

Dacorum Borough Council Planning Department

Civic Centre Marlowes
Hemel Hempstead
Herts HP1 1HH



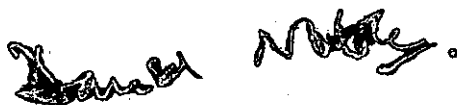
R J CANNON
ROYAL HOTEL
TRING STATION
TRING
HERTFORDSHIRE
HP23 5QR

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION - 4/00477/98/LBC

ROYAL HOTEL, TRING STATION, TRING, HERTFORDSHIRE, HP235QR
NEW SASHES, REFURBISHED FRAMES TO INCLUDE NEW PLASTIC PARTING
BEAD TO THREE WINDOWS.

Your application for listed building consent dated 15 March 1998 and received on 01 April 1998 has been **REFUSED**, for the reasons set out overleaf.



Development Control Manager

Date of Decision: 03 July 1998

REASONS FOR REFUSAL APPLICABLE TO APPLICATION: 4/00477/98/LBC

Date of Decision: 03 July 1998

The proposed works to the three windows outlined in red on the submitted drawings would harm the special architectural and historic interest of this Grade II listed building.

**NORTHGATE
DOCUMENT STAMPED
TO ENSURE DETECTION
BY SCANNER**



The Planning Inspectorate

Room 1404
Tollgate House
Houlton Street
Bristol BS2 9DJ

Direct Line 0117 - 987 8927
Switchboard 0117 - 987 8000
Fax No 0117 - 987 8139
GTN
E-mail ENQUIRIES.PINS@GTNET.GOV.UK

DA 274 8927

The Senior Solicitor
Dacorum Borough Council
Civic Centre
Marlowes
HEMEL HEMPSTEAD
Herts
HP1 1HH

Your Ref:

NP/275/30/7

Our Ref:

T/APP/A1910/E/98/814495/P2

Date: 13 JAN 1999

15/01/99

Dear Madam

**PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990,
SECTION 20 AND SCHEDULE 3
LOCAL GOVERNMENT ACT 1972, SECTION 250(5)
APPEAL BY MR R J CANNON**

1. At the local inquiry into the above mentioned appeal held on 2 December 1998 an application for costs was made by Mr R J Cannon.

2. I enclose my decision on this application.

Yours faithfully

Frederick Steyn

FREDERICK F STEYN BArch RIBA
Inspector

ENC



The Planning Inspectorate

Room 1404
Tollgate House
Houlton Street
Bristol BS2 9DJ

Direct Line 0117 - 987 8927
Switchboard 0117 - 987 8000
Fax No 0117 - 987 8139
GTN 1374 - 8927
E-mail ENQUIRIES.PINS@GTNET.GOV.UK

Mr R J Cannon
Royal Hotel
Station Road
TRING
Herts
HP23 5QR

Your Ref:

Our Ref:

T/APP/A1910/E/98/814495/P2

Date: 13 JAN 1999

Dear Sir

**PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990,
SECTIONS 20 AND 89 & SCHEDULE 3
LOCAL GOVERNMENT ACT 1972, SECTION 250(5)**

1. I refer to your application for an award of costs against the Dacorum Borough Council made at the inquiry held on 2 December 1998. The inquiry was in connection with an appeal relating to an application for listed building consent for new sashes, and refurbished frames to include plastic parting beads, to three windows at The Royal Hotel, Station Road, Tring. A copy of my decision letter is enclosed.
2. **In support of your application**, you consider that you should not have been required to apply for listed building consent. The Council has effectively redefined the Act in saying that the proposed work is beyond routine maintenance. Even if it is found that listed building consent is required, it should have been given by the Council with the conditions which are now being suggested. By not agreeing to a meeting as suggested, and saying that it was pointless, the Council did not apply its duty of care. It invited other proposals without giving any indication as to what was considered to be unacceptable. By its actions and non-actions, the Council has delayed works that would enhance the fenestration and further works that would follow on. It has held up work which would clearly be of advantage to the customers of the hotel in terms of quality, health and safety; that is not in the best interests of either the business or the wider economic well-being of the community or the listed building. The Council has behaved unreasonably, which has led to the need for an inquiry to enable the various points to be made. You conclude that this has led to unnecessary expense in connection with the Inquiry, and a full award of costs is applied for.
3. **In response**, the Dacorum Borough Council considers that it has not behaved unreasonably in terms of Circular 8/93. The statutory test concerning the need to apply for listed building consent has not been re-defined; reference was made in correspondence to the appellant concerning non-routine maintenance, which follows on from the advice in Planning Policy Guidance 15 (PPG15), Planning and the Historic Environment. The need to consider whether a proposal would affect the character of a listed building is a requirement of the Act, and is not of the Council's making. A view must clearly be taken on that need; even if it is found that the proposal would not affect the building's character, the Council has supported its stance by expert evidence and by PPG15. Whether or not the proposed works are harmful and are justified are matters where there is a genuine difference in opinion. The Council has reached its views after careful consideration, taking into account the advice of its Conservation Officer as well as material submitted by the appellant. Those views are not

