secretary of State shall 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. In addition, as the site is within a conservation area, section 64(1) of the same Act requires that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of that area.

6. Scottish Planning Policy (2014) (SPP) relating to the historic environment (paragraph 137) promotes the care and protection of designated historic assets (including individual items) and seeks to enable positive change in the historic environment which is informed by a clear understanding of the importance of the heritage assets affected and ensure their future use. Change should be sensitively managed to avoid or minimise adverse impacts on the fabric and setting of the asset, and ensure that its special characteristics are protected, conserved or enhanced.

7. Paragraph 141 of SPP goes on to give further guidance on changes to listed buildings, stating that the layout, design, materials, scale, siting and use of any development which will affect a listed building should be appropriate to the character and appearance of the building and setting. Listed buildings should be protected from demolition or other work that would adversely affect it or its setting.

8. Paragraph 142 of SPP, on enabling development, states that this may be acceptable where it can be clearly shown to be the only means of preventing the loss of the asset and securing its long-term future. The resultant development should be designed and sited carefully to preserve or enhance the character and setting of the historic asset.

9. Paragraph 143 of SPP states that proposals for development in conservation areas should preserve or enhance the character and appearance of the conservation area.

10. More detailed policy guidance has been issued by Historic Environment Scotland in the Policy Statement published in June 2016. Paragraphs 3.40-3.48 of

the statement cover applications for listed building consent. The key relevant points in these paragraphs are :

- (a) Applications should demonstrate that the importance of the building has been clearly understood and those features which contribute to its special interest have been identified.
- (b) In general, the more extensive the proposed intervention, the more supporting information should be provided. Where there would be a significantly adverse effect on the building's special interest, applicants should prepare a statement which justifies the intervention, in relation to significant benefits to economic growth.
- (c) Where demolition is proposed, applicants will be expected to provide evidence to show that (among other things) the building is incapable of repair, or the demolition is essential to delivering significant benefits to economic growth or the wider community, or that the repair of the building is not economically viable and that it has been marketed at a price reflecting its location and condition to potential restoring purchasers for a reasonable period.
- (d) Where a proposal involves alterations which will have an adverse or significantly adverse impact on the special interest of the building, careful consideration should be given to the relative importance of the special interest of the building; the scale of the impact; other options which would ensure a continuing beneficial use for the building with less impact on its special interest; and whether there are significant benefits for economic growth or the wider community which justify a departure from the presumption against works that would have an adverse effect on a listed building.
- (e) No listed building should be demolished unless it can be clearly demonstrated that every effort has been made to retain it. Such applications should be approved only where the planning authority is satisfied that the criteria listed at (c) above have been met.

## **THE CASE FOR REDEVELOPMENT**

### **Submissions by Springfield Properties Ltd**

11. The main general points put forward by the applicant in support of the redevelopment proposals are (in summary) :

- The site forms part of an important streetscape in the town centre where traditional buildings meet modernity within the conservation area.
- The buildings are in a poor state of repair and structurally unsound, leaving them partly derelict and run-down, with no active use. They have been vacant, in part, since 2008.
- The rear part of the building is the most dilapidated, with clear signs of structural failure and settlement.
- Every effort has been made to safeguard the building but regrettably its overall condition is found to be too poor and unviable to retain.
- Complete demolition and partial reinstatement is the only viable means to bring the building back into active use, ensuring its future and affording wider regeneration of Elgin High Street and the conservation area.

- The High Street façade would be reinstated, retaining the key attribute in the listing, while enhancing the building and the wider street scene overall and bringing residents and activity back into the area.
- The proposals would bring the pend and lane back into use, restoring access to the rear which is part of the historic character of the area.
- The new building on the rear part of the site would be a modern high quality suitably scaled building providing serviced apartments which are a much needed element in the provision of accommodation in the area.

12. With regard to the structural condition of the building, the applicant has supplied a report [Structural condition report and photos](#) prepared by a structural engineer, incorporating a number of photographs of the exterior and interior of the building.

13. The report concludes that the poor condition of the buildings, including visible signs of movement and settlement, make them unsuitable for retention and refurbishment. The scope for façade retention is so limited that it would simply be uneconomic. Demolition of the front façade will require care, as it appears that part of an adjoining property locally bears onto a party wall.

