

ANGUS COUNCIL

DEVELOPMENT CONTROL COMMITTEE

13 JANUARY 2000

**SUBJECT: ENFORCEMENT APPEAL DECISION
125/127 BRIDGE STREET, MONTROSE**

REPORT BY DIRECTOR OF PLANNING AND TRANSPORT

Abstract: This report presents the findings of the Reporter appointed by the Secretary of State to determine the appeal against an Enforcement Notice served by Angus Council against the unauthorised replacement of windows in a listed building at 125/127 Bridge Street, Montrose.

1 RECOMMENDATION

- 1.1 It is recommended that the Committee notes the successful outcome of the above appeal.

2 INTRODUCTION

- 2.1 The Development Control Committee at the meeting on 26 February 1998 sanctioned the serving of an Enforcement Notice to secure the removal of unauthorised windows and their replacement with windows of a more acceptable style in a second floor flat at 125/127 Bridge Street, Montrose, a listed building. The initial notice was similarly appealed but was sustained on a technicality only, leading to the notice being amended and re-served.
- 2.2 The agent for the applicant, C. R. Smith Glaziers (Dunfermline) Ltd., appealed against the refusal and the Reporter's conclusions and decision are presented below.

3 REPORTER'S DECISION

- 3.1 The conclusions which I have reached in relation to your appeal are based upon my consideration of the written submissions of the parties and of the site and surrounding area as seen at the time of my accompanied site inspection. In the determination of your appeal, it is necessary in terms of section 59(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 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. Similarly, it is necessary in terms of Section 64(1) of the same Act to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area in which the appeal site is located and I therefore find that these are material considerations which must be given considerable weight in the determination of your appeal.
- 3.2 In regard to the first ground of appeal, that the building is not of special architectural or historic interest, you have not supported this statement with any information, other than referring to the earlier appeal. I have also noted that although the building was regarded at that time as being listed Category 'B' in the Statutory List, Historic Scotland now advises that 125 Bridge Street is listed Category 'C(S)'. No explanation

has been given for this apparent change. Nevertheless, the Reporter in the previous appeal concluded that it was the whole of the three-storey tenement that was listed and I agree with this conclusion. It therefore seems to me that, irrespective of whether the building is listed Category 'B' (as it was then), or 'C(S)' which it appears to be now, there can be no doubt that the whole building is listed, and that it is therefore of special architectural or historic interest. Indeed, the Historic Buildings Inspectorate has confirmed the position (see paragraph 10 above) and you have not challenged its submission.

3.3 In regard to your second ground of appeal, that works to the building were urgently necessary in the interests of safety, health and for the preservation of the building, I accept your evidence that urgent repairs were required to the windows. However, it seems to me that a number of alternatives were open to you in such circumstances which did not necessarily require the fitting of replacements of such a different design or materials. Temporary measures if required, would have been put in place whatever type of window was to be manufactured as a replacement. Even if sash and case windows take longer to manufacture. I consider that the merits of the building and of the conservation area in which it is located justify such a wait. In any case, the Council has pointed out that locally, sash and case windows of the design it requires to have fitted are produced in only two to three weeks.

3.4 I have taken into account all the other matters raised but find that they do not affect these conclusions. Accordingly, in exercise of the authority delegated to me, I hereby dismiss your appeal, and direct that the Listed Building Enforcement Notice dated 22 April 1999 be upheld.

4 FINANCIAL IMPLICATIONS

4.1 There are no financial implications.

5 CONSULTATION

5.1 The Chief Executive, Director of Law & Administration and Director of Finance have been consulted in the preparation of this report.

NOTE

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

AA/JJ/KW
30 December 1999

Alex Anderson
Director of Planning and Transport