unreasonable. The appellant considers that his differences with the Council could have been resolved at a meeting. However, the Council's starting point is that the windows should be repaired if they are capable of being repaired and there is no justification for their replacement; the appellant has indicated that he would not consider the option of repair; there would consequently have been no meeting of the minds. The appellant has also, at this inquiry, rejected the possibility of an exact replica, further distancing himself from a compromise solution. In any event, the Council's offer of a meeting to discuss further proposals was not taken up by the appellant. It is not for the Council to bring forward schemes for property owners, but for the owner. In this case the appellant has chosen to ignore the advice in PPG15 by not taking independent expert advice. The Council concludes that it has not behaved unreasonably, and no award of costs should be made.

4. I have dealt with this application for costs in accordance with Circular 8/93. This advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expenditure unnecessarily.

5. I consider that the matters which constitute the special character of a listed building and the extent to which proposed works affect that special character are a matter of judgement. There is a difference in the outlook on those matters between you and the Council in respect of the Royal Hotel and its windows and, as a result, a difference in the view on the need for listed building consent for the proposed works. It will be evident from my decision letter on the appeal that I consider that listed building consent is required for the proposed works. The Council has complied with the advice in paragraph 2.13 of PPG15 by basing its views on specialist advice, and by taking into account the evidence that you have provided concerning costs and alternative methods of carrying out works to the windows. Paragraph 2.11 of PPG15 advocates early consultation on proposals which would affect historic structures, and the advice in that paragraph is that local planning authorities should indicate their readiness to discuss proposals with developers before formal planning applications are made. I consider that the Council complied with that advice by making its views clear, and by inviting you to submit further proposals. The Council's duty under Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is to pay special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. While I have not come to the same view as that of the Council in all respects, I nevertheless consider that it carried out that duty, and did not unreasonably refuse listed building consent. I consider that the Council has not behaved unreasonably in terms of Circular 8/93, and I therefore conclude that your application for an award of costs is not justified.

6. For the above reasons, and in exercise of the powers transferred to me, I hereby refuse your application for an award of costs against the Dacorum Borough Council.

Yours faithfully



FREDERICK F STEYN BArch RIBA

Inspector

ENC



The Planning Inspectorate

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Mr R J Cannon
Royal Hotel
Station Road
TRING
Herts
HP23 5QR

Your Ref:

Our Ref:

T/APP/A1910/E/98/814495/P2

Date: 13 JAN 1999

Dear Sir

**PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990
SECTION 20 & SCHEDULE 3
APPLICATION NO: 4/00477/98/LBC**

1. The Secretary of State for the Environment, Transport and the Regions has appointed me to determine your appeal against the decision of the Dacorum Borough Council to refuse listed building consent for new sashes, and refurbished frames to include plastic parting beads, to three windows at the Royal Hotel, Station Road, Tring. I held an inquiry on 2 December 1998. At the inquiry, you made an application for an award of costs against the Dacorum Borough Council. This is the subject of a separate letter.
2. The main part of the Royal Hotel was built in about 1838. It is listed grade II, together with a south wing built in the 1860s which forms part of the hotel. Extensive former stabling in the courtyard to the west of the hotel has been converted to residential use, and is not listed. The main part of the building is three storeys in height and has a stuccoed finish. One of the windows to which the proposal relates is to a first floor room known as James at the front of the building, while the other two windows are to rooms known as Mary and Elizabeth on the second floor level at the rear of the building.
3. You have questioned the need for listed building consent for the proposed works, which you consider to be normal maintenance. In my view normal maintenance would involve repair of the existing fabric or its replacement like for like. The proposed works would involve new materials and details, and I am considering the appeal on the basis of the effect of those works on the building, having regard to the fact that Section 16(2) of the Act requires that special regard shall be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.
4. The Council has referred to a number of development plan policies from the Dacorum Borough Local Plan (LP), as well as policies from the emerging Dacorum Borough Local Plan 1991-2001 Deposit Draft which carry forward the relevant LP policies. Section 54A of the Town and Country Planning Act 1990 does not apply to the determination of this appeal, and I am taking the policies referred to into account insofar as they reflect my duties under the Planning (Listed Buildings and Conservation Areas) Act 1990.
5. From the representations made at the Inquiry and in writing, and from my inspection of the site and surrounding area, I consider the main issue in this case to be whether the proposed works would preserve the listed building.