14. The detailed justification for demolition is set out in the report (Demolition Supporting Statement – Amended, dated August 2016) [Amended demolition statement](#) prepared by the applicant. The main points made in this statement are (in summary):

- The historic importance of the building is due to its location within the herringbone pattern of building plots in the city centre, and the contribution of the front façade to the High Street frontage.
- The buildings have been on the open market for approximately 5 years in their current form, with the dated upper floor residential accommodation that is no longer readily adaptable to modern standards. All other efforts to re-use the buildings have failed, with their condition falling into further disrepair and dilapidation.
- A comparison of repair costs with redevelopment costs has shown that repair and retention would be approximately 60% more expensive.
- Any remedial repairs would be significantly intrusive, with unduly prohibitive costs and marginal resulting benefits. This would not be economically viable, in the context of the future commercial marketability and functionality of the buildings in an edge of centre location outwith the main High Street footfall area..
- Demolition and reinstatement of the front façade would address the failure and settlement of the structural beam across the front of the property at first floor level, maintaining the important contribution of this façade to the historic character of Elgin High Street.
- In the absence of external funding, demolition of the buildings is the only cost effective and practical option given the poor structural condition of the buildings and their eroded exterior and interior fabric.
- The economic case and wider public benefit of making good use of the site and reconstructing the front façade to continue to contribute to the historic

character of the High Street justifies the project, and has the support of Moray Council and its public partners.

### **Assessment of the listed building application by the Moray Council**

15. The application for listed building consent, together with the corresponding planning application, was the subject of a committee report [committee report](#) prepared by council planning officials. This report recommended approval of both applications (subject to notification to Ministers in respect of the application for listed building consent) and has been supplied as part of the documentation submitted to Ministers.

16. Much of the assessment in the report relating to the application for listed building consent is devoted to the various tests set out by Historic Environment Scotland. The main points on these matters are summarised below.

17. **Test 1 : The building is not of special interest:** The committee report states that all parties agree that the front façade occupies an important location in the High Street, and is vitally important in the conservation area. This façade would be reinstated. The special interest of the rear building is focussed solely on its date of construction, which appears to be early 19<sup>th</sup> century. However it contributes to the herringbone pattern of the medieval closes, although these have been partially altered and replaced by modern development, including the rear part of original plot of the application site.

18. The report notes that the paved and cobbled close serving the rear part of the application site no longer exists, and that there is only limited visibility of the rear building, from the rear service road and footpath and the upper storeys of the multi storey car park that lies to the south. On this basis, the report concludes that the rear building is not of special importance, so that the test is partially met in relation to this building.

19. **Test 2 : The building is incapable of repair :** The report states that the front building is incapable of repair and is in a seriously deteriorating structural condition, posing a safety risk to members of the public passing the site. The building occupies a key location in the High Street opposite Marks and Spencers, where there is a high concentration of pedestrian footfall.

20. Regarding the condition of the rear building, the report states that there is little doubt that it could be repaired and renovated, but this would still involve significant removal of historic material, to the point that the building would be hollowed out and the roof probably removed.

21. The committee report also notes (in relation to test 4) that any renovation scheme would involve construction difficulties and risks, due to the structural state of the buildings and the close proximity of adjoining buildings. It would also require significant interventions, so that all that would remain of the historic fabric of the rear building would be two outside walls.

22. The report concludes that test 2 has not been met for the rear building.

23. **Test 3 : The demolition of the building is essential for delivering significant benefits to economic growth or wider community benefits :** The report notes the Elgin town centre lacks vitality after 5pm due to not having enough residential accommodation in the town centre, with no serviced apartments currently available for rent. Promotion and improvement of the town centre is an important objective for the council and the community. Bringing the application site back into use through the retail premises and the serviced apartments would make an important contribution to achieving this objective, while maintaining the historic character of the site through the reinstatement of the front facade. This would provide much needed accommodation in the heart of the town centre, bringing significant benefits to economic growth and as a catalyst to further investment in the High Street.

24. The council has identified the application site as a prominent building in need of significant investment, and has assisted the former owner in seeking to bring the building back into a viable use. This has failed to attract any interest during a two and a half year period, until now. The building has been in a derelict condition for over 10 years, and continues to deteriorate. An alternative scheme for renovation would not provide as many serviced apartments, and would face severe difficulties in complying with building standards. The report concludes that this test is met, and that the demolition of both buildings is essential to delivering significant economic and community benefits.

