

**LISTED BUILDING OR CONSERVATION AREA
ENFORCEMENT NOTICE
APPEAL TO SCOTTISH MINISTERS**



UNDER SECTION 35 OF THE PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS)(SCOTLAND) ACT 1997

THE TOWN AND COUNTRY PLANNING (APPEALS)(SCOTLAND) REGULATIONS 2013

The appeal must be received by the Directorate before the date on which the enforcement notice is specified to take effect.

Please use a separate form for each appeal against each different enforcement notice.

Please enclose a copy of the enforcement notice with your appeal and fill in the details below in BLOCK CAPITALS if completing in manuscript

<u>Appellant(s)</u>	<u>Agent (if any)</u>
Name	Name
Address	Address
Postcode	Postcode
Contact Tel No 1	Contact Tel No 1
Contact Tel No 2	Contact Tel No 2
Fax No	Fax No
E-mail	E-mail
	Mark this box to confirm all contact should be through this representative

*Do you agree to all correspondence regarding your appeal being sent **by e-mail**?

Yes

No

Planning Authority		
Alleged breach specified in the notice		
Building affected (please give full address)		
Date of issue of enforcement notice	Date enforcement notice was served on the appellant (date received)	Date on which the enforcement notice is specified to take effect

What is your interest in the building?			
Owner	Occupier	Tenant	Lessee
None of the above. If so, please state your interest below			

Is the building listed?	Yes	No	
If listed, please show the listing grade, by ticking the appropriate box	Grade A	Grade B	Grade C
Is the building within a Conservation Area?	Yes	No	

GROUND OF APPEAL

Please tick which of the following you think apply to your case. You may tick more than one box. Note:- the grounds of appeal are fully set out in section 35(1) (a) - (k) of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997. The enclosed notes for appellants provide guidance.

- (a) 1 **Listed building enforcement notice appeals only.** That the building is not of special architectural or historic interest. That is to say that although the building is listed, it is not outstanding and worthy of preservation. This ground, in effect, invites Scottish Ministers to remove the building from the statutory list.
- (a) 2 **Conservation area notice appeals only.** That the retention of the building is not necessary in the interests of preserving the character or appearance of the conservation area in which it is situated.
- (b) That the matters alleged to constitute a contravention of section 8(1) or (2) of the Act have not occurred. That what is alleged in the notice has not taken place.
- (c) That those matters (if they occurred) do not constitute such a contravention. This ground argues that listed building consent is not needed - for example, because the works do not affect the character of the listed building, or because the works concern a building which is not part of a listed building.
- (d) That (i) works to the building were urgently necessary in the interests or health or for the preservation of the building, (ii) it was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording temporary support or shelter and (iii) the works carried out were limited to the minimum measures immediately necessary. All 3 tests must be met. It may be argued here, for example, that the works in the question were urgently necessary because parts of the building were unsafe
- (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. This ground covers any argument on the merits of the case.
- (f) That copies of the notice were not served as required by section 34(6).
- (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.
- (h) That the period specified in the notice as the period within which any steps required thereby are to be taken falls short of what should reasonably be allowed. This refers to the compliance period stated in the notice. If you claim that it is too short, please state what you consider to be a reasonable period for compliance.
- (i) **Listed building enforcement notice appeals only.** That the steps required by the notice to be taken would not serve the purpose of restoring the character of the building to its former state. This is different from an appeal on ground (g) which would claim that the steps required are excessive.
- (ia) **Listed building enforcement notice appeals only.** That the cessation of any works required by the notice exceeds what is necessary to remedy the contravention of section 8(1) or (2).
- (j) That the steps required to be taken by virtue of section 34(2)(b) exceed what is necessary to alleviate the effect of the works executed to the building. Where restoration of the building to its former state has not been required, the works required go beyond what is necessary to alleviate the effect of the works done. Section 34(2)(b) enables an authority which considers that restoration of the building to its former state would not be reasonably practicable or would be undesirable, to specify steps "for executing such further works specified in the notice as they consider necessary to alleviate the effect of the works which were carried out without listed building consent".
- (k) That steps required to be taken by virtue of section 34(2)(c) exceed what may reasonably be required to bring the building to the state in which it would have been if the terms and conditions of the listed building consent had been complied with. As above, but relating to cases involving a breach of condition attached to a grant of listed building consent. Section 34(2)(c) enables an authority to specify steps for "bringing the building to the state in which it would have been if the terms and conditions of any listed building consent which had been granted for the works had been complied with".

FACTS IN SUPPORT OF EACH GROUND OF APPEAL

Please write your arguments in support of each ground of appeal you have ticked, in the space below. (It is not sufficient to merely tick the grounds in Section 4.)

List of documents/evidence

Provide a list of all documents, materials and evidence which you have provided with your appeal and intend to rely on in support of your appeal and ensure that the documents are clearly numbered. (If necessary, this can be continued or provided in full on a separate document.)

Appeal Procedure

The person appointed to determine your appeal, (the reporter) will decide the procedure to be used. In general, a decision will be made based on your appeal documents and the planning authority's response. In some cases the appointed person may require further procedures to gain more information on specific matters before reaching a decision. This is your opportunity to indicate what procedure you think is most appropriate for the handling of your appeal. (See Notes for Appellants)

1. Review of all relevant information provided by yourself and other parties only, with no further procedure
2. Inspection of land subject of the appeal
3. Further written submissions on specific matters
4. Holding of one or more hearing sessions (i.e. round table discussions) on specific matters
5. Holding of one or more formal inquiry sessions on specific matters

** You can suggest a combination involving more than one further procedure, if necessary.*

If boxes 3, 4 or 5 are checked, please explain below which of the matters (as set out in your statement above) you think should be subject to that procedure, and why. (Use additional pages if necessary.)

Site Inspection

In the event that the Scottish Government Reporter appointed to consider your appeal decided to inspect the appeal site, in your opinion:

Can the site be viewed entirely from public land?	Yes	No
Is it possible for the site to be accessed safely, and without barriers to entry?	Yes	No
Will the reporter need to enter the property to see the works?	Yes	No
Are there any biosecurity issues that affect the site? <i>(for more information on biosecurity, please see the site inspection section in the notes for appellants)</i>	Yes	No

If there are any reasons why you think the Reporter would be unable to access and view the appeal site alone, please explain here:

If a site inspection is held do you have any views on whether it should be accompanied or unaccompanied? Please give reasons:

Other Appeals

Have you made any other appeals to Scottish Ministers concerning this building?

Yes

No

If yes, please give details, including our appeal reference numbers (if known):

Checklist

Please mark the appropriate boxes to confirm you have provided all supporting documents/evidence relevant to your appeal:

Enforcement notice issued by the planning authority, which is subject of your appeal

Full completion of all parts of this form

Full statement of appeal

All documents, materials and evidence which you intend to rely on

The Scottish Government routinely publishes all documents relating to each appeal on its website at www.dpea.scotland.gov.uk. You must advise DPEA if there are particular reasons why you think any document you have provided cannot be published.

Declaration

I appeal to the Scottish Ministers as set out on this form and supporting documents. I confirm that I have today sent a copy of my appeal including a list of all documents, materials and evidence to the planning authority.

Signed

Date

If you take part in the appeals process, use DPEA websites, contact the division or attend a webcast, the DPEA may collect certain information about you. To find out more about what information is collected, how the information is used and managed please read the [DPEA's privacy notice](#).

This form and all supporting documents should be sent to:

E-mail: dpea@gov.scot

Post: Planning and Environmental Appeals Division
Hadrian House
Callendar Business Park
Falkirk
FK1 1XR

Contact Tel: 0300 244 6668