6. The principal front of the building has a formal composition, being divided into three bays by full height pilasters. The rear of the building is abutted by the south wing, and has a less formally defined architectural arrangement. The windows in the main part of the building are subdivided by slender glazing bars to form a pattern with narrow margin lights. Those distinctive windows form an important part in defining the character of the building.

7. You advise that most of the windows to the front elevation have been replaced, and that the only original windows which survive on that elevation are a pair of full height casement windows at first floor level to a balcony over the entrance porch, and the window to James. The glazing bars to those two windows have finely detailed lambs-tongue sections. The narrow width and comparatively long inward projection of those bars gives them a very light and slender appearance. I am in no doubt that the finely detailed window in James forms part of the building's special interest.

8. The window to Elizabeth has a similar pattern to those to the front elevation, while the window to Mary differs in having a lower sash - which the Council advises is a replacement - without a margin light at the bottom. The glazing bars to the windows to Mary and Elizabeth have a somewhat different profile from the window to James; the width of the bars is similar, but they are less slender in appearance, having an elongated ovoid form. The windows to these two rooms do not have the same finesse of detailing as the window to James, and in my view do not make the same contribution to the building's special interest. Further, being at high level on the rear elevation of the building, they do not have quite the same importance as the window to James in the building's architectural composition.

9. You argue that repeated attempts to repair the windows have been made over the years; their appearance is not of a standard to match the quality of the rooms, and they operate insufficiently well, leading to complaints from guests. You are also concerned that repair of the sashes would take much longer than their replacement, leading to further costs related to downtime, the period when rooms would be unable to be let. You also argue that replacement of the sashes would be less costly than their repair; further, new sashes would permit the windows to be more efficient in conserving energy.

10. You obtained a quotation from Ventrolla, a company which specialises in works to windows to historic buildings. Their proposal seems to me to be impartial as that company provides both remedial and replacement services. Ventrolla's view is that the bottom sash of the window in Mary and the upper sash of the window in Elizabeth require to be replaced. They consider that the other sashes in those windows are capable of repair, albeit the sash in Elizabeth would require tenon repairs as well as a number of resin repairs. It was indeed evident to me that those two windows are generally in a very poor state of repair. I do not consider it unreasonable for the sashes to be replaced as recommended by Ventrolla.

11. The profile of the proposed glazing bars appears to me to be very similar to the existing bars in the windows to Mary and Elizabeth. Paragraph C.40 of Planning Policy Guidance 15 (PPG15), Planning and the Historic Environment, advises that as a rule, windows in historic buildings should be repaired, but it accepts that, if beyond repair they should be replaced like for like. In my view the proposed design would be sufficiently close to that of the existing windows to be considered like for like. The works would also follow English Heritage's advice in Georgian Joinery 1640-1840, that where replacement of historic joinery is unavoidable, like should be replaced with like in terms of material and design.

12. In its document, Energy savings, English Heritage points to the need to reduce fuel consumption. It advises that upgrading windows and doors, rather than replacing them, can be just as energy-efficient, and, in the longer term, far more cost-effective. You have shown that repair of the windows to which this appeal relates would be more costly than replacement, and are concerned about additional costs associated with downtime. Each of the windows to Mary and Elizabeth serves a guest bedroom, where it forms an important part of the appearance and functioning of that room. It seems to me that it would be very difficult for a new sash to have precisely the same appearance as a renovated sash. I have come to the view that, due to the condition of the windows and the need for them to be brought to a suitable standard for hotel bedrooms in terms of energy and appearance, as well as the costs of the works, it would not be unreasonable for all the sashes to Mary and Elizabeth to be replaced. Reference is made in paragraph 3.4 of PPG15 to the great importance to society of protecting listed buildings from unsuitable and insensitive alteration; I do not consider that the proposed replacement windows would be contrary to that advice.