25. **Test 4 : Repair is not economically viable and the property has been marketed at a price reflecting its location and condition to potential restoring purchasers for a reasonable period:** The report notes the submission from the applicant that retention and renovation of the building would be 60% more expensive than redevelopment, observing that the information does not contain specific figures to back this up. This has been requested by the council but not supplied.

26. The council has attempted to fill this information gap by working out costings for renovating the rear building, using in-house expertise. This indicated that such works would be 12% more expensive and would result in 13 residential serviced apartments as opposed to 15. However this analysis is not based on a specific set of drawings and the collated figures are not sufficiently detailed to form part of the council's assessment, and have therefore not been supplied to Historic Environment Scotland for further comment.

27. The building has been marketed for several years at a price reflecting its location and condition, but no prospective developer has come forward despite the availability of conservation area regeneration scheme funding. It is unlikely that an alternative scheme will come forward, and no such scheme is before the council for determination. The current application must thus be determined on its merits. However the report concludes that test 4 has not been fully met at this point in time.

28. **The overall conclusion of the committee report,** in relation to the application for listed building consent, is that one of the 4 tests set by Historic Environment Scotland has been met (test 3) while some of the other tests have been partially met. Although the loss of historic fabric is regrettable, it is appropriate to grant listed building (and planning) consent, as at least one of the tests has been

met. The scheme offers a unique opportunity to make an important contribution to the enhancement of this part of the conservation area, by the reinstatement of the front façade and the provision of retail premises and serviced apartments.

### **Consultation reply from Elgin Community Council**

29. Elgin Community Council supports the proposed development and associated demolition. Support for the listed building application is on the basis that unoccupied and derelict properties give a discouraging impression of the town, especially in the town centre, and that occupancy should have a higher priority than heritage in the current economic climate. However it is important that the reconstruction of the façade is sympathetic to the properties on either side. The community council welcomes the reopening of the pend and lane giving access from the High Street, as these are part of the historic pattern of development.

### **Submission by Elgin BID Ltd**

30. Since this application was called in, City of Elgin BID Ltd (Business Improvement District) has written [City of Elgin BID Ltd](#) in support of the proposal. This contribution has not been circulated to other parties supporting the proposal for comment, as it gives general endorsement to the submissions already lodged.

31. The submission states that the application site is a prime example of a city centre building requiring extensive work if it is to be brought back into use. Elgin BID was supportive of Springfield Properties when they bought the building in order to save it and reintroduce it to the city centre. It is better to give support to the project, rather than deny the opportunity and leave the building to further decay and eventual collapse.

### **ASSESSMENT OF PROPOSALS BY HISTORIC ENVIRONMENT SCOTLAND**

32. Historic Environment Scotland (HES) objects to the proposals on the grounds that the applicants have not justified the demolition in terms of the HES Policy Statement. The proposals would result in the loss of the majority of the B-listed building fronting onto the High Street, and the entire C-listed traditional row building to the rear, all within the Elgin High Street Conservation Area. The proposal for residential use seems appropriate to conversion of the existing buildings, rather than their replacement.

33. The main points in the detailed HES assessment [HES assessment June2016](#) are summarised below.

#### **Description and importance of the listed buildings**

34.

- The B-listed building abutting the High Street is the best frontage in this section of the High Street in terms of age and architectural quality. The survival of the stone shop front is particularly unusual.

- Although there would have been 16<sup>th</sup> or 17<sup>th</sup> century buildings in the same location, the town plan of 1822 shows the site laid out as it is today, suggesting the buildings date to around 1800.
- The site as it survives today is an integral part of the original historic town centre. There are a number of similar rows to either side of the site extending back from the High Street.
- There has not been a loss of part of the herringbone pattern of medieval closes as significant as the current proposal for many years, so that a compelling case is required to demonstrate that there are no practical alternatives to retaining and reusing the buildings within the site.
- There should be a presumption in favour of retaining these listed buildings.

### **The condition of the buildings**

35.

- HES recognises that lack of maintenance has resulted in the deterioration of both buildings. The principal structural problem is that the transverse beam at first floor level in the front elevation is rotten.
- HES accepts that the only way to address this problem is to take down the upper part of the elevation which sits on the beam to allow for its replacement before rebuilding.
- HES welcomes the proposed rebuilding of the front elevation.
- The walls and roof of the rear building appear to be straight, and the building does not appear to have significant structural problems. It appears to be sound enough to be suitable for conversion to residential use.
- The necessity of rebuilding the High Street elevation might require an imaginative redevelopment of the site, such as glazing over the courtyard to increase usable commercial space, within the historic walls and roofs, so as to preserve the listed structures and their appearance within the conservation area.