13. The advice in paragraph C.42 is that, if a building has been re-windowed, in general the existing windows should be retained. The lower sash to Mary is different from the other windows in the building, and in my view detracts from its appearance. I therefore consider that the proposal for that sash to match the other sashes would be in the best interests of the building. The Council has not objected to the use of plastic parting beads. They do not form an important visual function, and I do not consider that their use would be of detriment to the building.

14. The Council is concerned that the proposed modern glass, which would provide additional thermal insulation and a higher degree of sound insulation, would be out of keeping. Modern float glass undoubtedly has an evenness of finish which is quite different from the more subtle, uneven, surface of traditional glass. It was acknowledged by the Council at the inquiry that old glass has a tendency to be brittle, a fact borne out by the cracked panes in the appeal windows. It seems to me that there is scope for a somewhat heavier glass than the existing to be used, which would appropriately preserve the appearance of the building; that is a matter that could be secured by a condition to a consent.

15. While it was not possible to inspect the operation of the sashes in the window to James, they do not appear to be in as poor a state as those to the windows to Mary and Elizabeth. Further, Ventrolla have indicated that both sashes are capable of repair. I consider that the proposed sashes would not follow the original design, and would not be like for like. In view of the special interest of the window to James, I consider that the replacement of the sashes would be of detriment to the special interest of the building.

16. You argue that the Council permitted a different glazing bar section to be used in the adjacent windows to the front elevation. Those windows were replaced under an enforcement requirement, and the original windows no longer existed. I do not therefore consider that matter, nor concerns about the window's appearance and lack of insulation, to justify the replacement of the existing sashes. You have not been able to advise what the downtime on James would be if the sashes were repaired. In any event, the Council advises that grants may be available towards repair. I do not consider that, in the case of this window, the higher costs associated with repair would be of sufficient import to offset the loss of these historic windows.

17. I conclude that the replacement of the window to James would not preserve the listed building, and the works would not comply with the aims of Local Plan policies 8 and 109 insofar as they relate to works to buildings of historical or architectural interest. I further conclude that the replacement of the windows to Mary and Elizabeth would not fail to preserve the listed building to a material extent.

18. The Council has suggested conditions relating to the form, construction, pattern and finish of the windows, in the event of consent being given. I consider those conditions to be necessary to preserve the building's special character. The suggested condition referring to weights would need to be amended, as you advise that the existing weights are not lead. It seems to me that the proposal is severable, and that consent could be given for replacement of the windows to Mary and Elizabeth, but not for the window to James.

19. I have taken into account all of the other matters raised, including your dealings with the Council, and works permitted to other listed buildings in the Borough. I have found none of them to be sufficient to outweigh the considerations that have led me to my decision.

20. For the reasons given above and in exercise of the powers transferred to me, I hereby dismiss this appeal in respect of the window to James, and allow the appeal in respect of the windows to Mary and Elizabeth, and grant listed building consent for new sashes, and refurbished frames to include plastic parting beads, to the windows to Mary and Elizabeth at the Royal Hotel, Station Road, Tring in accordance with the terms of the application No. 4/00477/98/LBC dated 15 March 1998 and the plans submitted therewith, subject to the following conditions:

1. the works to which this consent relates must be begun before the expiration of five years from the date of this consent;
2. the replacement sashes shall be true sliding sashes hung on pulleys and attached to weights;
3. the new sashes shall exactly replicate the pattern of marginal lights in the existing windows, except for the lower sash to Mary which shall replicate the pattern of marginal lights in the existing lower sash to Elizabeth;
4. the new sashes shall be constructed in timber; they shall not have a stained finish, but shall be painted to match the adjacent windows;
5. the new sashes shall be glazed with clear glass, which shall not be plate or float glass.

21. This letter only grants listed building consent under Sections 7 and 8 of the Planning (Listed Buildings and Conservation Areas) Act 1990. It does not give any other approval or consent that may be required.