### **The justification for demolition**

36.

- The applicant contends that the condition of the buildings and the benefits of the new proposals meet the HES tests to justify demolition. However HES notes that no detailed assessment of the criteria has been provided.
- HES would normally expect the assertions in a structural report to be supported by comparative costings.
- The report from the structural engineer does not quantify the extent of structural cracking at the southwest corner of the rear row, nor provide costing for addressing the problems of both buildings, which are likely to be different.
- It is stated that the building has been marketed in recent years without success, but it appears to have been sold in 2015. This sale suggests that the site was viewed as a viable proposition for development in the knowledge of the poor condition of the front building.
- HES has considered the applicant's amended statement (August 2016) [Amended demolition statement](#) supporting demolition, but remains of the view that



inadequate detailed information has been submitted to justify the extent of demolition.

- Public funding may be available to off-set any deficit resulting from the retention of the historic properties, and should be included in the assessment of viability.
- The replacement buildings would occupy a similar layout to those existing but with a taller wider row to the rear. However so much of the historic fabric of the buildings would be removed that the proposals would fail to preserve the buildings, and the character and appearance of the conservation area.
- HES does not accept that almost complete clearance of these buildings has been justified. A more compelling case should give a proper understanding of the recent purchase of the site, the structural condition of the buildings, and comparative costings that are likely to be incurred in their retention and conversion.

## **REPORTER'S CONCLUSIONS AND RECOMMENDATION**

### **Impact of the proposals on the listed building and its setting in the conservation area**

37. The proposals would involve the total demolition of all the buildings on the site, the reinstatement of the front facade, and the construction of a new building behind this façade, extending along the plot towards the rear of the site. This building would be rather larger than that existing, and would have a modern design on the rear elevations.

38. Although the reconstruction of the upper part of the front elevation and north facing roof has been accepted as unavoidable and is acceptable to HES, the remainder of the works would remove all remaining fabric of the listed buildings, and their replacement by a new building of modern appearance. This building would resemble the massing of the rear building that exists, but would be rather wider and higher (and possibly higher than illustrated – see paragraph 4 above), and would have a completely different (modern) character and appearance. (See images in the Design and Access Statement 2016. [Design and Access Statement](#) )

39. The rear of the application site is not a prominent or widely visited location. However this aspect of the new development would be perceived as a modern flatted development, with no suggestion of its historic origins, other than the general massing of the building within the series of rear rows on the nearby properties. These are predominantly low key buildings with plain façades, where the new flats would stand out as a building with a very different design and origin.

40. I conclude that the proposals would result in a profound change in the appearance and character of the listed buildings, leaving nothing but the reinstated front façade as a remnant of the interesting collection of buildings currently on the site. I also consider that the changes to the building would have an adverse effect on its setting at the rear, in the series of back row buildings in the vicinity which form part of the historic pattern of herringbone development in the conservation area.



41. These impacts would be contrary to the objectives of paragraphs 137 and 141 of Scottish Planning Policy (summarised at paragraphs 6 and 7 above). Similarly if the new proposals were to be regarded as enabling development to secure the future of the listed building, there would be a significant adverse impact on the character and setting of the building.

### **The justification for demolition**

42. Where extensive demolition is proposed, as is the case here, HES policy requires various criteria to be met, including meeting one of the 4 tests listed at paragraph 3.42 of the HES Policy Statement, summarised in paragraph 10 (c) above.

43. With regard to the first test (that the building is not of special interest), all parties agree that the façade fronting onto the High Street makes an important contribution, and should be retained, albeit in a reconstructed form resembling the original.

44. The council committee report suggests (for various reasons) that the rear building is not of national importance and has no special features that make it important or special. However it forms part of the series of row buildings extending down the back rigs of the medieval plots, forming part of the herringbone pattern of development in the historic centre of the burgh, as can be seen in the historic map extracts that have been supplied by HES ( [HES assessment June2016](#) ). The test set in the HES policy statement relates to special interest and not national importance. On this basis, I am satisfied that both elements of the property make an important contribution to the historic character of the building, and are thus of special interest. Accordingly I find that this test is not met.

45. Turning to the second test (that the building is incapable of repair), HES has accepted that significant reconstruction of the front building is necessary, and that this would be acceptable to maintain the contribution of the front façade to the character of the High Street.

46. With regard to the rear building, HES considers that the structure is sound enough for renovation, while the council's committee report states that "there is little doubt that it could be repaired and renovated". While renovation would involve significant interventions, the report states that the second test has not been met for the rear building.

47. On this basis, I find that both buildings are capable of repair (involving duntaking and reconstruction of the front building, including reinstatement of the front elevation) so that the second test is not met.

48. I turn next to the fourth test, relating to the economic viability of repairing the building and whether it has been marketed in the manner prescribed by HES. Although this is a separate test, the issue of the cost of repair compared with the cost of redevelopment is a key element in the applicant's case for demolition (see paragraph 14 above), and is thus relevant to the assessment in the third test as to whether demolition is essential.

49. The viability of a repair scenario depends on the value of the completed development, as well as the cost of carrying out the work, which in turn affects the valuation of the site when purchased. With regard to the potential value of the retail unit on the ground floor, I note that the applicant states that the site is not in the most important part of the High Street for retail footfall, whereas the council points out that there is a Marks and Spencer store on the opposite side of the High Street.

50. Historic Environment Scotland's reservations on the fourth test are summarised at paragraph 36 above. As pointed out by HES, the applicant has not supplied details of the costs of remedying the structural problems identified, nor comparative costings for the renovation and demolition scenarios. The council requested the applicant to supply the latter but this has not been provided (see paragraph 25 above). In addition, no details of the marketing of the site for potential restoration have been provided. Thus it is not possible to establish the period of marketing and the valuation basis for the asking price from the information that is available. The price paid for the site has not been supplied.

51. In addition, HES suggest that the property was acquired by the present applicant in 2015, in the knowledge of the state of the buildings, and that there should be a proper understanding of their intentions when making the purchase. It would appear that no scheme for restoration has been submitted to the council, as the council had no specific set of drawings on which to make their own attempt at comparative costings (see paragraph 26 above).

52. For these reasons, I agree with the council and HES that the fourth test has not been met.

53. I now return to the third test, which relates not to the adverse impacts on the listed building but whether there would be an over-riding public interest benefit in economic growth or the wider community for which demolition is essential.

54. As noted above, the main benefits of the proposal are expected to be the reconstruction of the front façade of the building, which is at risk; the ending of the vacancy and deterioration of the building, which has a depressing effect on the amenity of the centre; the provision of serviced apartments which are otherwise not available; and the reintroduction of residential accommodation to bring back activity to the town centre after 5pm.

55. Taken together, I consider these to be significant benefits. The reinstatement of the front façade and bringing the site back into use are urgently required, and the location of the site is well suited to use for serviced apartments. However there is no special reason that requires them to be in this particular position, and renovation of the existing buildings could provide residential accommodation (though on a smaller scale than the rather larger rear building that is proposed) that would bring back evening activity to the area.

56. As it has not been demonstrated that the buildings are incapable of repair (test 2) and that repair is not economically viable (test 4), I agree with HES that the potential for imaginative restoration of these buildings has not been properly explored. I therefore cannot conclude that demolition is essential to achieve the

expected benefits. While this is a matter of judgement, when set against the statutory requirement to have special regard to the preservation of the building and its setting, and the well established government policies to protect listed buildings from demolition, I conclude that the third test has not been met.

### **Effect on the character or appearance of the conservation area**

57. For the reasons given above, I consider that the proposed new building on the rear of the site would form a prominent modern element among the series of low key back row buildings that contribute to the character of this part of the conservation area. I consider that it would be obtrusive in this setting, and would have an adverse impact on this part of the conservation area.

### **Synthesis and recommendation**

58. Drawing these conclusions together, I find that the redevelopment scheme that is proposed would result in the loss of most of the listed buildings on the site and their replacement by a new building that would not preserve the listed buildings and their setting. The only feature of architectural or historic interest that would remain would be the reinstated front façade on the High Street, whereas the rear row building makes a significant contribution to the series of similar buildings forming part of the historic herringbone pattern of development in the Elgin High Street Conservation Area.

59. The four tests set by HES that would justify demolition have been considered in detail. As explained above, I conclude that none of the tests has been met.

60. I conclude that the proposed development would be inconsistent with the objectives of sections 14(2) and 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. Accordingly I recommend that listed building consent is not granted for this application.

*Richard Hickman*

Reporter