Yours faithfully



FREDERICK F STEYN BArch RIBA
Inspector

APPEARANCES

FOR THE APPELLANT

Mr R J Cannon

Appellant

FOR THE LOCAL PLANNING AUTHORITY

Mr P Brown

of Counsel,
instructed by Ms N Pope, Senior Solicitor,
Dacorum Borough Council

He called

Mr C K Fulbrook BA DipTP
DipArchCon MRTPI IHBC

Head of Conservation,
Planning Department,
Dacorum Borough Council

DOCUMENTS

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| Document 1 | List of persons present at the Inquiry |
| Document 2 | Letter of notification |
| Document 3 | Bundle of documents from Mr Cannon |
| Document 4 | Bundle of documents from Mr Fulbrook |
| Document 5 | Details of former Grade III listing of the Royal Hotel |
| Document 6 | Extracts from English Heritage publications, from Mr Cannon |
| Document 7 | Copy of petition in support of the proposal |
| Document 8 | Letter dated 11 September 1998 from the Council to Mr Cannon |

PLANS

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| Plan A (a-c) | The application plans, Location plan, elevations and full size details |
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The Planning Inspectorate

An Executive Agency in the Department of Environment, Transport and the Regions, and the Welsh Office

RIGHT TO CHALLENGE THE DECISION

The attached appeal decision is final unless it is successfully challenged in the Courts. If a challenge is successful, the appeal decision will be quashed and the case returned to the Secretary of State for redetermination. It does not follow necessarily that the original decision on the appeal will be reversed when it is redetermined.

You may wish to consider taking legal advice before embarking on a challenge. The following notes are provided for guidance only.

Under the provision of section 288 of the Town and Country Planning Act 1990, or section 63 of the Planning (Listed Buildings and Conservation Areas) Act 1990, a person who is aggrieved by a decision may seek to have it quashed by making an application to the High Court on the grounds:

1. that the decision is not within the powers of the Act; or
2. that any of the 'relevant requirements' have not been complied with; ('relevant requirements' means any requirements of the 1990 Acts or of the Planning Tribunals Act 1992, or of any order, regulation or rule made under those Acts).

The two grounds noted above mean in effect that a decision cannot be challenged merely because someone does not agree with the Inspector's judgement. Those challenging a decision have to be able to show that a serious mistake was made by the Inspector when reaching his or her decision; or, for instance, that the inquiry, hearing or site visit was not handled correctly, or that the appeal procedures were not carried out properly. If a mistake has been made the Court has discretion not to quash the decision if it considers the interests of the person making the challenge have not been prejudiced.

It is important to note that such an application to the High Court must be lodged with the Crown Office within 6 weeks from the date of the decision letter. This time limit cannot be extended.

An appellant whose appeal has been allowed by an Inspector should note that 'a person aggrieved' may include third parties as well as the local planning authority.

If you require further advice about making a High Court challenge you should consult a solicitor, or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London WC2 2LL. Telephone: 0171 936 6000.

INSPECTION OF DOCUMENTS

It is the Inspectorate's policy to retain case files for a period of one year from the date on the Inspector's decision letter. Any person entitled to be notified of the decision in an inquiry case has a legal right to apply to inspect the listed documents, photographs and plans within 6 weeks of the date of the decision letter. Other requests to see the appeal documents will not normally be refused. All requests should be made to Room 14/04, Tollgate House, Houlton Street, Bristol BS2 9DJ, quoting the Inspectorate's appeal reference and stating the day on which you wish to visit. Please give at least 3 days' notice and include a daytime telephone number, if possible.

COMPLAINTS TO THE INSPECTORATE

Any complaints about the Inspector's decision letter, or about the way in which the Inspector has conducted the case, or any procedural aspect of the appeal should be made in writing to the complaints officer in Room 14/04, Tollgate House, Houlton Street, Bristol BS2 9DJ. Telephone: 0117 987 8927, quoting the Inspectorate's appeal reference. You should normally receive a reply within 15 days of our receipt of your letter. You should note however, the Inspectorate cannot reconsider an appeal on which a decision letter has been issued. This can be done following a successful High Court challenge as explained overleaf.

PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION (THE OMBUDSMAN)

If you consider that you have been unfairly treated through maladministration on the part of the Inspectorate or the Inspector you can ask the Ombudsman to investigate. The Ombudsman cannot be approached direct; reference can be made to him only by an MP. While this does not have to be your local MP (whose name and address will be in the local library) in most cases he or she will be the easiest person to approach. Although the Ombudsman can recommend various forms of redress he cannot alter the Inspector's decision in any way.

COUNCIL ON TRIBUNALS

If you feel there was something wrong with the basic procedure used for the appeal, a complaint can be made to the 'Council on Tribunals', 22 Kingsway, London WC2B 6LE. The Council will take the matter up if they think it comes within their scope. They are not concerned with the merits and cannot change the outcome of the appeal decision.